

North York Community Council

From: Christopher Tanzola <ctanzola@overlandllp.ca>
Sent: Monday, May 1, 2017 5:34 PM
To: Clerk; North York Community Council
Cc: Farhad Morsh (morshf@gmail.com); Kelly Oksenberg
Subject: Item NY22.2 -- Refusal Report -- 14-16 Elvina Gardens and 197 & 197R Erskine Avenue -- File No. 16 263364 NNY 25 OZ
Attachments: morsh elvina ltr nycc clerk re refusal report signed may 1 2017.pdf
Importance: High

Please see our attached correspondence in respect of the above matter. Please distribute to the members of the North York Community Council on Tuesday, May 2 and to the members of City Council subsequently.

Thank you,
Chris

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May 1, 2017

VIA EMAIL

Mayor John Tory and Members of City Council
City of Toronto
North York Civic Centre
5100 Yonge Street
Toronto, ON M2N 5V7

Attention: City Clerk and Francine Adamo, Administrator, North York Community Council

Your Worship and Members of Council:

RE: Item NY22.2 – Refusal Report – 14-16 Elvina Gardens, 197 & 197R Erskine Avenue (the “Refusal Report”) Zoning By-law Amendment Application No. 16 263364 NNY 25 OZ

We are the lawyers for 1618950 Ontario Inc., the applicant in the above-noted matter (the “**Applicant**”). The Applicant has been authorized by the registered owners of the subject lands in respect of the subject planning application. The subject lands are located east of Mount Pleasant Road and north of Eglinton Avenue East in the City of Toronto. The development site is comprised of an assembly of 197 & 197R Erskine Avenue and 14-16 Elvina Gardens (the “**Site**”).

On December 12, 2016, the Applicant submitted an application to the City of Toronto for a Zoning By-law Amendment (the “**ZBA Application**”) to permit the development of the Site with ten (10) new 3-storey townhouses and the retention of the existing detached house at 197 Erskine Avenue (the “**Proposed Development**”). The Applicant received a Notice of Complete Application on January 13, 2017, confirming that the application was complete on the date of submission.

We are in receipt of the Refusal Report that will be considered by North York Community Council on May 2, 2017 (Item NY22.2) with respect to the ZBA Application.

On April 19, 2017, we appealed the ZBA Application to the Ontario Municipal Board pursuant to Section 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, on the basis of City Council’s refusal or neglect to make a decision on the ZBA Application within 120 days of the making of the application (the “**Private Appeal**”). A copy of the Private Appeal package was provided to Ms. Kathryn Moore, the City Planner/author of the Refusal Report.

It is our opinion that the City no longer has jurisdiction over the ZBA Application as the Ontario Municipal Board is now seized of and has full jurisdiction of the application by virtue of the Private Appeal. As a result of the Private Appeal, City Council would be without authority under Section 34 (10.9) of the *Planning Act* in purporting to refuse the ZBA Application.

Regardless of the foregoing, we wish to make clear that we do not agree with the Refusal Report's conclusions regarding the planning merits of the Proposed Development nor with the Refusal Report's analysis of the relevant policies or planning context.

The Site is located within close proximity of a variety of housing forms, including single-detached and semi-detached houses, duplexes, triplexes, rowhouses and walk-up apartment buildings, in addition to higher-intensity residential uses and commercial uses nearby along Mount Pleasant Road. Redevelopment of this underused site with a form of intensification that is compatible with the diversity of building types and infill development that is interspersed within the Site's immediate context is consistent with and conforms to the policy objectives of the applicable planning documents.

Although this matter will be adjudicated by the Ontario Municipal Board, we remain open to productive discussion with City Staff in advance of the hearing if there is an opportunity to resolve or scope the issues in dispute.

Please provide us with notice of any further consideration of this matter by City Council, North York Community Council, or any other committee of Council. Our contact information is provided above and below.

Yours truly,
Overland LLP



Per: Christopher J. Tanzola
Partner
c. Client