

NY31.2.1

North York Community Council

From: Daniel Artenosi <dartenosi@overlandllp.ca>
Sent: June 6, 2018 7:58 AM
To: North York Community Council
Cc: Councillor Filion; Catherine LeBlanc-Miller; Mark Crawford
Subject: Request for Deferral -- Recommendation No. 1 -- Item 32.1
Attachments: Scan.pdf

Ms. Adamo,

Please find attached our correspondence requesting a deferral of Recommendation No. 1 in the Staff Report dated May 18, 2018 in respect of Item 32.1.

We ask that you distribute our correspondence to Community Council in advance of its consideration of this item.

Thank you.
Daniel

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June 6, 2018

VIA E-MAIL

North York Community Council
North York Civic Centre
Main floor, 5100 Yonge St.
Toronto, ON M2N 5V7

Attention: Ms. Francine Adamo
North York Community Council Secretariat

Members of Community Council:

**RE: 145 Sheppard Avenue East
City File No. 17 264567 NNY 23 OZ
Item NY31.2
Request for Deferral**

We are the solicitors for Tilzen Holdings Limited, being the owner of 145 Sheppard Avenue East (the "Tilzen Site"), and the applicant in the above-noted matter. We have reviewed the Refusal and Request for Direction Report prepared by the Director, Community Planning, North York District, dated May 18, 2018 (the "Staff Report"). We are writing to formally request that Community Council defer consideration of the recommendation to refuse the application for Official Plan Amendment (Recommendation No. 1), and further to provide our very preliminary response to the issues raised in the Staff Report.

The proposed redevelopment of the Tilzen Site is comprised of a mixed-use, 11-storey mid-rise building with an overall gross floor area of 6510 square metres. In support of the proposal, applications for an official plan amendment, zoning by-law amendment, and site plan approval were submitted in November 2017.

On March 29, 2018, our client availed itself of its statutory rights of appeal in respect of the applications for zoning by-law amendment and site plan approval under the Planning Act in order to garner certainty regarding the timing, procedures and decision-making framework for the determination of these applications. As requested by Tilzen, these appeals have been scheduled for a prehearing conference, which will take place on November 28, 2018. Tilzen has not sought to proceed directly to a hearing but rather has requested that the parties engage in mediation. We have recently been advised by City Legal that the City is agreeable to mediation.

As a result of recent changes to the Planning Act, a decision to refuse the official plan amendment at this time would force both the applicant and the City into a dual legislative appeal framework that will add undue legal complexity, and require significant resources for all parties to advance litigation at very early stages in the appeal process. In addition to our more

substantive concerns with the basis upon which the recommendation for refusal is advanced in the Staff Report, in our respectful submission it would be premature to refuse the official plan amendment in these circumstances.

The proposal has been developed with regard to the existing and emerging physical context in the area, as well as the planned context for this corridor. The Tilzen Site is situated on an *Avenues* corridor on Map 2 (Urban Structure) and designated *Mixed Use Areas* (Map 16) in the City Official Plan, which support the proposed mid-rise, mixed-use and transit supportive development on this underutilized site. At a provincial policy (Growth Plan) level, the Tilzen Site is situated along a Higher Order Transit Corridor that experiences Frequent Transit and is within a Strategic Growth Area, which are key areas to achieve the Growth Plan's renewed "intensification first" approach to managing growth.

We have several concerns with the recommendations set out in the Staff Report. At a very general level, the built-form review of the proposal appears to contemplate a prescriptive application of the Mid-rise Guidelines, which are not Official Plan policy and are not intended to be applied in this manner. The policy review also appears to rely significantly on the existing planning framework set out in the Sheppard Avenue Commercial Area Secondary Plan in assessing the proposal, which permits a maximum FSI of 1.0 times the area of the lot and a maximum height of 3-storeys, despite the fact that an official plan amendment is proposed. The Secondary Plan was originally adopted in 1987, and in our submission the vision for the lands to which it applies have remained generally the same over the past 20 years, despite *Planning Act* reviews and monumental policy changes at the provincial level including the approval of the Provincial Policy Statement and the Growth Plan, as well as municipal policy initiatives over that period. These include, among others: three versions of the Provincial Policy Statement (1997, 2005 and 2014); the Growth Plan (2006) and (2017); the City of Toronto Official Plan (2001); construction of the Sheppard subway line; and the Metrolinx Regional Transportation Master Plan.

That being said, as set out in the Staff Report, we acknowledge that Staff is supportive of intensification of the Tilzen Site. We hope to utilize the mediation framework as an opportunity to engage with City Staff on the proposal and the issues identified in the Staff Report.

Thank you for your consideration of this request for deferral.

Yours truly,
Overland LLP



Per: Daniel B. Arsenosi
Partner

c. Mark Crawford, City of Toronto