



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

6040 Bathurst Street & 5 Fisherville Road - Zoning By-law Amendment Application

Date: December 11, 2019

To: City Council

From: City Solicitor

Wards: Ward 6 - York Centre

REASON FOR CONFIDENTIAL INFORMATION

This report is about litigation or potential litigation that affects the City of Toronto.

The attachment to this report contains advice or communications that are subject to solicitor-client privilege.

SUMMARY

On February 28, 2017 the City Clerk's office received a notice of appeal to the Local Planning Appeal Tribunal (the "Tribunal" or "LPAT") filed by Fisherville and Bathurst Limited (the "Owner") in respect of an application to amend City of Toronto By-law 569-2013, as amended, and former City of North York By-law 7625, as amended, for the lands municipally known as 6040 Bathurst Street & 5 Fisherville Road (LPAT Case No. PL171014).

The grounds for the appeal are City Council's failure to make a decision on the application prior to the lapsing of the statutory time period under the Planning Act.

Direction from City Council is required on this matter which has been appealed to the Tribunal.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the confidential instructions to staff in Confidential Attachment 1;
2. City Council authorize the public release of the recommendations in Confidential Attachment 1 and the information in Appendix A, Appendix B, Appendix C, and Appendix D to Confidential Attachment 1 in the event City Council adopts the recommendations in Confidential Attachment 1; and

3. City Council direct the balance of Confidential Attachment 1, including Appendix E and Appendix F, remain confidential as it contains advice which is subject to solicitor-client privilege.

FINANCIAL IMPACT

There is no financial impact arising from the adoption of the Recommendations to this Report.

DECISION HISTORY

A Preliminary Report from the Director, Community Planning, North York District, dated January 24, 2017 was considered by the North York Community Council on February 22, 2017. Community Council's decision in respect of that report can be found at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.NY20.30>

A Request for Interim Direction Report from the Director, Community Planning, North York District, dated March 15, 2018 was considered by the North York Community Council on April 4, 2018 and by City Council on April 24, 2018. City Council's decision in respect of that report can be found at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.NY29.3>

A Confidential Report from the City Solicitor, dated July 15, 2019, was considered by City Council on July 16, 2019. The City Council's decision in respect of the Confidential Report can be found at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.CC9.29>

The subject lands and the lands municipally known as 25 Fisherville Road, 6020 & 6030 Bathurst Street, 6010 Bathurst Street, and 12 Rockford Road have been the subject of a staff study for the purpose of developing a block context plan. City Council's direction to conduct the block context plan study can be found at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.NY32.8>

COMMENTS

The Tribunal has scheduled a case management conference for this appeal on January 6, 2020.

A separate Notice of Appeal has also been filed by IMH 25 Fisherville Ltd. in respect of its application to amend City of Toronto By-law 569-2013, as amended, and former City

of North York By-law 7625, as amended, for the neighbouring lands municipally known as 25 Fisherville Road (Application No. 18 189969 NNY 10 OZ; LPAT has not yet assigned a case number). These lands are also within the study area for the block context plan as described above. A separate City Solicitor's Report, dated December 11, 2019, requests directions from City Council in respect of the appeal for these neighbouring lands.

Another separate Notice of Appeal has also been filed by Timbercreek Asset Management Inc. in respect of its application to amend City of Toronto By-law 569-2013, as amended, and former City of North York By-law 7625, as amended, for lands municipally known as 6020 & 6030 Bathurst Street (Application No. 18 189969 NNY 10 OZ; LPAT Case No. PL180386). These lands are also within the study area for the block context plan as described above. A separate City Solicitor's Report, dated December 11, 2019, requests directions from City Council in respect of the appeal for these neighbouring lands.

This Report should be read together with the two separate Reports referred to immediately above.

Direction from City Council is required prior to the January 6, 2020 hearing event.

CONTACT

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SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

Confidential Attachment 1 - Confidential Information

Appendix A to Confidential Attachment 1 - Confidential Information

Appendix B to Confidential Attachment 1 - Confidential Information. Copy on file with the City Clerk for the purpose of the December 16 & 17, 2019 City Council meeting.

Appendix C to Confidential Attachment 1 - Confidential Information. Copy on file with the City Clerk for the purpose of the December 16 & 17, 2019 City Council meeting.

Appendix D to Confidential Attachment 1 - Confidential Information. Copy on file with the City Clerk for the purpose of the December 16 & 17, 2019 City Council meeting.

Appendix E to Confidential Attachment 1 - Confidential Information.

Appendix F to Confidential Attachment 1 - Confidential Information.