

**25 Fisherville Road - Zoning By-law Amendment
Application - Request for Directions**

Date: January 27, 2021
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 November 29, 2019 the City Clerk's office received a Notice of Appeal to the Local Planning Appeal Tribunal (the "Tribunal") in respect of IMH 25 Fisherville Ltd.'s (the "Owner") application to amend City of Toronto Zoning By-law 569-2013, as amended and the former City of North York By-law 7625, as amended, for the lands municipally known as 25 Fisherville Road.

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.

The Owner has filed a letter with the City Solicitor's Office, dated January 23, 2020 (received by email dated January 22, 2021 which suggests the date on the Owner's letter is a typographical error) confirming the Owner will support City Council's decision to approve the Owner's application to amend the applicable zoning by-law, including City Council's requirements to be satisfied prior to the proposed amendment to the zoning by-law coming into force and effect. A copy of the Owner's letter is attached as Public Appendix A.

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 confidential instructions to staff in Confidential Attachment 1; and
3. City Council direct that the remaining confidential information contained in Confidential Attachment 1 remain confidential in its entirety, 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 December 18, 2018 was considered by the North York Community Council on January 15, 2019. Community Council's decision in respect of that report can be found at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.NY2.8>

A Request for Interim Direction Report from the Director, Community Planning, North York District, dated February 12, 2019 was considered by the North York Community Council on February 14, 2019 and by City Council on February 26, 2019. City Council's decision in respect of that report can be found at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.NY3.3>

A Final Report from the Director, Community Planning, North York District, dated September 12, 2019, recommended the approval of the subject application. The Final Report was considered by the North York Community Council on September 16, 2019 and by City Council on October 2, 2019. City Council's decision to adopt the recommendations of the Director, Community Planning, North York District and approve the application can be found at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.NY8.1>

Notwithstanding City Council's approval of the application, the Owner subsequently filed an appeal with the Tribunal on November 29, 2019.

The subject lands and the lands municipally known as 6020 & 6030 Bathurst Street (the "6020 Lands"), 6040 Bathurst Street & 5 Fisherville Road (the "6040 Lands"), 6010 Bathurst Street, and 12 Rockford Road were also the subject of 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>

The owner of the 6020 Lands and the owner of the 6040 Lands each appealed their applications to amend the zoning by-law in respect of their to the Tribunal. City Council accepted offers to settle the two appeals on December 17, 2019. City Council's decisions can be found at the following links:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.CC13.5>

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.CC13.6>

By decisions issued on March 5, 2020 and April 21, 2020, the Tribunal granted the appeals, in part, and approved the zoning by-law amendment applications for each of the 6020 Lands and the 6040 Lands. The Tribunal approved the two applications on the basis of jointly-led evidence from the City and the appellants at the Tribunal's January 6, 2020 settlement conference that the two applications were both good land use planning and implemented objectives of the block context plan study. The Owner was a party to those proceedings and raised no objections to the evidence led at that time.

COMMENTS

The Tribunal has scheduled a case management conference on February 10, 2021. Direction from City Council is required prior to that hearing event.

CONTACT

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SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

Public Appendix A - Settlement Letter, dated January 23, 2020, received from Goodmans LLP by email on January 22, 2021

Confidential Attachment 1 - Confidential Instructions to Staff and Confidential Advice Subject to Solicitor-Client Privilege