

From: [Christopher Tanzola](#)
To: [Clerk](#)
Cc: [Sara Amini](#); [Councillor Carroll](#); [Councillor Colle8](#); [Councillor Filion](#); [Councillor Minnan-Wong](#); [Councillor Pasternak](#); [Councillor Jaye Robinson](#); [Natalie Ast](#); [Marius Staicu](#); [Adam Layton \(alayton@evansplanning.com\)](#)
Subject: Item NY28.2 -- 2810-2814 Bayview Avenue -- Directions Report in Support of Proposed Development
Date: December 10, 2021 11:53:20 AM
Attachments: [dormer bay ltr re mto comments signed dec 10 2021.pdf](#)

Please find attached our correspondence with respect to this item, which will be before City Council on December 15-16, 2021. We would ask that this correspondence be provided to each of the members of City Council for their review prior to the consideration of this item. The members of North York Community Council who considered this item on November 23, 2021 are copied here. The proposed development has twice been recommended by City Staff for approval. Thank you for your attention to this matter.

Chris

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December 10, 2021

VIA EMAIL

Mayor John Tory and Members of Council
City Clerk – City of Toronto
Toronto City Hall
13th fl. W., 100 Queen St. W.
Toronto ON M5H 2N2

Attention: John Elvidge, City Clerk

Your Worship and Members of Council:

**RE: 2810-2814 Bayview Avenue
OLT File No. OLT-21-001388
City of Toronto File No. 19 150397 NNY 18 OZ
Item NY28.2
December 15, 2021 Council Meeting**

We are the lawyers for Dormer Bay Inc. and related companies (“**Dormer Bay**”), the applicant and appellant in this matter, and the owner of the properties known municipally as 2810-2814 Bayview Avenue (the “**Site**”).

We are writing in advance of the consideration of this matter by City Council to clarify certain comments that were made at North York Community Council on November 23, 2021 when this item was presented. The clarification is with respect to discussions that have taken place with the Ministry of Transportation (the “**MTO**”) and the MTO comments that have previously been provided to both City Staff and the local Councillor (Ward 18 – Willowdale).

The Proposed Development Has Twice Been Recommended for Approval by City Staff

City Planning Staff recommended Dormer Bay’s applications for approval in their April 27, 2021 Final Report (the “**Final Report**”).

The Final Report at page 11 references the Transportation Impact Study submitted in support of the applications, which was reviewed by Transportation Services. The Final Report states: “*The report estimates that the proposed development will generate approximate twenty and twenty-five two-way trips during the weekday a.m. and p.m. peak hours, respectively. The report concludes that there will be minimal impact on the road network and these conclusions are generally acceptable by Transportation Services.*”

The Final Report also refers to discussions between City Staff and the MTO at page 10: “*Staff reached out to the MTO to discuss a possible curb cut for the site on Bayview Avenue but due*

to the acceleration of vehicles accessing the highway the MTO was not supportive of this for safety reasons.”

Although the Final Report was to be considered at the Statutory Public Meeting originally scheduled for the May 21, 2021 North York Community Council (“**NYCC**”) meeting, the matter was adjourned.

The matter was taken up again at the June 23, 2021 continuation of the Public Meeting. However, no decision was made on that date either, as the local Councillor moved a motion to have the matter brought back to North York Community Council at a later date. Even though the Final Report indicated that the MTO’s comments had been taken into account, the local Councillor directed that our client work with Staff and the MTO on a revised proposal *“for which the number of resident parking spots does not exceed the number of vehicles the Ministry of Transportation will permit exiting onto Bayview Avenue during the morning weekday peak period...”*

Further to this specific direction from NYCC and the local Councillor, our client undertook a study and submitted a sensitivity analysis of a potential right-in / right-out access from Bayview Avenue dated July 2021, prepared by Transplan. The Transplan study examined a number of different scenarios related to vehicle volumes and parking spaces.

MTO staff provided written comments on the Transplan study, concluding that, notwithstanding revisions to either the volume of traffic or the number of parking spaces, the Ministry would not permit an access onto Bayview Avenue from the Site due to safety and operational concerns given the close proximity to the Highway 401 Westbound on-ramp. **We note that these comments and conclusions from the MTO were provided directly to City Staff and to the local Councillor by Dormer Bay on August 20, 2021, and again by ourselves to the City’s legal counsel on October 5, 2021.**

On September 23, 2021, we appealed our client’s applications to the Ontario Land Tribunal pursuant to Sections 22(7) and 34(11) of the *Planning Act*, as at that time, the matter had not yet been returned to the NYCC, nor forwarded to City Council for a decision.

On November 23, 2021, the NYCC considered a Report dated October 25, 2021, which again recommended in support of the proposed development, seeking instructions that the City should attend the OLT hearing in support of the proposal (the “**Directions Report**”). The Directions Report confirmed that the MTO had been consulted in accordance with the local Councillor’s motion.

The MTO Has Provided Its Comments Already

Despite the pair of supportive recommendations from Staff, despite the Transplan study carried out in the summer of 2021 at the direction of the NYCC, and despite the MTO comments clearly concluding that the issue of access to Bayview was a safety issue and not dependent on traffic volumes or the number of parking spaces, the local Councillor nevertheless brought a further motion at the November 23, 2021 meeting of the NYCC. The motion was to amend the

recommendation in support of the proposed development to instead direct the City Solicitor to appear in opposition to the vehicular access and parking spaces as proposed and to authorize the City Solicitor to retain outside consultants as may be necessary, and to work with the MTO to identify an appropriate level of vehicular traffic to permit for a curb cut on Bayview Avenue, and should it be permitted, modify the proposal to provide for that access.

Further, the local Councillor provided commentary at the meeting with respect to the MTO discussions, which suggested that there remained some doubt about the appropriate level of traffic or number of parking spaces that the MTO might accept, which would allow for a curb cut and access along Bayview Avenue for the Site.

We are writing, therefore, to ensure that all members of City Council have been provided with an opportunity to review the comments received from the MTO regarding the potential to have site access from Bayview Avenue. **In our submission, the MTO has made its position on this matter clear.**

We enclose herein the MTO's comments on the Transplan study, contained in a series of emails with Dormer Bay's consultants, with respect to providing an access from Bayview Avenue.

The MTO comments outline their concerns with a vehicular access on Bayview to the Site, including southbound queues on Bayview blocking the Site access, a substandard distance from the 401 on-ramp, safety operational issues with vehicles exiting the Site having to weave through the 401 on-ramp traffic, and commenting there are human factors with southbound drivers on Bayview Avenue entering the 401 on-ramp lane, becoming potentially aggressive when they are not expecting a right-in / right-out access for vehicles, pedestrians and cyclists.

The MTO comments clearly conclude: *"Unfortunately, after review our Ministry cannot permit an access to Bayview Avenue due to safety and operational concerns given the close proximity to the Highway 401 Westbound on-ramp. Our Ministry will require the access to the site to be via Irvington Crescent only."*

We note that the MTO comments do not contemplate or suggest an acceptable reduced level of traffic that would address these operational, safety and locational concerns with a Site access on Bayview, notwithstanding the sensitivity analysis contained in the Transplan Study.

We reiterate that the MTO's August 17, 2021 correspondence containing these observations and conclusions was provided to City Staff and to the local Councillor on August 20, 2021. We also understand that both City Staff and the local Councillor have had discussions with the MTO on this issue. We are not aware that the MTO has provided any indication of changing its conclusions or that there is additional study that is warranted.

We respectfully ask the Members of City Council to take the foregoing in to consideration when considering the motion from the NYCC and in determining the City of Toronto's position on the proposed development, which has twice been recommended for approval in writing by the City's Staff.

Thank you for your consideration of this matter. Should you have any questions or comments with respect to this matter, please do not hesitate to contact the undersigned, or in his absence, Natalie Ast (nast@overlandllp.ca).

Yours truly,
Overland LLP



Per: Christopher J. Tanzola
Partner

- c. Sara Amini, City Solicitor
Councillor Shelley Carroll, Ward 17 Councillor
Councillor Mike Colle, Ward 8 Councillor
Councillor John Filion – Ward 18 Councillor
Councillor Denzil Minnan-Wong – Deputy Mayor and Ward 16 Councillor
Councillor James Pasternak, Chair, Ward 6 Councillor
Councillor Jaye Robinson, Ward 15 Councillor

Encl.

From: [Tuz, Sylvester \(MTO\)](#) %
To: [Adam Layton](#); [Marius Staicu](#) %
Cc: [Masoud H. Dolatabadi](#); [Maral D. Alacer](#); [Della Mora, Dan \(MTO\)](#); [Kolet, ArieH \(MTO\)](#); [Blaney, Cameron \(MTO\)](#); %
[Mulrenin, Colin \(MTO\)](#)
Subject: RE: 2810-2814 Bayview Avenue, Toronto
Date: August 17, 2021 3:12:43 PM

Hi Adam,

Further to our discussion, our Ministry understands that the residents in the area are concerned about additional traffic generated from the development, however our Ministry must balance those concerns with ensuring the safety of the travelling public along Bayview Ave. and Highway 401, which is a very busy area.

As discussed, our MTO Traffic office provided the following concerns:

- The queues on Bayview SB will block the RIRO access location.
- The right-in, right-out (RIRO) does not meet MTO standards and is a substandard distance from the Hwy 401 ramp (85m vs 125m minimum),
- MTO has safety and operational issues such as outbound RO vehicles turning into a through lane on the crossing road (needing to cross the ramp access lane to access SB Bayview will cause weaving and operational issues) and, motorists may confuse a RI with the 401WB ramp access.
- Human factors considerations- Bayview SB drivers not expecting a RIRO and vehicles possibly entering the RIRO thinking it is the 401 ramp lane, outbound RO drivers that will potentially become aggressive after waiting to enter into the lane and/or having to wait for pedestrians/cyclists.

Sylvester

From: Adam Layton <alayton@evansplanning.com>
Sent: August 17, 2021 2:46 PM
To: Tuz, Sylvester (MTO) <Sylvester.Tuz@ontario.ca>; Marius Staicu <marius@dormerhomes.ca>
Cc: Masoud H. Dolatabadi <masoud@dormerhomes.ca>; Maral D. Alacer <maral@dormerhomes.ca>; Della Mora, Dan (MTO) <Dan.DellaMora@ontario.ca>; Kolet, ArieH (MTO) <ArieH.Kolet@ontario.ca>; Blaney, Cameron (MTO) <Cameron.Blaney@ontario.ca>; Mulrenin, Colin (MTO) <Colin.Mulrenin@ontario.ca>
Subject: RE: 2810-2814 Bayview Avenue, Toronto

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Hi Sylvester,

Further to my voicemail, we would like to have a better understanding of the rationale behind this conclusion so that we can advise the Councillor accordingly.

Can you call me at your earliest opportunity to discuss?

Best Regards,

Adam Layton
Partner

Evans Planning Inc.

8481 Keele Street, Unit 12
Vaughan, Ontario L4K 1Z7
Ph:(905) 669-6992 x 102

In accordance with the Provincial 'Stay at Home' Order, effective April 8, 2021 our office will be closed. We will be keeping in touch via email transmissions and telephone and will use our best efforts to continue to move projects forward.

From: Tuz, Sylvester (MTO) <Sylvester.Tuz@ontario.ca>

Sent: August 17, 2021 2:34 PM

To: Adam Layton <alayton@evansplanning.com>; Marius Staicu <marius@dormerhomes.ca>

Cc: Masoud H. Dolatabadi <masoud@dormerhomes.ca>; Maral D. Alacer <maral@dormerhomes.ca>; Della Mora, Dan (MTO) <Dan.DellaMora@ontario.ca>; Kolet, ArieH (MTO) <ArieH.Kolet@ontario.ca>; Blaney, Cameron (MTO) <Cameron.Blaney@ontario.ca>; Mulrenin, Colin (MTO) <Colin.Mulrenin@ontario.ca>

Subject: RE: 2810-2814 Bayview Avenue, Toronto

Hi Adam and Marius,

Thank you for following up on this. Please be advised that our MTO Traffic Office has completed its review of the Traffic Analysis proposing the Right-in, Right-out entrance onto to Bayview Ave. Unfortunately, after review our Ministry cannot permit an access to Bayview Avenue due to safety and operational concerns given the close proximity to the Highway 401 Westbound on ramp. Our Ministry will require the access to the site to be via Irvington Crescent only.

I trust that the above is clear, however if you have any questions, please feel free to ask.

Regards,

Sylvester Tuz
Corridor Management Planner

Corridor Management Section
Operations Division- Central
Ministry of Transportation
159 Sir William Hearst Ave., 7th Floor
Toronto ON, M3M 0B7
437-833-9398
Sylvester.Tuz@ontario.ca

From: Adam Layton <alayton@evansplanning.com>

Sent: August 17, 2021 11:25 AM

To: Tuz, Sylvester (MTO) <Sylvester.Tuz@ontario.ca>; Marius Staicu <marius@dormerhomes.ca>

Cc: Masoud H. Dolatabadi <masoud@dormerhomes.ca>; Maral D. Alacer <maral@dormerhomes.ca>; Della Mora, Dan (MTO) <Dan.DellaMora@ontario.ca>; Kolet, ArieH (MTO) <ArieH.Kolet@ontario.ca>

Subject: RE: 2810-2814 Bayview Avenue, Toronto

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Hi Sylvester,

I trust you had a good weekend.

Are we still on track to receive feedback this week?

Would it be beneficial to arrange a zoom/teams call?

Best Regards,

Adam Layton

Partner

Evans Planning Inc.

8481 Keele Street, Unit 12

Vaughan, Ontario L4K 1Z7

Ph:(905) 669-6992 x 102

In accordance with the Provincial 'Stay at Home' Order, effective April 8, 2021 our office will be closed. We will be keeping in touch via email transmissions and telephone and will use our best efforts to continue to move projects forward.

From: Tuz, Sylvester (MTO) <Sylvester.Tuz@ontario.ca>

Sent: August 10, 2021 10:57 AM

To: Marius Staicu <marius@dormerhomes.ca>

Cc: Masoud H. Dolatabadi <masoud@dormerhomes.ca>; Maral D. Alacer <maral@dormerhomes.ca>; Adam Layton <alayton@evansplanning.com>; Della Mora, Dan (MTO) <Dan.DellaMora@ontario.ca>; Kolet, ArieH (MTO) <ArieH.Kolet@ontario.ca>

Subject: RE: 2810-2814 Bayview Avenue, Toronto

Hi Marius,

Thanks for following up. The Traffic Study is still under review by our MTO Traffic Office, however I am hoping to have feedback for you next week. Please feel free to follow up should you not hear back from me.

Regards,

Sylvester Tuz

Corridor Management Planner

Corridor Management Section
Operations Division- Central
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Toronto ON, M3M 0B7
437-833-9398
Sylvester.Tuz@ontario.ca

From: Marius Staicu <marius@dormerhomes.ca>
Sent: August 10, 2021 9:09 AM
To: Tuz, Sylvester (MTO) <Sylvester.Tuz@ontario.ca>
Cc: Masoud H. Dolatabadi <masoud@dormerhomes.ca>; Maral D. Alacer <maral@dormerhomes.ca>; Adam Layton <alayton@evansplanning.com>
Subject: Re: 2810-2814 Bayview Avenue, Toronto

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Good morning Sylvester, #
We would appreciate an update on the July 28 submission of the TIS. #
Kindly advise when the comments will be provided. #
Regards, #
Marius #

From: Marius Staicu
Sent: August 4, 2021 3:31 PM
To: Tuz, Sylvester (MTO) <Sylvester.Tuz@ontario.ca>
Cc: Masoud H. Dolatabadi <masoud@dormerhomes.ca>; Maral D. Alacer <maral@dormerhomes.ca>; Adam Layton <alayton@evansplanning.com>
Subject: RE: 2810-2814 Bayview Avenue, Toronto

Good afternoon Sylvester, #
Thank you for confirming receipt of the TIS sent by our planning consultant, Adam Layton last #
Wednesday. #
We are hoping to receive feedback from you and your team shortly so that we can resume the #
discussions with City Staff as well as the councilor. #
Any update you can provide in this regard is appreciated. #
Regards, #

Marius Staicu
Land Development Manager

T. 647 429 7090 x 103
F. 647 348 8995
dormerhomes.ca

From: Tuz, Sylvester (MTO) <Sylvester.Tuz@ontario.ca>
Sent: Wednesday, July 28, 2021 1:59 PM
To: Adam Layton <alayton@evansplanning.com>
Cc: Marius Staicu <marius@dormerhomes.ca>; Masoud H. Dolatabadi <masoud@dormerhomes.ca>
Subject: RE: 2810-2814 Bayview Avenue, Toronto

Hi Adam,

I can confirm I have received the TIS. I will need to circulate internally to our MTO Traffic Office for review and comments. There are a number of people away on vacation right now, however I'll provide comments as soon as they are available.

Best Regards,

Sylvester Tuz
Corridor Management Planner

Corridor Management Section
Operations Division- Central
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437-833-9398
Sylvester.Tuz@ontario.ca

From: Adam Layton <alayton@evansplanning.com>
Sent: July 28, 2021 12:48 PM
To: Tuz, Sylvester (MTO) <Sylvester.Tuz@ontario.ca>
Cc: Mahsa Dolatabadi (Other) <marius@dormerhomes.ca>; Masoud Dolatabadi <masoud@dormerhomes.ca>
Subject: 2810-2814 Bayview Avenue, Toronto

CAUTION -- EXTERNAL E-MAIL - Do not click links or open attachments unless you recognize the sender.

Good afternoon Mr Tuz,

Please find attached a copy of the Site access sensitivity analysis and our transmittal letter with regard to the proposed development of the above referenced property.

We would welcome the opportunity to discuss these with yourself and MTO Staff at your earliest opportunity.

Best Regards,

Adam Layton
Partner

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