

# DEVINE PARK LLP

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PLANNING AND DEVELOPMENT LAWYERS

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Matter No. S858-04

January 26, 2017

**DELIVERED VIA EMAIL (clerk@toronto.ca)**

Mayor and Members of Council  
c/o City Clerk's Department  
City of Toronto  
13<sup>th</sup> Floor, West Tower, City Hall  
100 Queen Street West  
Toronto ON M5H 2N2

**Attention: Ms. Ulli S. Watkiss,  
City Clerk**

Dear Mayor Tory and Members of Council:

**RE: Items No. NY19.35 and NY19.46  
Proposed Permanent Closure of Portions of the Public Lane Located to the Rear of 179  
and 181 Sheppard Avenue East  
Refusal Report, dated January 4, 2017, Respecting Zoning By-law Amendment  
Application, City of Toronto File No. 16 225685 NNY 23 OZ**

Please be advised that we are the solicitors for

1. 179 Sheppard Avenue Ltd., the owner of the lands known municipally as 179 Sheppard Avenue East; and
2. 181 Sheppard Avenue East Ltd., the owner of the lands known municipally as 181 Sheppard Avenue East,

both in the City of Toronto (collectively, the "**Site**"), which is the subject of the aforementioned zoning by-law amendment application for which the January 4, 2017 Refusal Report was issued.

As we outlined in greater detail in a letter to North York Community Council ("**NYCC**"), dated January 16, 2017 (a copy of which is attached), we respectfully disagree with the concerns raised and recommendations contained in the Refusal Report. We disagree with the Report's conclusion that because the rear of the proposed building to be developed on the Site lies beneath a 60-degree angular plane, the proposal does not provide an acceptable relationship with the adjacent Neighbourhoods area to the rear. Both the City and the Ontario Municipal Board have approved mid-rise buildings having an angular plane of greater than 45 degrees and similar to the angular plane that is contemplated in our client's development proposal. With the addition of adequate screening and other mitigating measures, there will be no adverse impacts on the neighbourhoods to the south. We also do not believe on-site

parkland dedication is appropriate for the Site due to the small size of the on-site parkland dedication the City is seeking and the existing parks in close proximity to the Site. It would be more appropriate to require a cash-in-lieu of parkland payment. Furthermore, we noted that the actual right of way of Sheppard Avenue East is greater than the planned right of way, due to modification which were made in anticipation of the Sheppard-Yonge subway corridor. As a result, it may be possible to move the proposed building closer to Sheppard Avenue East and further from the adjacent neighbourhood to its rear.

We are now aware of the motion that was adopted at the January 17, 2017 NYCC meeting which proposed to permanently close a portion of an unopened public laneway running east-west along the southerly property line of the Site (the "**Laneway**"). In doing so, NYCC requested that the General Manager, Transportation Services, initiate the process and give notice of a proposed by-law to permanently close a portion of the Laneway along the rear of 179 and 181 Sheppard Avenue East and report back to NYCC on the proposed closure by May 2, 2017.

The Laneway is L-shaped, running along the south and west property lines, and connects from Sheppard Avenue East to Willowdale Avenue. Its purpose is to alleviate and improve traffic conditions at the Sheppard Avenue East and Willowdale Avenue intersection by allowing better circulation of vehicular traffic to and from the properties located at the south-west corner of this intersection. The City was remiss in failing to open the Laneway and as a result has contributed to the traffic issues in the area.

The acquisition and use of the Laneway is a key component to the access, loading, and circulation of our client's proposed development on the Site. Use of the Laneway will in fact improve the existing traffic circulation at the intersection of Sheppard Avenue East and Willowdale Avenue. If the Laneway remains unopened or if the City is unwilling to sell it to our client, it would continue to go unused and serve no purpose, contrary to the City's Official Plan policies, which seek to ensure that laneways are not closed to public use where they provide present and future access and servicing to adjacent development.

In a letter to the Manager, Traffic Planning and Right-of-Way Management, North York District, dated June 20, 2016 (a copy of which is attached), our client indicated an interest in purchasing the Laneway. Initial discussions between our client and Right-of-Way Management - Transportation Services on the potential acquisition of the Laneway took place in August 2016 and a formal letter of intent to purchase the Laneway was sent to the Coordinator Public Lanes – Traffic Planning, on January 9, 2017 (a copy of which is attached).

Selling the Laneway to our client will permit a vehicular travel route that would provide access from the proposed development to Willowdale Avenue in addition to Sheppard Avenue East. This provides other routing opportunities for users to travel to Sheppard Avenue East should delays, from the Site directly to Sheppard Avenue East, be excessive.

In comments on the proposed development from Transportation Services, dated December 12, 2016, Transportation Services accepted the proposed configuration of the Laneway, subject to some design issues that will need to be resolved. Furthermore, given certain design constraints, Transportation Services stated that it had no objections to the proposed sale of the Laneway to our client, subject to some conditions concerning access to the Laneway for the adjacent property to the west of the Site, and in fact "recommends this idea be investigated".

If the City is unwilling to sell the Laneway to our client and instead permanently closes it, there would be no vehicular access from the Site to Willowdale Avenue, which would force vehicular traffic to enter and

exit the Site solely from Sheppard Avenue East; something which we had sought to avoid and is generally against good transportation planning. It would be clear that the only reason the City would close the Laneway and not sell it to our client, would be to frustrate our client's development application, and in doing so the existing traffic issues would remain. It would be our respectful submission that this would not be in the public interest.

Finally, it should be noted that the City has failed to maintain the Laneway and as a result it has fallen into disrepair. Our clients' development of the Site would make good use of the Laneway and bring it back into a state of good repair.

If you have any question regarding the above, please do not hesitate to contact the undersigned at 416.645.4572.

Yours very truly,  
**Devine Park LLP**



Jason Park  
JIP/ss  
Encls.

c.c. 179 Sheppard Avenue Ltd. and 181 Sheppard Avenue East Ltd.  
c.c. Jennifer Keesmaat, Chief Planner & Executive Director  
c.c. Barbara Gray, General Manager, Transportation Services

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Matter No. S858-04

January 16, 2017

SENT VIA EMAIL (nycc@toronto.ca)

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

Attention: Francine Adamo, Administrator

Dear Sirs/Mesdames:

RE: 179 – 181 Sheppard Avenue East  
Zoning By-law Amendment Application – Refusal Report  
City of Toronto File No. 16 225685 NNY 23 OZ  
North York Community Council Item No. NY19.35

Please be advised that we are the solicitors for

1. 179 Sheppard Avenue Ltd., the owner of the lands known municipally as 179 Sheppard Avenue East; and
2. 181 Sheppard Avenue East Ltd., the owner of the lands known municipally as 181 Sheppard Avenue East,

both in the City of Toronto (collectively, the "**Site**"), which is the subject matter of the above-noted Zoning By-law Amendment Application ("the **Application**").

We have now had the opportunity to review the Refusal Report with respect to this Application from the Director, Community Planning, North York District to the North York Community Council, dated January 4, 2017 (the "**Report**"). We would respectfully disagree with the concerns raised and recommendations contained in the Report.

Firstly, we disagree with the Report's conclusion that because the rear of the proposed building lies beneath a 60-degree angular plane as opposed to a 45-degree angular plane, the proposal does not provide an acceptable relationship between the proposed mid-rise building and the adjacent neighbourhoods area to its rear. Both the City and the Ontario Municipal Board have approved mid-rise buildings having an angular plane of greater than 45 degrees. Furthermore, it is our position that with adequate screening and with other mitigating measures, there will be no adverse impacts on the neighbourhoods to the south.


Secondly, we do not believe on-site parkland dedication is appropriate for the Site. Due to the small size of the on-site parkland dedication the City is seeking and the existing Glendora Park to the south and Sheppard East Park to the east of the Site, it would be more appropriate to require a cash-in-lieu of parkland payment.

Finally, it should be noted that the actual right of way of Sheppard Avenue East is greater than the planned right of way, due to modification which were made in anticipation of the Sheppard-Yonge subway corridor. As a result, it is possible, and if the City is amenable to the idea, to move the proposed building closer to Sheppard Avenue East and further from the adjacent neighbourhood to its rear.

Thank you for your consideration of the matters set forth above. We would like to continue to work with the City to resolve any remaining issues regarding the Application.

If you have any question regarding the above, please do not hesitate to contact the undersigned at 416.645.4572.

Yours very truly,  
**Devine Park LLP**

  
Jason Park  
JIP/ss

c.c. 179 Sheppard Avenue Ltd. and 181 Sheppard Avenue East Ltd.



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[guyd@goldmangroup.com](mailto:guyd@goldmangroup.com)

June 20, 2016

Ms. Carly Hinks  
Manager, Traffic Planning  
and Right-of-Way Management  
North York District  
5100 Yonge Street, 4<sup>th</sup> Floor  
Toronto, Ontario M2N 5V7

Via Email  
Original Hand Delivered

Re: Purchase by Stafford Developments of the City of Toronto's unopened and unused public lane allowance adjacent to and abutting 179 and 181 Sheppard Avenue East

Dear Ms. Hinks:

Stafford Developments recently acquired the properties located at 179 and 181 Sheppard Avenue East; while conducting our due diligence process with respect to the purchase, we learned that the City of Toronto owns along our south property line an unopened lane allowance.

The purpose of this communication is to request the commencement of discussions between Stafford Developments and the City of Toronto regarding the potential acquisition of the above noted lane allowance by Stafford Developments. The acquisition by Stafford Developments would allow for ongoing and permanent maintenance of said lands and eliminate what appears to be an "orphan" piece of property under City of Toronto ownership.

I have copied Messrs. Karakolis and Varner of Real Estate Services; Mr. Varner and I during meetings on other projects briefly touched upon the possibility of a Stafford acquisition of said lands.

As requested by City Staff, please find enclosed to this correspondence:

- (1) A survey of 179-181 Sheppard Ave. E. that includes the laneway lands (P.I.N. 10104-0563 LT) by SVNG Ltd;

I look forward to working with you on the potential acquisition of these lands; I can be contacted by telephone on my direct line at 416-962-8270 or on my cell at 416-997-9745 and by email at [guyd@goldmangroup.com](mailto:guyd@goldmangroup.com).

Thank you for your assistance and cooperation.

Yours truly,

Stafford Developments

A handwritten signature in black ink, appearing to read "Guy D'Onofrio". The signature is fluid and cursive, with a large initial "G" and "D".

Guy D'Onofrio  
Senior Vice-President

Copy:

Brian Varner, Appraisals Manager, Real Estate Services, [bvarner@toronto.ca](mailto:bvarner@toronto.ca)

Tasse Karakolis, Portfolio Manager, Real Estate Services, [tkarako@toronto.ca](mailto:tkarako@toronto.ca)



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January 9, 2017

Ms. Laurie L. Robertson  
Coordinator Public Lanes  
Traffic Planning  
Metro Hall  
55 John Street, 17<sup>th</sup> Floor  
Toronto ON M5V 3C6

Via Email: [lroberts@toronto.ca](mailto:lroberts@toronto.ca)

Re: 179 Sheppard Avenue East & 181 Sheppard Avenue East  
179 Sheppard Avenue Ltd. & 181 Sheppard Avenue East Ltd.  
Zoning By-law Amendment Application No: 16 225685 NNY 23 OZ  
Site Plan Application No.: 16 225701 NNY 23 SA  
Offer to Purchase Adjacent Public Laneway located to the South and West of  
179 and 181 Sheppard Avenue East

Dear Ms. Robertson:

Pursuant to our meeting of August 30<sup>th</sup> 2016 which was also attended by Mr. Geoffrey Lau of City of Toronto Transportation Services and Ms. Melissa McKay of Stafford Developments (Stafford) and to comments from Development Engineering To Community Planning dated December 12, 2016: please consider this correspondence as the official request from Stafford Developments to enter into discussions with the City of Toronto to purchase the existing (unopened) public laneway that bounds the 179 and 188 Sheppard Avenue East properties on the south and west sides.

Further to your suggestion at our August 30<sup>th</sup> meeting, I am pleased to advise that Stafford has met twice with, representatives of Tilzen Holdings Limited (Tilzen), the owner of 145 Sheppard Avenue East and that, Tilzen has provided a letter supporting Stafford's entering into public lane acquisition discussions with the City of Toronto and that Stafford will be acting as Tilzen's agent with respect to the above noted land acquisition process.

Stafford and Tilzen have acknowledged that the sale by the City of Toronto to Stafford of the public lane adjacent to the properties located at 179, 181 and 185 Sheppard Avenue East is in the best interest of all concerned parties.

Stafford and Tilzen will be entering into an agreement which will include provisions for a number of items including but not limited to mutual access, formalizing any present encroachments by either party onto said lands and the maintenance of the shared north/south portion of the laneway. As well, in consideration of the above noted details and the fact that agreement on those details

provides for de facto joint ownership of the north/south portion of the lane; Stafford and Tilzen as part of its continued discussions will include the possibility of sharing ownership in whole or in part of the north/south lane portion once Stafford has completed its acquisition arrangements with the City of Toronto.

Also in consideration of Tilzen's ongoing interest regarding this matter, Ms. Antoinette Benedetto, Tilzen's Vice President is copied on this correspondence and she may be attending along with me any meetings that will be scheduled between Stafford and the City of Toronto.

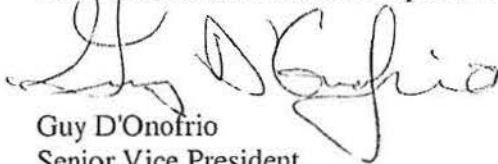
With further regard to the lane way acquisition by Stafford, at a Community Meeting held on November 28<sup>th</sup> 2016 hosted by the Ward Councillor and Community Planning; a number of Craigmere Crescent residents raised with me, both publicly and privately, the current and future status of the laneway and that, presently the Craigmere Crescent home owners cannot access the rear of their respective properties through the public lane. On a without prejudice basis, I responded that Stafford through the development approval and the lane acquisition process would be willing to negotiate with the Craigmere Cres. home owners' easements allowing for them to access the rear of their respective properties.

At your earliest convenience, please advise me of the next steps that Stafford should undertake with respect to this lane acquisition. I can be reached at the following telephone numbers: Direct Line at 416-962-8270, general office line at 416-962-9080 Ext. 226 or on my cell at 416-997-9745. I can also be reached by email at [guyd@goldmangroup.com](mailto:guyd@goldmangroup.com).

Thank you for your continued assistance and cooperation.

Sincerely yours,

179 Sheppard Avenue Ltd.  
181 Sheppard Avenue East Ltd.  
In the Care of Stafford Developments



Guy D'Onofrio  
Senior Vice President

Copy:

Geoffrey Lau, Transportation Services  
Joe Nanos, Director, Community Planning  
Alick Wong, Manager, Technical Services  
Alex Teixeira, Planner, Community Planning  
Robert Fazio, Engineer, Technical Services  
Antoinette Benedetto, Vice President, Tilzen  
Melissa McKay, Director of Planning, Stafford