

400 Front Street West - Zoning By-law Amendment Application - Request for Direction

Date: January 22, 2018
To: City Council
From: City Solicitor
Wards: Ward 20 Trinity Spadina

SUMMARY

At its meeting of May 24, 25 and 26, 2017, City Council authorized amongst other matters respecting 400 Front Street West- Zoning Amendment Application – Request for Direction Report (TE24.7), that:

1. the City Solicitor, together with City Planning staff and any other appropriate staff to attend an Ontario Municipal Board hearing to oppose the appeal of the currently proposed Zoning By-law Amendment for 400 Front Street West and to support the position outlined in the report (April 11, 2017) from the Director, Community Planning, Toronto and East York District; and
2. in the event the Ontario Municipal Board approves the Zoning By-law Amendment application, in whole or in part, City Council require that on-site parkland dedication pursuant to Section 42 of the *Planning Act* be conveyed to the City to the satisfaction the General Manger, Parks, Forestry and Recreation.

The Zoning By-law Amendment application appealed by the Applicant did not include provision for any Section 42 *Planning Act* on-site parkland dedication. Following the May 24, 25, 26, 2017 Council Decision, the Applicant was advised in writing by the City Solicitor on July 20, 2017, of the size, configuration and location of the on-site parkland required by the General Manager, Parks, Forestry and Recreation in connection with the Zoning Amendment Application for 400 Front Street West. The City Solicitor requested the Applicant revise their application and draft by-laws to incorporate such parkland dedication in the size, configuration and location satisfactory to the City, failing which the City would bring a motion before the Board in advance of the commencement of the hearing to the have the issue and jurisdiction of the Board to address such matters at the hearing determined.

The second Prehearing Conference for this matter was held by the Board on July 24, 2017. Prior to the second Prehearing the Applicant requested the City agree to the

setting of a hearing date and the City Solicitor took the position that the setting of a hearing date was contingent on a number of matters, including the applicant revising the proposed development and Zoning By-law Amendments to incorporate the Section 42 on-site parkland conveyance in the size, location and configuration that is satisfactory to the City; and that if the application was not so revised and with adequate time prior to any hearing commencing, the City would bring a motion to have the prematurity and jurisdiction of the Board to address such matters at the hearing determined sufficiently in advance of the hearing to allow for a Board decision on the motion to issue. Further, that should any decision arising from the motion be appealed, such might affect the timing for the hearing. On the basis of those contingencies being agreed to the City Solicitor consented to set hearing dates and a 3 to 4 week hearing was scheduled by the Board commencing June 11, 2018. The Board Decision from the second Prehearing Conference reflects the contingent nature of the hearing including the following in the Decision:

"[4] The Board was advised that there are unresolved issues related to parkland dedication for the proposed development. It was the City's submission that elements of the disagreement are outside the jurisdiction of the Board but may impact the hearing on the merits of the application. The City submitted that they are prepared to agree to the hearing date on the merits, contingent on settling the parkland matter in advance."

At the third Prehearing Conference on January 9, 2018, the Applicant confirmed to the Board its intention to provide revised plans incorporating on-site Section 42 parkland for the rezoning appeal, and consented to the Board setting aside February 21, 2018 for the hearing of the City's motion in regard to the Board's jurisdiction and prematurity of the hearing, in the event the City is not satisfied with the proposed Section 42 provision of on-site parkland provided for in any revised plans to be provided to the City by January 19, 2018. The Board scheduled the motion date on the consent of all parties, and required amongst other matters:

1. at the City's request, that to the extent the Applicant is prepared to include Section 42 parkland on the site, it is to provide the City with their revised plans for the hearing by January 19, 2018, identifying the park and relationships to proposed buildings; and
2. that the Procedural Order for the hearing be finalized, by March 29, 2018, including the City's Issues List, failing which the hearing dates may be cancelled.

This report seeks authority for the City Solicitor to submit a report directly to City Council for its meeting on January 31, February 1 and 2, 2018 in regard to the revised plans/application which the Applicant submitted on January 19, 2018, in order to obtain instructions sufficiently in advance of the February 21st motion date, and to provide staff the opportunity to finalize the City's Issue List for the procedural order by March 29, 2018, as the next regular City Council meeting is not until March 26, 27 and 28, 2018.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council consider a forthcoming report on this matter directly to City Council on January 31, February 1 and 2, 2018.

FINANCIAL IMPACT

There is no financial impact.

DECISION HISTORY

COMMENTS

The City Solicitor requires further direction on this matter.

CONTACT

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SIGNATURE

Wendy Walberg
City Solicitor