

346, 350, 352 and 356 Eglinton Avenue West - Request for Directions Regarding OMB Hearing

Date: January 22, 2018

To: City Council

From: City Solicitor

Wards: Ward 16 - Eglinton-Lawrence

REASON FOR CONFIDENTIAL INFORMATION

This report contains advice or communications that are subject to solicitor-client privilege. This report contains information regarding potential litigation.

SUMMARY

On August 31, 2015, the City received an application to amend the Zoning By-law and for Site Plan Approval for 346, 350, 352, and 356 Eglinton Avenue West to permit a 15-storey (47.9 metres plus 5.5 metre mechanical penthouse) mixed-use tower containing 112 residential units, 189 square metres commercial space at grade and three levels of underground parking that would provide 57 vehicle parking spaces. The total gross floor area proposed is 8,436 square metres representing a density of 8.52 times the area of the lot.

The applicant appealed City Council's neglect or failure to make a decision on its application for Zoning By-law Amendment (the "Zoning Appeal") to the Ontario Municipal Board (the "OMB") on June 7, 2016. In addition to the applicant's Zoning Appeal, the OMB also has before it: (a) the applicant's appeal the City's neglect or failure to make a decision on its application for Site Plan Approval; and (b) the applicant's appeal of the City-initiated amendment to the City-wide Zoning By-law 569-2013 to permit mixed use buildings along most of Eglinton Avenue West, west of Duplex Avenue that conform to the Council-approved Mid-rise Performance Guidelines (By-law 1030-2014).

In a report to City Council dated August 30, 2016, City Planning recommended opposition to the Zoning Appeal at the OMB (the "Request for Directions"). City Planning concluded in the Request for Directions that the proposal was inconsistent with the Provincial Policy Statement, 2014, did not conform with the Growth Plan for the Greater Golden Horseshoe, did not conform to the Official Plan and the Yonge-Eglinton

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Secondary Plan, was inconsistent with Council-approved guidelines; did not fit within the existing and planned context along Eglinton Avenue West, and created adverse shadow and overlook impacts on the adjacent *Neighbourhoods*.

City Council adopted the recommendations in the Request for Directions to oppose the Zoning Appeal.

On January 14, 2018, the applicant submitted a with prejudice revised development proposal for 346, 350, 352 and 356 Eglinton Avenue West, reducing the overall height from 15 storeys to 10 storeys, and 47.9 metres (plus mechanical penthouse) to 33.45 metres (plus mechanical penthouse). The total gross floor area has been reduced to 5,775 square metres, and the number of residential units has been reduced to 72 units. The commercial gross floor area remains 189 square metres. The density has been reduced from 8.52 to 5.81 times the area of the lot. The revised drawings are attached as Appendix "A" to this report.

The purpose of this report is to request further instructions for the OMB hearing that is scheduled to commence March 19, 2018.

City Planning has been involved in the preparation of this report.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the recommendations contained in the Confidential Attachment 1 to this report.
2. City Council authorize the public release of the confidential recommendations contained in the Confidential Attachment 1 to this report, if adopted by City Council.
3. City Council direct that all other information contained in Confidential Attachment 1 is to remain confidential at the discretion of the City Solicitor, as it contains advice which is subject to solicitor-client privilege.

FINANCIAL IMPACT

Adopting this report will have no financial impact beyond what has already been approved in the current year's budget.

DECISION HISTORY

On August 25, 2014, City Council considered the Phase 1 (Part 2) Implementation Report for the Eglinton Connects Planning Study. City Council adopted an amendment to the City-wide Zoning By-law 569-2013 to permit mixed-use buildings along most of Eglinton Avenue West, west of Duplex Avenue that conform to the Council-approved

Mid-Rise Performance Guidelines. This site is included in the amendments. The applicant has appealed this by-law to the OMB. The Council's direction is available on the City's website at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.PG35.3>

At its meeting of October 5, 2016, City Council adopted the recommendations in Item No. NY16.41, opposing a Zoning By-law Amendment Application for a 15-storey mixed-use building at 346, 350, 352, and 356 Eglinton Avenue West.

A copy of the Request for Directions is available on the City's website at:

<https://www.toronto.ca/legdocs/mmis/2016/ny/bgrd/backgroundfile-95600.pdf>

The owner appealed the Zoning By-law Amendment application to the OMB on June 7, 2016.

An eight-day hearing is scheduled to commence March 19, 2018.

COMMENTS

The City Solicitor requires further instructions. This report is about litigation before the OMB and contains advice or communications that are subject to solicitor-client privilege. Attachment 1 to this report contains confidential advice and should be considered by Council in camera.

CONTACT

Laura Bisset, Solicitor, Planning & Administrative Tribunal Law; Tel: (416) 392-8782; Fax: (416) 397-564; Email: laura.bisset@toronto.ca

Alexander Suriano, Solicitor, Planning & Administrative Tribunal Law; Tel: (416) 392-4827; Fax: (416) 397-5624; Email: alexander.suriano@toronto.ca

SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

Confidential Attachment 1 - Confidential Recommendations and Confidential Information

Appendix "A" to Public Report - Revised Drawings

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