



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

90 Eastdale Avenue, 2 Secord Avenue - Appeal to the Local Planning Appeal Tribunal - Request for Further Direction

Date: April 16, 2018

To: City Council

From: City Solicitor

Wards: Ward 31 - Beaches-East York

REASON FOR CONFIDENTIAL INFORMATION

This report is about litigation or potential litigation that affects the City or one of its agencies or corporations.

This report contains advice or communications that are subject to solicitor-client privilege.

SUMMARY

The subject property is comprised of 90 Eastdale Avenue and 2 Secord Avenue. The total site area is 2.65 hectares and 90 Eastdale Avenue currently contains a 24 storey apartment building with 383 rental units and 30 two-storey townhouse units. The property at 2 Secord Avenue currently contains a 22 storey apartment building with 304 rental units and 22 two-storey townhouse units.

The applicant filed a rezoning application for permission to construct a 37 storey apartment building with 396 rental dwelling units serviced only by a private driveway behind and to the west of the existing 24 storey apartment building at 90 Eastdale Avenue. City Council refused the application at its meeting of June 2017.

The applicant appealed Council's refusal of the application to the Ontario Municipal Board, now named the Local Planning Appeal Tribunal (LPAT), and a nine day hearing is scheduled to begin on May 22, 2018.

The City Solicitor requires further direction in advance of the May 22nd LPAT hearing.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the recommendations set out in Confidential Attachment 1.
2. If the confidential instructions in Confidential Attachment 1 are adopted, City Council authorize the public release of:
 - a. the recommendations contained in Confidential Attachment 1, with the remainder of Confidential Attachment 1 to remain confidential, as it contains advice subject to solicitor-client privilege; and
 - b. Confidential Attachment 2 and Confidential Attachment 3.

FINANCIAL IMPACT

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

DECISION HISTORY

At its meeting of September 2012, City Council adopted a staff recommendation to allow a land exchange of a City-owned parkette 0.16 hectare in size on the south-west corner of Lumsden Avenue and Eastdale Avenue in exchange for a larger public park of 0.21 hectare in size on the south end of the site at the north-west corner of Secord Avenue and Eastdale Avenue. This land exchange facilitated the provision of a larger City-owned public park in a preferred location and the construction of a 24 storey condominium on the site of the former parkette.

<https://www.toronto.ca/legdocs/mmis/2012/te/bgrd/backgroundfile-49892.pdf>

Council approved a 24 storey rental condominium building on the former site of the parkette. The approval of this proposal by Council included the securing of all existing affordable and mid-range rental dwelling units on the site and a number of site and building improvements. This proposal was approved by the Ontario Municipal Board as representing good planning in a Board decision issued on December 27, 2012, which approval remains in place today.

Ultimately, the owner decided not to proceed with this Council and OMB-approved development and instead submitted a new application to the City for a 37 storey apartment building behind the existing 24 storey apartment building.

COMMENTS

City Planning and Urban Design staff had substantial concerns with the 37 storey proposal as the building was too dense with 396 units, would not front onto a public street, was located behind another building, and would be serviced only by a private driveway. City staff recommended refusal of the 37 storey apartment building as it did not represent good land use planning or urban design. City Council accepted this staff recommendation and refused the rezoning application. The applicant appealed Council's refusal to what is now the Local Planning Appeal Tribunal and the hearing of the matter is scheduled to commence on May 22, 2018.

<https://www.toronto.ca/legdocs/mmis/2017/te/bgrd/backgroundfile-104490.pdf>

The City Solicitor requires further instructions.

CONTACT

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SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

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

Confidential Attachment 2 - Confidential Material

Confidential Attachment 3 - Additional Confidential Material (On file with the City Clerk for the purpose of the April 24, 25 and 26, 2018 City Council meeting).