



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

3140-3170 Dufferin Street and 60-68 Apex Road - Official Plan Amendment Application and Appeal of Dufferin Street Secondary Plan - Request for Directions Regarding LPAT Hearing

Date: July 17, 2018

To: City Council

From: City Solicitor

Wards: Ward 15 - Eglinton - St. 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

RioCan Management Inc. ("RioCan") is the owner of lands municipally known as 3140-3170 Dufferin Street and 60-68 Apex Road (the "Subject Site"). The Subject Site is located at the northwest corner of Dufferin Street and Apex Road.

On November 15, 2015, the Applicant submitted an Official Plan Amendment application to the City, proposing to develop two mixed-use buildings of 28 and 22 storeys separated by a new public road oriented in a north to south configuration (the "Application"). The Application proposed a gross floor area of approximately 59,400 square metres and a Floor Space Index (FSI) of 3.86. There would be 578 residential units, 878 parking spaces and 1135 bicycle parking spaces. A new 1900 square metre public park was also proposed.

At its meeting on December 9 and 10, 2015, City Council adopted the Dufferin Street Secondary Plan ("OPA 294"), a Secondary Plan that provides a planning framework for the potential redevelopment of the Dufferin Street Secondary Plan Area (all parcels fronting on Dufferin Street between Bridgeland Avenue to just south of Lawrence Avenue West), including policies on land use, built form, the public realm, mobility, infrastructure and community services and facilities. Council directed staff to use OPA 294 in the evaluation of all current and new development proposals falling within its

boundaries. Council also adopted the Dufferin Street Urban Design Guidelines and endorsed the Dufferin Street Transportation Master Plan and Infrastructure and Stormwater Master Plan as technical resources for City staff to support the implementation of the Secondary Plan. Council directed staff to use the Dufferin Street Urban Design Guidelines, including the Dufferin Street Transportation Master Plan and the Infrastructure and Stormwater Master Plan in the evaluation of all new and current development proposals and public initiatives.

On January 8, 2016, RioCan appealed OPA 294 in its entirety to the Ontario Municipal Board (the "OMB"), now known as the Local Planning Appeal Tribunal (the "LPAT").

On June 7, 2016, Council refused RioCan's Application to adopt the proposed Official Plan Amendment. On July 8, 2016, RioCan appealed Council's refusal to the OMB.

RioCan's appeal of OPA 294 has been consolidated with its appeal of Council's refusal to adopt its proposed Official Plan Amendment, for the purpose of the LPAT proceedings, in accordance with Council's direction on June 7, 2016.

Without prejudice discussions with the applicant have taken place, and Tribunal-led mediation was held on October 16, 17, 18, 19 and 27, 2017.

The purpose of this report is to request further instructions.

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, Confidential Attachment 2, and Confidential Attachment 3 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

The Subject Site is within the area of the Dufferin Street Secondary Plan. At its meeting of December 9 and 10, 2015, City Council considered the Final Report for the Dufferin Street Secondary Plan (OPA 294). The report and Council's direction are available on the City's website at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.NY10.42>

On January 8, 2016, RioCan appealed the City's adoption of OPA 294.

On January 19, 2016 North York Community Council adopted the Preliminary Report on the subject Official Plan Amendment Application for 3140-3180 Dufferin Street and 60-68 Apex Road. The report can be found at the following link:

<https://www.toronto.ca/legdocs/mmis/2016/ny/bgrd/backgroundfile-86928.pdf>

On June 7, 8 and 9, 2016 City Council refused the application to amend the Official Plan for 3140-3170 Dufferin Street because the proposal did not conform to the City's Official Plan, the proposal did not implement the City's recently completed Dufferin Street Secondary Plan, and the proposal was considered to be inappropriate and not to represent good planning. City Staff's Refusal Report can be found at the following link:

<https://www.toronto.ca/legdocs/mmis/2016/ny/bgrd/backgroundfile-92527.pdf>

The Applicant appealed the City's refusal of its application to amend the Official Plan for 3140-3170 Dufferin Street and 60-68 Apex Road to the OMB/LPAT.

The LPAT has not yet scheduled hearing dates for the hearing of RioCan's consolidated appeals of OPA 294 and City Council's refusal of RioCan's application to amend the Official Plan for 3140-3170 Dufferin Street and 60-68 Apex Road.

COMMENTS

The City Solicitor requires further instructions. This report is about litigation before the LPAT 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

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SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

1. Confidential Attachment 1 - Confidential Recommendations and Confidential Information
2. Confidential Attachment 2 - Confidential Information
3. Confidential Attachment 3 on file with the City Clerk for the purpose of the July 23, 24 and 25, 2018 City Council meeting.