

5800 Yonge Street – Toronto Hydro Lands

Date: March 23, 2018

To: City Council

From: City Solicitor and Acting Chief Planner and Executive Director, City Planning

Wards: Ward 23

REASON FOR CONFIDENTIAL INFORMATION

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

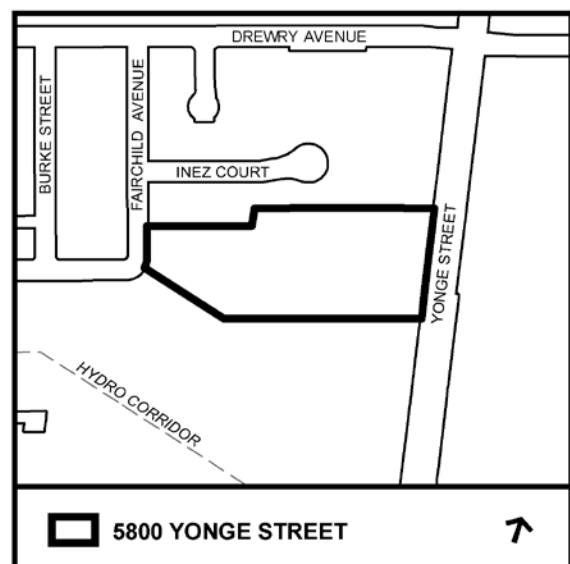
SUMMARY

At its meeting of January 31, 2018, City Council directed the City Manager and Acting Chief Planner and Executive Director, City Planning to report to the March 26, 27 and 28, 2018 meeting of City Council on the measures that are in place to ensure Toronto Hydro will fulfill its commitment to comply with the North York Centre Secondary Plan with particular regard for the maximum density provisions.

The purpose of this report is to respond to the above-noted City Council direction and to advise of discussions held between City staff and Toronto Hydro staff for its property at 5800 Yonge Street. This report was prepared by City Planning and Legal Services, in consultation with the City Manager's Office.

In late 2016 and 2017 discussions were held between the City of Toronto and Toronto Hydro Staff on possible mechanisms that could be put in place to restrict height and density on the subject lands.

Concurrently, City Planning Staff met with architects and planners representing Toronto Hydro to discuss in broad terms what an acceptable development proposal may look like on the lands at 5800 Yonge Street. Prior to the parties reaching agreement regarding a suitable mechanism for restricting height



and density, Toronto Hydro elected to place the lands for sale in the fall of 2017. Following the Board of Toronto Hydro approval, Toronto Hydro accepted an offer on January 16, 2018. A legally binding Agreement of Purchase and Sale has been signed. Toronto Hydro advised City Council at its January 31, 2018 meeting that protection of the City's objectives were included as a term of the sale and will be registered on title to the property, and that such protection will provide for a maximum structure height of 102 metres above established grade and a maximum floor space index of 3.6.

Accordingly, the mechanisms that will be in place to prevent an applicant from seeking more density than is permitted in the North York Centre Secondary Plan for the lands at 5800 Yonge Street are the mechanisms contained in Toronto Hydro's Agreement of Purchase and Sale, as further described in Confidential Attachment 1, and Council's adherence to the North York Centre Secondary Plan (which would include successfully opposing any appeal to Council's refusal to amend the North York Centre Secondary Plan with respect to density).

RECOMMENDATIONS

The Acting Chief Planner and Executive Director, City Planning and the City Solicitor recommend that:

1. City Council adopt the confidential instructions to staff as set out in Confidential Attachment 1.
2. City Council direct that the confidential recommendations and the confidential information contained in Confidential Attachment 1 remain confidential in their entirety, at the discretion of the City Solicitor, as they contain advice which is subject to solicitor-client privilege.

FINANCIAL IMPACT

There are no financial implications resulting from the adoption of this report.

DECISION HISTORY

At its meeting of October, 8, 9, 10 and 11, 2013, Toronto City Council directed the following:

“1. Prior to entering into any sales agreements for its site located at 5800 Yonge Street, City Council strongly request Toronto Hydro to collaborate with the Chief Planner and Executive Director, City Planning, to create a comprehensive redevelopment land use concept plan for the site that is in keeping with the vision emerging in the North Yonge Study.”

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.MM39.39>

At its meeting of January 31, 2018, City Council directed the following:

“the City Manager and the Chief Planner and Executive Director, City Planning to report to the March 26, 27 and 28, 2018 City Council meeting on the measures that are in place to ensure Toronto Hydro will fulfill its commitment to comply with the North York Centre Secondary Plan with particular regard for the maximum density provisions.”

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.MM36.1>

ISSUE BACKGROUND

5800 Yonge Street – Toronto Hydro Lands

Toronto Hydro representatives contacted City Planning Staff in 2016 to initiate preliminary discussions for a development proposal for their lands at 5800 Yonge Street. During meetings in late 2016 and in 2017, City Planning Staff discussed planning considerations with consultants retained by Toronto Hydro including the overall site organization and the placement of a new park, new roads and a development that was in keeping with the provisions of the North York Centre Secondary Plan in terms of overall density.

There is a substantial office building on the site. City Planning Staff confirmed that in consideration of any redevelopment, full office replacement on site is a planning policy priority based on City Council adopted Official Plan Amendment 231. Staff from Toronto Hydro and their retained consultants were advised that the project should conform to the in force density provisions of the North York Centre Secondary Plan, notwithstanding that the draft North Yonge Plan (not approved by Council) contemplated greater heights and densities.

The Official Plan provisions provide for a base Floor Space Index (Density) of 2.6 with the ability to build to 3.46 through density incentives which are outlined in detail in the North York Centre Secondary Plan. There is a maximum height limit of 87 metres.

Planning Staff have reviewed the sales material put out by Toronto Hydro as well as the Toronto Hydro communication sent to the January 31, 2018 City Council meeting (see Public Attachment 1) and can advise that the proposal is largely in keeping with the North York Centre Secondary Plan except for some contemplated increase in height.

The in force zoning by-law is the North York Zoning By-law 7625. The site is zoned Semi-public Open Space Zones (O3) which allows for: any station, yard, building, park or parkway operated or used by the former City of North York as well as various Institutional and Electric Utility Operators.

Under the Planning Act, anyone can apply to amend the Official Plan to propose density above the current Secondary Plan provisions.

COMMENTS

City Legal Staff and Planning Staff met with legal representatives of Toronto Hydro to work on a method of ensuring that, even with the sale of the lands at 5800 Yonge, any applicant would comply with the provisions of the North York Centre Secondary Plan in terms of overall density. Meetings were held in late 2016 and 2017.

Mechanisms discussed to limit density on the site included stratification, restrictive covenants and repurchase options. City Staff recommended that Toronto Hydro convey to the City ownership of a stratified portion of the property, located above a height limit reflecting the permitted density under the current Official Plan. This would cap the available height for any proposed redevelopment. In order to address concerns raised by Toronto Hydro that this approach limited the property owner's ability to seek approval for additional height/density from City Council by way of an Official Plan Amendment, City Staff further proposed that the property owner would be provided an option to repurchase from the City, for nominal consideration, any portion of the City-owned air space that was required to implement a development proposal for which final site plan approval had been provided by City Council. This proposal, however, was not accepted by Toronto Hydro and Toronto Hydro's legal counsel elected to implement other control mechanisms instead. As indicated in the materials provided by Toronto Hydro for City Council's information at its meeting of January 31, 2018 (see Public Attachment 1 to this report), Toronto Hydro entered into a legally binding Agreement of Purchase and Sale on January 16, 2018 which Toronto Hydro has advised the City includes terms that protect the City's objectives of limiting structure height to 102 metres above grade and a maximum floor space index of 3.6, as further discussed in Confidential Attachment 1.

Conclusion

The mechanisms that will be in place to prevent an applicant from seeking more density than is permitted in the North York Centre Secondary Plan for the lands at 5800 Yonge Street are those contained in Toronto Hydro's Agreement of Purchase and Sale, as further described in Confidential Attachment 1, and Council's adherence to the North York Centre Secondary Plan (which would include successfully opposing any appeal to Council's refusal to amend the North York Centre Secondary Plan with respect to density).

CONTACT

Joe Nanos, Director Community Planning, North York District, Tel. 416-395-7170, E-mail: joe.nanos@toronto.ca

Giulio Cescato, Manager, Community Planning, North York District, Tel. 416-395-7120, E-mail: giulio.cescato@toronto.ca

Ward Earle, Director, Municipal Law, Legal Division, Tel. 416-397-4058, E-mail: Ward.Earle@toronto.ca

Ray Mickevicius; Director, Real Estate Services, Legal Division, Tel. 416-392-3912 E-mail: Ray.Mickevicius@toronto.ca

SIGNATURE

City Clerk's Office

Original signed by

Gregg Lintern, MCIP RPP
Acting Chief Planner and Executive Director, City Planning

Wendy Walberg
City Solicitor

ATTACHMENTS

Confidential Attachment 1 - Confidential Advice Subject to Solicitor Client Privilege

Public Attachment 1 - Correspondence from Toronto Hydro to City Council on January 31, 2018