

174-188 Soudan Avenue and 71-73 Redpath Avenue (Formerly 18 Brownlow Avenue) - Zoning Amendment Application - Request for Directions Regarding LPAT Hearing

Date: April 27, 2018

To: City Council

From: City Solicitor

Wards: Ward 22 - St. Paul's

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 November 4, 2015, a Zoning By-law Amendment application was submitted for the site at 71-73 Redpath Avenue, 174-200 Soudan Avenue and 18 Brownlow Avenue. The application proposed two residential towers of 25 and 20 storeys linked by a 4-storey base building including 463 new rental dwelling units and 269 residential parking spaces in an underground garage. The application proposed retaining the existing 19-storey tower currently on the site and the demolition of the detached and semi-detached houses along Soudan Avenue and Redpath Avenue.

On June 20, 2016, the applicant appealed the Zoning By-law Amendment Application to the Ontario Municipal Board due to Council's failure to make a decision. On October 5, 2016, City Council adopted a Request for Directions Report authorizing the City Solicitor, together with appropriate staff, to attend the Ontario Municipal Board hearing to oppose the applicant's appeal.

On February 28, 2017 a revised proposal was submitted which revised the tower heights to 24-storeys each. The revised proposal reduced the number of new residential units to 369 and new parking spaces to 274.

On September 13, 2017, a further revised application was submitted to the City changing the boundaries of the application and reducing the site size. The application removed the properties at 18 Brownlow Avenue and 190-200 Soudan Avenue from the application and reduced the number of residential towers from two to one 24-storey tower including a 3-storey base building at 174-188 Soudan Avenue and 71-73 Redpath Avenue. It was proposed to contain 176 dwelling units and 137 parking spaces in a 5-level underground garage and a 225 square metre public park on the southwest corner of the site to be conveyed to the City.

In a further Request for Directions report to City Council dated March 16, 2018, City Planning recommended continued opposition to the application at the Ontario Municipal Board. City Council adopted the recommendations in the further Request for Directions, and authorized City staff to continue discussions with the applicant to address the issues set out in the further Request for Directions report, including

- a. reducing the height of the proposed building to provide transition to lower scale areas to the south and east of the site;
- b. increasing the separation distance from the existing 19-storey apartment building at 18 Brownlow Avenue; and
- c. relocating the proposed public park from the southwest corner of the site to the southeast corner of the site.

Discussions with the applicant have continued.

The purpose of this report is to request further instructions for the Local Planning Appeal Tribunal hearing that is scheduled to commence May 7, 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, as modified by the additional information contained in Confidential Attachment 3 to this report.
2. City Council authorize the public release of the confidential recommendations contained in the Confidential Attachment 1, Confidential Attachment 2, Confidential Attachment 2, Appendix "A", 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

Development Applications

On February 20, 2007, the OMB approved a settlement of an appeal by the owner of the site on the City's refusal of its application. The OMB approved a 21-storey tower and 4-storey townhouses at the rear of 18 Brownlow Avenue along Redpath Avenue (File No. 05 177537 STE 22 OZ). The development lands were subsequently severed from the 18 Brownlow Avenue property as part of the plan of condominium application. The address of this development is now 83 Redpath Avenue.

The subject application was submitted on November 4, 2015 for the site at 18 Brownlow Avenue, 71-73 Redpath Avenue and 174-200 Soudan Avenue. The original application proposed two residential towers of 25 and 20 storeys linked by a 4-storey base building including 463 new rental dwelling units and 269 new residential parking spaces. The application proposed to retain the existing 19-storey tower currently at 18 Brownlow Avenue and demolish the detached and semi-detached houses along Soudan Avenue and Redpath Avenue.

On February 23, 2016 Toronto and East York Community Council adopted the Preliminary Report on the subject Zoning Amendment Application for 18 Brownlow Avenue, 174-200 Soudan Avenue and 71-73 Redpath Avenue. The report can be found at the following link:

<http://www.toronto.ca/legdocs/mmis/2016/te/bgrd/backgroundfile-90014.pdf>

On March 10, 2016 City Council required an on-site parkland dedication pursuant to Section 42 of the *Planning Act* be conveyed to the City for this site in the event of any approval. The report can be found at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.TE14.31>

On June 20, 2016 the applicant appealed the Zoning Amendment Application to the OMB for Council's lack of decision. On October 5, 2016 City Council adopted a Request for Directions Report authorizing the City Solicitor, together with appropriate staff, to attend the Ontario Municipal Board hearing to oppose the applicant's appeal with respect to the 2-tower proposal. The report can be found at the following link:

<http://www.toronto.ca/legdocs/mmis/2016/te/bgrd/backgroundfile-95748.pdf>

On March 26, 2018, City Council adopted a Request for Directions Report authorizing the City Solicitor, together with appropriate staff, to attend the Ontario Municipal Board hearing to oppose the applicant's appeal with respect to the one-tower proposal. The report can be found at the following link:

<https://www.toronto.ca/legdocs/mmis/2018/mm/bgrd/backgroundfile-113612.pdf>

Staff Report with confidential attachment for Action on 174-178 Soudan Avenue and 71-73 Redpath Avenue (Formerly 18 Brownlow Avenue) LPAT Hearing

Midtown in Focus

On August 25, 2014, City Council adopted Midtown in Focus - Parks, Open Space and Streetscape Plan for the Yonge-Eglinton Area ("Public Realm Plan").

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.PG35.21>

At its meeting on June 10-12, 2015, City Council adopted an Official Plan Amendment to the Yonge-Eglinton Secondary Plan (OPA 289) that incorporates, among other matters, urban design and public realm policies of the Midtown in Focus Public Realm Plan. As OPA 289 is currently under appeal at the Local Planning Appeal Tribunal, it is relevant but not determinative in terms of the Official Plan policy framework. The Council decision and final report on OPA 289 can be found at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.PG4.2>

On July 12, 2016, City Council adopted the recommendations in the report from the Chief Planner titled: "Midtown in Focus: Growth, Built Form and Infrastructure Review - Status Report." The recommendations direct staff to use the draft built form principles in the report in the review of the development applications in the Yonge-Eglinton Secondary Plan area. Planning staff were also directed to use the emerging community infrastructure priorities that have been identified, as part of the development application review process. The status report can be found at the following link:

<http://www.toronto.ca/legdocs/mmis/2016/pg/bgrd/backgroundfile-93903.pdf>

On December 5, 2017, City Council adopted the recommendations in the report from the Acting Chief Planner titled: "Midtown in Focus: Proposals Report." Staff are directed to continue to consider and review applications submitted prior to November 15, 2017 in the context of the City Council directed Midtown in Focus: Growth, Built Form and Infrastructure Review, including the proposed Secondary Plan. Staff are to assess the potential cumulative impact of all applications in the Yonge-Eglinton Secondary Plan area on the City's ability to provide the necessary infrastructure to support development, and use planning mechanisms, including holding provisions, as necessary to ensure that growth and infrastructure needs are aligned. The report can be found at the following link: <https://www.toronto.ca/legdocs/mmis/2017/pg/bgrd/backgroundfile-108408.pdf>

A ten-day hearing is scheduled to commence May 7, 2018.

COMMENTS

The City Solicitor requires further instructions. This report is about litigation before the Local Planning Appeal Tribunal 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

Confidential Attachment 1 - Confidential Recommendations and Confidential Information

Confidential Attachment 2 - Confidential Information

Confidential Attachment 2, Appendix "A" is on file with the City Clerk for the purpose of the April 24, 25, 26 2018 City Council meeting.

Confidential Attachment 3 - Confidential Information