

City Council**Notice of Motion**

MM41.1	ACTION			Ward:24
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11 Newton Drive - Authority to Seek Remedy for Damages - by Councillor David Shiner, seconded by Councillor Michael Thompson

** Notice of this Motion has been given.*

** This Motion is subject to referral to the North York Community Council. A two-thirds vote is required to waive referral.*

Recommendations

Councillor David Shiner, seconded by Councillor Michael Thompson, recommends that:

1. In the event that the Local Planning Appeal Tribunal decides in favour of the applicant, City Council authorize the City Solicitor to seek leave to appeal and if granted, to appeal to the Divisional Court, the Local Planning Appeal Tribunal decision for Official Plan Amendment and Zoning By-law Amendment at 11 Newton Drive.
2. City Council authorize the City Solicitor to retain outside legal counsel to protect the City's interest.
3. City Council authorize the City Solicitor to settle the matter if the owners of 11 Newton Drive follow through on the sale of their property and withdraw their Local Planning Appeal Tribunal appeal for Official Plan Amendment and Zoning By-law Amendment.

Summary

In October 2009 the owners at 11 Newton Drive applied to build a single detached dwelling. At the time City staff were concerned that the building could lend itself to be used for office/commercial use. In response, the owners both signed affidavits under Oaths that they only intended to use the building as a residential single-family detached dwelling. City staff were satisfied with this and issued the building permit.

In 2012, Municipal Licensing and Standards issued a notice of violation for use of the property at 11 Newton Drive for the commercial use of the property. In October 2015 and February 2017, Municipal Licensing and Standards issued a notice of violation for the erection of a sign in a residential district without permit. In April 2016, City Council refused the applications for Official Plan Amendment and Zoning By-law Amendment made by the owners of 11 Newton Drive to allow for commercial use. In May 2016, Municipal Licensing and Standards issued a notice of violation for paving the entire backyard in order to provide additional parking. In March 2017, Municipal Licensing and Standards issued another notice of violation for

converting the occupancy of a residential single-family dwelling into a medical office without permit.

The owners and their lawyer met with the local Councillor in March 2017 giving assurances of a plan to sell the property and move their medical offices into a commercial plaza in the neighbouring area. This did not occur and subsequently, the owners appealed their Official Plan Amendment and Zoning By-law Amendment application to the Local Planning Appeal Tribunal.

While it is clear that this property should remain a neighbourhood area and the amendments to the Official Plan Amendment and the Zoning By-law should not be permitted, there is the concern that the Local Planning Appeal Tribunal which is now hearing these matters might still legalize this commercial operation in a neighbourhood area. This would set a precedent for other development applications which also may apply to redesignate other neighbourhood areas. This might destabilize these areas and permit an encroachment within a designated neighbourhood area. A decision of this nature would be a mockery of the City.

While the Local Planning Appeal Tribunal hearing had been originally scheduled for February, it is being rescheduled and will likely will be held in September. It is important that instructions be given to City staff before City Council holds its last meeting in July. It will also give the owners of 11 Newton Drive the opportunity to follow through as promised on the sale of their property and withdraw their appeal to the Local Planning Appeal Tribunal.

Background Information (City Council)

Member Motion MM41.1