



## REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

### **36, 38, and 40 Churchill Avenue – Local Planning Appeal Tribunal Appeal – Request for Direction Report**

**Date:** April 25, 2018

**To:** City Council

**From:** City Solicitor

**Wards:** Ward 23 - Willowdale

#### **REASON FOR CONFIDENTIAL INFORMATION**

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

#### **SUMMARY**

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The purpose of this report is to seek further instruction for the ongoing Ontario Municipal Board, now called the Local Planning Appeal Tribunal, hearing process on the appeals of City Council's failure to make a decision on the Official Plan and Zoning By-law amendment application at 36, 38, and 40 Churchill Avenue. The Local Planning Appeal Tribunal ("LPAT") has issued an Interim Decision in this matter which approved the appeal in part but directed the appellant to revise their application to address a number of the concerns raised by City staff at the hearing. This report seeks instruction on revised plans that have been submitted to the City.

#### **RECOMMENDATIONS**

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The City Solicitor recommends that:

1. City Council adopt the confidential recommendations contained in Confidential Attachment 1.
2. City Council authorize the public release of the recommendations contained in the Confidential Attachment 1, if adopted by City Council, but that the remainder of the Confidential Attachment 1 remain confidential at the discretion of the City Solicitor, as it contains advice which is subject to solicitor-client privilege.

## FINANCIAL IMPACT

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

## DECISION HISTORY

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The application was received and deemed complete as of December 5, 2014. Staff prepared a Preliminary Report to the February 18, 2015 meeting of North York Community Council. The preliminary report is available at:

<http://www.toronto.ca/legdocs/mmis/2015/ny/bgrd/backgroundfile-75326.pdf>

On July 16, 2015, the solicitors representing the owner of the lands appealed the Official Plan Amendment and Zoning By-law Amendment application to the Ontario Municipal Board, citing Council's failure to make a decision within the time prescribed by the *Planning Act*.

City Planning Staff prepared a Request for Direction report dated August 19, 2015 which reviewed the application in greater detail and ultimately recommended City Council authorize the City Solicitor, City Planning staff and other appropriate City staff to attend the Ontario Municipal Board to oppose the appeal of the Official Plan Amendment and Zoning By-law Amendment applications. The Request for Directions report is available at:

<https://www.toronto.ca/legdocs/mmis/2015/ny/bgrd/backgroundfile-82929.pdf>

At its meeting of September 20, 2015 City Council considered the Request for Direction Report and adopted the recommendations in the report. The decision of City Council is available at: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.NY8.40>

## COMMENTS

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### Original Application

The application proposed a residential development consisting of 18 townhouse dwelling units (or 16 with the requested on-site parkland dedication) with 8 units fronting on Churchill and a 10 unit block at the rear of the site. A T-shaped driveway was proposed to service all 18 units. The original proposal is shown in the attached Appendix A – Original Site Plan.

### Ontario Municipal Board Interim Decision

In its decision of November 22, 2017 (File No. PL150631) the OMB found that, in light of the context of the properties, townhouses were a permitted use for the subject properties. The Board granted the appeal of the Official Plan Amendment, to the extent

that it was necessary to clarify that townhouses are a permitted use. The Ontario Municipal Board decision is available at: <http://www.omb.gov.on.ca/e-decisions/pl150631-Nov-22-2017.pdf>

However, the Board refused the specific deployment of townhouses in the proposed development, stating "the manner and scale at which the townhouse permission is deployed represents an overdevelopment of the subject property; in short, given its specific context, it is too much development on too little lot and in so being fails to satisfy several policies of the OP. That should not, however, be understood to mean that the townhouse permission in the OP cannot be realised on the subject property."

The Board preferred the evidence of the City that the rear block of townhouses represented an intrusion into the pattern of rear yard landscaping and presented a potential for adverse impacts.

In light of the finding that townhouses were an appropriate use but the specific deployment was not appropriate, the Board directed the applicant and the City to engage in discussion to explore the potential for consensus. The Board provided that within six months the parties will return to the Board to either present an agreed upon revised scheme, or continue the hearing if no consensus is reached on revised drawings.

### **Summary of Revised Plans**

The applicant has prepared a revised development as shown in Appendix B – Revised Site Plan Drawing. It proposes 14 at-grade townhouse units within 2 building blocks. Block 1 contains 4 units which front directly on Churchill Avenue. Block 2 contains 10 units which face the easterly park space. Two parking spaces are proposed for each unit at the rear of the units accessed via a private mews internal to the site.

A 7.5 metre setback between Block 2 and the rear (north) property line is being provided to allow for a landscaped separation that mimics the rear yard condition found along Horsham Avenue. A walkway will be provided to allow access from the outdoor amenity space located at the northwest corner to the parkland on the corner of Beecroft Road and Churchill Avenue.

A 186.70 squared metres parkland dedication has been provided for on the east portion of the site to be added to the adjacent green space in satisfaction of section 42 of the *Planning Act*.

## **CONTACT**

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## **SIGNATURE**

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Wendy Walberg  
City Solicitor

## **ATTACHMENTS**

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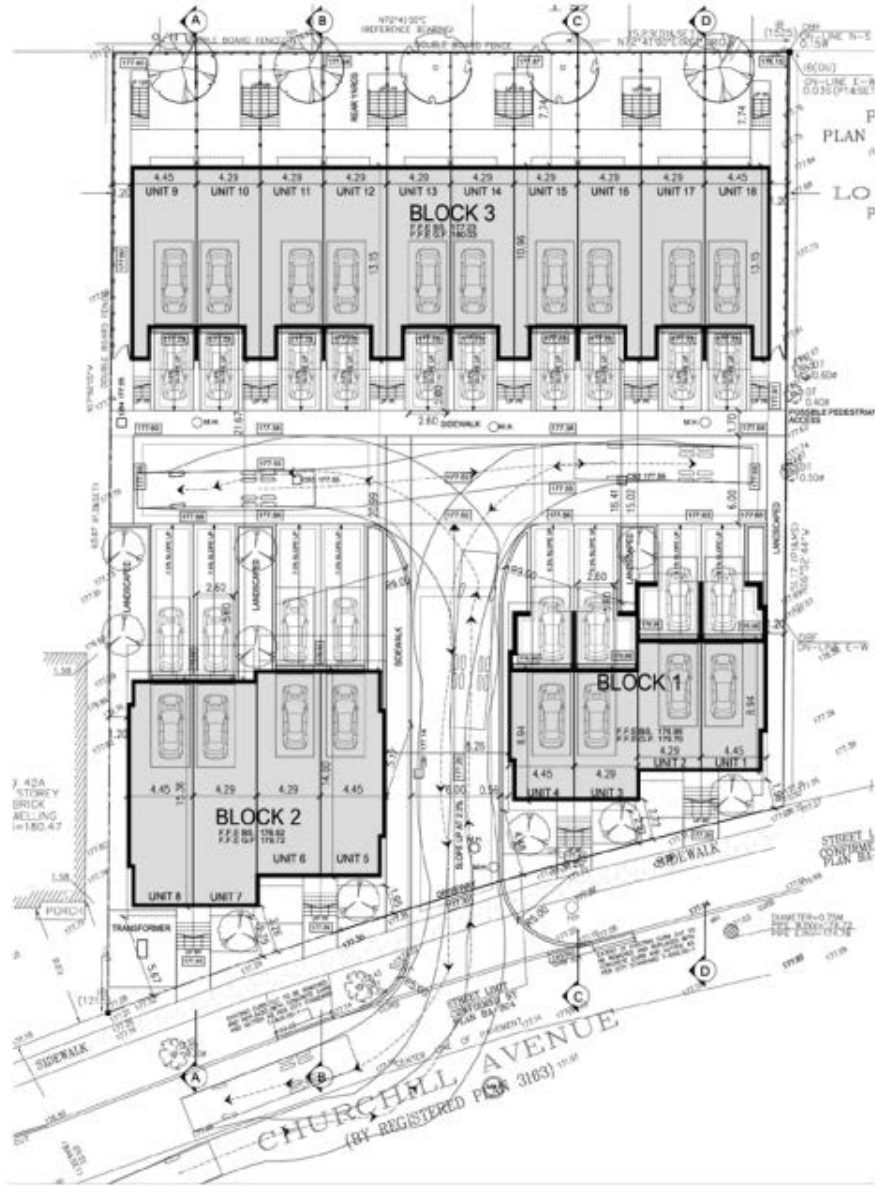
Appendix A – Original Site Plan Drawing

Appendix B – Revised Site Plan Drawing

Confidential Attachment 1 - Confidential Report from City Solicitor

# Appendix A: Original Site Plan Drawing


## Attachment 1: Site Plan



Site Plan

36, 38 & 40 Churchill Avenue

Applicant's Submitted Drawing

Not to Scale   
01/08/2015

File # 14 260003 NNY 23 0Z

