



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

14-16 Elvina Gardens, 197 and 197R Erskine Avenue – LPAT Appeal – Request for Direction Report

Date: May 11, 2018
To: City Council
From: City Solicitor
Wards: Ward 25- Don Valley West

REASON FOR CONFIDENTIAL INFORMATION

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

SUMMARY

The purpose of this report is to seek further instruction for the Local Planning Appeal Tribunal ("LPAT") hearing process on the appeal of City Council's failure to make a decision on the Zoning By-law Amendment application for 14-16 Elvina Gardens, 197 and 197R Erskine Avenue within the timelines set out in the *Planning Act*. The application was appealed to the Ontario Municipal Board (now transitioned to the LPAT). The hearing is scheduled for July 9-13, 2018. This report seeks instruction on Revised Plans that have been submitted to the City.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the confidential recommendations contained in Confidential Attachment 1 to the Report (May 11, 2018) from the City Solicitor.
2. City Council authorize the public release of the recommendations contained in the Confidential Attachment 1 to the Report (May 11, 2018) from the City Solicitor, 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

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

DECISION HISTORY

The application was received and deemed complete as of December 12, 2016. City Planning Staff reviewed the application in detail and recommended City Council refuse the application and authorize the City Solicitor, City Planning staff and other appropriate City staff to attend the Ontario Municipal Board to oppose the appeal of the Zoning By-law Amendment application. Staff prepared a Refusal Report to the May 2, 2017 meeting of North York Community Council.

On April 19, 2017, the solicitors representing the owner of the lands appealed the Zoning By-law Amendment application to the Ontario Municipal Board (now transitioned to the LPAT), citing Council's failure to make a decision within the time prescribed by the *Planning Act*. In light of the appeal, the refusal report was adopted as a Request for Directions report at North York Community Council.

The report is available at:

<https://www.toronto.ca/legdocs/mmis/2017/ny/bqrd/backgroundfile-102874.pdf>

The Refusal Report dated April 10, 2017, outlined a number of issues with respect to the applicant's proposal, including building form, density and massing, transition, and setbacks. The City Council decision of May 24, 2017 directed staff to attend the Ontario Municipal Board to oppose the appeal of the Zoning By-law Amendment application, in its current form.

A hearing on this appeal has been scheduled for July 9-13, 2018 at the LPAT.

On April 17, 2018, the City received a With Prejudice settlement offer from the Applicant's solicitors, Overland LLP ("With Prejudice Settlement Offer"). The With Prejudice Settlement Offer commits the Applicant to revised plans (the "Revised Plans"). The applicant intends to present the Revised Plans at the LPAT hearing for approval.

COMMENTS

Original Application

The application proposed a residential development consisting of one block of 10 townhouse dwelling units (1,993.4 square metres gross floor area) with one unit fronting Elvina Gardens. A driveway accessed from Elvina Gardens was proposed to provide vehicular access to the shared underground garage for all units, and a set of stairs proposed from Elvina Gardens to provide pedestrian access to the townhouses. Private

amenity space was provided in the form of either a rear yard or third floor terrace on each of the units.

Analysis of Revised Plans

Appendix "B" to the public portion of this report are the Revised Plans dated April 17, 2018, forwarded to the City Solicitor from the owner's solicitor.

The key revisions to the proposal that have been made in the Revised Plans are summarized as follows:

- The building form along Elvina Gardens has been revised from townhouses to two semi-detached dwellings;
- The dwelling unit count has been reduced from 10 townhouse units to 7 units (5 townhouses and a semi-detached dwelling);
- The scale of the townhouse block has been reduced in size. The semi-detached dwellings have been separated from the townhouse block and front onto Elvina Gardens. These reductions have resulted in an overall decrease in the density (Floor Space Index) from 1.43 to 1.20 FSI (after the severance required from the lands at 197 Erskine Avenue);
- The rear yard setbacks of the townhouses have been increased from 6 to 7.5 metres;
- The third level of the semi-detached dwellings has been set back from the second floor by 2.5 metres;
- The distance between the existing right-of-way access that runs north-south through the lands from Erskine Avenue, and the front elevations of the proposed townhouse units has increased by 1 metre to allow for additional landscaping;
- The driveway and garage entrance has been relocated from the west side of the property to the east side of the property, (fronting on Elvina Gardens) to enable a larger landscaped area abutting the proposed pedestrian walkway leading to the townhouses; and
- The pedestrian walkway to access the townhouse units has been widened and terraced to reduce the visual effect of the retaining wall and staircase and to increase the visibility of the internal townhouse block from Elvina Gardens. This would also allow additional landscaping and planting, adjacent to the existing surface parking lot to the west.

Consultation

Over a period of 12 months, City Planning staff held several meetings with local residents to discuss the original plans, proposed revisions, as well as a site visit.

Summary of Revised Plans

The applicant has submitted a revised proposal comprising five at-grade townhouse units within one block and two semi-detached dwellings fronting Elvina Gardens for a total of 7 dwelling units. Each unit now features a private at-grade rear yard amenity space.

The driveway and garage entrance from Elvina Gardens has been relocated adjacent to the eastern boundary and additional landscaping is proposed in the location of the previous driveway, adjacent to the terraced staircase. One parking space is proposed for five units and two parking spaces are proposed for two units for a total of 9 resident parking spaces. One visitor parking space is also proposed to be located within the parking garage.

The walkway has been revised and widened to include a terraced set of stairs to provide pedestrian access to the townhouse dwelling units. The previously proposed walkway featured a continuous set of stairs that necessitated an extensive retaining wall.

An increased rear yard setback of 7.5 metres between the townhouse block and the side (east) property line is being provided to allow for a landscaped rear yard separation. One unit has a rear yard setback of between 5.5 metres (to the eastern property line shared with 18 Elvina Gardens), and 16 metres to the eastern property line adjacent to 199 Erskine Avenue.

CONTACT

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SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

Appendix A - Original Application Site Plan Drawing
Appendix B - Revised Plans

Confidential Attachment 1