



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

4800 Yonge Street– Official Plan and Zoning Amendment Application – Request for Further Direction Regarding LPAT Hearing

Date: February 15, 2019

To: City Council

From: City Solicitor

Wards: Ward 18 - Willowdale (Formerly Ward 23 - Willowdale)

REASON FOR CONFIDENTIAL INFORMATION

This report is about litigation or potential litigation that affects the City or one of its agencies or corporations.

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

SUMMARY

The Applicant applied to amend the Official Plan and City of North York Zoning Bylaw 7625 and for Site Plan Approval for the site at 4800 Yonge Street (the "Subject Property") to permit redevelopment for a mixed use building of 49 storeys (160 metres) comprising of 497 dwelling units, a five storey base including retail and office uses and a five-level underground parking garage with 318 parking spaces (the Applications).

The Applicant appealed the Applications to the Ontario Municipal Board (now known as the Local Planning Appeal Tribunal) (the "LPAT") due to City Council's failure to make a decision within the prescribed time period (the "Appeals").

On February 13, 2019, the Applicant submitted a with prejudice settlement offer for a revised proposal (the "Settlement Offer"). The Settlement Offer is attached as Public Attachment 1. Plans showing the settlement proposal were submitted by the Applicant on February 13, 2019 and are attached as Public Attachment 2 (On file with the City Clerk for the purposes of the February 26, 2019 Council meeting). The purpose of this report is to request direction on the Settlement Offer and further instructions for the upcoming LPAT hearing which is scheduled for April 23, 2019.

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 Confidential Attachment 1 to this report.
2. City Council authorize the public release of the confidential recommendations contained in Confidential Attachment 1 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 that 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 Official Plan Amendment application to allow for additional height (160 metres), additional density (12.0 times the lot area) and 76 percent residential uses on a site designated for only non-residential uses was submitted in November 2015. The preliminary report, considered at the February 23, 2016 meeting of the North York Community Council, can be found at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.NY12.28>.

The Zoning By-law Amendment application was filed on February 19, 2016. The preliminary report on the rezoning application, which was considered at the April 5, 2016 meeting of North York Community Council, can be found at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.NY13.34>.

An application for Site Plan Control was filed in December 2016 and site plan revisions were filed in August 2017.

On May 16, 2017, the applicant appealed the Official Plan and Zoning By-law Amendment applications to the Local Planning Appeal Tribunal citing City Council's failure to make a decision within the prescribed time set out in the Planning Act. On October 24, 2017, the applicant appealed the Site Plan Control application and made a request to consolidate the Site Plan appeal with the OPA and ZBA appeals.

A prehearing conference was held on October 26, 2017 and a 9 day hearing was scheduled to begin on November 20, 2018.

On May 22, 2018, City Council considered Item NY30.3 pertaining to a Request for Direction Report from the Director, Community Planning, North York District dated April 16, 2018 regarding the Applications and Appeals (the "Request for Direction Report"). City Council directed staff to attend the Local Planning Appeal Tribunal hearing to oppose the Applications. City Council also authorized the City Solicitor and appropriate staff to continue discussions with the applicant, in consultation with the local Councillor, to address the issues outlined in the Request for Direction Report, and directed that should a resolution be reached, staff report back to City Council on the outcome, including proposed Section 37 contributions. The Request for Direction Report can be found at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.NY30.3>

COMMENTS

Leading up to the November 2018 hearing, without prejudice discussions continued between the Applicant and City staff. To allow for ongoing discussions and for staff to seek instructions on a potential settlement, the parties agreed that the scheduled hearing be converted to a prehearing conference, at which time a further hearing date was scheduled for April 23, 2019.

The Settlement Offer includes the following key elements:

- A 8-storey base building;
- A 41-storey residential tower (excluding mechanical);
- A minimum of 15,000 square metres of office Gross Floor Area (GFA) and additional non-residential GFA ;
- A maximum GFA of 49,906.84 square metres;
- A maximum FSI calculated over the entire block (pre-park and road conveyance, to be secured with a site specific official plan amendment) not exceeding 5.40 FSI;
- A large publicly accessible atrium/public room, with public art, at the base of the building, approximately at the corner of Yonge Street and Sheppard Avenue West;
- Off-site Parkland Dedication value of \$5,000,000; and
- A Section 37 package in the amount of \$11,500,000.

A comparison of the key elements with respect to zoning standards and North York Centre Secondary Plan (NYCSP) requirements of the existing as-of-right permissions,

original proposal, revised proposal and settlement offer are summarized in the table below:

	1988 By-law	Original proposal	Aug 2017 Site Plan Submission	Settlement Offer Feb 2019
Total GFA (square metres) (including incentive gfa)	39,418	50,012.52	51,812.37	49,906.84
Res GFA (square metres)	n/a	38,412.14	38,129.26	34,387.63
Non Res GFA (square metres)	n/a	11,559.91	11,883.26	15,519.21
Office (part of non-res GFA) (square metres)	33,353	8,469.55	8,469.55	15,000
Height/Building Components	23 storeys	44 storey tower 5 storey podium	44 storey tower 5 storey podium	41 storey tower 8 storey podium
Podium height	n/a	25 metres 5 storeys	25 metres 5 storeys	38 metres 8 storeys
Building height	-	49 storeys/ 160 metres (plus MPH)	49 storeys/ 160 metres (plus MPH)	49 storeys/ 160 metres (plus MPH)
Exempt/incentive GFA (square metres)	6,065		2,069.97	1,831.47
Unit Count	-	536	497	498
Parking	n/a	443	318	341

In light of the Settlement Offer, the City Solicitor requires further instructions. This report is about litigation before the LPAT and contains advice or communications that are subject to solicitor-client privilege. Confidential Attachment 1 to this report contains confidential information and should be considered by Council in camera.

CONTACT

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SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

1. Public Attachment 1 - With Prejudice Settlement Offer dated February 13, 2019
2. Public Attachment 2 - Settlement Plans (On file with the City Clerk for the purposes of the February 26, 2019 Council meeting)
3. Confidential Attachment 1 - Confidential Recommendations and Confidential Information