



## REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

### **3450 Dufferin Street - City Initiated Official Plan Amendment - Dufferin Street Secondary Plan - Request for Directions Regarding LPAT Hearing**

**Date:** March 21, 2019

**To:** City Council

**From:** City Solicitor

**Wards:** Ward 8 - Eglinton-Lawrence

#### **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**

---

3450 Dufferin Yorkdale Holdings Inc. ("3450 Dufferin") is the owner of lands municipally known as 3450 Dufferin Street (the "Subject Site"). The Subject Site is located on the west side of Dufferin Street, immediately south of Highway 401 and Bridgeland Avenue.

On September 1, 2016, 3450 Dufferin submitted a Zoning By-law Amendment, Official Plan Amendment and Draft Plan of Subdivision applications to the City, proposing to develop three buildings of 37 storeys, 33 storeys and 29 storeys (the "Application"). The Application proposed a gross floor area of approximately 84,466 square metres and a Floor Space Index (FSI) of 4.1 times the area of the lot. The Application proposed 1,044 residential units, a 244-room hotel and a public park. The Application also proposed a new public street connecting to Bridgeland Avenue and a new publicly accessible private street.

At its meeting on December 9 and 10, 2015, City Council adopted the Dufferin Street Secondary Plan ("OPA 294"), a Secondary Plan that provides a planning framework for the potential redevelopment of the Dufferin Street Secondary Plan Area (all parcels fronting on Dufferin Street between Bridgeland Avenue to just south of Lawrence Avenue West), including policies on land use, built form, the public realm, mobility, infrastructure and community services and facilities. Council directed staff to use OPA 294 in the evaluation of all current and new development proposals falling within its boundaries. Council also adopted the Dufferin Street Urban Design Guidelines and

Report for Action with Confidential Attachment - City-Initiated Official Plan Amendment - Dufferin Street Secondary Plan - 3450 Dufferin Street - Request for Directions Regarding LPAT Hearing

endorsed the Dufferin Street Transportation Master Plan and Infrastructure and Stormwater Master Plan as technical resources for City staff to support the implementation of the Secondary Plan. Council directed staff to use the Dufferin Street Urban Design Guidelines, including the Dufferin Street Transportation Master Plan and the Infrastructure and Stormwater Master Plan in the evaluation of all new and current development proposals and public initiatives.

On December 23, 2015, 3450 Dufferin appealed OPA 294 in its entirety to the Ontario Municipal Board (the "OMB"), now known as the Local Planning Appeal Tribunal (the "LPAT").

3450 Dufferin appealed its Zoning By-law Amendment, Official Plan Amendment and Draft Plan of Subdivision applications to the OMB on January 6, 2017, March 7, 2017 and June 6, 2017, respectively, due to Council's failure to render decisions within the prescribed timeframes in the *Planning Act* (the "ZBA, OPA and Draft Plan Appeals").

At its meeting on April 26, 27 and 28, 2017, City Council considered a Request for Directions report from the City Planning Division in respect of the Application. The Request for Directions report recommended that City Council direct the City Solicitor and City staff to oppose the Application at the OMB. The report also recommended that City staff continue discussions with 3450 Dufferin to revise their proposal to address outstanding issues.

3450 Dufferin's appeal of OPA 294 has been consolidated with its ZBA, OPA and Draft Plan Appeals for the purpose of the LPAT proceedings.

Without prejudice discussions with the applicant have taken place, including LPAT-led mediation sessions.

The purpose of this report is to request further instructions. 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.
2. City Council authorize the public release of the confidential recommendations contained in the Confidential Attachment 1, and authorize the public release of Confidential Attachment 2, Confidential Appendix A and Confidential Appendix B 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**

---

The Subject Site is within the area of the Dufferin Street Secondary Plan. At its meeting of December 9 and 10, 2015, City Council considered the Final Report for the Dufferin Street Secondary Plan (OPA 294). The report and Council's direction are available on the City's website at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.NY10.42>

On December 23, 2015, 3450 Dufferin appealed the City's adoption of OPA 294.

At its meeting on April 26, 27 and 28, 2017, City Council directed the City Solicitor and City staff to oppose the Application. City Planning's Request for Direction report can be found at the following link:

<https://www.toronto.ca/legdocs/mmis/2017/ny/bgrd/backgroundfile-102054.pdf>

The LPAT will be conducting a hearing with respect to OPA 294 on June 27 and 28, 2019.

## **COMMENTS**

---

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. Attachment 1 to this report contains confidential advice and should be considered by Council in camera.

## **CONTACT**

---

Laura Bisset, Solicitor, Planning & Administrative Tribunal Law; Tel: (416) 392-8782;  
Fax: (416) 397-5624; Email: [laura.bisset@toronto.ca](mailto:laura.bisset@toronto.ca)

Cigdem Iltan, Solicitor, Planning & Administrative Tribunal Law; Tel: (416) 392-1652;  
Fax: (416) 397-5624; Email: [cigdem.iltan@toronto.ca](mailto:cigdem.iltan@toronto.ca)

## **SIGNATURE**

---

Wendy Walberg  
City Solicitor

## **ATTACHMENTS**

---

1. Confidential Attachment 1 - Confidential Recommendations and Confidential Information
2. Confidential Attachment 2 - Confidential Information
3. Confidential Appendix A - Confidential Information
4. Confidential Appendix B - Confidential Information (on file with the City Clerk for the purposes of the March 27 and 28, 2019 meeting of City Council)