



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

995-1005 Broadview Avenue and 2 & 4 Mortimer Avenue - Zoning By-law Amendment Application - Request for Directions Regarding LPAT Hearing

Date: July 5, 2019

To: City Council

From: City Solicitor

Wards: Ward 14 - Toronto-Danforth

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

1001 Broadview Avenue Inc. (the "Applicant") is the owner of lands municipally known as 995-1005 Broadview Avenue and 2 & 4 Mortimer Avenue (the "Subject Site").

Policy Background

The properties at 995-1005 Broadview Avenue are designated Mixed Use Areas in the Official Plan, which permit a broad range of uses and are generally where growth and intensification is targeted. The properties at 2-4 Mortimer Avenue are designated Neighbourhoods, which are stable low-rise residential areas where physical changes must be sensitive, gradual and "fit" the existing physical character.

This site, specifically the properties at 995-1005 Broadview Avenue, fall within Site and Area Specific Policy 509 being Official Plan Amendment 343 ("OPA 343"), which was the result of the Broadview Avenue Planning Study. City Council adopted OPA 343 on June 7, 2016. However, OPA 343 was appealed to the Local Planning Appeal Tribunal (LPAT). On August 15, 2018, the LPAT approved OPA 343 save and except for three site-specific appeals that remain outstanding. The lands with outstanding site-specific appeals are the following: 995-1005 Broadview Avenue and 2-4 Mortimer Avenue (the

Subject Site); 1132 Broadview Avenue; and 954-958 Broadview Avenue and 72 Chester Hill Road. All three of these site-specific appeals have site-specific development applications under way.

OPA 343 guides and manages moderate incremental development on Broadview Avenue, between Danforth Avenue and O'Connor Drive; complements, builds upon, and strengthens the physical character of the area as a whole and within each of its five character areas; conserves and reinforces the area's natural and cultural heritage; and ensures compatibility between existing and future development.

OPA 343 provides five character areas for Broadview Avenue, each area defined by its attributes in terms of function, built form and character. The subject site, for the properties at 995-1005 Broadview Avenue, is within Character Area B, which allows for a maximum height of 5 storeys. The properties at 2-4 Mortimer Road are not currently within OPA 343. In addition to OPA 343, City Council also adopted Broadview Avenue Urban Design Guidelines which aid in guiding the implementation of the policies in OPA 343.

The Original Site-Specific Application

On November 23, 2017, the Applicant submitted an Official Plan and Zoning By-law Amendment application to the City, proposing to develop a 10-storey (33.2 metres plus a 5.5 metre mechanical penthouse) mixed-use building at the lands municipally known as 995-1005 Broadview Avenue and 2-4 Mortimer Avenue (the "Original Application"). The Original Application proposed a gross floor area ("GFA") of 8,709.5 square metres: 8,260.5 square metres of residential and 449 square metres of retail. The proposed Floor Space Index (FSI) of the Original Application was 5.66 times the area of the lot. In order to facilitate this development, the Original Application proposed amendments to the Official Plan, including re-designation of 2-4 Mortimer Avenue from *Neighbourhoods* to *Mixed Use Areas*, and an amendment to Site and Area Specific Policy No. 509 (SASP 509) to allow for the construction of a 10-storey building.

On March 26, 2018, City Council adopted a refusal report (dated February 2, 2018) from the Director of Community Planning, Toronto and East York District. The Applicant appealed its Official Plan and Zoning By-law Amendment applications to the Local Planning Appeal Tribunal (the "LPAT") due to Council's decision (the "Appeal"). The Appeal is currently subject to the rules and procedures established by Bill 139. The Appeal is adjourned pending the result of the Applicant's appeal of the City's Broadview Avenue Planning Study.

The Applicant's outstanding appeal of OPA 343 has been scoped to the Subject Site and is considered a legacy appeal before the LPAT assessed against the *Planning Act* tests prior to the enactment of Bill 139. The site specific hearing of OPA 343 as it relates to this site is scheduled to be heard by the Tribunal on September 30, 2019 for 5 days.

Since the refusal report, 1001 Broadview Avenue Inc. has approached City Planning in an effort to address the concerns raised in the February 2, 2018 refusal 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 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, and Confidential Attachments 2 & 3 shall remain confidential at the discretion of the City Solicitor.

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 City initiated Broadview Avenue Planning Study and related Site and Area Specific Policy 509 (SASP 509) was considered by Toronto and East York Community Council on May 10, 2016. On June 7, 2016, City Council adopted OPA 343 relating to Broadview Avenue between Danforth Avenue and O'Connor Drive. The report and decision can be accessed online at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.TE16.5>

The Applicant subsequently appealed OPA 343 to the then Ontario Municipal Board (OMB), and a hearing has been scheduled for five days commencing on September 30, 2019. A further pre hearing conference is scheduled for July 26, 2019.

The current site specific application was submitted on November 23, 2017 and deemed complete on January 5, 2018.

A Refusal Report on the application was adopted by City Council on March 26, 2018. The Refusal Report can be accessed online at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.TE30.10>

The Local Planning Appeal Tribunal heard a motion on procedural matters relating to the appeals of OPA 343 and the site specific appeals. The LPAT adjourned the proceedings of the site specific appeal pending the hearing of the OPA 343 matter.

COMMENTS

The City Solicitor requires further instructions. This report is about litigation before the Local Planning Appeal Tribunal and contains advice or communications that are subject to solicitor-client privilege. Confidential Attachment 1 to this report contains confidential advice and should be considered by Council in camera.

CONTACT

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SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

1. Confidential Attachment 1 - Confidential Recommendations and Confidential Information
2. Confidential Attachment 2 - Confidential Information
3. Confidential Attachment 3 - Confidential Information (on file with the City Clerk for the purposes of the July 16, 2019 City Council meeting)