



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

3000 Dufferin Street – Zoning By-law Amendment and Draft Plan of Subdivision Application – Request for Further Direction Regarding LPAT Hearing

Date: November 19, 2019

To: City Council

From: City Solicitor

Wards: Ward 8 - Eglinton-Lawrence

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

3000 Dufferin Street Limited and Finch-Main Plaza Limited (together the "Applicants") are the owner of the property municipally known as 3000 Dufferin Street (the "Subject Site"). The Subject Site is located at the northwest corner of Dufferin Street and Playfair Avenue. The Subject Site is currently occupied by an 18 storey rental apartment building containing 287 dwelling units.

On July 18, 2017 the Applicants submitted a zoning by-law amendment application, with accompanying draft plan of subdivision application, to permit the development of two additional residential apartment buildings of 16 and 23 storeys and 7 townhouse units on the Subject Site. The original 18 storey apartment building was proposed to be retained (the "Original Proposal"). The Original Proposal included 613 parking spaces, which includes the existing parking spaces used for the existing apartment building.

On November 16, 2018, the Applicants appealed their zoning by-law amendment application to the Local Planning Appeal Tribunal ("LPAT") for non-decision by City

Council. On January 16, 2019, the Applicants also appealed their draft plan of subdivision application to the LPAT as well. These appeals are collectively known as LPAT Case No. PL PL171293.

On May 27, 2019 and June 20, 2019, the City and the Applicants attended mediation before the LPAT.

On July 5, 2019, the Applicant's counsel, Aird Berlis LLP, submitted to the City Solicitor a with prejudice settlement offer based on revised plans. That settlement offer was considered by City Council at its meeting on July 16, 2019. In its decision, City Council refused the with prejudice settlement offer, authorizing the City Solicitor and City staff to oppose the proposal at the LPAT as well as to continue discussions with the Applicants in an effort to resolve the appeal.

An LPAT hearing was scheduled for October 21, 2019 to November 1, 2019. That hearing was adjourned on consent of the parties to allow the City Solicitor to seek further instructions regarding the appeal.

A new LPAT hearing date has been set for January 6, 2020.

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 to this report, if adopted by City Council.
3. City Council authorize the public release of Confidential Attachment 2 and Confidential Attachment 3 to this report, if the confidential recommendations contained in the Confidential Attachment 1 are adopted by City Council.
4. City Council direct that all other information contained in Confidential Attachment 1 to remain confidential at the discretion of the City Solicitor, as it contains advice 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

On March 26, 2018, City Council adopted the recommendations of a Request for Directions Report by City Planning authorizing the City Solicitor and City Staff to oppose the Original Proposal at the LPAT and to continue discussions with the Applicants to address City Planning's outstanding issues, including parkland issues. A copy of City Council's decision and City Planning's report can be found at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.NY28.3>

On July 16, 2019, City Council considered a Request for Further Direction Report from the City Solicitor regarding a with prejudice settlement offer from the Applicant. City Council adopted the recommendations of that report and refused the with prejudice settlement offer, authorizing the City Solicitor and City staff to oppose the proposal at the LPAT hearing and to continue negotiations with the Applicant in an effort to resolve the appeal. A copy of City Council's decision and the City Solicitor's report can be found at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.CC9.22>

COMMENTS

The City Solicitor requires further instructions regarding the LPAT hearing. 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 information 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 purpose of the November 26 and 27, 2019 City Council meeting)