



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

53-63 Sheppard Avenue West and 62-68 Bogert Avenue – Official Plan Amendment and Zoning Amendment Applications –Request for Direction

Date: November 19, 2019
To: City Council
From: City Solicitor
Wards: Ward 18 – 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 owner appealed Official Plan Amendment and Zoning By-law Amendment applications to the Ontario Municipal Board ("**OMB**"), now the Local Planning Appeal Tribunal ("**LPAT**"), citing Council's failure to make a decision within the time period prescribed under the Planning Act.

The applications were to amend the Official Plan and Zoning By-law to permit a 190-unit mixed-use development with a gross floor area ("**GFA**") of 21,453 square metres that included a 14-storey residential building with ground floor commercial uses, connected to four-storey townhouses ("**Development**"), at 53 to 63 Sheppard Avenue West and 62 to 68 Bogert Avenue ("**Subject Lands**").

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the confidential instructions to staff in Confidential Attachment 1 to this Report from the City Solicitor.
2. City Council authorize the public release of the confidential recommendations in Confidential Attachment 1 and Confidential Appendix A to this Report from the City Solicitor, if adopted by City Council.
3. City Council direct that the balance of Confidential Attachment 1 to this Report from the City Solicitor remain confidential as it contains advice, which is subject to solicitor-client privilege.

FINANCIAL IMPACT

There are financial impacts arising from the adoption of the Confidential Recommendations.

DECISION HISTORY

A Request for Direction Report was considered by City Council on February 3, 2016 in council decision Item TE34.37. Council's decision and the report can be found at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.NY11.35>

The OMB held a hearing on July 4, 2017 and approved the Development. It permitted a development of a mixed-use building of 14 storeys with an attached building of 7 four-storey townhouses.

There were several issues raised at the hearing that were deferred for further adjudication, including Section 37 benefits.

On September 9, 2019, the Local Planning Appeal Tribunal ("**LPAT**") approved OPA 367 without modifications. The lands affected by OPA 367 were on the north and south side of Sheppard Avenue West, from Yonge Street to approximately west of Senlac Street. Although the Subject Lands are included in OPA 367, they were not affected by it as they were approved before the approval of OPA 367.

OPA 367 generally limits lands on the north and south side of Sheppard Avenue West to a maximum of 6 storeys.

COMMENTS

This report is about litigation before LPAT and contains advice or communications that are subject to solicitor-client privilege. The attachment to this report contains confidential information and should be considered by Council in camera. There is some urgency in Council considering this matter at this time. The City Solicitor requires direction on this matter.

CONTACT

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SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

1. Confidential Attachment 1 - Confidential Information
2. Confidential Appendix A- Confidential Information