



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

City Initiated Official Plan Amendment 294 - Dufferin Street Secondary Plan - Request for Direction Regarding LPAT Hearing

Date: June 22, 2020
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

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 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 January 11, 2016, the Building Industry and Land Development Association ("**BILD**") appealed, on a plan-wide basis, the policies of OPA 294 related to the relationship between uses in Employment Areas and proximate sensitive land uses, to the Ontario Municipal Board (the "**OMB**"), now known as the Local Planning Appeal Tribunal (the "**LPAT**"). BILD's Notice of Appeal alleged that OPA 294 was premature with respect to

these matters, in advance of the OPA 231 policies respecting these same matters being finalized.

The purpose of this report is to request further instructions with respect to BILD's appeal. 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, and Confidential Appendix A 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

Official Plan Amendment 231

At its meeting of December 16, 17 and 18 , 2013, City Council considered a Report titled: "Official Plan and Municipal Comprehensive Reviews: Amendments to the Official Plan for Economic Health and Employment Lands Policies and Designations and Recommendations on Conversion Requests" and among other things, adopted Official Plan Amendment 231 ("OPA 231") with respect to *Employment Areas*. City Council's decision can be accessed here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.PG28.2>

OPA 231 was appealed to the Ontario Municipal Board OMB. Parts of OPA 231 remain under appeal at the LPAT.

At its meeting of June 26, 27, 28 and 29, 2018, City Council gave direction to the City Solicitor regarding the OPA 231 policies related to land use compatibility and mitigation. The City Solicitor's Report and City Council's decision can be accessed here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.CC43.11>

The LPAT conducted hearings with respect to the OPA 231 land use compatibility and mitigation issues on June 14, 2018 and July 9, 2018. The LPAT's decisions can be accessed here:

<http://www.omb.gov.on.ca/e-decisions/pl140860-Jul-10-2018.pdf>

and here:

<http://www.omb.gov.on.ca/e-decisions/pl140860-Jul-26-2018.pdf>

Official Plan Amendment 294

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 January 11 2016, BILD appealed the City's adoption of OPA 294 to the OMB, along with six other appellants.

At its meeting of March 27 and 28, 2019, following LPAT-assisted mediation, City Council gave direction to the City Solicitor to attend at the LPAT to settle three of the seven appeals to OPA 294. The City Solicitor's Reports regarding these settlements, along with Council's decision can be accessed here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.CC5.13>

and here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.CC5.14>

The LPAT conducted a hearing with respect to these three appeals on June 27, 2019, which resulted in modifications to and partial approval of OPA 294, without prejudice to the remaining appeals of OPA 294. The LPAT's decision can be accessed here:

<http://www.omb.gov.on.ca/e-decisions/pl160073-Nov-15-2019.pdf>

There are currently no LPAT hearing events scheduled for OPA 294.

COMMENTS

The City Solicitor requires further instructions with respect to the BILD appeal. 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

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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 Appendix A - Confidential Information