



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

660 Eglinton Avenue East and 1801 Bayview Avenue - Zoning By-law Amendment Application - Request for Direction Regarding LPAT Hearing

Date: July 22, 2020

To: City Council

From: City Solicitor

Wards: Ward 15 - Don Valley West

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

The purpose of this report is to request further instructions with respect to RioCan's appeal of its Zoning By-law Amendment application. 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 Attachments 2, 3 and 4 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, 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

In July 2000 City of Toronto Council approved Zoning By-law No. 508-2000 for the existing commercial building at 660 Eglinton Avenue East with a maximum commercial gross floor area of 4,750 square metres and permitted a 7-9 storey residential building with 83 residential dwelling units at 1801 Bayview Avenue. The residential building has been constructed and was subsequently severed from the commercial plaza site. The two sites share the plaza's northerly driveway on Bayview Avenue to access 1801 Bayview Avenue's underground garage and 660 Eglinton Avenue East's commercial loading area secured with an access right-of-way. Additionally, there are 50 below grade parking spaces at 1801 Bayview Avenue allocated for commercial parking.

Eglinton Avenue was identified as an intensification corridor in Metrolinx's Regional Transportation Plan. The Eglinton Crosstown project, which is currently underway in this corridor, is a light rail transit line (LRT) that will run across Eglinton Avenue between Mount Dennis (Weston Road) and Kennedy Station. The intersection of Bayview Avenue and Eglinton Avenue East has been identified as a location for an LRT station. The Bayview Crosstown station, when completed, will be underground with the primary station entrance at the southeast corner of the intersection and a secondary entrance at the northwest corner.

The City of Toronto's Eglinton Connects Planning Study examined the future land uses, built form, public realm and road layout on Eglinton Avenue, in anticipation of the opening of the Eglinton Crosstown LRT. At its meeting of May 6-8, 2014, City Council considered the Final Directions Report for the Eglinton Connects Planning Study.

The report and Council's direction are found here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.PG32.4>

The Phase 1 (Part 1) Implementation Report for the Eglinton Connects Planning Study was considered by City Council at its meeting of July 8-9, 2014. As part of that report OPA 253 was adopted and subsequently appealed to the Ontario Municipal Board by a number of appellants. RioCan, which is the owner of the subject property at 660 Eglinton Avenue East, was one of the appellants. Phase 1 (Part 1) of the study also recommended that the planned right-of-way width for certain blocks of this section of Eglinton Avenue East between Bayview Avenue and Laird Avenue be increased from 23 metres to 27 metres.

The report and Council's direction can be found here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.PG341>.

The Phase 1 (Part 2) Implementation Report for the Eglinton Connects Planning Study was considered by City Council at its meeting of August 25-18, 2014. This report dealt with specific implementation measures related to mid-rise buildings. The report recommended the amendment of the City-wide Zoning By-law No. 569-2013, former City of York By-law No. 1-83, former Town of Leaside By-law 1916, former City of Toronto By-law 438-86 and adopted Urban Design Guidelines for Eglinton Avenue. The approved zoning by-law recommended by the Part 2 report did not cover the subject

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site, as it is located in a Focus Area. The expectation is that zoning by-laws would be amended within the Focus Area in response to site-specific development applications. The Site and Area Specific policies in the Official Plan relating to each Focus Area will provide direction for any such amendments.

The report and Council's direction can be found here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.PG35.3>

This application was received on December 23, 2014 and on February 18, 2016 North York Community Council adopted a Preliminary Report on the Zoning By-law amendment. Community Council directed that City Planning staff schedule a community consultation meeting with the Ward Councillor with an expanded notification area.

The Preliminary Report is available at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.NY4.19>

On January 22, 2016, the owner appealed the Zoning By-law Amendment application to the Ontario Municipal Board citing City Council's failure to make a decision within the prescribed time frames set out in the Planning Act. The appeal of the Zoning By-law Amendment application was consolidated with the owner's appeal of OPA 253.

The owner filed a resubmission on February 19, 2016.

At its meeting held on July 12, 2016, City Council directed the City Solicitor, together with City Planning staff and any other City staff as appropriate, to attend the Ontario Municipal Board hearing to oppose RioCan's site specific Zoning By-law Amendment application for 660 Eglinton Avenue East in its current form but to also continue discussions with RioCan in an attempt to resolve the issues outlined in the report from the Director, Community Planning, North York District dated May 27, 2016.

The decision of City Council can be viewed at:

<http://www.toronto.ca/legdocs/mmis/2016/ny/bgrd/backgroundfile-93735.pdf>

At its meeting held on November 8 and 9, 2016, City Council directed the City Solicitor to support, at the Ontario Municipal Board, a settlement contained in a November 7, 2016 letter from Goodmans LLP, subject to an increase in the amount of the Section 37 contribution by \$200,000.00, so the total contribution was \$2,700,000.00 (indexed) to be applied to new recreational/community facilities (including off-site parkland acquisition) or the expansion of any existing recreational/community facilities in the vicinity of the site to be provided.

The settlement included the removal of a storm water easement in the southwest portion of the site, enabling Building A (16 storeys) to be moved closer to the intersection, the introduction of a wider pedestrian connection between Buildings A and B, limiting the height of Building B to 11 storeys, the provision of a number of townhouse units along the internal driveway, and increased office space.

The decision of City Council can be viewed at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.MM22.36>

Following a hearing conducted on November 28, 2016, the Ontario Municipal Board gave an oral decision allowing the appeal against OPA 253 in part, and allowing the appeal of the Zoning By-law Amendment in part, but withholding its final order pending receipt of confirmation from the City Solicitor that (1) the Owner had entered into a Section 37 Agreement to the satisfaction of the City Solicitor; and (2) that the Owner had satisfied the requirements of Engineering and Construction Services, as set out in its September 6, 2016 memorandum.

There are currently no LPAT hearing events scheduled for this matter.

COMMENTS

The City Solicitor requires further instructions with respect to RioCan's 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 Attachment 3 - Confidential Information
4. Confidential Attachment 4 - Confidential Information