



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

110, 114 and 120 Broadway Avenue - Request for Directions 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

On June 17, 2019, the applicant submitted a with prejudice revised development proposal for 110, 114 and 120 Broadway Avenue (the "**Settlement Offer**"). The City Solicitor sought and received instructions to support the revised development at the Local Planning Appeal Tribunal at the City Council meeting on June 18 and 19, 2019.

The Owner made a Site Plan Application in October, 2019, which remains under review by City staff.

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 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

A pre-application consultation meeting was held with the applicant on June 5, 2017 to discuss complete application submission requirements. The application was submitted on August 18, 2017 and deemed complete on September 27, 2017. A Preliminary Report on the application was adopted by North York Community Council on November 14, 2017 authorizing staff to conduct a community consultation meeting with an expanded notification area.

City Council on December 5, 2017 adopted a recommendation in the Preliminary Report to withhold any approvals on the application until the adoption of the revised Yonge-Eglinton Secondary Plan as part of the City-initiated Midtown in Focus: Growth, Built Form and Infrastructure Review.

The Preliminary Report and the Community Council and City Council Decision can be found at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.NY26.15>

On December 21, 2017, the landowner appealed Council's failure to make a decision within 120 days to the Ontario Municipal Board, now continued as the LPAT.

At its meeting of July 23, 2018, City Council adopted the recommendations in a Request for Directions Report dated July 3, 2018, to oppose the Zoning By-law Amendment Application at the LPAT for a 28 and 35-storey two-tower proposal on the subject property, and directed the City Solicitor and appropriate staff to continue discussions with the applicant to address the issues outlined in that report.

A copy of the Request for Direction Report is available on the City's website at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.NY32.12>

On July 12, 2016, City Council adopted the recommendations in the report from the Chief Planner and Executive Director, City Planning titled: "Midtown in Focus: Growth, Built Form and Infrastructure Review - Status Report."

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=PG13.1>

The recommendations directed staff to use the draft built form principles in the report in the review of the development applications in the Yonge-Eglinton Secondary Plan area. Planning staff were also directed to use the emerging community infrastructure priorities identified in the status report as part of the development application review process.

On December 5, 2017, City Council adopted the recommendations in the report from the Acting Chief Planner and Executive Director, City Planning titled: "Midtown in Focus: Proposals Report"

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.PG24.10>.

City Council directed staff to review all Official Plan amendment and Zoning By-law amendment applications in the Yonge-Eglinton Secondary Plan area, submitted prior to November 15, 2017, in the context of the Midtown in Focus study, including the proposed Secondary Plan. City Council also directed staff to assess the potential cumulative impact of all applications in the Yonge-Eglinton Secondary Plan Area on the City's ability to provide the necessary infrastructure to support development, and use planning mechanisms, including holding provisions, as necessary to ensure that growth and infrastructure needs are aligned.

City Council adopted the Yonge-Eglinton Official Plan Amendment (OPA 405) with amendments on July 23-27, 2018. City Council also endorsed a Parks and Public Realm Plan and Community Services and Facilities Strategy for Midtown. On August 9, 2018, OPA 405 was submitted to the Ministry of Municipal Affairs and Housing for review and approval pursuant to section 26 of the Planning Act.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.PG31.7>

On June 6, 2019, the Minister of Municipal Affairs and Housing issued a decision modifying and approving OPA 405. As part of the decision the Ministry revised the Plan to add the following transition policy: "This Plan does not apply to applications for official plan amendment, zoning by-law amendment, draft plan of subdivision or condominium approval, site plan approval, consent or minor variance which were complete prior to the approval of this Plan and which are not withdrawn. In-force site-specific official plan and/or zoning by-law amendments shall be deemed to conform with this Plan."

Given that this application was complete prior to June 5, 2019, OPA 405, being the approved Yonge Eglinton Secondary Plan, does not apply to this application.

At its meeting held on June 18 and 19, 2019, City Council directed the City Solicitor to support, at the Local Planning Appeal Tribunal, a settlement contained in a June 17, 2019 letter from Goodmans LLP. City Council's decision is available here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.CC8.10>

Following a hearing conducted on July 29, 2019, the Local Planning Appeal Tribunal gave an oral decision allowing the Owner's appeal in part, but withholding its final order pending receipt of confirmation from the City Solicitor that, among other things, the Owner had entered into a Section 37 Agreement to the satisfaction of the City Solicitor. The Local Planning Appeal Tribunal decision is available here:

<http://www.omb.gov.on.ca/e-decisions/pl180033-Aug-09-2019.pdf>

At its meeting held on October 29 and 30, 2019, City Council approved the Owner's Rental Housing Demolition Application in accordance with Chapter 667 of the Toronto Municipal Code to allow for the demolition of one-hundred and twenty-one (121) existing rental dwelling units located at 110-120 Broadway Avenue, subject to conditions. City

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Council's decision is available here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.NY9.2>

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

COMMENTS

The City Solicitor requires further instructions with respect to this matter. 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

Public Appendix "A" to Public Report - Planning and Urban Design Comments re:
Application No. 19 243515 NNY 15 SA, dated February 6, 2020.

Public Appendix "B" to Public Report - Planning and Urban Design Comments re:
Application No. 19 243515 NNY 15 SA, dated June 26, 2020.

Public Appendix "C" to Public Report - Transportation Impact Study dated May 1, 2020.

Confidential Attachment 1 - Confidential Recommendations and Confidential Information.