



## REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

### **39 - 45 Thora Avenue - Zoning By-law Amendment and Site Plan Applications - Request for Directions Report**

**Date:** September 23, 2020

**To:** City Council

**From:** City Solicitor

**Wards:** Ward 20 - Scarborough Southwest

#### **REASON FOR CONFIDENTIAL INFORMATION**

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This report contains advice or communications that are subject to solicitor-client privilege. This report contains information regarding potential litigation.

#### **SUMMARY**

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The purpose of this report is to seek further instructions for the Local Planning Appeal Tribunal (LPAT) hearing on the appeal of the Zoning By-law Amendment and site plan application for 39-45 Thora Avenue (the "Subject Site").

The four-day LPAT hearing scheduled to commence on September 15, 2020 was adjourned to allow the City Solicitor to seek further instruction from City Council. The LPAT intends to schedule another hearing date in mid-October.

#### **RECOMMENDATIONS**

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The City Solicitor recommends that:

1. City Council adopt the confidential recommendations in Confidential Attachment 1.
2. If the confidential recommendations are adopted by City Council, City Council authorize the public release of the confidential recommendations in Confidential Attachment 1, but that the remainder of Confidential Attachment 1 remain confidential as it contains advice which is subject to solicitor-client privilege.

## FINANCIAL IMPACT

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Adopting this report will have no financial impact beyond what has already been approved in the current year's budget.

## DECISION HISTORY

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The original Zoning By-law Amendment application was submitted on October 21, 2013, and deemed complete on November 14, 2013. A Preliminary Report on the application was adopted by Scarborough Community Council on February 25, 2014, authorizing staff to conduct a community consultation meeting. Scarborough Community Council's decision can be found at this web link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.SC30.20>

The owners filed an appeal to the LPAT on April 11, 2018, under Case MM180031, due to Council's failure to decide on the applications within the time prescribed by the Planning Act. A pre-hearing conference was held on January 28, 2019, where the owners advised the LPAT and City staff that they would be resubmitting new plans showing 16 residential units.

On July 16, 2019, the owners submitted a revised application. On November 26 and 27, 2019, City Council in Item SC10.8 approved a Request for Directions Report submitted by Community Planning, Scarborough District directing the City Solicitor and appropriate City Staff to attend the LPAT to oppose the revised application. City Council's decision can be found at this link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.SC10.8>

On April 17, 2020, the owners submitted a further revised application. On July 28, 2020, City Council in Item CC23.15 approved a Request for Directions Report submitted by the City Solicitor directing the City Solicitor and appropriate City Staff to attend the LPAT to oppose the revised application. City Council's decision can be found at this link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.CC23.15>

## ISSUE BACKGROUND

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### Original Proposal

The original application filed with the City on October 21, 2013, was to permit 10, three-storey townhouses at 39 - 45 Thora Avenue. Seven townhouses were to be located along the north portion of the site with an integral parking space for each dwelling unit accessed from the existing public lane via Thora Avenue. The remaining three townhouses were to be located to the south with parking in detached rear garages accessed from Lucy Avenue. One visitor parking space was proposed in front of each of the three detached garages, and two common visitor parking spaces were proposed

for the seven townhouses off the public lane with access from Thora Avenue for a total of 15 parking spaces.

On July 16, 2019, the owners submitted a revised application. This proposal increased the number of residential units from 10 to 16. The proposal included a 3-storey detached building containing 1 residential unit fronting onto Thora Avenue; a 3-storey townhouse block containing 5 residential units running perpendicular to Thora Avenue and fronting onto a private walkway; a 3-storey townhouse block containing 10 residential units, located behind the low-scale residential buildings on Thora Avenue and buildings (residential and commercial) on Sneath Avenue; and an underground parking garage containing 24 parking spaces, garbage /recycling room, storage area and an electrical room.

Detailed project information on this can be found on the City's Application Information Centre.

### **April 2020 Proposal**

The applicant submitted a revised with prejudice proposal on April 17, 2020 (the "April 2020 Proposal"). The April 2020 Proposal reduced the number of units from sixteen (16) to fifteen (15) and eliminated the single detached dwelling fronting on Thora Avenue. The units in this proposal were organized in four (4) blocks as follows:

- Block A (northwest corner of site) contains three (3) townhouse dwelling units and is oriented along Thora Avenue along with an entrance to the below-grade garage which is integrated into the northernmost unit of Block A;
- Block B (northeast corner of site) contains five (5) townhouse dwelling units and is located along the public laneway perpendicular to Thora Avenue. These units would front onto the laneway;
- Block C (located to the east) contains three (3) townhouse dwelling units and is oriented along a proposed pedestrian walkway parallel to Thora Avenue;
- Block D (located to the east) contains four (4) townhouse dwelling units and is also oriented along a proposed pedestrian walkway parallel to Thora Avenue; and
- each of the fifteen (15) townhouse units are three-storeys in height or approximately 9.64 metres to the top of the parapet.

Detailed architectural drawings for the April 2020 Proposal can be found at this link: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.CC23.15>

### **September 2020 Settlement Offer**

On September 4, 2020 the applicant submitted revised plans along with a settlement offer on a with prejudice basis (the "Settlement Offer"). The Settlement Offer further

reduces the number of units from fifteen (15) to twelve (12). Block C and Block D have been modified to contain two (2) townhouse dwelling units in each block and have been reoriented to front onto each other. This modification creates an 11.0 metre distance between the two blocks and provides Block C with a 7.5 metre rear yard and Block D with a 14 metre rear yard.

The Settlement Offer shows a widened private walkway adjacent to the public lane to the north at 1.5 metres, increased from 1.2 metres under the April 2020 Proposal. The Settlement Offer also proposes an approximately 2.95-metre-wide walkway along the eastern boundary of the Subject Site, providing a link between the widened public lane to the north and Lucy Avenue to the south. The applicant has proposed to grant to the City a surface public access easement over this walkway.

The Settlement Offer includes a total of twenty-three (23) parking spaces inclusive of three (3) visitors' spaces, all of which are contained in a single level of underground parking that is accessed via a vehicular ramp that is integrated into Block A.

The Settlement Offer and detailed architectural drawings can be found in Attachment 1 to this report. The Settlement Offer expires at the end of the September 30, October 1, 2020 City Council meeting.

## **COMMENTS**

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This report is about litigation before the Local Planning Appeal Tribunal and contains advice or communications that are subject to solicitor-client privilege. Attachment 1 to this report contains confidential information.

## **CONTACT**

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Sara Amini, Solicitor, Planning & Administrative Tribunal Law, Tel: (416) 392-2723;  
Fax: (416) 397-5624; Email: sara.amini@toronto.ca.

## **SIGNATURE**

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Wendy Walberg  
City Solicitor

## **ATTACHMENTS**

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Public Attachment 1 - With Prejudice Letter from Overland LLP dated September 4, 2020, Architectural Drawings prepared by Studio Canoo Architecture dated August 18, 2020, and Landscape Plans dated August 19, 2020 prepared by Thincdesign.

Confidential Attachment 1 - Confidential Recommendations and Confidential Information.