



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

2600 Don Mills Road - Request for Direction Regarding LPAT Hearing

Date: September 23, 2020

To: City Council

From: City Solicitor

Wards: Ward 17 - Don Valley North

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 July 27, 2020, City Council adopted recommendations in support of a revised Zoning By-law Amendment and enacted an Official Plan Amendment, through By-law 625-2020, in relation to the redevelopment of the lands municipally known as 2600 Don Mills Road. In general, the development application proposed to develop the site with a 33-storey infill residential building with a height of 102.35 metres plus mechanical penthouse that would contain 354 residential dwelling units, to the west of the existing 19-storey residential building. Fifteen, three to four-storey townhouses are proposed fronting onto Don Mills Road. An additional fifteen three to four-storey stacked townhouse units are proposed at the south of the site, fronting onto a new public street. The existing 19-storey rental apartment building containing 226 units would be retained.

The proposed increase in height and density is subject to Section 37 of the Planning Act. City Council directed City Staff to continue discussions with the applicant to resolve the allocation of the Section 37 contribution and directed the City Solicitor to report back to City Council on the outcome of those discussion, if necessary. City Staff have continued those discussions, and the applicant has made an offer to the City pursuant to Section 37 of the Planning Act.

The purpose of this report is to request further instructions for the LPAT hearing that is scheduled to commence October 26, 2020.

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 (September 23, 2020) from the City Solicitor.
2. City Council authorize the public release of Confidential Recommendations in Confidential Attachment 1 to this report (September 23, 2020) from the City Solicitor, if adopted by Council.
3. City Council direct that all other information contained in Confidential Attachment 1, to the report (September 23, 2020) from the City Solicitor is to remain confidential, as it contains advice and information 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

The owner submitted a Zoning By-law Amendment and Official Plan Amendment application on November 9, 2017. On February 21, 2018, North York Community Council adopted a Preliminary Report on the Zoning by-law Amendment and Official Plan Amendment applications. Included within the recommendations is the requirement for the applicant to develop a Context Plan for consideration by the City, in collaboration with area landowners and City staff. The North York Community Council Decision is available at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.NY28.10>

North York Community Council and City Council considered a Request for Direction Report on February 14, 2019 and February 26, 2019, and adopted it. City Council's decision to oppose the application is available at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.NY3.5>

On July 28, 2020, City Council adopted, with amendments, a Request for Direction Report dated February 24, 2020 on 1650 Sheppard Avenue East. The Request for Direction recommended that City Council support revisions to the Context Plan Official Plan Amendment (for the whole block, including 2600 Don Mills Road) and the Zoning by-law Amendment Application for 1650 Sheppard Avenue East. As part of the application for 1650 Sheppard Avenue East, a parkland dedication is provided on-site as well as an off-site dedication of 99 square metres on the lands municipally known as 2600 Don Mills Road. City Council's decision accepting the revised proposal is available at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.NY14.5>

On July 28, 2020, City Council adopted an Official Plan Amendment (Final Report) and a Zoning By-law Amendment (Request for Direction Report) dated February 24, 2020 without amendments. City Council enacted By-law 625-2020 to further implement the Context Official Plan Amendment that is part of the application for 1650 Sheppard Avenue East. The Request for Direction recommends that City Council support revisions to the Zoning By-law Amendment application and directs City staff to report back to City Council on the outcome of Section 37 discussions, if necessary. City Council's decision to defer are available at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.NY14.1>

By-law 625-2020 is available here:

<https://www.toronto.ca/legdocs/bylaws/2020/law0625.pdf>

The Report from the Director, Community Planning, North York District, may be found here: <https://www.toronto.ca/legdocs/mmis/2020/ny/bgrd/backgroundfile-146481.pdf>

The applicant appealed to the Ontario Municipal Board on March 21, 2018. Pre-hearing conferences were conducted on November 22, 2018, June 5, 2018 and December 3, 2019. LPAT-sponsored mediation took place in January and March, 2019. A five-day LPAT hearing is contingently scheduled to commence on October 26, 2020 for this matter.

COMMENTS

As shown in Public Attachment 2, the architectural plans depict a set of townhouses in the place of the child care centre, which increase the Section 37 valuation. Other site configurations were also made, which have an impact on the Section 42 parkland dedication. While the overall park size will not change (being 1,122 square metres), a portion of which will come from Section 37 of the Planning Act. The on-site parkland dedication for 2600 Don Mills Road will be 989 square metres under Section 42 of the Planning Act. The over-dedication of lands for park purposes will be 133 square metres under Section 37 of the Planning Act, for a total of 1,122 square metres of parkland.

The revised Section 37 matters are:

- 133 square metres of land for public park purposes;
- 19 affordable housing units, of which:
 - 5 bachelor units (average size of 433 square feet);
 - 7 1 bedroom units (average size of 521 square feet);
 - 5 2 bedroom units (average size of 668 square feet); and
 - 2 3-bedroom units (average size of 998 square feet).
- \$1,460,000.00 million dollars in a cash contribution directed towards Oriole Community Centre capital improvements and/or other community services and facilities in the immediate area, in consultation with the local ward councillor.

The City Solicitor requires further instructions. This report is about litigation before the LPAT and contains advice or communications that are subject to solicitor-client privilege. Confidential 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 Attachment 1 - Letter from WeirFoulds LLP dated September 4, 2020.

Public Attachment 2 - Architectural Plans prepared by Quadrangle Architects Limited dated September 4, 2020 for the property municipally known as 2600 Don Mills Road.

Confidential Attachment 1 - Confidential Recommendations and Confidential Information.