



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

2901 Bayview Avenue and 630 Sheppard Avenue East – Official Plan Amendment and Zoning Amendment – Request for Directions Report

Date: September 21, 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

The Official Plan and Zoning By-law amendment applications for the subject site have been appealed to the Local Planning Appeal Tribunal (LPAT) on the basis that the City failed to make a decision within the prescribed time period set out in the Planning Act.

On November 16, 2018, the applicant submitted a revised proposal. A Request for Directions report dated May 13, 2019 was adopted by North York Community Council and City Council on June 18, 2019 which directed the City Solicitor and staff to continue to oppose the applications at the LPAT.

The purpose of this report is to request further instructions for the 15-day LPAT hearing that is scheduled to commence September 21, 2020.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the recommendations contained in the Confidential Attachment 1 to the report from the City Solicitor.

2. City Council authorize the public release of the confidential recommendations contained in Confidential Attachment 1 from the City Solicitor at the discretion of the City Solicitor.
3. City Council direct that all other information contained in Confidential Attachment 1 and all the information in Confidential Appendix "A" to Confidential Attachment 1 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

A Preliminary Report on the application was adopted by North York Community Council on October 17, 2017, authorizing staff to conduct a community consultation meeting. North York Community Council's decision can be found at this web link:
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.NY25.7>

The applicant filed an appeal to the LPAT under Case PL180148, on the basis that the City failed to make a decision within the prescribed time period set out in the Planning Act.

On November 16, 2018, the applicant submitted a revised proposal. On June 18, 2019, City Council adopted the recommendations of a report from the Director, Community Planning, North York District (May 13, 2019) 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.NY6.8>

On April 24, 2020, the applicant resubmitted revised plans and drawings for the proposal on a with prejudice basis. Subsequent to that resubmission, the applicant filed an offer to settle its appeals "on the record" with the City on July 27, 2020. There was not sufficient time for staff to review that offer to settle and provide any recommendations with respect to it prior to the City Council meeting on July 29 and 30, 2020. Instead, on July 29 and 30, 2020, City Council adopted the confidential recommendations of a report from the City Solicitor (July 21, 2020) in respect of the application and in anticipation of a 15-day LPAT hearing scheduled to commence September 21, 2020. The confidential recommendations of that Report (July 21, 2020) were not publicly disclosed. City Council's decision can be found at this link:
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.CC23.17>

On September 3, 2020, the applicant filed a settlement offer "on the record" which is attached to this Report as Public Attachment 1 and Public Attachment 2. The purpose of this Report is to seek instructions in respect of the applicant's settlement offer

COMMENTS

The City Solicitor requires further instructions. This report is about litigation before the Local Planning Appeal Tribunal and contains advice or communications that are subject to solicitor-client privilege. Confidential Attachment 1 to this Report and Confidential Appendix "A" to Confidential Attachment 1 contain confidential advice and should both be considered by Council in camera.

CONTACT

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SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

Public Attachment 1 - Settlement Offer Letter, dated September 2, 2020, prepared by McCarthy Tetrault LLP

Public Attachment 2 - Architectural Plans and Drawings for the Settlement Offer

Confidential Attachment 1 - Confidential Recommendations and Information

Confidential Appendix "A" to Confidential Attachment 1 - Confidential Information