

40, 42, 44, 46 and 48 Hendon Avenue - Official Plan and Zoning By-law Amendment Applications - Request for Direction Regarding Ontario Land Tribunal Appeal

Date: July 7, 2021

To: City Council

From: City Solicitor

Wards: Ward 18 - Willowdale

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 seek further instructions respecting the appeal of the Official Plan and Zoning By-law Amendment applications for 40, 42, 44, 46 and 48 Hendon Avenue, currently before the Ontario Land Tribunal (the "OLT"). An eight-day OLT hearing is scheduled to commence on August 30, 2021.

This report has been prepared in consultation with City Planning.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the recommendations contained in Confidential Attachment 1 to this report.
2. If the confidential instructions in Confidential Attachment 1 are adopted, City Council authorize the public release of:
 - a. the confidential recommendations contained in Confidential Attachment 1, with the remainder of the Confidential Attachment 1 to remain confidential, as it contains advice subject to solicitor-client privilege; and
 - b. Confidential Appendices A and B.

FINANCIAL IMPACT

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

DECISION HISTORY

On January 28, 2019, the City received a Zoning By-law Amendment application (Application No. 19 109332 NNY 18 OZ) to permit two three-storey (11 metres) back-to-back townhouse blocks consisting of a total of 20 dwelling units. The application proposed a total residential gross floor area ("GFA") of 3,968 square meters (floor space index ("FSI") of 1.71 times the area of the lot). On April 24, 2019, North York Community Council considered a preliminary report for the application. Community Council's decision and the preliminary report can be accessed at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.NY5.7>

On December 23, 2019, the City received an application to amend the Official Plan (Application No. 19 264461 NNY 18 OZ) and a revised application to amend the Zoning By-law (the "Application") to permit a four-storey (12.86 metres) multi-unit residential building consisting of a total of 68 residential units. The Application proposed a total residential GFA of 5,295 square meters (FSI of 2.29 times the area of the lot). On March 12, 2020, North York Community Council considered a preliminary report for the Application. Community Council's decision and the preliminary report can be accessed at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.NY14.8>

On June 19, 2020, the applicant appealed the Application to the formerly known Local Planning Appeal Tribunal (the "LPAT"), which continues as the Ontario Land Tribunal ("OLT"), pursuant to subsections 22(7) and 34(11) of the Planning Act.

On September 18, 2020, the City received a revised Application to permit a six-storey (19.65 metres) multi-unit residential apartment building consisting of 71 residential units. The Application proposed a total residential GFA of 5,931 square meters (FSI of 2.56 times the area of the lot). On February 2, 2021, City Council adopted a Request for Directions Report, in which City Council gave direction to City staff to appear before the LPAT to oppose the Application. Staff raised concern with the proposed density and height of the development. City Council's decision can be accessed at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.NY21.4>

On May 16, 2021, the City received a Site Plan application (Application No. 21 155487 NNY 18 SA) for a four storey (16.5 metres) stacked back-to-back townhouse form consisting of 30 dwelling units. The Site Plan application proposed a total residential GFA of 3,500 square meters (FSI of 1.51 times the area of the lot). The plans submitted with the Site Plan application can be accessed at:

<http://app.toronto.ca/AIC/index.do?folderRsn=w8NuMJpPmXxulB4wotmq5g%3D%3D>

On June 7, 2021, Transportation Services issued a public notice of its intention to seek direction from City Council to prepare an Addendum to the 1993 Uptown Service Road and Associated Network Environmental Assessment to maintain Hendon Avenue in its existing condition, as a through street. This is consistent with Staff's recommendation in the REimagining Yonge Environmental Assessment Report adopted by City Council on December 16, 2020. The REimagining Yonge Environmental Assessment Report and City Council's decision can be accessed at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.IE18.1>

The purpose of this report is to seek further instructions regarding the appeal of the Official Plan and Zoning By-law Amendment applications.

COMMENTS

This report is about ongoing litigation before the OLT and contains advice or communications that are subject to solicitor-client privilege. The attachment and appendices to this report contain confidential information and should be considered by City Council in camera.

CONTACT

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SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

Confidential Attachment 1 - Confidential Information

Confidential Appendix A - Confidential Information

Confidential Appendix B - Confidential Information