



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

9-25 Dawes Road - Zoning By-law Amendment Application - Request for Direction Regarding Ontario Land Tribunal Hearing

Date: July 7, 2021

To: City Council

From: City Solicitor

Wards: Ward 19 - Beaches-East York

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 10, 2019, a Zoning By-law Amendment application (the "**Application**") was submitted for the property at 9-25 Dawes Road to permit two towers atop a shared base building including residential, retail and community space. The North Tower would be 24 storeys (77.7 metres, excluding mechanical penthouse) and the South Tower would be 30 storeys (95.4 metres, excluding mechanical penthouse). Together a total of 684 units were proposed: 403 one-bedroom units (59 percent), 214 two-bedroom units (31 percent) and 67 three-bedroom units (10 percent). The proposal had a total gross floor area (GFA) of 46,498 square metres (44,487 square metres of residential GFA and 2,011 square metres of non-residential GFA). The floor space index (FSI) of the proposed development was 9.2 times the area of the lot.

The proposal also included two levels of underground parking. A total of 270 vehicular parking spaces were proposed (193 residential parking spaces, and 77 parking spaces for the non-residential uses). A total of 686 bicycle parking spaces were proposed - 616 spaces for residents and 70 spaces for visitors. Type G and B loading spaces were proposed and were located within the building.

On December 4, 2019, the applicant appealed the application to the Ontario Land Tribunal ("**OLT**") (known then as the Local Planning Appeal Tribunal) citing Council's failure to make a decision within the statutory timeframe. The OLT conducted the first Case Management Conference in the proceedings by video hearing on September 22, 2020, at which Minto (Dawes) GP Inc., 6 Dawes Danforth Inc., Dandaw Developments Limited, Jacob's Tent Inc. and the Royal Canadian Legion, Branch 11 were each granted party status on consent. Canadian Tire Corporation Limited was also granted party status. The OLT conducted a second Case Management Conference on October

23, 2020 at which it: considered a final draft Procedural Order and Issues List; scheduled a third Case Management Conference by videoconference for June 30, 2021; and scheduled an in-person fifteen-day hearing to commence on August 9, 2021.

On June 30, 2021, the applicant submitted a revised development proposal for 9-25 Dawes Road (the "**Revised Proposal**").

The purpose of this report is to request further instructions for the OLT hearing that will be scheduled in the future.

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, Confidential Appendix "A" and Confidential Appendix "B", if adopted by City Council, at the discretion of the City Solicitor.
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 Preliminary Report on the application was adopted by Toronto and East York Community Council on September 16, 2019 requesting staff to hold a community consultation meeting. The Preliminary Report can be found at the following link: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.TE8.31>

On December 17, 2019, City Council adopted Official Plan Amendment 478 (OPA 478) as the result of the Main Street Planning Study. OPA 478 unlocks intensification, including tall buildings, within the study area through the achievement of a new road network, new parks and open spaces, and new and improved community services and facilities. The final report and OPA 478 can be found at the following link: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.TE11.4>

On February 26, 2020, City Council adopted a Request for Direction Report directing the City Solicitor, together with appropriate staff, to attend the LPAT hearing to oppose

the Application for the reasons set out in the January 20, 2019 Request for Direction Report from the Director, Community Planning, Toronto and East York District (the "**Request for Direction**"). City Council also authorized City staff to continue discussions with the applicant to address the issues set out in the Request for Direction, including site organization, built form, public realm, the inclusion of additional non-residential space, and appropriate benefits to be secured pursuant to Section 37 of the *Planning Act*. The City Council decision is available at: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.TE13.5>

An OLT case management conference is scheduled to commence July 27, 2021.

COMMENTS

This report has been prepared in consultation with staff from City Planning including Community Planning and Urban Design Staff, and other Divisional Staff.

The City Solicitor requires further instructions. This report is about litigation before the OLT and contains advice or communications that are subject to solicitor-client and litigation 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

Confidential Attachment 1 - Confidential Recommendations and Confidential Information

Confidential Appendix "A" - Confidential Information

Confidential Appendix "B" - Confidential Information