



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

900 Dufferin Street - Official Plan Amendment and Zoning By-law Amendment Application - Request for Directions Report - Supplementary Report

Date: July 15, 2021

To: City Council

From: City Solicitor

Wards: Ward 9 - Davenport

REASON FOR CONFIDENTIAL INFORMATION

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

The purpose of this report is to request further instructions for a potential Ontario Land Tribunal hearing that is currently scheduled to commence on October 18, 2021 for three weeks.

SUMMARY

The purpose of this report is to request further instructions for the Ontario Land Tribunal (the "**OLT**") hearing that is scheduled to commence on October 18, 2021, for three weeks. The applicant has appealed the proposed official plan amendment and rezoning of 900 Dufferin Street to the OLT due to Council's failure to make a decision on the application within the time prescribed by the Planning Act (the "**Appeal**").

On July 28, 2020, City Council directed the City Solicitor, along with appropriate staff, to oppose the Appeal.

The appealed application was revised in March of 2021. Details of the appealed application are described in the public report from the City Solicitor dated July 7, 2021.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the recommendations contained in the Confidential Attachment 1 to the Supplementary Report (July 15, 2021) from the City Solicitor.

2. City Council authorize the public release of the confidential recommendations in Confidential Attachment 1 and Confidential Appendix "A", Confidential Appendix "B" and Confidential Appendix "C", Confidential Appendix "D" and Confidential Appendix "E" to the Supplementary Report (July 15, 2021) from the City Solicitor at the discretion of the City Solicitor, if adopted by City Council.

3. City Council direct that all other information contained in Confidential Attachment 1 to the Supplementary Report (July 15, 2021) from the City Solicitor is to remain confidential at the discretion of the City Solicitor, as it contains advice and information, which is subject to solicitor-client privilege.

FINANCIAL IMPACT

The financial implications are set out in Confidential Attachment 1.

DECISION HISTORY

A Preliminary Report on the combined Official Plan and Zoning By-law Amendment application was adopted by Toronto and East York Community Council on January 8, 2020, authorizing staff to conduct a community consultation meeting. The link to the preliminary report can be found here:

<https://www.toronto.ca/legdocs/mmis/2020/te/bgrd/backgroundfile-141191.pdf>

Pre-Application Consultation

A pre-application meeting with the applicant was held on March 28, 2019 to identify key issues with the proposal and complete application submission requirements. City staff requested that the applicant bring forward a comprehensive redevelopment plan that addresses the long-term potential of the entire mall site. Staff also raised concerns about the proposed heights, compatibility and transition to the surrounding existing and planned context, proposed park location, public roads and active transportation network, loading areas, improvements to the public realm and landscaping.

On July 8, 2019, the Official Plan Amendment and Zoning By-law Amendments applications were submitted to the City and were deemed complete.

On February 7, 2020, the applicant appealed the Official Plan Amendment and Zoning By-law Amendment Application to the Local Planning Appeal Tribunal (now the Ontario Land Tribunal) for the City's failure to make a decision on the application within the required timeframe.

A Request for Directions Report (dated June 25, 2020) from the Director, Community Planning, Toronto and East York District was considered by City Council at its meeting of July 28 and 29, 2020. City Council directed the City Solicitor and Planning staff to attend at the OLT and oppose the Official Plan Amendment and Zoning By-law Amendment Application. The report can be found at the following link:

The Tribunal has held one case management conferences on September 6, 2020 and a further scheduled on June 28, 2021, which was subsequently cancelled. A 15-day hearing is scheduled to commence on October 18, 2021.

COMMENTS

In late March 2021, the owner submitted a revised application, along with updated reports, plans and drawings illustrating a revised development concept for the subject property (the **"Revised Proposal"**). The property is located at 900 Dufferin Street (the **"Development Site"**).

The Revised Proposal is further detailed in the City Solicitor's Public Report dated July 7, 2021.

APPLICATION BACKGROUND

The City Solicitor requires further instructions on this matter. This report is about litigation before the Ontario Land Tribunal and contains advice or communications that are subject to solicitor-client privilege. Attachment 1 to this report contains confidential advice 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
Confidential Appendix "C" - Confidential Information
Confidential Appendix "D" - Confidential Information
Confidential Appendix "E" - Confidential Information