

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

Date: September 23, 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 November 25, 2019, a Zoning By-law Amendment application (the "**Application**") was submitted for the property at 6 Dawes Road to permit three residential towers of 49 storeys, 46 storeys and 40 storeys atop a shared base building including residential, retail and community space. In addition to residential dwelling units, the proposal would have also included: a new integrated entrance to the existing Danforth GO transit station; a 6-storey community centre (approximately 4,865 square metres or 50,000 square feet); and a privately-owned publicly accessible open space (737.68 square metres).

On January 15, 2021, the applicant submitted a revised development proposal for 6 Dawes Road (the "**Revised Application**"). The Revised Application proposed to amend the Zoning By-law for 6 Dawes Road to permit four towers atop two base buildings separated by a publicly-accessible open space. The towers were to be 44-storeys, 46 storeys, 37 storeys and 19 storeys. In addition to residential units, the Revised Application also included space for self-storage. Neither a community centre use nor integrated entrance with the adjacent GO transit station was provided. The Revised Application included above-grade parking for portions of floors 1 to 5 where highly sensitive uses such as residential would not be permitted due to the proposal's adjacency with the rail corridor to the south.

On March 23, 2021, the applicant appealed the Revised Application to the Local Planning Appeal Tribunal, now continued as the Ontario Land Tribunal (the "OLT"), 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 May 14, 2021, at which Tri-Metro Investments Inc., Canadian Tire Corporation Limited, Minto (Dawes) GP Inc., Dandaw Developments Limited, Victoria Woods (Main Square Inc.), a local resident and Metrolinx were each granted party status on consent.

The purpose of this report is to request further instructions for the future OLT hearing that is not yet scheduled.

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, and Confidential Appendices "A" and "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 and Confidential Appendix "C" is to remain confidential, as it contains advice which is subject to litigation privilege and 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

On December 17, 2019, City Council adopted Official Plan Amendment 478 (OPA 478) as the result of the Main Street Planning Study. OPA 478 allows for 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>

A Preliminary Report on the initial application for 6 Dawes Road was adopted by Toronto and East York Community Council on February 5, 2020 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=2020.TE13.24>

On May 5, 2021, City Council adopted a Request for Direction Report in respect of the 6 Dawes Road re-zoning application, directing the City Solicitor, together with appropriate staff, to attend the OLT hearing to oppose the Application for the reasons set out in the January 20, 2019 Request for Direction Report from the City Solicitor. City Council also authorized City staff to continue discussions with the applicant to address the issues set out in the Request for Direction. The City Council decision is available at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.CC32.11>

On July 14, 2021, City Council adopted a Request for Direction Report in respect of the 6 Dawes Road re-zoning application, the recommendations of which remain confidential. The City Council decision is available at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.CC35.22>

On July 14, 2021, City Council adopted a Request for Direction Report in respect of OPA 478, the recommendations of which remain confidential. The City Council decision is available at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.CC35.10>

An OLT Case Management Conference was held on May 14, 2021 and a further Case Management Conference is scheduled for October 5, 2021. The OLT has not yet scheduled hearing dates in this matter.

COMMENTS

This report has been prepared in consultation with staff from City Planning, Engineering and Construction Services, and Parks, Forestry and Recreation.

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

Laura Bisset, Solicitor, Planning & Administrative Tribunal Law; Tel: (416) 392-8782; Fax: (416) 397-5624; Email: laura.bisset@toronto.ca

Michael Mahoney, Solicitor, Planning and Administrative Tribunal Law, Tel: (416) 392-4846; Fax: (416) 397-5624; E-mail michael.mahoney@toronto.ca

SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

Confidential Attachment 1 - Confidential Recommendations and Confidential Information

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

Confidential Appendix "B" to Confidential Attachment 1 - Confidential information

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