

City Council

Motion without Notice

MM36.50	ACTION			Ward: 12
---------	--------	--	--	----------

95-131 and 155 Balliol Street - Zoning By-law Amendment Application - Ontario Land Tribunal Hearing - Request for Directions - by Councillor Josh Matlow, seconded by Councillor Mike Layton

** This Motion has been deemed urgent by the Chair.*

** This Motion is not subject to a vote to waive referral. This Motion has been added to the agenda and is before Council for debate.*

Confidential Attachment - advice that is subject to solicitor-client privilege and potential litigation

Recommendations

Councillor Josh Matlow, seconded by Councillor Mike Layton, recommends that City Council adopt the following recommendations in the report (September 30, 2021) from the City Solicitor:

1. City Council adopt the recommendations contained in the Confidential Attachment 1 to the report (September 30, 2021) from the City Solicitor.
2. City Council authorize the public release of the confidential recommendations contained in the Confidential Attachment 1 to the report (September 30, 2021) from the City Solicitor, if adopted by City Council.
3. City Council direct that all other information contained in Confidential Attachment 1 to the report (September 30, 2021) from the City Solicitor is to remain confidential at the discretion of the City Solicitor, as it contains advice which is subject to solicitor-client privilege.

Summary

On September 24, 2021, the City received a With Prejudice settlement offer, which was amended on September 29, 2021, from the lawyers for the applicant on the 95-131 and 155 Balliol St. development file. The rezoning application for this site is currently in litigation at the Ontario Land Tribunal. The Tribunal has a second Case Management Conference, which may be turned into a settlement hearing, scheduled for October 25, 2021.

Given the date the settlement offer was received, the City Solicitor's report on the offer needs to be added to the Council Agenda. With a second hearing event at the Tribunal on October 25, 2021, and the City being offered a significant park as part of the settlement offer, the City

Solicitor needs instructions prior to October 25, 2021.

This settlement proposal puts the Midtown community in a difficult position. The built form proposed by the applicant does not meet the Midtown in Focus plan recommended by City Planning and approved by Council. However, negotiations at the Ontario Lands Tribunal have led to the developer providing a new childcare facility on-site and a significant park. These amenities are sorely lacking in the fast-growing Davisville apartment neighbourhood. The risk of losing these hard-fought wins at an OLT hearing is significant.

In addition, we were able to secure full rental replacement for the existing townhomes on the site and an agreement with the property manager to ensure that these townhomes will be maintained prior to construction.

After careful deliberation with the South Eglinton Residents and Ratepayers' Association, City Planning, and City Legal staff, SERRA, and the wider community via a public consultation meeting I hosted on September 28, 2021, I have decided to vote in support of this settlement proposal to secure the much needed parkland and daycare capacities in this part of Ward 12.

This Motion is brought forward to adopt the Report for Action with Confidential Attachment (September 30, 2021) from the City Solicitor which details the settlement offer on this file.

Background Information (City Council)

Member Motion MM36.50

(October 30, 2021) Report from the City Solicitor on 95-131 and 155 Balliol Street - Zoning By-law Amendment Application - Ontario Land Tribunal Hearing - Request for Directions (<http://www.toronto.ca/legdocs/mmis/2021/mm/bgrd/backgroundfile-171618.pdf>)

Public Attachment 1 - Letter from Aird Berlis dated September 29, 2021 containing With Prejudice Settlement Offer

(<http://www.toronto.ca/legdocs/mmis/2021/mm/bgrd/backgroundfile-171620.pdf>)

Public Attachment 2 - Revised Plans dated June 22, 2021 by BDP Quadrangle

(<http://www.toronto.ca/legdocs/mmis/2021/mm/bgrd/backgroundfile-171621.pdf>)

Confidential Attachment 1