

1821-1823 and 1831 Weston Road - Zoning By-law Amendment Application - Request for Directions Report

Date: January 26, 2022
To: City Council
From: City Solicitor
Wards: Ward 5 - York South-Weston

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 28, 2019, the applicant (Weston Road Limited Partnership) submitted an application for a zoning by-law amendment, which was deemed complete by the City on December 27, 2019, and on October 30, 2020, the applicant further revised the application and provided a resubmission after receiving preliminary comments from City staff and commenting agencies (collectively, the “Application”).

On April 19, 2021, the applicant appealed its Zoning By-law Amendment application (Application 19 254711 WET 05 OZ) to the Ontario Land Tribunal (OLT). The appeal was made citing Council's failure to make a decision on the application within the timeframe prescribed by the *Planning Act*.

The purpose of this report is to request further instructions in respect of this matter prior to the OLT hearing that is scheduled to commence on April 4, 2022.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the recommendations contained in the Confidential Attachment 1 to the report (January 26, 2022) from the City Solicitor.
2. City Council authorize the public release of the confidential recommendations contained in the Confidential Attachment 1 to the report (January 26, 2022) from the City Solicitor if the confidential recommendations in Confidential Attachment 1 are adopted by City Council.
3. City Council direct that all other information contained in Confidential Attachment 1 to the report (January 26, 2022) 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.
4. City Council authorize the public release of the confidential information and documents in Confidential Attachment 2 to the report (January 26, 2022) from the City Solicitor if the confidential recommendations in Confidential Attachment 1 are adopted by City Council.

FINANCIAL IMPACT

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

DECISION HISTORY

During its meeting of October 1, 2021, City Council adopted, without amendment, the recommendations of the Request for Directions Report (August, 2021) from the Acting Director, Community Planning, Etobicoke York District directing the City Solicitor and appropriate City Staff to attend the OLT to oppose the Zoning By-law Amendment application for 1821-1823 and 1831 Weston Road in its current form:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.NY18.5>

Background

On November 28, 2019, Weston Road Limited Partnership (the Applicant/Appellant) submitted a Zoning By-law Amendment application to permit a 36-storey (119 metres, including the mechanical penthouse) mixed-use building with a 6-storey podium on the subject site.

On November 3, 2020, the Applicant submitted revised plans. The revisions included increasing the height to 38-storeys (124.7 metres, including mechanical penthouse), decreasing the tower floorplate size from 820 square metres to 809.4 square metres and increasing the tower side yard setback to the west property line from 7.5 metres to 10 metres.

A virtual community consultation meeting was hosted by City staff on December 7, 2020. Approximately 76 people participated, as well as the Ward Councillor. On April 19, 2021, the Zoning By-Law Amendment application was appealed to the Ontario Land Tribunal (OLT or Tribunal), citing City Council's failure to make a decision on the application within the prescribed timelines of the Planning Act (the Appeal).

A Case Management Conference (CMC) took place on September 7, 2021, at which time a hearing of the Appeal was scheduled to commence on Monday, April 4, 2022.

At its meeting on October 1 and 4, 2021, City Council directed the City Solicitor and appropriate City staff to attend the OLT hearing to oppose the Appeal, and to continue discussions with the Applicant in an attempt to resolve outstanding issues, and to report back on outcomes of such discussions as appropriate.

On November 4 the OLT issued the Procedural Order to govern the hearing of the Appeal.

On November 12, 2021, revised plans were submitted by the appellant/applicant to the Tribunal case worker. The revised plans were very similar to the November, 2020 submission overall, with some modifications to the podium.

In December, 2021, Metrolinx submitted a request to the Tribunal to obtain party status in the proceedings. As of the date of this report, Metrolinx's request has not been addressed by the Tribunal.

This Report has been prepared in consultation with staff from Community Planning and Urban Design staff.

COMMENTS

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 privilege. Confidential Attachment 1 to this report contains confidential advice and it should be considered by Council *in camera*.

CONTACT

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SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

1. Confidential Attachment 1 - Confidential Information
2. Confidential Attachment 2 - Confidential Information