



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

630-686 Finch Avenue East - Zoning By-law Amendment and Site Plan Control Applications - Ontario Land Tribunal Hearing - Request for Directions

Date: March 2, 2022

To: City Council

From: City Solicitor

Wards: 17 - Don Valley North

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 September 1, 2020, the City received a Zoning By-law Amendment application for 630-686 Finch Avenue East (the "**Site**") to permit a new 12-storey mixed-use building with a height of 43.25 metres plus 5.5 metres for the mechanical penthouse. The proposed development would have a total gross floor area of 28,333 square metres, with 206 residential units and 897 square metres of non-residential gross floor area. Vehicular access would be from two locations on Finch Avenue East and there would be no vehicular access from Banstock Drive.

On June 3, 2021, the City received a Site Plan Control application for the Site.

The applicant appealed City Council's neglect or failure to make a decision on its application for the Zoning By-law Amendment, along with its Site Plan Control application (together the "**Appeal**"), to the Ontario Land Tribunal (the "**OLT**") on August 16, 2021.

The OLT has scheduled a Case Management Conference for March 28, 2022.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the recommendations contained in the Confidential Attachment 1 to the report (March 2, 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 (March 2, 2022) 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 (March 2, 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.

FINANCIAL IMPACT

There is no financial impact arising from the adoption of the Confidential Recommendations beyond what has already been approved in the current year's budget.

DECISION HISTORY

On September 1, 2020, the City received a Zoning By-law Amendment application to permit a new 12-storey mixed-use building on the Site. A Preliminary Report on the application was adopted by North York Community Council on December 3, 2020 authorizing staff to conduct a community consultation meeting. The Preliminary Report can be found at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.NY20.12>

On June 3, 2021, the City received a Site Plan Control application for the Site.

On August 16, 2021, the applicant appealed City Council's neglect or failure to make a decision on the Zoning By-law Amendment application, as well as its Site Plan Control application, to the OLT. The OLT has scheduled a Case Management Conference for March 28, 2022.

On February 23, 2022, the City received a not confidential, Without Prejudice settlement offer from the applicant's lawyers, Devine Park LLP, which is attached as Public Attachment 1 (the "**Settlement Offer**"). The Settlement Offer contains revised plans, attached as Public Attachment 2 (the "**Revised Plans**"). Should City Council accept the Settlement Offer, the applicant intends to present the Revised Plans to the OLT for approval.

In response to the concerns raised by City staff in meetings with the applicant, the Revised Plans include a number of modifications. While the original proposal for the Site was for a 12-storey mixed-use building with a height of 43.25 metres plus 5.5 metres for the mechanical penthouse, the Settlement Offer proposes an 11-storey mixed use building with a height of 37.4 metres plus 7.3 metres for the mechanical penthouse. The proposal in the Settlement Offer includes more residential and commercial gross floor area, but a lower lot coverage than the original application. While the original built form penetrated the 45 degree angular plane from Finch Avenue East, Banstock Drive, and neighbourhoods east and west of the Site, the proposal in the Settlement Offer complies with the angular plane. Vehicular access to the Site is proposed through one access point in the Revised Plans, rather than two in the original application.

The Settlement Offer includes a Privately-Owned Publicly Accessible Space ("**POPS**") of approximately 537 square metres in size located along Banstock Drive, the provision of a pedestrian mid-block connection at ground level through the proposed building from Finch Avenue East to Banstock Drive, including access to the mid-block connection elevator, and the rezoning of some lands on the eastern side of the Site as Open Space - Natural Areas. The Settlement Offer also contains a Section 37 offer of \$2.4 million to be used for community benefits. As part of the Settlement Offer dealing with the Site Plan Control application, the applicant will work with City staff to finalize Notice of Approval Conditions based on the Revised Plans.

The chart below provides a summary of the appealed Zoning By-law Amendment application submitted on September 1, 2020, and the Revised Plans in the Settlement Offer submitted on February 23, 2022.

	Appealed Proposal	Settlement Offer
Total number of residential units	206	238
Residential gross floor area	27,436 square metres	30,357 square metres
Commercial gross floor area	897 square metres	1,133.8 square metres
Total gross floor area	28,333 square metres	31,015 square metres
Density (FSI)	2.97	3.25
Lot coverage	67.7 percent	46.6 percent
Height	12 storeys plus mechanical (43.25 metres plus 5.5 metres)	11 storeys plus mechanical (37.4 metres plus 7.3 metres)

	Appealed Proposal	Settlement Offer
Setback to Finch Avenue East	2.45 metres	0.2 metres
Setback to Banstock Drive	8.91 metres	Not incl. access/elevator 24.5 metres
Easterly side yard setback	16.29 metres	6.41 metres; 15.4 metres to Neighbourhoods
Westerly side yard setback	6.25 metres	5.5 metres (1.1 metres on Finch Avenue East)
Angular planes from Finch Avenue East, Banstock Drive, Neighbourhoods to east and west	Penetrates	Complies
Number of Vehicular Access points to Site	2	1
POPS	No	Yes
Mid Block connection	Yes but no Legal public access	Public access to be secured
Vehicle parking supply	311	364
Bicycle parking supply	216	179
Loading Docks	1	1

COMMENTS

The City Solicitor requires further instructions on this matter. This report is about ongoing 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 should be considered by City Council *in camera*.

CONTACT

Kasia Czajkowski, Solicitor, Planning & Administrative Tribunal Law; Tel: (416) 338-5725; Fax: (416) 397-5624; Email: kasia.czajkowski@toronto.ca

SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

Public Attachment 1 - Letter from Devine Park LLP dated February 23, 2022 containing Without Prejudice Settlement Offer

Public Attachment 2 - Revised Plans - architectural plans dated January 28, 2022 by Rosario Varacalli Architect and Kirkor Architects and Planners, and landscape plans dated January 10, 2022 by the mbtw group

Confidential Attachment 1 - Confidential Information