



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

1710 - 1736 Bayview Avenue - Zoning By-law Amendment Application - Request for Directions Report

Date: March 28, 2022
To: City Council
From: City Solicitor
Wards: 15 - Don Valley West

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

The purpose of this report is to request further instructions for the Ontario Land Tribunal ("OLT") hearing into this matter currently scheduled to commence on July 25, 2022, for two weeks. The applicant appealed the proposed zoning by-law amendment to the OLT due to Council's failure to make a decision on the application within the time prescribed by the *Planning Act*. By letter dated March 25, 2022, attached to this report as Public Attachment "1", and revised plans dated March 22, 2022, attached to this report as Public Attachment "2", counsel for the applicant made a with-prejudice settlement offer to the City (the "**Settlement Offer**") proposing a revised development on the site (the "**Revised Proposal**").

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the recommendations contained in the Confidential Attachment 1 to this report.
2. If the confidential instructions in Confidential Attachment 1 are adopted, City Council authorize the public release of the recommendations contained in the Confidential Attachment 1, with the remainder of the Confidential Attachment 1 to remain confidential, as it contains advice 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

A Preliminary Report was adopted by North York Community Council on September 10, 2020 for a proposal at 1718-1734 Bayview Avenue. The Preliminary Report is available via the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.NY17>

A further Preliminary Report was adopted by North York Community Council on April 20, 2021, due to the addition of five properties to the application site, resulting in an expanded site address of 1710-1736 Bayview Avenue, in addition to revisions including the addition of 12 live-work units also facing Bayview Avenue. This is the proposal that is subject of this Request for Directions report. The Preliminary Report is available via the following link:

<https://www.toronto.ca/legdocs/mmis/2021/ny/bgrd/backgroundfile-165403.pdf>

On May 6, 2021, the applicant appealed the Zoning By-law Amendment application and on June 7, 2021 the applicant appealed the Site Plan Control application to the Ontario Land Tribunal ("OLT") due to Council not making a decision within the 90-day and 30-day time frames in the Planning Act.

A Request for Directions Report (dated December 1, 2021) from the Director, Community Planning North York District was considered by North York Community Council on January 6, 2022. At that meeting, a recommendation was added by the local Councillor, directing staff to "work with the community and the applicant to maximize green space on-site and preserve the mature trees at the rear property line". City Council considered the report at its meeting commencing February 2, 2022 and adopted the item, directing the City Solicitor and Planning staff to attend at the OLT and oppose the Zoning By-law Amendment Application. The Council decision and related report can be accessed via this link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2022.NY29.5>

COMMENTS

On March 25, 2022 counsel for the owner submitted a with-prejudice Settlement Offer which included revised plans dated March 22, 2022.

The Revised Proposal

At a high level, the revised proposal would result in the following changes, with further details set out in the table below:

- Replacement of the live-work units with retail units, consistent with OPA 405's Priority Street designation;
- Adherence to the 45-degree angular plane to the Neighbourhoods designated land to the west;
- A notch has been created for floors 2-4 in the central section of the rear elevation to allow more daylight penetration to the central amenity area and further reduce the impact of the building mass for the properties to the west;
- Increased northern side yard step-backs at the upper levels;
- Provision of a privately-owned publicly-accessible space (POPS) at the rear of the Subject Property, including two publicly-accessible mid-block connections to the POPS area through the south and middle of the Subject Property (to be secured via pedestrian walkway easements); and
- Preservation of the mature trees at the rear (west) of the site, in keeping with the Councillor motion relating to City Council Agenda Item NY29.5, considered on February 2, 2022 with the aim to maximize green space on-site and preserve the mature trees at the rear property line.

Below is a chart summarizing the key modifications of the Revised Proposal compared to the original proposal outlined in the Request for Direction Report by Planning staff dated December 1, 2021:

Category	February 2021 Submission		Settlement Plans March 2022
Site Area	3,974.2 square metres		3,974.2 metres
Building Setbacks from Property Line (Ground Floor)	North	0 metres	6.5 metres
	South	2.1 metres	2.1 metres
	East (Bayview Ave)	3 metres 7 metres at the new vehicular entrance	4.6-4.7 metres
	West	7.5 metres to the ground floor townhouses	7.5 to 8.1 metres
North (Side) Building Stepbacks Above the 8th Floor Above the 9th Floor	1.2 metres 1 metre	3 metres (above 7th floor) 4 metres	
South (Side) Building Stepbacks Above the 2nd and 3rd Floors Above the 4th Floor	0.5 metres 3.5 metres	0.5 metres 3 metres	
Gross Floor Area (GFA) Residential Non-Residential (Retail) TOTAL	16,931 square metres 0 square metres 16,931 square metres	16,052 square metres 428 square metres 16,480 square metres	
Floor Space Index (FSI)	4.26 times the lot area		4.13
Building Height	31.5 metres		29.98 metres
Proposed Residential Units Studio 1 Bedroom 2 Bedroom 3 Bedroom Live/Work Units Total	0 (0 percent) 84 (39 percent) 99 (46 percent) 21 (10 percent) 12 (5 percent) 216	6 (3 percent) 63 (32 percent) 104 (53 percent) 24 (12 percent) 0 (0 percent) 197	
Number of Proposed Rear-Facing Townhouses	10		10
Amenity Area Indoor Outdoor Total	321 square metres 423 square metres 744 square metres	396 square metres 208 square metres 604 square metres	

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. Confidential 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

Public Attachment "1" - Letter from McCarthy Tétrault LLP, dated March 25, 2022 regarding 1710-1736 Bayview Avenue

Public Attachment "2" - Architectural Plans and Drawings, dated March 22, 2022 prepared by BDP Quadrangle.

Confidential Attachment 1 - Confidential Information