

## **386-394 Symington Avenue, 405 Perth Avenue and 17 Kingsley Avenue – Official Plan and Zoning By-law Amendment Applications – Request for Further Direction**

Date: March 28, 2022

To: City Council

From: City Solicitor

Wards: Ward 9 – Davenport

### **REASON FOR CONFIDENTIAL INFORMATION**

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This report contains advice or communications that are subject to solicitor-client privilege.

### **SUMMARY**

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An application to amend the zoning for 386-394 Symington Avenue, 405 Perth Avenue and 17 Kingsley Avenue was originally submitted to the City in October 2015 (the "**Application**"). The Application proposed a building with low-rise, mid-rise and tall building components, consisting of a 17-storey tower located at the south end of Perth Avenue, an 8-storey portion fronting onto Symington Avenue, and a 4-storey portion along the east side of Perth Avenue and the south side of Kingsley Avenue. The building would have a maximum height of 60.3 metres, maximum gross floor area of 31,630 square metres, and a maximum density of 3.96 times the lot area. The Application was appealed to the then Local Planning Appeal Tribunal (the "**LPAT**") in May 2017.

At its meeting of May 22, 23, and 24, 2018, City Council accepted a settlement offer from the applicant (Item CC41.9). The settlement included community benefits under Section 37 of the Planning Act, which were further modified through a subsequent City Council decision in December 2018 (Item CC1.17). The LPAT issued an interim order conditionally approving the Application in December 2018. Following the conditional approval, the applicant proposed further changes to the Application, which were approved in principle by City Council at its meeting on July 14, 15, and 16, 2021 (Item TE26.14).

Report for Action with Confidential Attachment - 386-394 Symington Avenue, 405 Perth Avenue and 17 Kingsley Avenue - Request for Further Direction

The purpose of this report is to request further instructions with respect to the appeal at the Ontario Land Tribunal (the "OLT").

## **RECOMMENDATIONS**

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The City Solicitor recommends that:

1. City Council adopt the recommendations contained in Confidential Attachment 1 to the report (March 28, 2022) from the City Solicitor.
2. City Council authorize the public release of the confidential recommendations contained in Confidential Attachment 1, and Confidential Appendix "A" to Confidential Attachment 1, to the report (March 28, 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 28, 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 and litigation privilege.

## **FINANCIAL IMPACT**

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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**

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On May 10, 2016, Etobicoke York Community Council considered a Preliminary Report on the Application. The Preliminary Report can be viewed at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.EY14.9>

On December 5, 6, and 7, 2017, City Council adopted the recommendations set out in a Directions Report from Community Planning. The Directions Report can be viewed at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.EY26.9>

On May 22, 23, and 24, 2018, City Council considered a Request for Direction Report from the City Solicitor dealing with a settlement offer. City Council's decision to adopt the settlement offer can be viewed at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.CC41.9>

On December 4, 2018, another Request for Direction Report was brought forward to City Council to seek instructions on revised Section 37 community benefits that formed

part of the Council-approved settlement. The Request for Direction Report can be viewed at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.CC1.17>

On December 21, 2018, the LPAT issued an interim Decision approving the settlement, subject to a number of conditions to be satisfied by the appellant before issuance of a final order.

On July 14, 15, and 16, 2021, another Request for Direction Report was brought forward to City Council to seek instructions on a further revised proposal for the Application. The Request for Direction Report can be viewed at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.TE26.14>

## **COMMENTS**

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The City Solicitor requires further instructions. This report is about ongoing 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**

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## **SIGNATURE**

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Wendy Walberg  
City Solicitor

## **ATTACHMENTS**

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Confidential Attachment 1 - Confidential Recommendations and Confidential Information

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