



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

2370 Finch Avenue West - Official Plan Amendment and Zoning By-law Amendment Application - Ontario Land Tribunal Hearing - Request for Directions

Date: March 29, 2022

To: City Council

From: City Solicitor

Wards: 7 - Humber River-Black Creek

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 14, 2017, the City received an Official Plan Amendment and Zoning By-law Amendment application for 2370 Finch Avenue West (the "**Site**"), which was revised on May 28, 2020 and then again on March 10, 2021. The most recent submission is for a mixed-use building with two built form components of 11 and six-storeys, with heights of 41.23 metres and 26.48 metres respectively. A total of 192 residential units are proposed, with 144 units in the 11-storey building and 48 units in the six-storey building. The total gross floor area of the proposal is 14,652.6 square metres with a Floor Space Index of 3.72 times the area of the lot.

The applicant appealed City Council's neglect or failure to make a decision on its application for the Official Plan Amendment and Zoning By-law Amendment application to the OLT on August 5, 2021 (the "**Appeal**").

The OLT conducted a Case Management Conference on March 17, 2022. A second Case Management Conference has been scheduled for June 14, 2022, for which the City Solicitor requires further instructions.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the recommendations contained in the Confidential Attachment 1 to the report (March 29, 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 29, 2022) from the City Solicitor, and Confidential Appendix "A", if adopted by City Council.
3. City Council direct that all other information contained in Confidential Attachment 1 to the report (March 29, 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

At its meeting of November 26-28, 2002, City Council adopted the Emery Village Secondary Plan (OPA 499) to the former City of North York Official Plan. The goal of the Secondary Plan is to provide development that encourages a village-like, street oriented, mixed-use pattern of development that promotes transit, pedestrian use, cycling and improvements to the area's streetscape and significant open space system. The Secondary Plan can be found here:

<https://www.toronto.ca/wp-content/uploads/2017/11/9784-cp-official-plan-SP-26-EmeryVillage.pdf>

At its meeting of May 21-23, 2003, City Council adopted Emery Village Zoning By-law 422-2003 to amend the former City of North York Zoning By-law 7625. Zoning By-law 422-2003 establishes performance standards to implement the Emery Village Secondary Plan and zones the Site C5 (H2), which permits mixed-use development subject to the removal of the (H2) Holding Symbol provisions.

On November 14, 2017, the City received an Official Plan Amendment and Zoning By-law Amendment application for the Site to permit a mixed-use building comprised of four built form components of 15, 11, eight and seven storeys. A total of 268 residential units were proposed, of which 59 units would be used as a seniors' retirement residence. A total of 528 square metres of retail/commercial space was proposed on the ground floor of the building. The proposal would result in a Floor Space Index (FSI) of

5.52 times the area of the lot and a gross floor area (GFA) of 21,763 square metres. One vehicular access from Finch Avenue West was proposed with a total of 281 vehicular and 184 bicycle parking spaces.

A Preliminary Report on the application was adopted by Etobicoke York Community Council on February 21, 2018 authorizing staff to conduct a community consultation meeting. The Preliminary Report can be found at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.EY28.5>

A Request for Interim Directions Report was adopted by City Council at its meeting of July 23-27 and 30, 2018 authorizing staff to continue to work with the applicant to resolve outstanding issues with the proposal. The Report also directed the City Solicitor to attend at the then Local Planning Appeal Tribunal (now the OLT) and oppose the application in its form at the time if the application was appealed to the Local Planning Appeal Tribunal. The Request for Interim Directions Report can be found at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.EY32.22>

On February 14, 2019, Etobicoke York Community Council adopted a change to the notice for community consultation meeting. This decision can be found at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.EY3.27>

On May 28, 2020, the City received a revised proposal for the Site, with further revisions submitted March 10, 2021 which modified the development by reducing the building's massing to two components of 11 and six-storeys, with heights of 41.23 metres and 26.48 metres respectively. These changes would result in the reduction of the total number of residential units to 192, with 144 units in the 11-storey building, and 48 units in the six-storey building. The revised proposal would result in a total GFA of 14,652.6 square metres and a FSI of 3.72 times the area of the lot. Other minor modifications to the built form, site layout and access are also proposed.

On August 5, 2021, the applicant appealed City Council's neglect or failure to make a decision on the Official Plan Amendment and Zoning By-law Amendment application to the OLT. The OLT conducted a Case Management Conference on March 17, 2022.

The Appealed Application

The applicant is proposing to amend the Official Plan, former City of North York Zoning By-law 7625 and city-wide Zoning By-law 569-2013 to redevelop the Site with a mixed-use development.

The revised proposal, which is illustrated in the architectural plans prepared by Icon Architects dated January 27, 2021 (the "**Appealed Proposal**"), includes a change in the built form and reduction in height from the original submission, a reduction in the total number of residential units, and a changed gross floor area and floor space index. A total of 196 vehicular parking spaces are proposed to be located on the Site in the

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Appealed Proposal, with three surface level parking spaces, and 193 underground parking spaces. Also proposed are 151 bicycle parking spaces, with 18 located on the surface level, and the remainder underground. The Appealed Proposal would result in 496 square metres of indoor amenity space, located on the ground floor of both buildings, and 486 square metres of outdoor amenity space located on ground level and on the 4th floor bridge.

The table below highlights the differences between the original submission and the Appealed Proposal.

	Original Proposal Submitted on November 15, 2017	Revised Proposal Submitted on May 28, 2020 and March 10, 2021
Number of Storeys	15 storeys 11 storeys 8 storeys 7 storeys	11 storeys 6 storeys
Residential Units 1 Bedroom 2 Bedroom 3 Bedroom Total	157 (59 percent) 92 (34 percent) 19 (7 percent) 268	102 (53 percent) 67 (35 percent) 23 (12 percent) 192
Gross Floor Area Residential Commercial Total	21,235 square metres. 528 square metres 21,763 square metres.	14,442.8 square metres. 209.8 square metres. 14,652.6 square metres.
FSI	5.52	3.72
Parking Spaces	281	196
Bicycle Parking Spaces	184	151
Indoor Amenity Area Outdoor Amenity Area	565 square metres. 787 square metres.	496 square metres. 486 square metres.

Detailed project information can be found on the City's Application Information Centre at:

<http://app.toronto.ca/AIC/index.do?folderRsn=K9BS%2B0ocLE4RH41KnIvG8Q%3D%3D>

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 and litigation 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

Confidential Attachment 1 - Confidential Recommendations and Information

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