

2 Tecumseth Street and 125-133 Niagara Street - Zoning By-law Amendment - Ontario Land Tribunal Appeal - Request for Further Directions

Date: May 3, 2022

To: City Council

From: City Solicitor

Wards: Ward 10 - Spadina-Fort York

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 17, 2017 TAS Tecumseth Niagara GP Inc. (the "Applicant") submitted Official Plan and Zoning By-law amendment applications (Application 17 264041 STE 19 OZ) (the "Applications") for the lands at 2 Tecumseth Street and 125 - 133 Niagara Street (the "Site"). The Applications proposed a 4-building mixed use development on the Site. The Applicant appealed the Applications to the Ontario Land Tribunal (the "Tribunal"), citing City Council's failure to make a decision within the time prescribed by the Planning Act.

On July 5, 2019, the Applicant submitted a with prejudice offer to the City, attached to the City Solicitor's Report (May 2, 2022) as Public Attachment 1 (the "Original Settlement Offer"). On October 2, 2019 City Council approved the revised plans and authorized the City Solicitor and City staff to attend the Ontario Land Tribunal (the "Tribunal") in support of the revised proposal.

On January 16, 2020 the City and the Applicant provided uncontested evidence to the Tribunal in support of the revised proposal. On February 21, 2020 the Tribunal issued an interim order approving the revised proposal in principle, pending the fulfilment of several conditions, including preparing the final form of the Zoning By-law amendment and entering into a Section 37 Agreement to secure community benefits and matters of legal convenience.

On April 26, 2022 the Applicant submitted to the City a with prejudice letter, attached hereto as Public Attachment 2, proposing further revisions and refinements to the Original Settlement Offer accepted by Council and conditionally approved by the Tribunal (the "Revised Settlement Offer").

The purpose of this report is to request further instructions with respect of the Zoning By-law Amendment and the Revised Settlement Offer.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the recommendations contained in the Confidential Attachment 1 to the report (May 3, 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 (May 3, 2022) from the City Solicitor if the confidential recommendations in Confidential Attachment 1 are adopted by City Council.
3. City Council authorize the public release of the Financial Impact section contained in the Confidential Attachment 1 to the report from the City Solicitor (May 3, 2022) if the confidential recommendations in Confidential Attachment 1 are adopted by City Council.
4. City Council direct that all other information contained in Confidential Attachment 1 to the report from the City Solicitor (May 3, 2022) is to remain confidential at the discretion of the City Solicitor, as it contains advice which is subject to solicitor-client privilege.

FINANCIAL IMPACT

Adopting this report will have financial impact as set out in the Confidential Attachment 1.

DECISION HISTORY

During its meeting of October 2, 2019, City Council adopted, without amendment, the recommendations of the Request for Directions Report (August 16, 2019) from the Director, Community Planning, Toronto and East York District authorizing the City Solicitor and the Director, Community Planning, Toronto and East York District to prepare and present a settlement to the Tribunal that is substantially in accordance with the revised plans:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.TE8.17>

COMMENTS

The City Solicitor requires further instructions. This report is about litigation before the Tribunal 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

Roman Ivanov, Solicitor, Planning & Administrative Tribunal Law; Tel: (416) 392-4807; Fax: (416) 397-5624; Email: Roman.Ivanov@toronto.ca

SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

1. Public Attachment 1 - Settlement Offer from Goodmans LLP, dated July 5 2019
2. Public Attachment 2 - Revised Settlement Offer from Goodmans LLP, dated April 26, 2022
3. Confidential Attachment 1 - Confidential Information