

2 Valleyanna Drive - Zoning By-law Amendment Application and Proposed Designation By-law Under Part IV, Section 29 of the Ontario Heritage Act - Request for Directions Report

Date: May 3, 2022

To: City Council

From: City Solicitor

Wards: Ward 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 litigation.

SUMMARY

The purpose of this report is to request further instructions for the Ontario Land Tribunal ("Tribunal") proceeding that is currently scheduled for a ten day hearing beginning July 11, 2022. The applicant has appealed the proposed zoning by-law amendment application for 2 Valleyanna Drive due to Council's failure to make a decision on the application within the time prescribed by the *Planning Act*.

On July 14 and 15, 2021, City Council directed the City Solicitor, along with appropriate staff, to oppose the appeal.

The Applicant has also appealed the City's proposed designation of 2 Valleyanna Drive under Part IV, Section 29 of the Ontario Heritage Act. That appeal also rests with the Tribunal, but the timing for that hearing is not yet determined.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the recommendations contained in the Confidential Attachment 1 to the City Solicitor report dated May 3, 2022.
2. City Council authorize the public release of the Confidential Appendix A, Confidential Appendix B, and the confidential recommendations in Confidential Attachment 1 of the report and, if adopted by City Council.
3. City Council direct that all other information contained in Confidential Attachment 1 to the report remain confidential at the discretion of the City Solicitor, as it contains advice and information which is subject to solicitor-client privilege.

FINANCIAL IMPACT

Adopting this report will have no financial impact beyond what has already been approved in the current year's budget.

DECISION HISTORY

A Preliminary Report on the zoning by-law amendment application was considered by North York Community Council on September 10, 2020, directing staff to conduct a community consultation meeting. The link to the preliminary report can be found here: <http://www.toronto.ca/legdocs/mmis/2020/ny/bgrd/backgroundfile-155976.pdf>

A Request for Directions Report, dated May 31, 2021, from the Acting Director, Community Planning, North York District, was considered by City Council at its meeting of July 14, 15, and 16, 2021. City Council directed the City Solicitor and Planning staff to oppose the zoning by-law amendment application. The report can be found at the following link: <http://www.toronto.ca/legdocs/mmis/2021/ny/bgrd/backgroundfile-167748.pdf>

The Tribunal has held two case management conferences in this proceeding, held on August 10, 2021 and December 17, 2021.

On November 9, 2021 City Council enacted a by-law designating the property at 2 Valleyanna Drive under Part IV, Section 29 of the Ontario Heritage Act in accordance with an attached statement of Significance. This decision was appealed to the Tribunal and the matters have been administratively consolidated, although the Tribunal has not made a determination as to how the heritage designation appeal will proceed. The November 9, 2021 decision can be found at the following link: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.PH27.8>

At its December 15, 2021 meeting City Council considered a previous confidential report from the City Solicitor, with Council directing the City Solicitor to continue negotiation with the applicant and area residents. That decision can be found at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.CC38.12>

A report from the City Solicitor dated April 26, 2022 has been submitted to the Toronto Preservation Board with respect to the alterations proposed by the development application. That report will be considered by the Preservation Board at its meeting of May 10, 2022 and should be considered alongside this report at City Council's meeting of May 11, 2022.

COMMENTS

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. 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 Information

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

Confidential Appendix "B" to Confidential Attachment 1 – Confidential Information

Report for Action with Confidential Attachment on 2 Valleyanna Drive - Zoning By-law Amendment Application - Request for Directions Report