

25 Mabelle Avenue - Zoning By-law Amendment - Request for Direction

Date: July 8, 2022

To: City Council

From: City Solicitor

Wards: Ward 3 - Etobicoke-Lakeshore

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 March 9, 2020, the owner of the property at 25 Mabelle Avenue appealed its Zoning By-law Amendment application to the Local Planning Appeal Tribunal (LPAT), citing City Council's failure to make a decision on the application within the prescribed timelines of the Planning Act. A 10-day hearing at the LPAT (later continued as the Ontario Land Tribunal (OLT)) was held April 19-30, 2021.

The site is currently occupied by a 30-storey residential rental apartment building located on the eastern portion of the subject site. The existing building has a total of 416 rental units. The western portion of the subject site is an open space area above the underground parking structure servicing the existing building.

In a decision dated November 22, 2021 in OLT Case No. PL200164, the OLT granted the owner's appeal of its application to amend the former City of Etobicoke Zoning Code and Site Specific Zoning By-law No. 1088-2002 for the property at 25 Mabelle Avenue to develop, on the western portion of site, a 49-storey tower having an overall building height of 153 m (excluding mechanical equipment). The proposal, as opposed by City staff and adjudicated and heard at the OLT, would contain 486 residential units, with approximately 154 square metres of non-residential gross floor area located at-grade fronting Mabelle Avenue. The OLT withheld its Final Order pending resolution of the final form of the By-law amendments in a form reflecting the Tribunal's decision and acceptable to the City and the owner.

The City Solicitor requires further instructions in respect to settling the form of by-law amendment.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the recommendations contained in the Confidential Attachment 1 to this report.
2. City Council authorize the public release of the confidential recommendations contained in the Confidential Attachment 1, if adopted by City Council, at the discretion of the City Solicitor.
3. City Council direct that all other information contained in Confidential Attachment 1, and Confidential Appendices A and B, are to remain confidential, as they contain advice or 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 adopted by Etobicoke York Community Council on February 21, 2019, directing staff to conduct a community consultation meeting. The link to the preliminary report can be found here: <https://www.toronto.ca/legdocs/mmis/2019/ey/bgrd/backgroundfile-130017.pdf>

On March 10, 2021, City Council adopted a Request for Direction Report directing the City Solicitor, together with appropriate staff, to attend the OLT hearing to oppose the Application for the reasons set out in the February 4, 2021 Request for Direction Report from the Director, Community Planning, Etobicoke York District. City Council also authorized City staff to continue discussions with the applicant to address the issues set out in the Request for Direction. The City Council decision is available at: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.EY22.9>

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COMMENTS

This report has been prepared in consultation with staff from City Planning.

The City Solicitor requires further instructions. This report is about 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

Wendy Walberg
City Solicitor

ATTACHMENTS

1. Confidential Attachment 1 - Confidential Recommendations and Information
2. Confidential Appendix "A" – Confidential Information
3. Confidential Appendix "B" – Confidential Information