



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

190-200 Soudan Avenue and 18 Brownlow Avenue - Zoning By-law Amendment Application - Request for Direction Report

Date: July 8, 2022

To: City Council

From: City Solicitor

Wards: 12 - Toronto St. Paul's

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

The purpose of this report is to request further instructions for the potential Ontario Land Tribunal ("**OLT**") hearing into this matter currently scheduled to commence on November 22, 2022, for eight days. The applicant appealed the proposed Zoning By-law Amendment Application for 190 Soudan Avenue to the OLT on May 27, 2021, due to Council's failure to make a decision on the application within the time prescribed by the *Planning Act*.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the recommendations contained in the Confidential Attachment 1 to the Report (July 8, 2022) from the City Solicitor.
2. City Council authorize the public release of the confidential recommendations in Confidential Attachment 1, Confidential Appendix "A" and Confidential Appendix "B" to the Report (July 8, 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 (July 8, 2022) from the City Solicitor is to remain confidential, as it contains advice and information, 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

On November 4, 2015, a Zoning By-law Amendment Application was submitted for two residential towers of 25 and 20 storeys at 18 Brownlow Avenue, 71-73 Redpath Avenue and 174-200 Soudan Avenue. The existing 19-storey tower at 18 Brownlow Avenue would be retained the houses along Redpath Avenue and Soudan Avenue would be demolished.

On March 10, 2016, City Council required an on-site parkland dedication pursuant to Section 42 of the Planning Act in the event of any approval. The report can be found here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.TE14.31>

On June 20, 2016, the applicant appealed the Application to the Ontario Municipal Board due to Council not making a decision within the time frame in the *Planning Act*. On October 5, 2016, City Council adopted a Request for Directions Report directing the City Solicitor, together with appropriate staff, to attend the Ontario Municipal Board hearing to oppose the proposal. The report can be found here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.TE18.9>

On September 13, 2017, the proposal was revised by removing the properties at 18 Brownlow Avenue and 190-200 Soudan Avenue from the application, and proposing a single 24-storey residential building at 174-188 Soudan Avenue and 71-73 Redpath Avenue.

On April 24, 2018, City Council accepted a settlement offer for the site at 74-188 Soudan Avenue and 71-73 Redpath Avenue for a 21-storey residential building and a 225 square metre on-site park. The report can be found here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.MM39.33>

On June 18, 2019, the Local Planning Appeal Tribunal (formerly the Ontario Municipal Board) approved the revised Zoning By-law Amendment Application for the 21-storey residential rental building.

Official Plan Amendment Plan 405 ("**OPA 405**"), including the Yonge-Eglinton Secondary Plan (the "**Secondary Plan**"), was approved as modified by the Minister of Municipal Affairs and Housing on June 5, 2019. The Secondary Plan sets out a long-term vision for Midtown that emphasizes the importance of complete communities and the diversity of Midtown's character areas. It envisions Midtown as a green, resilient, connected and prosperous place, and where growth is directed near transit. The

Secondary Plan provides guidance on the appropriate scale and location of future growth and links growth with the provision of infrastructure

The Secondary Plan approved as modified by the Minister of Municipal Affairs and Housing, can be found here:

https://www.toronto.ca/wp-content/uploads/2019/07/96a5-CityPlanning_OPA405.pdf

On December 18, 2020, a Zoning By-law Amendment application was submitted for a new 21-storey apartment building at 190-200 Soudan Avenue and 18 Brownlow Avenue. A Preliminary Report, was adopted by Toronto and East York Community Council on April 21, 2021. A Motion requiring the applicant to provide an on-site Parkland dedication was also adopted. The decision of the Toronto and East York Community Council can be found here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.TE24.30>

On February 2 and 3, 2022, City Council adopted a Request for Directions report from the Director, Community Planning, Toronto and East York District, and directed the City Solicitor and appropriate City staff to oppose the application and continue discussions with the applicant to resolve matters. The Decision of City Council may be found here: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2022.TE30.2>

COMMENTS

On May 27, 2021, the applicant appealed its application to the OLT due to Council's failure to make a decision on the application within the time prescribed by the *Planning Act*.

The OLT has conducted two case management conferences on October 5, 2021 and February 2, 2022, during which it granted party status to the Toronto District School Board/Toronto Lands Corporation and to the South Eglinton and Davisville Residents Association. The OLT has also scheduled an 8-day hearing, to commence on November 22, 2022.

The City Solicitor requires further instructions on this matter. This report is about 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

Laura K. Bisset, Solicitor, Planning & Administrative Tribunal Law Tel: 416-392-8782;
Email: Laura.Bisset@toronto.ca

SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

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