

## **2111 Finch Avenue West – Request to Enter into an Agreement under Section 47 (4.3) of the Planning Act**

**Date:** June 7, 2022

**To:** Etobicoke York Community Council

**From:** Director, Community Planning, Etobicoke York District

**Wards:** 7 – Humber River-Black Creek

### **SUMMARY**

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On August 29, 2020, the Province enacted a Minister's Zoning Order (Ontario Regulation 474/2020), which was further amended on April 6, 2021, to permit a stand-alone six-storey long-term care facility with 320 beds at 2111 Finch Avenue West.

Minister's Zoning Orders are not subject to Site Plan Control approval under Section 41 of the *Planning Act* and Section 114 of the *City of Toronto Act* and therefore are not subject to the City's delegation of site plan control approval authority By-law 483-2000. However, Section 47 (4.3) of the *Planning Act* allows the City to require the owner of lands subject to a Minister's Zoning Order to enter into one or more agreements dealing with Site Plan Control approval matters.

The purpose of this report is to request City Council to authorize the Chief Planner and Executive Director, City Planning to enter into an agreement under Section 47 (4.3) of the *Planning Act* for the development approved under Ontario Regulation 474/20 at 2111 Finch Avenue West.

### **RECOMMENDATIONS**

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The City Planning Division recommends that:

1. City Council authorize the Chief Planner and Executive Director, City Planning, and his/her/their representative, to enter into an agreement under Section 47 (4.3) of the *Planning Act* with the owner(s) of the land located at 2111 Finch Avenue West.
2. City Council authorize and direct the Chief Planner and Executive Director, City Planning, and his/her/their representative, to amend and release any registered agreement, execute any necessary undertaking(s), and other required process to give

effect to the approval of the plans and drawings for the development at 2111 Finch Avenue West under Ontario Regulation 474/20.

## **FINANCIAL IMPACT**

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The City Planning Division confirms that there are no financial implications resulting from the recommendations included in this report in the current budget year or in future years.

## **DECISION HISTORY**

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There has been no matters considered by City Council on the subject site within the last five years.

## **COMMENTS**

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On August 28, 2020, the Minister of Municipal Affairs and Housing filed Ontario Regulation 474/20 (Minister's Zoning Order or MZO) for the site at 2111 Finch Avenue West. The MZO permits a six-storey long-term care facility with a total gross floor area of 21,949 square metres, for 320 beds. An amendment to the MZO was filed on April 6, 2021.

On December 23, 2020, a submission review package for the long-term care facility was submitted to the City Planning Division to secure the necessary agreements with the City prior to the issuance of building permits. Following an amendment to the MZO on April 6, 2021, subsequent revisions to the original review package were submitted to the City on April 12, 2021, October 4, 2021 and January 24, 2022.

See Attachment 1 for the MZO and Attachment 2 for the site plan.

On April 22, 2022, a Notice of Approval Conditions (NOAC) letter was issued by the Director of Community Planning, Etobicoke York District. The NOAC letter sets out the conditions that the owner will need to fulfill, which include entering into an agreement with the City under Section 47 (4.3) of the *Planning Act*. The set of conditions are matters typically secured in the Site Plan Control approval process under Section 41 of the *Planning Act* and Section 114 of the *City of Toronto Act*. Under the Site Plan Control approval process, the authority to enter into a Site Plan agreement is delegated to the Chief Planner and Executive Director, City Planning, under By-law 483-2000. But there is no such authority to enter into agreements under Section 47 (4.3) of the *Planning Act*.

In order to ensure an expedited review period to meet construction timelines, and to ensure the City's interests on typical Site Plan Control approval matters are secured for this development, staff recommend that City Council to authorize the Chief Planner and Executive Director, City Planning to enter into an agreement, and execute any

amendments as necessary, under Section 47 (4.3) of the *Planning Act* with the owner of the lands at 2111 Finch Avenue West.

See Attachment 3 for the conditions to be secured into a Section 47 (4.3) agreement, as may be amended by City staff.

## **CONTACT**

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## **SIGNATURE**

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Michael Mizzi, MCIP, RPP  
Director, Community Planning  
Etobicoke York District

## **ATTACHMENTS**

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Attachment 1: Ontario Regulation 474/20  
Attachment 2: Site Plan  
Attachment 3: Conditions

## Attachment 1: Ontario Regulation 474/20

Planning Act  
Loi sur l'aménagement du territoire

### ONTARIO REGULATION 474/20

#### **ZONING ORDER - CITY OF TORONTO**

**Consolidation Period:** From April 6, 2021 to the e-Laws currency date.

Last amendment: 260/21.

This Regulation is made in English only.

#### **Definitions**

1. In this Order,

“accessory”, when used to describe a use, building or structure, means a use, building or structure that is normally incidental or subordinate to a principal use, building or structure located on the same lot, including but not limited to,

- (a) administrative offices,
- (b) dining facilities,
- (c) doctors' offices,
- (d) nursing stations,
- (e) activity rooms,
- (f) personal service shops used in conjunction with the other uses on the lot,
- (g) coffee shops and restaurants used in conjunction with the other uses on the lot,
- (h) retail shops used in conjunction with the other uses on the lot, and,
- (i) recreation facilities;

“long-term care home” has the same meaning as in the *Long-Term Care Homes Act, 2007*;

“zoning by-law” means Zoning By-law 569-2013 of the City of Toronto.

#### **Application**

2. This Order applies to lands in the City of Toronto, in the Province of Ontario, being the lands near the intersection of Finch Avenue West and Oakdale Road outlined in red on a map numbered 262 and filed at the Toronto office of the Ministry of Municipal Affairs and Housing located at 777 Bay Street. O. Reg. 474/20, s. 2; O. Reg. 260/21, s. 1.

## **Non-application of s. 114 of the *City of Toronto Act, 2006*, site plan control area**

3. Section 114 of the *City of Toronto Act, 2006* does not apply to the lands described in section 2 of this Order.

## **Matters that may be dealt with in agreement**

4. Each person who owns all or any part of the lands described in section 2 shall enter into one or more agreements with the City of Toronto dealing with the matters listed in subsection 47 (4.4) of the Act.

## **Permitted uses**

5. In addition to the uses permitted by the zoning by-law on the lands described in section 2, a 320-bed capacity long-term care home, together with accessory uses, buildings and structures, is permitted.

## **Zoning requirements**

6. (1) The zoning requirements for Nursing Home use in the Institutional General Zone (I) set out in the zoning by-law apply to the uses, buildings and structures permitted under section 5, with the following exceptions:

1. The maximum building height is eight storeys and 28 metres.
2. The minimum amount of soft landscaping is 15 per cent for the areas shown as Long-Term Care Home on the map referred to in section 2 that are not covered by buildings or structures.
3. The minimum setback to a lot line from a building or structure is 3 metres.
4. The maximum floor space index is 2.5.
5. A minimum of 16 short-term bicycle parking spaces shall be provided.
6. A minimum of one Type A and one Type B loading space is required for the areas shown as Long-Term Care Home on the map referred to in section 2. O. Reg. 474/20, s. 6; O. Reg. 260/21, s. 2 (1, 2).

(2) A minimum of 390 vehicle parking spaces, including 14 accessible vehicle parking spaces, shall be provided for the lands described in section 2. O. Reg. 260/21, s. 2 (3).

## **Terms of use**

7. (1) Every use of land and every erection, location or use of any building or structure shall be in accordance with this Order.

(2) Nothing in this Order prevents the use of any land, building or structure for any use prohibited by this Order if the land, building or structure is lawfully so used on the day this Order comes into force.

(3) Nothing in this Order prevents the reconstruction of any building or structure that is damaged or destroyed by causes beyond the control of the owner if the dimensions of the original building or structure are not increased and its original use is not altered.

(4) Nothing in this Order prevents the strengthening or restoration to a safe condition of any building or structure.

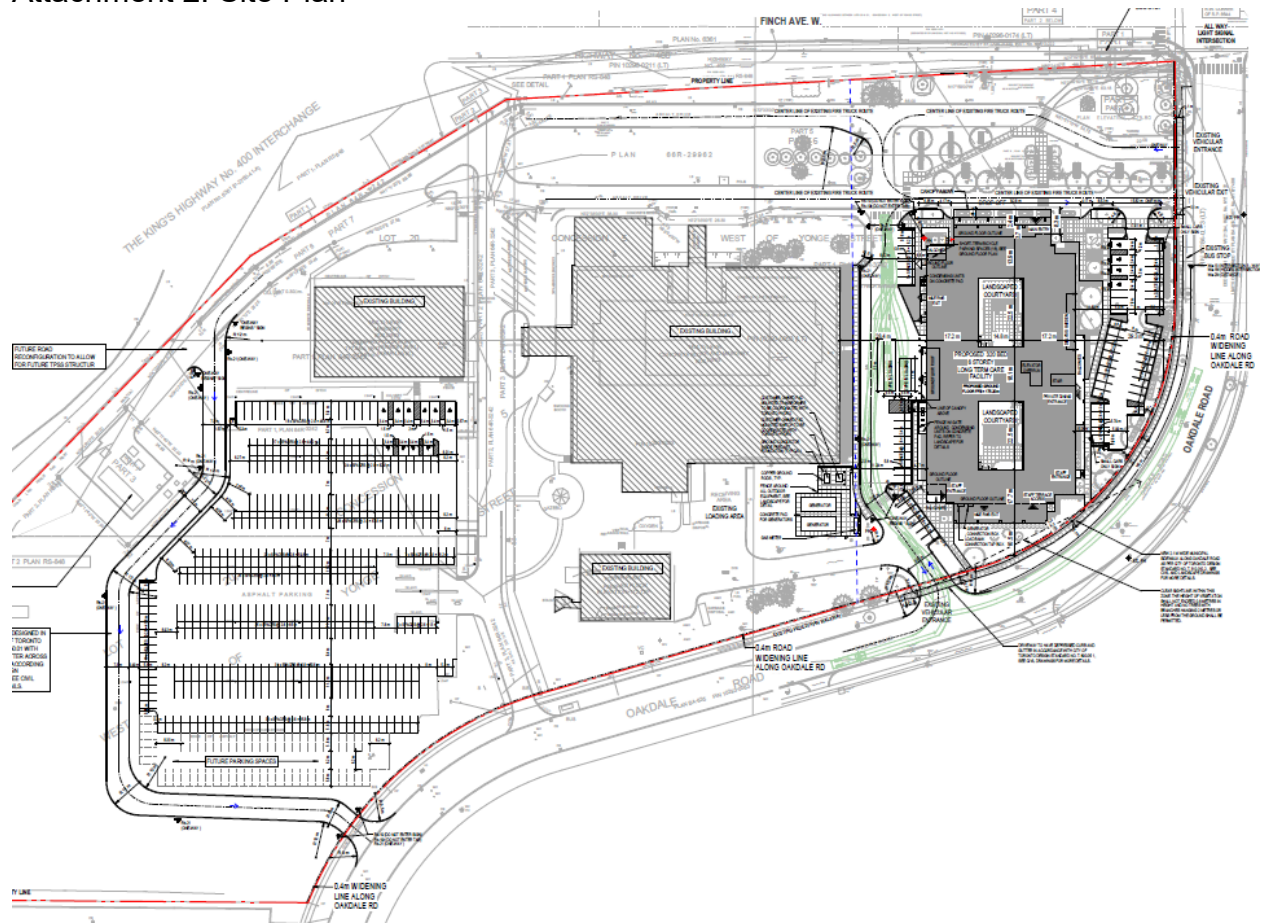
**Deemed by-law**

**8.** (1) This Order is deemed for all purposes, except the purposes of section 24 of the Act, to be and to always have been a by-law passed by the council of the City of Toronto. O. Reg. 474/20, s. 8.

(2) Subsection (1) does not apply to section 4 of the Order. O. Reg. 260/21, s. 3.

**9.** Omitted (provides for coming into force of provisions of this Regulation).

## Attachment 2: Site Plan



## **LEGAL SERVICES**

1. Prior to final Site Plan Control approval, the owner shall enter into the City's standard site plan agreement to and including registration of the site plan agreement on title to the subject lands by the City at the owner's and/or lessee's expense, and shall include both Infrastructure Ontario and EllisDon Design Build Inc. as signatories. The site plan agreement may identify certain of the responsibilities and obligations respecting indemnities, insurance and securities as those of the lessee as between the land owner, as represented by Infrastructure Ontario, and the lessee of the lands, EllisDon Design Build Inc., to the satisfaction of the City Solicitor in consultation with the Director, Community Planning, Etobicoke York District. For the purpose of this Notice of Approval Conditions, reference to "owner" is intended to include the aforementioned land owner and lessee.

## **CITY PLANNING**

2. The owner shall submit a financial guarantee in the form of an irrevocable Letter of Credit, or Certified Cheque, made payable to the Treasurer, City of Toronto, in the amount of \$499,000 to ensure that landscaping requirements are completed in accordance with the approved Site and Landscape Plans, to the satisfaction of the Director, Community Planning, Etobicoke York District.

## **ENGINEERING AND CONSTRUCTION SERVICES**

### **Widening of Highways that abut on the Land**

3. The owner shall prepare documents and convey a 0.4-metre widening along the Oakdale Road frontage of the subject property to satisfy the requirement of a 27-metre wide right-of-way.
4. With the exception of utility poles, the owner must ensure that the conveyance requirement is free of all encumbrances and is subject to a right-of-way for access purposes in favour of the grantor until such time as the required lands are laid out and dedicated as public highway.
5. The owner shall submit a draft Reference Plan of Survey to the Chief Engineer and Executive Director, Engineering and Construction Services, for review and approval, prior to depositing it in the Land Registry Office. The plan shall:
  - (i) be drawn in metric units and integrated to the 1983 North American Datum (Canadian Spatial Reference System) and the 3 degree Modified Transverse Mercator Projection;
  - (ii) delineate by separate PARTS the lands to be conveyed to the City, the remainder of the site, and any appurtenant rights-of-way and easements; and



- (iii) show the co-ordinate values of the main corners of the subject lands in a schedule on the face of the plan.
- 6. The owner is financially responsible for all costs associated with preparing and registering the reference plans. The owner is to contact Ms. A. Michalek, Acting Supervisor of Property Records, at 416-392-5214 to obtain an exact description of the required conveyance(s).
- 7. The owner shall provide a certified cheque in an amount to be determined by Transportation Services for the cost of the installation of an advance warning sign to be installed on the west side of the Oakdale Road municipal boulevard facing southbound motorists, which is to be installed 140 metres in advance (north of) the driveway from Oakdale Road immediately south of the proposed LTC facility. The sign shall consist of an "intersection" sign (Wa-13), a "hidden" tab sign (Wa-18t), and a "distance" sign (Wa-23t). The approximate installation of this sign is identified in Drawing No. A052, revised September 28, 2021.

## **B. POST APPROVAL CONDITIONS**

In addition to the above pre-approval conditions, the following post approval conditions are to be fulfilled by the owner following site plan approval and will be incorporated into a site plan agreement:

- 1. The proposed development shall be carried out and maintained in accordance with the plans and drawings referred to herein, to the satisfaction of the City of Toronto.

## **ENGINEERING AND CONSTRUCTION SERVICES**

### **Facilities for the Storage of Garbage and Other Waste Material**

- 2. The owner shall advise all owners and tenants/future purchasers of the units that refuse and recyclable materials generated by this building must be collected by a private refuse collection firm (for Private Collection).

### **Stormwater Management, Grading and Site Servicing**

- 3. The owner shall construct and maintain stormwater management measures/facilities and site grading as recommended in the accepted Stormwater Management Report, prepared by WalterFedy dated April 8, 2021 and Grading Plan, Dwg. C200, prepared by Walterfedy dated August 9, 2021 by Walterfedy.
- 4. The owner shall construct and maintain site servicing indicated on the accepted Site Servicing Drawing, Dwg. C301, prepared by Walterfedy, dated August 9, 2021.

5. The owner shall provide certification to the Chief Engineer and Executive Director of Engineering and Construction Services by the Professional Engineer who designed and supervised the construction that the stormwater management facilities and site grading have been constructed in accordance with the accepted Stormwater Management Report and the accepted Grading Plans by Walterfedy.
6. The owner shall provide certification to the Chief Engineer and Executive Director of Engineering and Construction Services by the Professional Engineer who designed and supervised the construction, that the site servicing facilities have been constructed in accordance with the accepted drawing by Walterfedy.

#### **Other**

7. The owner acknowledges and agrees that staff have reviewed this application on the understanding it will comprise one single parcel of land, under one owner, upon completion. The owner shall not convey or transfer any part of the development site in any other manner than that agreed to above if to do so would result in either the retained parcel or the conveyed or the transferred parcel ceasing to comply with Chapters 681 or 851 of the City of Toronto Municipal Code, as amended, which prohibit a private service connection, that connects to a municipal water or sewer system, from servicing more than one property. Each parcel shall have separate service connections to the municipal water and sewer systems, including any associated stormwater management systems, to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services, at the sole cost to the owner. Further, the owner shall prepare all plans and studies as required by the City for the servicing at the sole cost of the owner.

#### **TORONTO TRANSIT COMMISSION (TTC)**

8. The owner shall retain the concrete bus platform at TTC bus stop 9182 (Oakdale Road at Finch Avenue West South Side) during and after construction.

#### **TORONTO LANDS CORPORATION (TORONTO DISTRICT SCHOOL BOARD)**

9. The owner shall provide to the satisfaction of Toronto District School Board details regarding construction management, schedule and timelines, traffic management (pedestrian/vehicular/cycling), proposed sidewalk/street closures, construction equipment movement, noise/dust/air attenuation and mitigation as it relates to the school site and surrounding area.