

City Council**Notice of Motion**

MM39.10	ACTION			Ward: 24
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1221 Markham Road - Request for City Solicitor to Attend at the Ontario Land Tribunal - by Councillor Paul Ainslie, seconded by Councillor Jennifer McKelvie

- * Notice of this Motion has been given.*
- * This Motion is subject to referral to the Scarborough Community Council. A two-thirds vote is required to waive referral.*
- * This Motion relates to a Ontario Land Tribunal Hearing and has been deemed urgent.*

Recommendations

Councillor Paul Ainslie, seconded by Councillor Jennifer McKelvie, recommends that:

1. City Council authorize the City Solicitor and appropriate City Staff to attend at the Ontario Land Tribunal hearing to uphold the Committee of Adjustment’s refusal of the minor variances requested through Application A0347/21SC respecting 1221 Markham Road.
2. City Council authorize the City Solicitor to retain outside consultants as necessary.
3. City Council authorize the City Solicitor to attempt to negotiate a resolution of the appeal and, if a resolution is reached, to settle the appeal at the City Solicitor's discretion, in consultation with the Ward Councillor and the Chief Planner and Executive Director, City Planning, and to report back to City Council on the outcome of discussions or to obtain additional instructions, if necessary.

Summary

On October 12, 2021, the applicant (Bousfields Inc. on behalf of the owner, Sequence Condos Inc.) applied to the Committee of Adjustment for twenty-eight (28) variances that would enable construction of a mixed-use development consisting of three residential towers having heights of 21, 27 and 30 storeys and comprising 879 dwelling units in total (Committee file A0347/21SC).

City Planning staff opposed the Minor Variance Application and submitted a report to the Committee of Adjustment, dated December 2, 2021, recommending that the Application be refused. A copy of the Planning staff’s report is attached.

This property is also subject to an application for Site Plan approval (File 20 171710 ESC 24 SA). The plans submitted as part of the Site Plan Application are premised on the approval of the Minor Variance Application.

At its hearing on December 8, 2021, the Committee of Adjustment refused the Minor Variance Application. A copy of the Notice of Decision of the Committee of Adjustment is attached.

On December 13, 2021 the owner appealed the Site Plan Application to the Ontario Land Tribunal, citing the City's failure to approve the Site Plan within 30 days of its submission, as provided in section 114 of the City of Toronto Act, 2006. On December 14, 2021, the owner also appealed the Committee of Adjustment's decision on the Minor Variance Application to the Ontario Land Tribunal, requesting that the two appeals be consolidated for a joint hearing.

Under the provisions of section 115 of the City of Toronto Act, 2006, minor variance appeals that are related to existing appeals before the Ontario Land Tribunal will also be directed to the Ontario Land Tribunal, rather than the Toronto Local Appeal Body. Since there is an existing Site Plan appeal before the Ontario Land Tribunal for this property, this minor variance appeal is also directed to the Ontario Land Tribunal.

This Motion will authorize the City Solicitor and appropriate City staff to attend the Ontario Land Tribunal hearing of the Minor Variance Application appeal, to retain outside consultants as necessary, and to negotiate a settlement of the appeal in consultation with the Chief Planner and Executive Director, City Planning, and the Ward Councillor. Any substantial changes to the Section 37 Agreement registered against title to the subject property required as a result of any potential settlement with the applicant will be subject of a further report to City Council. The authority to direct the City Solicitor with respect to the Site Plan appeal before the Ontario Land Tribunal is exercised by the Chief Planner and Executive Director, City Planning pursuant to the delegated authority under the Municipal Code (§ 415-18.1).

Background Information (City Council)

Member Motion MM39.10

Committee of Adjustment Scarborough Panel Notice of Decision on application for Minor Variance/Permission for 1221 Markham Road

<https://www.toronto.ca/legdocs/mmis/2022/mm/bgrd/backgroundfile-175619.pdf>

(December 2, 2021) Report from the Director, Community Planning, Scarborough District on 1221 Markham Road

<https://www.toronto.ca/legdocs/mmis/2022/mm/bgrd/backgroundfile-175620.pdf>