



## REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

### **3280 Dufferin Street and 12-16 Orfus Road – Zoning By-law Amendment Application – Request for Further Direction Regarding Ontario Land Tribunal Hearing**

**Date:** December 6, 2022

**To:** City Council

**Date:** City Solicitor

**Date:** Ward 8 – Eglinton-Lawrence

#### **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 June 14, 2021 a Zoning By-law Amendment application was submitted to permit a 14-storey (45.2 metres) mixed-use building with 352 residential units and retail at grade, and a 494.8 square metre on-site parkland dedication at the northeastern portion of the site.

The property is designated *Mixed Use Areas* in the Official Plan, which allows a broad range of commercial, residential and institutional uses in single use or mixed use buildings, as well as parks and open spaces and utilities. The eastern portion of the site at 3280 Dufferin Street is within the Dufferin Street Secondary Plan (DSSP) area.

On November 18, 2021 the Applicant appealed the application to the Ontario Land Tribunal ("OLT") due to Council not making a decision within the 90-day time frame in the *Planning Act*.

On May 2, 2022, the first Case Management Conference ("CMC") was held, and the OLT granted Party status to two adjacent land owners.

On June 27, 2022, the OLT conducted a mediation with all parties but no settlement was reached.

On July 19, a second CMC was held, and the OLT scheduled a 7-day hearing for the Zoning By-law Amendment application from January 9, 2023.

On September 9, 2022, the Applicant submitted revised drawings to the OLT in accordance with the Procedural Order from the OLT.

The purpose of this report is to request further instructions for the OLT hearing that is scheduled to commence on January 9, 2023.

## **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 1, 2 and 3 contained in the Confidential Attachment 1 to this report, if adopted by City Council. Confidential Appendix A and Confidential Appendix B to Confidential Attachment 1 should be kept confidential, if confidential recommendations 1, 2 and 3 contained in Confidential Attachment 1 to this report are adopted by City Council.
3. City Council direct that all other information contained in Confidential Attachment 1 is to remain confidential at the discretion of the City Solicitor, as it contains advice 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**

---

At its meeting on October 13, 2021, the North York Community Council adopted the Preliminary Report dated August 18, 2021, and directed City Planning staff to schedule a community consultation meeting with the Ward Councillor.

The Preliminary Report is available at:

<https://www.toronto.ca/legdocs/mmis/2021/ny/bgrd/backgroundfile-170170.pdf>

At its meeting on February 23, 2022, the North York Community Council adopted the recommendations in the Request for Direction Report dated January 14, 2022, from the Director, Community Planning, North York District, and directed staff to attend the OLT in opposition to the application, and to continue discussions with the applicant in an attempt to resolve outstanding issues.

The Request for Direction Report is available at:

3280 Dufferin Street and 12-16 Orfus Road – Zoning By-law Amendment Application – Report for Action

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2022.NY30.6>

## COMMENTS

On November 15, 2022, the applicant submitted a Without Prejudice Settlement Offer to the City with revised drawings generally identical with those submitted to the OLT on September 9, 2022 in accordance with the deadline for revised drawings in the Procedural Order. The table below compares the original submission of July 14, 2021 with the settlement offer dated November 15, 2022.

<b>Category</b>	<b>June 14, 2021 Submission</b>	<b>September 9, 2022 / November 15, 2022 Submission</b>
Site Area in Square Metres (square metres)	5,115 square metres (including road widening) 5,008 square metres (excluding road widening)	5,115 square metres (including road widening) 5,008 square metres (excluding road widening)
Gross Floor Area (GFA) in Square Metres	Residential: 28,646 square metres Non Residential: 246 square metres Total: 28,892 square metres	Residential: 27,600 square metres Non Residential: 332 square metres Total: 27,932 square metres
Floor Space Index (FSI)	Gross: 5.6 Net: 5.8	Gross: 5.5 Net: 5.6
Storeys & Height in Metres Mechanical Penthouse (MPH)	8 Storeys, 27 metres (32 metres with MPH) 14 Storeys, 45.2 metres (50.8 metres with MPH)	8 Storeys, 28.53 metres 14 Storeys, 48 metres (54.3 metres with MPH)
Minimum Base Building Setbacks from the Property Line in Metres	East: 3 metres (Dufferin Street) East (interior): 5.5 metres West: 9.2 metres (grade) West: 6.5 metres (level 3 & up) North: 8 metres approximate South: 1.56 metres (Orfus Road - after 1.44 metres road widening)	East: 3 metres (Dufferin Street) East (Interior): 7.5 metres West: 10 metres (grade) West: 5.5 metres (level 3 & up) North: 7.5 metres South: 5 metres (Orfus Road - after 1.44 metres road widening)

<b>Category</b>	<b>June 14, 2021 Submission</b>	<b>September 9, 2022 / November 15, 2022 Submission</b>
Minimum Proposed Tower Setbacks From Property Line in Metres	East (interior): 5.5 metres West : 6.5 metres North: 7.5 metres South: 7.5 metres	East (interior): 7.5 metres West: 5.5 metres North: 7.5 metres South: 7.5 metres
Units	One Bedroom: 265 (75 percent) Two Bedroom: 52 (15 percent) Three Bedroom: 35 (10 percent) Total: 352	One Bedroom: 208 (59 percent) Two Bedroom: 94(26 percent) Three Bedroom: 53 (15 percent) Total: 355
Vehicle Parking	Resident: 146 + 3 Car Share Resident Visitor: 35 Non Resident: 25 Total: 206 + 3 Car Share	Resident: 146 + 3 Car Share Resident Visitor: 35 Non Resident: 25 Total: 206 + 3 Car Share
Bicycle Parking	Long Term: 276 Short Term: 28 Total 304	Long Term: 272 Short Term: 36 Total 308
Angular Plane Height Above Grade at Property Line	East (Dufferin Street): 45 degrees at 24.4 metres above grade South (Orfus Road): 45 degrees at 24 metres above grade	East (Dufferin Street): 45 degrees at 24 metres above grade South (Orfus Road): 45 degrees at 24 metres above grade
Amenity Space (square metres)	Indoor: 659 square metres Outdoor: 688 square metres	Indoor: 706 square metres Outdoor: 770 square metres
Loading	1 Type G	1 Type G
Parkland Dedication	494.8 square metres	503.7 square metres

## **CONCLUSION**

---

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**

---

Gabe Szobel, Solicitor 1, Planning and Administrative Tribunal Law; Tel: (416) 338.1889, Fax: (416) 397.5624; Email: [gabe.szobel@toronto.ca](mailto:gabe.szobel@toronto.ca)

Ultra Gautam, Solicitor 3, Planning and Administrative Tribunal Law, Tel: (416) 396.7986, Fax (416) 397.5624; Email: [ultra.gautam@toronto.ca](mailto:ultra.gautam@toronto.ca)

## **SIGNATURE**

---

Wendy Walberg  
City Solicitor

## **ATTACHMENTS**

---

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