

175 Wynford Drive - Zoning By-law Amendment Application - Request for Direction Report

Date: March 17, 2023
To: City Council
From: City Solicitor
Wards: Ward 16 - Don Valley East

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 September 25, 2020, a Zoning By-law Amendment application was submitted to permit the redevelopment of the lands with four residential and mixed-use buildings ranging from 45 to 54-storeys in height for a total 2,750 dwelling units. On June 20, 2021 the applicant submitted a revised proposal to permit the redevelopment of the lands with three residential and mixed-use buildings with heights of 55, 59 and 65-storeys for a total of 2,500 dwelling units, 1,791 square metres of retail space, hotel and a daycare centre. The proposal has an overall proposed density of 12.4 times the area of the lot.

On July 30, 2021, the Applicant appealed City Council's failure to make a decision on the Zoning By-law Amendment to the Ontario Land Tribunal ("OLT").

The purpose of this report is to request further instructions for the appeal that has been scheduled for a contested hearing set to begin on April 24, 2023.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the recommendations contained in the Confidential Attachment 1 to this report from the City Solicitor.

2. City Council authorize the public release of the confidential recommendations contained in Confidential Attachment 1 to this report from the City Solicitor, at the discretion of the City Solicitor.
3. City Council direct that all other information contained in Confidential Attachment 1, Confidential Appendix "A" and Confidential Appendix "B" to this report from the City Solicitor are to remain confidential at the discretion of the City Solicitor, as they contain advice which is subject to litigation and solicitor-client privilege, and without prejudice information.

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 April 24, 2007, City Council enacted Zoning By-law [365-2007](#), a site specific Bylaw amendment to North York Zoning By-law 7625 on the lands previously known as 1250 Eglinton Avenue East. This site-specific Zoning By-law permits a 34- storey, 328 unit apartment building at the northwest corner of the site and a 6-storey seniors' residence at the Eglinton Avenue East frontage of the site. The 34-storey apartment building and 6-storey seniors' residence were constructed in 2008-2009. The seniors' residence contains 120 living units. The Staff Report on Zoning By-law 365-2007 is available on the City's website at:

<http://www.toronto.ca/legdocs/2006/agendas/committees/ny/ny060509/it040.pdf>

On February 4, 2016, City Council enacted further site-specific amendments (By-laws [111-2016](#) and [112-2016](#)) respectively to City-wide Zoning By-law 569-2013 and to North York Zoning By-law 7625, as amended by By-law 365-2007, with respect to the lands at 175 Wynford Drive, 181 Wynford Drive (Accolade condominium) and 187 Wynford Drive (Delmanor retirement residence). By-law 112-2016 permits two new residential buildings at 30 and 36 storeys in height, with 54,350 square metres of gross floor area. The partial conversion of the hotel to apartment dwelling units or retirement residence units is also permitted. This proposal was never constructed. The Staff Report is available on the City's website at:

<https://www.toronto.ca/legdocs/mmis/2015/ny/bgrd/backgroundfile-85245.pdf>

A Preliminary Report for 175 Wynford Drive was adopted by North York Community Council on January 13, 2021, authorizing staff to conduct a community consultation meeting with an expanded notification area. The decision of the North York Community Council can be found here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.NY21.6>

A Request for Direction Report for 175 Wynford Drive was adopted by City Council at its meeting on July 19, 20, 21, and 22, 2022. The report recommended that the City Solicitor and appropriate City staff attend the OLT in opposition to the then current Zoning By-law Amendment Application for the lands at 175 Wynford Drive and to continue discussions with the Applicant in an attempt to resolve outstanding issues. The decision of City Council can be found here:

<https://secure.toronto.ca/council/agenda-item.do?item=2022.NY33.15>

A Preliminary Report for the nearby development application at 1-3 Concorde Gate and 10-12 Concorde Place was adopted by North York Community Council on September 13, 2021. The report recommended that City Planning Staff undertake a Focused Area Study of the area bound by the Don Valley Parkway to the west, the CPR rail to the north, Eglinton Avenue East to the south, and the Charles Sauriol Conservation Area to the east, and to review the applications concurrently and within the context of the Focused Area Study. The decision of the North York Community Council can be found here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.NY26.10>

An Information Report for 1-3 Concorde Gate and 10-12 Concorde Place was adopted by North York Community Council on October 13, 2021, in response to a recommendation added by the local Ward Councillor which directed staff to consider, and report back in October, 2021, on extending the boundary of the Focus Area Study to include 197, 205, and 215 Wynford Drive. The North York Community Council Item can be found here:

<https://secure.toronto.ca/council/agenda-item.do?item=2021.NY27.10>

A Request for Direction Report for 1-3 Concorde Gate and 10-12 Concorde Place was adopted by City Council at its meeting on July 19, 20, 21, and 22, 2022. The report recommended that the City Solicitor and appropriate City staff attend the OLT in opposition to the then current Zoning By-law Amendment and Draft Plan of Subdivision Applications for the lands at 1-3 Concorde Gate and 10-12 Concorde Place and to continue discussions with the Applicant in an attempt to resolve outstanding issues. The decision of City Council can be found here:

<https://secure.toronto.ca/council/agenda-item.do?item=2022.NY33.14>

In June 2020, the City Planning Division initiated the Growth Plan Conformity and Municipal Comprehensive Review ("MCR"), which includes the delineation of approximately 180 potential Major Transit Station Areas (MTSAs) to meet Provincial minimum intensification requirements. A subset of MTSAs will be identified as Protected Major Transit Station Areas (PMTSAs), where the Council-approved inclusionary zoning policy framework can be implemented. The report can be found at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.PH14.4>

On March 25, 2022, the Planning and Housing Committee approved for consultation 97 MTSA/PMTSAs, of which Wynford Station was identified as a MTSA with a proposed minimum density target of 200 people and jobs per hectare. The report can be found at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2022.PH32.7>

At its meeting on July 19, 20, 21 and 22, 2022, City Council adopted Official Plan Amendment 575, which delineated boundary of the Wynford Major Transit Station on the Eglinton-Crosstown LRT, immediately to the south of the subject site. City Council authorized the Chief Planner and Executive Director, City Planning to forward the Official Plan Amendment 575 to the Minister of Municipal Affairs and Housing for approval under the *Planning Act*. The Minister of Municipal Affairs and Housing has not made a decision with respect to Official Plan Amendment 575 as of the writing of this report. City Council's decision can be found here:

<https://secure.toronto.ca/council/agenda-item.do?item=2022.PH35.16>

COMMENTS

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

On September 25, 2020, a Zoning By-law Amendment application was submitted to permit the redevelopment of the lands with four residential and mixed-use buildings ranging from 45 to 54 storeys in height, containing 2,750 dwelling units, 10,082 square metres of non-residential floorspace for a hotel, retail uses and a daycare centre. A total of 1,558 parking spaces were proposed to be accommodated within 6 levels of underground parking.

On June 20, 2021 the applicant submitted a revised proposal to permit the redevelopment of the lands with three residential and mixed-use buildings with heights of 55, 59 and 65 storeys. The proposal includes a total of 2,500 dwelling units, 1,791 square metres of retail space, hotel and a daycare centre. The proposal has an overall proposed density of 12.4 times the area of the lot.

On July 30, 2021, the Applicant appealed City Council's failure to make a decision on the Zoning By-law Amendment to the OLT within the then applicable 120-day time frame set out in the *Planning Act* (OLT Case OLT-21-001257).

On January 26, 2023, the Applicant filed further revised plans with the OLT, in accordance with the Procedural Order issued by the OLT, on which the Applicant intends to rely, for the ten-day hearing scheduled to commence on April 24, 2023 (the "OLT Plans"), which are attached as Public Appendix "A" to this report.

The OLT Plans include a total of 2,576 residential units and 125 hotel rooms in four towers consisting of 14,543 square metres of non-residential gross floor area and 154,921 square metres of residential gross floor area. The overall floor space index is 10.53 FSI.

The following chart sets out key comparators between the original application, the resubmission, and the OLT Plans:

Category	Submission	Resubmission	OLT Plans
Site Area (square metres)	21,905		
Frontage (metres)	195		
Depth (metres)	177		
Total Residential Gross Floor Area (square metres)	189,863	170,291	154,921
Total Commercial Gross Floor Area (square metres)	9,832	11,291	14,543
Total Gross Floor Area (square metres)	199,696	181,332	169,529
Floor Space Index (FSI)	12.4	11.26	10.53
Height (metres)	176.9, 141.75, 151.3, 157.2	178.3, 193.2, 208.7	168, 159, 151, 145
Height (storeys)	54, 49, 47, 46	55, 59 and 65	54, 51, 49, 47
Tower Floor Plates (square metres)	818, 1174, 750, 835	983, 950, 950	946, 844, 850, 802
Number of Towers	4	3	4
Residential Units	2,750	2,500	2,576
Amenity Area Indoor Outdoor Total	N/A	3,751 3,751 7,502	5,460 2,628 8,088
Vehicular Parking	1,558	1,126	716
Bicycle Parking (long-term: short-term)	N/A	2,515	2,581

Parkland Dedication (square metres)	N/A	1799	923
--	-----	------	-----

The policies that staff have considered in evaluating the OLT Plans are the same as those set out in the Request for Direction Report from the Director, Community Planning, North York District to North York Community Council (June 7, 2022) regarding 175 Wynford Drive - Zoning By-law Amendment and Attachments thereto.

CONCLUSION

The City Solicitor requires further instructions. Part of 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 and Confidential Appendices "A" and "B" to this report contain confidential information advice and should be considered by City Council *in camera*.

CONTACT

Jason Davidson, Solicitor, Planning & Administrative Tribunal Law; Tel: (416) 392-4835; Fax: (416) 397-5624; Email: Jason.Davidson@toronto.ca

Laura K. Bisset, Deputy Director, Planning & Administrative Tribunal Law; Tel: (416) 392-8782; Fax: (416) 397-5624; Email: Laura.Bisset@toronto.ca

SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

1. Public Appendix "A" - Architectural Plans and Drawings prepared by AS + GG Canada, dated January 20, 2023
1. Confidential Attachment 1 - Confidential Recommendations and Confidential Information
2. Confidential Appendix "A" - Confidential Information
3. Confidential Appendix "B" - Confidential Information