



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

131 Lyon Court and 836, 838 Roselawn Avenue - Zoning By-law Amendment Application - Request for Direction Report

Date: November 30, 2023

To: City Council

From: City Solicitor

Wards: 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 February 25, 2022, a complete application to amend the Zoning By-law was submitted to permit a 35-storey (111.40 metres, excluding mechanical penthouse) mixed-use building with 472 dwelling units and 397.5 square metres of retail uses at grade (the "**Original Proposal**") at 131 Lyon Court and 836, 838 Roselawn Avenue (the "Site"). A complete site plan control application in support of the same was submitted on November 9, 2021.

A separate Rental Housing Demolition application has also been submitted which proposes to demolish the existing 53 rental dwelling units on the site and replace them in the new building.

A Case Management Conference was held on February 23, 2023, where the OLT set out procedural deadlines and set down a contested hearing. Revised plans were submitted by the applicant on November 10, 2023.

The purpose of this report is to request further instructions for the contested hearing set to begin on March 11, 2024. This matter is urgent and cannot be deferred.

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 instructions to staff contained in the Confidential Attachment 1, Confidential Appendix "A" and Confidential Appendix "B" to this report from the City Solicitor, if adopted by City Council, at the discretion of the City Solicitor.

3. City Council direct that all other information contained in Confidential Attachment 1 to this report from the City Solicitor is to remain confidential at the discretion of the City Solicitor, as it is about litigation before the Ontario Land Tribunal and contains advice or communications that are subject to solicitor-client privilege.

4. City Council authorize the City Solicitor and City staff to take any necessary steps to implement City Council's decision.

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

A Preliminary Report was adopted by North York Community Council on February 23, 2022, authorizing staff to conduct a community consultation meeting with an expanded notification area. The decision of North York Community Council can be found here: <https://secure.toronto.ca/council/agenda-item.do?item=2022.NY30.13>

At their respective meetings on February 23, 2022 and March 9, 2022, North York Community Council and City Council, adopted a motion which directed the Chief Planner and Executive Director, City Planning to prepare a work plan and draft terms of reference for a planning study of an area generally within 800 metres of the Glencairn Subway Station in support of the City's municipal comprehensive review. Staff were directed to report back to North York Community Council on study timing, study area, and components, by June 2022. The minutes of this item at the North York Community Council meeting and City Council meeting can be found at the following link: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2022.NY30.42>

At its meeting on June 28, 2022, North York Community Council adopted a staff report and recommendations for the Glencairn Subway Station planning study. The staff report set out the timelines, study area, and terms of reference. The staff report also stated that the purpose of the study is to launch the necessary planning study in order to meet the density targets specified in the Growth Plan (2020).

The recommendations directed staff to engage a consultant team to undertake the planning study, and upon conclusion of the study bring forward planning instruments, where appropriate, to implement the findings. Furthermore, City Planning staff were directed to coordinate active development applications with the study, and if such

applications were to be appealed to the OLT, staff have been directed to appear before the OLT to oppose the application. The minutes of this item at the Community Council meeting and the staff report can be found at the following link:
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2022.NY33.25>

At its meeting on July 19-22, 2022, City Council adopted a staff report and recommended Official Plan Amendments, as part of the Municipal Comprehensive Review ("**MCR**") to conform with the Growth Plan (2020). The Growth Plan (2020) requires municipalities to delineate areas around higher order transit stations or Major Transit Station Areas ("**MTSA**"), and implement policies to achieve minimum population and job density targets for each MTSA. The City's conformity exercise has delineated 115 MTSA's, of which a subset has been designated to allow inclusionary zoning; this subset of MTSA's are known as Protected Major Transit Station Areas ("**PMTSA**").

The adopted OPAs add a new Chapter 8 to the Official Plan, which contain Site and Area Specific Policies ("**SASP**") for 115 MTSA's and PMTSA's. The SASP's delineate the boundaries of each MTSA and PMTSA, and set out minimum densities by parcel or block, necessary to achieve the population and job density targets of the Growth Plan (2020). These OPAs are now before the Minister of Municipal Affairs and Housing for final approval. Furthermore, the final report advises that a total of seven MTSA and PMTSA Station Areas require additional study before staff can bring forward OPAs that would set out appropriate densities and other MTSA- or PMTSA-related policies. In this regard, Glencairn subway station area was identified as being below the minimum requirement of 200 people and jobs per hectare as prescribed by the Growth Plan (2020) and requiring additional study. The minutes of this item at the City Council meeting and the staff report can be found at the following link:
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2022.PH35.16>

At its meeting on May 10, 11 and 12, 2023, City Council adopted an Appeal Report and directed the City Solicitor and appropriate City staff to attend the Ontario Land Tribunal in opposition to the and to continue discussions with the Applicant in an attempt to resolve outstanding issues. The decision can be found here:
<https://secure.toronto.ca/council/agenda-item.do?item=2022.NY30.13>

COMMENTS

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

On February 25, 2022, a complete application to amend the Zoning By-law (21 235591 NNY 08 OZ) was submitted to permit a 35-storey (111.40 metres, excluding mechanical penthouse) mixed-use building with 472 dwelling units and 397.5 square metres of retail uses at grade (the "**Original Proposal**"). The Original Proposal was appealed to the OLT on September 14, 2022.

On November 10, 2023, the applicant filed revised plans and a shadow study on which the Applicant intends to rely for the ten-day hearing scheduled to commence on March 11, 2023 (the ("**OLT Plans**"). The OLT Plans are attached as Public Appendix "A".

The height of the proposed building has increased to 39 storeys (122 metres, plus a 5 metre mechanical penthouse). The floorplate of the tower portion of the building is 872 square metres and the podium is 6 storeys in height (21.6 metres).

Other changes include relative to the Original Proposal include re-orientation of the length of the tower in a north-south direction and changes to the podium height including a more typical podium typology and change in height from seven storeys to six storeys. The setback from the property line of the tower to the north lot line has been increased to 14.7 metres from 3 metres and there have been changes to the entrances, lobbies and elevators.

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 (March 3, 2023) regarding 131 Lyon Court and 836, 838 Roselawn Avenue - Zoning By-law Amendment and Attachments thereto. Staff do not support the OLT Plans, particularly the height and floor plate size of the OLT Plans.

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 and Confidential Appendices "A", and "B" to this report contain confidential information advice and should be considered by City Council *in camera*.

CONTACT

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SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

1. Public Appendix "A" - OLT Plans respecting 131 Lyon Court and 836, 838 Roselawn Avenue by Ferris & Associates Inc. dated November 10, 2023
2. Confidential Attachment 1 - Confidential Information
3. Confidential Appendix "A" - Confidential Information
4. Confidential Appendix "B" - Confidential Information