

**774, 776, 778, 780 and 782 Marlee Avenue – Official  
Plan Amendment and Zoning By-Law Amendment  
Application – Appeal Report**

**Date:** November 30, 2023

**To:** City Council

**From:** City Solicitor

**Wards:** Ward 8 - Eglinton-Lawrence

**REASON FOR CONFIDENTIAL INFORMATION**

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This report contains advice or communications that are subject to solicitor-client privilege. This report contains information regarding potential litigation.

**SUMMARY**

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On December 23, 2021, an Official Plan and Zoning By-law Amendment application was submitted to permit a 12-storey (40.7 metres including mechanical penthouse) residential building with 301 residential units. The application was deemed complete on February 11, 2022.

On October 18, 2022 the applicant appealed the Official Plan and Zoning By-law Amendment applications to the Ontario Land Tribunal (the "OLT"), citing City Council's failure to make a decision on the applications within the prescribed timelines of the *Planning Act*.

At its meeting of June 14 and 15, 2023, City Council directed the City Solicitor to oppose the applications at the OLT.

The City Solicitor requires further directions for the upcoming OLT hearing scheduled to commence on January 22, 2024. Given imminent procedural filing dates set out in the Procedural Order, and other deadlines addressed in Confidential Attachment 1, this matter is urgent and cannot be deferred.

**RECOMMENDATIONS**

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The City Solicitor recommends that:

1. City Council adopt the recommendations contained in 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, Confidential Appendix "A", and Confidential Appendix "B" to this report from the City Solicitor, if adopted by City Council.
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 contains advice which is subject to solicitor-client privilege.

## **FINANCIAL IMPACT**

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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**

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On December 23, 2021, an Official Plan and Zoning By-law Amendment application was submitted to permit a 12-storey (40.7 metres including mechanical penthouse) residential building with 301 residential units. The application was deemed complete on February 11, 2022.

A Site Plan Control application was submitted on April 26, 2022 and was deemed complete on June 5, 2022. This application has not been appealed and is held in abeyance.

On May 24, 2022, North York Community Council received a Preliminary Report, and directed staff to schedule a community consultation meeting. The Preliminary Report can be found at:

<https://secure.toronto.ca/council/agenda-item.do?item=2022.NY32.11>

On October 18, 2022 the applicant appealed the Official Plan and Zoning By-law Amendment applications to the Ontario Land Tribunal (the "OLT"), citing City Council's failure to make a decision on the applications within the prescribed timelines of the *Planning Act*.

An Appeal Report was adopted by City Council on June 14 and 15, 2023 directing the City Solicitor and appropriate City staff to attend the OLT hearing to oppose the applications, and to continue discussions with the applicant in an attempt to resolve outstanding issues. The Request for Direction Report can be found at:

<https://secure.toronto.ca/council/agenda-item.do?item=2023.NY5.7>

The OLT held the first Case Management Conference on February 10, 2023, and the second Case Management Conference on June 6, 2023. A hearing is scheduled to commence on January 22, 2024.

## COMMENTS

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The City Solicitor requires further instructions on this matter. This report is about ongoing litigation before the OLT and contains advice or communications that are subject to solicitor-client privilege.

## CONTACT

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## SIGNATURE

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Wendy Walberg  
City Solicitor

## ATTACHMENTS

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