

September 6, 2023

By E-Mail to *nycc@toronto.ca*

North York Community Council
Toronto City Hall
100 Queen Street West
Toronto, Ontario
M5H 2N2

Attention: Matthew Green, Committee Administrator

Dear Members of North York Community Council:

**Re: 1779-1787 Bayview Avenue - Official Plan and Zoning By-law Amendment
and Site Plan Control Applications - Appeal Report
Agenda Item No. NY7.5**

We are counsel to CountryWide Homes (Bayview) Inc. / Condor Properties Ltd. ("Condor"), the applicant/appellant with respect to the above applications/appeals regarding the lands municipally known as 1779-1787 Bayview Avenue, Toronto (the "Lands").

We have reviewed the Appeal Report prepared by the Director, Community Planning, North York District, dated July 20, 2023 (the "Staff Report"), which is to be considered by North York Community Council at its meeting on September 7, 2023. The Staff Report recommends, among other things, that City Council direct the City Solicitor and appropriate City staff to attend the Ontario Land Tribunal in opposition to the appeals of the Official Plan and Zoning By-law Amendment and Site Plan Control applications, and to continue discussions with the applicant to resolve outstanding issues.

Although we appreciate staff's recommendation to continue discussions with Condor to resolve outstanding matters, we request that Community Council amend the earlier recommendation and, instead, that City Council direct the City Solicitor to attend the Ontario Land Tribunal in support of the appealed applications. In particular, we disagree with staff's conclusion that the proposal is not consistent with the Provincial Policy Statement (the "PPS"), does not conform to the Growth Plan for the Greater Golden Horseshoe (the "Growth Plan"), does not conform with the Toronto Official Plan and the Yonge-Eglinton Secondary Plan and does not meet the intent of relevant Design Guidelines.

In fact, approval of the applications would implement a number of provincial and municipal planning objectives, including the provision of a significant number of new housing units and new commercial space in immediate proximity to higher-order transit in the form of the Eglinton Crosstown LRT, which represents a substantial public transit investment, and will optimize the use of existing and planned infrastructure and public service facilities in a location specifically designated for growth. From a built form perspective, the Staff Report acknowledges that “the subject site is at an appropriate location for a building at the taller range of the height range of 20-35 storeys as prescribed by the Bayview Focus Character Area” within the Yonge-Eglinton Secondary Plan. The proposed development would also provide rental replacement units together with several new purpose-built rental units within the podium.

We also note that there are a number of errors or omissions in the Staff Report, or statements that require clarification given more recent events.

For example, the Staff Report states that a case management conference has not yet been scheduled and that “it is anticipated that a procedural order would be established to determine the sequencing of the various appeals to resolve the Official Plan and Zoning amendment matters prior to the Site Plan Control matters”. In fact, the Tribunal has since scheduled a case management conference for October 26, 2023, and Condor has not agreed to have the appeals of its Official Plan and Zoning By-law Amendment heard prior to the Site Plan Control matters. On the contrary, although Condor is hopeful that the appeals can be resolved amicably, if a contested hearing is required at the Ontario Land Tribunal it is currently anticipated that all of the appeals would be heard concurrently.

The Staff Report also claims that three of the existing rental units on the Lands are currently occupied. However, this statement is no longer accurate, as two of the rental units were vacated in July 2023, and the tenant in the last remaining occupied unit has agreed to vacate that unit no later than November 1, 2023. Notably, our client entered into agreements with each of the tenants earlier this year for a comprehensive relocation and compensation package, all in accordance with the *Residential Tenancies Act, 2006*.

Further, the Staff Report notes that the development proposes the demolition of 1783-1785 Bayview Avenue, which is a designated heritage property, and claims that “the proposal is not consistent with PPS policies and does not conform to Growth Plan policies relating to cultural heritage, which support the conservation of culture heritage properties and the implementation of appropriate development standards through the Official Plan and other supporting documents”. Likewise, the Staff Report states that “given the property’s recognized cultural heritage value, the priority should be placed on conserving the property with demolition only as the last resort” and that “the policy framework does not support the demolition of heritage properties”. Meanwhile, the Staff Report fails to acknowledge that Condor submitted an application to demolish the existing building at 1783-1785 under section 34 of the *Ontario Heritage Act* (the “OHA”) on October 18, 2022 and that, by virtue of subsection 34(4.4) of the OHA, City Council is deemed to have

consented to that application given its failure to notify the owner of a decision on the application within the specified time period.

Lastly, the Staff Report asserts that a methane gas investigation report is required to confirm public health and safety and notes that a report has not been submitted. Moreover, staff state that until a report has been submitted, the proposal is not consistent with the PPS and does not conform with the Growth Plan. However, the Staff Report fails to acknowledge that a methane gas investigation was not required by the City as a study to be submitted as part of the complete application requirements. Notwithstanding, Condor is having a methane gas investigation undertaken and expects to share the results of that study with the City shortly.

We trust that Community Council will consider these comments when it considers the Staff Report at its meeting on September 7, 2023.

Kindly ensure that we receive notice of any decision by Community Council and/or City Council regarding this item.

Yours truly,
DAVIES HOWE LLP



Mark R. Flowers
Professional Corporation

copy: Amanda Hill, City of Toronto, Legal Services Division
Client
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