



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

415 Broadview Avenue - Official Plan and Zoning By-law Amendment - Request for Direction Report

Date: March 4, 2024

To: City Council

From: City Solicitor

Wards: Ward 14 - Toronto-Danforth

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 January 20, 2022 an Official Plan and Zoning By-law amendment application was submitted seeking to permit the adaptive re-use of an existing historic church to include a 10-storey addition with 60 residential units.

On August 15, 2022 the applicant appealed the application to the Ontario Land Tribunal ("OLT") due to Council not making a decision within the time frame in the *Planning Act*.

Subsequently the applicant made applications under Sections 33 and 34 of the *Ontario Heritage Act* to alter the property and demolish heritage attributes in order to allow for the construction of a modified development application comprised of a seven-storey mixed-use building with commercial units at grade and residential units above. Staff recommended refusal of those permits as the submitted heritage memo was incomplete and therefore did not demonstrate satisfactory conservation of the heritage resources on site.

On January 17, 2024 the applicant submitted a revised development concept generally in line with the previous heritage alteration application, although the height has been further reduced to six-storeys. An OLT hearing is scheduled for June 10, 2024, with procedural filing dates occurring in spring 2024. The City Solicitor requires further directions for upcoming OLT proceedings relating to the Official Plan and rezoning appeal.

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, 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

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 Toronto and East York Community Council on May 26, 2022. Toronto and East York Community Council adopted a motion which, in addition to requiring staff to schedule a Community Consultation Meeting, also required planning staff to pursue the inclusion of long-term affordable housing and to take all necessary measures to conserve the heritage attributes of the property over the long term. The preliminary report, and Council decision can be found here:
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2022.TE33.27>

On December 14, 2022 City Council considered a Request for Direction Report from Community Planning in which it was recommended that City Council authorize staff to attend the OLT in opposition to the applications as filed. Those recommendations also included direction that no heritage permits be issued until a satisfactory Conservation Plan had been provided and that the owner had entered into a Heritage Easement Agreement with the City. The recommendations were adopted by Council and the decision can be found at the following link:
<https://secure.toronto.ca/council/agenda-item.do?item=2023.TE1.6>

In a report dated September 18, 2023 the Senior Manager, Heritage Planning, Urban Design reported to the Toronto Preservation Board, Toronto and East York Community Council, and subsequently City Council on applications under the *Ontario Heritage Act* to alter and demolish heritage attributes on the site. On December 13, 2023 City

Council deferred consideration of the OHA applications. The decision of City Council can be found here:

<https://secure.toronto.ca/council/agenda-item.do?item=2023.TE9.30>

COMMENTS

The following table summarizes the relevant development statics for the original proposal, which was appealed on August 15, 2022, and the revised plans submitted on January 17, 2024 and contained in Public Attachment 1:

Category	Original Proposal January 20, 2022	Revised Plans January 17, 2024
General Description	Church roof and chimney removed to accommodate a new 8-storey residential addition, resulting in an overall height of 10 storeys (37.84 metres including mechanical penthouse). Proposal contains 60 residential units and 683 square metres of non-residential GFA reserved for exclusive use by the church.	Property is severed across a midline and the western half of the existing church building is preserved in its current form on a separate lot. The eastern portion of the building, containing the Sunday school, is demolished and redeveloped as a 6-storey residential building containing 3,759 square metres of residential GFA in 51 units. The church preserves 879 square metres of GFA over the main floor and balcony.
Massing	10-storey vertical massing of residential addition massing is shifted west toward Broadview Avenue, rising immediately behind the tower of the church and descending down to the 3-storey level of the existing structure plus an addition of a covered parking/loading access extending the building into immediate adjacency with the east property.	The retained portion of the church on the western severed lot is conserved in its current form, while the Sunday school is replaced with a 6-storey massing rising vertically from the ground floor and the rear addition originally proposed is removed to provide a more generous separation from the east property line. The southern facade facing Simpson Avenue is articulated by inset balconies rising along the centre.

Setbacks / Step-backs	Half of the north wall and the rear wall of the church will be demolished and a new addition will bring the structure to within 1.3 metres of the north property line and 1.5 metres of the east property line. The residential structure extending from the church roof will be setback 1.2 metres from the existing church tower facing Broadview Avenue. Levels 3 to 5 (up to 19.7 metres) of the addition each step back from the east, with floors 6 to 10 rising vertically to the peak height.	A 7.5 metre setback from the east property line and 2.1 metre setback from the north are proposed. The western wall of the new residential structure interfaces with the existing church building 21.8 metres from the church tower. Balconies are proposed on the western façade which extend over the proposed severance line. No step-backs are proposed.
Heritage	The church roof and northeast and rear walls are demolished, while the remainder of the main church building and Sunday school are preserved and incorporated into the development.	The property is severed and the western half of the existing church is preserved as is. The Sunday school is demolished and redeveloped.
Public Realm	A 282 square metre, hardscaped POPS is proposed at the southwest corner.	No POPS is proposed and, rather, 181 square metres at the corner of Broadview Avenue and Simpson Avenue is proposed as parkland dedication.

The applicant has indicated a willing to discuss the delivery of 3 affordable units as part of the proposal, to be delivered at least in part as an in-kind community benefit and secured in a manner to be determined. See Public Attachment 2.

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

Wendy Walberg
City Solicitor

ATTACHMENTS

1. Public Attachment 1 - Architectural plans prepared by RAW Design dated January 17, 2024
2. Public Attachment 2 - Letter from Goodmans LLP dated March 1, 2024
3. Confidential Attachment 1 - Confidential Information