REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

Official Plan Amendment 573 - Danforth Avenue Planning Study (Segment 2 - Don Valley to Coxwell Avenue)

Date: May 8, 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 ongoing litigation.

SUMMARY

On April 7, 2022, the City enacted By-law 269-2022, adopting Official Plan Amendment 573 (OPA 573), implementing Site and Area Specific Policy 772 (SASP 772) and Urban Design guidelines for Danforth Avenue extending from the Don Valley in the west to Coxwell Avenue. OPA 573 was appealed to the Ontario Land Tribunal (OLT) and a two-week hearing is scheduled to commence on December 2, 2024.

At its meeting on November 8 and 9, 2023, City Council adopted the recommendations, as amended, for Item EX9.3 - Generational Transformation of Toronto's Housing System to Urgently Build More Affordable Homes. In doing so, City Council added Recommendation 30, requesting the City Solicitor, in consultation with the Deputy City Manager, Development and Growth Services, to report directly to the December 13 ,14, and 15, 2023, meeting of City Council on a City-initiated revision to SASP 772 as part of the OLT's adjudication of appeals, in the context of the Zoning By-law Amendment application for 1095-1111 Danforth Avenue, which would support the redevelopment of the existing non-profit housing site at 1117 Danforth to rebuild and modernize the existing units, and include net new affordable rental and rent-geared-to-income units, subject to the appropriate arrangements being made to secure the affordable rental and rent-geared-to-income units in perpetuity.

At its meeting on December 13, 14 and 15, 2023, City Council adopted the confidential recommendation for Item CC13.9, a report (December 4, 2023) from the City Solicitor that directed the City Solicitor, in consultation with the Deputy City Manager,

Development and Growth Services, to report to City Council on a City-initiated revision to SASP 772 when there is certainty with the site-specific Zoning By-law Amendment application for the development at 1095-1111 Danforth Avenue, and if it is determined that the development at 1117 Danforth Avenue will include net new affordable rental and rent-geared-to-income units.

This matter is deemed urgent as Approval Reports for the Zoning By-law Amendment applications for both 1095-1111 Danforth Avenue and 1117 Danforth Avenue will be in front of City Council at the May 22, 23 and 24 meeting.

RECOMMENDATIONS

The City Solicitor recommends that:

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

2. City Council authorize the public release of the confidential recommendation contained in Confidential Attachment 1 to this report from the City Solicitor and 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 Recommendation beyond what has already been approved in the current year's budget.

DECISION HISTORY

At its meeting on February 16, 2022, Toronto and East York Community Council considered item TE31.12, Danforth Avenue Planning Study (Segment 2 - Don Valley to Coxwell Avenue) – City-Initiated Official Plan Amendment and Urban Design Guidelines – Final Report (January 31, 2022) from the Director, Community Planning, Toronto and East York District. Toronto and East York Community Council forwarded the item to City Council without recommendations.

At its meeting on April 7 and 8, 2022, City Council adopted the recommendations, as amended, in item TE31.12, Danforth Avenue Planning Study (Segment 2 - Don Valley to Coxwell Avenue) – City-Initiated Official Plan Amendment and Urban Design Guidelines – Supplementary report (March 4, 2022) from the Chief Planner and Executive Director, City Planning and Further Supplementary report (March 29, 2022) from the Chief Planner and Executive Director, City Planning. In doing so, Council City enacted By-law 269-2022, adopting OPA 573.

The Council decision and reports can be found at:
https://secure.toronto.ca/council/agenda-item.do?item=2022.TE31.12

At its meeting on November 8 and 9, 2023, City Council adopted the recommendations, as amended, for Item EX9.3 - Generational Transformation of Toronto's Housing System to Urgently Build More Affordable Homes.

The Council decision and report can be found at:
https://secure.toronto.ca/council/agenda-item.do?item=2023.EX9.3

At its meeting on December 13, 14 and 15, 2023, City Council adopted the confidential recommendation for Item CC13.9, a report (December 4, 2023) from the City Solicitor that directed the City Solicitor, in consultation with the Deputy City Manager, Development and Growth Services, to report to City Council on a City-initiated revision to SASP 772 when there is certainty with the site-specific Zoning By-law Amendment application for the development at 1095-1111 Danforth Avenue, and if it is determined that the development at 1117 Danforth Avenue will include net new affordable rental and rent-geared-to-income units.

The Council decision and report can be found at:
https://secure.toronto.ca/council/agenda-item.do?item=2023.CC13.9

COMMENTS

At the May 22, 23 and 24, 2024 meeting of City Council, Approval Reports for Zoning By-law Amendment applications for 1095-1111 Danforth Avenue (Item TE13.6) and 1117 Danforth Avenue (TE13.7) will be considered by City Council. Both development sites are located within the lands that are subject to SASP 772 that was adopted by Council as part of OPA 573 on April 7, 2022. OPA 573 was appealed and is therefore not yet in force, and a two-week hearing commences on December 2, 2024. Initially there were four appellants and six added parties for the appeal, however three of the appellants and five of the added parties are no longer participating in the OPA 573 appeal because their appeals have been consolidated with their site specific Zoning By-law Amendment appeals or their status in the OPA 573 appeal as been withdrawn.

For 1095-1111 Danforth Avenue, the Zoning By-law Amendment application is to permit a 13-storey mixed use development that proposes 272 rental dwelling units, 673.7 square metres of non-residential gross floor area and one level of underground parking.

For 1117 Danforth Avenue, the Zoning By-law Amendment application is to permit a 14-storey mixed-use building that proposes 108 affordable and rent-controlled market units with a total of 6,964 square metres of residential gross floor area.

As described below, both the 1095-1111 Danforth Avenue development and the 1117 Danforth Avenue development do not fully comply with the policies in SASP 772. Even though full compliance with SASP 772 is not required because it is not in force, direction was sought by City Council from the City Solicitor on a City-initiated revision to SASP

772 as part of the OLT's adjudication of appeals in the context of these two developments.

A key element to both applications is the partnership between Core Development Group ("Core") and Houselink and Mainstay Community Housing ("Houselink Mainstay"). Core is a private sector developer who is developing the site at 1095-1111 Danforth Avenue and is willing to act as the development manager for Houselink Mainstay on the redevelopment of 1117 Danforth Avenue. This arrangement will leverage Core's development expertise as well as economies of scale in terms of labour and material costs to support the financial viability of affordable housing at 1117 Danforth Avenue. The redevelopment at 1117 Danforth Avenue will also rely on shared access to one Type-G loading space to be constructed as part of the redevelopment at 1095-1111 Danforth Avenue.

The developer partnership, coordinated construction, and integrated design between these two properties will enable up to 108 affordable and rent-controlled market units to be constructed as part of the development at 1117 Danforth Avenue. In addition to the 27 replacement social housing units, the redevelopment at 1117 Danforth Avenue intends to provide up to 11 new rent-geared-to-income units, 29 income-based affordable units, and 41 rent-controlled market units. The unit mix will include 20 studio (19 percent), 52 one-bedroom (48 percent), 26 two-bedroom (24 percent), and 10 three-bedroom units (9 percent).

The below table outlines the policies of SASP 772 that the two developments do not completely comply with:

Section	**SASP 772 Policy**	**1117 Danforth Avenue Proposal**	**1095-1111 Danforth Ave Proposal**
4. Parks and Public Realm	4.3 - Developments in Policy Area A will not cast net-new shadow on sidewalks on the north side of Danforth Avenue and on parks and open spaces as measured from 12:00 noon – 5:00 p.m. from March 21st to September 21st to enhance thermal comfort and preserve their utility.	Shadow is cleared from the sidewalk on the north side of Danforth Avenue by 2:18pm on March 21 and September 21. No shadow is cast on the sidewalk in June.	Shadow is cleared from the sidewalk on the north side of Danforth Avenue by 2:18pm on March 21 and September 21. No shadow is cast on the sidewalk in June.

Section	SASP 772 Policy	1117 Danforth Avenue Proposal	1095-1111 Danforth Ave Proposal
6. Development Criteria	6.1(a) - Development in Policy Area A, as shown on Map 3A and Map 3B, will not exceed a height of 24 metres excluding the mechanical penthouse;	The building height is 40.67 metres excluding the mechanical penthouse.	The building height is 42.35 metres excluding the mechanical penthouse.
	6.1(d) - include a stepback at the front of the building on Danforth Avenue, and a stepback at the side of the building along any flanking street in the case of corner lots, of a minimum of 3 metres from the edge of the building at a maximum height of 14 metres or the height of the existing heritage buildings on-site;	The first stepback at the front of the building on Danforth Avenue is 3.6 metres provided at the height of 15.9 metres.	The first stepback at the front of the building on Danforth Avenue is 3.6 metres provided at the height of 17.07 metres.
	6.1(e) - include stepbacks at the rear of the building of: i. a minimum of 1.5 metres from the edge of the building at a maximum height of 14 metres; and ii. a minimum of 3 metres from the edge of the building at a maximum height of 17 metres;	i. A 2 metre stepback is provided at the rear at the height of 15.9 metres; and ii. No additional stepback is provided at a maximum height of 17 metres.	i. A 2 metre stepback is provided at the rear at the height of 17.07 metres; and ii. No additional stepback is provided at a maximum height of 17 metres.

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. Confidential Attachment 1 - Confidential Information