



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

673 Warden Avenue – Zoning By-law Amendment Application - Ontario Land Tribunal Hearing – Request for Directions

Date: May 7, 2024

To: City Council

From: City Solicitor

Wards: Ward 20 – Scarborough Southwest

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 September 14, 2022, the City received a Zoning By-law Amendment application for 673 Warden Avenue (the "Site") to permit a mixed-use building of 15-storeys, in a tall mid-rise built form, plus rooftop amenity space and mechanical penthouse. The proposed building included retail space on the ground floor and 274 residential dwelling units. The total gross floor area ("GFA") of the proposed development was 18,965 square metres, comprising 18,759 square metres of residential GFA and 206 square metres of ground-floor commercial GFA, resulting in a floor space index of 6.9 times the area of the lot.

The applicant appealed City Council's neglect or failure to make a decision on its application for the Zoning By-law Amendment (the "Appeal"), to the Ontario Land Tribunal (the "OLT") on May 1, 2023. The OLT held the first Case Management Conference on October 27, 2023. At the Case Management Conference, three entities with interests in the vicinity of the proposal, Choice Properties Limited Partnership (the owner of 683-685 Warden Avenue to the north of the Site), and Rataj Holdings Inc., and Tradition Fine Foods Ltd. (the owner and operator, respectively, of a food manufacturing facility at 663 Warden Avenue), were granted Party Status. A nine-day hearing is scheduled to commence August 26, 2024.

On May 2, 2024, the City received a with prejudice, not confidential, settlement offer from the applicant's lawyers, Overland LLP, which is attached as Public Attachment 1 (the "Settlement Offer"). The Settlement Offer contains revised plans (the "Revised

Plans"). The Settlement Offer is open until the end of the City Council meeting commencing on May 22, 2024. The applicant has also filed the Revised Plans with the OLT, and will be seeking approval of the OLT in respect of the Revised Plans.

The City Solicitor requires further instructions for the OLT hearing. Given imminent procedural filing dates, and the expiry of the Settlement Offer at the end of the May City Council meeting, 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 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

On October 28, 2005, City Council adopted the [Warden Woods Community Secondary Plan](#) (the "Secondary Plan") as Amendment 1145 to the former City of Scarborough Official Plan. The Secondary Plan was appealed to the Ontario Municipal Board, and on May 26, 2008 was modified and approved. The Secondary Plan provides that mixed use development with mid-range densities and heights will be permitted and encouraged along the arterial road frontage of Warden Avenue and Danforth Road. The highest densities and heights will be permitted in the *Mixed Use Areas* and *Apartment Neighbourhoods* designations closest to the subway station. The tallest buildings will also be located at the southeast corner of the Warden and St. Clair intersection, transitioning down in height from north to south.

On July 22, 2022, City Council adopted Official Plan Amendment 570, which included the delineation of the Warden Protected Major Transit Station Area (the "Warden PMTSA") through Site and Area Specific Policy 648 ("SASP 648"). The Warden

PMTSA has a minimum population and employment target for 200 residents and jobs combined per hectare. The minimum density identified on Map 2 of SASP 648 for the Site is 3.0 FSI. The Site is located at the south limit of the Warden PMTSA. OPA 570 was submitted to the Minister of Municipal Affairs and Housing (the "Minister") for approval. No decision has been rendered by the Minister at the time of writing this Report. City Council's decision can be found at: [Agenda Item History - 2022.PH35.16 \(toronto.ca\)](#)

A Request for Direction Report on the application was adopted by City Council on November 8 and 9, 2023 directing the City Solicitor and appropriate City staff to attend the OLT hearing to oppose the Zoning By-law Amendment application, and to continue discussions with the applicant in an attempt to resolve outstanding issues. The Request for Direction Report can be found at: [Agenda Item History - 2023.SC8.4 \(toronto.ca\)](#)

On February 6, 2024, City Council accepted a settlement offer in respect of Official Plan and Zoning By-law Amendments for the property located at 683-685 Warden Avenue. The redevelopment of that property will include, among other matters, 985 square metres of commercial GFA, an on-site parkland dedication, and City Council has instructed City staff to continue discussions with that owner about the design and delivery of an on-site community space. City Council's decision can be found at: [Agenda Item History - 2024.CC14.9 \(toronto.ca\)](#)

COMMENTS

In response to the issues raised by City staff in the Appeal Report, the Revised Plans include a number of modifications to the original proposal.

The Revised Plans now show a redesigned 27-storey mixed-use tall building having a 750 square metre tower floorplate, a 6-storey podium base building, and an increased total GFA of approximately 21,804 square metres, including an expanded 243.6 square metres of ground-floor commercial space, and an increased FSI of 7.9 times the lot area. The dwelling unit count has also increased to approximately 314 units (now comprising 14 percent three-bedroom and 35 percent two-bedroom units). The revised design also now features increased building setbacks and stepbacks. The differences between the original application and the Revised Plans are summarized in the table below:

Site Statistic	Original Submission (Sept. 14, 2022)	Settlement Offer (May 2, 2024)
Site Area	2,753 square metres	2,753 square metres
Total Gross Floor Area	18,965 square metres	21,804 square metres

Site Statistic	Original Submission (Sept. 14, 2022)	Settlement Offer (May 2, 2024)
FSI	6.9	7.9
Overall Building Coverage	60.2 percent	56.63 percent
Residential Units - Total - Studio (percent of total) - 1-Bedroom (percent of total) - 2-Bedrooms (percent of total) - 3-Bedrooms (percent of total)	274 10 (3.65 percent) 113 (41.2 percent) 124 (45.3 percent) 27 (9.9 percent)	Approximately 314 0 (0 percent) 161 (51.3 percent) 10 (35 percent) 43 (14 percent)
Non-residential Uses - Retail	206 square metres	243.6 square metres
Amenity Space - Indoor total (per unit) - Outdoor total (per unit)	4.55 square metres overall per unit 671 square metres (2.45) 575.4 square metres (2.1)	4.0 square metres overall per unit 628 square metres (2.0) 628 square metres (2.0)
Vehicular Parking Spaces - Resident - Commercial/Visitor	133 15	131 17
Bicycle Parking Spaces - Long Term - Short Term - Retail	188 20 0	214 22 1

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 - With Prejudice Settlement Offer from Overland LLP, dated May 2, 2024
2. Public Attachment 2 - Architectural Plans, prepared by Arcadis, dated May 1, 2024
3. Public Attachment 3 - Shadow Study, prepared by Arcadis, dated March 20, 2024
4. Public Attachment 4 - Landscape Plans, prepared by Land Art Design Landscape Architects Inc., dated April 16, 2024
5. Confidential Attachment 1 - Confidential Information