



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

4630 Kingston Road– Ontario Land Tribunal Hearing – Request for Directions

Date: October 31, 2024

To: City Council

From: City Solicitor

Wards: Ward 25 - Scarborough - Rouge Park

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 December 29, 2021, the City received a Zoning By-law Amendment application for 4630 Kingston Road (the "Site") to permit the construction of a 13-storey mixed-use building containing 417 residential units and 273.1 square metres of retail floor area. A Site Plan Control application was also submitted on December 29, 2021.

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 August 23, 2022.

At its meeting on July 19-20, 2023, City Council accepted a without prejudice settlement offer and instructed the City Solicitor and appropriate City Staff to attend the OLT hearing on this matter in support of the settlement proposal.

The OLT held a 1-day hearing for this matter on September 25, 2023. On February 14, 2024, the OLT issued an interim Order approving the Zoning By-law Amendment Application in principle subject to the satisfaction of conditions.

On October 15, 2024, the applicant made a with prejudice offer to modify the proposal accepted by Council at its meeting on July 19-20, 2023. The City Solicitor requires further directions on this with prejudice offer. This matter is urgent and cannot be deferred.

RECOMMENDATIONS

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 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 December 29, 2021, the City received a Zoning By-law Amendment application for the Site to permit the construction of a 13-storey mixed-use building containing 417 residential units and 273.1 square metres of retail floor area. The Preliminary Report can be found at:

<https://secure.toronto.ca/council/agenda-item.do?item=2022.SC32.5>

A Request for Direction Report on the application was adopted by City Council on May 10, 2023 directing the City Solicitor and appropriate City staff to attend a OLT hearing scheduled to commence on September 25, 2023 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:

<https://secure.toronto.ca/council/agenda-item.do?item=2023.SC4.2>

The Request for Direction and without prejudice settlement offer dated June 21, 2023 can be found at:

<https://secure.toronto.ca/council/agenda-item.do?item=2023.CC8.16>

A 1-day settlement hearing was held by the OLT on September 25, 2023. On February 14, 2024, the OLT issued an interim Order approving the Zoning By-law Amendment Application in principle subject to the satisfaction of conditions. These conditions have not been fulfilled and no final order has been issued.

On October 15, 2024, the City received a With Prejudice, not confidential, settlement offer from the applicant's lawyers, Goodmans LLP, which is attached as Public Attachment 1 (the "Settlement Offer"). The Settlement Offer contains revised plans (the "Revised Plans") attached as Public Attachment 2. A draft site-specific zoning by-law amendment is attached as Public Attachment 3. Should City Council accept the Settlement Offer, the applicant intends to present the Revised Plans to the OLT for approval; otherwise, the offer will become null and void.

The Revised Plans include a number of modifications. The following comparison chart summarizes key changes:

| | Settlement Offer June 21, 2023 | Settlement Offer October 15, 2024 |
|--------------------------|---|--|
| GFA | Total: 32,729.2 square metres 31,666 square metres residential 1,062 square metres non-residential | Total: 34,127.6 square metres 33,040 square metres residential 1,087.2 square metres non-residential |
| Units | Total: 514 49 studio (9.6 percent) 335 one-bedroom (65.4 percent) 77 two-bedroom (15 percent) 51 three-bedroom (10 percent) | Total: 593 124 studio (20.9 percent) 315 one-bedroom (53.1 percent) 94 two-bedroom (15.9 percent) 60 three-bedroom (10.1 percent) |
| Height | 42.55 metres (excluding MPH) | 39.45 metres (excluding MPH) |
| Vehicular Parking | Total: 274 Spaces 239 residential 28 visitor 7 retail | Total: 298 Spaces 259 residential 31 visitor 4 retail |
| Bicycle Parking | Total: 388 spaces 36 short-term 352 long-term | Total: 447 total 43 short-term 404 long-term |
| Amenity Space | Total: 2,056.8 square metres (4.01 square metres/unit) Indoor: 699.6 square metres (1.36/unit) Outdoor: 1,357.2 square metres (2.65/unit) | Total: 2,770.1 square metres (4.67 square metres/unit) Indoor: 870.8 square metres (1.46/unit) Outdoor: 1,899.3 square metres (3.2/unit) |
| Front Setback | 6.5 metres (Kingston Road) 3 metres (Orchard Park) | 5 metres (Kingston Road) 1.5 metres (Orchard Park) |

COMMENTS

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 Goodmans LLP, dated October 15, 2024
2. Public Attachment 2 - Architectural Plans prepared by Turner Fleischer, dated September 27, 2024
3. Public Attachment 3 - Draft Site-Specific Zoning By-law Amendment
4. Confidential Attachment 1 - Confidential Information