



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

40 Walmer Road - Zoning By-law Amendment - Request for Direction Report

Date: November 1, 2024

To: City Council

From: City Solicitor

Wards: Ward 11 - University - Rosedale

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 October 24, 2023, the City received a Zoning By-law Amendment application for 40 Walmer Road (the "Site") to permit the construction of a 35-storey (111.65 metres, including mechanical penthouse) residential building. The application proposed a total of 365 dwelling units, including 33 replacement rental units.

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 March 21, 2024.

The City Solicitor requires further directions for an upcoming OLT hearing scheduled for February 3, 2025. The 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 the Report from the City Solicitor.
2. City Council authorize the public release of the confidential recommendations in Confidential Attachment 1 and Confidential Appendix "A" 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 the 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 24, 2023, the City received a Zoning By-law Amendment application to permit a 35-storey (111.65 metres, including mechanical penthouse) residential building at 40 Walmer Road. The application proposed a total of 365 dwelling units, including 33 replacement rental units.

A Refusal Report was adopted by Toronto and East York Community Council on January 24, 2024, which refused the application and directed the City Solicitor to attend the OLT in opposition to the application with appropriate City Staff in the event of an appeal. The decision of the Toronto and East York Community Council can be found here:

<https://secure.toronto.ca/council/agenda-item.do?item=2024.TE10.11>

The Refusal Report was adopted by City Council on February 6 and 7, 2024. The decision of City Council can be found here:

<https://secure.toronto.ca/council/agenda-item.do?item=2024.TE10.11>

On March 21, 2024, the applicant appealed City Council's neglect or failure to make a decision on the Zoning By-law Amendment to the OLT. The OLT held the first Case Management Conference on June 5, 2024, and a second case management conference on September 20, 2024. A hearing is scheduled for February 3, 2025.

COMMENTS

The City Solicitor requires further instructions on this matter. This report is about 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
2. Confidential Appendix "A" - Confidential Information