



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

3140, 3170 and 3180 Dufferin Street and 60 and 68 Apex Road – Official Plan and Zoning By-law Amendment Applications - Ontario Land Tribunal Hearing – Request for Directions

Date: May 8, 2025

To: City Council

From: City Solicitor

Wards: Ward 8 - Eglinton-Lawrence

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

The applications at 3140 and 3170 Dufferin Street and 60 and 68 Apex Road (the "Dufferin Plaza Site") and the applications at 3180 Dufferin Street (the "Dean Myers GM Site") (collectively, the "Sites") have been submitted by the same ownership group and function as a coordinated development proposal. As such, this report provides recommendations for the applications on both Sites.

3140 and 3170 Dufferin Street and 60 and 68 Apex Road

On August 21, 2021, applications for Zoning By-law Amendment and Draft Plan of Subdivision were submitted for the Dufferin Plaza Site, to permit a 9-storey residential building (31.4 metres excluding mechanical penthouse) and an 11-storey mixed use building (38.1 metres excluding mechanical penthouse) with a total of 606 residential dwelling units and 1,502 square metres of retail uses at grade. A 2,046 square metre park was proposed at the southwest corner of the Dufferin Plaza Site.

On June 28, 2023, applications for Official Plan Amendment and Site Plan Control were submitted to permit 22-, 24-, and 26-storey residential and mixed-use buildings (71.9 metres, 78.4 metres, and 84.6 metres respectively, excluding mechanical penthouse) with 4- to 9-storey podiums and a total of 1,062 residential units and 1,215 square

metres of retail uses at grade. The park was revised to 2,030 square metres and moved to the northwest corner of the Dufferin Plaza Site.

3180 Dufferin Street

On March 1, 2021, applications for Zoning By-law Amendment, Draft Plan of Subdivision, and Site Plan Control were submitted for the Dean Myers GM Site to permit a 7-storey residential building (24.8 metres excluding mechanical penthouse) and a 10-storey mixed use building (33.6 metres excluding mechanical penthouse) with a total of 555 residential dwelling units and 1,464 square metres of retail uses at grade. A 1,448 square metre park and 724 square metre Privately Owned Public Space (POPS) were proposed at the southwest corner of the Dean Myers GM Site.

On February 9, 2024, an application to amend the Official Plan was submitted to permit 18-, 20-, 23-, and 25-storey residential and mixed-use buildings (58.0 metres, 64.1 metres, 74.0 metres, and 79.9 metres respectively, excluding mechanical penthouse) with 6- to 9-storey podiums and a total of 1,180 residential units and 1,490 square metres of retail uses at grade. The park and POPS were revised to 1,630 square metres and 656 square metres respectively.

The Appeals

On July 19, 2024, the applicant appealed the Official Plan Amendment, Zoning By-law Amendment, Draft Plan of Subdivision, and Site Plan Control applications related to the Dufferin Plaza Site to the Ontario Land Tribunal ("OLT") due to Council or its delegate, as the case may be, not making decisions within the prescribed time frames in the *Planning Act*.

On September 23, 2024, the applicant appealed the Official Plan Amendment, Zoning By-law Amendment, Draft Plan of Subdivision, and Site Plan Control applications related to the Dean Myers GM Site to the OLT due to Council or its delegate, as the case may be, not making decisions within the prescribed time frames in the *Planning Act*.

All eight appeals are being adjudicated together in the OLT process. Case Management Conferences have held on September 25, 2024, November 28, 2024, and January 16, 2025.

The City Solicitor requires further directions for upcoming OLT hearing scheduled for three weeks, beginning on October 1, 2025. 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 and Confidential Appendices "A," "B," "C," "D," and "E" 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

The Sites are within the Dufferin Street Secondary Plan Area. The Sites form the entirety of Block 7 in the Dufferin Street Secondary Plan (the "DSSP").

On December 9 and 10, 2015, City Council adopted the DSSP. City Council's decision is available here:

<https://secure.toronto.ca/council/agenda-item.do?item=2015.NY10.42>

On January 8, 2016, the owner of the Dufferin Plaza Site, now the common owner of the Sites, appealed the City's adoption of the DSSP to the Ontario Municipal Board (the "OMB"), as did other landowners in the Secondary Plan area.

On November 15, 2015, in anticipation of the adoption of the DSSP, the owner of the Dufferin Plaza Site had submitted an application for Official Plan Amendment, proposing to develop, on the Dufferin Plaza Site, two new mixed-use buildings of 28 and 22 storeys, separated by a new public street, oriented in a north to south direction. The proposed gross floor area was approximately 59,400 square metres, consisting of 578 residential units, 878 parking spaces, and 1135 bicycle parking spaces. A new 1900 square metre public park was also proposed.

On January 19, 2016, North York Community Council adopted the Preliminary Report for the Official Plan Amendment application for the Dufferin Plaza Site. The decision of North York Community Council is available here:

<https://secure.toronto.ca/council/agenda-item.do?item=2016.NY11.25>

On June 7, 8 and 9, 2016, City Council refused the privately-initiated application to amend the Official Plan for the Dufferin Plaza Site. City Council's decision is available here:

<https://secure.toronto.ca/council/agenda-item.do?item=2016.NY14.29>

On July 8, 2016, the owner appealed Council's refusal to the OMB. The owner's appeal of the DSSP was consolidated with the appeal of Council's refusal to adopt the owner's proposed Official Plan Amendment.

On July 23, 24, 25, 27 and 30, City Council accepted a settlement offer dated July 17, 2018, regarding the appeals of the DSSP and the privately-initiated Official Plan Amendment respecting the Dufferin Plaza Site, and authorized the City Solicitor to request the LPAT to modify and partially approve the DSSP in accordance with that settlement offer. City Council's decision is available here:

<https://secure.toronto.ca/council/agenda-item.do?item=2018.CC44.42>

On November 15, 2019, the LPAT modified and partially approved the DSSP in accordance with the July 17, 2018 settlement offer, by including in the DSSP site and area-specific policies for 3140-3170 Dufferin Street and 60-68 Apex Road. The decision allowed for a 9- to 11-storey mixed-use building and a 9- storey residential building separated by an 18.5 metre wide public north-south street on the Dufferin Plaza Site. It also included half of an 18.5 metre wide public east-west public street separating the 9-11 storey mixed use building and the adjacent site to the north (the Dean Myers GM Site). The LPAT decision is available here:

<https://www.omb.gov.on.ca/e-decisions/pl160073-Nov-15-2019.pdf>

As of October 5, 2023, nearly all of the DSSP has been brought into force, with modifications, with only the site specific appeal by the owner of 3130 Dufferin Street remaining; see:

<https://www.omb.gov.on.ca/e-decisions/OLT-22-003552-OCT-05-2023.pdf>

On May 21, 2021, North York Community Council adopted the Preliminary Report for the Zoning By-law Amendment and Draft Plan of Subdivision Applications for the Dean Myers GM Site. The decision of North York Community Council is available here:

<https://secure.toronto.ca/council/agenda-item.do?item=2021.NY24.10>

On November 23, 2021, North York Community Council adopted the Preliminary Report for the Zoning By-law Amendment and Draft Plan of Subdivision Applications for the Dufferin Plaza Site. The decision of North York Community Council is available here:

<https://secure.toronto.ca/council/agenda-item.do?item=2021.NY28.26>

On July 22, 2022, City Council adopted Official Plan Amendment 570, which included the delineation of the Yorkdale Protected Major Transit Station Area (the "Yorkdale PMTSA") through Site and Area Specific Policy 648 ("SASP 570"). The Yorkdale 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 570 for the Site is 2.0 FSI. The Sites are located in the southwest corner of the Yorkdale PMTSA. OPA 570 was submitted to the Minister of Municipal Affairs and Housing (the "Minister")

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for approval. No decision has been rendered by the Minister at the time of writing this Report. City Council's decision is available here:

<https://secure.toronto.ca/council/agenda-item.do?item=2022.PH35.16>

An Appeal Report on the applications for both Sites was adopted by City Council on November 13 and 14, 2024, directing the City Solicitor and appropriate City staff to attend the OLT hearing to oppose the Official Plan and Zoning By-law Amendment, Subdivision, and Site Plan applications, and to continue discussions with the applicant in an attempt to resolve outstanding issues. City Council's decision is available here:

<https://secure.toronto.ca/council/agenda-item.do?item=2024.NY18.7>

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. Confidential Attachment 1 - Confidential Information
2. Confidential Appendix "A" - Confidential Information
3. Confidential Appendix "B" - Confidential Information
4. Confidential Appendix "C" - Confidential Information
5. Confidential Appendix "D" - Confidential Information
6. Confidential Appendix "E" - Confidential Information

3140, 3170 and 3180 Dufferin Street and 60 and 68 Apex Road – Official Plan and Zoning By-law Amendment Applications - Ontario Land Tribunal Hearing - Request for Directions