

402, 404, 406 and 408 Livingston Road North - Official Plan Amendment and Zoning By-law Amendment Applications – Supplementary Report

Date: November 7, 2025

To: City Council

From: Executive Director, Development Review Division

Ward: 24 - Scarborough-Guildwood

Planning Application Number: 25 138374 ESC 24 OZ

SUMMARY

This Supplementary Report provides an update to the report titled 402, 404, 406 and 408 Livingston Road North - Official Plan Amendment and Zoning By-law Amendment – Decision Report - Refusal, dated October 3, 2025 from the Director, Community Planning, Scarborough District (Item SC26.2). At its meeting on October 22, 2025, Scarborough Community Council adopted the report’s recommendations to refuse the proposed 35-storey residential building and outlined the rationale supporting this recommendation.

On November 6, 2025, the applicant appealed the Official Plan and Zoning By-law Amendment application to the Ontario Land Tribunal (“OLT”) citing Council’s failure to make a decision within the timeframe prescribed by the *Planning Act*. As such, Council no longer has jurisdiction to refuse the application and staff recommendations need to be adjusted, though the proposal and the analysis undertaken as part of the review have not changed.

This report recommends that City Council instruct the City Solicitor and appropriate City staff to attend the OLT hearing in opposition to the Official Plan and Zoning By-law Amendment application in its current form and to continue discussions with the applicant in an attempt to resolve outstanding issues in advance of the hearing.

RECOMMENDATIONS

The Executive Director, Development Review Division recommends that:

1. City Council delete the Scarborough Community Council recommendations and adopt instead the following new recommendations:
 1. City Council direct the City Solicitor and appropriate City Staff to attend the Ontario Land Tribunal in opposition to the Official Plan and Zoning By-law Amendment application appeal, in its current form, for the lands municipally known as 402, 404, 406 and 408 Livingston Road North and to continue discussions with the applicant in an attempt to resolve outstanding issues, including but not limited to those outlined in the report (October 3, 2025) from the Director, Community Planning, Scarborough District.
 2. In the event that the Ontario Land Tribunal allows the appeal in whole or in part, City Council instruct the City Solicitor to request the Ontario Land Tribunal to withhold its Order on the Official Plan Amendment and Zoning By-law Amendment until such time as the Ontario Land Tribunal has been advised by the City Solicitor that:
 - a. The final form and content of the draft Official Plan Amendment is satisfactory to the Executive Director, Development Review and the City Solicitor;
 - b. The final form and content of the draft Zoning By-law Amendment is satisfactory to the Executive Director, Development Review and the City Solicitor; and,
 - c. The owner has at its sole expense:
 - i. Submitted a revised Functional Servicing Report and Stormwater Management Report, Hydrogeological Review, including the Foundation Drainage Report ("Engineering Reports") to the satisfaction of the Director, Engineering Review, in consultation with the General Manager, Toronto Water;
 - ii. Secured the design and provided financial securities in respect of any upgrades or required improvements to the existing municipal infrastructure identified in the accepted Engineering Reports, to support the development, all to the satisfaction of the Director, Engineering Review and the General Manager, Toronto Water, should it be determined that improvements or upgrades are required to support the development, according to the Engineering Reports accepted by the Director, Engineering Review and the General Manager, Toronto Water;

- iii. Ensured that implementation of the accepted Engineering Reports does not require changes to the proposed amending By-law or that any required changes have been made to the proposed amending By-law to the satisfaction of the Executive Director, Development Review, and the City Solicitor, including the use of a Holding ("H") By-law symbol regarding any new municipal servicing infrastructure or upgrades to existing municipal servicing infrastructure, as may be required;
 - iv. Submission of a revised Rail Safety and Risk Mitigation Report, which is subject to a third-party review, including any identified mitigation measures; and
 - v. Submission of a revised Noise and Vibration Impact Study, which is subject to a third-party review, including any identified mitigation measures.
3. City Council authorize the City Solicitor and City Staff to take any necessary steps to implement City Council's decision, including requesting any conditions of approval that would be in the City's interest, in the event the Ontario Land Tribunal allows the appeal, in whole or in part.

FINANCIAL IMPACT

The Development Review Division confirms that there are no financial implications resulting from the recommendations included in this Report in the current budget year or in future years.

COMMENTS

On April 15, 2025, an application was submitted to amend the Official Plan and Zoning By-law in order to permit a 35-storey residential building at 402-408 Livingston Road North. The proposed total gross floor area is 30,888 square metres with 442 residential units, resulting in a density of 5.4 times the lot area. A total of 336 vehicular parking spaces are proposed, located within one level of underground parking and four levels of above-grade parking. The application was submitted and deemed complete on July 4, 2025 satisfying the City's minimum application requirements.

At its meeting on October 22, 2025, Scarborough Community Council adopted staff's recommendation to refuse the Official Plan Amendment and Zoning By-law Amendment application without amendment. The Decision of Scarborough Community Council can be found here: <https://secure.toronto.ca/council/agenda-item.do?item=2025.SC26.2>

On November 6, 2025, the applicant appealed the Official Plan and Zoning By-law Amendment application to the Ontario Land Tribunal ("OLT") due to Council's failure to make a decision within the timeframe in the *Planning Act*. With the appeal to the OLT,

City Council no longer has jurisdiction over the matter, and cannot refuse the application as recommended by staff and Scarborough Community Council. As such the recommendations must be adjusted as recommended in this Supplemental Report.

However, the appeal has not changed the analysis undertaken by staff and outlined in the October 3, 2025 refusal report. The analysis contained within the Refusal report still stands and underpins the recommendations of this Supplemental Report that Council direct the City Solicitor and appropriate City staff to attend the OLT to oppose the application in its current form. The following preliminary list of Conditions to any Tribunal Order as detailed in the adopted refusal report dated October 3, 2025, should continue to be imposed on the issuance of any final order of the Tribunal to the satisfaction of the appropriate City Officials:

- The final form and content of the draft Official Plan Amendment is satisfactory to the Executive Director, Development Review and the City Solicitor;
- The final form and content of the draft Zoning By-law Amendment is satisfactory to the Executive Director, Development Review and the City Solicitor;
- The owner has at its sole expense:
 - Submitted a revised Functional Servicing Report and Stormwater Management Report, Hydrogeological Review, including the Foundation Drainage Report ("Engineering Reports") to the satisfaction of the Director, Engineering Review, in consultation with the General Manager, Toronto Water;
 - Secured the design and provided financial securities in respect of any upgrades or required improvements to the existing municipal infrastructure identified in the accepted Engineering Reports, to support the development, all to the satisfaction of the Director, Engineering Review and the General Manager, Toronto Water, should it be determined that improvements or upgrades are required to support the development, according to the Engineering Reports accepted by the Director, Engineering Review and the General Manager, Toronto Water;
 - Ensured that implementation of the accepted Engineering Reports does not require changes to the proposed amending By-law or that any required changes have been made to the proposed amending By-law to the satisfaction of the Executive Director, Development Review, and the City Solicitor, including the use of a Holding ("H") By-law symbol regarding any new municipal servicing infrastructure or upgrades to existing municipal servicing infrastructure, as may be required;
 - Submission of a revised Rail Safety and Risk Mitigation Report, which is subject to a third-party review, including any identified mitigation measures; and
 - Submission of a revised Noise and Vibration Impact Study, which is subject to a third-party review, including any identified mitigation measures.

CONCLUSION

This Report recommends that the City Solicitor with the appropriate City Staff attend the OLT to oppose the application in its current form and to continue discussions with the applicant to resolve issues as detailed in the Official Plan Amendment and Zoning By-law Amendment – Decision Report- Refusal, from the Director, Community Planning, Scarborough District dated October 3, 2025.

CONTACT

Samuel Baron, Senior Planner, Community Planning, Scarborough District
Tel. No. 416.392.4582, E-mail: Samuel.Baron@toronto.ca

SIGNATURE

Valesa Faria
Executive Director
Development Review Division