

INTENSIFYING NEIGHBOURHOODS



Rachael Williams

As the city grapples with how to handle development pressures that seek to add greater density around stable residential neighbourhoods, the **Local Planning Appeal Tribunal** is allowing mid-rise and townhouses adjacent to these areas.

In a decision issued on February 13, LPAT member **Paula Boutis** ruled that an appeal to permit an official plan and zoning by-law amendment for an 11-storey mixed-use building and nine

three-storey townhomes should be allowed. Submitted to the city in August 2016, **Pinelake Group** was proposing to intensify the site, located on the southeast corner of Sheppard and Senlac Road in North York, less than one kilometre from the Sheppard Avenue and Yonge Street mobility hub.

Located on a block with two land use designations, the proposed 11-storey midrise would front Sheppard Avenue West, defined as an avenue in the city's official

plan, and sits within lands designated as mixed use. The townhouses are proposed to front onto Bogert Avenue, situated on lands designated neighbourhoods. The proposal does not seek to change these designations.

However, city planning staff opposed the application on the grounds that it was not in line with existing and proposed secondary plans and that it would adversely impact the surrounding neighbourhoods.

“In this hearing, the

tribunal was dealing with an outdated secondary plan dating from the 1980s,” said **WeirFoulds LLP** partner **Barnet Kussner**, representing Pinelake Group.

The Sheppard Avenue Commercial Area Secondary Plan, adopted in 1987, is the in-force secondary plan for the subject site. However, it permits only detached dwellings, office, institutional uses and financial institutions with a maximum height of eight metres.

“The city still took

CONTINUED PAGE 4 ■



Left: Rendering of Pinelake Group's proposed 11-storey mixed-use development at 245 Sheppard Avenue West, containing 105 residential units and seven three-storey townhouses.

ARCHITECT/SOURCE: WZMH ARCHITECTS

Right: Rendering of the townhouses proposed by Pinelake Group.

ARCHITECT/SOURCE: WZMH ARCHITECTS



NEIGHBOURHOODS

CONTINUED FROM PAGE 3

the position that the old secondary plan was a relevant policy document even though it pre-dated both the 2006 and 2017 Growth Plan, all three versions of the [*Provincial Policy Statement*] and the city's own official plan, and even though the old secondary plan basically called for a retention of the existing one to two storey house form buildings with only modest infill development of a similar scale," explained Kussner.

The tribunal ruled that since the secondary plan was over 30 years old, it was "hard-pressed to give it very much weight in the conformity exercise" because it was "far from reflecting current provincial policy and plans."

City council had adopted a new secondary plan for the area on January 31, 2017. However, it was adopted after Pinelake Group submitted its application and currently faces numerous appeals. Under OPA 367, building heights on this part of Sheppard Avenue would be limited to four to five storeys—less than what is being proposed by Pinelake Group. FSI would also be limited to 2.0 and no lot consolidation with the lots on Bogert Avenue or common servicing areas would be permissible.

According to the decision,

the city argued that this new secondary plan, not yet in effect, should be "highly regarded" in the tribunal's decision because it is reflective of a new vision for the area resulting from a lengthy community consultation process. Kussner relied on the clergy principle to argue that because OPA 367 post-dated the application and was under numerous appeals, the tribunal should "have the usual regard" as directed by the *Planning Act*.

"Given that the application predates the ultimate adoption of OPA 367, and given that OPA 367 is under vigorous appeal, it is difficult to place "high regard" on the policies contained within it for the purposes of this appeal," wrote Boutis in her decision.

Kussner said that the tribunal's ruling was also noteworthy because it showcased the city's "unduly rigid and inflexible approach... towards its own official plan." The city had argued that if a neighbourhood-designated area has no existing townhouses, an applicant should not be permitted to bring townhouses into that neighbourhood even though townhouses are expressly permitted within the neighbourhoods designation in the official plan.

The city argued this type of intensification would set a "negative precedent" for similar developments, with implications for neighbourhood designated lands.

"We know that we want to be putting more people closer to transit and urban centres. Townhomes and mid-rises are the types of development that are going to be suitable for families. There's a lot of condos in that neighbourhood and a lot of high-rises and this provides an alternative to that that I think people are really seeking," said **Ryerson City Building Institute** executive director **Cherise Burda**.

According to Kussner, this is the second time along the same segment of Sheppard Avenue West, that the tribunal has rejected the city's position on this issue. The first time was an application at 53-63 Sheppard Avenue West, where **Grmada Holdings** had submitted plans for a 14-storey building with eight townhouse suites fronting on to Bogert Avenue.

"If we need housing and we need missing middle housing then we need to be looking at ways to help build this stuff in a way that's respectful to neighbourhoods," noted Burda.

Although the case did not specifically deal with the merits of OPA 367, Kussner said this decision could be an important precursor to the hearing, which is scheduled to

begin on April 30. Developers and landowners with an interest in the area have appealed OPA 367 on the grounds that the policy does not reflect an adequate height and density allowance for the area and that a planned 36-metre road will require a greater land conveyance from the properties on the south side of Sheppard Avenue West.

The City of Toronto did not grant NRU an interview in time for publication. 🌸