

## **60 Mill Street and 31R Parliament, 370 and 370R Cherry - Request for Directions Regarding OMB Hearing**

**Date:** March 21, 2017

**To:** City Council

**From:** City Solicitor

**Wards:** Ward 28 - Toronto Centre-Rosedale

### **REASON FOR CONFIDENTIAL INFORMATION**

---

This report contains advice or communications that are subject to solicitor-client privilege.

### **SUMMARY**

---

The purpose of this report is to seek further instruction for the Ontario Municipal Board (OMB) hearing on the above-noted appeals, following a mediation facilitated by the OMB. A combined 10-day hearing relating to the two development proposals is scheduled to commence on May 8, 2017. A pre-hearing conference is scheduled for April 4, 2017.

### **RECOMMENDATIONS**

---

The City Solicitor recommends that:

1. City Council adopt the recommendations contained in Confidential Attachment 1 to this report.
2. If the City Solicitor's confidential recommendations are adopted by Council, then City Council authorize the public release of the recommendations contained in Confidential Attachment 1 with remainder of Confidential Attachment 1 to remain confidential as it contains information that is subject to solicitor-client privilege.

## **FINANCIAL IMPACT**

---

Adopting this report will have no financial impact beyond what has already been approved in the current year's budget.

## **DECISION HISTORY**

---

In 1994, the former City of Toronto Council approved Official Plan Amendment 2 to the King-Parliament Part II Official Plan and passed Zoning By-law 1994-0396 to implement a specific planning framework for the Gooderham and Worts site.

The 1994 planning approval permits a mixed use redevelopment of the Gooderham and Worts site. This included the retention and adaptive re-use of a majority of the heritage buildings and construction of new buildings for residential, commercial and modern industrial uses. As part of the planning approvals, heritage easement agreements were registered to secure the preservation, renovation and re-use of the heritage buildings, including Rack House D, which was also designated under Part IV of the Ontario Heritage Act.

Between 1997 and 2000, three residential condominium developments at 70 and 80 Mill Street and 39 Parliament Street were completed under the planning framework.

In 2003, Toronto City Council approved amendments to the 1994 planning framework to reconfigure the public benefits package to provide a better fit with the arts and culture vision for the site promoted by the then new owners (current applicant).

Over the last eight years, several new developments have contributed to the evolution of the Distillery District as a mixed use community, in addition to on-going restoration work.

On June 15, 2011, the applicant (which forms part of a group of associated Distillery District owners) filed a proposal to redevelop 60 Mill Street. This property contains the heritage designated and easement protected Rack House D building, associated with the Gooderham and Worts Special Identity Area (Distillery District). The application proposed to alter the heritage resource by adding a 29-storey hotel and residential tower, totalling 34-storeys with a height of 118 metres including the mechanical penthouse.

On January 10, 2012, the Toronto and East York Community Council (TEYCC) considered a Preliminary Report on the application. The report recommended community consultation and identified the need to review the proposal's impact with respect to the planning framework, and the existing and planned built form surrounding the site. The Preliminary Report for the proposal at 60 Mill Street can be accessed at:

<http://www.toronto.ca/legdocs/mmis/2012/te/bgrd/backgroundfile-43296.pdf>

On June 13, 2014, another applicant associated with the Distillery District group filed a development proposal for 31R Parliament, 370 and 370R Cherry (collectively, the "31R Parliament" application). This application proposed a 57-storey retail, office and residential tower with a height of 189.5 metres including the mechanical penthouse. The application also proposed a 1-storey addition to the previously approved 4-storey office building, to be known as the "Ribbon Building" stretching eastward from the tower toward Cherry Street and having a height of 24.3 metres.

On August 12, 2014, Toronto and East York Community Council (TEYCC) considered a Preliminary Report on the application. The report recommended community consultation, and also directed staff to initiate a built form study for the site, and other potential development sites within and surrounding the Distillery District. The report also expressed concern that the proposal did not fit within the existing built form and heritage context of the area, and did not respect the planning framework of the abutting Distillery District. The Preliminary Report can be accessed at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.TE34.85>

Initiation of the built form study was undertaken, with regard being given to the submission of the two Distillery District applications.

The owners of 60 Mill Street and 31R Parliament Street subsequently appealed their Official Plan Amendments and rezoning applications to the Municipal Board due to Council's failure to make a decision within the time allotted by the Planning Act.

On June 14, 2016, Toronto and East York Community Council considered a status report on draft Official Plan Amendment 304 (OPA 304), an Official Plan Amendment based on the city-initiated built form study for the Distillery District and surrounding areas. The emerging direction of OPA 304 was supportive of a tall building of up to 45 storeys on the 31R Parliament site.

At its meeting of July 12, 2016, City Council adopted items TE17.19 and TE17.20, directing the City Solicitor and other City Staff to attend the OMB hearings for the above-noted matters to oppose the proposed Official Plan Amendment and rezoning applications. The Staff reports recommended opposing the proposals as they represented over-development and did not fit within the existing built form and heritage context of the Distillery District. The Staff reports also noted the applications did not conform to the emerging policy direction of draft OPA 304, the city-initiated built form study to guide an appropriate built form for the Distillery District and surrounding areas. Each of the Request for Direction reports also authorized City staff to continue discussions with the applicant on a revised proposal which addresses the issues set out in the reports. The decision documents, and Request for Direction reports for the 60 Mill application and 31R Parliament application can be accessed at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.TE17.19>  
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.TE17.20>

The OMB agreed to hear the two appeals together at the first pre-hearing on August 2, 2016, since the subject sites share associated owners and are subject to similar statutory, policy and guideline considerations. Following that prehearing, the parties considered whether mediation might be of assistance. In addition, it was considered useful to invite participants to the mediation.

Mediation sessions were conducted by the Municipal Board on February 7, 8 and 28, 2017. City staff, the applicants, representatives on behalf of the owner at 31 Parliament Street, a representative on behalf of the Gooderham and Worts Neighbourhood Association, a representative on behalf of a condominium within the Distillery District and an individual participant were in attendance.

A second pre-hearing was held on March 7 2017. At that time, all were advised of this forthcoming Report for Council directions. A third pre-hearing telephone conference is scheduled on April 4, 2017 to advise the Municipal Board of the status of this file. A 10-day hearing is scheduled to begin on May 8, 2017.

## **COMMENTS**

---

This report is about litigation before the OMB and contains advice or communications that are subject to solicitor-client privilege. The attachment to this report contains confidential information and should be considered by Council in camera.

## **CONTACT**

---

Gordon J. Whicher, Solicitor, Planning & Administrative Law;  
Tel: (416) 392-1228; Fax: (416) 397-5624; Email: [Gordon.Whicher@toronto.ca](mailto:Gordon.Whicher@toronto.ca)

## **SIGNATURE**

---

Wendy Walberg  
City Solicitor

## **ATTACHMENTS**

---

Confidential Attachment 1 - Confidential Recommendations