

## **1417-1431 Yonge Street - OMB Appeal - Official Plan and Zoning Amendment and Rental Housing Demolition Applications - Request for Direction Report**

**Date:** May 17, 2017  
**To:** City Council  
**From:** City Solicitor  
**Wards:** Ward 22 - St. Paul's

### **REASON FOR CONFIDENTIAL INFORMATION**

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

### **SUMMARY**

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This application is for the development of the lands at 1417, 1421-1425, 1427, 1429 and 1431 Yonge Street, located mid-block between St. Clair Avenue East and Pleasant Boulevard on the east side of Yonge Street, with a mixed-use building.

On November 24, 2015, the owner of 1417-1431 Yonge Street appealed the Official Plan Amendment and Zoning By-law Amendment applications (14 268423 STE 22 OZ) to the Ontario Municipal Board ("OMB"), citing City Council's refusal of the applications.

The two appeals have been consolidated into one OMB hearing, which is scheduled to commence on June 12, 2017. The City Solicitor must seek further direction on these two appeals in advance of the scheduled hearing. This report seeks instructions for direction on this matter.

This report has been prepared in consultation with City Planning.

## RECOMMENDATIONS

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The City Solicitor recommends that:

1. City Council adopt the Recommendations contained in Confidential Attachment 1.
2. City Council authorize the public release of the Confidential Recommendations contained in Confidential Attachment 1 and Confidential Attachment 2, if they are adopted by City Council, but that the balance of Confidential Attachment 1 remain confidential at the discretion of the City Solicitor.

## FINANCIAL IMPACT

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There is no financial impact arising from the Confidential Recommendations.

## DECISION HISTORY

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An application for rezoning and an Official Plan amendment was submitted to the City of Toronto on December 30, 2014 (the "Original Application") for the lands at 1417, 1421-1425, 1427 and 1429 Yonge Street on behalf of Kale Management Inc., Yonge-Clair Properties Inc., Milwest Investments Inc. and Kato Krauss ("Terracap"). The Original Application proposed a 42-storey mixed-use building with 420 residential units, two levels of grade-related retail and 136 parking spaces in a four-level underground garage. The proposed building height was 128.45 metres with a 6 metre mechanical penthouse for a total of 134.45 metres, and an overall density of 18.44 times the lot area. A Rental Housing Demolition and Conversion application was also submitted under Section 111 of the *City of Toronto Act* to demolish the existing 13 rental dwelling units on the site.

A Preliminary Report dated March 24, 2015, which addressed a number of concerns and issues to be addressed, was considered by Toronto and East York Community Council on April 14, 2015. The decision of Community Council and a copy of the Preliminary Report can be accessed at this link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.TE5.40>

A Refusal Report dated September 18, 2015 was considered by Toronto and East York Community Council on October 6, 2015 and City Council on November 3, 2015. The decision of City Council and a copy of the Refusal Report can be accessed at this link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.TE11.5>

On November 24, 2015, Terracap appealed Council's refusal of the Zoning By-law and Official Plan amendment applications to the OMB. The first Pre-Hearing Conference for the appeals was held on August 2, 2016, to set the parameters and future date of the

OMB Hearing. At this hearing, Terracap informed the OMB of a revised proposal for its site, which was expanded to include 1431 Yonge Street.

On November 4, 2016, Terracap submitted its revised application to the City (the "Revised Application"). The Revised Application proposes a 46-storey mixed-use building on the site with 379 residential units, 196 parking spaces in a five-level below-grade garage and 432 bicycle parking spaces. The proposed building comprises three retail floors, four office floors, 37 residential floor and one mechanical floor. The proposed building height is 155 metres with a 9 metre mechanical penthouse for a total of 164 metres, and an overall density of 19.08 times the lot area.

The Revised Application proposes a base building 8-storeys in height (41.5 metres), which occupies nearly the entire site. The base building has a 3 metre setback at the ground floor along Yonge Street, a 1.37 metre setback from Tamblyn Lane, and no setbacks from neighbouring properties to the north and south.

The tower in the Revised Application has an average floor plate of 743 square metres and is set back approximately 11.7 metres from the north and south (side) property lines, 5.6 metres from Tamblyn Lane to the east (rear), and 3 metres from Yonge Street, with 3-metre setbacks at floors 19 and 29. Partially projecting triangular-shaped balconies are proposed on the north and south elevations of the tower.

The Revised Application proposes that all vehicles will access the building from St. Clair Avenue East via Tamblyn Lane, a 6-metre wide public lane abutting the rear lot line of the Site.

The Revised Application incorporates numerous revisions from the Original Application, including increased site size, increased building height, increased density, increased residential and retail gross floor area, a reduction in residential units, increased podium height, increased average tower floor plate size, increased tower setbacks to the north, south and to Tamblyn Lane, increased ground floor setback along Yonge Street and direct TTC pedestrian access to the St. Clair subway station.

City Planning's Request for Direction Report, dated January 25, 2017, was considered by Toronto and East York Community Council on February 22, 2017, and City Council on March 9, 2017. City Council has directed the City Solicitor to attend at the OMB with appropriate staff to oppose Terracap's Revised Application, and also authorized the City Solicitor and City Planning staff to continue discussions with Terracap in an attempt to resolve the issues detailed in the January 25, 2017 Report. The decision of City Council and a copy of the Request for Direction Report can be accessed at this link: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.TE22.15>

On April 3, 2016, a second Pre-Hearing Conference was held during which the parameters of the OMB hearing were discussed. Midtown-Yonge Properties L.P., owner of the land to the north of the Terracap lands at 1 St. Clair Avenue East, brought a Motion for Direction seeking an order from the OMB to add an issue to the hearing. The OMB dismissed the Motion.

A two day mediation took place at the OMB on May 8 and 10, 2017, with the following participants: the City, Terracap, Midtown-Yonge Properties L.P., John Bossons, Deer Park Residents Group, Summerhill Residents' Association, Rosehill/Avoca Committee, Linda Miller, and Catholic Cemeteries and Funeral Services of the Archdiocese of Toronto.

A hearing for these matters at the OMB is scheduled for ten days commencing June 12, 2017.

## **COMMENTS**

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This report is about ongoing litigation 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 City Council *in camera*.

## **CONTACT**

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## **SIGNATURE**

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Wendy Walberg  
City Solicitor

## **ATTACHMENTS**

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Confidential Attachment 1  
Confidential Attachment 2