

308-314 Jarvis Street and 225 Mutual Street - Appeal of Zoning By-law Amendment Application

Date: November 29, 2017

To: City Council

From: City Solicitor

Wards: Ward 27 – Toronto Centre-Rosedale

REASON FOR CONFIDENTIAL INFORMATION

This report is about litigation or potential litigation that affects the City.

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

SUMMARY

A Zoning By-law Amendment application was submitted for these lands on January 23, 2012, seeking permission for a 50 storey tower. The application was revised on August 23, 2012 for a 43 storey (136.5 metres including the mechanical penthouse) mixed-use building consisting of a 9-storey base building and a 34-storey tower at 308-314 Jarvis Street and 225 Mutual Street. The proposed tower has an approximate average floor plate size of 780 square metres. The application proposes 470 dwelling units, 4 of which are townhouse units fronting onto Mutual Street, with retail at grade fronting Jarvis Street. Five levels of underground parking are proposed. The heritage property (314 Jarvis Street) is designated under Part IV of the *Ontario Heritage Act* and is protected by a Heritage Easement Agreement with the City. It is proposed that the existing heritage house be retained in situ and conserved, with the rear addition removed. The applicant appealed the Zoning By-law Amendment to the Ontario Municipal Board on January 9, 2015 due to Council's failure to make a decision with respect to the application within the time prescribed by the *Planning Act*.

At its meeting of July 7, 8 and 9, 2015 Council authorized the City Solicitor together with appropriate staff, to attend the Ontario Municipal Board hearing, to among other matters, oppose the appeal and in the event the appeal was allowed in whole or in part, to secure appropriate section 37 *Planning Act* facilities, services and matters.

A 10 day hearing was scheduled to commence on November 20, 2017, however it was rescheduled for 8 days commencing February 7, 2018. This report seeks further direction on this matter.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the confidential instructions to staff in Confidential Attachment 1.
2. City Council authorize the public release of the instructions in Confidential Attachment 1, and Appendices "A" and "C" if adopted by City Council, with the balance of the Confidential Attachment 1 to remain confidential as it contains advice which 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

There are two Ontario Municipal Board decisions respecting portions of the site. The more recent, and larger of the two, being a minor variance appeal of September 2, 1994 for 308, 310 and 312 Jarvis Street and 225 Mutual Street, which allowed for an 18-storey (49.85 metres) building to be constructed on the easterly Jarvis Street portion, of the site with a block of six townhouses fronting on Mutual Street.

The Board decision states that the owner originally applied to the City for an as of right development of a seven storey residential building fronting onto Mutual Street and an eleven storey building fronting onto Jarvis Street. Further, that during the development review process, the City planners, in their effort to achieve the goals and objectives of the Area of Special Identity (McGill-Granby Neighbourhood) (brought into the City of Toronto Official Plan as Area Specific Policy 151), requested changes to the built form to allow a more complementary treatment of the Mutual Street frontage. This was done through a minor variance application for increased height which introduced townhouses on Mutual Street and shifted the available density to Jarvis Street due to its status as a major arterial, allowing for a transition to the Area of Special Identity.

The McGill-Granby Neighbourhood Association (the Association) and Duration Investments Limited appealed the respective decisions of the Committee of Adjustment. The City did not participate in the hearing. The Board subsequently allowed the appeal

by Duration Investments Limited, permitting the variances and dismissed the appeal by the Association. The development did not proceed.

COMMENTS

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

CONTACT

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SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

Confidential Attachment 1 - Confidential Information and Recommendations