



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

874-878 Yonge Street & 3-11 Scollard Street - Request for Directions Regarding OMB Hearing

Date: March 13, 2018

To: City Council

From: City Solicitor

Wards: Ward 27 - Toronto Centre-Rosedale

REASON FOR CONFIDENTIAL INFORMATION

This report contains advice or communications that are subject to solicitor-client privilege. This report contains information regarding potential litigation.

SUMMARY

On June 13, 2016, the City received an application to amend the Official Plan and Zoning By-law to permit a 59-storey tower plus three mechanical storeys (229.4 metres) at 874-878 Yonge Street and 3-11 Scollard Street.

In a report to City Council dated August 12, 2016, City Planning recommended refusal of the application (the "Refusal Report"). City Planning concluded in the Refusal Report that the proposed tower is too tall and the site is too small to accommodate the proposal, and that the proposal does not conform to the Official Plan, is inconsistent with Council-approved guidelines and does not fit within the existing and planned context for the Bloor-Yorkville and North Midtown Area.

Two days prior to City Council's consideration of the Refusal Report, the applicant's lawyer sent a letter dated October 3, 2016 to City Council indicating that the applicant had revised the proposal by reducing the height from 229.4 metres to 179 metres and 59 to 51 storeys (the "Revised Proposal").

City Council adopted the recommendations in the Refusal Report and refused the application to amend the Official Plan and Zoning By-law on October 5, 6 and 7, 2016.

The applicant appealed City Council's decision to the Ontario Municipal Board (the "OMB") on November 8, 2016.

The City subsequently received plans and reports to reflect the Revised Proposal on March 23, 2017. A further submission was made on October 18, 2017.

The applicant has again revised the development proposal for 874-878 Yonge Street and 3-11 Scollard Street, reducing the overall height from 51 storeys to 46 storeys, and 179 metres to 154.8 metres. The gross floor area has been reduced from 243,234 metres to 220,529 metres. The revised plans, drawings and revised elevations, and revised shadow study are attached to this report as Attachments 1, and 2, and are on file with the City Clerk for the purpose of the City Council meeting of March 26, 27 and 28, 2018. These revisions were provided through the applicant's witness statements.

The purpose of this report is to request further instructions for the OMB hearing that is scheduled to commence March 26, 2018.

City Planning has been involved in the preparation of this report.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the recommendations contained in the Confidential Attachment 1 to this report.
2. City Council authorize the public release of the confidential recommendations contained in the Confidential Attachment 1 to this report, if adopted by City Council.
3. City Council direct that all other information contained in Confidential Attachment 1 is to remain confidential at the discretion of the City Solicitor, 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

At its meeting of October 5, 6 and 7, 2016, City Council adopted the recommendations in Item TE18.13, refusing an Official Plan Amendment and Zoning By-law Amendment Application for a 59-storey residential tower plus three mechanical storeys (229.4 metres) at 874-878 Yonge Street and 3-11 Scollard Street.

A copy of the Refusal Report is available on the City's website at:

<https://www.toronto.ca/legdocs/mmis/2016/te/bgrd/backgroundfile-95754.pdf>

A copy of the Supplemental Report containing feedback from the community consultation meeting is available on the City's website at:

<https://www.toronto.ca/legdocs/mmis/2016/cc/bgrd/backgroundfile-97129.pdf>

The owner appealed the Official Plan Amendment and Zoning By-law Amendment application to the OMB on November 8, 2016.

A three-week hearing is scheduled to commence March 26, 2018.

COMMENTS

The City Solicitor requires further instructions. This report is about litigation before the OMB and contains advice or communications that are subject to solicitor-client privilege. Attachment 1 to this report contains confidential advice and should be considered by Council in camera.

CONTACT

Gabe Szobel, Solicitor, Planning & Administrative Tribunal Law; Tel: (416) 338-1889; Fax: (416) 397-564; Email: gabe.szobel@toronto.ca

Cigdem Iltan, Solicitor, Planning & Administrative Tribunal Law; Tel: (416) 392-1652; Fax: (416) 397-5624; Email: cigdem.iltan@toronto.ca

SIGNATURE



Wendy Walberg
City Solicitor

ATTACHMENTS

Confidential Attachment 1 - Confidential Recommendations and Confidential Information

Public Attachment 1 - Revised Architectural Plans, Drawings and Revised Elevation Drawings (on file with the City Clerk)

Public Attachment 2 - Revised Shadow Impact Study (on file with the City Clerk)