



## REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

# 5 Scrivener Square, 4-10R Price Street, & 1095-1107 Yonge Street – Official Plan and Zoning Amendment Applications – Request for Direction Regarding LPAT Hearing

**Date:** July 24, 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**

---

Diamond Corp. and Tricon Capital Group (collectively, the "Applicant") are the owners of lands municipally known as 5 Scrivener Square, 4-10R Price Street, and 1095-1107 Yonge Street in the City of Toronto (the "Subject Site").

The Applicant initially submitted Official Plan and Zoning By-law Amendment applications to the City in May 2017, proposing to redevelop the Subject Site with two mixed-use buildings of 8-storeys (35 metres, including mechanical penthouse) and 26-storeys (97.3 metres, including mechanical penthouse) (the "Application"). The two new buildings would contain a total of 182 rental dwelling units, 3,085 square metres of non-residential floor area, 164 parking spaces within a 4-level underground parking garage, and 203 bicycle parking spaces. The Application proposed to demolish the existing 4-storey buildings at 8-10 Price Street. The existing buildings at 1095-1107 Yonge Street and 4 Price Street are proposed to remain unaltered.

The Subject Site falls within the boundaries of the South Rosedale Heritage Conservation District designated under Part V of the *Ontario Heritage Act* by by-law 115-2003 (the "SRHCD"). The properties at 5 Scrivener Square, 8, 10 and 10R Price Street, and 1107 Yonge Street are categorized as "unrated" properties in the SRHCD.

The properties at 1095-1103 Yonge Street are categorized as "B" rated properties, meaning that they have been identified as having city-wide significance. The properties at 1095-1103 Yonge Street are also subject to a Heritage Easement Agreement dated September 12, 2002, instrument no. E599178 (the "HEA").

On February 6, 2018, the Applicant appealed the Official Plan and Zoning By-law Amendment applications to the Ontario Municipal Board (the "OMB") (now known as the Local Planning Appeal Tribunal) (the "LPAT") due to City Council's failure to make a decision. The appeal is known as LPAT case number PL171410.

On October 17, 2017, Toronto and East York Community Council considered and adopted the recommendations of a Preliminary Staff Report from Community Planning.

A first LPAT prehearing conference regarding the appeal was held on June 14, 2018. A second LPAT prehearing conference regarding the appeal of this matter is scheduled for October 10, 2018.

The purpose of this report is to request further instructions for the upcoming LPAT hearing.

Heritage Preservation Services 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, Confidential Attachment 2, Confidential Schedule "A" to Confidential Attachment 2, Confidential Schedule "B" to Confidential Attachment 2, and Confidential Schedule "C" to Confidential Attachment 2 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

---

The Subject Site falls within the boundaries of the South Rosedale Heritage Conservation District. At its meeting of February 4, 5, and 6, 2003, Toronto City Council adopted the South Rosedale Heritage Conservation District under Part V, Section 42 of the *Ontario Heritage Act*, enacted by Council on February 7, 2003 under By-law 115-2003. The report and Council's direction area available on the City's website at:

<http://www.toronto.ca/legdocs/bylaws/2003/law0115.pdf>

In 1988, the City undertook a two-phased planning study to review the land use planning policies for the area on the east side of Yonge Street between the Canadian Pacific Railway (C.P.R.) tracks to the north and Aylmer Avenue to the south, which includes the Subject Site. In 1995, the OMB approved the Yonge-Summerhill Part II Plan, which includes the Subject Site. City Council later adopted a related development Master Plan for this area in 1997 and a site-specific Zoning By-law 398-2000 in 2000. The site-specific Zoning By-law 398-2000 is available on the City's website at:

<https://www.toronto.ca/legdocs/bylaws/2000/law0398.pdf>

In 2005, Woodcliffe Corporation applied for Official Plan and Zoning By-law amendments for 8-10 & 10R Price Street and 1095-1107 Yonge Street to permit a 38-storey residential tower with a 4-storey base building containing residential, retail, and office uses. The proposal included the expansion of the five historic retail stores at 1095-1103 Yonge Street (known as the "Shops of Summerhill"), and the creation of an urban square at the northwest portion of the site, opposite the restored North Toronto Station and existing urban square. The preservation of the Shops of Summerhill was previously secured in a 2002 Heritage Easement Agreement. The proposal was revised to a 26-storey tower, 97 metres in height and a 5-storey base building. City Council refused the application at its meeting on September 25, 26, 27 and 28, 2006. Council's decision refusing the application is available on the City's website at:

<https://www.toronto.ca/legdocs/2006/agendas/council/cc060925/cofa.pdf> (see pg. 147)

On October 17, 2017 Toronto and East York Community Council adopted City Planning's Preliminary Report on the Official Plan and Zoning Amendment applications for the Subject Site. Community Council's decision and the report can be found at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.TE27.40>

On July 4, 2018 Toronto and East York Community Council adopted the recommendations of City Planning's Request for Direction Report regarding the subject Official Plan and Zoning Amendment applications for the Subject Site. In addition to this report from the City Solicitor which deals with confidential matters related to the appeals of the Official Plan and Zoning Amendment applications, Community Council's recommendations regarding City Planning's Request for Directions report will also be

Report for Action with Confidential Attachment - 5 Scrivener Square, 4-10R Price Street, & 1095-1107 Yonge Street - Official Plan and Zoning Amendment Applications - Request for Directions Regarding LPAT Hearing

considered by City Council at its meeting commencing on July 23, 2018. Community Council's decision and City Planning's report can be found at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.TE34.46>

On July 12, 2018 the Toronto Preservation Board (the "TPB") adopted the confidential recommendations of the City Solicitor's Report with Confidential Attachments regarding heritage matters related to the Official Plan and Zoning Amendment applications for the Subject Site. The TPB's confidential recommendations and the City Solicitor's Report with Confidential Attachments regarding the heritage matters will be considered by City Council at its meeting commencing on July 23, 2018. The TPB's decision and the public component of the report can be found at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.PB36.7>

A first LPAT prehearing conference regarding the appeal of this matter is scheduled for October 10, 2018.

## **COMMENTS**

---

The City Solicitor requires further instructions regarding a without prejudice but not confidential settlement offer that has been received regarding this matter. This City Solicitor's report is in addition to City Planning's Request for Direction Report dated June 20, 2018, addressing the original proposal that was submitted to the City and currently under appeal to the LPAT, and which will also be considered by City Council at its meeting commencing on July 23, 2018.

This report is about litigation before the LPAT 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 the City Council in camera.

## **CONTACT**

---

Alexander J. Suriano, Solicitor, Planning & Administrative Tribunal Law; Tel: (416) 392-4827; Fax: (416) 397-5624; Email: [alexander.suriano@toronto.ca](mailto:alexander.suriano@toronto.ca)

## **SIGNATURE**

---

Wendy Walberg  
City Solicitor

## **ATTACHMENTS**

---

1. Confidential Attachment 1 - Confidential Information
2. Confidential Attachment 2 - Confidential Information
3. Confidential Schedule "A" to Confidential Attachment 2 on file with the City Clerk for the purpose of the July 23, 24 and 25, 2018, City Council Meeting
4. Confidential Schedule "B" to Confidential Attachment 2
5. Confidential Schedule "C" to Confidential Attachment 2 on file with the City Clerk for the purpose of the July 23, 24 and 25, 2018, City Council Meeting