



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

193-195 McCaul Street – Zoning By-law Amendment Application – Request for further Direction Regarding LPAT Hearing

Date: July 9, 2019

To: City Council

From: City Solicitor

Wards: Ward 11 - University-Rosedale

REASON FOR CONFIDENTIAL INFORMATION

This report is about litigation or potential litigation that affects the City or one of its agencies or corporations.

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

SUMMARY

BJL McCaul Inc. (the "Applicant") is the owner of the properties municipally known as 193-195 McCaul Street (the "Subject Property"). In 2017, the Applicant applied for a zoning by-law amendment to City of Toronto Zoning By-law 438-86 in order to facilitate a proposed redevelopment of the Subject Property (the "Application"). The Application included a 19-storey mixed use building with 266 residential units and 597 square metres of retail/service commercial space at grade. The overall height of the building would be 64 metres, inclusive of the wrapped mechanical penthouse, and the proposed floor space index is 12.15 times the area of the lot. The Application would require the demolition of the 2-storey former Silverstein's Bakery building on the site.

The Applicant appealed the Application to the Local Planning Appeal Tribunal (the "LPAT") on December 4, 2017 due to City Council's failure to make a decision. The appeal is known as LPAT File PL171476. A seven day hearing of this appeal is scheduled to be heard by the LPAT commencing on September 3, 2019. The City, the Applicant, Sinai Health System ("Sinai") and a local residents' association attended LPAT led mediation on April 16, 2019 and June 10 and 27, 2019.

Sinai is a party to the proceedings before the LPAT and raised issues including matters relating to noise, impacts on Sinai's existing operations and the future redevelopment of the Sinai lands at 40 Murray Street.

City Planning has been involved in the preparation of this report. The City Solicitor is bringing this report for the purpose of requesting instructions for the upcoming LPAT hearing.

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 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 that is subject to solicitor-client privilege and that Confidential Attachments 2-4 remain confidential at the discretion of the City Solicitor.

FINANCIAL IMPACT

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

DECISION HISTORY

A pre-application consultation meeting was held with the Applicant on August 3, 2017, to provide preliminary feedback and discuss complete application submission requirements. The concerns raised included the height of the proposal, the building setbacks and the level of amenity space provision. The drawings presented at the meeting are similar to those formally submitted as part of the Zoning By-law Amendment application on August 4, 2017.

On December 4, 2017 the Applicant appealed the site specific Zoning By-law Amendment application to the LPAT citing Council's failure to make a decision on the application within the time period prescribed by the *Planning Act*.

A Request for Directions Report (April 16, 2018) on the Application identifying issues to be addressed and directing the City Solicitor and Staff to oppose the application and to conduct a community consultation meeting was adopted by Toronto and East York Community Council on November 8, 2017.

The Request for Directions report can be viewed at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.TE32.16>

A seven day hearing is scheduled to begin on September 3, 2019. Two prehearing conferences were held in this matter and a procedural order was circulated to the LPAT for issuance.

COMMENTS

The City Solicitor requires further instructions. 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 information and should be considered by Council in camera.

CONTACT

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SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

1. Confidential Attachment 1 - Confidential Recommendations and Confidential Information
2. Confidential Attachment 2 - Confidential Information
3. Confidential Attachment 3 - Confidential Information (on file with the City Clerk for the purposes of the July 16, 2019 City Council meeting)
4. Confidential Attachment 4 - Confidential Information