



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

129-137 McCaul Street, 292-294 Dundas Street West and 170 St. Patrick Street - Zoning Amendment Application - Further Request for Directions

Date: July 14, 2020

To: Toronto City Council

From: City Solicitor

Wards: Ward 11 - University-Rosedale

REASON FOR CONFIDENTIAL INFORMATION

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

SUMMARY

On August 31, 2017, a zoning by-law amendment application was submitted to permit a 39-storey mixed use building on the site currently known as 129-137 McCaul Street, 292-298 Dundas Street West and 170 St. Patrick Street (the "Subject Site"). The proposal consisted of 382 residential units, retail, accessory uses for the adjacent church such as community and office space, as well as a child care facility.

On December 29, 2017, the owners of the Subject Site (the "Owners") appealed the Zoning By-law amendment application to the Local Planning Appeal Tribunal ("LPAT") citing the Council's failure to make a decision within the time required by the Planning Act.

On May 14, 2019, City Council adopted recommendations from the City Solicitor to accept an offer dated May 3, 2019 (the "Settlement Offer") and authorized the City Solicitor and appropriate City Staff to attend the LPAT hearing in support of the revised proposal of a 29-storey mixed use building, as detailed in the Settlement Offer. City Council accepted an on-site parkland dedication, approved a development charge credit, and directed the City Solicitor to enter into an agreement pursuant to Section 37 of the Planning Act.

As was instructed by City Council on May 14, 2019, the City Solicitor attended the settlement hearing before the LPAT on July 8, 2019 in support of the Settlement Offer, and requested that the LPAT withhold its final order pending the fulfillment of a number

of conditions by the Owner, including the execution of an agreement with the abutting property owner to ensure future separation distances (the "Limiting Distance Agreement"), an agreement with the abutting property owner to allow for the loading manoeuvring to occur offsite (the "Loading Manoeuvring Agreement"), and a Section 37 agreement.

The purpose of this report is to seek further instructions.

City Planning and Transportation Services have been involved in the preparation of this report.

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 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 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

On May 22, 2018, City Council adopted Item TE32.15 and instructed the City Solicitor to attend the LPAT in opposition to the appeals relating to the lands. For more information:

<https://www.toronto.ca/legdocs/mmis/2018/te/bgrd/backgroundfile-114346.pdf>

On May 14, 2019, City Council adopted recommendations from the City Solicitor on the subject 129-131 McCaul Street, 292-294 Dundas Street West and 170 St. Patrick Street - Zoning Amendment Application - Request for Directions Regarding Local Planning Appeal Tribunal Hearing, including instructing the City Solicitor to accept a settlement offer. For more information:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.CC7.10>

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 advice and should be considered by Council in camera.

CONTACT

Lauren Pinder, Solicitor, Planning & Administrative Tribunal Law; Tel: (416) 392-0797; Fax (416) 397-5624; Email: lauren.pinder@toronto.ca

SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

Confidential Attachment 1 - Confidential Recommendations and Confidential Information