

**149, 151, 171 Front Street West, 7 Station Street, 20  
York Street – Zoning By-law and Official Plan  
Amendments – Request for Direction Regarding  
Ontario Land Tribunal Hearing**

**Date:** July 5, 2021

**To:** City Council

**From:** City Solicitor

**Wards:** Ward 10 - Spadina-Fort York

**REASON FOR CONFIDENTIAL INFORMATION**

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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**

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20 York Inc. (the "Applicant") is the owner of the properties municipally known as 149, 151, 171 Front Street West, 7 Station Street, 20 York Street (the "Subject Site"), located on the block generally boarded by Lower Simcoe Street to the west, Front Street to the north, York Street to the east, and the railway corridor to the south. The Subject Site currently contains an 8-storey non-residential building fronting onto Front Street, a commercial building and enclosed pedestrian walkway known as the SkyWalk that ranges from 1 to 4 storeys, and is traversed by an east-west private driveway with surface parking known as Station Street. The Subject Property includes one heritage listed building (20 York Street) and three heritage designated buildings (7 Station Street (the "Canadian National Express Shed Building"), 151 Front Street West, and the SkyWalk building). To the east of the Subject Site is Union Station. The Metro Convention Centre and InterContinental Hotel are located to the west. The SkyWalk building to the south connects to the Metrolinx UP Express Union Station stop.

On March 5-8, 2007, the City Council approved an application to amend the Official Plan and Zoning By-law for a 36-storey office tower and technology centre on the Subject Site and adopted amending By-laws 594-2007 and 595-2007 (the "2007 Council Approval"). Building permits to develop in accordance with the 2007 Council Approval were never sought.

On February 27, 2014, new Official Plan and Zoning By-law amendment applications were submitted for the Subject Site seeking a different development proposal for a 48-storey office building. On August 25, 2014, City Council approved the new rezoning and official plan amendment applications ("2014 Council Approval"). At that time, City Council also approved a related heritage demolition and alteration permit request to allow for the demolition of the heritage properties known as the Skywalk, 7, 7A, and 7B Station Street, and to also allow for the alteration of 151 Front Street and 20 York Street as part of the 48-storey office development proposal ("2014 Heritage Demolition Approval"). The final by-laws implementing the 48-storey office development associated with the 2014 Council Approval and the 2014 Heritage Demolition Approval were never enacted, as outstanding pre-approval conditions related to comments from Engineering and Constructions Services were never satisfied by the owner.

In March 2019, the Applicant submitted a further revised Official Plan and Zoning By-law amendment proposal to the City for a new development design for the Subject Site. The Applicant's resubmission now proposed a 52-storey office building with an east-west width of 91.5 metres and 0 metre setback from the Lower Simcoe Street property line to the west (the "2019 Proposal"). The 2019 Proposal is intended to contain approximately 116,682 square metres of new commercial Gross Floor Area ("GFA") and 32,362 square metres of retained GFA. The 2019 Proposal is a continuation of the applications that were approved by City Council, but never enacted by final by-law, in the 2014 Council Approval and 2014 Heritage Demolition Approval.

In August 2020, the Applicant appealed the 2019 Proposal to the Local Planning Appeal Tribunal (the "LPAT"), now continuing as the Ontario Land Tribunal ("OLT"). The appeal is known as OLT case number PL200354.

Two case management conferences have been held before the OLT regarding the appeal on January 19, 2021 and May 11, 2021. A third case management conference is scheduled for September 17, 2021. An 8-day OLT hearing is scheduled for November 15 to 24, 2021.

On June 30, 2021, the Applicant's counsel, Stikeman Elliott LLP, submitted to the City Solicitor a with prejudice settlement offer (the "Settlement Offer") based on revised architectural plans also dated June 30, 2021 and prepared by architecture firm Bjarke Ingels Group (the "Revised Plans"). The Revised Plans and Settlement Offer are the result of discussions between the City and the Applicant.

The Settlement Offer is attached to this report as Public Attachment 1 and the Revised Plans are attached as Public Attachment 2. The Settlement Offer and Revised Plans are described further in the "Comments" section below.

The purpose of this report is to request instructions for the upcoming OLT hearing. If the Settlement Offer is accepted, the third case management conference on September 17, 2021 will likely be converted into a settlement hearing. City Planning has been involved in the preparation of this report.

## RECOMMENDATIONS

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The City Solicitor recommends that:

1. City Council adopt the confidential 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 to remain confidential at the discretion of the City Solicitor, as it contains advice subject to solicitor-client privilege.

## FINANCIAL IMPACT

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

## DECISION HISTORY

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On March 5-8, 2017, City Council considered and adopted the recommendations of a Final Report by City Planning as Item TE3.5 approving Official Plan and Zoning By-law Amendment applications required to permit a 36-storey office tower and technology centre on the Subject Site (the "2007 Council Approval"). A copy of City Council's decision and City Planning's report can be found on page 92 of City Council's decision document at the following link:

<https://www.toronto.ca/legdocs/mmis/2007/cc/decisions/2007-03-05-cc03-dd.pdf>

The amending by-laws enacted by Council for the 2007 Council Approval, By-laws 594-2007 and 595-2007, can be found at the following links:

<https://www.toronto.ca/legdocs/bylaws/2007/law0594.pdf>

<https://www.toronto.ca/legdocs/bylaws/2007/law0595.pdf>

On August 24, 2014, City Council considered and adopted the recommendations of a Final Report by City Planning as Item TE34.11 approving new Official Plan and Zoning By-law Amendment applications required to permit a 48-storey office building on the Subject Site (the "2014 Council Approval"). A copy of City Council's decision and City Planning's report can be found at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.TE34.11>

On August 24, 2014, City Council also considered and adopted the recommendations of a related Heritage Demolition and Alterations Report by the Director, Urban Design, City Planning, as Item TE34.12 required to permit the demolition of the heritage properties known as the Skywalk, 7, 7A, and 7B Station Street and to allow for the alteration of 151 Front Street and 20 York Street as part of the 48-storey office development proposal ("2014 Heritage Demolition Approval"). A copy of City Council's decision and the Director, Urban Design's report can be found at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.TE34.12>

## COMMENTS

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The Settlement Offer and the Revised Plans show a revised proposal that includes certain changes to the design of the building sought in the 2019 Proposal. The Settlement Offer and Revised Plans include the following:

- The height of the proposed building has increased from 52 storeys (265 metres, including mechanical penthouse) to 54 storeys (283 metres, including mechanical penthouse);
- The east-west width of the proposed building has been decreased from 91.5 metres to 87 metres;
- The setback from Lower Simcoe Street at the west of the proposed building has been increased from 0 metres to 4 metres;
- The height of the Station Street passageway, which traverses the site from west to east and connects Lower Simcoe Street to York Street, has been increased from 11 metres to 12 metres;
- The height of the 5 metre wide connector piece forming part of the new SkyWalk component of the building that is immediately adjacent to the existing building at 20 York Street has been lowered to be below the cornice line of 20 York Street;
- The proposed new building will have 135,000 square metres of new GFA (in addition to the existing GFA of 28,544 square metres retained in the buildings at 20 York Street, 151 Front Street, and the SkyWalk);
- A total of 142 vehicular parking spots are provided, consisting of 96 new parking spaces and 46 existing parking spaces;
- A total of 4 Type B and 4 Type C loading spaces are provided; and
- A total of 455 bike storage spaces are provided.

In addition to the built form changes set out above, the following is proposed to be secured as part of the Settlement Offer and the Revised Plans:

- The Applicant will complete a revised Heritage Impact Assessment to the satisfaction of the Senior Manager, Heritage Planning, that includes the complete Documentation and Interpretation Plan for the SkyWalk and the Canadian National Express Shed Building and a detailed Conservation Plan for the heritage buildings at 20 York Street and 151 Front Street West;
- The Applicant agrees to, at a minimum, achieve Energy Efficiency and Greenhouse Gases ("GHGs") targets of the Toronto Green Standards ("TGS") Tier 2, and agrees to assess the commercial and engineering feasibility of pursuing TGS Tier 4 standards in whole or in part for the development;
- The Applicant has agreed to a Section 37 community benefit contribution in the form of a cash payment of \$4,500,000 to the City to be allocated towards the following:
  - (i) \$1,500,000 towards public art;
  - (ii) \$1,000,000 towards new off-site affordable housing;
  - (iii) \$1,000,000 towards arts and culture in Ward 10; and
  - (iv) \$1,000,000 for the study of and/or capital investment in the implementation of the Downtown Parks and Public Realm Plan.

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

## **CONTACT**

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## **SIGNATURE**

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Wendy Walberg  
City Solicitor

## **ATTACHMENTS**

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1. Public Attachment 1 - Settlement Offer dated June 30, 2021
2. Public Attachment 1 - Revised Plans dated June 30, 2021
3. Confidential Attachment 1 - Confidential Recommendations and Confidential Information