



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

22 Balliol Street - Zoning By-law Amendment Application - Ontario Land Tribunal Hearing - Request for Directions

Date: July 7, 2021

To: City Council

From: City Solicitor

Wards: Ward 12 - Toronto-St. Paul's

REASON FOR CONFIDENTIAL INFORMATION

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

The purpose of this report is to request further instructions for a hearing scheduled to commence on September 27, 2021 before the Ontario Land Tribunal (the "**OLT**").

SUMMARY

On February 23, 2016, the City received a Zoning By-law Amendment application for 22 Balliol Street to permit a 38 storey (119.25 metre not including mechanical penthouse) mixed-use (retail and residential) rental building containing 425 dwelling units.

The applicant appealed City Council's neglect or failure to make a decision on its application for the Zoning By-law Amendment (the "**Appeal**") to the Local Planning Appeal Tribunal (the "**LPAT**"), now the OLT, on October 26, 2017.

At its meeting of January 30 and 31, 2019, City Council directed the City Solicitor, along with appropriate staff, to oppose the application at the LPAT.

A twelve day hearing was originally scheduled to commence at the LPAT on June 15, 2020. Due to the Covid-19 pandemic, this hearing was cancelled and rescheduled for a twelve day hearing scheduled to commence at the OLT on September 27, 2021.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the recommendations contained in the Confidential Attachment 1 to the report (July 7, 2021) from the City Solicitor.
2. City Council authorize the public release of the confidential recommendations contained in the Confidential Attachment 1, and Confidential Appendix "A" to the report (July 7, 2021) from the City Solicitor, if adopted by City Council.
3. City Council direct that all other information contained in Confidential Attachment 1 to the report (July 7, 2021) from the City Solicitor is to remain confidential at the discretion of the City Solicitor, as it contains advice which is subject to solicitor-client privilege.

FINANCIAL IMPACT

There is no financial impact arising from the adoption of the Confidential Recommendations beyond what has already been approved in the current year's budget.

DECISION HISTORY

A pre-application consultation meeting was held on December 17, 2015. Staff raised concerns with the proposed floor plate size, the proximity of the tower to the east property line, the base building height, the treatment of the building at grade and the overall height of the development. At a subsequent pre-application meeting of February 22, 2016, staff reiterated its concerns.

A Preliminary Report on the application was adopted by Toronto and East York Community Council on May 10, 2016 authorizing staff to conduct a community consultation meeting. The Preliminary Report can be found at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.TE16.34>

On October 26, 2017, the applicant appealed City Council's neglect or failure to make a decision on its application to the LPAT.

On July 23, 2018, City Council adopted Official Plan Amendment 405 (Midtown in Focus) with modifications and authorized the Chief Planner and Executive Director, City Planning to seek the approval of the Minister of Municipal Affairs of Ontario for Official Plan Amendment 405. The Council decision can be found at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item+2018.PG31.7>

On June 5th, 2019, the Ministry of Municipal Affairs and Housing made a decision on OPA 405, modifying some of the Council adopted Midtown in Focus, including the building height permissions in the Midtown area.

The LPAT held the first Pre-hearing Conference on the appeal on November 6, 2018. A Request for Direction Report was adopted with amendments at the January 30 and 31, 2019 meeting of City Council. The Request for Direction Report can be found at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.TE2.4>

The LPAT scheduled a twelve day hearing to commence on June 15, 2020. Due to the Covid-19 pandemic, this hearing had been rescheduled to commence at the OLT on September 27, 2021.

On July 2, 2021, the City received a With Prejudice settlement offer from the applicant's lawyers, Goodmans LLP, attached as Public Attachment 1 (the "**With Prejudice Settlement Offer**"). The offer contains revised plans, including a site plan, attached as Public Attachment 2 (the "**Revised Plans**"). The applicant intends to present the Revised Plans at the OLT hearing for approval.

In response to the concerns raised by City staff in numerous meetings with the applicant, and in response to concerns raised by residents and the residents' group, the Revised Plans include a number of modifications.

Original Proposal

The original proposal submitted in 2016 was to permit a 38-storey residential building (125.25 metres to the top of the mechanical penthouse) with a tower floor plate of 815 square metres. The proposed base building was 3-storeys rising to 8-storeys at the southwest corner along Balliol Street, with a 4 metre first-floor setback along Balliol Street. The proposal contained 425 apartment units with a unit mix of 8 percent studio units, 74 percent 1-bedroom units, 17 percent 2-bedroom units and 1 percent 3-bedroom units. The original proposal also included retail uses on the ground floor, and a 4-level underground parking garage with 155 parking spaces.

Settlement Proposal

The settlement proposal in the Revised Plans is for a 38-storey residential building (126 metres to the top of the mechanical penthouse) with a tower floor plate of 750 square metres. The proposed base building would be 4-storeys and step down to 1 storey on the east side of the site. The base building would also include a 6 metre first-floor setback from the property line on the eastern portion of the site along Balliol Street and step back 1 metre above the second floor and 1.5 metres above the fourth floor. The proposal would include a grocery store on the ground floor and residential units above. The unit mix would contain a minimum 10 percent 3-bedroom units, 15 percent 2-bedroom units, and 15 percent 2-bedroom or 3-bedroom units (or units that are convertible to 2-bedroom or 3-bedroom units). The settlement proposal also includes a 3 metre wide pedestrian midblock connection on the east side of the site which is not

covered by the building. Parking would be provided in a 3-level underground parking garage with 114 parking spaces.

COMMENTS

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

CONTACT

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SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

Public Attachment 1 - Letter from Goodmans LLP dated July 2, 2021 containing With Prejudice Settlement Offer

Public Attachment 2 - Revised Plans dated July 6, 2021 by gh3

Confidential Attachment 1 - Confidential Information

Confidential Appendix "A" - Confidential Information