



## REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

### 372-378 Yonge Street - Official Plan and Zoning By-law Amendment Applications - Request for Directions Report

**Date:** June 29, 2022

**To:** City Council

**From:** City Solicitor

**Wards:** 11 - University-Rosedale

#### REASON FOR CONFIDENTIAL INFORMATION

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

#### SUMMARY

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The purpose of this report is to request further instructions for the Ontario Land Tribunal ("OLT") hearing into this matter currently scheduled to commence on September 7, 2022, for three weeks. The applicant appealed the proposed Zoning By-Law and Official Plan amendments to the OLT due to Council's failure to make a decision on the application within the time prescribed by the *Planning Act*.

#### RECOMMENDATIONS

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The City Solicitor recommends that:

1. City Council adopt the recommendations contained in the Confidential Attachment 1 to this report.
2. If the confidential instructions in Confidential Attachment 1 are adopted, City Council authorize the public release of the recommendations contained in the Confidential Attachment 1, with the balance of Confidential Attachment 1 to the report and Confidential Appendix A to remain confidential at the discretion of the City Solicitor, as they contain advice and information that is subject to solicitor-client privilege.

## FINANCIAL IMPACT

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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

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In 2020, an application for an Official Plan and Zoning By-law amendment was made for the lands at 372-376 Yonge, located at the southwest corner of Gerrard and Yonge. The application proposed a 74-storey mixed use building with 406 dwelling units and a total gross floor area of 35,871 square metres. The proposed building height was 255 metres including the mechanical penthouse, with no vehicular parking proposed. The subject lands are currently occupied by the John M. Lyle Building (the Elephant and Castle pub), designated under Part IV of the *Ontario Heritage Act* and two to three-storey buildings primarily used as commercial retail space.

A Preliminary Report was adopted by Toronto East York Community Council on October 15, 2020 for a proposal at 372-378 Yonge Street. The Preliminary Report is available via the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.TE19.23>

On January 18, 2021, the applicant appealed the Zoning By-law and Official Plan amendment applications to the OLT due to Council not making a decision within time frames in the *Planning Act*. A Request for Directions Report (dated March 23, 2021) from the Director, Community Planning, Toronto East York District, was considered by Toronto East York Community Council on April 21, 2021. City Council considered the report at its meeting commencing May 5, 2021 and adopted the item, directing the City Solicitor and Planning staff to attend at the OLT and oppose the Zoning By-law and Official Plan Amendment Applications. The Council decision and related report can be accessed via this link:

<https://www.toronto.ca/legdocs/mmis/2021/te/bgrd/backgroundfile-165304.pdf>

On September 16, 2021, a resubmission of the application was filed which included revisions to the architectural massing of the roof to address shadow concerns on Allen Gardens, a minor reduction in overall height of the building and a the redesign of the podium elements to respond to Heritage Planning staff comments.

The OLT held a case management conference on September 17, 2021 at which two neighbouring property owners (Great Eagle Hotels (Canada) Limited and 2348398 Ontario Inc./Mang Investments Limited) were made parties to the proceedings. There were no requests for participant status. A 14 day was scheduled and is set to commence on September 7, 2022.

## COMMENTS

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The City Solicitor requires further instructions on this matter prior to the September 7, 2022 OLT hearing date. The City Solicitor may return to City Council for further instruction regarding this matter in early 2023.

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 advice and should be considered by City Council *in camera*.

## CONTACT

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## SIGNATURE

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Wendy Walberg  
City Solicitor

## ATTACHMENTS

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1. Confidential Attachment 1 - Confidential Information
2. Confidential Appendix A - Confidential Information