

**1358-1360 and 1354-1356 Queen Street West and 8-10,
12 and 14 Brock Avenue Official Plan and Zoning By-
law Amendment Applications - Request for Direction**

Date: July 7, 2022

To: City Council

From: City Solicitor

Wards: Ward 4 – Parkdale-High Park

REASON FOR CONFIDENTIAL INFORMATION

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

SUMMARY

The purpose of this report is to request further instructions for the Ontario Land Tribunal ("Tribunal") proceeding that is currently scheduled for April 3-19, 2023. The owner has provided a revised development proposal that depicts the retention of the designated heritage buildings and makes changes to the proposed built form.

On July 14, 2021 City Council directed the City Solicitor along with appropriate staff to oppose the appeal.

On June 15, 2022 City Council considered the heritage alterations associated with the revised development approval, ultimately approving the alterations under the *Ontario Heritage Act* in the event the revised development approval is approved by the Tribunal.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the confidential instructions to staff in Confidential Attachment 1 to the report (July 7, 2022) from the City Solicitor.

2. City Council authorize the public release the confidential instructions to staff in Confidential Attachment 1 to the report (July 7, 2022) from the City Solicitor if the confidential recommendations are adopted by City Council.

3. City Council direct that the balance of Confidential Attachment 1 to the report (July 7, 2022) from the City Solicitor 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 July 14, 2021, City Council considered a Request for Direction Report from the Director, Community Planning, Toronto and East York District, dated June 1, 2021, in relation to the application to amend the Official and Zoning By-law for 1354-1360 Queen Street West and 8-14 Brock Avenue. City Council directed the City Solicitor, together with City Planning staff and other appropriate staff, to attend the Ontario Land Tribunal (the "OLT") in opposition of the application in its current form. The Request for Direction Report is available at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.TE26.16>

On July 14, 2021, City Council also indicated its intention to designate 1354, 1358, and 1360 Queen Street West under the *Ontario Heritage Act*. On November 9, 2021, City Council affirmed its decision to state its intention to designate 1354, 1358, and 1360 Queen Street West, following a letter of objection from the landowner's legal counsel. The designation was appealed to the OLT by the landowner's legal counsel on December 14, 2021, but the appeal has subsequently been withdrawn.

On June 15, 2022 City Council considered the recommendations of the Toronto Preservation Board with respect to the alterations of the now heritage-designated properties necessitated by the Settlement Offer. Those alterations were approved, in the event the Tribunal approved the Settlement Offer. That decision and the report from the City Solicitor can be found at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2022.CC45.6>

COMMENTS

The City has received a with prejudice settlement offer in the form of revised plans for the site. Public Attachment "1" is a with prejudice settlement offer letter dated April 25, 2022 (the "**Settlement Offer**"), from Aird & Berlis LLP. Attached as Public Attachment "2" are revised architectural plans dated April 22, 2022 (the "**Settlement Offer Plans**"), from Giannone Petricone Associates.

Settlement Offer

The Settlement Offer proposes a modified conservation strategy which now includes the retention and conservation of all three heritage buildings, including the three-storey heritage building at 1354 Queen Street West. In addition to the modified conservation strategy, the Settlement Offer proposes to increase the height of the building from nine to 11-storeys (42.9 metres).

The increased building height results in an increase of 1,687.3 square metres of GFA, increasing the total GFA to 11,386.7 square metres. Changes to the proposed GFA and number of residential units, include:

- A reduction of 62 square metres to the proposed retail GFA, reducing it to 385.6 square metres;
- An increase of 2.4 square metres to the proposed community agency space, increasing it to 93.6 square metres;
- An increase of 1,746.9 square metres to the proposed residential GFA, increasing it to 10,907.5 square metres; and
- An increase of 25 residential units, increasing the unit count to 142 units.

Heritage Conservation

On April 28, 2022, the Tribunal confirmed the withdrawal of the owner's appeal of the heritage designation of 1354, 1358, and 1360 Queen Street West.

The Conservation Strategy for the revised proposal is a considerable departure from the original proposal which proposed to demolish the entire heritage building at 1354 Queen Street West. The revised proposal incorporates a number of design considerations intended to mitigate impact on the on-site and adjacent designated properties.

The City Solicitor requires further instructions on this matter. This report concerns litigation before the Ontario Land Tribunal 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 City Council *in camera*.

CONTACT

Matthew Longo, Solicitor, Planning & Administrative Tribunal Law Contact: 416-392-8109 or Matthew.Longo@toronto.ca

SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

1. Public Attachment 1 – Letter from Aird & Berlis LLP dated April 25, 2022
2. Public Attachment 2 – With Prejudice Architectural Drawings and Renderings prepared by Giannone Petricone Associates dated April 22, 2022
3. Confidential Attachment 1 – Confidential Report form City Solicitor