

## **409-415 Yonge Street, 9 and 17 McGill Street - Official Plan Amendment and Zoning By-law Amendment Application - Request for Directions Report**

**Date:** December 6, 2022

**To:** City Council

**From:** City Solicitor

**Wards:** Ward 13 - Toronto Centre

### **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 an Ontario Land Tribunal hearing that is currently scheduled to commence on May 8, 2023 for two weeks and a case management conference scheduled for December 15, 2022.

### **SUMMARY**

---

The purpose of this report is to request further instructions for an Ontario Land Tribunal (the "**OLT**"). In 2019, the applicant appealed its zoning by-law amendment application for 409-415 Yonge Street and 9 and 17 McGill Street (the "**Site**") to the OLT due to Council's refusal of the application within the time prescribed by the *Planning Act* (the "**ZBA Appeal**").

In 2022, the applicant appealed its request to amend the City's Official Plan for the Site to the OLT due to Council's failure to make a decision on that application within the time prescribed by the *Planning Act* (the "**OPA Appeal**").

The applicant revised and resubmitted the appealed applications on or around December 29, 2021 (the "**Revised Proposal**"). The Revised Proposal requires an amendment to the City's Official Plan, including the Downtown Plan, and the former City of Toronto Zoning By-law 438-86 and Toronto Zoning by-law 569-2013.

The original proposal required permissions for a 42-storey residential addition above an existing 19-storey office building resulting in an overall building height of 61 storeys (233 metres) and a floor space index (FSI) of 24.3 times the area of the lot. The proposed addition would include 450 residential dwelling units totalling 36,128 square metres in area and also proposes; 900 square metres of indoor amenity area and no outdoor amenity space; 74 parking spaces located below grade within the three levels of the existing parking garage; and 577 bicycle parking spaces. As a whole, the proposed building would comprise a total of 53,064 square metres, of which 16,936 square metres is existing non-residential gross floor area.

The Revised Proposal removes the existing office building and proposes a new 69-storey mixed use tall building on the Site. Primarily non-residential uses are proposed for the first storey within the base building (save for a residential lobby) within the base building, and office uses are proposed for the second through sixth storeys of the base building. Residential uses and related amenity space are proposed for the rest of the building. A statistical comparison between the original proposal and the Revised Proposal can be found below.

The Revised Proposal requires an amendment to the City's Official Plan to re-designate the McGill Parkette (which forms a part of the Site and is currently leased to the City as parkland) from *Parks* to *Mixed Use Areas*, to re-designate said lands from *Parks* as *Mixed Use Areas 2 - Intermediate* as shown on the Downtown Plan Maps 41-3 and 41-3C, and to establish a Site and Area Specific Policy in Chapter 7 of the Official Plan to permit the proposed 69-storey building on the lands.

## **RECOMMENDATIONS**

---

The City Solicitor recommends that:

1. City Council adopt the recommendations contained in the Confidential Attachment 1 to the Report (December 7, 2022) from the City Solicitor.
2. City Council authorize the public release of the confidential recommendations in Confidential Attachment 1 to this report from the City Solicitor at the discretion of the City Solicitor, if adopted by City Council.
3. City Council direct that all other information contained in Confidential Attachment 1 to this report from the City Solicitor is to remain confidential at the discretion of the City Solicitor, as it contains advice and information, 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

---

### *Pre-Application Consultation*

A pre-application consultation meeting was held with the applicant on March 15, 2017 on a proposed 51-storey, 500 unit tower addition above and to the rear of the existing 19-storey office building. The original proposal would have resulted in the complete removal and relocation of the McGill-Granby Parkette. Supplementary information relating to the proposed Zoning By-law Amendment application was provided to City staff on October 2, 2017. Community Planning staff then sent a letter to the applicant dated November 14, 2017 along with the requested complete application checklist. Concerns raised in the letter included: the proposed cantilever of the tall building over the McGill Parkette; shadowing on nearby parks, public realm and the Neighbourhood; and overlook caused by the proposal.

### *City Council Decisions*

At its meeting of February 26, 2019, City Council considered a Request for Interim Directions Report dated January 18, 2019 from the Director of Community Planning, Toronto and East York District (Item TE3.7). City Council directed City staff to continue to review the application and resolve any outstanding issues detailed in the report. A copy of the Interim Directions Report and the decision of City Council can be found here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.TE3.7>

On June 18 and 19, 2019, City Council refused the Zoning By-law Amendment application for the reasons set out in the report from the Director, Community Planning, Toronto and East York District. A copy of the Refusal Report and decision of City Council can be found here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.TE6.13>

### *OLT Process*

The OLT has held several case management conferences on this matter. A further scheduled case management conference, originally scheduled for December 20, 2022 has now rescheduled at the direction of the OLT for December 15, 2022. The City has been directed to provide the OLT and the parties with its issues list with respect to the OPA Appeal and ZBA Appeal. A 10-day hearing is scheduled to commence on May 8, 2023.

## COMMENTS

---

In late December 2021, the applicant resubmitted the zoning by-law amendment application along with updated reports, plans and drawings and requested an application to amend the City's Official Plan for the Revised Proposal for the Site. The architectural drawings for the Revised Proposal are attached as Public Attachment 1.

## The Revised Proposal

The applicant proposes to amend the Official Plan and Zoning By-law to permit a new 69-storey mixed-use tall building. The existing office building on the Site is proposed to be demolished.

The Revised Proposal is a substantive change from the original application. The proposed development is now for a new development, as distinct from an addition, in a tower podium form with office space in the podium and residential uses in the tower component of the proposed development.

The table below provides a comparison of key statistics between the original and Revised Proposal:

Category	Original Application	Revised Proposal (December 29, 2021)
Gross floor area Residential GFA Non-Residential GFA	36,128.5 square metres 16,936.3 square metres	34,424 square metres 6,595 square metres
Floor space index	24.3	18.77
Building height	61-storey (233 metres excluding mechanical, 239 metres including mechanical)	69-storey (223.9 metres excluding mechanical, 229.9 metres including mechanical)
Tower setbacks to property line	North 5.75 metres South 3.8 metres West 0.7 metres East 12.5 metres	North 9.94 metres South 12.55 metres West 5.15 metres East 14.3 metres
Tower stepbacks from podium edge	North 0 metres South 0 metres West 0 metres East 0 metres	North 1.9 metres South 11.55 metres West 4.65 metres East 1.8 metres
Amenity space Indoor Outdoor	900 square metres (2 square metres/unit) 0 square metres (0 square metres/unit)	942 square metres (2.0 square metres/unit) 942 square metres (2.0 square metres/unit)
Dwelling unit mix Bachelor One bedroom Two bedroom Three bedroom Total	0 (0 percent) 304 (67.6 percent) 94 (20.9 percent) 52 (11.5 percent) 450	0 (0 percent) 166 (35 percent) 193 (40.9 percent) 51 (10.8 percent) 471

Parking Vehicle	73	122
Bicycle Loading	577 1 Type G, 1 Type C (shared)	506 1 Type G

Detailed project information may be found on the City's Application Information Centre at:

[http://app.toronto.ca/AIC/index.do?folderRsn=pox6pMQy\\_percent2Boboph\\_percent2FJ1xJcsw\\_percent3D\\_percent3D](http://app.toronto.ca/AIC/index.do?folderRsn=pox6pMQy_percent2Boboph_percent2FJ1xJcsw_percent3D_percent3D)

The revised plans may be found on the City's Application Information Centre.

## **APPLICATION BACKGROUND**

---

### **Reasons for Application**

An amendment to the Official Plan is required to address the Parks designation on the lands for the McGill Parkette currently leased from the owner by the City.

An amendment to City of Toronto Zoning By-law 569-2013 is required to create performance standards to facilitate the development, including, but not limited to: maximum permitted height, density, mix of uses, setbacks and parking. An amendment to former City of Toronto Zoning By-law 438-86 is no longer required for the CR Zone.

### **Agency Circulation Outcomes**

The application together with the applicable reports noted above have been circulated to all appropriate agencies and City Divisions for the resubmission. Responses received have been used to assist in evaluating the application by City Planning. This Report has been prepared in consultation with City Planning, Parks, Forestry and Recreation, Transportation Planning and Transportation Services, Toronto Transit Commission, Strategic Initiatives and Policy Analysis, and Engineering and Construction Services.

### **Development Application at 399-405 Yonge Street**

On the lands municipally known as 399 to 405 Yonge Street in Application No. 22 162248 STE 13 OZ are subject to an application for a zoning by-law amendment to permit a 76-storey mixed-use building having 828 dwelling units and a non-residential gross floor area of 191.84 square metres, and a residential gross floor area of 53,409.67 square metres. This application was filed on or around June 14, 2022 and is under appeal to the OLT as of November 11, 2022. Staff have not yet reported to City Council in respect of this application.

## **407 Yonge Street**

Between 399 to 405 Yonge Street and the Site, there is a property municipally known as 407 Yonge Street which is not the subject of a development application.

## **CONTACT**

---

Mark Piel, Solicitor, Planning & Administrative Tribunal Law Tel: 416-392-2124; Email: [Mark.Piel@toronto.ca](mailto:Mark.Piel@toronto.ca)

Daniel Elmadany, Solicitor, Planning & Administrative Tribunal Law Tel: 416-397-5709; Email: [Daniel.Elmadany@toronto.ca](mailto:Daniel.Elmadany@toronto.ca)

## **SIGNATURE**

---

Wendy Walberg  
City Solicitor

## **ATTACHMENTS**

---

1. Public Attachment 1 - Architectural Plans prepared by Kirkor Architects and Planners, dated December 17, 2021
2. Confidential Attachment 1 - Confidential Information