

## **2 - 6 Howard Park Avenue – Official Plan and Zoning By-law Amendment Applications – Request for further Direction Regarding OLT Hearing**

**Date:** January 26, 2023

**To:** City Council

**From:** City Solicitor

**Wards:** 4 - Parkdale-High Park

### **REASON FOR CONFIDENTIAL INFORMATION**

---

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**

---

BJL HP Corp. (the "Applicant") is the owner of the properties municipally known as 2-6 Howard Park Avenue (the "Subject Property"). On April 21, 2021, the Applicant applied for Official Plan and Zoning By-law Amendments in order to facilitate a proposed redevelopment of the Subject Property (the "Applications"). The Applications proposed an 11-storey mixed use building with 128 residential units and 377 square metres of commercial retail space at grade. The proposed overall height of the building is 39.95 metres, inclusive of the mechanical penthouse, and the proposed floor space index is 7.93 times the area of the lot. The Application would require the demolition of the 1-storey Master Mechanic automobile service and repair shop.

The Applicant appealed the Application to the Ontario Land Tribunal (the "OLT") on November 5, 2021 due to City Council's failure to make a decision. A nine day hearing of this appeal is scheduled to be heard by the OLT commencing on March 27, 2023.

The City Solicitor is bringing this report for the purpose of requesting instructions for the upcoming OLT hearing.

## RECOMMENDATIONS

---

The City Solicitor recommends that:

1. City Council adopt the 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 if adopted by City Council.
3. City Council direct that all other information contained in Confidential Attachment 1 is to remain confidential at the discretion of the City Solicitor, as it contains advice that is subject to solicitor-client privilege and that Confidential Attachments 2 and 3 remain confidential at the discretion of the City Solicitor.

## FINANCIAL IMPACT

---

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

## DECISION HISTORY

---

A pre-application consultation meeting was held with the Applicant on January 2, 2021, to provide preliminary feedback and discuss complete application submission requirements. The concerns raised included the height of the proposal, the building setbacks and the space provided within the pedestrian realm. The drawings presented at the meeting are similar to those formally submitted as part of the Official Plan and Zoning By-law Amendment applications on April 21, 2021.

On November 5, 2021 the Applicant appealed the applications to the OLT citing Council's failure to make a decision on the application within the time period prescribed by the *Planning Act*.

A Request for Directions Report (January 25, 2022) on the Applications identifying issues to be addressed and directing the City Solicitor and Staff to oppose the Applications and to conduct a community consultation meeting was adopted by Toronto and East York Community Council on February 16, 2022 and the recommendations were adopted by City Council at its meeting of March 9, 2022.

The Request for Directions report can be viewed at:

<https://secure.toronto.ca/council/agenda-item.do?item=2022.TE31.19>

A 9 day hearing is scheduled to begin on March 27, 2023. Two Case Management Conferences were held in this matter and a procedural order was issued by the OLT.

## **COMMENTS**

---

The City Solicitor requires further instructions. This report is about litigation before the OLT and contains advice or communications that are subject to solicitor-client privilege.

## **CONTACT**

---

Nathan Muscat, Solicitor, Planning & Administrative Law, Tel: 416-397-5475, Fax: 416-397-4421, E-mail: [nathan.muscat@toronto.ca](mailto:nathan.muscat@toronto.ca)

## **SIGNATURE**

---

Wendy Walberg  
City Solicitor

## **ATTACHMENTS**

---

1. Confidential Attachment 1 - Confidential Recommendations and Confidential Information
2. Confidential Attachment 2 - Confidential Information
3. Confidential Attachment 3 - Confidential Information