

156-160 John Street - Zoning By-law Amendment Application - Request for Direction

Date: January 26, 2023
To: City Council
From: City Solicitor
Wards: Ward 10 - Spadina-Fort York

REASON FOR CONFIDENTIAL INFORMATION

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

SUMMARY

On September 17, 2018, a Zoning By-law Amendment application was submitted for a six-storey addition to an existing five-storey non-residential building at the properties known as 156-160 John Street (the "**Site**").

On April 11, 2022, the Applicant appealed the application to the Ontario Land Tribunal ("**OLT**") due to Council not making a decision within the 90-day time frame in the *Planning Act*.

On January 25, 2023, the Applicant submitted a With Prejudice settlement offer to the City, (the "**Settlement Proposal**") set out in Public Appendices "A" and "B" to this Report.

The purpose of this report is to request further instructions for the future OLT hearing that is not yet scheduled.

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, at the discretion of the City Solicitor.

3. City Council direct that all other information contained in Confidential Attachment 1 is to remain confidential, 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

No decisions have been made by Council on this zoning by-law amendment application.

An OLT Case Management Conference was held on August 8, 2022. Mediation was held between the parties on December 8, 2022. The OLT has scheduled a second Case Management Conference on February 24, 2023 for the appeal.

COMMENTS

The Settlement Proposal

The Applicant has submitted a with prejudice development proposal for an 11-storey non-residential building with a height of 43.67 metres, including the mechanical penthouse. The existing five-storey brick building is being retained, with a six-storey addition proposed to be constructed on top. The addition is to be stepped back 3.47 metres from the existing front wall while maintaining the existing north side setback of 0 to 1.17 metres, south side setback of 0.27 metres abutting a public lane, and rear setback of 2.7 metres.

The Site is located adjacent to, but not within, the Queen Street West Heritage Conservation District, the Council-adopted King-Spadina Secondary Plan (2020), as modified in May 2022, and the Council-adopted King-Spadina Heritage Conservation District (2017), as modified in March 2022. Both the King-Spadina Secondary Plan (2020) and the King-Spadina Heritage Conservation District (2017) are currently under appeal at the OLT.

The built form of the original proposal has largely been maintained in the Settlement Proposal. Revisions in the Settlement Proposal largely pertain to modifications to the north façade of the proposed addition.

The key revisions made include:

- the first four levels of the north façade of the proposed addition will be treated with spandrels instead of glazed windows for approximately half of the depth of the Site;

- glass block or opaque glazing will be used at the seventh storey north façade; and
- the proposed addition is setback from the north face of the existing building on the Site by approximately 1.01 metres (actual depth varies due to irregular lot line).

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 and litigation privilege. Confidential Attachment 1 to this report contains confidential advice and should be considered by Council *in camera*.

CONTACT

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SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

1. Public Appendix "A" – Letter from Aird & Berlis LLP dated January 25, 2023
2. Public Appendix "B" – Revised Zoning By-law Amendment Plans dated January 4, 2023, prepared by SvN Architects + Planners
3. Confidential Attachment 1 - Confidential Recommendations and Confidential Information