

409-415 Yonge Street & 9 and 17 McGill Street - Official Plan Amendment and Zoning By-law Amendment Applications - Request for Directions

Date: January 26, 2023
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, 2022 for a period of 10 days.

SUMMARY

On December 15, 2022, the Ontario Land Tribunal ordered the appeal of a zoning by-law amendment application for 399-405 Yonge Street filed by 399Y Corporation (Case No.: OLT-22-004696) (the "399Y Appeal") to be consolidated with the appeals of a request to amend the City's Official Plan and a zoning by-law amendment application filed by 415 Yonge Holding Ltd. in respect of the subject lands (Case Nos.: OLT-22-004189 and OLT-22-002502, respectively) (the "415 Appeals").

On account of the Tribunal's order to consolidate the various appeals referred to above, the various applications are all being treated as a single application for the purpose of the hearing scheduled to commence on May 8, 2023.

This report provides an update in respect of a resubmission made by the appellants for the 415 Appeals on or around January 13, 2023 and seeks further direction for the City Solicitor.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the recommendations contained in the Confidential Attachment 1 to this Report from the City Solicitor.
2. City Council authorize the public release of the confidential recommendations in Confidential Attachment 1 and Confidential Appendix "A" 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

City Council Decisions

On January 29, 1990, City Council enacted by-law 80-90 to designate the property at 20 Gerrard Street East (Willard Hall) under the *Ontario Heritage Act*, now under section 29 of the *Ontario Heritage Act*. The designation by-law may be found here: [https://www.toronto.ca/legdocs/pre1998bylaws/toronto percent20- percent20former percent20city percent20of/1990-0080.pdf](https://www.toronto.ca/legdocs/pre1998bylaws/toronto%20-%20former%20city%20of/1990-0080.pdf)

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>

On December 14, 2022, City Council considered a Request for Directions Report dated December 6, 2022 from the City Solicitor (Item CC2.12). A copy of the Request for Directions Report and the decision of City Council can be found here: <https://secure.toronto.ca/council/agenda-item.do?item=2023.CC2.12>

On February 7-9, 2023, City Council will be considering an Appeal Report dated January 6, 2023 from the Acting Director, Community Planning, Toronto and East York (Item TE2.14). A copy of the Request for Directions Report and the City Council Item can be found here: <https://secure.toronto.ca/council/agenda-item.do?item=2023.TE2.14>

OLT Process

The OLT has held several case management conferences on this matter, the last occurring on January 20, 2023. A 10 day hearing of the consolidated appeals is scheduled to commence on May 8, 2023.

COMMENTS

January 13, 2023 Resubmission

The January 13, 2023 resubmission for the lands municipally known as 409-415 Yonge Street & 9 and 17 McGill Street is the second formal resubmission of the zoning by-law amendment application for this site and the first resubmission of the request to amend the City's Official Plan.

The January 13, 2023 resubmission proposes a new 67-storey mixed use development with the existing office building to be demolished. The upper 3 storeys of the 4 storey podium would be office space. The eastern portion of the tower would cantilever over the eastern portion of the podium. Additionally, the upper levels of the north side of the podium would cantilever over the lower levels of the podium.

A statistical summary of the evolution of the redevelopment proposal for the lands municipally known as 409-415 Yonge Street & 9 and 17 McGill Street can be found in the table below.

	Original Application	Resubmission from December 29, 2021	Resubmission from January 13, 2023
Gross floor area Residential GFA Non-Res GFA	36,128.5 square metres 16,936.3 square metres	34,424 square metres 6,595 square metres	47,722 square metres 4,275 square metres
Floor space index	24.3	18.77	23.89
Tower floor plate	790 square metres to 920 square metres	581 square metres	767 square metres
Building height	61-storey (233 metres excl. mechanical, 239 metres incl. mechanical)	69-storey (223.9 metres excl. mechanical, 229.9 metres incl. mechanical)	67-storey (217.6 metres excl. mechanical, 229.65 metres incl. 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	North 7.2 metres South 10 metres West 3 metres East 10 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	North 5.65 metres South 9 metres West 3 metres East 0 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)	1555 square metres (2.6 square metres/unit) 876 square metres (1.5 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	21 (3.5 percent) 265 (44.5 percent) 174 (29.2 percent) 136 (22.8 percent) 596
Parking Vehicle Bicycle Loading	73 577 1 Type G, 1 Type C (shared)	122 506 1 Type G	113 635 1 Type G

A copy of the revised architectural plans are attached to this report as Public Attachment 1.

In addition to revised plans and other supporting documents, the January 13, 2023 resubmission included a revised draft amendment to the City's Official Plan (the "**Revised OPA**").

The Revised OPA proposes to add lands to be subject to the proposed Official Plan Amendment and policies have been added to the draft Official Plan Amendment originally filed for the subject lands.

The original request to amend the City's Official Plan applied only to 409 & 415 Yonge Street & 9 and 17 McGill Street; the revised OPA now includes the aforesaid lands, 399-405 Yonge Street, and the lands municipally known as 20 Gerrard Street East ("**Willard Hall**") currently owned by Covenant House. Covenant House is a party to the 399Y Appeal and the 415 Appeals. Willard Hall is designated pursuant to the *Ontario Heritage Act* and identified as an important architectural and historical landmark in downtown Toronto.

The lands municipally known as 407 Yonge Street, located between 409 & 415 Yonge Street & 9 and 17 McGill Street and 399-4905 Yonge Street, are not included within the boundary of the Revised OPA. The concerns of 407 Yonge Street are articulated in correspondence dated January 24, 2023 to Toronto and East York Community Council Item TE2.14, which may be found here:

<https://www.toronto.ca/legdocs/mmis/2023/te/comm/communicationfile-161942.pdf>

The purpose of the original request to amend to the City's Official Plan was to re-designate that part of 409 & 415 Yonge Street & 9 and 17 McGill Street which was used as the McGill Parkette from Parks to Mixed Use. The Revised OPA includes that proposed re-designation but also proposes policies regarding minimum required setbacks for the tower portion of tall buildings on each of the other subject lands, 399-405 Yonge Street, and 20 Gerrard Street East. No development application has been filed for the Willard Hall site. A copy of the Revised OPA is attached to this report as Public Attachment 2.

No materials or information were filed with the January 13, 2023 resubmission which provide justification for the Revised OPA, except the instrument itself. No supporting documentation typically required with OPAs was submitted, in particular as it related to the 399-405 Yonge Street and 20 Gerrard Street East sites.

Instructions to the City Solicitor in respect of the January 13, 2023 resubmission are required prior to the hearing to commence on May 8, 2023.

CONTACT

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SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

1. Public Attachment 1 - Architectural Plans prepared by Kirkor Architects and Planners, dated January 13, 2023
2. Public Attachment 2 - Revised Official Plan Amendment
3. Confidential Attachment 1 - Confidential Information