

**47-65 Huntley Street, 2-18, 24, and 26 Linden Street
and 1-11 Selby Street – Official Plan & Zoning By-law
Amendment - Ontario Land Tribunal Appeals –
Request for Directions**

Date: November 30, 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.

SUMMARY

On October 19, 2021, the City received Official Plan and Zoning By-law Amendment applications to permit 59-and 48-storey mixed-use buildings containing 1,297 dwelling units and 1,100 square metres of non-residential gross floor area. On April 28, 2022, a related Site Plan Control Application was submitted.

On July 11, 2022, the applicant appealed the Zoning By-law Amendment and Official Plan Amendment applications to the Ontario Land Tribunal (the "OLT") due to Council not having made a decision within the statutory timeframe (the "Appeals"). A 10-day OLT hearing is scheduled to commence on February 5, 2024.

The City Solicitor requires further direction for the upcoming OLT hearing. This matter is urgent and cannot be deferred as it is the last opportunity to get instruction from City Council in advance of established procedural exchange dates.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the recommendations contained in Confidential Attachment 1 to this report.

2. City Council authorize the public release of the confidential recommendations contained in the Confidential Attachment 1 and Confidential Appendix "A" to this report, if adopted by City Council.

3. City Council direct that all other information contained in Confidential Attachment 1 to this report is to remain confidential at the discretion of the City Solicitor, as it contains advice 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

In October, 2021, the City received planning applications to permit 59-and 48-storey mixed-use buildings containing 1,297 dwelling units and 1,100 square metres of non-residential gross floor area. The proposal also included a 3-storey building planned for a childcare facility and a 460 square metre public park.

On April 21, 2022, a Preliminary Report was adopted by Toronto and East York Community Council directing City Staff to schedule a community consultation in respect of the applications. At the same time, staff were directed to undertake a study of the Upper Jarvis Area generally located between Bloor Street East, Sherbourne Street, Wellesley Street East and Church Street to investigate the implications of the current development applications (10 Huntley Street and 47-65 Huntley Street, 2-18, 24, 26 Linden Street, and 1-11 Selby) on the Neighbourhoods and Apartment Neighbourhoods designated lands within the Upper Jarvis area and to develop a planning framework, as appropriate, to assist in evaluating development proposals. The study is currently underway and has been progressing in tandem with the development applications. The Preliminary Report can be found at the following link:

<https://secure.toronto.ca/council/agenda-item.do?item=2022.TE32.42>

On September 28, 2022 City Council enacted by-laws designating the properties at 47 Huntley Street (including the entrance address at 2 Linden Street), 49 Huntley Street, 51 Huntley Street, 53 Huntley Street, 55 Huntley Street, 57 Huntley Street, 59 Huntley Street, 63 Huntley Street, 65 Huntley Street, 16 Linden Street, 18 Linden Street, 1 Selby Street, 3 Selby Street, 7 Selby Street, 9 Selby Street, and 11 Selby Street under Part IV of the *Ontario Heritage Act*. The City Council decision can be found here:

<https://secure.toronto.ca/council/agenda-item.do?item=2022.CC50.1>

There will be a concurrent report from the Chief Planner to City Council on the related heritage applications.

On February 7, 2023, an Appeal Report was adopted by City Council, directing the City Solicitor and appropriate City staff to attend the OLT in opposition to the Official Plan and Zoning By-law Amendment applications, and to continue discussions with the applicant in an attempt to resolve the outstanding issues. The Appeal Report can be found at the following link:

<https://secure.toronto.ca/council/agenda-item.do?item=2023.TE2.10>

On July 26, 2023, through their counsel, Goodmans LLP, the applicant wrote to the OLT copying the City and other interested parties to the hearing to advise that their client intends to seek approval of a revised proposal at the OLT hearing, noting that since the applications were originally filed, the development and policy context had significantly evolved. The revised proposal, as described in the Goodmans letter, increases the height of the proposed west tower from 59 to 63 storeys, and the proposed east tower from 48 to 59 storeys. The proposed tower floorplates remained the same, and the proposed residential gross floor area increased. The revised proposal also incorporated changes to address heritage conservation, parks and open space, vehicle access, and to the location of the proposed day care space, and contemplated the possibility of a community space as an in-kind community benefit. The Goodmans letter outlining the July, 2023 proposal is attached as Public Attachment 1.

The applicant, City and other interested parties have engaged in without prejudice discussions in an effort to narrow or resolve the issues for the hearing.

COMMENTS

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

CONTACT

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SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

1. Public Attachment 1 - Goodmans LLP Letter to OLT dated July 26, 2023
2. Confidential Attachment 1 - Confidential Information
3. Confidential Appendix "A" - Confidential Information