



## REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

# 372-378 Yonge Street - Official Plan and Zoning By-law Amendment Applications - Request for Directions Report

**Date:** November 29, 2023

**To:** City Council

**From:** City Solicitor

**Wards:** Ward 11 - University-Rosedale

### REASON FOR CONFIDENTIAL INFORMATION

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

### SUMMARY

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The purpose of this report is to request further instructions for the Ontario Land Tribunal ("OLT") hearing into this matter currently scheduled to commence on April 2, 2023, for two weeks. The applicant appealed the proposed Zoning By-Law and Official Plan amendments to the OLT due to Council's failure to make a decision on the application within the time prescribed by the *Planning Act*.

### RECOMMENDATIONS

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The City Solicitor recommends that:

1. City Council adopt the recommendations contained in the Confidential Attachment 1 to this report.
2. If the confidential instructions in Confidential Attachment 1 are adopted, City Council authorize the public release of the recommendations contained in the Confidential Attachment 1, with the balance of Confidential Attachment 1 to the report to remain confidential at the discretion of the City Solicitor, as it contains advice and information that is subject to solicitor-client privilege.

### FINANCIAL IMPACT

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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

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In 2020, an application for an Official Plan and Zoning By-law amendment was made for the lands at 372-376 Yonge, located at the southwest corner of Gerrard and Yonge. The application proposed a 74-storey mixed use building with 406 dwelling units and a total gross floor area of 35,871 square metres. The proposed building height was 255 metres including the mechanical penthouse, with no vehicular parking proposed. The subject lands are currently occupied by the John M. Lyle Building (the Elephant and Castle pub), designated under Part IV of the *Ontario Heritage Act* and two to three-storey buildings primarily used as commercial retail space.

A Preliminary Report was adopted by Toronto East York Community Council on October 15, 2020 for a proposal at 372-378 Yonge Street. The Preliminary Report is available via the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.TE19.23>

On January 18, 2021, the applicant appealed the Zoning By-law and Official Plan amendment applications to the OLT due to Council not making a decision within time frames in the *Planning Act*. A Request for Directions Report (dated March 23, 2021) from the Director, Community Planning, Toronto East York District, was considered by Toronto East York Community Council on April 21, 2021. City Council considered the report at its meeting commencing May 5, 2021 and adopted the item, directing the City Solicitor and Planning staff to attend at the OLT and oppose the Zoning By-law and Official Plan Amendment Applications. The Council decision and related report can be accessed via this link:

<https://www.toronto.ca/legdocs/mmis/2021/te/bgrd/backgroundfile-165304.pdf>

On September 16, 2021, a resubmission of the application was filed which included revisions to the architectural massing of the roof to address shadow concerns on Allen Gardens, a minor reduction in overall height of the building and the redesign of the podium elements to respond to Heritage Planning staff comments.

The OLT held a case management conference on September 17, 2021 at which two neighbouring property owners (Great Eagle Hotels (Canada) Limited and 2348398 Ontario Inc./Mang Investments Limited) were made parties to the proceedings.

In July 2022 City Council considered a report from the City Solicitor on this matter and accepted an in-principle Settlement Offer from the applicant. Subsequently, the 14 day hearing scheduled to commence on September 7, 2022 was adjourned. New hearing dates are now scheduled to commence on April 2, 2023. A link to the July 2022 report to City Council can be found here:

<https://secure.toronto.ca/council/agenda-item.do?item=2022.CC47.13>

On October 31, 2023, in accordance with the procedural order as issued by the OLT, the Applicant submitted revised plans which represent the proposal they now intend to bring to the hearing in April (the "October 2023 Plans"). These plans are attached to this report as Public Appendix "A". The proposal has gotten larger- it is significantly taller and many setbacks and setbacks have been reduced.

The differences between the original submission and the October 2023 Plans are summarized below:

	Original Application (plans dated May 20, 2020)	October 2023 Plans
Gross floor area	35,871 square metres	42,545 square metres
Residential GFA	32,178 square metres	41,695 square metres
Commercial GFA	2,594 square metres	850 square metres
Floor space index	37.32	44.26
Dwelling units	406	628
Building height	74-storey (255 metres including mechanical)	85-storey (278 metres including mechanical)
Tower setbacks:		
West proposed tower at 33 Gerrard	20 metres	15 metres
East to tower at 363-391 Yonge	35 metres	32 metres
North to tower at 382 Yonge	36.5 metres	36.5 metres
South to midpoint Walton Street	9 metres	9 metres
Tower floor plate	502-514 GFA Unknown GCA	540 square metres GFA 606 square metres GCA
Tower stepbacks	level 12-74	
Yonge Street	5 metres	2 metres
Gerrard Street	1.5 metres (for most of tower)	2 metres
Walton Street	0.5 metres	0.5 metres
Amenity space per unit		
Indoor	2.9 square metres	2.4 square metres
Outdoor	1.4 square metres	1.6 square metres
Dwelling unit mix		
Studio	0 (0 percent)	183 (29 percent)
One bedroom	232 (57 percent)	288 (46 percent)
Two bedroom	116 (20 percent)	94 (15 percent)
Three bedroom	58 (14 percent)	63 (10 percent)
Total	406	628
Parking		
Vehicle	0	0
Bicycle	430	636
Loading	1 Type G	1 Type G

## COMMENTS

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The City Solicitor requires further instructions on this matter prior to the upcoming OLT hearing date.

This report is about litigation before the OLT and contains advice or communications that are subject to solicitor-client privilege. Confidential Attachment 1 to this report contains confidential advice and should be considered by City Council *in camera*.

## CONTACT

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## SIGNATURE

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Wendy Walberg  
City Solicitor

## ATTACHMENTS

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1. Public Appendix "A" - Revised Architectural Plans dated October 26, 2023
2. Confidential Attachment 1 - Confidential Information