

**49-51 Yonge Street – Ontario Land Tribunal Hearing –
Appeal Report**

Date: March 6, 2024

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 November 8, 2021, the City received a Zoning By-law Amendment application for 49-51 Yonge Street (the "Site") to permit the construction of a 60 storey mixed-use building with 1,757 square meters of non-residential gross floor area on the first five storeys, and 256 dwelling units above. Portions of the south and west facades of the existing designated heritage buildings were proposed to be integrated into the development.

The applicant appealed City Council's neglect or failure to make a decision on its application for the Zoning By-law Amendment (the "Appeal"), to the Ontario Land Tribunal (the "OLT") on April 17, 2023.

The City Solicitor requires further directions after receiving a With Prejudice settlement offer on February 23, 2023, which is conditional upon the offer being considered at the March 20th to 22nd meeting of Toronto City Council. As such, this matter is urgent and cannot be deferred.

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 contained in Confidential Attachment 1 to this report from 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 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

On November 8, 2021, the City received a Zoning By-law Amendment application to permit the construction of a 60 storey mixed use building. The Preliminary Report can be found at:

[Agenda Item History - 2022.TE31.48 \(toronto.ca\)](#)

On April 17, 2023 the applicant appealed City Council's neglect or failure to make a decision on the Zoning By-law Amendment to the OLT. The OLT held the first Case Management Conference on August 10, 2023. A ten day hearing was scheduled to begin on March 11, 2023 but has been adjourned pending Council's consideration of this settlement offer.

An Appeal Report on the application was adopted by City Council on July 19, 2023 directing the City Solicitor and appropriate City staff to attend the OLT hearing to oppose the Zoning By-law Amendment application, and to continue discussions with the applicant in an attempt to resolve outstanding issues. The Request for Direction Report can be found at:

<https://secure.toronto.ca/council/agenda-item.do?item=2023.TE6.28>

On February 23, 2024, the City received a With Prejudice, not confidential, settlement offer from the applicant's lawyers, Goodmans LLP, which is attached as Public Appendix "A" (the "Settlement Offer"). The Settlement Offer contains revised plans (the "Revised Plans"). The Settlement Offer is open until the end of the City Council meeting commencing on March 20, 2024. Should City Council accept the Settlement Offer, the applicant intends to present the Revised Plans to the OLT for approval; otherwise, the offer will become null and void.

In response to the concerns raised by City staff with the applicant, the Revised Plans include a number of modifications, set out in the comparison chart below, which include reducing the tower floor plate and increasing tower setbacks to the east and west.

The key revisions include:

- retention of the full street-facing walls of the heritage properties, whereas the original proposal included the demolition of portions of the street-facing walls;
- a higher reveal with deeper setbacks from the heritage structures to the new building than originally proposed;
- elimination of a portion of the cantilever above the heritage structure along Yonge Street and a redesigned cantilever above the heritage structures around Wellington Street;
- East and the southwest corner of the site to have the building massing more gradually extend out toward the street frontage as the height of the reveal increases rather than one deep and uniform cantilever at a lower height extending out to the property lines on both street frontages as originally proposed;
- improved relationships with adjacent sites through redesigned massing and tower separation; and
- provision of shared vehicle access from Colborne Street where this had been provided through a separate and new driveway from Wellington Street East.

The changes between the previous submission and the Settlement Offer are summarized below:

Category	December 2022 Proposal	Settlement Plans
Site Area	582 square metres	702 square metres
Total Gross Floor Area	21,727 square metres	21,642 square metres
Residential Gross Floor Area	19,970 square metres	19,890 square metres
Non-residential Gross Floor Area	1,757 square metres	1,752 square metres
Floor Space Index (FSI)	37 times the area of the lot	37 times the area of the lot
Tower Height	60 storeys (214.9 metres)	62 storeys (223.6 metres)
Tower Floorplate	348 square metres	320 square metres
Tower Setbacks: North East South (Wellington) West (Yonge)	10 metres 0.0 metres 3.0 metres 3.0 metres	10 metres 3.7 metres 3.0 metres 4.0 metres

Category	December 2022 Proposal	Settlement Plans
Residential Units:		
Studio	0	24 (10 percent)
1-Bedroom	150 (59 percent)	117 (47 percent)
2-Bedroom	80 (31 percent)	80 (32.4 percent)
3-Bedroom	26 (10 percent)	26 (10.5 percent)
Total	256 units	247 units
Amenity Area:		
Indoor	2.0 square metres per unit	2.0 square metres per unit
Outdoor	0.9 square metres per unit	0.8 square metres per unit
Total	2.9 square metres per unit	2.8 square metres per unit
Bicycle Parking:		
Long-term	180 spaces	222 spaces
Short-term	26 spaces	26 spaces
Vehicle Parking	0 spaces	0 spaces
Loading Spaces	1 Type G	1 Type G

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 Appendix "A" - With Prejudice Settlement Offer from Goodmans dated February 23, 2024, including revised architectural plans
2. Confidential Attachment 1 - Confidential Information