

35-47 Camden Street – Ontario Land Tribunal Hearing – Request for Directions

Date: March 5, 2024

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 December 16, 2021, the City received a Zoning By-law Amendment application (the "Application") for 39-47 Camden Street to permit the construction of a 16-storey mixed use building with commercial uses on the ground floor and 154 dwelling units above.

On April 4, 2022, the applicant appealed City Council's neglect or failure to make a decision on its Application to the Ontario Land Tribunal (the "OLT").

On February 27, 2024, the City Solicitor received a "with prejudice" settlement offer, which incorporates the adjacent land at 35 Camden Street into the proposal (the "Site"), consisting of the correspondence attached to this report as Public Appendix "A" and the architectural plans and drawings attached to this report as Public Appendix "B" (the "Settlement Offer"), which propose to modify the Application.

The City Solicitor requires further directions for the upcoming OLT hearing scheduled from April 15 to 19, 2024. Given that the City Council meeting commencing on March 20, 2024 is the last City Council meeting to consider the Settlement Offer before the hearing commences, 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 the 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 December 16, 2021, the City received the Application to permit a 16-storey mixed-use building with commercial uses on the ground floor and 154 dwelling units above. On February 16, 2022, the Toronto and East York Community Council received a Preliminary Report and directed staff to hold a community consultation meeting. The community consultation meeting was held on February 22, 2022. The Preliminary Report can be found at:

[Agenda Item History - 2022.TE31.31 \(toronto.ca\)](#)

On April 4, 2022, the applicant appealed City Council's neglect or failure to make a decision on the Application to the OLT. The OLT held the first Case Management Conference ("CMC") on August 17, 2022, and a second CMC on February 21, 2023. A five (5) day hearing is scheduled to commence on April 15, 2024.

A Request for Direction Report on the Application was adopted by City Council at its meeting on February 7, 2023, directing the City Solicitor and appropriate City staff to attend the OLT hearing to oppose the Application in its current form, and to continue discussions with the applicant in an attempt to resolve outstanding issues. The Request for Direction Report can be found at:

[Agenda Item History - 2023.TE2.4 \(toronto.ca\)](#)

On February 27, 2024, the City received the Settlement Offer from the applicant's lawyers, Aird & Berlis LLP, which is attached as Public Appendix "A" to this report (the letter), and Public Appendix "B" (the architectural drawings and plans). Should City Council accept the Settlement Offer, the applicant intends to present the revised plans to the OLT for approval; otherwise, the revised plans will be the basis of a contested hearing proceeding on April 15, 2024.

In response to the concerns raised by City staff with the applicant, the revised plans include a number of modifications. This table provides a comparison of the Application, as originally submitted, and the Settlement Offer:

Category	Original Application Submitted on December 16, 2021	Settlement Offer Submitted on February 27, 2024
Subject Lands	39-47 Camden Street	35-47 Camden Street
Gross Floor Area: - Residential - Retail - Total	10,625 square metres 364 square metres 10,990 square metres	13,739.5 square metres 349 square metres 14,088
Floor Space Index	11.67	12.23
Building Height	16-storeys (52.15 metres excluding mechanical penthouse and 58.15 metres including mechanical penthouse)	19-storeys (54.65 metres excluding mechanical penthouse and 58.15 metres including mechanical penthouse)
Amenity Space: - Indoor - Outdoor	331 square metres (2.14 square metres/unit) 85 square metres (0.55 square metres/unit)	475 square metres (2 square metres/unit) 359 square metres (1.5 square metres/unit)
Dwelling Unit Mix: - Studio - One bedroom - Two bedroom - Three bedroom Total	27 (18 percent) 75 (49 percent) 36 (23 percent) 16 (10 percent) 154	68 (29 percent) 105 (44 percent) 40 (17 percent) 24 (10 percent) 237
Parking: - Vehicle - Bicycle - Loading	63 164 1 Type "G"	64 262 1 Type "B"

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" - Letter from Aird & Berlis LLP, dated February 27, 2024, containing the With Prejudice Settlement Offer
2. Public Appendix "B" - Architectural Plans prepared by Architects-Alliance, dated February 23, 2024
3. Confidential Attachment 1 - Confidential Information