



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

619-637 Yonge Street & 1-9 Isabella Street – Ontario Land Tribunal Hearing – Request for Directions

Date: March 6, 2024

To: City Council

From: City Solicitor

Ward: 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 10, 2021, applications for Official Plan Amendment ("OPA"), Zoning By-law Amendment ("ZBA"), and Draft Plan of Subdivision ("DPS") were submitted to permit a 57-storey mixed-used building containing 606 dwelling units and 3,500 square metres of non-residential gross floor area for 619-637 Yonge Street and 1-9 Isabella Street (the "Site"). On April 11, 2022, a Site Plan Control application for the Site was also submitted.

On September 23, 2022, the applicant appealed City Council's neglect or failure to make a decision on the applications to the Ontario Land Tribunal (the "OLT"). On January 4, 2024, the applicant filed revised plans with the City of Toronto (the "City"). On March 5, 2024, the City received a With Prejudice settlement offer referencing the Revised Plans from the applicant's lawyers, Kagan Shastri DeMelo Winer Park LLP.

The City Solicitor requires further direction for the upcoming OLT hearing, which is scheduled to commence on August 12, 2024.

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 July 8, 2014, City Council accepted a settlement offer respecting an appealed ZBA application to permit a 46-storey mixed-use building at 625-637 Yonge Street and 1-9 Isabella Street. The Ontario Municipal Board approved the settlement in principle in an interim Order dated January 23, 2015, and issued a final Order dated August 22, 2016, amending Former City of Toronto Zoning By-law 438-86 for the site (By-law 888-2016(OMB)). The City Council decision can be found here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.MM54.36>

The owner of these lands subsequently acquired an additional property at 619-623 Yonge Street and, on November 10, 2021, submitted new OPA, ZBA, and DPS applications with a new proposal for the expanded site, which would permit a 57-storey mixed-used building containing 606 dwelling units and 3,500 square metres of non-residential gross floor area. On April 11, 2022, a Site Plan Control application in respect of the new development proposal was also submitted. (Collectively, these four applications are the "Applications.")

On September 23, 2022, the applicant appealed City Council's neglect or failure to make a decision on the Applications to the OLT.

On December 14, 2022, City Council authorized the City Solicitor to introduce the Bill designating the property at 625 Yonge Street under Part IV of the *Ontario Heritage Act*.

On February, 7, 2023, a Request for Direction Report on the Applications was adopted by City Council, directing the City Solicitor and appropriate City staff to attend the OLT hearing to oppose the appeal of the Applications, and to continue discussions with the applicant to address the staff concerns as outlined in the report. The Request for Direction Report can be found here:

<https://secure.toronto.ca/council/agenda-item.do?item=2023.EY2.5>

On February 13, 2023, the applicant appealed City Council's heritage designation of 625 Yonge Street (including active entrances at 621, 627, 629, 631, 633, 635, and 637 Yonge Street, and 1, 3, and 5 Isabella Street).

On January 4, 2024, the applicant filed revised plans with the City (the "Revised Plans"). Further, on January 29, 2024, the applicant filed a Heritage Permit application with the City. The Heritage Permit application is the subject of a separate, concurrent report from the Chief Planner that will be considered at the March 18, 2024 meeting of the Toronto Preservation Board.

COMMENTS

Policy Context

The site is designated *Mixed Use Areas* in the Official Plan and *Mixed Use Areas 1* in the Downtown Secondary Plan.

The site is located within the Yonge Street character area of SASP 382, which is currently under appeal.

SASP 382 limits building heights to 45 storeys and requires a 75-degree angular plane from a height of 18 metres above street level at Yonge Street and angling away from Yonge Street. These policies are under appeal and not in force.

Settlement Offer

On March 5, 2024, the City received a With Prejudice settlement offer referencing the Revised Plans from the applicant's lawyers, Kagan Shastri DeMelo Winer Park LLP (the "Settlement Offer"). The Settlement Offer is attached as Public Attachment 1. The applicant/appellant intends to seek approval of the Revised Plans at the OLT hearing scheduled to commence in August 2024.

The Revised Plans propose, among other things, the following:

- The retention of the existing three-storey heritage façade at 625 Yonge Street;
- A reduction in the base building height to three storeys (from four storeys);
- The alignment of the base building setback with the existing heritage streetwall;
- An increase in height from 57 to 70 storeys (excluding mechanical penthouse);
- An increased northern tower setback of 5.5 metres (from 2.39 metres);
- An increased southern setback of 5.5 metres for levels 4 to 10 (from 0 metres for levels 4 to 10), providing a greater separation to adjacent lower-scale buildings;
- A relocated garbage room away from Isabella Street and toward the interior of the site;
- A relocated lobby away from the interior of the site and onto the Isabella Street frontage, providing animation at grade;

- An increase in indoor amenity space to 2,170.12 square metres (from 1,329.65 square metres); and
- An increase in outdoor amenity space to 1,054.62 square metres (from 882.83 square metres).

These details and others are outlined in the chart below:

	Original Proposal (December 2021)	Revised Plans (December 15, 2023)
Total GFA (square metres)	49,247.87	64,710.18
Residential GFA (square metres)	46,114.38	62,193.77
Non-Residential GFA (square metres)	3,133.48	2534.04
FSI	20.26	26.76
Building Height		
- Storeys	57	70
- Metres (excluding MP)	190.93	217.45
Mechanical Penthouse (above tower height) (metres)	6.0	16.5
Setbacks		
Podium (floors 1 to 7)		
- North (metres)	0	0
- East (metres)	0	0.3
- South	0	0
- West	0	0
Setbacks		
Tower (Floors 8 to 58)	2.3	5.5
- North (metres)	0	0
- East (metres)	0 (levels 1-10)	5.5 (levels 4-10)
- South (metres)	12.5 (levels 11-57)	9.15 (levels 11-70)
- West (metres)	10.1	10.5 to 21.87
Indoor Amenity Space (square metres)	1,329.65	2,170.12
Outdoor Amenity Space (square metres)	882.83	1,054.62
Resident Parking	77	87
Visitor Parking	60	40
Bicycle Parking		
- Long-term	551	733
- Short-term	73	85

The Revised Proposal also eliminates the condition of units with frontage onto only a light well.

Unit Mix

The applicant will provide a minimum of 15 percent two-bedroom units, 10 percent three-bedroom units, and an additional 15 percent two or three-bedroom units or units that can be converted into two-and three-bedroom units using accessible or adaptable design measures in conformity with the Downtown Secondary Plan.

Other Matters

Additionally, through the Settlement Offer, the owner has agreed to:

- a. Withdraw their appeals of Heritage Designation By-law 77-2023, the Historic Yonge Street Heritage Conservation District Plan, and OPA 183 (the North Downtown Yonge Site and Area-Specific Policy 382), by means of a letter to be held in escrow by the City Solicitor, to be released upon issuance of the Tribunal's Final Order approving the Official Plan and Zoning By-law Amendments for the Proposed Development; and
- b. The imposition of conditions that address the remaining engineering and heritage issues to staff's satisfaction.

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 – With Prejudice Settlement Offer from Kagan Shastri LLP dated March 5, 2024
2. Public Attachment 2 – Revised Plans prepared by Core Architects and dated December 15, 2023
3. Confidential Attachment 1 – Confidential Information