

309 Cherry Street – Ontario Land Tribunal Hearing – Request for Directions

Date: March 7, 2024

To: City Council

From: City Solicitor

Wards: Ward 14 -Toronto-Danforth

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 March 5, 2012 and December 30, 2016, the City received a Zoning By-law Amendment application for the north block and south block respectively of the lands known as 309 Cherry Street (the "Site"). The applications proposed mixed use development, with a 26-storey residential tower atop an 8-storey podium and the partial retention of existing heritage buildings on the north block, and an 11-storey building and 52-storey building atop a 4-12 storey 'u-shaped' podium.

The applicant appealed City Council's neglect or failure to make a decision on its application for the Zoning By-law Amendment to the predecessor to the Ontario Land Tribunal (the "Tribunal") on October 31, 2014 for the north block and June 1, 2017 for the south block (the "Appeals"). In March 2023, the applicant submitted revised plans for the Site, proposing a tower on each of the north and south block with heights of 47 and 39 storeys respectively.

The City Solicitor requires further directions in this matter.

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 direct that the recommendations contained in Confidential Attachment 1 and the remainder of Confidential Attachment 1 remain confidential at the discretion of the City Solicitor, as they contain advice which is subject to solicitor-client privilege, and that Confidential Appendix "A" and Confidential Appendix "B" remain confidential as they contain confidential and privileged information.

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 March 5, 2012 and December 30, 2016, the City received a Zoning By-law Amendment application for the north block and south block respectively of the Site. The applications proposed mixed use development, with a 26-storey residential tower atop an 8-storey podium and the partial retention of existing heritage buildings on the north block, and an 11-storey building and 52-storey building atop a 4-12 storey 'u-shaped' podium.

The Preliminary Report for the application for the south block can be found [here](#).

On October 31, 2014 for the north block and June 1, 2017 for the south block, the applicant appealed City Council's neglect or failure to make a decision on the Zoning By-law Amendment to the Tribunal. The Appeals were consolidated by the Tribunal in June 2018. A Request for Direction Report on the applications was adopted by City Council on May 22, 2018 directing the City Solicitor and appropriate City staff to attend the Tribunal hearing to oppose the Zoning By-law Amendment applications. The Request for Direction Report can be found [here](#).

The applications and Appeals were held while the City and Waterfront Toronto proceeded to complete the Port Lands Planning Framework and Villiers Island Precinct Plan, as well as the resulting Port Lands Area Specific Policies ("Port Lands SASP") within the Central Waterfront Secondary Plan ("CWSP"). The CWSP was already under appeal by a number of stakeholders in the Port Lands, so the Port Lands SASP was brought forward as the Port Lands Official Plan Modification ("Port Lands OPM"). Phase 1 and Phase 2 of the appeals were settled and the majority of the Port Lands SASP policies brought into force by the Tribunal in a series of decisions in 2021 and 2022.

The latest Request for Direction Report on Port Lands OPM Appeals - Phase 2 and the decision history regarding the Port Lands OPM Appeals can be found [here](#).

At its meeting on November 9, 2021, City Council directed the Director, Affordable Housing, the Chair of the Affordable Housing Committee and the local Councillor to participate in the preparation of the Business and Implementation Plan and investigate opportunities to achieve additional affordable housing in Villiers Island, over and above the minimum requirements in the Port Lands OPM. City Planning staff have since provided City Council with status updates on the work underway to achieve additional affordable housing in Villiers Island. In February 2023, Planning and Housing Committee directed the Chief Planner and Executive Director, City Planning and the Executive Director, Housing Secretariat to report back on a preferred approach for increasing densities to support the maximum amount of housing and affordable housing on Villiers Island.

The Council direction and updates from City Planning staff can be found here:

<https://secure.toronto.ca/council/agenda-item.do?item=2021.EX27.6>

<https://secure.toronto.ca/council/agenda-item.do?item=2022.PH33.9>

<https://secure.toronto.ca/council/agenda-item.do?item=2022.PH34.7>

<https://secure.toronto.ca/council/agenda-item.do?item=2022.PH35.17>

<https://secure.toronto.ca/council/agenda-item.do?item=2023.PH2.9>

<https://secure.toronto.ca/council/agenda-item.do?item=2023.CC2.1>

<https://secure.toronto.ca/council/agenda-item.do?item=2023.PH2.9>

Since the resolution of Phases 1 and 2 of the Port Lands OPM, the Tribunal has held two case management conferences on the applications for this Site, the first in July 2022 and second in October 2023. A further case management conference is scheduled for June 4, 2024.

At its February 6, 2024 meeting, City Council stated its intention to designate the property under Part IV of the *Ontario Heritage Act*. Council's decision and staff's report can be found [here](#).

COMMENTS

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

CONTACT

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SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

1. Confidential Attachment 1 - Confidential Information
2. Confidential Appendix "A" - Confidential Information
3. Confidential Appendix "B" - Confidential Information