

1196-1204 Yonge Street and 1206-1210 Yonge Street - and 2-8 Birch Avenue Zoning By-law Amendment and Rental Housing Demolition Applications Request for Directions

Date: April 3, 2024

To: City Council

From: City Solicitor

Wards: Ward 12 - St. Paul's

REASON FOR CONFIDENTIAL INFORMATION

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

SUMMARY

This report addresses the owner's applications under Section 34 of the *Planning Act* and Section 111 of the *City of Toronto Act, 2006* to demolish 8 rental dwelling units and allow for the construction of a tower.

Located on the west side of Yonge Street, directly north of Birch Avenue within the Summerhill neighbourhood, and adjacent to the Deer Park, Ramsden Park and South Rosedale neighbourhoods, the properties at 1196-1204 Yonge Street comprise a main street commercial block building. The adjacent three properties at 1206-1210 Yonge Street to the north contain 2-storey main street commercial row buildings.

In November 2021, the City received a Zoning By-Law Amendment application for redevelopment of the site for a 15-storey mixed-use building, having a non-residential gross floor area of 200.80 square metres, and a residential gross floor area of 10,225.60 square metres with 59 residential units. In April 2022, a Site Plan Control Application was submitted revising the proposal to a 14-storey mixed-use building with 67 residential units.

On November 7, 2022, the applicant appealed to the Ontario Land Tribunal ("OLT"), as a result of City Council not making a decision with respect to the Zoning By-law and Site Plan Control applications within the timeframe legislated by the *Planning Act*.

On August 25, 2022, ERA Architects Inc., on behalf of the applicant, filed two (2) Heritage Permit Applications for demolition under Section 34(1)2 of the *Ontario Heritage Act* with respect to 1196-1204 Yonge Street and 1206-1210 Yonge Street.

On February 13, 2024, the owner submitted new applications under sections 33, 34(1)1 and 34(1)2 of the *Ontario Heritage Act*. The new construction will incorporate the existing heritage buildings at 1206-1210 Yonge Street as part of the podium of the new building and demolish and reconstruct the existing heritage buildings at 1196-1204 Yonge as part of the podium of the new building. These applications were the subject of a report to the Toronto Preservation Board at its meeting on March 28, 2024, described in the Decision History below.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the confidential instructions to staff contained in the Confidential Attachment 1 to this report from the City Solicitor.
2. City Council authorize the public release of the confidential instructions to staff contained in Confidential Attachment 1, Confidential Appendix "A" and Confidential Appendix "B" to this report from the City Solicitor, if adopted by City Council, at the discretion of the City Solicitor.
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 is about litigation before the Ontario Land Tribunal and contains advice or communications that are 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

In November 2021, the City received a Zoning By-Law Amendment application for redevelopment of the site for a 15-storey mixed-use building having a non-residential gross floor area of 200.80 square metres, and a residential gross floor area of 10,225.60 square metres. 59 residential units were proposed. In April 2022, a Site Plan Application was submitted revising the proposal to a 14-storey mixed-use building with 67 residential units.

A Preliminary Report dated January 26, 2022, was considered by Toronto and East York Community Council, and a community consultation meeting was held on February 22, 2022.

<https://secure.toronto.ca/council/agenda-item.do?item=2022.TE31.41>

On July 19, 20, 21 and 22, 2022, City Council adopted CC47.39 and stated its intention to designate the properties at 1196 (including entrance addresses at 1198 Yonge Street and 2 Birch Avenue), 1202 and 1204 Yonge Street and 1206-1210 Yonge Street under Part IV, Section 29 of the *Ontario Heritage Act*.

<https://secure.toronto.ca/council/agenda-item.do?item=2022.CC47.39>

On August 25, 2022, ERA Architects Inc., on behalf of the applicant, filed two (2) Heritage Permit Applications for demolition under Section 34(1)2 of the *Ontario Heritage Act* with respect to 1196-1204 Yonge Street and 1206-1210 Yonge Street. On November 23, 2022, City Council adopted Heritage Planning staff's recommendation that the demolition permits be refused. The refusal to issue the demolition permits was appealed to the OLT.

<https://secure.toronto.ca/council/agenda-item.do?item=2023.CC1.4>

On September 28, 2022, City Council considered an objection to the designation by-laws and nevertheless proceeded to pass By-laws 1241-2022 and 1242-2022 to designate the properties pursuant to Part IV, Section 29 of the *Ontario Heritage Act*.

<https://secure.toronto.ca/council/agenda-item.do?item=2022.CC50.2>

The designation by-law for 1196-1204 Yonge Street can be found here:

<https://www.toronto.ca/legdocs/bylaws/2022/law1241.pdf>

The designation by-law for 1206-1210 Yonge Street can be found here:

<https://www.toronto.ca/legdocs/bylaws/2022/law1242.pdf>

On December 1, 2021, the City received an application for a Zoning By-Law amendment and Rental Housing Demolition Application on the subject site. A preliminary report was adopted by Toronto East York Community Council on February 16, 2022, and can be found here:

<https://secure.toronto.ca/council/agenda-item.do?item=2022.TE31.41>

On February 23, 2023, the applicant appealed the Zoning By-law Amendment application and referred the Site Plan Control application to the Ontario Land Tribunal (OLT) due to Council not making a decision within the time frame in the *Planning Act*. City Council directed the City Solicitor and appropriate City staff to oppose the applications, and to continue discussions with the applicant to attempt to resolve outstanding issues. City Council's decision is available here:

<https://secure.toronto.ca/council/agenda-item.do?item=2023.TE7.13>

On March 28, 2024 the City Solicitor reported to the Toronto Preservation Board regarding alterations to and demolitions of heritage attributes of the subject site. The Board's decision is available here:

<https://secure.toronto.ca/council/agenda-item.do?item=2024.PB16.10>

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. This report is urgent because of an upcoming deadline in the Procedural Order of May 1, 2024 by which revised plans have to be filed with the Ontario Land Tribunal.

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

1196-1204 Yonge Street - Application to Demolish a Heritage Building or Structure under Section 34(1)2 of the *Ontario Heritage Act*; 1206-1210 Yonge Street - Application to Alter and Demolish a Heritage Attribute of a Designated Heritage Property under Sections 33 and 34(1)1 of *Ontario Heritage Act*