



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

410 Sherbourne Street – Ontario Land Tribunal Hearing – Request for Directions

Date: May 7, 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 7, 2021, the City received a Zoning By-law Amendment application for 410 Sherbourne Street (the "Site") to permit the construction of a 42-storey mixed-use building containing 473 dwelling units.

During its meeting of December 13, 2023, City Council directed that the Zoning By-law Amendment be refused in its current form, and in the event the applications were appealed to the Ontario Land Tribunal, City Council pursuant to subsection 34(11.0.0.1) of the *Planning Act*, use mediation, conciliation or other dispute resolution techniques in an attempt to resolve the Zoning By-law Amendment application, to the satisfaction of the Chief Planner and Executive Director, City Planning and the City Solicitor.

The Owner appealed City Council's refusal to the Ontario Land Tribunal (the "OLT") on January 25, 2024 and the appeal materials were forwarded to the OLT after the seventy-five day period set out in subsection 34(11.0.0.1) elapsed.

A Case Management Conference ("CMC") has been scheduled for June 6, 2024. The City Solicitor requires further direction in the OLT proceeding. 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 and Appendix "A", "B, and "C" 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 13, 2023, City Council refused the Zoning By-law Amendment Application. City Council's decision can be found at:

<https://secure.toronto.ca/council/agenda-item.do?item=2023.TE9.19>

COMMENTS

The application proposes to amend Citywide Zoning By-law 569-2013 to permit a 135 metre (42 storeys, plus mechanical penthouse) mixed-use building containing 473 dwelling units. The proposal has a density of 13.5 times the area of the lot.

A four-storey medical office building currently occupies the east portion of the site along the Sherbourne Street frontage. The west and south portions of the site are currently occupied by an adjoining music venue (The Phoenix Concert Theatre) at the rear of the medical office.

City Council refused the proposal at its meeting of December 13, 2023 and engaged provisions of the *Planning Act* aimed at encouraging further discussion of outstanding matters. Delivery of the appeal to the OLT was delayed to permit additional time for discussion between the Owner and the City.

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