



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

50-64 Merton Street - Official Plan and Zoning By-law Amendment Applications - Ontario Land Tribunal Hearing – Request for Directions

Date: May 7, 2025

To: City Council

From: City Solicitor

Wards: Ward 12 - Toronto-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 potential litigation.

SUMMARY

At its meeting on March 20 and 21, 2024, City Council adopted recommendations to approve the proposed Official Plan and Zoning By-law Amendment applications for 50-64 Merton Street (the "Site"). The applications were to permit a 45-storey mixed-use building with 581 residential units, and the partial retention and adaptive re-use of portions of the heritage designated Girl Guides of Canada building on the Site. The draft Official Plan Amendment permitted a reduction in the required office gross floor area replacement from 100 percent to 75 percent. The implementing bills to enact the Official Plan and Zoning By-law Amendments were withheld until the applicant had satisfied a number of outstanding requirements.

The applicant appealed City Council's neglect or failure to make a decision on its applications for Official Plan and Zoning By-law Amendments to the Ontario Land Tribunal (the "OLT") on January 6, 2025.

On January 22, 2025, the applicant submitted revised Official Plan and Zoning By-law Amendment applications with the same built form previously approved by City Council, but which propose to modify the amount of required office replacement from 75 percent to 0 percent.

The City Solicitor requires further directions for an upcoming OLT hearing scheduled to begin on May 28, 2025. This matter is urgent and cannot be deferred.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the recommendations contained in Confidential Attachment 1 to this report from the City Solicitor.
2. City Council authorize the public release of the confidential recommendations contained in Confidential Attachment 1 and Confidential Appendix "A" 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 November 3, 2021, the City received a Zoning By-law Amendment Application to permit the construction of a 39-storey mixed use building with office uses on the first and second floor and residential uses above. A Preliminary Report on the application was adopted by Toronto and East York Community Council on February 16, 2022, directing Staff to schedule a consultation meeting. The Preliminary Report can be found at:

[Agenda Item History - 2022.TE31.39](#)

At its meeting on May 11 and 12, 2022, City Council adopted a report dealing with the intention to designate the property at 50 Merton Street under Part IV, Section 29 of the *Ontario Heritage Act*. The designation by-law was enacted and passed on July 22, 2022. The Notice of Intention to Designate a Property under Part IV, Section 29 of the *Ontario Heritage Act* Report can be found at:

[Agenda Item History - 2022.PH33.19](#)

On August 31, 2022, the City received an Official Plan Amendment Application to permit the replacement of 75 percent of office gross floor area in the proposed building, rather than 100 percent. The applicant subsequently revised the Zoning By-law Amendment to increase the height of the proposed building to 45-storeys. A Decision Report recommending approval of the Official Plan Amendment and revised Zoning By-law Amendment was adopted by City Council at its meeting on March 20 and 21, 2024. The implementing bills to enact the Official Plan and Zoning By-law Amendments were

withheld until the applicant had satisfied a number of outstanding requirements. The Decision Report - Approval can be found at:

[Agenda Item History - 2024.TE11.3](#)

At the same meeting on March 20 and 21, 2024, City Council also adopted a report approving proposed alterations to the designated heritage property at 50 Merton Street, granting authority to enter into a Heritage Easement Agreement, and approving the proposed demolition of certain heritage attributes. The Alterations and Demolition of a Heritage Attribute to a Designated Heritage Property and Authority to Enter into a Heritage Easement Agreement Report can be found at:

[Agenda Item History - 2024.TE11.13](#)

On January 6, 2025, the applicant appealed City Council's neglect or failure to make a decision on its applications for Official Plan and Zoning By-law Amendments to the OLT (the "Appeal"). The OLT has scheduled a hearing for May 28 and 29, 2025.

On January 22, 2025, the City received revised Official Plan and Zoning By-law Amendment applications with the same built form previously approved by City Council in March 2024, but which propose to modify the amount of required office replacement from 75 percent to 0 percent. The number of residential units also increased to 603. An Appeal Report was adopted by City Council at its meeting on April 23 and 24, 2025, directing the City Solicitor and appropriate City staff to attend the OLT hearing to oppose the Appeal, and to continue discussions with the applicant in an attempt to resolve outstanding issues. The Appeal Report can be found at:

[Agenda Item History - 2025.TE21.18](#)

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