



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

396-398 Church Street, 73-77 McGill Street and 50 Gerrard Street East – Official Plan Amendment and Zoning By-law Amendment – Ontario Land Tribunal Hearing – Request for Directions

Date: June 11, 2026
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

The purpose of this report is to request instructions in respect of the proceedings before the Ontario Land Tribunal ("Tribunal").

On December 1, 2022, the applicant filed an Official Plan Amendment and Zoning By-law Amendment to permit a 43-storey mixed-use building at 396-398 Church Street, 73-77 McGill Street and 50 Gerrard Street East (the "Site"), proposing 216 square metres of retail space on the ground floor and 463 residential units above for a total gross floor area of 28,782 square metres. The applicant appealed the proposed Official Plan Amendment and Zoning By-law Amendment Application to the Tribunal due to Council's failure to make a decision on the application within the time prescribed by the *Planning Act*.

On July 24-25, 2026, City Council accepted a without prejudice settlement offer that proposed a revised development to permit a 37-storey mixed-use building, proposing 241 square metres of retail space on the ground floor and 425 residential units above for a total gross floor area of 24,815 square metres ("2024 Revised Settled Development"). The 2024 Revised Settled Development did not proceed to a settlement hearing and is not subject to any order of the Tribunal.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the confidential instructions to staff contained in 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, along with the entirety of Confidential Appendix "A" and Confidential Appendix "B" 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 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

Development Application

On December 13, 2023, City Council directed the City Solicitor and appropriate staff to oppose the Official Plan Amendment and Zoning By-law Amendment application in their current form and continue working with the applicant to resolve issues outlined in the report from the Director, Community Planning, Toronto and East York District. City Council's decision can be found here:

<https://secure.toronto.ca/council/agenda-item.do?item=2023.TE9.25>

On July 24 and 25, 2024, City Council accepted a without prejudice settlement offer for a revised development which changed the built form, massing, setbacks and stepbacks, relationship to Church Street and McGill Street and revised access to only be from Gerrard Street and only exiting through McGill Street. City Council's decision can be found here:

<https://secure.toronto.ca/council/agenda-item.do?item=2024.CC20.17>

Ministerial Zoning Order

Through City of Toronto By-law 1432-2017, the air ambulance flight paths in the vicinity of St. Michael's Hospital and the Hospital for Sick Children are regulated to ensure that the use of land is compatible with the safe operation of hospital heliports or aircrafts in

the protected airspace. The Obstacle Limitation Surfaces, as defined in By-law 1432-2017 established height limits for the projection of buildings, structures or naturally growing objects, for any purpose. City of Toronto By-law 1432-2017 may be found here:

<https://www.toronto.ca/legdocs/bylaws/2017/law1432.pdf>

On January 26, 2024, the Minister of Municipal Affairs and Housing issued a Ministerial Zoning Order through Ontario Regulation 10/24 which established a lower Obstacle Limitation Surface than By-law 1432-2017. The Ministerial Zoning Order may be found here:

<https://www.ontario.ca/laws/regulation/r24010>

On May 28, 2026, the Minister of Municipal Affairs and Housing amended Ministerial Zoning Order 10/24 through Ontario Regulation 161/26. The amendment to the Ministerial Zoning Order may be found here:

<https://www.ontario.ca/laws/regulation/r26161>

Appeal to Ontario Land Tribunal

On July 7, 2023, the applicant filed an appeal to the Tribunal citing the City's failure to make a decision on the requested Official Plan Amendment and Zoning By-law Amendment within the statutory timeframes set out in the *Planning Act*. The Tribunal conducted two Case Management Conferences on the appeal on October 20, 2023 and January 18, 2024. Three participants were added to the proceedings. The McGill-Granby Village Residents' Association and St. Michael's Hospital were granted party status by the Tribunal. A two-week hearing was scheduled to commence on December 2, 2024 and subsequently adjourned.

Development Application

On October 8 and 9, 2025, City Council directed the City Solicitor, and appropriate City Staff, to attend the Tribunal to oppose the Zoning By-law Amendment application in its current form, and to continue discussions with the applicant in an attempt to resolve outstanding issues. City Council's decision may be found here:

<https://secure.toronto.ca/council/agenda-item.do?item=2025.TE25.10>

On July 24 and 25, 2026, City Council accepted a Without Prejudice Settlement Offer for the 2024 Revised Settlement Development. City Council's decision may be found here:

<https://secure.toronto.ca/council/agenda-item.do?item=2024.CC20.17>

COMMENTS

On December 1, 2022, the applicant filed an Official Plan Amendment and Zoning By-law Amendment to permit a 43-storey mixed-use building (132.0 metres plus 9.0 mechanical penthouse) comprised of 216 square metres of retail space on the ground floor and 463 residential units above for a total gross floor area of 28,782 square

metres. The existing 8 and 12 storey building would be retained on the Site, and only the northern-most bay of the 8-storey building would be demolished to accommodate the new development. Vehicular and loading access was proposed to enter the Site from Gerrard Street East and exit from McGill Street. The proposed 463 dwelling units included 47 studio units (10 percent), 229 one-bedroom (49 percent), 147 two-bedroom (32 percent), and 40 three-bedroom (9 percent) units.

The Official Plan Amendment proposed to permit the mixed use development in the Original Application to extend into the portion of the site at 73-77 McGill Street which is designated *Neighbourhoods* in the Official Plan.

On July 24, 2024, the 2024 Revised Settled Development proposed to permit a 37-storey mixed-use building (111.30 metres including mechanical penthouse) comprised of 241 square metres of retail space on the ground floor and 425 residential units above for a total gross floor area of 24,815 square metres. The existing 8 and 12 storey building would be retained on the Site, and only the northern-most bay of the 8-storey building would be demolished to accommodate the new development. Vehicular and loading access was proposed to enter the Site from Gerrard Street East and exit from McGill Street. The proposed 425 dwelling units included 79 studio units (18.5 percent), 238 one-bedroom (56 percent), 65 two-bedroom (15.3 percent), and 43 three-bedroom (10.1 percent) units, and the 2024 Settlement Offer Letter clarified that the minimum unit mix requirements of the Downtown Secondary Plan will be secured in the implementing Zoning By-law.

The Official Plan Amendment was revised to permit the mixed use development in the 2024 Settlement Offer and a portion of the *Neighbourhoods* at 73-77 McGill Street was to be re-designated *Mixed Use Areas* in the Official Plan.

This report seeks further direction from City Council on this matter that is currently before the Tribunal. On this basis, this matter is urgent.

CONTACT

Daniel Elmadany, Solicitor, Planning & Administrative Tribunal Law; Tel: (416) 397-5709; Email: Daniel.Elmadany@toronto.ca

SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

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