



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

485-489 Wellington Street West – Zoning Amendment Application – Request for Further Direction Regarding LPAT Hearing

Date: December 3, 2018
To: City Council
From: City Solicitor
Wards: Ward 10 - Spadina-Fort York

REASON FOR CONFIDENTIAL INFORMATION

This report is about litigation or potential litigation that affects the City or one of its agencies or corporations.

This report contains advice or communications that are subject to solicitor-client privilege.

SUMMARY

Lifetime Wellington Street West Inc. (the "Applicant") is the owner of the property municipally known as 485-489 Wellington Street West (the "Subject Property"). The Applicant applied for a zoning by-law amendment in order to facilitate a proposed redevelopment of the Subject Property. The application proposes a 16-storey building with 431 square metres of commercial space on the first floor and 136 residential units above (the "Application"). The Application is proposed to include 34 parking spaces in two levels of underground parking.

The Applicant appealed the Application to the Ontario Municipal Board (the "OMB") (now known as the Local Planning Appeal Tribunal) (the "LPAT") due to City Council's failure to make a decision. The appeal is known as LPAT Case No. PL170348. On September 6 and 8, 2018, the parties to that appeal attended two days of Tribunal-led mediation. A five day hearing is scheduled to be heard by the LPAT on January 21 to 25, 2019, and as a result this matter is urgent.

The purpose of this report is to request further instructions for the upcoming LPAT hearing.

City Planning has been involved in the preparation of this report.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the recommendations contained in the Confidential Attachment 1 to this report.
2. City Council authorize the public release of the confidential recommendations contained in the Confidential Attachment 1, Confidential Attachment 2, and Confidential Attachment 3 to this report if adopted by City Council.
3. City Council direct that all other information contained in Confidential Attachment 1 is to remain confidential at the discretion of the City Solicitor, as it contains advice that is subject to solicitor-client privilege.

FINANCIAL IMPACT

Adopting this report will have no financial impact beyond what has already been approved in the current year's budget.

DECISION HISTORY

On October 13, 2016, Toronto and East York Community Council considered Item TE19.34 pertaining to a Preliminary Report from the Director, Community Planning, Toronto and East York District dated September 26, 2016 regarding the proposed development (the "Preliminary Report"). For more information, see the Preliminary Report at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.TE19.34>

The applicant appealed the zoning amendment application to the OMB/LPAT due to City Council's failure to make a decision within the time allotted by the Planning Act. On October 2, 2017, City Council adopted the recommendations in Item TE26.22 pertaining to a Request for Direction Report from the Director, Community Planning, Toronto and East York District dated August 16, 2017 (the "Request for Direction Report"). Request for Directions Report authorizing the City Solicitor, together with appropriate staff, to attend the OMB/LPAT hearing to oppose the applicant's appeal and to continue discussions with the applicant to address the issues outlined in the report. For more information, see the Request for Direction Report at the following link:

<http://www.toronto.ca/legdocs/mmis/2017/te/bqrd/backgroundfile-106277.pdf>

On November 7, 2017, City Council considered Item CC34.4 pertaining to a confidential City Solicitor's report requesting further direction regarding the OMB/LPAT hearing for this matter. City Council adopted the recommendations of the City Solicitor's report and refused the Applicant's without prejudice settlement offer dated September 18, 2017, and authorized the City Solicitor and City Staff to continue negotiations with the Applicant to achieve a settlement of the appeal on the basis of the terms outlined in City Council's resolution regarding Item TE26.22 dated October 2, 2017 (set out above) and to continue opposing the current Application before the OMB/LPAT. For more information, see City Council's resolution regarding the City Solicitor's report at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.CC34.4>

COMMENTS

The City Solicitor requires further instructions. This report is about litigation before the LPAT and contains advice or communications that are subject to solicitor-client privilege. Attachment 1 to this report contains confidential information and should be considered by Council in camera.

CONTACT

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SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

1. Confidential Attachment 1 - Confidential Recommendations and Confidential Information
2. Confidential Attachment 2 - Confidential Information
3. Confidential Attachment 3 - Confidential Information (on file with the City Clerk for the purposes of the December 13, 2018 City Council meeting)