



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

100 Wellesley Street East - Zoning By-law Amendment Application - Request for Directions

Date: December 10, 2019
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.

The purpose of this report is to request further instructions for the Local Planning Appeal Tribunal hearing that is scheduled to commence on March 16, 2020 for three weeks.

SUMMARY

The applicant has appealed the proposed Zoning By-law to the Local Planning Appeal Tribunal (the "**LPAT**") due to Council's failure to make a decision on the applications within the time prescribed by the Planning Act (the "**Appeal**").

The appealed application proposes to amend the former City of Toronto Zoning By-law 438-86 and City-wide Zoning by-law 569-2013 to permit a 10-storey (36 metres, including mechanical penthouse) infill building along Jarvis Street in a 'U' shape configuration extending along Wellesley Street East to the south, Jarvis Street to the east, and Cawthra Square to the north. Along Wellesley Street East, the proposed new building steps down to a 7-storey building to the west and along Cawthra Square the addition steps down to a 6-storey addition to the west. A new non-residential space with an area of 457.7 square metres is proposed at the ground level on the corner of Jarvis Street and Wellesley Street East. The existing 28-storey rental apartment building containing 427 rental units on the site would be retained.

The Appealed Application proposed a total of 12,087 square metres of gross floor area, a non-residential space with an area of 457.7 square metres is proposed at the corner of Wellesley Street East and Jarvis Street. A portion of this non-residential space is proposed to be used as the new rental office for the building with the remainder of the space proposed for commercial use. The existing floor space index of the site is 4.5 times the area of the lot and with the proposed building and townhouses; the total floor space index is proposed to be 6.3 times the area of the lot. In total, 128 new rental residential units are proposed. In total, including the existing units, the site would provide a total of 552 rental residential units.

The associated Rental Housing Demolition application proposes to demolish 3 existing rental units and renovation of another 23 units. The 3 existing rental units proposed to be demolished (units 109, 110 and 204) are located on the ground and second floors. The demolition of the ground floor units is required to connect the ground floor interior hallways of the existing and proposed buildings. The second floor unit proposed to be demolished would be converted into an indoor amenity space. The 23 existing rental units proposed to be reconfigured and renovated are located on floors 2 through 13 on the eastern end of the building. The existing rental tenure in the existing building is 63 bachelor units, all with high-end rents; 267 one-bedroom units, where 256 units with mid-range rents and 11 units with high-end rents; and 106 two-bedroom units, where 95 units with mid-range rents and 11 units with high-end rents.

On July 23, 2018, City Council directed the City Solicitor, along with appropriate staff, to oppose the application, in its current form, and oppose the Appeal. City Council also directed that staff continue to work with the applicant and seek revisions to the application.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the recommendations contained in the Confidential Attachment 1 to the Report (December 11, 2019) from the City Solicitor.
2. City Council authorize the public release of the confidential recommendations in Confidential Attachment 1 to the Report (December 11, 2019) from the City Solicitor, if adopted by City Council.
3. City Council direct that all other information contained in Confidential Attachment 1 to the Report (December 11, 2019) from the City Solicitor is to remain confidential at the discretion of the City Solicitor, as it contains advice and information, 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

A pre-application consultation meeting was held on April 18, 2016 and October 24, 2016 with the applicant to discuss complete application submission requirements.

The application was submitted on July 14, 2017 and subsequently, the applicant appealed the site specific Zoning By-law Amendment applications to the former Ontario Municipal Board, now the Local Planning Appeal Tribunal, citing City Council's failure to make a decision on the application within the time period prescribed by the Planning Act.

A Request for Directions Report dated June 25, 2018, was adopted by City Council on July 23-30, 2018, the Request for Directions Report and City Council's Decision can be viewed at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.TE34.47>

COMMENTS

On December 10, 2019, the owner submitted a "with prejudice" Settlement Offer, along with Revised Plans and Drawings dated December 9, 2019, which are attached respectively as Public Attachment "1" and Public Attachment "2", illustrating a revised development concept for the subject property (the "**Revised Proposal**"). The property is located at 100 Wellesley Street East (the "**Development Site**").

The Revised Proposal

The Revised Proposal consists of a 10-storey (32 metres) building addition connected to the existing 28-storey apartment building. The proposed addition contains 128 units and would step down in height to the west along Cawthra Square to 4-storeys (13.7 metres). A portion of the existing open space adjacent to Barbara Hall Park and connecting mid-block through to Wellesley Street East would be secured as POPS with a minimum area of 820 square metres and the space is intended to be designed to fit seamlessly with Barbara Hall Park. The existing open space at the corner of Jarvis Street and Wellesley Street East would also remain and be subject to a restrictions on development to preserve this area from future development and ensure it remains as open space.

The following table summarizes the development statistics for the original submission from July 2017 and the Revised Proposal:

Category	Original Proposal July 2017	Revised Proposal December 2019
Site Area	6,595.6 square metres	6,595.6 square metres
Gross Floor Area - Existing - Proposed - Total	29,702 square metres 12,087 square metres 41,789 square metres	29,702 square metres 9,988 square metres 39,690 square metres
Density Existing Proposed Total	4.5 FSI 1.8 FSI 6.3 FSI	4.5 FSI 1.5 FSI 6.0 FSI
Building Height Jarvis Cawthra (North Wing) Wellesley (South Wing)	10 storeys (32 metres excluding mechanical) 6 to 10 storeys (20 metres – 32 metres) 7 to 10 storeys (23 metres – 36 metres)	10 storeys (32 metres excluding mechanical) 4 to 10 storeys (13.7 metres – 32 metres) n/a
Separation Distance - North Wing - South Wing	11.7 metres 12.7 metres	15 metres n/a
Number of Dwelling Units Existing Proposed Existing Units to be reconfigured Units to be demolished Total	427 128 3 3 552	427 128 13 2 553

Category	Original Proposal July 2017	Revised Proposal December 2019
Unit Mix (New) - Studio - 1 Bedroom - 2 Bedroom - 3 Bedroom - Total	1 (0.7 percent) 12 (9.3 percent) 86 (67 percent) 29 (23 percent) 128	0 (0 percent) 22 (17 percent) 92 (71.3 percent) 15 (11.6 percent) 128
Unit Mix (Total) - Studio - 1 Bedroom - 2 Bedroom - 3 Bedroom - Total	54 (9.7 percent) 280 (50.7 percent) 189 (34.2 percent) 29 (5.3 percent) 552	53 (9.6 percent) 289 (52.3 percent) 196 (35.4 percent) 15 (2.7 percent) 553
Residential Amenity Space Indoor (total) Outdoor (total)	759 square metres (1.4 square metres per unit) 1,150 square metres (2.0 square metres per unit)	751 square metres (1.3 square metres per unit) 1,371 square metres (4.2 square metres per unit)
Open Space	None preserved	820 square metre POPS adjacent to Barbara Hall Park No development on open space at Jarvis/Wellesley

The purpose of this report is to request further instructions for the LPAT hearing that is scheduled to commence on March 16, 2020.

The City Solicitor requires direction on this matter in litigation.

CONTACT

Daniel Elmadany, Solicitor, Planning & Administrative Tribunal Law; Tel: (416) 397-5709; Fax: (416) 397-5624; Email: Daniel.Elmadany@toronto.ca

SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

Public Attachment "1" - Letter from Wood Bull LLP dated December 10, 2019 regarding 100 Wellesley Street East, Toronto

Public Attachment "2" – Revised Zoning by-law Amendment Plans and Drawings dated December 9, 2019, prepared by Core Architects (on file with the City Clerk for the purpose of the December 17 and 18, 2019 City Council Meeting)

Confidential Attachment 1 - Confidential Information