



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

120, 122, 124, 126 and 128 Peter Street and 357 and 359 Richmond Street West - Zoning By-law Amendment Application - Request for Direction Report

Date: May 21, 2020

To: City Council

From: City Solicitor

Wards: Ward 10 – Spadina-Fort York

REASON FOR CONFIDENTIAL INFORMATION

This report concerns litigation or potential litigation that affects the City of Toronto.

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

SUMMARY

The purpose of this report is to seek further instruction in relation to a development application for a site that contains several heritage resources and a related ongoing appeal at the Local Planning Appeal Tribunal (LPAT).

At its meeting of July 23-26, 2018, City Council endorsed a settlement from Overland LLP on behalf of Fortress Carlyle Peter Street Inc. for a mixed-use development with residential and retail uses including the conservation of five heritage buildings at 120-128 Peter Street and 357-359 Richmond Street West. A LPAT hearing was held on January 7, 2020 to consider the proposed settlement. At the hearing, the Tribunal issued an oral decision allowing the appeal, in part, and approving the proposed zoning by-law amendment, but withheld its final order pending satisfaction of certain preconditions. Amongst other preconditions, the Tribunal's Final Order is to be withheld until the parties have provided the LPAT with the final form of zoning by-law amendment. The Tribunal's oral decision was followed by a written decision dated January 22, 2020.

On May 19, 2020, the City Solicitor received a with prejudice offer of revised settlement from Overland LLP on behalf of Fortress Carlyle Peter Street Inc. proposing that a hotel be added to the development. The offer is the result of extensive discussion with City staff. With the inclusion of a hotel some aspects of the design of the development contemplated under the July 2018 Settlement are proposed to be modified. Further detail regarding revisions to the previous settlement offer is provided below.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the Confidential Recommendations contained in Confidential Attachment 1.
2. City Council authorize the public release of the Confidential Recommendations in Confidential Attachment 1 if adopted by City Council, with the balance of the Confidential Attachment 1 to remain confidential at the discretion of the City Solicitor as it contains advice which 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 January 31, 2017, City Council considered a Request for Direction Report from the Acting Director, Community Planning, Toronto and East York District in relation to the Zoning By-law Amendment application for 122 -128 Peter Street and 357 and 359 Richmond Street West. At that meeting City Council directed the City Solicitor and appropriate staff to attend the Ontario Municipal Board (now Local Planning Appeal Board) and oppose the Zoning By-law Amendment, but also to continue discussions with the applicant to address a number of enumerated concerns.

That decision of City Council is available at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.TE29.18>

At its meeting of July 23-26, 2018, City Council endorsed a settlement for a mixed-use development with residential and retail uses, which included the conservation of five heritage buildings at 120-128 Peter Street and 357-359 Richmond Street West. Alterations to the heritage buildings were considered and approved under separate report to the Toronto Preservation Board.

Council's consideration of the settlement is available at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.CC44.27>

Council's consideration of the associated applications to alter heritage properties is available at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.CC44.3>

COMMENTS

This report is about ongoing litigation and contains advice or communications that are subject to solicitor-client privilege. The attachment to this report contains confidential

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information and should be considered by City Council *in camera*. This report has been prepared in consultation with staff from City Planning (Community Planning, Urban Design and Heritage Preservation Services).

On May 19, 2020, the City Solicitor received a with prejudice offer of revised settlement from Overland LLP on behalf of Fortress Carlyle Peter Street Inc. proposing that a hotel be added to the development. That offer letter is attached as Public Appendix A to this report. With the inclusion of a hotel some aspects of the design of the development contemplated under the July 2018 Settlement are proposed to be modified. The proposed revisions are described below and summarized in Table 1.

- The building has been reduced from 42 to 39 storeys. The building height has been reduced from 128.9 to 121.5 metres excluding the mechanical penthouse levels, but would remain the same at 141.36 metres including the mechanical penthouse levels.
- A 106 room hotel is proposed for the site, which will occupy levels 1 through 13 within the building as well as the five heritage building on the site.
- The residential gross floor area is proposed to be reduced from 22,581 to 16,777 square metres and the number of dwelling units is proposed to be reduced from 348 to 270 dwelling units.
- The overall gross floor area is proposed to be reduced from 23,054 to 22,956 square metres representing a reduction in density from 14.1 to 13.9 times the site area.
- The base building height is proposed to change in some locations stepping up from 2 and 3 storeys (8 and 12 metres) to 5 storeys and 20 metres. Previously the base building was 2 storeys (8 metres) along street frontages stepping up to 6 storeys (24 metres).
- A small portion of the publicly accessible pedestrian walkway along the western edge of the site is proposed to be reduced from 3 to 2 metres to address changes to the design of the interior servicing court to accommodate on-site loading spaces, and pick-up and drop-off spaces for the hotel.
- The knock-out panel in the underground garage previously contemplated to provide an option for a below-grade service connection for loading between the development site and the adjacent property at 401 Richmond Street West is proposed to be removed.
- The amount of residential amenity space is proposed to be revised with an increase in indoor amenity space and a reduction in outdoor amenity space proposed as well as sharing of some amenity space between the residents and hotel users.

Public Appendix B to this report includes the revised Architectural Drawings from Architects Alliance dated May 19, 2020.

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Table 1 – Initial and Revised Settlement Proposals 120-128 Peter Street and 357-359 Richmond Street West		
	June 2018 Settlement Offer (Approved by LPAT January 2020)	Revised Settlement Offer (May 19, 2020)
Height (storeys)	42	39
Height (meters)	128.95	121.5
Residential Gross Floor Area (m²)	22,581	16,777
Hotel Floor Area (m²)	-	6,180
Hotel Rooms	-	106
Retail Floor Area (m²)	473	-
Total Gross Floor Area (m²)	23,054	22,956
Density – Floor Space Index	14.1 x lot area	13.97 x lot area
Dwelling Units	348	270
Total Amenity Space (m²)	1,406 (4 per unit)	1,355 (5 per unit)
Total Indoor Amenity Space (m²)	736 (2.1 per unit)	926 (3.4 per unit)
Total Outdoor Amenity Space (m²)	670 (1.9 per unit)	429 (1.59 per unit)
Indoor Residential Amenity Space (m²)	736 (2.1 per unit)	379 (1.4 per unit)
Outdoor Residential Amenity Space (m²)	670 (1.9 per unit)	223 (0.82 per unit)
Indoor Shared Amenity Space (m²)	-	547 (2 per unit)
Outdoor Shared Amenity Space (m²)	-	206
Vehicle Parking Spaces	56	58
Bicycle Parking Spaces	363	287

CONTACT

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SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

Public Appendix A – Settlement Offer Letter dated May 19, 2020 from Overland LLP
Public Appendix B – Architectural Plans dated May 19, 2020 prepared by Architects Alliance