

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

**Date:** October 31, 2017

**To:** City Council

**From:** City Solicitor

**Wards:** Ward 20 - Trinity-Spadina

### **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**

---

The zoning amendment application has been appealed by the applicant to the Ontario Municipal Board (the “OMB”). At this time, no hearing date for this matter has been scheduled. Further direction from City Council is required in advance of the hearing.

### **RECOMMENDATIONS**

---

The City Solicitor recommends that:

1. City Council adopt the recommendations contained in the Confidential Attachment 1 to this report.
2. If the confidential instructions in Confidential Attachment 1 are adopted, City Council authorize the public release of:
  - a. the recommendations contained in the Confidential Attachment 1, with the remainder of the Confidential Attachment 1 and all of Confidential Attachment 2

to remain confidential at the discretion of the City Solicitor, as they contain advice 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**

---

Lifetime Wellington Street West Inc., the owner of the property municipally known as 485-489 (the "Subject Property"), applied for a zoning by-law amendment in order to facilitate a proposed redevelopment of the Subject Property. The application proposes a 15-storey building with 431 square metres of commercial space on the first floor and 131 residential units above.

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 Ontario Municipal Board ("OMB") due to City Council's failure to make a decision within the time allotted by the Planning Act.

On October 2, 2017, City Council considered Item TE26.22 pertaining to a Request for Direction Report from the Director, Community Planning, Toronto and East York District dated August 16, 2017 regarding the appeal of the application to the OMB (the "Request for Direction Report"). At that meeting Council adopted the following recommendations:

1. City Council authorize the City Solicitor, together with City Planning staff and any other appropriate staff to attend an Ontario Municipal Board hearing to oppose the appeal of the currently proposed Zoning By-law Amendment for 485-489 Wellington Street West and support the position outlined in the report (August 16, 2017) from the Director, Community Planning, Toronto and East York District.
2. City Council request City Planning staff to continue negotiations with the applicant to achieve a settlement of the appeal based upon the following direction and the submission of detailed plans and drawings addressing such additional matters as outlined in the report (August 16, 2017) from the Director, Community Planning, Toronto and East York District:

- a. the height of the proposed building be lowered to a maximum of 45 metres (including mechanical elements);
- b. the building be massed to ensure that shadows cast by the proposed structure do not encroach beyond the north curb of Wellington Street West, past 12:00 p.m. (noon) on September 21st;
- c. the proposed building include a step back of a minimum of 5 metres along the Wellington Street West frontage. The step back shall occur at a height which reflects the height of the adjacent Part IV designated heritage buildings to the west of the subject property;
- d. the proposed building include a step back of a minimum of 5 metres along the Draper Street frontage of the property. The step back shall occur at a height which reflects the height of the residential houses in the Draper Street Heritage Conservation District ("HCD") to the south of the subject property;
- e. the base building transition southward from the taller buildings on Wellington Street West to the more modest scale heritage homes in the Draper Street Heritage Conservation District;
- f. an increased setback from Draper Street reflecting the setback to the main wall of the Victorian Townhouses (excluding the bay windows) within the Draper Street Heritage Conservation District;
- g. changes to the proposed building to improve the relationship to the existing heritage structures to the west;
- h. an updated streetscape and composite utility plan including a minimum 2.1 metre pedestrian clearway;
- i. an updated Functional Servicing Report to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services;
- j. an updated Hydrogeological Report and supporting documents addressing on-site groundwater to the satisfaction of the General Manager, Toronto Water;
- k. an updated Parking Study supporting the proposed parking supply to the satisfaction of the General Manager, Transportation Services; and
- l. additional information to address outstanding comments contained in the February 10, 2017 memorandum from Engineering and Construction Services.

3. City Council authorize the Director, Community Planning, Toronto and East York District, in consultation with the Ward Councillor, to identify the matters, services and facilities pursuant to Section 37 of the Planning Act to be secured in the event the Ontario Municipal Board approves the Zoning By-law amendment applications as proposed in whole or in part and City Council direct the City Solicitor to request that any final order be withheld until such time as any such by-laws are in a final form acceptable

to the City Solicitor and the Chief Planner and Executive Director, City Planning and that such by-laws include the requirement for appropriate matters, services and facilities to be provided by the owner at its expense pursuant to Section 37 of the Planning Act and until the owner has entered into and registered on title a satisfactory Section 37 Agreement with the City to secure such matters all to the satisfaction of the Chief Planner and Executive Director, City Planning and the City Solicitor.

4. City Council authorize the City Solicitor and any other City staff to take such actions as necessary to give effect to City Council's decision.

For a more detailed Decision History, see the Request for Direction Report at the following link:

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

## **ISSUE BACKGROUND**

Further information has been received which has resulted in the need for directions from City Council in respect of the OMB hearing.

## **COMMENTS**

---

This report is about litigation before the OMB 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. Attachment 2 to this report contains confidential correspondence and should be considered by Council in camera.

## **CONTACT**

---

Alexander Suriano, Solicitor, Planning & Administrative Law, Tel: 416-392-4827, Fax: 416-397-4421, E-mail: [Alexander.Suriano@toronto.ca](mailto:Alexander.Suriano@toronto.ca)

## **SIGNATURE**

---

Wendy Walberg  
City Solicitor

## **ATTACHMENTS**

---

Confidential Attachment 1 - Confidential Recommendations and Confidential Information

Confidential Attachment 2 - Confidential Information