



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

49 Spadina Avenue - Zoning Amendment Application - Request for Direction Report

Date: June 18, 2018
To: City Council
From: City Solicitor
Wards: Ward 20 - Trinity Spadina

REASON FOR CONFIDENTIAL INFORMATION

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

SUMMARY

The purpose of this report is to seek further instruction for the Local Planning Appeal Tribunal ("LPAT") hearing process on the appeal of City Council's failure to make a decision on the Zoning By-law Amendment application for 49 Spadina Avenue within the timelines set out in the *Planning Act*. The appeal is known as Tribunal file PL170820 and the hearing is scheduled to take place alongside the appeal for the application on adjoining property known as 400 Front Street beginning June 18, 2018. This report seeks instruction with respect to revised plans dated May 31, 2018 (the "Revised Plans") that have been submitted to the City.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the confidential recommendations contained in Confidential Attachment 1 to the Report (June 18, 2018) from the City Solicitor.
2. City Council authorize the public release of the recommendations contained in the Confidential Attachment 1 to the Report (June 18, 2018) from the City Solicitor and Confidential Attachment 2 in its entirety, if adopted by City Council, but that the remainder of the Confidential Attachment 1 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

At its meeting of January 31, 2018 City Council considered a Request for Directions report from City Planning dated January 23, 2018. That report identified a number of issues with the proposal including: the proposal did not conform to built form and heritage policies of the Official Plan, the proposal did not satisfactorily respond to adjacent heritage park and retained heritage building, the proposal created unacceptable shadow impact on Clarence Square Park, the proposed tower did not address the requirements for setbacks and stepbacks to property lines, among other issues. The report recommended directing the City Solicitor and staff to attend the LPAT in opposition to the appeal.

The report is available at:

<https://www.toronto.ca/legdocs/mmis/2018/cc/bgrd/backgroundfile-112328.pdf>

A hearing on this appeal has been scheduled for June 18 to July 6, 2018 at the LPAT.

In late May 2018 the City received a with prejudice settlement offer from the Applicant's solicitors, Aird & Berlis LLP ("With Prejudice Settlement Offer"). The With Prejudice Settlement Offer commits the Applicant to present the Revised Plans at the LPAT hearing for approval.

COMMENTS

Original Application

The proposal was for a 20-storey office building with retail uses located at grade and within the basement. A five-storey heritage building occupies the western half of the site and a two-storey addition constructed in the 1940's fills in the remainder of the site to the east. The proposed development would largely maintain the existing heritage building and redevelop the eastern portion of the site by demolishing the two-storey addition and replacing it with the 20-storey office tower. The original architectural drawings are attached as Appendix A.

At its meeting of January 31, 2018 City Council directed the City Solicitor to oppose the appeal for that application.

Summary of Revised Plans

Appendix "B" to the public portion of this report are the Revised Plans dated May 31, 2018, forwarded to the City Solicitor from the owner's solicitor.

The key revisions to the proposal that have been made in the Revised Plans are summarized as follows:

- The overall building height has been reduced from 20 storeys plus mechanical (total height of 89 metres) to 14 storeys plus mechanical (total height of 64.8 metres);
- The Revised Plans introduce successive setbacks at the 13th, 14th, and mechanical levels on the north face of the building, reducing the floor plate of those levels and reducing shadow on the park;
- Additional articulation and sculpting has been introduced to the interface between the existing heritage building and the new building;
- A setback of varying distances (of up to 10 metres) has been introduced between the building and the south property line;
- There will be a greater "overhang" of the new building over the existing heritage building, and a new mechanical structure will be located on top of the heritage building and will be set back at minimum 5 metres from each side of the building;
- The 47 square metre on-site parkland dedication previously proposed for the east end of the site has been converted to a Publicly Accessible Open Space ("POPS") that is 96 square metres in size. The building will overhang the POPS beginning at the third storey as depicted in Appendix B and will be contiguous to parkland currently being requested as part of the development application at 400 Front Street;

- The shadow impact of the new building on Clarence Square Park has been reduced so that at no time during the shoulder seasons of September and March will a shadow be cast on the central fountain feature of the park.

CONTACT

Matthew Longo, Solicitor, Planning & Administrative Law; Tel.: (416) 392-8109; Fax: (416) 397-5624; Email: matthew.longo@toronto.ca

SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

Appendix A - Original Application Architectural Drawings - (on file with the City Clerk for the purpose of the City Council meeting commencing June 26, 2018)

Appendix B - Revised Plans - (on file with the City Clerk for the purpose of the City Council meeting commencing June 26, 2018)

Confidential Attachment 1
Confidential Attachment 2