



## REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

### **33 and 37 Parliament Street - LPAT Appeal - Request for Directions**

**Date:** July 12, 2018

**To:** City Council

**From:** City Solicitor

**Wards:** Ward 28 - Toronto Centre-Rosedale

#### **REASON FOR CONFIDENTIAL INFORMATION**

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This report is about litigation or potential litigation that affects the City or one of its agencies or corporations and contains advice or communications that are subject to solicitor-client privilege.

#### **SUMMARY**

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The purpose of this report is to seek further instruction for the Local Planning Appeal Tribunal hearing on the appeals of the Official Plan and Zoning By-law amendment application at 33 and 37 Parliament Street. Upon proclamation of Bill 139 on April 3, 2018 the Ontario Municipal Board became the Local Planning Appeal Tribunal (LPAT); however, given the date of the appeal of this matter, the pre-Bill 139 planning appeal system will apply.

#### **RECOMMENDATIONS**

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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 recommendations contained in the Confidential Attachment 1 and Confidential Appendix A to the report (July 12, 2018) from the City Solicitor, if adopted by City Council, with the remainder of the Confidential Attachment 1 remaining confidential, as it contains advice which is subject to solicitor-client privilege.

## FINANCIAL IMPACT

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

## DECISION HISTORY

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On November 14, 2017, the Toronto and East York Community Council considered the preliminary report in this matter and approved the recommendation to report back in the first quarter of 2018 on the results of the community consultation meeting and staff recommendations on the proposal. The report stated the proposal was over-development, was not in conformity with the emerging policy direction of Official Plan Amendment 304 (OPA 304) and was not supportable in its current form. The decision document and preliminary report can be accessed at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.TE28.38>

On January 23, 2018, the applicant appealed the rezoning component of the application to the LPAT pursuant to section 34(11) of the *Planning Act* due to non-decision by City Council.

On January 31 and February 1, 2018, City Council refused the application and adopted the recommendations of the refusal report. The report stated the proposal represents over-development and the 15 and 39-storey building failed to adhere to the built form policy objectives of the Official Plan and the King-Parliament Secondary Plan, and the emerging policy direction for the Triangle Lands policy area in OPA 304, where a tall building of up to 30 storeys sited in the western portion of the Triangle Lands may be permitted provided it transition down towards the St. Lawrence Community and minimize net new shadows on the surrounding open spaces, among other criteria.

The report also noted other issues the proposal had not resolved, including appropriate measures to conserve the heritage resources of the Distillery District, appropriate number of vehicular parking spaces to accommodate the development, traffic impacts; appropriate wind mitigation measures; and sufficient servicing to accommodate the proposal. The decision document and report can be accessed at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.TE29.16>

On February 9, 2018, the applicant appealed the decision of City Council to refuse the Official Plan Amendment component of the application to the LPAT pursuant to section 22(7) of the *Planning Act*.

## COMMENTS

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The Local Planning Appeal Tribunal has not yet set a pre-hearing or dates for a full hearing in this matter.

On May 22, 2018 the City received, with prejudice, revised plans on the appealed application (the May 22 Revised Plans).

The May 22 Revised Plans included revisions to the original submission which included a maximum height of 116 metres (inclusive of mechanical penthouse), a maximum gross floor area of 37,000 square metres, with a maximum residential gross floor area of 36,000 square meters and other matters as detailed below. The resubmission letter that accompanied the May 22 Revised Plans is attached as Public Attachment 1 to this report.

The following table provides a comparison of the changes between the original submission refused by City Council on January 31 and February 1, 2018 and the May 22 Revised Plans:

		Refused Application (December 15, 2017)	May 22 Revised Plans and Settlement Offer Letter (May 22, 2018)
Site Area (square metres)		3,913.2	3,913.2
Gross Floor Area (square metres)	Residential	45,770.39	36,000
	Retail	1,248.28	1,000
	Total	47,018.67	37,000
Floor Space Index		12	9.5
Tower Height (metres)		131 including the mechanical penthouse	116 including the mechanical penthouse
Tower Number of Storeys		15 and 39	9 and 34
Tower Floor Plate (square metres)		750	790 from 10th to 28th storey 750 from 29th to 34th storey
Tower Setbacks (metres)	North	2.0 to 8.6 starting on the 7th storey	2.3 to 12.8 starting on the 8th storey
	East	5.0 to 58.0 starting on the 7th storey	6.0 to 51.4 starting on the 8th storey
	South	12.3 starting on the 16th storey	12.5 starting on the 10th storey
	West	4.4 starting on the 16th storey	6 starting on the 6th storey

		Refused Application (December 15, 2017)	May 22 Revised Plans and Settlement Offer Letter (May 22, 2018)
Base Building Setbacks (metres)	North	1.8 from 2nd to 6th storey 2.0 to 8.6 starting on the 7th storey	0 to 1 from 1st to 5th storey 4.1 starting on the 6th to 7th storey
	East	0 to 56.2 from 1st to 6th storey	1.9 to 50.4 from 1st to 5th storey
	West	0 to 1.3 on the 1st storey 0 from 2nd to 6th storey	3 from the 1st to 5th storey
	South	N/A	N/A
East-West Building Height (metres)		50	31
East West Building Number of Storeys		15	9
East-West Building Setbacks	North	1.8 to 20.3 from 1st to 14th storey	5.1 to 23.3 from the 1st to 7th storey 4.6 starting on the 8th storey
	East	0 starting on the 1st to 14th storey 1.9 at the 15th storey	0 starting on 1st to 7th storey 4 starting on the 8th storey
	South	9.0 starting on 1st to 14th storey 10.9 at the 15th storey	6 starting on 1st to 7th storey 9.2 starting on the 8th storey
	West	0 starting on the 1st to 14th storey 2.3 at the 15th storey	3 from the 1st to 5th storey 6 starting on the 6th to 9- storey
Number of Residential Units	Bachelor	23 (3.7 percent)	Unknown
	1-Bedroom	341 (54.8 percent)	Unknown
	2-Bedroom	198 (31.8 percent)	(25 percent)
	3-Bedroom	60 (9.7 percent)	(10 percent)

		Refused Application (December 15, 2017)	May 22 Revised Plans and Settlement Offer Letter (May 22, 2018)
	Total	622 (100 percent)	(100 percent)
Amenity Space (square metres per unit)		2.0 indoor 2.7 outdoor	1.5 indoor 1.5 outdoor
POPs (square metres)		393	300
Number of Vehicular Parking Spaces (per residential unit)	Resident	0.3	0.3 per unit
	Visitor	0.09	0.06 per unit
	Commercial	33 (total)	1 per 100 square metres of retail space

On July 12, 2018, the City received a further With Prejudice offer, attached as Public Attachment 3 to this report.

## **CONTACT**

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## **SIGNATURE**

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Wendy Walberg  
City Solicitor

## **ATTACHMENTS**

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Public Attachment 1 - With Prejudice Letter from McCarthy Tetrault dated May 22, 2018

Public Attachment 2 - Revised Plans (May 22, 2018) on file with the City Clerk for the purpose of the July 23, 24 and 25, 2018 City Council Meeting

Public Attachment 3 - With Prejudice Letter from McCarthy Tetrault dated July 12, 2018

Confidential Attachment 1 - Confidential Report from City Solicitor

Confidential Appendix A - Confidential Information - On file with the City Clerk for City Council meeting on July 23, 24, and 25, 2018