



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

470-488 Wellington Street West - Zoning Amendment Applications - Request for Further Direction Regarding LPAT Hearing

Date: March 20, 2019

To: City Council

From: City Solicitor

Wards: Ward 10 - Spadina - Fort York

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 Owners of the sites at 470-474 Wellington Street West (file no. 16 270154 STE 20 OZ) and 482-488 Wellington Street West (file no. 16 261191 STE 20 OZ) made separate applications in December, 2016 for a 15-storey building with approximately 318 square metres of retail space on the ground floor and 11,311 square metres of office space above at 470-474 Wellington Street West, and for a 16-storey building with 272 square metres of retail and service commercial uses on the ground floor and 18,226 square metres of office space above at 482-488 Wellington Street West.

Both applications were appealed to the Local Planning Appeal Tribunal (LPAT) citing Council's failure to make a decision within the time allotted by the *Planning Act*. The matters were consolidated at a pre-hearing held on May 8, 2018. A hearing has been scheduled for May 13 to 23, 2019.

Since the applications were filed and appealed, they have evolved considerably. The two previously proposed office buildings, submitted under separate applications, have now been consolidated into a single new office building on a combined site. The consolidated proposal has been further refined through ongoing discussions with staff.

The revised, consolidated application that is the subject of this report proposes a 14-storey (60 metre, including mechanical penthouse) office building containing 21,328 square metres of office space, 1,008 square metres of retail uses, and one level of underground parking with 56 parking spaces (the Revised, Consolidated Proposal). The front 10.0 metres of the heritage buildings on the property at 482 and 488 Wellington Street West, which comprise the western portion of the consolidated site, are proposed to be retained and integrated into the proposed office building.

The City Solicitor requires direction from City Council on the Revised, Consolidated Proposal for the upcoming hearing. City Planning has been involved in the preparation of this report.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the recommendations contained in Confidential Attachment 1 to this report.
2. City Council authorize the public release of the confidential recommendations contained in Confidential Attachment 1 to this report, if adopted by City Council.
3. City Council direct that all other information contained in Confidential Attachment 1 is to remain confidential at the discretion of the City Solicitor, as it contains advice that is subject to solicitor-client privilege.

DECISION HISTORY

King-Spadina Heritage Conservation District

On October 2, 2017, City Council adopted Item TE26.14, and in accordance with Section 41 of the *Ontario Heritage Act*, designated by by-law the King-Spadina Heritage Conservation District (HCD) and King-Spadina Heritage Conservation District Plan under Part V of the *Ontario Heritage Act*. The boundaries of the HCD include the subject properties. The Council-approved HCD is currently under appeal to the LPAT. The City Council decisions and the HCD plan are available at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.TE26.14>.

Request for Directions Reports

On April 24, 2018, City Council adopted Item TE31.12 directing the City Solicitor and City staff, as appropriate, to attend the Local Planning Appeal Tribunal Hearing, and to oppose the Zoning By-law Amendment application for 470-474 Wellington Street West. City Council's Decision is found at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.TE31.12>

On April 24, 2018, City Council adopted Item TE31.13 directing the City Solicitor and City staff, as appropriate, to attend the Local Planning Appeal Tribunal Hearing, and to oppose the Zoning By-law Amendment application for 482-488 Wellington Street West. City Council's Decision is found at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.TE31.13>

470-474 Wellington Street West

On September 21, 2016, a pre-application meeting was held with the applicant to discuss complete application submission requirements, and to identify preliminary issues with the proposal. Staff identified a number of issues including the appropriateness of the proposed built form for the site, the proposed building height, massing, and consistency with the character of the surrounding area and policies of the King-Spadina Secondary Plan and the Official Plan.

482-488 Wellington Street West

On October 18, 2016 and November 15, 2016, pre-application meetings were held with the applicant to discuss complete application submission requirements, and to identify preliminary issues with the proposal. Staff identified a number of issues including the appropriateness of the proposed built form for the site, the treatment of the listed heritage buildings, the proposed building height massing and consistency with the character of the surrounding area and policies of the King-Spadina Secondary Plan and the Official Plan.

ISSUE BACKGROUND

Discussions with the Applicant

The applications to amend the Zoning By-law were filed on December 7, 2016 for 470-474 Wellington Street West and on December 22, 2016 for 482-488 Wellington Street West. The applications as filed were similar to the proposals discussed at the pre-application meetings.

Several meetings were held with the applicants of both development proposals to discuss possible changes to the development. City staff noted in these discussions that the larger floorplates typically required for office developments are difficult to accommodate within the smaller lots typically found in King-Spadina, and, in particular, the relatively narrow lots found on the north side of Wellington Street West between Spadina Avenue and Portland Street. Staff suggested that the absence of adequate side and rear yard setbacks, which characterized both proposals, were the result of too much development proposed on too narrow a property, and that if the properties could be consolidated, a single office building could be developed with a suitable floorplate and side and rear yard setbacks.

The revised proposal, a single 14-storey office building on a consolidated property, as described in this report, was initially submitted on December 18, 2018 with further

changes made in February 2019, as outlined in the Settlement Offer Letter attached as Public Attachment 1.

470-474 Wellington Street West (file no. 16 261191 STE 20 OZ)

The application submitted on December 7, 2016 proposed a 15-storey building with approximately 318 square metres of retail space on the ground floor and 11,311 square metres of office space above. The proposed overall height was approximately 72 metres, including the mechanical penthouse.

The building was proposed to be set back zero metres from the south (Wellington Street West) lot line and would step back from the south lot line by approximately 10 metres above the fifth storey. The building was also proposed to be set back zero metres from the north lot line.

Windows were proposed on the entire north façade of the building. The building was proposed to be set back a minimum of 1.5 metres from both the east and west lot lines. The east façade of the building would include windows. The proposed setback from the east lot line would result in a separation distance of approximately three metres from the abutting six-storey residential heritage building at 468 Wellington Street West, which includes windows on its west façade. On the west façade of the proposed building, a blank wall was proposed for the first five storeys, with windows proposed above. The abutting six-storey listed heritage office building to the west at 482 Wellington Street West was built to the lot line and includes windows on its east façade, which would result in a separation distance of approximately 1.5 metres.

Vehicular access was proposed to be provided from Wellington Street West along the east side of the building via the existing 3.5 metre wide private laneway that is shared with the abutting property. Vehicle parking and loading spaces were proposed in the ground floor of the building. Fifteen bicycle parking spaces were proposed at the rear of the west side of the building and would be accessed from a 1.5 metre wide pedestrian connection proposed along the west side of the building. An additional 64 bicycle parking spaces were proposed in the underground garage.

482-488 Wellington Street West (file no. 16 270154 STE 20 OZ)

The application submitted on December 22, 2016 proposed a 16-storey building with 272 square metres of retail and service commercial uses on the ground floor and 18,226 square metres of office space. Outdoor amenity space was proposed on the roof of the existing heritage buildings where the new building would step back from the street facing Wellington Street West. The proposed overall height of the building was approximately 72 metres, including the mechanical penthouse. The proposal included the integration of the front façades and 10 metres behind the façades of the existing listed heritage buildings on the site. Beyond the retained 10 metre portion, the existing buildings were proposed to be removed.

The existing heritage-listed, five-to six-storey brick warehouse buildings were proposed to remain in their current location, with a zero metre setback from the south (Wellington Street West) lot line. The new building was proposed to be set back from the south lot

line by approximately 10 metres above the fifth storey of the retained heritage buildings. The building was proposed to be set back zero metres from the east lot line for the first six storeys of the building. The building would be set back 1.7 metres from the east lot line above the sixth storey. The entire east façade would include windows in both the existing and proposed buildings.

The existing and proposed buildings would have an irregular setback from the west lot line due to a combination of the proposed building design and the shape of the site, which narrows slightly along the west lot line from south to north. A minimum setback at grade of three metres from the west lot line to the building was proposed. This would gradually increase to six metres in the middle of the site beyond the 10 metre deep retained portion of the existing heritage building before decreasing to three metres toward the northern portion of the site. The third to fifth storeys included a generally uniform setback from the west lot line of three metres. Above the fifth storey at the southern (wider) portion of the property, a six metre setback was proposed from the west lot line with a three metre setback proposed at the northern (narrower) portion of the property. The west façade was proposed to include windows above the third storey.

The proposed setback to the proposed building from the north lot line was proposed to range from approximately 0.4 metres to two metres. The entire building would be set back a minimum of 1.9 metres from the north lot line above the sixth storey. The north façade was proposed to include windows above the third storey.

Vehicular access was proposed from Wellington Street West. Vehicle parking and loading spaces were proposed in the ground floor of the building. A total of 304 bicycle parking spaces were proposed at the rear of the first and second storeys of the building.

Revised, Consolidated Proposal (Dec. 2018 - Feb. 2019)

Both applicants appealed their Zoning By-law amendment applications to the LPAT. The applicant at 470-474 Wellington Street West filed their appeal on August 9, 2017. The applicant at 482-488 Wellington Street West appealed their application to the LPAT on October 31, 2017.

A revised proposal was submitted on December 18, 2018. The revised proposal, submitted initially on a 'without prejudice' basis, was a consolidation of the two original proposals with one building now being proposed for the consolidated site. Through discussions with staff, further revisions were proposed in February, 2019, including a further reduction of the overall height of the building and increased setbacks at the 6th and 12th floors, and for the mechanical penthouse. The Revised, Consolidated Proposal detailed in this report and the attached plans and drawings reflects the current settlement proposal from the Owners, as outlined in the Settlement Offer Letter (Public Attachment 1) and is described as follows:

- The lot area of the consolidated site is 2,992.8 square metres, with 46.7 metres of frontage along the north side of Wellington Street West.

- The non-residential GFA has been reduced from a combined 30,127 square metres to a total of 23,080 square metres, reducing the overall combined density from 10.1 to 7.5 times the lot area of the site.
- The height of the mechanical penthouse has been reduced from a height of 6.14 metres at 488 Wellington Street West and 6.25 metres at 474 Wellington Street West, to a height of 5 metres. It has been setback to reduce visibility, and will be set back 19.9 metres from the front lot line.
- The overall height of the buildings, including mechanical penthouses, has been reduced from 72.4 metres at 488 Wellington Street West and 72.6 metres at 474 Wellington Street West, to a single building with a height of 60 metres.
- Along the west property line, the existing heritage building is set back slightly less than 3 metres from the side property line. The proposed development retains this setback. This side yard provides pedestrian access to on-site bicycle parking.
- A 5.88 metre setback is proposed along the ground floor on the east side of the building. Vehicle parking and loading access is provided via this space, which also serves as a mid-block connection to the properties to the north. A 4 metre setback is proposed from the 2nd to the 5th floor above this midblock connection. Views from the proposed building into the adjacent residential property to the east are restricted.
- The building is set back 2 metres at grade at the rear property line to allow for a commercial unit at the rear of the property to serve as an amenity for the rear yard open space provided through the approved development at 489-539 King Street West to the north.
- A 10.5 metre setback is proposed from the south elevation above the podium at the 5th floor to align with the existing heritage buildings at 488 Wellington Street West. This setback is reduced to a minimum 9 metres from the 7th to the 11th floors. There is a 5 metre step-back proposed off of Wellington Street West at the 12th storey to the 14th storey.
- The revised proposal provides increased minimum setbacks from the tower to the adjacent properties. The original applications provided minimum tower setbacks of 0 metres from the north (rear) lot line, 1.57 metres from the east (side) lot line and 3.047 metres from the west (side) lot line. The increased minimum tower setbacks provide 7.5 metres from the north (rear) lot line and 5.5 metres from the both the west and from the east (side) lot lines.
- With regard to the proposed treatment of the listed heritage buildings on the site, a portion of the existing building at 488 Wellington Street West will be retained in situ, while a portion of the existing building located at 482 Wellington Street West will be retained through a combination of façade retention and rebuilding. Specifically, both existing buildings would have the façades fronting Wellington Street West retained, as well as the first 10.5 metres of the existing buildings from the street.

- The primary entrance of the office component of the building is proposed to be located within the central building (previously the east building at 482 Wellington Street West), which will be flanked by two expanded retail areas. The original applications provided for a combined total retail gross floor area of 590 square metres. In the revised scheme, the podium has been designed to provide 1,082 square metres of retail space.
- A total of 56 parking spaces are proposed within one level underground parking garage, at a rate of 1 space per 450 square metres of GFA.
- A total of 155 bicycle parking spaces are proposed at grade as well as within the underground parking garage (with 145 spaces currently allocated for the office uses, and 10 for the retail uses).
- The proposed development would provide a total of four loading spaces in the form of two Type “C” loading spaces and two Type “B/C” loading spaces.
- The revised proposal consolidates the vehicle access points from the original applications, reducing the number of curb cuts and potential areas of pedestrian/vehicular conflict along Wellington Street West. In the revised scheme, vehicular access and loading is proposed to occur off the east laneway that serves as a mid-block pedestrian connection to the development to the north of the site. A pedestrian laneway is proposed on the west, for access to the short-term bicycle storage and rear retail.

Conservation Strategy

The current Conservation Strategy will retain in situ the front façades and 10.5 metres of the side walls at both heritage properties at 482 and 488 Wellington Street West. It should be noted that the space between the two heritage properties has been filled in by a 1990's development and the properties have been conjoined (a 1998 roof addition at 482 Wellington Street West has also altered its roof profile). The heritage side walls no longer extend the depth of the properties (east side wall of 488 Wellington Street West and west side wall of 482 Wellington Street West).

At 488 Wellington Ave West, the existing floors will be replaced with new floor plates and will be reconstructed to align with both the existing window openings at the heritage façade and adjusted to align with the new office building floor plates. Thus, the new floor plates would require only minimal adjustment from existing.

At 482 Wellington Street West, the floors would be removed to provide a 5 storey atrium. As a mitigation strategy, a new heavy timber frame interior retention structure is proposed within the atrium. This structure is proposed to be constructed to reference former floor levels and location of such floor levels (relative to existing window openings at the façades) and also to reflect the original timber warehouse structural system.

For additional details, see Public Attachment 2: Site Plan, Public Attachments 3-6: Elevations, and Public Attachment 7: Application Data Sheet.

SITE AND SURROUNDING AREA

The site is located west of Spadina Avenue on the north side of Wellington Street West. The lot area of the consolidated site is 2,993 square metres with 46.7 metres of frontage on the north side of Wellington Street West. The depth of the site is approximately 67 metres.

The western portion of the site at 482-488 Wellington street West contains two 5 to 6-storey brick warehouse buildings connected by a recent addition currently used as an office building with a ground floor restaurant. Both buildings are listed on the City of Toronto Heritage Register. The buildings have a gross floor area of 7,157 square metres. The eastern portion of the site, comprising 470-474 Wellington Street West, currently contains a two-storey building with approximately 1,900 square metres of office space built in the 1960s. An existing shared private laneway extends north-south between the subject site and the property to the east.

North: The area north of the site has a predominantly mid-rise character. The area includes many three-to six-storey brick and beam former warehouse buildings converted to office uses as well as newer, predominantly residential buildings. The lands to the north at 489-539 King Street West were approved as a settlement at the LPAT as a mixed-use building with residential, office and restaurant/retail uses in a single building form of varying heights framing a publicly accessible courtyard. The form of the building rises and falls, and includes four building 'peaks', of which the tallest are 16 storeys (File No. 16 159483 STE 20 OZ). The lands at 489-499 King Street West were approved for a 12-storey (53.3 metres including the mechanical penthouse) office building with retail uses at grade (File No. 12 203376 STE 20 OZ). A number of properties to the north of the site are either listed on the City of Toronto Heritage Register or designated under Part IV of the *Ontario Heritage Act*.

East: A six-storey brick warehouse building immediately east of the site at 468 Wellington Street West was converted to residential uses and is listed on the City of Toronto Heritage Register. Further east along the north side of the street is a mix of predominantly older industrial buildings two to six storeys in height, which have been converted to residential and office uses, with some commercial uses at grade. The site containing a three-storey semi-detached house form building at 422-424 Wellington Street West is subject of an application for a 19-storey mixed use building (File No. 16 213925 STE 20 OZ). The application was the subject of a contested hearing at the LPAT in October/November of 2018. No decision has been released as of the writing of this report. A relatively new 12-storey residential building is east of that site and a gas station is at the northwest corner of Wellington Street West and Spadina Avenue. North of the gas station is an approved development for 11-storey and 19-storey residential buildings with ground floor commercial uses at 46-62 Spadina Avenue (File No. 05 109350 STE 20 OZ). Several properties to the east of the site are either listed on the City of Toronto Heritage Register or designated under Part IV of the *Ontario Heritage Act*.

South: Wellington Street West is located immediately south of the subject site. The street has a right-of-way width of 45 metres. At the southeast corner of Draper Street and Wellington Street West is a two-storey brick office building. The southwest corner of Draper Street and Wellington Street West (485-489 Wellington Street West) is subject of a development, approved as a settlement at the LPAT, for a 14-storey building at a height of 45 metres plus a mechanical penthouse, which would include retail and residential uses (File No. 16 114472 STE 20 OZ). South of these properties is the Draper Street Heritage Conservation District, a series of one- and-a-half to two-and-a-half storey brick homes, which date back to the late 19th century, designated under Part V of the *Ontario Heritage Act*. The 7.7 acre parcel (former Globe and Mail site) east of Draper Street has been approved to be comprehensively redeveloped as a mixed-use development with seven buildings containing residential, office and retail uses. The buildings approved to front Wellington Street West are one 13-storey building, which steps back from the street at the west end of the site (with a maximum height of 55.3 metres including mechanical elements) and two 15-storey buildings, which step back from the street (both a maximum height of 61 metres including mechanical elements) that are adjacent to a five-storey listed heritage warehouse building containing office uses at the southwest corner of Wellington Street West and Spadina Avenue (File No. 14 116571 STE 20 OZ). West of Draper Street is a mix of low-scale commercial industrial buildings, Victoria Memorial Park, several blocks of three-storey townhouses, nine- and 13-storey residential buildings and a mixed-use building now under construction with heights up to 19 storeys at the corner of Front Street West and Bathurst Street (a maximum height of 63 metres including mechanical elements) (File No. 11 230641 STE 20 OZ).

West: A relatively new 10-storey residential building is located immediately west of the site at 500 Wellington Street West. Farther west of the site on the north side of the street at 504 Wellington Street West, is a three-storey office building that is subject of an application that has been appealed to the LPAT for a 15-storey office building with retail uses at grade with a maximum height of 68.8 metres including mechanical penthouse (File No. 16 270147 STE 20 OZ). Further to the west also on the north side of the street are a recently constructed 11-storey residential building and a three-storey house form building currently used as a restaurant that is listed on the Toronto Heritage Register. Just west of Portland Street are 10 and 12-storey residential buildings.

Heritage

The property at 488 Wellington Street West was listed on the Toronto Heritage Register by City Council in 1973. The property at 482 Wellington Street was listed on the Toronto Heritage Register by City Council in late May 2005. The properties at 482 and 488 Wellington Street West are identified as contributing heritage properties in the King-Spadina HCD Plan based upon their design, associative and contextual values.

The properties at both 482 and 488 Wellington Street West have cultural heritage value as an evolved complex of surviving commercial buildings that recalls Toronto's westward industrial expansion in the early 20th century, when factories and warehouses replaced residential uses on Wellington Street.

The Senior Manager, Heritage Preservation Services, Urban Design, City Planning will be presenting a report on the proposed conservation of the heritage buildings on the site at the March 26, 2019 meeting of the Toronto Preservation Board. That report is intended to be presented at the March 27, 2019 meeting of City Council and be considered concurrently with this report.

PLANNING FRAMEWORK

Provincial Policy Framework

Staff have reviewed the proposed development for consistency with the PPS (2014) and for conformity with the Growth Plan (2017).

Municipal Planning Framework

This application has been reviewed against the policies of the City of Toronto Official Plan, King-Spadina Secondary Plan, the King-Spadina Secondary Plan review, the King-Spadina Heritage Conservation District Plan, the King-Spadina Urban Design Guidelines (2006), Downtown Official Plan Amendment 406.

Official Plan Amendment 231 - Office Replacement

Official Plan Amendment 231 (OPA 231) promotes new office development in transit rich areas of Toronto and includes a policy requiring the replacement of office space in certain circumstances. Specifically, Policy 3.1.5.9 requires that new development which includes residential units on a property with at least 1,000 square metres of gross floor area used for offices is required to increase the non-residential gross floor area used for office purposes where the property is located within Mixed Uses Areas or Regeneration Areas within the Downtown and Central Waterfront. This policy is under appeal to the Local Planning Appeal Tribunal (LPAT), therefore, it is relevant but not determinative in terms of the Official Plan framework. It does reflect Council's current direction to ensure that development preserves and promotes employment opportunities in conjunction with new residential development, which is consistent with provincial policies and plans.

The subject site is proposed to satisfy the City's objectives for both on site office replacement for the office space on the subject property, and off-site office replacement for 504 Wellington Street West.

A Zoning By-law Amendment application has been filed by the owner of 504 Wellington Street West, who is also one of the partners in the subject development application, proposing the redevelopment of the site for a new 15-storey office building (File no. 16 270147 STE 20 OZ). That site is currently occupied by a 3-storey office building. That application has been appealed to the LPAT. City staff do not support the application for an office building on that site.

Heritage

Conservation Strategy

The Conservation Strategy proposed as part of the settlement package will retain the front façades and 10.5 metres of return side walls at both heritage properties at 482 and 488 Wellington Street West in situ. The space between the two heritage properties was previously infilled by a development and the properties have been conjoined (a 1998 roof addition at 482 Wellington Street West has also altered its roof profile). As a result, the heritage side walls no longer extend the depth of the properties.

At 488 Wellington Ave West, the existing floors will be replaced with new floor plates and will be reconstructed to align with both the existing window openings at the heritage façade and adjusted to align with the new office building floor plates. Though retention of existing floor plates is preferable, the reinstatement of the floor plates as proposed will still result in the building retaining the function and appearance of a structure with differentiated use occupancies by floor level and perceptually retains value as an integral building.

At 482 Wellington Street West, the floors will be removed to provide a 5-storey atrium. As a mitigation strategy, a new heavy timber frame interior retention structure will be provided within the atrium. This structure is proposed to be constructed to reference former floor levels and location of such floor levels (relative to existing window openings at the façades) and also to reflect the original warehouse timber structural system. To enhance the heritage attributes externally and internally, a lighting strategy will be incorporated into the atrium and timber retention structure to animate the atrium and façade.

The specific method of façade retention will be determined in consultation with a structural engineer. Preliminary investigations have explored bracing options in order to secure in situ retention of façades during the construction period.

Official Plan Heritage Policies

The proposal meets the requirements of the Official Plan in that the impact of the new construction on the values, attributes and character of the heritage properties will be mitigated through the use of step backs, one of the heritage buildings will be conserved as a whole building and the primary elevations of the other building also conserved in situ. The Owner will enter into Heritage Easement Agreements and the heritage buildings will be conserved in their original location.

The design of the proposed tower is consistent with the City's Heritage Policies 3.1.5.5 and 3.1.5.26 as the location, massing, and design of the development will mitigate for the visual impact of the proposal relative to perception of the heritage properties from the public realm and compatibility or "fit" of the new development along the Wellington Street West frontage.

King Spadina Heritage Conservation District

Staff have reviewed the application against the heritage policies of the emerging policy framework for the area including the King-Spadina Heritage Conservation District Plan Report with Confidential Attachment - 470-488 Wellington Street West – Request for Direction Regarding LPAT Hearing

(The HCD Plan). The HCD Plan states that "Additions to contributing commercial properties shall only be permitted when the addition conserves the whole building". Though the project will conserve all street facing façades at 482 and 488 Wellington Street West and through proposed step backs will retain three dimensional perception as viewed from public rights of ways, it can be determined that "whole building conservation" has not been strictly achieved.

The HCD Plan also requires that cantilevered portions of "additions to contributing properties shall not be permitted above any required step back or setback". The proposed development contains five floor levels from the seventh through the eleventh floor levels that project or cantilever 1.5 metres into the 10.5 metre step back. However, the extent and sequence of the step back provides reasonable breaking of the project massing above the heritage property in order to clearly define its built form legibility.

While staff would prefer to see the policies of the adopted HCD Plan strictly met, because the application pre-dates the adoption of the Plan, staff consider that the proposal is responsive to many of the heritage issues raised, and complies with the City of Toronto Heritage Official Plan policies. In the overall context of a settlement, staff are able to support the proposed conservation strategy.

Heritage Conclusion

Heritage Preservation Services staff have reviewed the proposed development for the heritage property at 482 and 488 Wellington Street West and are satisfied that from a heritage perspective the proposal meets the intent of the *Planning Act*, the Provincial Policy Statement, the Growth Plan and the City of Toronto's Official Plan heritage policies in conjunction with the Standards and Guidelines for the Conservation of Historic Places in Canada. Overall, staff support the proposed retention strategy and feel that it meets the intent of Policy 3.1.5.27 as the scale, form, and massing of the heritage structure will be conserved.

Heritage Preservation Services staff will be presenting a report on the proposed conservation of the heritage buildings on the site at the March 26, 2019 meeting of the Toronto Preservation Board. That report is intended to be presented at the March 27, 2019 meeting of City Council and be considered concurrently with this report.

Streetscape / On-Site Landscape

The arborist report submitted in support of the application noted eight trees within the City boulevard on Wellington Street West. These trees are recommended to be retained. Urban Forestry staff requested that, given the width of the boulevard, a double row of trees be planted. Urban Forestry staff also note that a composite utility plan is required to determine an appropriate and feasible landscape treatment for the public boulevard adjacent the site.

Due to its width, Wellington Street West is intended to accommodate significant streetscape improvements to be undertaken on the south side of the street as part of the proposed development of the Globe and Mail site (The Well). The appropriate

streetscape treatment for Wellington Street West will be reviewed in greater detail through the submission of a Site Plan Approval application.

Traffic Impact, Parking and Loading

The December 2018 revised submission included a Transportation Impact Study prepared by Nexttrans consulting engineers dated November 2018. The report has been submitted to support the parking and loading facilities associated with the revised proposal. As of the writing of this report, the revised application has not been reviewed by Transportation Services staff.

An issue identified in the earlier submission for the proposal at 470-474 Wellington Street West is the existence of a right-of-way which extends over a portion of the proposed private driveway which was part of that application. The revised proposal would also utilize a private driveway in the same location as the previous proposal. Transportation Services staff had requested clarification regarding the nature of the right-of-way in their review of the earlier proposal to ensure that the proposed use of those lands will not be restricted.

In the event the applications are approved, in whole or in part, it would be appropriate to require that prior to a final order being issued by the LPAT, the Owner provides parking and loading facilities to the satisfaction of the Chief Planner and Executive Director, City Planning and the General Manager, Transportation Services.

Bicycle Parking

The Official Plan encourages reduced automobile dependency as well as promoting alternative modes of transportation. The Plan's policies seek to improve walking and cycling conditions in the City. The application proposes a total of 155 bicycle parking spaces, with 145 spaces for office users, and 10 bicycle parking spaces for retail users. Bicycle parking will be provided on the ground floor and within the underground garage. Shower facilities are also proposed to be provided.

Servicing

The December 2018 revised submission included a Site Servicing and Stage 1 Stormwater Management Report prepared by Arva Consulting Engineers dated November 27, 2018. As of the writing of this report, the revised application has not been reviewed by Engineering and Construction Services staff.

In the event the applications are approved, in whole or in part, it would be appropriate to require that prior to a final order being issued by the LPAT, the Owner shall submit a Functional Servicing Report, acceptable to the Chief Engineer and Executive Director, Engineering & Construction Services, and enter into an agreement to secure the design and construction of any improvements to municipal infrastructure, should it be determined that upgrades to such infrastructure are required to support the development.

Section 37

Section 37 of the *Planning Act* allows the City to require community benefits in situations where increased density and/or height are permitted. Community benefits are specific capital facilities (or financial contributions for specific capital facilities) and can include: affordable housing; parkland and/or park improvements above and beyond the required s. 42 *Planning Act* parkland dedication; public art; streetscape improvements on the public boulevard not abutting the site; and other works detailed in Section 5.1.1.6 of the Official Plan. Section 37 may also be used as may otherwise be agreed upon, subject to the policies contained in Chapter 5 of the Official Plan. The community benefits must bear a reasonable planning relationship to the proposed development including, at a minimum, an appropriate geographic relationship and may relate to planning issues associated with the development (e.g. local shortage of parkland).

In their "With Prejudice" Settlement Offer Letter, the Owner proposes a Section 37 contribution in the amount of \$1,000,000.00. City Planning staff suggest that, in the event the development is approved, a contribution in the amount of \$1,200,000.00 would be appropriate.

If the development is approved, the following is proposed to be secured within the Section 37 Agreement:

- The Owner shall provide a financial contribution in the amount of \$800,000.00 for above-base streetscape improvements on the north side of Wellington Street West between Spadina Avenue and Portland Street to the satisfaction of the Chief Planner and Executive Director, City Planning.
- The Owner shall provide a financial contribution in the amount of \$100,000.00 for the maintenance of or the provision of new affordable housing in Ward 10.
- The Owner shall provide a financial contribution in the amount of \$100,000.00 toward the Toronto Community Housing (TCHC) revolving capital fund for repairs to TCHC housing in Ward 10.
- The Owner shall provide a financial contribution in the amount of \$200,000.00 toward the development of a streetscape design for the north side of Wellington Street West between Spadina Avenue and Portland Street.

In the event the financial contributions referred to above have not been used for the intended purpose within three (3) years of this by-law coming into full force and effect, the financial contributions may be redirected for another purpose, at the discretion of the Chief Planner and Executive Director, City Planning Division, in consultation with the local Councillor, provided that the purpose is identified in the Toronto Official Plan and will benefit the community in the vicinity of the lands.

The \$1,200,000.00 financial contribution referred to above is to be indexed upwardly in accordance with Statistics Canada's Construction Price Index for the Toronto Census Metropolitan Area, calculated from the date of the Local Planning Appeal Tribunal decision to the date of payment. All financial contributions will be payable prior to issuance of the first above-grade building permit.

- The applicant shall covenant that not less than 21,000 square metres of the floor space at its site shall always remain zoned and constructed for office use, with such area of office space being attributed toward the required office replacement for the subject applications and for the related owner's development application proposed for 504 Wellington Street West.
- The Owner agrees to pay for and construct any improvements to the municipal infrastructure in connection with the site servicing report, as accepted by the Chief Engineer and Executive Director, Engineering and Construction Services, should it be determined that upgrades to such infrastructure are required to support this development. Construction of such improvements shall be completed to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services, prior to issuance of the final building permit.
- The Owner shall implement any wind mitigation measures required as identified by the applicant's wind study, satisfactory to the Chief Planner and Executive Director, City Planning, to be submitted as part of an application for Site Plan Approval.
- Materials for the new building will be secured through Site Plan approval to the satisfaction of the Chief Planner and Executive Director, City Planning.
- In the event the Owner connects to the Enwave District Heating and Cooling System, or another similar energy system, the height of the mechanical penthouse will be reduced, with the objective of eliminating any visual impact from the mechanical penthouse, to the satisfaction of the Chief Planner and Executive Director, City Planning Division.
- Prior to Site Plan Approval, the Owner will submit a construction management plan for the development at 470-488 Wellington Street West, to address such matters as wind, noise, dust, street closures, parking and laneway uses, and access, to the satisfaction of the Chief Planner and Executive Director, City Planning Division in consultation with the local Councillor, and agree to implement the plan.

COMMENTS

In light of the upcoming hearing, the City Solicitor requires instructions. This report is about litigation before the LPAT and contains advice or communications that are subject to solicitor-client privilege. Confidential Attachment 1 to this report contains confidential information and should be considered by Council in camera.

CONTACT

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SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

1. Public Attachment 1 - Settlement Offer Letter
2. Public Attachment 2 - Site Plan (On file with the City Clerk for the March 27, and 28, 2019 meeting of City Council)
3. Public Attachment 3 - North Elevation (On file with the City Clerk for the March 27, and 28, 2019 meeting of City Council)
4. Public Attachment 4 - West and East Elevations (On file with the City Clerk for the March 27, and 28, 2019 meeting of City Council)
5. Public Attachment 5 - South Elevation (On file with the City Clerk for the March 27, and 28, 2019 meeting of City Council)
6. Public Attachment 6 - North Courtyard Elevation (On file with the City Clerk for the March 27, and 28, 2019 meeting of City Council)
7. Public Attachment 7 - Application Data Sheet
8. Confidential Attachment 1 - Confidential Recommendations and Confidential Information
9. Confidential Attachment 2 - Confidential Information