



## REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

### 183-189 Avenue Road and 109-111 Pears Avenue - Zoning By-law Amendment Application LPAT Appeal - Request for Direction

**Date:** May 6, 2019

**To:** City Council

**From:** City Solicitor

**Wards:** Ward 11 - University-Rosedale

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

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

#### **SUMMARY**

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After an appeal to the Local Planning Appeal Tribunal, on April 16, 2018, the applicant submitted a revised proposal, for a 12-storey (42.3-metre, plus 3.26-metre mechanical penthouse) mixed-use building at 183-189 Avenue Road and 109-111 Pears Avenue. The proposal included 447 square metres of retail and 6,951 square metres of residential floor area resulting in a total density of 6.3 times the area of the lot, and a proposed 80 square metre parkland dedication. At its meeting on July 23, 2018, City Council adopted the Recommendations in the (June 25, 2018) report from the Acting Director, Community Planning, Toronto and East York District, directing the City Solicitor, together with appropriate City staff, to attend the Local Planning Appeal Tribunal to oppose the applicant's appeal. The applicant has subsequently amended their application reducing the height of the proposed building to 10-stories (plus a wrapped mechanical penthouse), although the applicant refers to the height as 9 storeys (plus mechanical penthouse).

The site contains the heritage property at 183 Avenue Road which is listed on the City's Heritage Register.

The City Solicitor seeks direction on the revised proposal no later than the completion of the City Council meeting on May 14, 2019.

## **RECOMMENDATIONS**

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The City Solicitor recommends that:

1. City Council adopt the confidential recommendations in Confidential Attachment 1.
2. If the City Solicitor's confidential recommendations are adopted by Council, then City Council authorize the public release of the recommendations contained in Confidential Attachment 1 (with the remainder of Confidential Attachment 1 to remain confidential as it contains information that is subject to solicitor-client privilege).

## **FINANCIAL IMPACT**

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There is no financial impact arising from the adoption of the confidential recommendations.

## **DECISION HISTORY**

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At its meeting of/on July 23, 24, 25, 26, 27 and 28, 2018, City Council adopted the Recommendations in Item 34.42, the June 25, 2018 report from the Acting Director, Community Planning, Toronto and East York District, directing the City Solicitor, together with appropriate City staff, to attend the Local Planning Appeal Tribunal to oppose the applicant's appeal respecting the Zoning By-law Amendment application for 183-189 Avenue Road and 109-111 Pears Avenue. The City Council Decision and the report can be found at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.TE34.42>

## **COMMENTS**

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On April 11, 2018 a revised proposal was submitted to the City and a number of changes were made to the original application based on comments from City staff. Even though the height of the building remained unchanged from the original application, there was a reduction in gross floor area and density. Other changes included the addition of an 80 square metre park along the north property line of the site, and favourable revisions to the conservation strategy for the heritage property at 183 Avenue Road. Even with these changes to the proposal, staff Recommendations to oppose the application were adopted by Council in July, 2018. Council did instruct the City Solicitor and appropriate staff to seek further revisions to the application and continue discussions with the applicant in an attempt to resolve the issues outlined in the report (June 25, 2018) from the Acting Director, Community Planning, Toronto and

East York District, and to report back to City Council on the outcome of discussions, if necessary.

On April 16, 2019 the City received a letter from Aird and Berlis LLP that contained a with prejudice settlement offer for a revised proposal, revised architectural drawings, revised draft zoning by-law amendments, and a revised shadow study (all together the "Settlement Offer"). Changes to the proposed development in the Settlement Offer include the following:

- **Building Height:** The building height has been reduced to 10-storeys (plus wrapped mechanical penthouse) from 11-storeys (plus wrapped mechanical penthouse). The overall building height, including the mechanical penthouse, is now 38.95 metres, while the height to the top of the main roof at the 9th storey is 35.20 metres. As a result, the overall building height has been reduced by 6.61 metres.
- **Northeast Corner:** The northeast elevation of the proposed building fronting onto Pears Avenue has been refined to include an additional stepback. The upper glazed volume (i.e. floors 2 & 3) are now stepped back above the lower framed-in volume that exhibits masonry detailing. For this portion of the building, the 2nd and 3rd floors have been stepped back to align with the floors above and the stepback from the new north property line has been increased to approximately 1.0 metre.
- **Upper Floor Setbacks:** The proposed rear stepbacks at floors 10 and 11 (i.e. the wrapped mechanical penthouse) measured from the adjacent 103 Pears Avenue property line on the opposite side of the rear (east) laneway have been revised. The stepbacks measured from the main wall range between 12.0 metres to 15.6 metres measured at the 9th floor and 12.0 metres to 16.9 metres at the 11th floor. For clarity, new stepback drawings have been added to the architectural package (A0-07A-E) clearly illustrating the maximum and minimum rear stepbacks measured from both the main walls and the balconies/terraces.

Other revisions include a reduction in gross floor area, a reduction in the number of dwelling units, and an increase in the residential parking ratio. The 80 square metre parkland dedication along Pears Avenue and the built form around the heritage resource at 183 Avenue Road remain unchanged. The Settlement Offer includes a table in Appendix A that details all of the changes made between the original application, the April 11, 2018 submission and the Settlement Offer.

### **Proposed Heritage Conservation**

The property at 183 Avenue Road was included on the City's Heritage Register, formerly the Inventory of Heritage Properties, by City Council on February 6, 1974 and contains a three-storey house form building. The subject site is also adjacent to the listed heritage property to the south at 181 Avenue Road.

The conservation strategy for the onsite heritage property involves the retention in situ of the primary street-facing façade with the north wall retained to a depth equal to the ridgeline of the existing roof and the south wall retained to a depth of approximately 8

metres. The ground floor façade will be rehabilitated to maintain the long-standing commercial use of the building and repairs and conservation work will be undertaken.

The new construction on the site has been designed to mitigate its impact on the heritage property by setting the first and mezzanine floors back from Avenue Road to maintain views of the primary façade and a portion of the north elevation.

New construction above the heritage building will step back 5 metres from the front property line with balcony projections occurring at and above the fifth floor level and thus would maintain the legibility of the house-form building. The new base building portion to the north of the heritage property has been designed to respond to the three-storey street wall height established by the heritage buildings along this block.

The City Solicitor requires further direction on this matter prior to the conclusion of the May 14, 2019 meeting of City Council.

## **CONTACT**

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## **SIGNATURE**

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Wendy Walberg  
City Solicitor

## **ATTACHMENTS**

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1. Public Appendix 1 - Settlement Offer dated April 16, 2019
2. Public Appendix 2 - Revised architectural drawings (on file with the City Clerk for the purposes of the May 14, 2019 Council meeting)
3. Confidential Attachment 1 - Confidential Information