



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

135-143 Portland Street - Zoning By-law Amendment Application - Request for Directions Regarding LPAT Hearing

Date: July 15, 2019

To: City Council

From: City Solicitor

Wards: Ward 10 - Spadina-Fort York

REASON FOR CONFIDENTIAL INFORMATION

This report contains advice or communications that are subject to solicitor-client privilege. This report contains information regarding potential litigation.

SUMMARY

On August 9, 2017, a Zoning By-law Amendment application was submitted for the site at 135-143 Portland Street. It proposed a 16-storey (52.7 metres, including mechanical penthouse) mixed use building, with approximately 243 square metres of retail space on the ground floor fronting Portland Street, and 9,216 square metres of residential space above (117 units). The five existing semi-detached and rowhouse buildings on the site would be demolished, other than the façade of 143 Portland Street, which would be retained.

The ground floor of the proposed building would be set back approximately 1.5 metres from the west (Portland Street) lot line, which would align with the existing front setback of the dwelling at 143 Portland Street that was proposed to be retained. This setback would continue up to the seventh floor of the building along Portland Street, above which it would step back slightly at each floor, reaching a maximum setback of approximately 2.5 metres from the Portland Street lot line at the sixteenth floor. The second through fourth floors would include projecting balconies that extend up to the Portland Street property line to a height of approximately 13.9 metres. Inset balconies were proposed on all levels above the fourth floor.

On the western (front) half of the proposed building, there would be no setbacks from the north and south lot lines. On the eastern (rear) half of the proposed building, there

would be no setbacks from the north and south lot lines up to the ninth floor, above which there would be approximately 1.5 metre setbacks. There would be a 1.2 metre setback from the eastern lot line along the laneway up to the ninth floor. Projecting balconies were proposed within this setback area up to the property line. There would be a 4.5 metre setback at the tenth floor, which is reduced to a 1.5 metre setback for the eleventh through fifteenth floors.

Approximately 215 square metres of outdoor amenity space (1.8 square metres per unit) and 143 square metres of indoor amenity space (1.2 square metres per unit) were proposed on the sixteenth storey.

Vehicular access to the site would be provided from the laneway along the east side of the building. Two parking elevators would provide access to 24 parking spaces in two underground levels for residents. No visitor parking was proposed. One hundred eighteen bicycle parking spaces would be provided on one underground level, of which 106 would be for residents and 12 would be for visitors, and four spaces would be provided on the ground floor associated with the retail space.

On December 7, 2017, the applicant appealed the application to the Ontario Municipal Board (the "**OMB**"), now continued as the Local Planning Appeal Tribunal (the "**LPAT**") due to Council's failure to make a decision within the statutory timeframe.

The purpose of this report is to request further instructions for the ten-day LPAT hearing that is scheduled to commence October 8, 2019.

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 the Confidential Attachment 1 to this report.
2. City Council authorize the public release of the confidential recommendations contained in the Confidential Attachment 1, Confidential Appendix "A", and Confidential Appendix "B", 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 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

On November 14, 2017, Toronto and East York Community Council adopted a Preliminary Report on the Zoning By-law Amendment application for the site. The report provided background information on the proposal, and recommended that a community consultation meeting be held and that notice be given according to the regulations of the *Planning Act*. The Preliminary Report is available at: <https://www.toronto.ca/legdocs/mmis/2017/te/bqrd/backgroundfile-108528.pdf>

At its December 11-13, 2016 meeting, City Council passed By-law 1186-2016 to prohibit the demolition or removal of any buildings or structures on properties that have the potential to contribute to the cultural heritage value of King-Spadina within the study area boundaries for a period of one year, which included the properties at 135, 139, 141 and 143 Portland Street. The accompanying staff report is available at: <http://www.toronto.ca/legdocs/mmis/2016/mm/bqrd/backgroundfile-99282.pdf>

On October 2, 2017, City Council adopted recommendations to designate the King-Spadina Heritage Conservation District under Part V of the *Ontario Heritage Act* and adopted the King-Spadina Heritage Conservation District Plan, which includes 135-143 Portland Street. The final report and City Council decision are available at: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.TE26.14>

At its December 5-8, 2017 meeting, City Council adopted recommendations to include the properties at 135, 139, 141 and 143 Portland Street on the City's Heritage Register. The City Council decision is available at: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.TE28.12>

At its April 24, 25, 26 and 27, 2018 meeting, City Council adopted a Request for Direction Report directing the City Solicitor, together with appropriate staff, to attend the LPAT hearing to oppose the Revised Application in its present form for the reasons set out in the March 12, 2018 Request for Directions Report from the Acting Director, Community Planning, Toronto and East York District (the "Request for Directions"). City Council also authorized City staff to continue discussions with the applicant to address the issues set out in the Request for Directions, including appropriate heritage conservation, heights and massing for this site and appropriate benefits to be secured pursuant to Section 37 of the *Planning Act*. The City Council decision is available at: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.TE31.11>

A ten-day LPAT hearing is scheduled to commence October 8, 2019.

COMMENTS

The City Solicitor requires further instructions. This report is about litigation before the Local Planning Appeal Tribunal and contains advice or communications that are subject to solicitor-client privilege. Attachment 1 to this report contains confidential advice and should be considered by Council in camera.

CONTACT

Laura Bisset, Solicitor, Planning & Administrative Tribunal Law; Tel: (416) 392-8782; Fax: (416) 397-564; Email: laura.bisset@toronto.ca

Daniel Elmadany, Solicitor, Planning and Administrative Tribunal Law, Tel. 416.397.5709, Fax. 416-397-5624, E-mail daniel.elmadany@toronto.ca

SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

Confidential Attachment 1 - Confidential Recommendations and Confidential Information

Confidential Appendix "A" - Confidential Information

Confidential Appendix "B" - Confidential Information on file with the City Clerk for the purpose of July 16 and 17, 2019 City Council meeting.