



## REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

### **504 Wellington Street West - Zoning By-law Amendment Application - Request for Further Directions Regarding LPAT Hearing**

**Date:** July 15, 2019  
**To:** City Council  
**From:** City Solicitor  
**Wards:** Ward 10 - Spadina-Fort York

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

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

#### **SUMMARY**

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Uxland Development (West) Inc. (the "Applicant") is the owner of lands municipally known as 504 Wellington Street West (the "Subject Site"). The Subject Site is located on Wellington Street West east of Portland Street. The Subject Site currently contains a 3 storey office building with 1,591.5 square metres of office gross floor area ("GFA").

On December 22, 2016, the Applicant submitted a Zoning By-law Amendment application to the City proposing to amend former City of Toronto Zoning By-law 438-86 and City of Toronto Zoning By-law 569-2013 to permit the development of a 15 storey office building including retail and service commercial uses at grade (the "Application"). The Application included one Type C loading space and 12 vehicle parking spaces and 37 bicycle parking spaces. A total of 7,552 square metres of office GFA and 310 square metres of retail and commercial GFA were proposed. The office building was proposed to have a total height of 68.8 metres.

On October 31, 2017, the Applicant appealed the Application to the Ontario Municipal Board ("OMB") (now known as the Local Planning Appeal Tribunal ("LPAT")) as LPAT File No. PL171178.

In April 2019, the Applicant submitted to the City a revised proposal for a 13 storey residential building with a height of 45 metres plus mechanical penthouse (the "Revised

Proposal"). The Revised Proposal includes 5,434 square metres of residential gross GFA and includes 22 parking spaces located in 3 levels of underground parking.

On July 4, 2019, the Applicant's counsel, Davies Howe LLP, submitted to the City Solicitor a with prejudice settlement offer (the "Settlement Offer"). The Settlement Offer proposed a resolution of the LPAT appeal based on the Revised Proposal, which the Applicant recognizes may require further minor modifications in completing the final form of the zoning by-law amendments based on comments from City staff on the latest submission. In order to satisfy their office replacement requirement for the existing office uses on the Subject Property, the Settlement Offer proposes that 1,591.5 square metres of replacement office GFA be included in the proposed development at 482-488 Wellington Street West, which is owned by a sister company of the Applicant. In order to secure the office replacement, the Applicant has agreed to request the LPAT make any final order on the zoning by-law amendment application conditional on the registration of a restrictive covenant in favour of the City and satisfactory to the City Solicitor on title to 482-488 Wellington Street West restricting development of the property unless it includes the required 1,591.5 square metres of office replacement from the Subject Property. The Settlement Offer also proposes to provide cash-in-lieu payment to satisfy the parkland obligations under Section 42 of the *Planning Act*.

The Revised Proposal is described in further detail in the "Comments" section below.

The Settlement Offer also confirms that the Wellington Place Neighbourhood Association (the "WPNA") and the Applicant have reached a settlement on the basis of the Revised Proposal. In addition to the City and the Applicant, the WPNA are a party to the LPAT appeal for this matter. The WPNA and the Applicant have entered into minutes of settlement dated April 25, 2019.

The Settlement Offer is included as Public Attachment 1 to this report. The architectural plans showing the Revised Proposal dated April 26, 2019 by RAW Design are included as Public Attachment 2 to this report.

An LPAT prehearing conference is currently scheduled for August 1, 2019. As part of their minutes of settlement, both the Applicant and the WPNA have agreed to consent to the conversion of the prehearing conference into a settlement hearing.

The purpose of this report is to request further instructions for the upcoming LPAT hearing.

City Planning has been involved in the preparation of this report.

## **RECOMMENDATIONS**

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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 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 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 April 4, 2017, the Toronto and East York Community Council adopted a recommendation from Councillor Cressy (then ward councillor for Ward 20 - Trinity-Spadina) directing Planning Staff to schedule a community consultation meeting regarding the Application for 504 Wellington Street West. A copy of Community Council's decision can be found at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.TE23.113>

On May 22, 2018, City Council adopted the recommendations of a Request for Directions Report from City Planning directing the City Solicitor and City Staff to oppose the Application at the LPAT and to continue negotiations with the Applicant to address City Planning's outstanding issues. A copy of City Council's decision and City Planning's report can be found at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.TE32.18>

## **COMMENTS**

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The revisions to the original application made in the Revised Proposal as shown on the architectural plans dated April 26, 2019 include the following:

- The initial application was for a 15-storey building with retail uses on the ground floor and office uses above. The Revised Proposal is for a 13-storey entirely residential building with 34 dwelling units.
- In the initial application the building was proposed to be 62.9 metres tall (68.5 metres including the mechanical penthouse). In the Revised Proposal the height of the building has been reduced and it is now proposed to be 45 metres tall (49.5 metres including the mechanical elements).
- The Revised Proposal incorporates a greater variety of setbacks and stepbacks on all sides of the building than the initial application.

- In the initial application a single below grade level was proposed with 12 parking spaces (via a car stacker) and one loading space. The Revised Proposal now includes three levels of below grade garage parking with 22 parking spaces. No loading space is proposed.

The below table provides a further comparison of the initial application and the Revised Proposal:

Table 1 – Initial Application and Revised Proposal - 504 Wellington Street West		
	Initial Application (December 23, 2016)	Revised Submission (April 26, 2019)
Height (including mechanical penthouse)	15 storeys – 62.9 metres (68.5 metres)	13 storeys – 45 metres (49.5 metres)
Residential Gross Floor Area	-	5,406 square metres
Office Floor Area	7,552 square metres	-
Retail Floor Area	310 square metres	-
Total Gross Floor Area	7,995 square metres	5,406 square metres
Density – Floor Space Index	11.6	8.1
Dwelling Units	-	34
Indoor Amenity Space	-	96 square metres (2.8 square metres per unit)
Outdoor Amenity Space	-	38 square metres (1.1 square metres per unit)
Vehicle Parking Spaces	12	22
Bicycle Parking Spaces	37	26

The City Solicitor requires further instructions regarding the Settlement Offer. This report is about litigation before the LPAT 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**

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## **SIGNATURE**

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Wendy Walberg  
City Solicitor

## **ATTACHMENTS**

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1. Public Attachment 1 - Settlement Offer Letter dated July 4, 2019
2. Public Attachment 2 - Architectural Plans dated April 26, 2019 (on file with the City Clerk for the purpose of the July 16 and 17, 2019 City Council meeting).
3. Confidential Attachment 1 - Confidential Information