



## REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

### 50-52 Neptune Drive- Request for Direction Regarding LPAT Hearing

**Date:** November 19, 2019

**To:** City Council

**From:** City Solicitor

**Wards:** Ward 8 - Eglinton Lawrence

#### **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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An application was submitted on December 30, 2009 to amend the Zoning By-law for the lands at 50-52 Neptune Drive to permit the construction of a 14-storey residential building with 155 units, including 24 rental replacement units, and 134 parking spaces in two levels underground.

On March 22, 2012, the applicant submitted a revised Zoning By-law amendment application for an 11 storey residential building with 169 units, including 24 rental replacement units, and 150 parking spaces in 3 levels underground. On December 19, 2012, the applicant appealed the Zoning By-law amendment application to the LPAT for Council's failure to make a decision on the application within the prescribed timelines in the Planning Act.

In a report to City Council dated May 13, 2013, City Planning recommended opposition to the appeals. Council adopted the recommendations on July 16, 2013, and authorized the City Solicitor and other staff to attend the LPAT to oppose the appeals, but to continue discussions with the applicant for the purpose of addressing the outstanding issues identified in the report.

On December 11, 2013, the LPAT approved OPA 162 for the maximum number of storeys (10-storeys), building height (30.4 metres), and integrated landscaping with connectivity to adjacent properties for the subject lands.

On March 20, 2014, City Council adopted the recommendations in a staff report dated February 3, 2014, for the demolition of the two existing rental apartment buildings containing 24 rental units on the subject site.

A revised proposal was submitted on October 9, 2019 for a 10 storey residential building with 164 residential units, including 24 rental replacement units and 127 parking spaces in 2 levels underground. The proposed gross floor area ("GFA") would be 12,318.81 square metres and the maximum height would be 33.9 metres to meet structural and mechanical requirements of the building. Vehicular access would be from a driveway on Neptune Drive. The revised drawings are attached as Appendix "B" to this report.

The purpose of this report is to request further instructions for the LPAT status hearing that is scheduled to commence December 9, 2019.

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 March 9, 2010, the North York Community Council adopted the Preliminary Report dated February 11, 2010 on the Zoning By-law amendment application submitted on December 30, 2009 to permit the construction of a 14-storey residential building with 155 residential units including 24 rental replacement units and 134 parking spaces.

The report can be found at the following link:

<https://www.toronto.ca/legdocs/mmis/2010/ny/bgrd/backgroundfile-27362.pdf>

On November 29, 2011, City Council approved OPA 162, the Lawrence Allen Secondary Plan, which would affect the subject lands. The applicant appealed OPA 162 in its entirety.

The report can be found at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2011.NY11.24>

On December 19, 2012, the Zoning By-law amendment application was appealed to the LPAT. The OPA 162 appeal was scoped to a site-specific appeal and both appeals were consolidated.

On July 16, 2013, City Council adopted recommendations in the Request for Directions Report dated May 31, 2013, authorizing the City Solicitor together with City staff to oppose the appeals at the LPAT, but to continue discussions with the applicant to address issues identified in the report.

The report can be found at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.NY25.43>

On December 11, 2013, the LPAT approved a site-specific Official Plan Amendment 162 with a 10 storey building and a height of 30.4 metres based on a settlement with the City.

The LPAT decision can be found at the following link:

<https://elto.gov.on.ca/tribunals/lpat/e-status/>

On March 20, 2014, City Council adopted a Residential Rental Demolition Report dated February 3, 2014.

The report can be found at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.NY30.27>

The next LPAT status hearing is scheduled for December 9, 2019.

## **COMMENTS**

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On October 9, 2019, the applicant submitted a revised proposal along with revised drawings which are attached as Appendices "A" and "B". The table below compares the LPAT/Council approvals of December 11, 2013/ March 20, 2014 with the current proposal dated October 8, 2019.

<b>Site Statistics</b>	<b>OPA 162 LPAT PL12006 Dec 11, 2013/ Council Approved March 20, 2014</b>	<b>Current Proposal Dated October 8, 2019</b>
Site Area in square metres (m <sup>2</sup> )	2,815.9 m <sup>2</sup>	2,815.9 m <sup>2</sup>
Storeys	10 storeys	10 storeys
Height in metres (m)	30.4 m (35.4 MPH)	33.09 m 38.09 MPH (additional 2.69 m)
Total Units	Total 161	Total 164
Setbacks (m)	Front (west) 4.5 m at 1 <sup>st</sup> to 3 <sup>rd</sup> floors 8.9 m at 4 <sup>th</sup> to 8 <sup>th</sup> floors 10.35 m at 9 <sup>th</sup> floor 11.8 m at 10 <sup>th</sup> floor	Front (west) No change
	Rear (east) 7.3 m at southern portion of 1 <sup>st</sup> to 9 <sup>th</sup> floors 7.5 m at central portion of 1 <sup>st</sup> floor 7.5 m at northern portion of 1 <sup>st</sup> to 9 <sup>th</sup> floors 10.0 m at central portion of 2 <sup>nd</sup> to 3 <sup>rd</sup> floors 11.2 m at central portion of 4 <sup>th</sup> to 9 <sup>th</sup> floors 12.9 m at 10 <sup>th</sup> floor	Rear (east) Generally the same
	North 5.6 m at 1 <sup>st</sup> to 3 <sup>rd</sup> floors 8.25 m at 4 <sup>th</sup> to 10 <sup>th</sup> floors	North No change
	South 4.5 m at 1 <sup>st</sup> to 9 <sup>th</sup> floors of eastern portion 4.5 m at 1 <sup>st</sup> to 9 <sup>th</sup> floors of western portion	South No change
Gross Floor Area in square metres (m <sup>2</sup> )	13,750 m <sup>2</sup>	12,318 m <sup>2</sup> , a reduction of 1, 432 square metres.
Indoor Amenity Space (m <sup>2</sup> )	267.1 m <sup>2</sup> was provided. A rate of 1.6 m <sup>2</sup> per dwelling unit was also approved (1.6 m <sup>2</sup> x 161 units = 257.6 m <sup>2</sup> )	314.48 m <sup>2</sup> is proposed, an increase of 47.38 m <sup>2</sup> . A rate of 1.6 m <sup>2</sup> per dwelling unit was approved (1.6 m <sup>2</sup> x 164=262.4 m <sup>2</sup> )
Outdoor Amenity Space (m <sup>2</sup> )	417.5 m <sup>2</sup> was provided, with 88.2 m <sup>2</sup> of outdoor amenity space at the ground floor directly connected to the	246 m <sup>2</sup> is proposed, a decrease of 171.5 m <sup>2</sup> over Council's approval. 40 m <sup>2</sup> of outdoor amenity space would be directly

	indoor amenity space. A rate of 2.5 m <sup>2</sup> per dwelling unit was approved (2.5 m <sup>2</sup> x 161 units = 402.5 m <sup>2</sup> )	connected to the indoor space. A rate of 2.5 m <sup>2</sup> per dwelling unit was approved (2.5 m <sup>2</sup> x 164 units = 410 m <sup>2</sup> ) Elijah Park, a 7,194 m <sup>2</sup> park is opposite the site.
Type G Loading Space	1	1
Bicycle Parking	106 spaces including 24 visitor	125 spaces including 25 visitor
Vehicular Parking	146 parking spaces in 3 levels underground. Includes 24 visitor (10 at grade, 14 underground) and 3 barrier free	127 parking spaces in 2 levels underground. Includes 15 visitor (4 at grade, 11 underground) and 5 barrier free

The overall height of the proposed building has increased by 2.69 metres from 30.4 metres (35.4 MPH) to 33.9 metres (38.09 MPH) to meet structural and mechanical requirements of the building. The height of the mechanical penthouse has not increased.

The indoor amenity space has increased by 47.38 square metres from 267.1 square metres to 314.48 square metres, while the outdoor amenity space has decreased by 171 square metres from 417.5 square metres to 246 square metres because of the revised configuration of the rooftop mechanical unit.

Outstanding are an executed Section 37 Agreement and a finalized form of the Zoning By-law to be submitted to the LPAT for approval. A standard site plan approval process that includes approval conditions and a site plan agreement is expected to follow the approval of the Zoning By-law by the LPAT.

## **CONCLUSION**

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The City Solicitor requires further instructions. This report is about litigation before the LPAT and contains advice / communications that are subject to solicitor-client privilege.

## **CONTACT**

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## **SIGNATURE**

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Wendy Walberg  
City Solicitor

## **ATTACHMENTS**

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Confidential Attachment 1 - Confidential Recommendations and Confidential Information

Appendix "A" to Public Report – Revised Offer

Appendix "B" to Public Report - Revised Drawings