



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

445 – 451 Adelaide Street West – Appeal of LPAT Decision

Date: July 21, 2020

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

On April 14, 2020, the Local Planning Appeal Tribunal (the "LPAT") issued a decision approving, in part, the Zoning By-law Amendment Application made pursuant to subsection 34(11) of the Planning Act for the properties at 445-451 Adelaide Street West (the "Development Site"). The Local Planning Appeal Tribunal Act allows the parties to a hearing to seek leave to appeal a decision of the LPAT to the Divisional Court. The City Solicitor requires further directions.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the confidential instructions to staff in Confidential Attachment 1 to the report (July 21, 2020) from the City Solicitor.
2. City Council authorize the public release of the confidential instructions to staff in Confidential Attachment 1 to the report (July 21, 2020) from the City Solicitor at the discretion of the City Solicitor.

3. City Council direct that the balance of Confidential Attachment 1 to the report (July 21, 2020) from the City Solicitor remain confidential at the discretion of the City Solicitor, as it contains advice and information that is subject to solicitor-client privilege.

FINANCIAL IMPACT

The financial implications are set out in Confidential Attachment 1.

DECISION HISTORY

On April 24, 2018, Council considered a report from Community Planning regarding the Zoning Amendment Application for the Development Site (dated March 8, 2018) and directed the City Solicitor and appropriate staff to attend and oppose the application at the LPAT. City Council's Decision may be found here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.TE31.10>.

On December 17 and 18, 2019, City Council stated its intention to designate the properties at 445 – 453 Adelaide Street West pursuant to section 29 of the Ontario Heritage Act.

On January 29, 2020, as a result of City receiving no objections in respect of those notices of intention to designate:

- By-law 114-2020 was passed, designating 445 Adelaide Street West a property of cultural heritage value under section 29 of the Ontario Heritage Act: <https://www.toronto.ca/legdocs/bylaws/2020/law0114.pdf>
- And By-law 115-2020 was passed, designating 447-453 Adelaide Street West as a property of cultural heritage value under section 29 of the Ontario Heritage Act: <https://www.toronto.ca/legdocs/bylaws/2020/law0115.pdf>.

COMMENTS

The rezoning application proposed to redevelop the Development Site with a 14-storey, 50-metre high (including mechanical penthouse) hotel. The property located at 453 Adelaide Street West was not included in the Development Site, but is adjacent to it.

City Council, on January 29, 2020, designated the properties at 445 – 453 Adelaide Street West under section 29 of the Ontario Heritage Act. The properties at 445 – 453 Adelaide Street West were listed in the City's heritage register on December 5, 2017 under section 27 of the Ontario Heritage Act. The properties are also subject to the King-Spadina Heritage Conservation District designation, as adopted by Council on October 2, 2017 under Part V of the Ontario Heritage Act.

The rezoning application did not propose to conserve the heritage buildings on the properties. The City's position at the hearing was the Tribunal had no authority related to the designation by-laws and their cultural heritage value under the Ontario Heritage Act as it relates to the property. Further, the City's position was that the proposal was not consistent with the Provincial Policy Statement, failed to conform to the Growth Plan and the City's Official Plan for, amongst other matters, failing to conserve heritage resources. Commencing on February 18, 2020, the LPAT heard the appeal and on April 14, 2020, the LPAT issued its decision granting the appeal thereby approving the site specific Zoning By-Law Amendment Applications.

The attached Confidential Attachment 1 from the City Solicitor provides legal advice and seeks direction from City Council with respect to the LPAT decision.

CONTACT

Joanna B. Wice, Solicitor, Planning & Administrative Tribunal Law Tel: 416-397-5737;
Email: Joanna.Wice@toronto.ca

Daniel Elmadany, Solicitor, Planning & Administrative Tribunal Law Tel: 416-397-5709;
Email: Daniel.Elmadany@toronto.ca

Christopher J. Henderson, Solicitor, Litigation Tel: 416-397-7106;
Email: Christopher.Henderson@toronto.ca

SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

Confidential Attachment 1 – Confidential Information