



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

400 - 420 King Street West - Zoning By-law Amendment Application - LPAT Appeal - Request for Direction

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

The purpose of this report is to seek further instructions respecting the appeal of the Zoning By-law Amendment application for 400-420 King Street West, currently before the Local Planning Appeal Tribunal (the "LPAT").

On June 30, 2017, the City received a Zoning By-law Amendment application to permit the development of a 47-storey mixed-use building with an overall height of 157 metres, inclusive of a 6 metre tall mechanical penthouse (the "Application"). The Application proposed an 11-storey base building containing retail floor space on the first and second levels, and residential uses on the remaining levels. The Application proposed a total Gross Floor Area of 42,980 square metres, comprised of 39,543 square metres of residential and 3,437 square metres of non-residential space. The overall Floor Space Index of the application was 16.5.

The applicant appealed the Application to the LPAT, citing City Council's failure to make a decision on the Application within the time prescribed by the Planning Act.

The purpose of this report is to seek further instructions regarding the appeal of the Application.

This report has been prepared in consultation with City Planning.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the Recommendations contained in Confidential Attachment 1 to this report.
2. If the confidential instructions in Confidential Attachment 1 are adopted, City Council authorize the public release of:
 - a. the recommendations contained in the Confidential Attachment 1, with the remainder of the Confidential Attachment 1, including Confidential Appendix C, to remain confidential, as it contains advice 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

At the January 16, 2018 meeting of Toronto and East York Community Council, Community Council considered a preliminary report from City Planning. The preliminary report can be accessed via the following link:

<https://www.toronto.ca/legdocs/mmis/2018/te/bgrd/backgroundfile-110142.pdf>

Toronto and East York Community Council directed staff to schedule a community consultation meeting, distribute notice for the community consultation meeting to landowners and residents within 120 metres of the site and to other recipients to be determined in consultation with the Ward Councillor, and to give notice for the public meeting under the Planning Act. The decision document can be accessed via the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.TE29.36>

On July 16, 17 and 18, 2019, City Council adopted recommendations from the City Solicitor from a report dated July 9, 2019. The decision of City Council can be accessed via the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.CC9.24>

COMMENTS

This report is about ongoing litigation before the LPAT and contains advice or communications that are subject to solicitor-client privilege. The attachment to this report contains confidential information and should be considered by City Council in camera.

Since the July 9, 2019 report, the only policy change has been to the Provincial Policy Statement 2014, which was replaced by the Provincial Policy Statement 2020 (the "PPS"). The PPS continues to provide policy direction on matters of provincial interest related to land use planning and development. The PPS sets the policy foundation for regulating the development and use of land. The key objectives include: building strong communities; providing housing choices, including affordable housing; wise use and management of resources; and protecting public health and safety.

CONTACT

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SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

Public Appendix A - With Prejudice Settlement Offer from Goodmans LLP dated July 17, 2020

Public Appendix B - Plans dated July 4, 2019

Confidential Attachment 1 - Confidential Information

Confidential Appendix C - Confidential Information