



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

64-66 Wellesley Street East, 552-570 Church Street and City-owned Public Lane - Official Plan Amendment, Zoning Amendment, and Rental Housing Demolition Applications - Request for Directions Report

Date: September 23, 2020

To: City Council

From: City Solicitor

Wards: Ward 13 - Toronto Centre

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 or around August 26, 2020, the applicant submitted drawings in support of a further revised proposal on a with prejudice basis. The purpose of this report is to request further instructions for the newly scheduled LPAT hearing that is scheduled to commence December 3, 2020 to continue on December 4, 7, 8, 11, and 14 to 18, 2020.

Six procedural appearances (being prehearings, case management conferences, and status updates) have been held with the LPAT to date on June 28, 2018, October 19, 2018, November 28, 2018, March 15, 2019, February 10, 2020, and August 19, 2020.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the recommendations contained in the Confidential Attachment 1 to the report (September 23, 2020) from the City Solicitor.

2. City Council authorize the public release of the confidential recommendations contained in the Confidential Attachment 1 to the report (September 23, 2020) from the City Solicitor, if adopted by City Council.

3. City Council direct that all other information contained in Confidential Attachment 1 to the report (September 23, 2020) from the City Solicitor 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 the Refusal Report (November 8, 2017) from the Acting Director, Community Planning, Toronto East York District and City Council on December 8, 2017 adopted the Supplementary Report (December 1, 2017) from Chief Planner and Executive Director, City Planning. Link to Refusal Report (November 8, 2017):

<https://www.toronto.ca/legdocs/mmis/2017/te/bgrd/backgroundfile-108858.pdf>

Link to Supplementary Report (December 1, 2017):

<https://www.toronto.ca/legdocs/mmis/2017/cc/bgrd/backgroundfile-109705.pdf>

On December 5, 2017, the applications were refused by City Council and subsequently appealed pursuant to ss. 22(7) and 34(11) of the Planning Act. On February 16, 2018, the applicant submitted a revised proposal which involved the expansion of the site to include the property at 64 Wellesley Street East. A Request for Directions report dated April 24, 2018 was adopted by Toronto and East York Community Council and City Council to oppose the applications at the LPAT as the height and massing of the revised proposal do not conform to the policies of the Official Plan; do not fit within the existing and planned context of the Church Street Village Character Area as set out in the Official Plan Site and Area Specific Policy 382; and, do not adequately address the public realm, including nearby streets, parks, and open spaces. Staff also recommended that Council defer its decision on the application for Rental Housing Demolition under Chapter 667 of the Municipal Code pursuant to Section 111 of the City of Toronto Act, as the previously proposed development was not supported by Community Planning staff. Link to Request for Directions Report (April 24, 2018):

<http://www.toronto.ca/legdocs/mmis/2018/te/bgrd/backgroundfile-114665.pdf>

On February 26, 2019, City Council provided further directions on the applications which may be found here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.TE3.8>

On February 26, 2019, City Council stated its intention to designate the property at 64 Wellesley Street East under Part IV, Section 29 of the Ontario Heritage Act. Link to City

Council decision (February 26, 2019):

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.TE3.15>

On June 29, 2020, City Council provided further directions to the City Solicitor and staff in respect of the applicant's revisions to the development proposal which may be found here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.CC22.8>

On July 28, 2020, City Council authorized the City Solicitor to introduce a bill in City Council designating the property municipal known as 64 Wellesley Street East under Part IV, Section 29 of the Ontario Heritage Act. The applicant consented to the designation of the property, by letter to City Council dated July 6, 2020, subject to the bill including a revised statement of significance for the property. City Council's decision can be found here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.CC23.10>

City Council subsequently passed City of Toronto By-law 659-2020 to designate 64 Wellesley Street East under Part IV of the Ontario Heritage Act on July 29, 2020, which may be found here: <https://www.toronto.ca/legdocs/bylaws/2020/law0659.pdf>

COMMENTS

On December 5, 2017, the applications were refused by City Council and subsequently appealed to the Local Planning Appeal Tribunal ("LPAT") pursuant to s. 22(7) and 34(11) of the Planning Act.

On February 16, 2018, the applicant submitted a revised proposal which involved the expansion of the site to include the property at 64 Wellesley Street East. A Request for Directions report dated April 24, 2018 was adopted by Toronto and East York Community Council and City Council to continue to oppose the applications at the LPAT.

On or around February 28, 2020, the applicant submitted drawings in support of a further revised proposal on a with prejudice basis in anticipation of a hearing before the LPAT to commence on September 8, 2020.

On August 19, 2020 the LPAT cancelled the scheduled 8-day hearing to commence on September 8, 2020 at the request of the parties. The parties requested the adjournment given a procedural order governing the hearing had not issued by the LPAT and the parties required further instructions from the LPAT regarding the exchange of documents leading to the hearing.

A new procedural order for the hearing has since been circulated which contemplates the appellant filing further revised plans to be led in evidence before the LPAT.

On or around August 26, 2020, the applicant submitted drawings in support of a further revised proposal on a with prejudice basis. The further revised proposal continues to be for a mixed use building that wraps around the existing City lane (Dapper Lane). The

further revised proposal shows, within the eastern half to the site, along Church Street (552-570 Church Street and 66 Wellesley Street East), a 9-storey mixed-use building with retail uses on the first two floors (1,855 square metres) and residential uses above. To the west of the City-owned lane, at 64 Wellesley, the proposal includes the retention of a portion of the heritage building, with the addition of a tall building resulting in a 36-storey mixed-use building (111.25 metres, plus a 6 metre mechanical penthouse) with a total height of 117.25 metres, with 160 square metres of retail at grade. The total gross floor area is 34,515 square metres (32,500 square metres residential gross floor area; 2015 square metres of non-residential gross floor area) and a proposed floor space index of 11.78. The development proposes 433 residential units, which include 66 rental replacement units. One hundred and fourteen parking spaces are proposed (87 residential; 27 visitor). The total gross area of proposed amenity space is 1695 square metres (1075 square metres of indoor amenity area; 620 square metres of outdoor amenity area).

The table below outlines the changes between the submission made on February 14, 2018, which included 64 Wellesley Street East, the Revised Proposal dated February 2020, and the Further Revised Proposal.

Site Statistics	February 14, 2018 Application	February 2020 Revised Proposal	August 2020 Further Revised Proposal
Building Height w/ mechanical penthouse	140.75 metres, 40 storeys	132.0 metres, 39 storeys	117.5 metres, 36 storeys
Residential Gross Floor Area	44,298 square metres	36,980 square metres	32,500 square metres
Non-Residential Gross Floor Area	4,828 square metres	1,825 square metres	2,015 square metres
Floor Space Index	14.62	12.62	11.76
Residential Units: Studio 1-Bedroom 2-Bedroom 3-Bedroom Total	81 (18 percent) 229 (52 percent) 86 (20 percent) 46 (10 percent) 442 (100 percent)	No particulars provided other than statement that final unit count may vary based on market demand	66 Rental Replacement (sizes not specified) 200 130 37 443

Site Statistics	February 14, 2018 Application	February 2020 Revised Proposal	August 2020 Further Revised Proposal
Indoor Amenity Space	2 square metres per unit	2.22 square metres per unit	2.48 square metres per unit
Outdoor Amenity Space	0.8 square metres per unit	0.69 square metres per unit	1.43 square metres per unit
Vehicular Parking	140 total (breakdown between residential and visitor not provided)	73 residential 26 visitor	87 residential 27 visitor
Bicycle Parking: Long Term Short Term Total	424 63 487	464 60 524	390 60 450

The City Solicitor requires further instructions. 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

Wendy Walberg
City Solicitor

ATTACHMENTS

Public Attachment 1 - Architectural Plans prepared by Graziani + Corazza Architects Inc., dated August 31, 2020 for the property municipally known as 64-66 Wellesley Street East & 552-570 Church Street on file with the City Clerk for the purposes of the City Council meeting on September 30 and October 1, 2020.

Confidential Attachment 1 - Confidential Recommendations and Confidential Information