

Port Lands OPM LPAT Appeals - Request for Direction Report

Date: March 3, 2021

To: City Council

From: City Solicitor

Wards: Ward 14

REASON FOR CONFIDENTIAL INFORMATION

This report concerns litigation that affects the City of Toronto. This report contains advice or communications that are subject to solicitor-client privilege.

SUMMARY

The Port Lands Official Plan Modification (the "Port Lands OPM" or "OPM") was first endorsed by City Council in December of 2017. Several appellants of the Central Waterfront Secondary Plan (CWSP), including public agencies, existing industries, and private owners with development aspirations, have raised issues with the Port Lands OPM and a six-week Local Planning Appeal Tribunal (LPAT) hearing was scheduled to begin on September 1, 2020 to deal with the land use and transportation issues (the Phase 1 Port Lands OPM Hearing). The hearing was adjourned to early 2021 to allow for Tribunal-assisted mediation, which took place over numerous days in October and November, 2020 and resulted in a number of settlements with various parties and modifications to the Port Lands OPM. City Council endorsed the settlements and modifications at its December 2020 meeting. A settlement hearing took place over four days in January 2021, at which the LPAT approved the various settlements in principle. This had the effect of significantly narrowing the scope of the remaining issues. A hearing on the remaining contested issues is scheduled to commence on April 6, 2021.

The purpose of this report is to seek further instructions that would potentially further resolve or narrow the scope of some issues for the hearing. City Planning has been involved in the preparation of this report.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the confidential recommendations contained in Confidential Attachment 1.
2. City Council authorize the public release of the confidential recommendations contained in Confidential Attachment 1.
3. City Council direct that the remainder of Confidential Attachment 1 and Confidential Appendix A and B are to remain confidential at the discretion of the City Solicitor, as they contain information that is subject to solicitor-client and settlement privilege.
4. City Council classify the Warehouse District as Class 4 areas under the Ministry of Environment (now Ministry of Environment, Conservation and Parks) Environmental Noise Guideline, Stationary and Transportation Sources – Approval and Planning, Publication NPC-300, August 2013, and request the Chief Planner and Executive Director, City Planning to include the Warehouse District in the non-statutory map in the Central Waterfront Secondary Plan showing areas classified as Class 4 areas in the Central Waterfront.

FINANCIAL IMPACT

There are no financial implications from the adoption of this report.

DECISION HISTORY

On December 5, 6, 7 and 8, 2017, City Council considered Item PG24.6, which included, amongst other matters pertaining to the Port Lands Planning Initiatives, instruction for the City Solicitor to request the Ontario Municipal Board (now LPAT) to modify the former City of Toronto Official Plan and CWSP substantially in accordance with the Port Lands OPM, and to implement the Port Lands OPM at the on-going Ontario Municipal Board (now LPAT) hearing on the CWSP as appropriate.

For more information, see the Council consideration and Report for Action at the following links:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.PG24.6>
<https://www.toronto.ca/legdocs/mmis/2017/pg/bgrd/backgroundfile-107844.pdf>

On June 29, 2020, City Council considered a report from the City Solicitor and endorsed a number of proposed policy modifications that would narrow or scope the issues for the Phase 1 Port Lands OPM hearing, and endorsed issue-specific settlements with some appellants.

For more information, including background on the Port Lands Planning Framework and OPM, and the Phase 1 Port Lands OPM hearing and issues, see the Council consideration and Report for Action with Confidential Attachment at the following links:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.CC22.9>
<https://www.toronto.ca/legdocs/mmis/2020/cc/bgrd/backgroundfile-148177.pdf>

On December 16, 2020, City Council considered a report from the City Solicitor and endorsed a number of proposed policy modifications that would further narrow and scope the issues for the Phase 1 Port Lands OPM hearing, and endorsed issue-specific settlements with some appellants.

For more information, see the Council consideration and Request for Direction Report, and Supplementary Report at the following links:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.CC27.5>
<https://www.toronto.ca/legdocs/mmis/2020/cc/bgrd/backgroundfile-159283.pdf>
<https://www.toronto.ca/legdocs/mmis/2020/cc/bgrd/backgroundfile-159471.pdf>

COMMENTS

Background on Settlement Discussions

Following the City Council endorsement of settlements in December, 2020, and the January LPAT settlement hearing, staff have continued to discuss potential resolutions of the remaining issues with relevant parties. The purpose of this report is to provide an update on the outcome of these discussions and to seek further instructions.

Class 4 Designation for Warehouse District

In connection with the initial adoption by Council of the Port Lands Planning Framework and introduction of the Port Lands OPM in December of 2017, City Council classified Villiers Island, the McCleary District, Polson Quay and South River Districts as Class 4. This was done because new sensitive use permissions, and specifically residential permissions, were being introduced in these areas, and in recognition that portions of the Port Lands will continue to have port and industrial uses. The Class 4 classification provides for higher noise limits, allows for source mitigation and assists in safeguarding industry.

At its meeting on December 16, 2020, City Council adopted a recommendation from staff to expand the use of Class 4 Areas in the Port Lands and classified Media City, Turning Basin and the Hearn Districts as Class 4 Areas under the Ministry of Environment and Climate Change's NPC-300 Publication. The addition of these Districts was done in recognition that there are non-residential sensitive use permissions in these districts. At this time, City Council also endorsed a non-statutory map identifying the Class 4 Areas in the Central Waterfront Secondary Plan. The Warehouse District includes limited non-residential sensitive use permissions (post-secondary institutions) and was reflected as a Class 4 Area on the non-statutory map

before City Council in December, 2020. However, the recommendation to classify the additional Class 4 Areas inadvertently omitted the Warehouse District. Recommendation 4 of this report will correct this oversight.

Staff are recommending that City Council formally classify the Warehouse District as Class 4 Area. In recognition of these sensitive use permissions and to protect existing port and industrial uses, the Class 4 classification is appropriate in the Warehouse District. The classification of the Warehouse District as a Class 4 Area should not be seen as an endorsement of residential permissions for this area, which are not supported by City staff.

Conclusion

The City Solicitor requires instructions. This report is about litigation before the LPAT and contains advice or communications that are subject to solicitor-client privilege. Confidential Attachment 1 to this report contains confidential information and should be considered by Council in camera.

CONTACT

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SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

Confidential Attachment 1 - Confidential Report from City Solicitor
Confidential Appendix A – Confidential Information
Confidential Appendix B – Confidential Information