

**470-488 Wellington Street West - Zoning Amendment
Applications - Request for Further Direction
Regarding LPAT Hearing**

Date: May 28, 2021

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 Owners of the sites at 470-474 Wellington Street West (file no. 16 270154 STE 20 OZ) and 482-488 Wellington Street West (file no. 16 261191 STE 20 OZ) made separate applications in December 2016 for a 15-storey building with approximately 318 square metres of retail space on the ground floor and 11,311 square metres of office space above at 470-474 Wellington Street West, and for a 16-storey building with 272 square metres of retail and service commercial uses on the ground floor and 18,226 square metres of office space above at 482-488 Wellington Street West.

Both applications were appealed to the Local Planning Appeal Tribunal (LPAT) citing Council's failure to make a decision within the time allotted by the Planning Act. The matters were consolidated at a pre-hearing held on May 8, 2018. A hearing was scheduled for May 2019, but was adjourned on consent of the parties.

Since the applications were filed and appealed, they have evolved considerably. The two previously proposed office buildings, submitted under separate applications, have been consolidated into a single new office building on a combined site. The revisions resulted in a settlement proposal that was considered by City Council on March 27, 2019. City Council decided to not accept the proposed settlement because of concerns regarding the height of the proposed building and instructed City staff to continue negotiations with the applicant to further reduce the overall height of the revised proposal.

Since 2019, there have been ongoing without prejudice discussions between the applicants and the Wellington Place Neighbourhood Association (WPNA), a party to the LPAT hearing, and with City staff.

The City Solicitor requires direction from City Council for the LPAT appeals. City Planning has been involved in the preparation of this report.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the recommendations contained in Confidential Attachment 1 to this report.
2. City Council authorize the public release of the confidential recommendations contained in Confidential Attachment 1 and Confidential Attachments 2 and 3 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 that is subject to solicitor-client privilege.

DECISION HISTORY

King-Spadina Heritage Conservation District

On October 2, 2017, City Council adopted Item TE26.14, and in accordance with Section 41 of the *Ontario Heritage Act*, designated by by-law the King-Spadina Heritage Conservation District (HCD) and King-Spadina Heritage Conservation District Plan under Part V of the Ontario Heritage Act. The boundaries of the HCD include the subject properties. The Council-approved HCD is currently under appeal to the LPAT. The City Council decisions and the HCD plan are available at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.TE26.14>.

Request for Directions Reports

470-474 Wellington Street West

On April 24, 2018, City Council adopted Item TE31.12 directing the City Solicitor and City staff, as appropriate, to attend the Local Planning Appeal Tribunal Hearing, and to oppose the Zoning By-law Amendment application for 470-474 Wellington Street West. City Council's Decision is found at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.TE31.12>

482-488 Wellington Street West

On April 24, 2018, City Council adopted Item TE31.13 directing the City Solicitor and City staff, as appropriate, to attend the Local Planning Appeal Tribunal Hearing, and to oppose the Zoning By-law Amendment application for 482-488 Wellington Street West. City Council's Decision is found at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.TE31.13>

470-488 Wellington Street West Joint Proposal

On March 26, 2019, the Toronto Preservation Board ("TPB") considered a report from the Senior Manager, Heritage Preservation Services, Urban Design, City Planning (March 22, 2019) recommending that City Council approve the proposed alterations for the heritage properties at 482 and 488 Wellington Street West in connection with the proposed redevelopment of the combined site. The report also recommended that City Council state its intention to designate both 482 and 488 Wellington Street West under Part IV, Section 29 of the Ontario Heritage Act and give authority to enter into a Heritage Easement Agreement for these properties. The Toronto Preservation Board submitted the Item to Council without recommendation as the motion to adopt lost. The Decision Letter from the TPB is found at the following link:

<https://www.toronto.ca/legdocs/mmis/2019/cc/bgrd/backgroundfile-131242.htm>

On March 27, 2019, City Council considered a further Request for Direction Report with confidential attachment from the City Solicitor (March 20, 2019). City Council adopted Item CC5.12, with amendments, directing City staff to continue negotiations with the applicants in advance of the LPAT hearing to achieve a reduction in the overall height of the revised proposal to a height of 45 metres, excluding mechanical. City Council further directed that in the event the height was not reduced, the City Solicitor and outside consultants as required attend at the LPAT hearing and oppose the applications on the basis that the current height is too tall for this location. City Council's Decision is found at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.CC5.12>

At the same meeting, City Council stated its intention to designate the properties at 482 and 488 Wellington Street West under Part IV, Section 29 of the Ontario Heritage Act, and conditionally approved the proposed alterations to the heritage properties at 482 and 488 Wellington Street West (conditional on the LPAT approving the appeals, in whole or in part), subject to a number of conditions.

ISSUE BACKGROUND

An extensive history of the evolution of the applications and discussions with the applicants leading up to the 2019 revised, consolidated proposal for the combined site, as well as of the conservation strategy, site and surrounding area, and planning policy

framework is provided in the March 20, 2019 Request for Further Direction Report from the City Solicitor. The public portion of that report can be found at the following link: <https://www.toronto.ca/legdocs/mmis/2019/cc/bgrd/backgroundfile-131076.pdf>

Since 2019, without prejudice discussions with the proponents and WPNA have continued to try and address outstanding concerns.

COMMENTS

In light of the ongoing without prejudice discussions and the outstanding LPAT appeals, 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 Attachments 1, 2, and 3 to this report contain confidential information and should be considered by Council in camera.

CONTACT

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SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

1. Confidential Attachment 1 - Confidential Recommendations and Confidential Information
2. Confidential Attachment 2 - Confidential Information
3. Confidential Attachment 3 - Confidential Information