



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

78 to 90 Queen's Park - Zoning By-law Amendment Request for Directions - LPAT Hearing

Date: July 2, 2021

To: City Council

From: City Solicitor

Wards: Ward 11 - University-Rosedale

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 February 22, 2019, the Governing Council of the University of Toronto, submitted a Zoning By-law Amendment Application (deemed complete March 29, 2019) for the lands municipally known as 78-90 Queen's Park (the "**Site**"). The Site is located within the University of Toronto Secondary Plan.

The application proposes to permit a nine-storey institutional building with an overall height of approximately 43 metres and a gross floor area of approximately 14,770 square metres for the property at 78-90 Queen's Park. Falconer Hall and the Edward Johnson building are proposed to be retained, conserved and integrated into the development while the McLaughlin Planetarium is proposed to be demolished.

City Planning recommended approval of the application to Toronto and East York Community Council. However, Toronto and East York Community Council deferred consideration of the item on October 15, 2020. On October 19, 2020, the applicant appealed their zoning application to the Local Planning Appeal Tribunal (the "**LPAT**") due to Council's failure to make a decision within the statutory timeframe.

On February 2, 2021, City Council directed the City Solicitor and relevant staff to attend the LPAT and request and engage in mediation with all parties in an effort to resolve the outstanding matters related to the rezoning application, and to report back to City Council on the outcome of the mediation and to seek direction for the hearing of the appeals. LPAT-assisted mediation took place over 4 days on April 13, 14, 19 and 20, 2021.

The purpose of this report is to request further instructions regarding a matter appealed to the LPAT.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the recommendations contained in the Confidential Attachment 1 to the report (July 2, 2021) from the City Solicitor.
2. City Council authorize the public release of the confidential recommendations contained in the Confidential Attachment 1, Confidential Appendix "A", Confidential Appendix "B" and Confidential Appendix "C" to the report (July 2, 2021) 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 (July 2, 2021) 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

Preliminary Report

On April 24, 2019, a Preliminary Report on the application was adopted by Toronto and East York Community Council authorizing staff to conduct a community consultation meeting with an expanded notification area. The Community Council decision and Preliminary Report are available at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.TE5.33>

Final Report

On October 15, 2020, Toronto and East York Community Council deferred consideration of the report from the Director, Community Planning, Toronto and East York (September 15, 2020) recommending approval of the Zoning application:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.TE19.2>

The consultation history, site and area, and planning framework are outlined in detail in the report from the Director, Community Planning, Toronto and East York District (September 15, 2020).

Heritage Reports

On October, 27, 2020, City Council had before it the advice of the Toronto Preservation Board on both the Section 33 request to alter under the Ontario Heritage Act and the Notice of Intention to designate the properties at 80 and 84 Queen's Park. The report from the Senior Manager, Heritage Planning dated September 29, 2020 can be found here: <https://www.toronto.ca/legdocs/mmis/2020/te/bgrd/backgroundfile-157089.pdf>

The advice of the Toronto Preservation Board, Item PB17.4 can be found here: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.PB17.4>

On October 27, 2020, City Council stated its notice of intention to designate the properties at 80 Queen's Park (Edward Johnson Building) and 84 Queen's Park (Falconer Hall) under Part IV, Section 29 of the Ontario Heritage Act. The City Clerk did not receive any objections to the notices of intention to designate and therefore the designations are binding on the properties. The decision of City Council to designate the properties can be found here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.TE19.11>

On June 16, 2021, the Toronto Preservation Board considered a Confidential Report from the City Solicitor. The Toronto Preservation Board item may be found here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.PB25.9>

Appeal to LPAT

On October 19, 2020, the applicant appealed their proposed zoning by-law amendment and site plan control application to the LPAT due to Council's failure to make a decision within the statutory timeframe.

On February 2, 2021, City Council directed the City Solicitor and relevant staff to attend the LPAT and engage in LPAT-led mediation. City Council also requested the Chief Planner and Executive Director, City Planning undertake a cultural heritage landscape study of the Queen's Park precinct. The decision of City Council may be found here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.MM28.35>

Case Management Conferences ("**CMC**"s) were held by the LPAT via video conference on March 3 and May 20, 2021. The City Solicitor also attended LPAT-led mediation as directed by City Council in April, 2021. A further CMC is scheduled for July 30, 2021. The LPAT is now known as the Ontario Land Tribunal.

COMMENTS

The City Solicitor requires further instructions on this matter. This report is about litigation before the Ontario Land Tribunal 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 City Council in camera.

CONTACT

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SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

Confidential Attachment 1 - Confidential Recommendations and Confidential Information
Confidential Appendix "A" - Confidential Information
Confidential Appendix "B" - Confidential Information
Confidential Appendix "C" - Confidential Information