

**183-189 Avenue Road and 109-111 Pears Avenue -
Zoning By-law Amendment Application Ontario Land
Tribunal Appeal - Request for Direction**

Date: July 6, 2021

To: City Council

From: City Solicitor

Wards: Ward 11 - University-Rosedale

REASON FOR CONFIDENTIAL INFORMATION

1. This report contains information about litigation or potential litigation that affects the City or one of its agencies or corporations.
2. This report contains advice or communications that are subject to solicitor-client privilege.

SUMMARY

After an appeal to the former Local Planning Appeal Tribunal (LPAT), on April 16, 2018, the applicant submitted a revised proposal, for a 12-storey (42.3-metre, plus 3.26-metre mechanical penthouse) mixed-use building at 183-189 Avenue Road and 109-111 Pears Avenue. The proposal included 447 square metres of retail and 6,951 square metres of residential floor area resulting in a total density of 6.3 times the area of the lot, and a proposed 80 square metre parkland dedication. At its meeting on July 23, 2018, City Council adopted the Recommendations in the (June 25, 2018) report from the Acting Director, Community Planning, Toronto and East York District, directing the City Solicitor, together with appropriate City staff, to attend at the LPAT to oppose the applicant's appeal. The applicant subsequently amended their application reducing the height of the proposed building to 10-stories (plus a wrapped mechanical penthouse). After a 6-day hearing at the LPAT, the LPAT did not approve the appeal in its current form based on the sole issue of the transition and scale of the east side of the proposed building as it relates to the low density neighbourhood to the east. The LPAT did not dismiss the appeal, and provided the applicant the opportunity to amend its development proposal and return to the LPAT at a future date. The applicant has further amended its development proposal and a continuing hearing at the Ontario Lands Tribunal has been scheduled for July 26, 2021.

The City Solicitor seeks direction on the revised proposal no later than the completion of the City Council meeting on July 14, 2021.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the confidential recommendations in Confidential Attachment 1.
2. If the City Solicitor's confidential recommendations are adopted by Council, then City Council authorize the public release of the recommendations contained in Confidential Attachment 1 (with the remainder of Confidential Attachment 1 to remain confidential as it contains information that is subject to solicitor-client privilege).

FINANCIAL IMPACT

There is no financial impact arising from the adoption of the confidential recommendations.

DECISION HISTORY

At its meeting on July 23, 24, 25, 26, 27 and 28, 2018, City Council adopted the Recommendations in Item TE34.42, a report (June 25, 2018) from the Acting Director, Community Planning, Toronto and East York District, directing the City Solicitor, together with appropriate City staff, to attend the Local Planning Appeal Tribunal to oppose the applicant's appeal respecting the Zoning By-law Amendment application for 183-189 Avenue Road and 109-111 Pears Avenue. The City Council Decision and the report can be found at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.TE34.42>

At its meeting on May 14 and 15, 2019, City Council adopted the Recommendations in Item CC7.9, a report (May 7, 2019) from the City Solicitor, directing the City Solicitor, together with appropriate City staff, to attend the Local Planning Appeal Tribunal to oppose the applicant's Zoning By-law Amendment application for a revised proposal for 183-189 Avenue Road and 109-111 Pears Avenue. The City Council Decision and the report can be found at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.CC7.9>

At its meeting on June 24, 2021, the Toronto and East York Community Council in Item TE26.75 adopted the Recommendations in Item PB25.12, a letter (June 16, 2021) from the Toronto Preservation Board, recommending that City Council state its intention to designate the property at 183 Avenue Road under Part IV, Section 29 of the Ontario Heritage Act at the July 14, 2021 meeting of City Council. The Toronto and East York Community Council Decision and the letter from the Toronto Preservation Board and

related report (June 14, 2021) from the Senior Manager, Heritage Planning, Urban Design, City Planning, can be found at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.TE26.75>

COMMENTS

In its decision dated May 26, 2020, the former LPAT did not approve the appeal of the Zoning By-law Amendment on the basis that the transition and scale of the east side of the proposed building was inappropriate as the massing and lack of stepbacks would result in unacceptable impacts on the low density neighbourhood located immediately to the east of the development site. The LPAT did not dismiss the appeal, and provided the appellant the opportunity to amend its development proposal, working with the other parties, to return to the LPAT at a future date. The appellant has revised the east portion of the proposed building in an attempt to try to address the inappropriate transition.

Revised architectural drawings plans dated June 30, 2021 that contain revisions to the east portion of the proposed building were provided to the City and the other party to the appeal (the "Revised Proposal").

In terms of transitional changes to the east, the setback condition between the rear main wall of the proposed building and the side lot line of 103 Pears Avenue has been adjusted. The rear (east) setback ranges on a floor-by-floor basis in the current plans are as follows:

| East Elevation Setback (measured from side lot line of 103 Pears Avenue) | April 10, 2019 Plans | June 30, 2021 Plans |
|--|----------------------|---------------------|
| Ground Floor | 7.1-8.9 metres | 7.3-9.0 metres |
| Floor 2 (Mezzanine) | 7.1-8.9 metres | 7.3-9.0 metres |
| Floor 3 (Level 2) | 7.1-9.2 metres | 7.5-9.2 metres |
| Floor 4 (Level 3) | 7.1-9.2 metres; | 7.5-9.2 metres |
| Floor 5 (Level 4) | 8.6-10.9 metres; | 8.5-11.0 metres |
| Floor 6 (Level 5) | 8.6-10.9 metres; | 8.7-11.0 metres |
| Floor 7 (Level 6) | 8.6-10.9 metres; | 8.7-13.0 metres |
| Floor 8 (Level 7) | 8.6-10.9 metres; | 12.9-15.5 metres |
| Floor 9 (Level 8) | 8.6-12.2 metres; | 14.3-17.1 metres |

| | | |
|--|----------------------|---------------------|
| East Elevation Setback (measured from side lot line of 103 Pears Avenue) | April 10, 2019 Plans | June 30, 2021 Plans |
| Floor 10 (Level 9) | 12.0-15.6 metres | 17.0-18.3 metres |
| Floor 11 (Wrapped Mechanical) | 12.0-16.9 metres. | 17.1-21.9 metres |

Other revisions include a reduced gross floor area and a reconfigured northeast corner of the P1 parking level that shifts massing away from the edge of the widened laneway.

The revised plans are found in Public Appendix 1.

Proposed Heritage Conservation

The property at 183 Avenue Road was included on the City's Heritage Register, formerly the Inventory of Heritage Properties, by City Council on February 6, 1974, and contains a three-storey house form building. The subject site is also adjacent to the listed heritage property to the south at 181 Avenue Road. The Toronto Preservation Board and the Toronto and East York Community Council are recommending that City Council state its intention to designate the property at 183 Avenue Road under Part IV, Section 29 of the Ontario Heritage Act at the July 14, 2021 meeting of Council.

The conservation strategy for the onsite heritage property was supported by City heritage staff for the development proposal at the former LPAT and heritage conservation was not an issue at the hearing. The proposed changes in the Revised Proposal only affect the rear of the proposed building and have no impact on the previous heritage conservation strategy supported by staff.

The City Solicitor requires further direction on this matter prior to the conclusion of the July 14, 2021 meeting of City Council.

CONTACT

Mark Crawford, Solicitor, Planning and Administrative Tribunal Law, Tel. 416-392-8864, Fax 416-397-5624, Mark.Crawford@toronto.ca

SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

1. Public Appendix 1 - Architectural drawings and plans dated June 30, 2021 for the Revised Proposal
2. Confidential Attachment 1 - Confidential Information