



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

383 & 387 Sherbourne Street - Request for Direction Report

Date: June 30, 2023

To: Toronto Preservation Board

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

The properties and 383 and 387 Sherbourne Street are designated under Part V of the *Ontario Heritage Act* as part of the Cabbagetown Northwest Heritage Conservation District. The properties support the historic character of the area.

On July 26, 2021, a Zoning By-law Amendment application was submitted for a new 49-storey apartment building with 483 units at 383 and 387 Sherbourne Street. A Rental Housing Demolition application has been submitted to permit the demolition of 32 existing residential rental units located at 383 Sherbourne Street.

On January 26, 2022, the Applicant appealed the application to the OLT due to Council not making a decision within the 90-day time frame in the *Planning Act*.

The focus of this Report is on the requested alterations pursuant to Section 42 of the *Ontario Heritage Act*.

The City Solicitor requires further directions for the ongoing OLT matter. Given procedural filing dates, and other deadlines addressed in Confidential Attachment 1, this matter is urgent and cannot be deferred.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the recommendations contained in the Confidential Attachment 1 to this Report from the City Solicitor.

2. City Council authorize the public release of the confidential recommendations in Confidential Attachment 1, and Confidential Appendices "A", "B" and "C" to the Report 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 from the City Solicitor is to remain confidential at the discretion of the City Solicitor, as it contains advice and information, which is subject to solicitor-client privilege.

FINANCIAL IMPACT

There is no financial impact arising from the adoption of the Confidential Recommendations beyond what has already been approved in the current year's budget.

DECISION HISTORY

On December 11, 12 and 13, 2007, City Council authorized the establishment of the Cabbagetown Northwest area as a Heritage Conservation District and authorized the adoption of the Cabbagetown Northwest Heritage Conservation District Plan. The properties and 383 and 387 Sherbourne Street are included within the Cabbagetown Northwest Heritage Conservation District and support the historic character of the area. The by-law can be found here:

<https://www.toronto.ca/legdocs/bylaws/2008/law0325.pdf>

On July 26, 2021, a Zoning By-law Amendment application was submitted for a new 49-storey apartment building with 483 units at 383 and 387 Sherbourne Street. A Rental Housing Demolition application has been submitted to permit the demolition of 32 existing residential rental units located at 383 Sherbourne Street. A Rental Housing Demolition application to demolish 44 units at 387 Sherbourne Street has not been submitted.

On January 26, 2022, the Applicant appealed the application to the OLT due to Council not making a decision within the 90-day time frame in the *Planning Act*.

This report has been prepared in consultation with staff from City Planning, including Heritage Planning. As this report deals specifically with matters related to the Toronto Preservation Board and requested alterations under Section 42 of the *Ontario Heritage Act*, a further report from the City Solicitor will be prepared in consultation with staff to provide further advice and detail with regard to the Revised Proposal under the *Planning Act*. The sole focus of this Report is on the reasons to permit the requested alterations pursuant to Section 42 of the *Ontario Heritage Act*.

Policy Framework

Planning Act

The *Planning Act* and the associated Provincial Policy Statement guide development in the Province. The *Act* states that municipalities must have regard for matters of provincial interest. Section 2(d) specifically refers to "the conservation of features of significant architectural, cultural, historical, archaeological or scientific interest."

Provincial Policy Statement

The Provincial Policy Statement (PPS) directs through Policy 2.6.1 that significant built heritage resources shall be conserved. Properties designated under the *Ontario Heritage Act* are considered to be significant.

Policy 2.6.3 states that "Planning authorities shall not permit development and site alteration on adjacent lands to protected heritage property except where the proposed development and site alteration has been evaluated and it has been demonstrated that the heritage attributes of the protected heritage property will be conserved."

A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020

The Growth Plan (2020) directs through Policy 4.2.7.1 the conservation of cultural heritage resources, particularly in strategic growth areas such as the Downtown Urban Growth Centre.

Official Plan

Section 3.1.6 of the City of Toronto's Official Plan provides the policy framework for heritage conservation in the City and includes 53 heritage policies. Many of these policies are directly relevant to the proposed development.

The Standards and Guidelines for the Conservation of Historic Places in Canada

The Standards and Guidelines for the Conservation of Historic Places in Canada (Standards and Guidelines) is the official document guiding planning, stewardship and the conservation approach for all listed and designated heritage resources within the City of Toronto.

Area Context

The properties at 383 and 387 Sherbourne Street are located in the Cabbagetown neighbourhood, which is characterized by its collection of Victorian house-form buildings interspersed with apartment buildings from the early and mid-20th century and institutional buildings. The site fronts onto both Sherbourne and Bleecker Streets, and is located between Wellesley Street East and Carlton Street.

Heritage Properties

The properties and 383 and 387 Sherbourne Street are designated under Part V of the *Ontario Heritage Act* as part of the Cabbagetown Northwest Heritage Conservation District and support the historic character of the area. 383 Sherbourne Street contains a four-storey apartment building with a rectangular plan, dating to 1927. 387 Sherbourne Street contains a four-storey apartment building with a T-shaped plan that dates to 1927.

COMMENTS

The City Solicitor requires further instructions on this matter. This report is about litigation before the OLT and contains advice or communications that are subject to solicitor-client privilege and litigation privilege. Confidential 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

1. Confidential Attachment 1 - Confidential Information
2. Confidential Appendix "A" – Confidential Information
3. Confidential Appendix "B" – Confidential Information
4. Confidential Appendix "C" – Confidential Information