

179-185 King Street East - Alteration and Erection of a Building on a Property Designated under Part V of the Ontario Heritage Act and Authority to Enter into a Heritage Easement Agreement - Request for Directions

Date: January 31, 2024

To: Toronto Preservation Board and City Council

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

On August 18, 2022, a Zoning By-law Amendment application for 179-185 King Street East was submitted to permit a 33-storey mixed-use building with 7,600 square metres of non-residential gross floor area and 190 dwelling units above. Portions of the facades of the existing designated heritage buildings were proposed to be integrated into the development.

On March 24, 2023, the applicant appealed the application to the Ontario Land Tribunal (OLT) due to Council's failure to make a decision within the time frame in the *Planning Act*. Following the appeal, the applicant acquired 175 King Street East and submitted a revised Zoning By-law Amendment application on August 14, 2023. The revised application for 175-185 King Street East was for a 35-storey mixed-use building with 500 square metres of non-residential gross floor area and 394 dwelling units above.

On January 20, 2024 the applicant submitted a with prejudice settlement offer (the "Settlement Offer") that included an application under Section 42 of the *Ontario Heritage Act* to alter the on-site heritage resources and erect a new structure within a designated Heritage Conservation District.

The City Solicitor requires further direction with respect to the heritage application and the upcoming OLT proceedings relating to the zoning and site plan appeals.

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 contained in Confidential Attachment 1 to this report from the City Solicitor, if adopted by City Council.
3. City Council direct that all other information contained in Confidential Attachment 1 to this report 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

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

The St. Lawrence Heritage Conservation District was approved by the Ontario Land Tribunal and came into force November 16, 2021. The HCD Plan can be found here: <https://www.toronto.ca/wp-content/uploads/2022/08/8efb-city-planning-st-lawrence-neighbourhood-hcd.pdf>

Related Development Application

On October 11, 2023 City Council considered an Appeal Report from Community Planning in which it was recommended that City Council authorize staff to attend the OLT in opposition to the applications and appeal. Those recommendations also included a request that the OLT not issue a final order until a satisfactory Heritage Impact Statement and Conservation Plan had been provided to the City. The recommendations were adopted by Council and the decision can be found at the following link:

<https://secure.toronto.ca/council/agenda-item.do?item=2023.TE7.15>

COMMENTS

The Settlement Offer proposes a revised built form that will be the subject of a separate report to City Council in March 2024, whereas this report will consider the implementing heritage applications pursuant to the *Ontario Heritage Act*.

The revised proposal requires approval under Section 42 of the *Ontario Heritage Act* to permit the alteration of a contributing property, and the erection of a new structure within the St. Lawrence Heritage Conservation District.

Heritage Properties

The development site, 175-185 King Street East, is located at the southwest corner of the intersection of King and George Streets within the Part V designated St. Lawrence Neighbourhood Heritage Conservation District (HCD). The development site is currently occupied by five three-storey brick commercial warehouse buildings constructed between 1833 and 1855: 175, 179, 181, 183 and 185 King Street East. All the existing buildings are identified as contributing in the HCD Plan.

The subject property is adjacent to the following properties designated under Part IV of the *Ontario Heritage Act* (OHA):

- 172 King Street East (Sovereign Bank), designated under Part IV of the OHA on August 13, 1984
- 187 King Street East (Little York Inn), designated under Part IV of the OHA on April 17, 1979
- 65 George Street (Little York Inn Stables), designated under Part IV of the OHA on November 26, 2020

Tower Stepbacks

The tower design in the Settlement Offer has been revised to introduce a significant stepback above the heritage buildings, with a stepped cantilever above. As shown in the January 10, 2024, drawings prepared by IBI Group Architects (Canada) Inc./Arcadis, the proposed tower has a ten metre stepback from the primary (north) elevation along King Street East to a two-storey reveal, an eight metre stepback at level five, and a seven metre stepback to the tower face above level six. On the side (east) elevation along George Street, the proposed tower has a three metre stepback to the three-storey reveal and a one metre stepback from the heritage facade to the tower face above the reveal.

Conservation Strategy

The conservation strategy for the proposed development involves the in-situ retention of the elevations of the heritage buildings along King Street East and eleven metres of the east elevation of 185 King Street East along George Street. In accordance with HCD

Plan policy, the heritage attributes that characterize the Commercial Warehouse typology will be conserved as the development retains the primary elevations of the heritage buildings fronting on King Street East.

The eighteen-metre George Street elevation directly south of the retained portion of 185 King Street East would be dismantled by hand (from the top down) and reconstructed with the maximum amount of salvaged, intact brick to facilitate the rehabilitation of the heritage elements and the construction of the new building. The condition of the existing wall along George Street is concealed by plaster and paint finishes on the interior, but it is generally believed to be in poor condition due to evidence of cracking, deterioration, previous alterations, and repair. The interior brick and stone foundation are in poor condition, with many areas exhibiting efflorescence and spalling. The reconstructed portion of the east elevation will reintroduce elements like the gable end and eave, parapet walls and chimneys above the roof line, and the historic storefront and window configuration, while providing a new residential entrance. The cladding materials will match 185 King Street East. The southern-most portion of the east elevation along George Street is not original and would be demolished for new construction.

The roofs of the heritage buildings on King Street East would be reconstructed in their earliest documented configurations based on historical documentation. A partial sloped roof will be reinstated along the George Street elevation. For both the King Street East and George Street elevations, all existing windows will be replaced with new compatible and historically appropriate wood windows.

The size of the residential terraces on level three, above the partial sloped roof on the historic George Street elevation, have been reduced to minimize the volume of the glass wind screen/guardrail in that area. The wind screen would be glazed to limit visual impact. It is likely that the windscreen can be additionally reduced to 1.5 metres in height; however, the ultimate height of the windscreen will be determined through an updated wind study for the proposed development.

HCD Plan policy does not apply to the alteration of interiors; however, interior demising walls will be reinstated to an approximate depth of four metres between the ground floor units to respond to the narrow rhythm of the elevations. A partial second floor between the demising walls would be reconstructed to minimize the visual impact that the proposed double height retail lobby space would have on the historic character and appearance of the heritage buildings. The proposed floor levels will require the lower sash of the three third floor windows of 185 King Street East to be back painted, but the impact will not be readily visible from the public realm.

Storefronts

The revised proposal includes reconfigured commercial storefront entrances at 175, 179, 181, 183, and 185 King Street East and an articulated George Street storefront with recessed areas and glazed returns. The grade at George Street is not aligned with the finished floor elevation, hindering barrier-free access, and as such, the articulated storefront entrance will be inactive.

The arrangement of commercial storefronts with recessed entrances along King Street East will be maintained and the articulated storefront along George Street will be consistent with its historic appearance. The existing storefronts lack integrity and the replacement storefronts along King Street East will have a traditional design and incorporate elements consistent with the historic appearance of the site and the Commercial Warehouse Typology, including decorative detailing and storefront surrounds such as recessed entrances, low stall risers, full height glazing, fascias, and cornices. The details of these changes will form part of the required Conservation Plan and will be based on their original appearance based on archival documentation.

Adjacencies

The development maintains the existing streetwall along King Street East and a portion of the east elevation along George Street. The proposed materials of the new base building infill along George Street are consistent with the prevailing materials and colour palette of the adjacent heritage buildings and HCD Plan area to mitigate the visual and physical impacts on the adjacent heritage resources.

There would be in-situ retention of the demising wall between the adjacent 173 King Street East and 175 King Street East, with the introduction of a control joint on the north elevation to address differential settlement. The demising wall between the two units may require spot repairs and consolidation once exposed as part of the demolition and stabilization phase of work.

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

CONTACT

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SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

1. Public Attachment 1 - Covering letter from Aird & Berlis LLP dated January 20, 2024, which describes the revised proposal, and accompanied the heritage permit application and updated Heritage Impact Assessment
2. Public Attachment 2 - Location Map
3. Public Attachment 3 - Photographs
4. Public Attachment 4 - Plans and Drawings
5. Public Attachment 5 - Renderings
6. Confidential Attachment 1 - Confidential Information