

355 Adelaide Street West - Alterations and Demolition to Heritage Attributes at a Designated Property under Sections 33 and 34(1)1 of the Ontario Heritage Act and Authority to Enter into a Heritage Easement Agreement

Date: March 1, 2024

To: Toronto Preservation Board

From: City Solicitor

Wards: Ward 10 - Spadina - Fort-York

REASON FOR CONFIDENTIAL INFORMATION

This report contains advice or communications that are subject to solicitor-client privilege. This report contains information regarding litigation or potential litigation.

SUMMARY

The owner appealed its Zoning By-law Amendment application for 353 - 355 Adelaide Street West, 46 Charlotte Street and 16 Oxley Street to the Ontario Land Tribunal ("OLT") in the fall of 2023 due to Council's failure to make a decision on the application within the time prescribed by the *Planning Act*.

In February 2023, the applicant revised its Zoning By-law Amendment application, increasing the proposed height of the building to 58 storeys (187 metres, including mechanical), revised the Oxley Street portion of the building to 6 storeys, increased the number of residential units to 503 units and decreased the amount of retail and office space to 2,802 square metres. The heritage building continued to be incorporated into the proposed development. The revised proposal is now the subject of the appeal before the OLT.

The focus of this report is the owner's application under Section 33 and 34(1)1 of the *Ontario Heritage Act* which requests City Council's consent to alterations and demolition of a heritage attribute to the property at 355 Adelaide Street West. Council requires the advice of the Toronto Preservation Board in respect of matters which may impact a designated heritage property.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the confidential instructions to staff contained in the Confidential Attachment 1 to this report from the City Solicitor.
2. City Council authorize the public release of the confidential instructions to staff 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 is about litigation before the Ontario Land Tribunal and contains advice or communications that are 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

Designation of the Property

The property at 355 Adelaide Street West has been designated under Part IV, Section 29 of the *Ontario Heritage Act*. On October 1, 2021, City Council stated its intention to designate the property. The decision of City Council can be found here: <https://secure.toronto.ca/council/agenda-item.do?item=2021.PH26.10>

City Council passed City of Toronto By-law 1083-2021 designating the property on December 17, 2021. The designation by-law can be found here: <https://www.toronto.ca/legdocs/bylaws/2021/law1083.pdf>

Related Development Applications

On October 15, 2020, Toronto and East York Community Council adopted the recommendations of a Preliminary Report of the Director of Community Planning, Toronto and East York District, directing staff to schedule a community consultation meeting on the proposed Zoning By-law amendment application for 353-355 Adelaide Street West, 46 Charlotte Street and 16 Oxley Street, and to give notice of the community consultation meeting to landowners and residents within 120 metres of the application site. The decision of Toronto and East York Community Council can be found here: <https://secure.toronto.ca/council/agenda-item.do?item=2020.TE19.22>

On June 14 and 15, 2023, City Council directed the City Solicitor and appropriate staff to oppose the Zoning By-law Amendment application in its current form and continue working with the applicant to resolve issues outlined in the report from the Director, Community Planning, Toronto and East York District. City Council's decision can be found here:

<https://secure.toronto.ca/council/agenda-item.do?item=2023.TE5.12>

COMMENTS

Heritage Permit Applications

The owner submitted applications under sections 33 and 34(1)1 of the *Ontario Heritage Act*. The new construction will incorporate the existing heritage building at 355 Adelaide Street West as part of the podium of the new building. Approval is required for this proposal under Section 33 of the *Ontario Heritage Act* to permit alterations to the designated property at 355 Adelaide Street West. Approval is also required under Section 34(1)1 of the *Ontario Heritage Act* for the removal of heritage attributes of the designated property at 355 Adelaide Street West. The attributes that are proposed to be removed are a chimney at the rear, the elevator overruns that project above the sixth floor on the east and west facades, the raised basement, and a non-original cornice above the first floor.

Heritage Properties

The property at 355 Adelaide Street has been individually designated under the *Ontario Heritage Act* and is also a contributing property within the King-Spadina Heritage Conservation District ("HCD").

The designated heritage property includes a six-and-a-half-storey commercial warehouse building designed in the Renaissance Revival architectural style by well known architect Benjamin Brown for Moses and Louis Gelber. It was constructed 1921-1922.

The subject property is adjacent to the following properties that were included on the City's Heritage Register and are contributing properties within the HCD:

- 349 Adelaide Street West (Maclean Building, 1922);
- 366 Adelaide Street West (Hobberlin Building, 1920); and
- 384 Adelaide Street West (Ellis Building, 1922)

Conservation Strategy

The conservation strategy for the designated heritage property at 355 Adelaide Street West includes:

- The in situ retention of its front (north) and west facades;
- The in situ retention of part (one bay) of its rear (south) façade;
- The reconstruction of a portion of the east and south facades using salvaged bricks;
- The rest of the heritage building would be demolished to accommodate the proposed new mixed-use building. This includes a chimney on the south-east corner that is noted as a heritage attribute in the designation by-law;
- The removal of the raised basement by lowering the ground floor to provide barrier free access and alterations to some openings to provide universal access and to serve the proposed new ground floor retail uses;
- The restoration of the original entrance surround with modifications to provide at-grade access;
- The removal of the cornice above the first floor and its replacement with a new cornice that would be designed to match the original based on archival documentation;
- The removal of masonry projections above the sixth floor level on the east and west facades that serve elevators;
- The removal of non-original windows and their replacement with new historically-appropriate windows to be provided based on archival evidence;
- General repairs and cleaning of brick and stone; and
- An outdoor terrace is proposed within the 5 metre stepbacks on the roof of the heritage building. The required guard rail is proposed to be set back from the retained facades and made of glass to minimise its visibility from the public realm.

The scale, form and massing of the heritage building would be altered by the construction of a new tower. The tower is proposed to be stepped back by 5 metres at level 7 from the front (north) and west elevation of the heritage building. A cantilever is proposed to be introduced at level 12 which the application materials suggestion "would project forward by 3 metres into the front stepback and project forward by 2 metres along the west side of the building."

The proposed new base building has been designed to reflect the streetwall height and datum lines of the heritage building. It is set back 2 metres further than the front of the heritage building along Adelaide Street West which the application materials suggest "ensure the legibility of the historic building" and it would be clad in contemporary materials.

The City Solicitor requires further instructions. This report contains advice or communications that are subject to solicitor-client privilege. Confidential Attachment 1 to this report contains confidential advice and it should be considered by Council *in camera*.

CONTACT

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SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

1. Confidential Attachment 1 - Confidential Information