

**Local Planning Appeal Tribunal**  
Tribunal d'appel de l'aménagement  
local



**ISSUE DATE:** March 06, 2019

**CASE NO(S):** PL170914

The Ontario Municipal Board (the "OMB") is continued under the name Local Planning Appeal Tribunal (the "Tribunal"), and any reference to the Ontario Municipal Board or Board in any publication of the Tribunal is deemed to be a reference to the Tribunal.

**PROCEEDING COMMENCED UNDER** subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:	Stewart and Main Urban Properties Inc.
Subject:	Application to amend Zoning By-law No. 438-86 – Refusal or neglect of the City of Toronto to make a decision
Existing Zoning:	Regeneration Area (RA) Zone
Proposed Zoning:	Site Specific (To be determined)
Purpose:	To permit the construction of a 19 storey, 247 unit residential rental building with retail at grade
Property Address/Description:	663-647 King Street West and 60 Stewart Street
Municipality:	City of Toronto
Municipality File No.:	16 270239 STE 20 OZ
OMB Case No.:	PL170914
OMB File No.:	PL170914
OMB Case Name:	Stewart and Main Urban Properties Inc. v. Toronto

**Heard:** February 6, 2019 in Toronto, Ontario

**APPEARANCES:**

**Parties**

Timbercreek 4Q Urban  
Redevelopments LP (Toronto)

**Counsel**

E. Costello, R. Hines

City of Toronto

A. Suriano

**DECISION DELIVERED BY HELEN JACKSON AND INTERIM ORDER OF THE TRIBUNAL**

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**INTRODUCTION**

[1] Timbercreek 4Q Urban Redevelopments LP (Toronto) (the “Applicant”) has taken over this appeal from Stewart and Main Urban Properties Inc., who applied to the City of Toronto (the “City”) for a Zoning By-law Amendment (“ZBLA”) to permit the construction of a 19 storey, 247 unit residential building with retail at grade for the lands noted above, generally located at the southeast corner of King and Bathurst Streets.

[2] A hearing in this matter was set for nine days commencing February 5, 2019. The commencement date was moved to February 6, 2019. At the commencement of the hearing, the parties advised the Tribunal that a full settlement had been reached in this matter pursuant to City Council's resolutions regarding Items TE2.3 and MM2.19 dated January 30, 2019 that include certain amendments to the proposal and recommended conditions of approval. The Toronto Preservation Board recommendation of approval (PB2.2) was entered into evidence at Exhibit 1, Tab 20 and Council approval (MM2.19) was entered into evidence at Exhibit 1, Tab 21.

[3] The revised proposal for the subject property is as depicted on the plans dated February 4, 2019, entered into evidence as Exhibit 5. The main revision is the preservation of important heritage elements in the design of the building and a reduction to 17 storeys and height of 58 metres including the mechanical penthouse.

[4] The proposed ZBLAs to permit this revised development were provided in Exhibit 6 (to amend By-law No. 438-86) and Exhibit 7 (to amend By-law No. 569-2013).

[5] The Applicant's land use planner, Louis Tinker, upon consent provided uncontested expert opinion evidence in support of the settlement. There were no participants to this matter.

[6] Mr. Tinker provided his opinion that the proposed development is appropriate and desirable from the perspectives of land use planning, urban design and heritage conservation. He testified that the development is supportive of the policy framework expressed in the Provincial Policy Statement 2014 (the “PPS”), the Growth Plan for the Greater Golden Horseshoe 2017 (the “Growth Plan”) and the City of Toronto Official Plan, all of which promote intensification and a range of housing choices within built-up urban areas, particularly on underutilized sites that are well served by municipal infrastructure and community services and facilities, such as this site at King and Bathurst Streets.

[7] Mr. Tinker testified that the redevelopment of the site will result in a tall building that is compatible with the existing and planned built form context and will appropriately intensify an underutilized site. The heritage conservation strategy for the subject site has been supported by Heritage Preservation Staff and approved by the Toronto Preservation Board. He testified that the proposal conforms with the heritage policies of the Official Plan and is consistent with the emerging policy framework for the area.

[8] Mr. Tinker testified that the proposed draft zoning by-laws provided in Exhibits 6 and 7 will appropriately implement the proposed development.

[9] The Tribunal accepts the uncontested planning opinion evidence provided by Mr. Tinker and finds that the revised development as set out in the plans provided in this hearing provides for a development that is consistent with the PPS, conforms with the Growth Plan and the City of Toronto Official Plan.

### **INTERIM ORDER**

[10] The Tribunal allows the appeal in part, and approves in principle the Zoning By-law Amendments entered into evidence in Exhibits 6 and 7.

[11] The Tribunal withholds its final Order until such time as the Tribunal has been advised by the City Solicitor that the conditions set out in Attachment 1 to this Decision have been satisfied.

*"Helen Jackson"*

HELEN JACKSON  
MEMBER

If there is an attachment referred to in this document,  
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**Local Planning Appeal Tribunal**

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# ATTACHMENT 1

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Exhibit #: 2

## Proposed Conditions of Final Order

The Tribunal shall withhold its final order on the Zoning By-law Amendment application until such time as the Tribunal has been advised by the City Solicitor that:

1. the proposed Zoning By-law Amendments are in a form satisfactory to the Chief Planning and Executive Director, City Planning, and the City Solicitor, including securing the replacement rental units, rents, and tenant relocation and assistance plans and any other related rental matters for the rental dwelling units at 58-60 Stewart Street, and are in conformity with Section 3.2.1.6 of the Official Plan;
2. the owner has secured an off-site parkland dedication pursuant to Section 42 of the Planning Act to the satisfaction of the General Manager, Parks, Forestry and Recreation;
3. the owner has secured off-site office replacement through the submission of a development approval application for another property within the vicinity of the site at 647, 663-665 King Street West, 69-73 Bathurst Street and 58-60 Stewart Street, and any proposed development at the off-site location must demonstrate the following characteristics, all to the satisfaction of the Chief Planner and Executive Director, City Planning:
  - a. Contextually appropriate height, built form, density and massing, including any building setbacks and ~~stepbacks~~;
  - b. Heritage conservation, if applicable;
  - c. Appropriate use(s); and,
  - d. Ability to accommodate a minimum of 1,955 square metres of office space to fulfill the office replacement requirements for the subject site, without creating an office space deficiency at the off-site location;
4. the owner has provided revised plans, drawings, and studies to reflect the outstanding requirements outlined in the Engineering and Construction Services memorandum of February 22, 2017, all to the satisfaction of the Chief Planner and Executive Director, City Planning and the Chief Engineer and Executive Director, Engineering and Construction Services;
5. the owner has entered into a financially secured agreement with the City for the design and construction of any improvements to the municipal infrastructure, all

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at the owners sole cost and expense, in the event that it is determined that upgrades are required to support the development in connection with the site servicing report accepted by the Chief Engineer and Executive Director, Engineering and Construction Services, and all to the satisfaction of the City Solicitor;

6. the owner has entered into a Heritage Easement Agreement with the City for the property at 663-665 King Street West substantially in accordance with plans and drawings prepared by Diamond Schmitt Architects, submitted with the Heritage Impact Assessment prepared by ERA Architects Inc., dated November 21, 2018 or otherwise revised in accordance with a settlement offer or LPAT Order, subject to and in accordance with the approved Conservation Plan required in Condition 7, below, all to the satisfaction of the Senior Manager, Heritage Preservation Services including execution of such agreement to the satisfaction of the City Solicitor;
7. the owner has provided a detailed Conservation Plan prepared by a qualified heritage consultant that is substantially in accordance with the conservation strategy set out in the Heritage Impact Assessment for 663 King Street West, ERA Architects Inc., dated November 21, 2018 or otherwise a conservation strategy revised in accordance with a settlement offer or LPAT Order, all to the satisfaction of the Senior Manager, Heritage Preservation Services;
8. the owner has withdrawn its appeal of the King Spadina Heritage Conservation District Plan which was approved by City Council stating its intent to designate the area, including the properties which are subject to this proposal, under Part V of the *Ontario Heritage Act*;
9. City Council has made a decision on the Rental Housing Demolition application No. 16 270246 STE 20 RH under Chapter 667 of the Toronto Municipal Code pursuant to Section 111 of the *City of Toronto Act*, 2006 to demolish the seven existing rental dwelling units at 58-60 Stewart Street;
10. the City and the Applicant have entered into an executed Section 37 Agreement to be registered on title to the subject property to secure at the owner's expense such facilities, services, replacement rental units, rents, tenant assistance and other related rental matters, and any other Section 37 matters, including the following, to be set forth in the related site specific Zoning By-law Amendments and all to the satisfaction of the Chief Planner and Executive Director, City Planning Division, Senior Manager, Heritage Preservation Services, and the City Solicitor:
  - a. the provision of community benefits as follows:
    - i. the owner shall provide a minimum cash contribution of \$250,000.00 toward new affordable housing within Ward 10;

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- ii. the owner shall provide a minimum cash contribution of \$250,000.00 toward capital repairs for Toronto Community Housing within Ward 10;
  - iii. the owner shall provide a minimum cash contribution of \$1,000,000.00 for the provision of public realm improvements in the vicinity of the subject site, along King Street West, Bathurst Street, and/or Stewart Street and/or around Victoria Memorial Square Park;
  - iv. the owner shall provide a minimum cash contribution of \$1,000,000.00 for the provision of community services and facilities in the vicinity of the site; and
  - v. the \$2,500,000.00 cash contribution referred to in Conditions 10.a.i-iv are to be indexed upwardly in accordance with Statistics Canada's Construction Price Index for the Toronto Census Metropolitan Area, calculated from the date of the Local Planning Appeal Tribunal decision to the date of payment and all cash contributions will be payable prior to issuance of the first above-grade building permit;
- b. the following matters are to be secured in the Section 37 agreement as a legal convenience to support the development, at the owner's expense:
- i. securing the rental tenure for the seven rental replacement units for at least 20 years, rents for the two affordable and mid-range rental replacement units for at least 10 years, and an acceptable tenant relocation and assistance plan for all eligible tenants within the existing rental buildings located at 58-60 Stewart Street that are proposed to be demolished as part of the development application, and any other related rental matters, to the satisfaction of the Chief Planner and Executive Director, City Planning;
  - ii. provision of a minimum of ten percent (10%) of the residential units in the building in the form of three bedroom units and 25 percent (25%) as two bedroom units;
  - iii. submission, and thereafter implementation, of a Construction Management Plan by the owner of 647, 663-665 King Street West, 69-73 Bathurst Street and 58-60 Stewart Street to address such matters as wind, noise, dust, street closures, parking and laneway uses and access, with such plan to be to the satisfaction of the Chief Planner and Executive Director, City Planning Division in consultation with the local Councillor and shall be completed prior to Site Plan approval; and,

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- iv. securing the preparation and thereafter the implementation of a Heritage Lighting Plan, a Signage Plan, an Interpretation Plan, and requiring a letter of credit to secure all work included in the approved Conservation Plan and approved Interpretation Plan, including provision for upwards indexing, all to the satisfaction of the Senior Manager, Heritage Preservation Services.

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