

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



ISSUE DATE: February 14, 2019

CASE NO(S): PL171452

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

Applicant and Appellant:	445 Adelaide Street West 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:	RA - (Re-Investment Area)
Proposed Zoning:	Site Specific (To be determined)
Purpose:	To permit an 11-storey non-residential building
Property Address/Description:	445, 447, 449 & 451 Adelaide Street West
Municipality:	City of Toronto
Municipality File No.:	16 207248 STE 27 OZ
OMB Case No.:	PL171452
OMB File No.:	PL171452
OMB Case Name:	445 Adelaide Street West Inc. v. Toronto (City)

Heard: October 9, 2018 in Toronto, Ontario and November 13, 2018 by Telephone Conference Call

APPEARANCES:

Parties

Counsel/Representative*

445 Adelaide Street West Inc.

Eileen Costello (First Prehearing Conference ("PHC") only) and
Maggie Bassani (Second PHC only)

City of Toronto

Thomas Wall

Toronto Standard Condominium Corporation 1984 (10 Morrison Street)

Dieter Riedel*

Joseph Musa and Salwa Musa Amber Stewart (Second PHC only)

Garment District Neighbourhood Association Valerie Eggertson*

N. Alfred Apps

**MEMORANDUM OF ORAL DECISION DELIVERED BY L.M. BRUCE ON
OCTOBER 9, 2018 AND NOVEMBER 13, 2018 AND ORDER OF THE TRIBUNAL**

[1] The Applicant, 445 Adelaide Street West Inc., appealed the City of Toronto's failure to make a decision within the legislative timeframe for a zoning by-law amendment which would permit the construction of an office building on the properties located at 445, 447, 449 and 451 Adelaide Street West (the "subject site"). This is a memorandum of oral decision from two prehearing conferences held with respect to this matter.

[2] The Applicant proposes to redevelop the subject site with an 11-storey (40.5 metres) office building with a total gross floor area of 4203 square metres ("sq m"). The proposal includes 3955 sq m of office space and 249 sq m of grade related retail uses.

[3] The site is zoned Reinvestment Area (by the former City of Toronto Zoning By-law No. 438-86 and Commercial Residential Employment (CRE) by the City of Toronto Zoning By-law No. 569-2013. The rezoning application was deemed complete by the City as of August 1, 2017.

[4] The subject site is located on the south side of Adelaide Street West, midway between Bathurst Street and Spadina Avenue. The subject site is currently occupied by commercial and residential uses in the form of row houses. Adjacent to the subject site a portion of a row house at 453 Adelaide Street West will remain. To the south of the property is a residential condominium at 10 Morrison Street.

[5] Party status was sought and granted on consent to:

- a. Toronto Standard Condominium Corporation 1984 (10 Morrison Street)
- b. Joseph Musa and Salwa Musa – joint owners of 453 Adelaide Street West
- c. Garment District Neighbourhood Association
- d. N. Alfred Apps - resident at 10 Morrison St.

[6] In addition Rick Pennycoke sought and was granted party status at the first hearing but advised the Tribunal at the second PHC that he no longer wished party status. The Tribunal considers Mr. Pennycoke's party status withdrawn.

[7] Participant status was sought from 20 residents who indicated their interest by providing their names on a sign in sheet. Participant status was granted on consent. The Tribunal notes that given that most of these participants reside at 10 Morrison Street they are encouraged to seek one or more spokespeople who share their interests who will make a statement or statements at the hearing.

[8] The second PHC was held to allow parties to retain council and to permit time for the development of an issues list. The issues list and PO has been prepared and is attached to this decision as Attachment 1. The Tribunal was asked to set a further PHC to further organize for the hearing and potentially refine the issues list. The Tribunal was also asked at the second PHC to set dates for a four-week hearing.

[9] A third PHC is scheduled for **Wednesday, April 17, 2019** at **10 a.m.** at:

**Local Planning Appeal Tribunal
655 Bay Street, 16th Floor
Toronto**

[10] The parties are asked to advise the Tribunal by **Monday, April 8, 2019** if this appearance is still required or whether this PHC can be converted to a Telephone Conference Call.

[11] A hearing has been set to begin **Tuesday, February 18, 2020** at **10 a.m.** for four weeks at:

**Local Planning Appeal Tribunal
655 Bay Street, 16th Floor
Toronto**

[12] No further notice will be given.

[13] This member is not seized.

“L.M. Bruce”

L.M. BRUCE
MEMBER

If there is an attachment referred to in this document,
please visit www.elto.gov.on.ca to view the attachment in PDF format.

Local Planning Appeal Tribunal
A constituent tribunal of Tribunals Ontario - Environment and Land Division
Website: www.elto.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

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Local Planning Appeal Tribunal
Procedural Order

ATTACHMENT 1 (To Decision)

ISSUE DATE:

CASE NO(S). PL171452

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

Applicant(s)/Appellant(s):
Subject:

445 Adelaide Street West Inc.
Application to amend Zoning By-law No.
438-86 - Refusal or neglect of the City of
Toronto to make a decision

Property Address/Description

445, 447, 449 & 451 Adelaide Street West
City of Toronto

Municipality:

Municipal File No.:

16 207248 STE 27 OZ

LPAT Case No.:

PL171452

LPAT File No.:

PL171452

LPAT Case Name:

*445 Adelaide Street West Inc. v. Toronto
(City)*

1. The Tribunal may vary or add to these rules at any time, either on request or as it sees fit. It may alter this Order by an oral ruling, or by another written Order.

Organization of the Hearing

2. The hearing will begin on Tuesday, February 18, 2020 at 10:00am. Local Planning Appeal Tribunal, 655 Bay Street, 16th Floor, Toronto, ON M5G 1E5.
3. The length of the hearing will be about four (4) weeks.
4. The Parties and Participants identified at the prehearing conference are listed in **Attachment 1** to this Order.
5. The Issues are set out in the Issues List attached as **Attachment 2**. There will be no changes to this list unless the Tribunal permits it. A party who asks for changes may have costs awarded against it.
6. The order of evidence shall be listed in **Attachment 3** to this Order. The Tribunal may limit the amount of time allocated for opening statements, evidence in chief (including the qualification of witnesses), cross-examination, evidence in reply and final argument.

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The length of written argument, if any, may be limited either on consent or by Order of the Tribunal.

Requirements Before the Hearing

7. Any person intending to participate in the hearing should provide a telephone number to the Tribunal as soon as possible (preferably before the prehearing conference.) Any such person who will be retaining a representative should advise the other parties and the Tribunal of the representative's name, address and phone number as soon as possible.
8. If the applicant intends to seek approval of a revised proposal at the hearing, the applicant shall provide copies of the revised proposal, including all revised plans and drawings, to the other parties by no later Friday, November 1, 2019. The applicant acknowledges that any revisions to the plans after that date without the consent of the parties may be grounds for a request to adjourn the hearing.
9. A party who intends to call witnesses, whether by summons or not, shall provide to the Tribunal and the other parties a list of the witnesses and the order in which they will be called. This list must be delivered by no later than Friday, December 13, 2019.
10. An expert witness shall prepare an expert witness statement, which shall list any reports prepared by the expert, or any other reports or documents to be relied on at the hearing. Copies of this must be provided as in section 13. Instead of a witness statement, the expert may file his or her entire report if it contains the required information. If this is not done, the Tribunal may refuse to hear the expert's testimony.
11. A witness/participant must provide to the Tribunal and the parties a witness/participant statement by no later than Friday, January 3, 2020, or the witness or participant may not give oral evidence at the hearing.
12. Expert witnesses who are under summons but not paid to produce a report do not have to file an expert witness statement; but the party calling them must file a brief outline of the expert's evidence, as in section 13.
13. On or prior to Friday, January 3, 2020, the parties shall provide copies of their witness and expert witness statements to the other parties. A paper copy of any document proposed to be entered into evidence or relied upon shall be provided at the hearing unless ordered otherwise by the presiding Member.
14. On or prior to Friday, February 7, 2020, the parties shall provide copies of their visual evidence to all of the other parties. If a model will be used, all parties must have a reasonable opportunity to view it before the hearing.
15. Parties may provide to all other parties a written response to any written evidence within seven (7) days after the evidence is received.

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16. A person wishing to change written evidence, including witness statements, must make a written motion to the Tribunal.

(see Rule 10 of the Tribunal's Rules with respect to Motions, which requires that the moving party provide copies of the motion to all other parties 15 days before the Tribunal hears the motion.)

17. A party who provides a witness' written evidence to the other parties must have the witness attend the hearing to give oral evidence, unless the party notifies the Tribunal at least seven (7) days before the hearing that the written evidence is not part of their record.
18. Documents may be delivered by personal delivery, registered or certified mail, electronic mail or otherwise as the Tribunal may direct. The delivery of documents by fax shall be governed by the Tribunal's Rules (Rule 7) on this subject. Material delivered by mail shall be deemed to have been received five business days after the date of registration or certification.
19. No adjournments or delays will be granted before or during the hearing except for serious hardship or illness. The Tribunal's Rule 17 applies to such requests.
20. The purpose of the Procedural Order and the meaning of the terms used in the Procedural Order are set out in **Attachment 4**.

This Member is not seized.

So orders the Tribunal.

BEFORE:

Name of Member)
)
)

Date:

TRIBUNAL REGISTRAR

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ATTACHMENT 1

LIST OF PARTIES AND PARTICIPANTS

PARTIES

445 Adelaide Street West Inc.

Aird & Berlis LLP
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Toronto, ON M5J 2T9

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City of Toronto

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Thomas Wall

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Garment District Neighbourhood Association

Valerie Eggertson
Secretary, GDNA
404-50 Camden Street
Toronto, ON M5V 3N1
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Joseph Musa

Amber Stewart Law
1570 Kipling Avenue
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Toronto, ON M9R 2Y1

Amber Stewart
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E-mail: amber@amberstewartlaw.com

Toronto Standard Condominium Corporation 1984 (“TSCC 1984”)

Dieter Riedel
President - TSCC 1984
607-10 Morrison Street
Toronto ON, M5V 2T8]

Alfred Apps

Miller Thomson LLP
Scotia Plaza, Ste. 5800
40 King St. W.
Toronto, Ontario M5H 3S1

David Tang
Tel: 416-597-6047
Fax: 416-595-8695
Email: dtang@millertthomson.com

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PARTICIPANTS

1. Tom Froggatt
10 Morrison Street, Unit 512
2. Daniel Sinia
10 Morrison Street [no unit number provided]
3. Andrea Carnevale
10 Morrison Street [no unit number provided]
4. Callie Scott
10 Morrison Street [no unit number provided]
5. Andrew Rothblott
443 Adelaide Street West
6. Matthew Bianco
10 Morrison Street, Unit 1001
7. Meena Rajput
10 Morrison, Unit 709
8. Miranda DiGiovanni
10 Morrison, Unit 502
9. Lucas DiGiovanni
10 Morrison, Unit 502
10. Sie-Wing Khow
10 Morrison Street, Unit 806
11. Adrian Chow
10 Morrison Street [no unit number provided]
12. Marshall Byrd Sterling
453 Adelaide Street West
13. Amy Moore
453 Adelaide Street West
14. Erik Sloane and Candice DeSaldanhi
10 Morrison Street, Unit 803
15. Jennifer Gray
10 Morrison Street, Unit 701

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16. Masha Seow
10 Morrison Street, Unit 311
17. Hoyana Samson and Sherman Chung
10 Morrison Street, Unit 603
18. Sharjeel Farooqui
10 Morrison Street, Unit 610
19. Evelyn Morrison
10 Morrison, Unit 410

ATTACHMENT 2

ISSUES LIST

NOTE: The identification of an issue does not mean that all parties agree that such issue, or the manner in which the issue is expressed, is appropriate or relevant to the determination of the Tribunal at the hearing. The extent to which these issues are appropriate or relevant to the determination of the Tribunal at the hearing will be a matter of evidence and argument at the hearing.

The issues are:

CITY OF TORONTO

Note: Policies with an asterisk () indicates an issue adopted by TSCC 1984.*

1. Does the Proposal have regard to matters of provincial interest set forth in subsections (d), (f) and (r) of section 2 of the *Planning Act*?
2. Is the proposal consistent with the following policies of the Provincial Policy Statement, 2014:
 - a. Building Strong and Healthy Communities (1.1)
 - i. Policies 1.1.1(g) and 1.1.3.2(a)(2)
 - b. Long-term Economic Prosperity (1.7)
 - i. Policy 1.7.1.d
 - c. Cultural Heritage and Archeology (2.6)
 - i. Policy 2.6.1
 - d. Implementation and Interpretation (4.0)
 - i. Policy 4.7
3. Does the proposal conform with the following policies of the Growth Plan for the Greater Golden Horseshoe (2017):
 - a. Guiding Principles (1.2.1)
 - b. Where and How to Grow (2.2)
 - i. Policy 2.2.1.4,
 - c. Public Service Facilities (3.2.8)
 - i. Policy 3.2.8.1
 - d. Cultural Heritage Resources (4.2.7)
 - i. Policy 4.2.7.1

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4. Does the Proposal conform to the following policies of the City of Toronto Official Plan:
 - a. Downtown: The Heart of Toronto (2.2.1);
 - b. The Public Realm (3.1.1)
 - c. Built Form (3.1.2);
 - d. Heritage Conservation (3.1.5);
 - e. Parks and Open Spaces (3.2.3)
 - f. Regeneration Areas (4.7);
 - g. Height and/or Density Incentives (5.1.1);
 - h. Secondary Plans: Policies for Local Growth Opportunities (5.2.1);
 - i. Implementation Plans and Strategies for City-Building (5.3.2);
 - j. Interpretation (5.6); and
 - k. King-Spadina Secondary Plan (6.16) policies:
 - i. Major Objectives (2.5);
 - ii. Urban Structure and Built Form (3.1, 3.3, 3.5,3.6);
 - iii. Heritage (4.1, 4.2, 4.3); and,
 - iv. Pedestrian Environment (6.1)
 - v. Urban Structure Plan (Map 16-1)
 - vi. Areas of Special Identity (Map 16-2)*
5. Does the Proposal meet the intent of the following sections of the King-Spadina Urban Design Guidelines (2006):
 - a. Context (2.3, 2.5);
 - b. The Role of Historic Buildings (3);
 - c. The Structure Plan (4.3, 4.4, 4.5); and,
 - d. King Spadina Built Form Guidelines (5.1, 5.2, 5.3, 5.4) *
6. Does the Proposal meet the intent of the following provisions of the King-Spadina Official Plan Amendment 2 (implemented by By-law 921-2006), currently under appeal:
 - a. Major Objectives (2.2);
 - b. Heritage (4.3); and
 - c. Urban Structure Plan (Map 16-1)
7. Does the Proposal meet the intent of the policy direction in the City Planning staff report entitled "King-Spadina Secondary Plan Update – Draft Policy Direction Report" dated August 21, 2017 and adopted by Toronto and East York Community Council on October 4, 2017, outlining emerging policies to be included in the updated King Spadina Secondary Plan?
8. Does the Proposal meet the intent of the King-Spadina Heritage Conservation District Plan (June 2017), which was adopted by City Council on October 2, 2017 and is under appeal?

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9. Does the Proposal meet the intent of the policy direction of the TOCore Downtown Plan Official Plan Amendment 406, as amended, which was adopted by City Council on May 22, 2018?
10. Does the Proposal establish a relationship with the existing and planned context which is in the interest of the public in terms of heritage conservation, streetwall height, density, mass, stepbacks and setbacks? *
11. Does the Proposal cause undue adverse impact, including from overlook and privacy, and loss of skyview? *
12. Does the Proposal establish an appropriate relationship to the public realm and to abutting properties? *
13. Has the Proposal been designed to conserve the cultural heritage values, attributes, and character of the four listed heritage buildings on the site at 445, 447, 449 and 451 Adelaide Street West to mitigate visual and physical impacts on them?
14. Does the Proposal provide adequate loading? *
15. Does the Proposal provide for appropriate vehicular and pedestrian access to the site (including in relation to adjacent streets and neighboring properties)? *
16. Would the approval of the proposed Zoning By-law Amendments set an inappropriate precedent? *
17. In light of the foregoing issues, does the Proposal represent good heritage conservation planning and urban design? *
18. Is the form and content, including regulatory standards, of the proposed draft Zoning By-law Amendments to both the former City of Toronto Zoning By-law 438-86, as amended, and the City-wide Zoning By-law No. 569-2013, appropriate? *
19. If the Proposal is approved by the Tribunal in whole or in part, should the Tribunal's final Order be withheld until the Tribunal has been advised by the City Solicitor:
 - a. that the proposed Zoning By-law Amendments are in a form satisfactory to the City;
 - b. a Section 37 Agreement has been executed to the satisfaction of the City Solicitor;

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- c. the properties at 445, 447, 449 and 451 Adelaide Street West are designated pursuant to Section 29 of the *Ontario Heritage Act*;
- d. that the owner obtains approval to alter the properties at 445, 447, 449 and 451 Adelaide Street West under Section 33 of the *Ontario Heritage Act*;
- e. the owner has entered into a Heritage Easement Agreement with the City for the properties at 445, 447, 449 and 451 Adelaide Street West to the satisfaction of the Senior Manager, Heritage Preservation Services, including execution and registration of such agreement to the satisfaction of the City Solicitor;
- f. the owner has provided a Conservation Plan prepared by a qualified heritage consultant for the properties at 445, 447, 449 and 451 Adelaide Street West to the satisfaction of the Senior Manager, Heritage Preservation Services;
- g. the owner has added a notation to the Site Plan Drawing indicating that a 5.0 metre corner rounding will be conveyed to the City as a Pedestrian Sidewalk Easement;
- h. the owner has addressed outstanding items in relation to servicing and solid waste management for the proposed development and has submitted revised servicing and storm water management reports and associated municipal servicing plans to the satisfaction of the Chief Engineer and Executive Director, Engineering & Construction Services; and
- i. the owner has withdrawn its appeal(s) of the King-Spadina Heritage Conservation District Plan upon the Tribunal Order allowing the appeal in part of the Zoning Amendments, bringing such By-laws into force, and if not an appellant, but rather a party to such appeals, the owner shall withdraw as a party and not seek any party or participant status on the appeals.

TSCC 1984

Note: Alfred Apps adopts a subset of the issues identified by TSCC 1984

The following issues are in addition to the City of Toronto's issues as adopted by TSCC 1984:

- 20. Can Morrison Street accommodate traffic generated by the proposal?

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21. There is a development proposal for 1-9 Morrison Street. Should the proposal at 1 – 9 Morrison Street be taken into account when assessing the traffic impact of the Applicant’s proposal on Morrison Street and TSCC 1984’s loading and parking access? If yes, has the Applicant adequately addressed this impact.

GARMENT DISTRICT NEIGHBOURHOOD ASSOCIATION

Vehicles and Traffic

22. Does the proposal represent good and appropriate planning, having regard to
 - (a) the impact of vehicle queuing and truck maneuverability from Morrison Street to the east-west lane south of the proposed site?
 - (b) the impact of courier delivery and passenger pick-up / drop-off on both Morrison Street and Adelaide Street West (reference TOCore policy 8.27)?
23. Does the proposal demonstrate adequate capacity for staging construction in view of current activity on Morrison Street and a bike lane on Adelaide Street West?
24. Does the proposal provide an adequate supply of bicycle parking spots assuming commercial occupancy and given a bike lane option for transit?
25. Does the proposal preclude eventual commercial use as a hotel with an associated requirement for taxi and ride-share movement and queuing?

Public Realm

26. Is the proposed development positioned to deliver an appropriately scaled, functional and safe pedestrian environment on both Morrison Street and Adelaide Street West?
27. Does the proposal adequately accommodate the increase in pedestrian traffic anticipated upon the completion of other development in the area (the Ace Hotel, St. Andrew's Playground expansion, the Waterworks complex, 540-544 King West, BIG's KING Toronto)?
28. Does the proposal provide sufficient bicycle parking spots to ensure that cyclists do not resort to utilizing
 - (a) trees curbside and in St. Andrew's Playground, or
 - (b) utility poles and other such structures, exacerbating passage on the sidewalks?

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29. Does the proposal exhibit new net shadow on St. Andrew's Playground (and its eastward expansion to Maud Street) contrary to policies and guidelines contained within section 9.1 of the proposed King-Spadina HCD plan?

Heritage Conservation

30. Does the proposal, incorporating addresses 445 through 451 Adelaide Street West, respect the cultural heritage values, attributes and character inherent in these listed properties themselves but also in relation to neighbouring properties such as the St. Andrew's Playground, the Market now being redeveloped as part of the Waterworks complex, and the dwelling at 453 Adelaide Street West?

Built Form

31. Does the proposal impede enjoyment of abutting properties with respect to overlook, privacy and sky view?

Community Services and Facilities

32. Has the Applicant demonstrated that adequate community services and facilities are in place or planned to support the proposal?

JOSEPH MUSA (453 ADELAIDE STREET WEST)

33. Does the proposal have adequate and appropriate regard for matters of provincial interest as set out in s. 2 of the Planning Act, including:
- (a) The conservation of features of significant architectural, cultural, or historical interest (s. 2(d));
 - (b) The orderly development of safe and healthy communities (s. 2(h));
 - (c) The resolution of planning conflicts involving public and private interests (s. 2(n));
 - (d) The promotion of built form that is well-designed, encourages a sense of place, and provides for public spaces that are of high quality, safe, accessible, attractive and vibrant (s. 2(r)).
34. Is the proposal consistent with the Provincial Policy Statement, 2014, including the following policies: 1.1.1, 1.1.3.2, 1.1.3.3, 1.4.3, 1.5.1, 1.7.1, 2.6.1, 2.6.3, 2.6.4, and the policies in section 4.0?
35. Does the proposal conform with the Growth Plan for the Greater Golden Horseshoe, 2017, including the following policies: 2.2.1.4, 2.2.2.4, 2.2.6.1, 2.2.6.2, and 4.2.7?

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36. Does the proposal conform with the City of Toronto Official Plan, including the following policies:
 - (a) 2.2.1.3, 2.2.1.5, 2.2.1.6?
 - (b) 3.1.2.1, 3.1.2.2, 3.1.2.3, 3.1.2.4?
 - (c) 3.1.5.1, 3.1.5.2, 3.1.5.3, 3.1.5.4, 3.1.5.5, 3.1.5.6, 3.1.5.7, 3.1.5.14, 3.1.5.21, 3.1.5.22, 3.1.5.23, 3.1.5.24, 3.1.5.25, 3.1.5.26, 3.1.5.27, 3.1.5.28, 3.1.5.29, 3.1.5.30, 3.1.5.31, 3.1.5.32, 3.1.5.33?
 - (d) 4.7.2?
37. Does the proposal conform with the King-Spadina Secondary Plan, including the following policies:
 - (a) 2.2, 2.5, 3.2, 3.3, 3.6, 4.1, 4.2, 4.3?
38. Does the proposal provide for appropriate and sensitive residential intensification given the site's context?
39. Does the proposal adequately and appropriately address the built form policies in the Official Plan?
40. Does the proposal adequately address the existing context, including the existing low-rise rowhouse dwelling at 453 Adelaide Street West?
41. Does the proposal provide for adequate vehicular parking, access, and service areas, so as to minimize their impact on the property and on surrounding properties?
42. Will the proposed massing fit harmoniously into its existing and planned context?
43. Is the proposed building compatible with its existing and planned context?
44. Does the proposal create unacceptable adverse impacts on adjacent streets, properties, parks and open spaces, including with respect to massing, exterior design elements, shadow, light, and privacy?
45. Does the proposal create an appropriate transition in scale to neighbouring existing buildings, including the adjacent rowhouse at 453 Adelaide Street West?
46. Does the proposal provide for appropriate proportion to define the edge of the street?
47. Is the proposed height appropriate?
48. Are the proposed side yard setbacks appropriate?

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49. Should additional measures be incorporated to mitigate the impact on adjacent streets and properties, including the adjacent rowhouse at 453 Adelaide Street West?
50. Has the site's heritage value been appropriately considered and addressed?
 - (a) Has an adequate Heritage Impact Assessment been completed to determine the site's heritage value?
 - (b) Should the existing buildings identified in the City's Heritage Registry be conserved?
 - (i) If so, can the proposed development proceed without a comprehensive redesign?
51. Has the proposal adequately and appropriately considered the impacts on the immediately adjacent building at 453 Adelaide Street West, which is also listed in the City's Heritage Registry?
 - (a) Does the proposal achieve a compatible relationship with the adjacent buildings identified in the City's Heritage Registry, including with respect to building height, massing, scale, setbacks, stepbacks, roof line and profile and architectural character and expression?
52. Does the proposal appropriately address the King-Spadina Urban Design Guidelines?
53. Does the proposal appropriately address the Tall Building Design Guidelines?

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ATTACHMENT 3 ORDER OF EVIDENCE

1. 445 Adelaide Street West Inc.
2. City of Toronto
3. Toronto Standard Condominium Corporation 1984
4. Garment District Neighbourhood Association
5. Joseph Musa
6. Alfred Apps

ATTACHMENT 4

Purpose of the Procedural Order and Meaning of Terms

The Tribunal recommends that the parties **meet to discuss this sample Order before the prehearing conference** to try to identify the issues and the process that they want the Tribunal to order following the conference. The Tribunal will hear the parties' comments about the contents of the Order at the conference.

Prehearing conferences usually take place only where the hearing is expected to be long and complicated. If you are not represented by a lawyer, you should prepare by obtaining the Guide to the Local Planning Appeal Tribunal, and the Tribunal's Rules, from the Tribunal Information Office, 15th Floor, 655 Bay Street, Toronto, M5G 1E5, 416-327-6800, or from the Tribunal website at _____.

Meaning of terms used in the Procedural Order:

Party is an individual or corporation permitted by the Tribunal to participate fully in the hearing by receiving copies of written evidence, presenting witnesses, cross-examining the witnesses of the other parties, and making submissions on all of the evidence. If an **unincorporated group** wishes to become a party, it must appoint one person to speak for it, and that person must accept the other responsibilities of a party as set out in the Order. Parties do not have to be represented by a lawyer, and may have an agent speak for them. The agent must have written authorisation from the party.

NOTE that a person who wishes to become a party before or at the hearing, and who did not request this at the prehearing conference, must ask the Tribunal to permit this.

Participant is an individual, group or corporation, whether represented by a lawyer or not, who may attend only part of the proceeding but who makes a statement to the Tribunal on all or some of the issues in the hearing. Such persons may also be identified at the start of the hearing. The Tribunal will set the time for hearing this statement. **NOTE** that such persons will likely not receive notice of a mediation or conference calls on procedural issues. They also cannot ask for costs, or review of a decision as parties can. If a participant does not attend the hearing and only files a written statement, the Tribunal will not give it the same attention or weight as submissions made orally. The reason is that parties cannot ask further questions of a person if they merely file material and do not attend.

Written and Visual Evidence: **Written evidence** includes all written material, reports, studies, documents, letters and witness statements which a party or participant intends to present as evidence at the hearing. These must have pages numbered consecutively throughout the entire document, even if there are tabs or dividers in the material. **Visual evidence** includes photographs, maps, videos, models, and overlays which a party or participant intends to present as evidence at the hearing.

Witness Statements: A **witness statement** is a short written outline of the person's background, experience and interest in the matter; a list of the issues which he or she will discuss and the witness' opinions on those issues; and a list of reports that the witness will rely

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on at the hearing. An **expert witness statement** should include his or her (1) name and address, (2) qualifications, (3) a list of the issues he or she will address, (4) the witness' opinions on those issues and the complete reasons for the opinions and (5) a list of reports that the witness will rely on at the hearing. A **participant statement** is a short written outline of the person's or group's background, experience and interest in the matter; a list of the issues which the participant will address and a short outline of the evidence on those issues; and a list of reports, if any, which the participant will refer to at the hearing.

Additional Information

Summons: A party must ask a Tribunal Member or the senior staff of the Tribunal to issue a summons. This request must be made before the time that the list of witnesses is provided to the Tribunal and the parties. (See Rule 13 on the summons procedure.) If the Tribunal requests it, an affidavit must be provided indicating how the witness' evidence is relevant to the hearing. If the Tribunal is not satisfied from the affidavit, it will require that a motion be heard to decide whether the witness should be summoned.

The order of examination of witnesses: is usually direct examination, cross-examination and re-examination in the following way:

direct examination by the party presenting the witness;

direct examination by any party of similar interest, in the manner determined by the Tribunal;

cross-examination by parties of opposite interest;

re-examination by the party presenting the witness; or

another order of examination mutually agreed among the parties or directed by the Tribunal.