



**STAFF REPORT
ACTION REQUIRED**
with Confidential Attachment

**Dupont Street Study Area (Spadina Avenue to
Ossington Avenue) – OMB Hearing**

Date:	March 1, 2016
To:	City Council
From:	City Solicitor
Wards:	Ward 19 – Trinity-Spadina Ward 20 – Trinity-Spadina
Reason for Confidential Information:	This report is about litigation that affects the City and contains advice or communications that are subject to solicitor-client privilege.
Reference Number:	

SUMMARY

The owners of various properties on Dupont Street between Spadina Avenue and Ossington Avenue (the “Dupont Study Area”) have appealed the City initiated Official Plan Amendment and Zoning By-law Amendment for the Dupont Study Area to the Ontario Municipal Board (OMB). A three week hearing is scheduled to commence on May 2, 2016. Procedural deadlines for this hearing including an exchange of witness statements and visual evidence are pending, as such, this is an urgent matter.

In addition, the City has received four site specific redevelopment applications for some of the lands located in the Dupont Study Area. These site specific applications are proposed to be consolidated into the May 2, 2016 OMB hearing.

The parties to the hearing were invited to participate in mediation provided by the OMB. This mediation occurred over four separate days and the City participated.

The City Solicitor requires further directions.

RECOMMENDATIONS

The City Solicitor recommends that:

1. Council adopt the confidential instructions to staff in Attachment 1.
2. Council authorize the public release of the recommendations in Attachment 1 if adopted with the remainder of Attachment 1 to remain confidential at the discretion of the City Solicitor.
3. Council refuse the official plan and site specific zoning by-law amendment applications made by the owners of 275 Albany Avenue and 420 Dupont Street.
4. Council refuse the site specific official plan amendment application made by the owners of 500 Dupont Street.

Financial Impact

The recommendations in this report have no financial impact.

DECISION HISTORY

At its meeting of December 16, 17 and 18, 2013, City Council considered a report from the Chief Planner and adopted OPA 231. OPA 231, as adopted, contemplates that a Site and Area Specific Plan will be enacted for the Dupont Study Area. The decision can be accessed at this link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.PG28.2>

In January 2014, the City submitted OPA 231 to the Minister of Municipal Affairs and Housing for approval. On July 9, 2014, the Minister of Municipal Affairs and Housing issued a decision approving most of OPA 231. The Minister's decision was appealed by several parties to the OMB and proceedings in that matter underway. The Minister's decision can be accessed at this link:

<http://www1.toronto.ca/City%20of%20Toronto/City%20Planning/SIPA/Files/pdf/Oministers%20decision%20on%20opa%20231.pdf>

At its meeting of August 25, 2014, City Council adopted the recommendations in the Dupont Study Regeneration Area Final Report and Official Plan Amendment 271 as well as Zoning By-law Amendment No. 1011-2014. That decision can be found at this link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.PG35.6>

ISSUE BACKGROUND

In a decision issued June 2, 2015, the OMB allowed a motion to consolidate the appeals of OPA 271, Zoning By-law No. 1011-2014 and OPA 231 into one proceeding.

The City has also received site specific applications for redevelopment proposals regarding the following properties:

- 275 Albany Avenue and 420 Dupont Street
- 840 and 860 Dupont Street
- 500 Dupont Street
- 328, 330, 332, 344 and 358 Dupont Street

With the exception of the 275 Albany Avenue and 420 Dupont Street official plan and zoning by-law amendment applications and the 500 Dupont Street official plan amendment application, all of these site specific applications have been appealed to the OMB for lack of decision by City Council within the statutory timeframes.

COMMENTS

A three week hearing has been scheduled to commence May 2, 2016. At the first pre-hearing conference at the OMB, it was requested of all parties to attend non-binding mediation. The City participated in four days of mediation. As well, the City has been served with Notices of Motions regarding the consolidation of appeals of certain site specific redevelopment applications into the three week OMB hearing set to commence on May 2, 2016. Given these developments, the City Solicitor requires further direction.

CONTACT

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SIGNATURE

Anna Kinastowski, City Solicitor

ATTACHMENTS

- Attachment 1: Confidential Information
- Attachment 2: Without Prejudice Letter from J. Dawson, McCarthy Tetrault, dated February 26, 2016
- Attachment 3a: Without Prejudice Letter from S. Loiacono, Aird & Berlis, dated February 26, 2016
- Attachment 3b: Without Prejudice Letter from S. Loicono, Aird & Berlis, dated February 29, 2016
- Attachment 3c: Without Prejudice Email from S. Loiacono, Aird & Berlis, dated March 1, 2016

- Attachment 4a: Without Prejudice Letter from S. Loiacono, Aird & Berlis, dated February 29, 2016
- Attachment 4b: Without Prejudice Letter from S. Loiacono, Aird & Berlis, dated March 1, 2016
- Attachment 5: Without Prejudice Letter from Eileen Costello, Aird & Berlis, dated March 1, 2016