Part of 55 Mill Street, Gooderham and Worts
Official Plan Amendment and Rezoning Application;
06 189754 STE 28 OZ; Alterations to a Designated Heritage Property

<table>
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<tr>
<th>Date:</th>
<th>September 25, 2008</th>
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<td>To:</td>
<td>City Council</td>
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<tr>
<td>From:</td>
<td>City Solicitor</td>
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<td>Wards:</td>
<td>Ward 28 – Toronto Centre-Rosedale</td>
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<td>Reason for Confidential Information:</td>
<td>This report considers an offer to settle the Distillery District appeals, which are currently before the Ontario Municipal Board. Accordingly, this report is about litigation or potential litigation that affects the City or one of its agencies, boards, and commissions.</td>
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<td>Reference Number:</td>
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**SUMMARY**

Following the adoption by Toronto and East York Community Council (“TEYCC”) of the recommendations of the Final Report of the Acting Director, Community Planning, dated August 19, 2008, staff and the applicant have continued to negotiate areas of agreement. This report addresses the applicant’s offer to settle its appeals. The Ontario Municipal Board hearing is scheduled to commence on October 27, 2008.

**RECOMMENDATIONS**

The City Solicitor recommends that:

1. Council provide instructions to staff with respect to the recommendations embodied in the confidential report;

2. Council’s instructions to staff in respect of the Ontario Municipal Board hearing be authorized for public release at the conclusion of the Council meeting.
FINANCIAL IMPACT

The recommendations of this report will have no financial impact beyond what has already been approved in the current year’s budget.

DECISION HISTORY

At its meeting of September 9, 2008 TEYCC adopted the Recommendations in City Planning’s Final Report dated August 19, 2008 respecting the proposed development. Community Council also adopted the Report from the Director, Policy and Research, City Planning Division, dated June 25, 2008 together with the recommendations of the Toronto Preservation Board to address alterations proposed to designated heritage features. Those matters are all before Council at its meeting on September 24 and 25, 2008 as TEYCC items 18.7, 18.7(a) and 18.7(b).

ISSUE BACKGROUND

The application, as revised, seeks permission for two high-rise residential condominium buildings of 40 and 35 storeys including a four-storey commercial/office building and retention of historic Rack Houses “G” and “J”, all located to the south of Tank-House Lane, west of Cherry Street, north of the CN Railway and east of Trinity Street within the Gooderham and Worts Distillery District. The proposed development will include up to 669 residential units with permission for non-residential uses (e.g. office and retail) in the four-storey Ribbon Building along the CN Railway frontage and on the ground floor of the condominium towers.

A number of matters remain unresolved.

COMMENTS

The subject property is located within the Lower Don Special Policy Area. Special Policy Areas (SPAs) are areas that exist in a historical floodplain where stringent control of development would result in significant social and economic hardships to the community. Accordingly, development is permitted subject to addressing flood protection requirements. Under subsection 15 of the King-Parliament Secondary Plan, the subject property is within “Mixed Use Area 3” in the Gooderham and Worts Special Identity Area. Subsection 15.4.2 of the King – Parliament Secondary Plan contains polices governing development within Mixed Use Area 3. Residential uses are not permitted on the subject property. Under the Provincial Policy Statement, 2005, applications for development within SPAs that propose a change to the site-specific policies (e.g. the proposed amendment to add residential uses) are permitted only upon the joint approval of the Ministers of Natural Resources and Municipal Affairs and Housing.
In 2006 the Ontario Realty Corporation, in cooperation with Waterfront Toronto, the City of Toronto, and the Toronto and Region Conservation Authority (TRCA), commenced the construction of a landform feature to eliminate the flood risk associated with lands west of the Don River in the Lower Don SPA. Given the fact that construction of the feature is proceeding, City officials have approached representatives of the Province to determine whether the two Ministers will permit this application to proceed, subject to occupancy controls. Staff support a revision to the recommendation of the Final Report to clarify that the application may proceed if Provincial approval is provided. If such approval is not issued by the Province, the City’s position as expressed in the previous staff report is that approval of the proposed Official Plan amendment and rezoning should be deferred until such time as the landform feature is completed and the SPA policies have been amended.

City staff, after consultation with TRCA staff, recommend that there be no occupancy of the residential component until the earlier of January 2011 (the date of the completion of the proposed residential towers) or until completion of the landform feature, which is anticipated by the end of 2009. The applicant would provide its indemnity and insurance covenant to the satisfaction of the City Solicitor and, if required, to the Province in respect of its desire to proceed in advance of full completion of the landscape feature. In the event that the applicant commences construction prior to completion of the landscape feature, its building permit application will indicate flood protection to the 1:350 year level to meet flood proofing, access, safety, etc. requirements as described in policy 8 of subsection 15 of the King Parliament Secondary Plan and section 2.68 of the former City of Toronto Official Plan. If the landscape feature is completed before such measures are installed, the applicant would be entitled to revise its building permit to delete those requirements.

CONTACT

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SIGNATURE

Anna Kinastowski
City Solicitor

ATTACHMENTS

1. Confidential Information