STAFF REPORT
ACTION REQUIRED

Request for Direction re: Ontario Municipal Board Appeal of 180-188 University Avenue Site Plan Approval Application

<table>
<thead>
<tr>
<th>Date:</th>
<th>October 29, 2008</th>
</tr>
</thead>
<tbody>
<tr>
<td>To:</td>
<td>City Council</td>
</tr>
<tr>
<td>From:</td>
<td>Chief Planner and Executive Director, City Planning Division</td>
</tr>
<tr>
<td>Wards:</td>
<td>Ward 20, Trinity-Spadina</td>
</tr>
<tr>
<td>Reference Number:</td>
<td>File No. 06 119513 STE 20 SA. IBMS No.29338362099</td>
</tr>
</tbody>
</table>

SUMMARY

The purpose of this report is to inform City Council of an Ontario Municipal Board hearing scheduled for November 5, 2008 and to request instruction for the City Solicitor to attend the hearing with other appropriate City staff, and if necessary with an appropriate outside consultant if required in support of the proposed development provided that certain conditions contained within this report are satisfied.

An application for a 66-storey mixed use building at 180-188 University Avenue containing hotel and residential uses, was approved by City Council in 2006. While the Site Plan Approval application is nearing completion, the applicant has appealed the application to the Ontario Municipal Board on the basis of the failure of the City to complete it within the legislated time frame.

RECOMMENDATIONS

The City Planning Division recommends that:

Staff report for action – Site Plan Approval Application – 180-188 University Avenue
1. Council authorize the City Solicitor and such staff as are appropriate together with an outside consultant as may be required to appear at the Ontario Municipal Board currently scheduled to commence on November 5, 2008 in support of the application for Site Plan Approval for 180-188 University Avenue. Support is subject to addressing and, if necessary, rectifying air quality issues related to emissions from the Pearl Street Steam Plant that may affect the development at 180-188 University Avenue, to the satisfaction of the Chief Planner and Executive Director.

Financial Impact
The recommendations in this report have no financial impact.

DECISION HISTORY
In 2006, City Council approved a rezoning application for a 66-storey (214 metres) mixed use building for a site at Adelaide Street and University Avenue. Later in 2006, a Site Plan Approval application to implement the Council approvals was submitted which has been in circulation to City Departments.

ISSUE BACKGROUND
The site is located across the street from the Enwave Energy Steam Plant (Plant) which is to the south on Pearl Street. The plant has eight large industrial boilers that combust natural gas or diesel fuel and exhaust the by-products of combustion through a large stack approximately 80 meters high.

Because the approved project has residential uses with balconies and windows on the south side of the building facing the plant, it is important to ensure that there are no health hazards related to emissions from the plant. Regulation 419 under the Environmental Protection Act of the Ministry of Environment addresses air quality in Ontario and requires that emissions from plants such as this comply with, among other things, the Point of Impingement Standards set out in the regulation. While we understand that the Pearl Street plant may not currently be in compliance with this regulation, it has been determined by consultants retained by both the applicant and Enwave that the installation of specific boilers would ensure that the plant was in compliance with Regulation 419. Enwave has indicated its agreement to install the necessary equipment (Ultra Low NOx Burners) to ensure that it achieves compliance by the time of the occupancy of the proposed development at 180-188 University Avenue.

Regulation 419 does not specifically list carbon dioxide as one of the gases requiring compliance with respect to emissions. However, there is a general requirement that emissions including carbon dioxide not result in discomfort or harm to the population. While it is not yet known if the emissions from the plant would be in compliance if the proposed development were built in accordance with the current site plan application for 180-188 University Avenue, both the applicant and Enwave have retained consultants to assess the situation and provide expert reports to the Chief Planner addressing these concerns. The applicant has agreed to pay for an expert peer review of such reports.
COMMENTS
The Site Plan Approval Application is now near completion. No outstanding issues remain with the possible exception of those related to air quality. It is anticipated that the results of the consultant studies will be completed, provided to the City, and peer reviewed prior to the commencement of the Ontario Municipal Board hearing on November 5, 2008. At that time, should the results indicate that the emissions are within the appropriate limits, the hearing may no longer be required or alternatively if it proceeds, the City, Enwave and the applicant should be in agreement regarding the issuance of site plan approval.

If mitigation measures are required, the Chief Planner will work with the applicant and Enwave to address the concerns and resolve the issues including Enwave undertaking work at its Pearl Street facility or requiring that appropriate conditions and or drawings be secured in the Site Plan Agreement with the applicant to be executed and registered to the satisfaction of the City Solicitor, all prior to any Board order issuing or if the appeal is withdrawn, prior to the site plan issuing.

CONTACT
Helen Coombs, Senior Planner
Tel. No. 416 392-7613
Fax No. 416 392-1330
E-mail: hcoombs@toronto.ca

SIGNATURE

________________________________________
Gary Wright, Chief Planner and Executive Director
City Planning Division

(P:2008\ClusterB\pln\cc\29338362099.doc) - cc