TORONTO

MM23.15

MOTION WITHOUT NOTICE

3018-3020 Yonge Street – Review of Ontario Municipal Board Decision dated July 3, 2008

Moved by: **Councillor Stintz**

Seconded by: **Councillor Jenkins**

SUMMARY:

On January 10, 2008, the Ontario Municipal Board ("OMB") issued a decision regarding an application to amend the City's Official Plan and Zoning By-law 438-86 to permit the development of a 16-storey condominium residential building on the west side of Yonge Street, just south of Lawrence Avenue. In allowing the appeals, the OMB stated that it would approve the Official Plan and Zoning By-law amendments subject to:

> "the height of the proposed structure not exceeding the height of the 3000 Yonge Street towers (the abutting building to the south) or 12 storeys whichever is greater; the density not exceeding 6.3 times lot coverage; and the design of the revised structure continuing to conform to the City's angular plane parameters on its west and south faces".

The applicant submitted revised drawings to the OMB on June 4, 2008. In correspondence to the OMB, the City noted its two primary objections to the revised submission:

1. The building extends further into the angular plane on its western elevation than the building that was considered at the OMB hearing, due to the fact that the revised submission has pushed the eastern face of the building closer to Yonge Street.

2. The proposal before the OMB showed a building setback of 8.0 metres above the second storey to the south property line. The revised submission proposes that the entire building be set back 1.2 metres from the south property line. This creates an unsatisfactory relationship to the 12 storey apartment building directly to the south of the subject property. There was no evidence or discussion at the OMB hearing regarding any possibility that the building would be moved 6.2 metres closer to the building to the south.

Based on these objections, the City requested the OMB to reconvene the hearing to deal with these two issues.

On July 3, 2008, without any further hearing, the OMB issued a decision approving the Official Plan Amendment and Zoning By-law Amendment.

The result of the second OMB decision is that the setback for the building above the second storey has been reduced from 8.0 metres to 1.2 metres. There was no reference to such reduced setback in the notice for the original OMB hearing, and no discussion or evidence at the OMB hearing regarding the reduced setback. Further, there has been no opportunity for the City, or the property owner to the south, to test the applicant's planning evidence regarding this significant revision to the original proposal, or to present its own planning evidence in opposition to this change. The only viable course of action available to the City to have the revised proposal subjected to the usual standards of review is to request the OMB to review the decision pursuant to section 43 of the Ontario Municipal Board Act, and seek a full hearing to consider the City's objections as described above.

The Chief Planner and City Solicitor support this request. As the decision was issued on July 3, 2008, and the OMB rules provide for a 30 day time limit for requesting a review of an OMB decision, this is an urgent and time sensitive matter that must be dealt with at the Council meeting scheduled for July 15 and 16, 2008.

RECOMMENDATION:

1. That City Council authorize the City Solicitor to request the OMB to review, pursuant to section 43 of the Ontario Municipal Board Act, its decision issued July 3, 2008, respecting 3018-3020 Yonge Street, with the purpose of seeking a continuation of the original OMB hearing to allow the City to properly address its objections to the revised proposal.

July 15, 2008

Attachment

According to Chapter 27, Council Procedures:

Fiscal Impact Statement provided	
Should have Fiscal Impact Statement prior to debate Requires two-thirds to waive requirement if Council wishes to debate	*
Is before Council for debate	(v)
Chair agrees that the Motion Recommendations are **Urgent - OMB**	(v)

* Deputy City Manager and Chief Financial Officer to advise.