



**STAFF REPORT
ACTION REQUIRED
Confidential Attachment**

**Further Instructions Required Respecting the Appeals to
Official Plan Amendment No. 66 – Site Plan Control
Powers**

Date:	March 27, 2010
To:	City Council
From:	City Solicitor
Wards:	All
Reason for Confidential Information:	This report is about litigation or potential litigation that affects the City or one of its agencies, boards, and commissions. This report contains advice or communications that are subject to solicitor-client privilege.
Reference Number:	

SUMMARY

This report seeks further instructions respecting the appeals to Official Plan Amendment No. 66 by The Cadillac Fairview Corporation Ltd., Conservatory Group Inc., Osmington Inc. and Oxford Properties Group Inc., scheduled to be heard on April 6, 2010.

At its January 27 and 28, 2009 meeting, City Council adopted Official Plan Amendment No. 66 to incorporate in the Official Plan policies to implement new Site Plan Control powers dealing with exterior design of buildings and sustainable design elements in the public right-of-way adjacent to a development site as well as related matters, including adding sidebars on the Toronto Green Standard and Accessibility Design Guidelines.

The four parties noted above appealed Council's adoption of Official Plan Amendment No. 66, and Deltera Inc. was added as a party by the Ontario Municipal Board. City Planning and Legal staff have met with the parties to better understand their concerns and to identify responses to address their issues.

RECOMMENDATIONS

The City Solicitor recommends that:

1. Council adopt the Confidential Recommendations contained in Attachment 1 to this report; and
2. City Council authorize the public release, at the end of the Council meeting, of the Confidential Recommendations and Schedule "A" in Attachment 1, if adopted by City Council.

FINANCIAL IMPACT

The recommendations in this report have no financial impact.

DECISION HISTORY

On January 1, 2007, the Province transferred the majority of the City of Toronto's Site Plan Control powers from the *Planning Act* to the *City of Toronto Act, 2006* ("COTA"). COTA provides new Site Plan Control powers dealing with exterior design of buildings and sustainable design elements in the public right-of-way adjacent to a development site. COTA requires provisions in the Official Plan to use these powers.

At its January 8, 2009 meeting, Planning and Growth Management Committee held the statutory public meeting on the proposed Official Plan Amendment to incorporate in the Official Plan policies to implement these new Site Plan Control powers and related matters, including adding sidebars on the Toronto Green Standard and Accessibility Design Guidelines. The Committee adopted the recommendations in City Planning's Final Report dated December 10, 2008. The report is available on-line at: www.toronto.ca/legdocs/mmis/2009/pg/bgrd/backgroundfile-17965.pdf

The Committee also requested the Chief Planner and Executive Director, City Planning to report to City Council's January 27 and 28, 2009 meeting on how the City may be able to strengthen the Official Plan's section on Site Plan Control relating to mandatory accessibility for persons with disabilities. City Planning's Supplementary Report dated January 20, 2009, is available on-line at: www.toronto.ca/legdocs/mmis/2009/cc/bgrd/pg22.3a.pdf

At its January 27 and 28, 2009 meeting, City Council adopted Official Plan Amendment No. 66 by By-law 103-2009 to incorporate in the Official Plan policies to implement new Site Plan Control powers dealing with exterior design of buildings and sustainable design elements in the public right-of-way adjacent to a development site as well as related matters, including adding sidebars on the Toronto Green Standard and Accessibility Design Guidelines. By-law 103-2009 is available on-line at: www.toronto.ca/legdocs/bylaws/2009/law0103.pdf

ISSUE BACKGROUND

City Council's adoption of Official Plan Amendment No. 66 was appealed to the Ontario Municipal Board by four parties: The Cadillac Fairview Corporation Ltd., Conservatory Group Inc., Osmington Inc. and Oxford Properties Group Inc., all represented by the same legal counsel. The reasons for appeal were the same for each appellant and include concerns with respect to both exterior design control and sustainability.

The Ontario Municipal Board held a pre-hearing on January 13, 2010, and a second pre-hearing on February 26, 2010. The Board has scheduled a half-day hearing for April 6, 2010. If necessary, a five-day Hearing has been scheduled, commencing May 31, 2010.

At its January 13, 2010 Prehearing, the Ontario Municipal Board added Deltera Inc. (commonly known as "Tridel") as a party to the Hearing, but only with respect to matters of sustainable design addressed by Official Plan Amendment No. 66, namely the Toronto Green Standard.

COMMENTS

This is a time sensitive matter given the OMB Prehearing Conference, which is scheduled for Tuesday, April 6, 2010. This report was prepared in consultation with City Planning staff.

CONTACT

Brian Haley, Solicitor, Planning & Administrative Tribunal Law
Telephone: (416) 392-6757
Fax: (416) 397-5624
E-Mail: bhaley@toronto.ca

SIGNATURE

Anna Kinastowski, City Solicitor

ATTACHMENTS

Attachment 1 – Confidential Information