



**STAFF REPORT
ACTION REQUIRED
with Confidential Attachment**

**Appeal of Minor Variance Decision on 801 Sheppard
Avenue West**

Date:	January 31, 2011
To:	City Council
From:	City Solicitor
Wards:	Ward 10 - York Centre
Reason for Confidential Information:	This report contains advice or communications that are subject to solicitor-client privilege.
Reference Number:	ID no. 202941819

SUMMARY

To seek Council instructions in respect of a written offer to settle an appeal of certain minor variances to the Ontario Municipal Board

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the confidential recommendations; and
2. City Council authorize the public release of the confidential instructions if adopted by Council.

Financial Impact

The financial implications resulting from the adoption of this report are discussed in the confidential attachment.

DECISION HISTORY

In November of last year, the Committee of Adjustment considered an application for seven (7) minor variances for the property at 801 Sheppard Avenue West. Committee granted five (5) of the variances, and refused two (2) others. The applicant owner has appealed the refusal of the two variances to the Ontario Municipal Board. The Board has just recently set a hearing date of March 31, 2011. The developer and the Ward Councillor have met and discussed the proposal, which has resulted in a settlement offer to the City. To date, the City Solicitor has not received instructions from City Council to take a position on this appeal.

The prior owner of this site had received a minor variance decision from Committee in 2005 and had started construction of a mixed-use building, but the former owner had been unable to complete the project. Urbancorp Communities Inc. purchased the site with the intention of completing the project, and Urbancorp applied for seven variances from Committee. On November 10, 2010 the Committee of Adjustment gave approval for 5 of the variances and refused 2 others.

ISSUE BACKGROUND

The two variances refused related to: overall GFA (proposed GFA of 5521 m² whereas 5010 m² was permitted); the other variance sought relates to height. The proposed building height is 19.96 m [excluding mechanical and stair structures] and seven storeys, whereas the maximum building height of 18.5 m, or six storeys is permitted. The floor to ceiling heights of the storeys of the building have been reduced. The OMB has now set a two-day hearing for the appeal which will commence on March 31, 2011.

The current Ward Councillor has participated in meetings with interested residents and the developer. An offer to settle the appeal as between the applicant, and the City, has been made through the applicant's solicitor. That offer includes a contribution to the City of \$50,000 for park improvements.

CONTACT

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SIGNATURE

Anna Kinastowski, City Solicitor

ATTACHMENTS

1. Attachment 1 - Confidential Information
2. Attachment 2 - Confidential Offer to Settle