TORONTO

STAFF REPORT
ACTION REQUIRED
with Confidential Attachments

66 to 76 Kippendavie Avenue – Rezoning, Site Plan Control Applications – Mediation - Direction Report for Ontario Municipal Board Hearing

Date:	April 11, 2011
To:	City Council
From:	City Solicitor
Wards:	Ward 32 – Beaches – East York
Reason for Confidential Information:	This report contains advice or communications that are subject to solicitor-client privilege in connection with the outcome of mediation related to appeals currently at the Ontario Municipal Board
Reference Number:	09-174933 STE 32 OZ

SUMMARY

This report provides information regarding the outcome of the mediation session that took place on April 6, 2011 in connection with the rezoning and site plan appeals for 66 to 76 Kippendavie Avenue. Direction is requested for the purpose of the Ontario Municipal Board pre-hearing scheduled for April 19, 2011 and the Ontario Municipal Board hearing scheduled to commence on June 13, 2011.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the confidential instructions to staff in Attachment 1; and

2. City Council authorize the public release of the confidential instructions to staff recommended in Confidential Attachment No. 1 and only if adopted by Council.

Financial Impact

The recommendations will have no financial impact.

DECISION HISTORY

At its meeting of August 17, 2010, Toronto and East York Community Council adjourned its public meeting for the proposal until December 10, 2010 and directed that the applicant be requested to engage an third party engineer to carry out and submit a peer review of the applicant's stormwater management plan to the satisfaction of the Executive Director, Technical Services. The engineering peer review has been submitted to the City and reviewed by staff in Technical Services and Toronto Water.

On August 18, 2010 the applicant appealed the matter to the Ontario Municipal Board on the basis of Council's lack of decision on the requested amendment within the statutory timeframe. At a pre-hearing conference on December 1, 2010, the Board scheduled a second pre-hearing for March 14, 2011 with a ten day hearing of the matter to commence on June 13, 2011.

At its meeting of February 16, 2011, Toronto and East York Community Council deferred consideration of the matter until its March 22, 2011 meeting to allow for additional time for possible settlement discussions.

At its meeting of March 22, 2011, Toronto and East York Community Council requested the City Solicitor to retain the service of a third party independent mediator for the purpose of trying to facilitate a settlement between the parties and to report to the April 12, 2011 meeting of City Council.

At the same meeting, Toronto and East York Community Council requested that the City Solicitor report to the City Council on a list of possible terms of settlement with respect to the proposed redevelopment.

Background documents can be accessed through the City Clerk's website through the following links:
Direction Report dated July 21, 2010
(http://www.toronto.ca/legdocs/mmis/2011/te/bgrd/backgroundfile-36180.pdf)
Supplementary Report dated August 10, 2010
(http://www.toronto.ca/legdocs/mmis/2011/te/bgrd/backgroundfile-36184.pdf)
Supplementary Report dated November 24, 2010
http://www.toronto.ca/legdocs/mmis/2011/te/bgrd/backgroundfile-36185.pdf
Supplementary Report dated February 11, 2011
http://www.toronto.ca/legdocs/mmis/2011/te/bgrd/backgroundfile-36186.pdf

ISSUE BACKGROUND

The applications propose the construction of a four-storey condominium building with 65 units at 66-76 Kippendavie Avenue, with underground parking for 58 vehicles and 8 parking spaces for visitors off the rear laneway. The proposed total gross floor area of the project is 5, 148 square metres, which represents a density of 1.93 times the area of

the lot. The proposed height is 13.1 metres to the top of the fourth storey, but there are rooftop access located towards the centre of the roof which results in an overall height of 15.9 metres. Beyond a depth of 15.9 metres, the proposed building will be set back from the lot line 7.5 metres. The proposed building is a use permitted on the property by both the Zoning By-law and the Official Plan.

In a Final Report dated July 21, 2010, the Director, Community Planning, Toronto and East York District, recommended approval of the proposed zoning amendment.

Area residents and the Toronto District School Board continued to have concerns with the proposed developments. The majority of the concerns have to do with the height and density of the proposal as well as the potential impact the development could have on adjacent properties particularly regarding water and storm water management. Properties in this area of the City have experienced basement flooding during large rain storms. The area is currently part of an ongoing Basement Flooding Environmental Assessment being conducted by engineering consultants hired by Toronto Water.

Technical Services and Toronto Water have received and reviewed the functional servicing report initially submitted by the applicant and the third party peer review engineering report requested by Toronto and East York Community Council as well as an engineering report and comments prepared and submitted on behalf of the Kew Beach Neighbourhood Association. Technical Services and Toronto Water advise that they are generally satisfied with the applicant's proposed water and storm water management plan.

On April 6, 2011, the applicants, representatives for the Kew Beach Neighbourhood Association, representatives of the Toronto District School Board, the City and other named parties to the Ontario Municipal Board appeals, participated in a mediation facilitated by an independent mediator at the City's expense. This report outlines the outcome of that mediation session and seeks direction for the upcoming Ontario Municipal Board hearing.

COMMENTS

Discussion on the mediation and recommendations as to the outcome are included in Confidential Attachment No. 1. A document prepared in the context of the mediation is attached as Confidential Attachment No. 2.

CONTACT

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SIGNATURE

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Anna Kinastowski, City Solicitor

ATTACHMENTS

Attachment No. 1: Confidential Information
Attachment No. 2: Confidential Document - Mediation