



**STAFF REPORT
ACTION REQUIRED
with Confidential Attachment**

621 King Street West

Date:	March 4, 2011
To:	City Council
From:	City Solicitor
Wards:	Ward 20 Trinity Spadina
Reason for Confidential Information:	This report contains advice or communications that are subject to solicitor-client privilege.
Reference Number:	

SUMMARY

On February 16, 2011, the Ontario Municipal Board issued a decision regarding an appeal of a Committee of Adjustment refusal of a minor variance application and a site plan approval application respecting 621 King Street West. In order to protect the City's appeal rights, the City Solicitor filed a notice of motion to seek leave to appeal to the Divisional Court within the required time frame. The Confidential Attachment to this report seeks Council's authorization on whether to continue this action.

RECOMMENDATIONS

The City Solicitor recommends that:

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

DECISION HISTORY

On October 6, 2010, the Committee of Adjustment considered an application for nine minor variances to the Zoning By-law to permit the construction of a mixed use development that consists of a 12-storey tower along King Street West and an 11 storey

tower along Stewart Street. The variances are outlined in detail below. They include permitting heights for the King Street and Stewart Street towers almost double what is permitted in the by-law both at the street and for overall height, permitting the King Street tower to project into the 44 degree angular plane projected over the lot from an elevation of 20 metres over the street line, and other variances related to setback, parking and amenity space.

After holding its hearing, the Committee of Adjustment refused the requested variances on the basis that the variances would not maintain the general intent and purpose of the Official Plan and Zoning By-law, that the variances were not considered desirable for the appropriate development of the land, and were not minor. The applicant appealed the refusal to the O.M.B.

City Council at its meeting of February 7 and 8, 2011 confirmed the recommendations within Toronto and East York Community Council Item No. TE3.68, that directed the City Solicitor and City Planning staff to attend a hearing of the Ontario Municipal Board (“OMB”) to support the Committee of Adjustment’s decision to refuse a minor variance application pertaining to 621 King Street West (“the Site”). The hearing occurred on February 2 and 3, 2011.

City Council at its meeting of February 7 and 8, 2011 confirmed the recommendations within Toronto and East York Community Council Item No. TE3.68, that directed the City Solicitor and City Planning staff to attend a hearing of the Ontario Municipal Board (“OMB”) to support the Committee of Adjustment’s decision to refuse a minor variance application pertaining to 621 King Street West (“the Site”). The hearing occurred on February 2 and 3, 2011, prior to the first regular meeting of the newly composed City Council on February 7, 2011.

On February 16, 2011, the OMB issued its Decision allowing the appeal and approving the application for the nine minor variances. In doing so the OMB approved an increase to the variance sought at the Committee for height for the King Street tower from 42.2 metres to 44.2 metres.

Financial Impact

The financial implications are as set out in Attachment 1.

COMMENTS

The O.M.B. decision permits the development as proposed, with the following variance permissions:

- a. A minimum of 19 visitor parking spaces is required, whereas no visitor parking spaces will be provided.

- b. A commercial parking garage and private commercial parking garage are prohibited in this area. The parking garage will provide commercial parking.
- c. No person shall, on any lot in an RA district, erect or use a building where any part of such building is located further back than 50 metres from a lot line abutting a street, other than a public lane. The building will extend 10.7 metres beyond the maximum permitted depth of 50 metres.
- d. The maximum permitted building height is 20 metres. The building will have a height of 39.5 metres measured at the King Street West street line and 35.8 metres measured along the Stewart Street, street line.
- e. The building shall not project into the 44-degree angular plan projected over the lot from an elevation of 20 metres over the street line, whereas the building will penetrate the angular plane.
- f. The maximum permitted building height is 23 metres, whereas the north tower will have a height of 44.2 metres and the south tower will have a height of 39.8 metres.
- g. A minimum of 642 square metres of indoor residential amenity space in a multi-purpose room or contiguous multi purpose rooms, at least one of which contains a kitchen and washroom, and 642 square metres of outdoor residential amenity space, of which at least 40 square metres is to be provided in a location adjoining or directly accessible from the indoor amenity space is required. In this case, 466 square metres of indoor amenity space (including the rooftop indoor amenity space and washroom) will be provided but will not contain a kitchen. Further, a minimum of 40 square metres of the proposed outdoor amenity space located on the roof top will not adjoin or be directly accessible from the indoor amenity space.
- h. "Residential Amenity Space" means a common area of areas within a lot which is provided for the exclusive use of residents or a building. In the case, the indoor and outdoor residential amenity space located on the roof top is to be provided for the exclusive use of the residents and guests of the building combined.
- i. The portion of the building located beyond 25 metres of a street or a public park is to be set back a minimum distance of 7.5 metres from the side and rear lot lines. The portion of the building beyond 25 metres from the King Street West frontage will be set back 0 metres from the west side lot line and 0 metres from the rear lot line beyond 25 metres of the street.

A copy of the OMB decision has been filed with the Clerk.

The Confidential Attachment to this report provides further information.

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SIGNATURE

Anna Kinastowski
City Solicitor

ATTACHMENTS

Attachment 1 – Confidential Information regarding review of OMB decision re: 621 King Street West