

September 9, 2011

Toronto and East York Community Council  
100 Queen St W  
Toronto M5H 2N2

Dear Chair and Members,

**NEW BUSINESS:****Request for Confirmation of Appeal of Committee of Adjustment Decision Re: 12 Mercer Street and 60 John Street A0199/11TEY and Attendance at an Ontario Municipal Board Hearing**

City Council authorized a zoning by-law amendment for this site at its meeting of October 26 and 27, 2009, to permit a 33 storey mixed-use building primarily comprising a residential (condominium) building, subject to certain conditions being met, including the entering into and registration of a Section 37 Agreement.

The zoning by-law amendment and the Section 37 Agreement, required the owner to amongst other matters, pay to the City an indexed cash contribution of \$1,300,000 of which 10% would be allocated to affordable housing in Ward 20, and the remainder for the provision of one of more of the following: streetscape improvements to John Street and Mercer Street, Heritage Conservation District Studies in the King Spadina East Precinct and design development supporting the John Street streetscape project.

Subsequently, in 2011 the owner of the land revised the proposed unit mix and applied to the Committee of Adjustment for minor variances to permit reductions in the minimum required outdoor amenity space and parking which would allow an increase in the number of dwelling units on the site.

With the agreement of the owner of the lands, I, as the local councillor, wrote to the Committee of Adjustment requesting that it impose a condition pursuant to Section 45(9) of the *Planning Act*, requiring the owner to pay to the City the amount of \$160,000 to be used by the City for design development for John Street. The Committee of Adjustment did not impose the requested condition.

At my request, and with the agreement of the owner of the lands, in order to preserve the right of City Council to appeal the failure of the Committee to impose the requested condition and be represented at an OMB hearing, the City Solicitor filed a notice of appeal (within the appeal period) for the limited purpose of seeking imposition of the condition together with a condition requiring the owner to enter into and



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register an agreement pursuant to Section 45(9.1) of the *Planning Act*, to secure the condition, on title to the land.

The requested conditions are reasonable and a matter of good planning in all of the circumstances as amongst other things, the variances requested would allow an increase in the number of dwelling units on the site. The requested condition would help improve the community for residents of the proposed development, for other residents, visitors and commercial purposes.

The Ontario Municipal Board will consider the City's appeal of the Committee of Adjustment decision failing to impose the requested condition, at a date yet to be determined.

This motion is made to confirm the appeal filed by the City Solicitor and to authorize the Chief Planner and Executive Director, City Planning and the City Solicitor to attend the Ontario Municipal Board in support of the imposition of the conditions set out below in this Motion.

**RECOMMENDATIONS:**

1. City Council authorize the Chief Planner and Executive Director City Planning and the City Solicitor to attend the Ontario Municipal Board appeal hearing in support of the imposition of the following conditions on the approval of the requested minor variances:
  - a. That the Owner pay to the City a further sum of \$150,000 prior to the issuance of the first below ground building permit, to be used by the City for design development for John Street, capital improvements to public housing and arts space with ward 20;
  - b. That the Owner enter into and register an Agreement with the City to the satisfaction of the Chief Planner and the City Solicitor, at the owner's expense, pursuant to Section 45(9.1) of the *Planning Act* to secure the payment required in (a) herein, prior to the Ontario Municipal Board issuing its order in this matter.
2. City Council authorizes the City Solicitor to take any further steps necessary to implement this Motion.

Your consideration is appreciated.

Adam Vaughan

