



**STAFF REPORT
ACTION REQUIRED**
with Confidential Attachments

**1001 Sheppard Avenue East & 72 Esther Shiner Boulevard
(formerly 1001-1019 Sheppard Avenue East)
OMB Hearing on Planning Appeals of Concord Adex
Investments Limited –Request for Directions**

Date:	November 27, 2012
To:	City Council
From:	City Solicitor
Wards:	Ward 24
Reason for Confidential Information:	This report relates to a litigation matter before the Ontario Municipal Board and includes advice that is subject to solicitor-client privilege.
Reference Number:	10 227038 NNY 24 OZ

SUMMARY

The purpose of this report is to seek Council's instruction.

Concord Adex Investments Limited (Concord Adex) has appealed its planning applications to the Ontario Municipal Board and a hearing is set to commence on February 11, 2013.

Prehearing conferences have been held, and a mediation session which included the Ward Councillor took place on September 5, 2012. Two school boards are Parties to the appeal and have raised issues pertaining to the size and appropriateness of proposed school reserves within the plan of subdivision.

A narrowing of planning issues has been achieved between the City and Concord Adex, but the Toronto District School Board and Toronto Catholic District School Board may be objecting to certain of the performance standards in the proposed zoning bylaw, such as set-back and height standards. Discussions are also ongoing with respect to the appropriateness of the Draft Plan of Subdivision Conditions that relate to the two proposed school reserves.

This report has been prepared in consultation with the Chief Planner and Executive Director, City Planning (the Chief Planner). More particulars of the outstanding issues with the school boards are set out in the attached Confidential Information.

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 the confidential recommendations in Attachment 1, Attachment 1-A, 1-B, 1-C and 1-D if adopted by Council. Attachments 2, 3 and 4 remain confidential.

Financial Impact

There are no financial implications arising from the adoption of this report.

DECISION HISTORY

This matter concerns planning applications and appeals made by Concord Adex in respect of its applications for an official plan amendment; a zoning bylaw amendment; a plan of subdivision with draft conditions; and a site plan approval in respect of one parcel of land known as Block 17. These appeals have been the subject of prehearing conferences and a mediation session before the OMB.

A Directions Report from the Director of Community Planning, North York District dated May 28, 2012 was referred by North York Community Council to the City Council meeting of July 12, 2012 with decision advice that the settlement offer by Concord Adex be accepted in principle and referred to staff for a report to City Council.

At its meeting of July 12, 2012 City Council adopted a report from Legal Services recommending that the settlement reached between the City and Concord Adex be accepted and seeking Council instructions on the Ontario Municipal Board Hearing scheduled for September 4, 2012.

Subsequent to that meeting, negotiations involving the City, the applicant, the Toronto District School Board and the Toronto Catholic District School Board have resulted in further changes to the planning instruments in an attempt to accommodate one additional school site (for a total of two schools within the plan of subdivision).

ISSUE BACKGROUND

The subject site is part of the former Canadian Tire lands, now owned by Concord Adex, and is located on the south side of Sheppard Avenue between Provost Drive and the Bessarion Subway Station. In July 2010, Concord Adex filed applications to amend the

Official Plan, Zoning By-law and draft plan of subdivision for the subject site. In November 2011 the applicant appealed to the Ontario Municipal Board based on Council's failure to make a decision within the time prescribed by the *Planning Act*.

A pre-hearing conference was held on April 11, 2012 which set a hearing date for September 4, 2012. The City and Concord Adex continued to work to resolve outstanding issues which included building heights, family sized units, additional Section 37 contributions and minor zoning matters. Considerable progress on the issues was made and a Directions Report dated May 28, 2012 identified the outstanding matters which remained. The City and Concord Adex reached a settlement which was contained in a report from Legal Services to City Council at its meeting of July 12, 2012.

At that time, the Toronto Catholic District School Board indicated that they now required a school site, despite not having provided written comments in response to the City circulation of the Concord application. At a second pre-hearing conference held on July 16, 2012, the Toronto Catholic District School Board asked for and was granted party status on its request for a site. The Toronto District School Board was also granted party status for its issues related to conditions on the sale of the school reserve site.

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SIGNATURE

Anna Kinastowski, City Solicitor

ATTACHMENTS

Attachment 1: Confidential Information