

**City Council****Motion without Notice**

MM39.37	ACTION			Ward:27
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**89 Avenue Road - Ontario Municipal Board Appeal - Zoning Amendment - by Councillor Kristyn Wong-Tam, seconded by Councillor Mary-Margaret McMahon**

*\* This Motion has been deemed urgent by the Chair.*

*\* This Motion is not subject to a vote to waive referral.*

*\* This Motion has been added to the agenda and is before Council for debate.*

**Recommendations**

Councillor Kristyn Wong-Tam, seconded by Councillor Mary-Margaret McMahon, recommends that:

1. City Council authorize the City Solicitor, in the event that the proposal for 89 Avenue Road is approved by the Ontario Municipal Board, to support the position that the development application should not be approved without the provision of the following services, facilities or matters pursuant to Section 37 of the Planning Act, with such community benefits to be adjusted as may be required should the proposal be approved in some altered form by the Ontario Municipal Board:
  - a. The provision of a financial contribution in the amount of \$1,430,000 prior to the issuance of the first above-grade building permit, indexed upwardly from the date of approval to the date of issuance of such permit, with the contribution to be used by the City for one or more of the following:
    - i. Local Streetscape Improvements (\$300,000);
    - ii. Capital improvements to community facilities in the local neighbourhood, which may include Ramsden Park, Yorkville Park, Asquith Park, Jesse Ketchum Park, and/or Town Hall Square Park (\$500,000);
    - iii. Capital improvements to Toronto Reference Library (\$500,000), which is to be distributed between three initiatives: Wayfinding stack ends (\$200,000); an Idea Garden (\$50,000); a Writer's Suite (\$250,000);
    - iv. Affordable Housing (\$130,000), with such funds to be used towards building new affordable housing projects as they become available or to

support capital repairs to Toronto Community Housing Buildings in Ward 27;  
and

- b. Provision of Public Art (one percent of the *Gross Construction Cost*) in accordance with the Percent for Public Art Program for a value not less than one percent of the gross construction cost.
2. City Council authorize City staff to advise the Ontario Municipal Board that Council's decision to adopt the recommendation to refuse the development proposal in TE22.5 remains applicable to the applicant's appeal of Council's neglect to make a decision within the time frame established under the Planning Act.

### **Summary**

At its meeting on March 21, 2013, City Council adopted TE22.5 and thereby refused the proposed development of a 28-storey, mixed use (hotel and residential) proposal at 89 Avenue Road on the basis, in general terms, that it represented an overdevelopment of the site.

Immediately prior to the above refusal, the applicant appealed Council's neglect to make a decision on the application within the required time. This Council neglect, as well as Council's refusal, were separately appealed to the Municipal Board. Since the "neglect" appeal pre-dated the "refusal" appeal, this Motion confirms that the reasons and analysis supporting the decision in TE22.5 are applicable to the neglect appeal.

In addition, in the event that the Municipal Board approves the proposal in some form, Community Planning staff, in consultation with the local Councillor, propose that the applicant provide the matters referenced below as an appropriate community benefit. Background information relating to each benefit is referenced on Schedule "A" to this Motion. Such benefits are proposed pursuant to Section 37 of the Planning Act and the City's Official Plan in return for the additional height and density sought by the applicant above the existing planning framework for this site.

This matter is urgent as the procedural order proposed for the hearing contemplates a Council position on appropriate Section 37 community benefits immediately after the October 8, 2013 City Council meeting in order that the various expert witnesses can address this issue in their witness statements.

(Submitted to City Council on October 8 and 9, 2013 as MM39.37)

### **Background Information (City Council)**

Member Motion MM39.

Schedule A - Community Benefits

<http://www.toronto.ca/legdocs/mmis/2013/mm/bgrd/backgroundfile-62481.pdf>