



**STAFF REPORT
ACTION REQUIRED
Confidential Attachment**

**95 and 99 Broadway and 197 Redpath Avenue – Zoning
Appeal Re: TE26.18, Request for Directions**

Date:	December 16, 2013
To:	City Council
From:	City Solicitor
Wards:	Ward 22 – St. Paul's
Reason for Confidential Information:	This report is about litigation or potential litigation that affects the City or one of its agencies, boards, and commissions and this report contains advice or communications that are subject to solicitor-client privilege.
Reference Number:	

SUMMARY

The Ontario Municipal Board (the “OMB”) has set a hearing for five days commencing on Monday February 24, 2013 to hear the appeal regarding a zoning amendment for 95 and 99 Broadway and 197 Redpath Avenue. Further direction from City Council is required in advance of the hearing.

RECOMMENDATIONS

The City Solicitor recommends that:

1. Council adopt the recommendations contained in the Confidential Attachment 1 to this report; and
2. the recommendations contained in the Confidential Attachment 1 to this report be made public at such time as Council adopts the recommendations. All other information contained in the Confidential Attachment 1 is to remain confidential including Appendix 1 and 2.

Financial Impact

Adopting this report will have no financial impact beyond what has already been approved in the current year's budget.

DECISION HISTORY

On October 8, 9, 10 and 11, 2013, City Council considered Item TE26.18, dealing with an application to construct a residential condominium development with an 8-storey base plus two, 30-storey towers plus mechanical penthouses. The applicant proposed a total height of 38 storeys and 126.2 metres (to the top of each tower). The proposed development included 853 residential units including 32 replacement rental units (197 Redpath Avenue is a 3-storey apartment building containing 32 rental units) and 367 parking spaces. The proposed density was 22.4 times the lot area.

City Council directed the following:

1. City Council refuse application No. 12 146382 STE 22 OZ for Zoning By-law Amendment at 95 and 99 Broadway Avenue and 197 Redpath Avenue for the following reasons:
 - a. the proposal does not conform to the Official Plan, including policies related to Built Form, Tall Buildings and Apartment Neighbourhoods;
 - b. the proposal is not consistent with Council-approved guidelines such as the Tall Building Design Guidelines;
 - c. the proposal represents an over-development of the site; and
 - d. an agreement has not been reached between City staff and the applicant with respect to the Rental Demolition Application.
2. City Council direct staff to advise the Ontario Municipal Board of City Council's position that any redevelopment of the lands must also include the full replacement of the existing 32 rental dwelling units and a Tenant Relocation and Assistance Plan, including the right of tenants to return to the new rental units in accordance with the Official Plan, to the satisfaction of the Chief Planner and Executive Director, City Planning Division.
3. In the event the Ontario Municipal Board allows the appeal in whole or in part, City Council direct staff to request that the Board withhold any order to approve a Zoning By-law for the subject lands until such time as the City and the owner have presented a draft by-law to the Board that

provides for securing the rental housing matters as outlined in Recommendation 2 of the report (August 16, 2013) from the Director, Community Planning, Toronto and East York District, and a Section 37 Agreement incorporating these matters has been executed.

4. City Council authorize the City Solicitor together with City Planning and other appropriate staff to appear before the Ontario Municipal Board in support of City Council's decision to refuse the application.
5. City Council authorize City Planning, in consultation with the Ward Councillor, to secure services, facilities or matters pursuant to Section 37 of the Planning Act, as may be required by the Chief Planner, should the proposal be approved in some form by the Ontario Municipal Board.

For more detailed Decision History, see the Request for Directions report of August 16, 2013 from the Director, Community Planning, Toronto and East York District, at the following link:

<http://www.toronto.ca/legdocs/mmis/2013/te/bgrd/backgroundfile-60735.pdf>

ISSUE BACKGROUND

Further information has been received which has resulted in the need for directions from City Council for the February 24, 2013 OMB hearing.

COMMENTS

This report is about litigation before the OMB and contains advice or communications that are subject to solicitor-client privilege. The attachment to this report contains confidential information and should be considered by Council in camera.

CONTACT

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SIGNATURE

Anna Kinastowski, City Solicitor

ATTACHMENTS

Attachment 1 - Confidential Information
Attachment 2 – Confidential Appendix 1 – chart
Attachment 3 – Confidential Appendix 2 – correspondence dated December 13, 2013