



**STAFF REPORT
ACTION REQUIRED
with Confidential Attachment**

**Proposed Settlement of Appeals to Official Plan
Amendment 199 - Heritage Policies**

Date:	January 30, 2015
To:	Planning and Growth Management Committee
From:	Chief Planner and Executive Director, City Planning Division City Solicitor, Legal Services
Wards:	All
Reason for Confidential Information:	This report is about litigation or potential litigation that affects the City or one of its agencies, boards, and commissions. [Litigation includes matters before administrative tribunals.]
Reference Number:	P:\2015\Cluster B\PLN\PGMC\PG15013

SUMMARY

Official Plan Amendment No. 199 was adopted by Council as part of the Official Plan Five Year Review on April 3, 2013. The Minister of Municipal Affairs and Housing issued a decision to approve OPA 199 without amendment on November 6, 2014. Forty-nine appeals of the decision were lodged with the Ontario Municipal Board. While the majority of the appeals are protective appeals to provide that certain applications be exempted from the policies of OPA 199 there are a number of policy appeals including appeals by the Building Industry and Land Development (BILD) who appealed the amendment in its entirety.

The hearing on OPA 199 is scheduled for two weeks commencing March 23, 2015. Through mediation at the Ontario Municipal Board in October 2015 City staff reached tentative settlements on the majority of the policy appeals except for two policies that BILD continues to object to. The purpose of this report is to seek Council direction on these proposed settlements.

RECOMMENDATIONS

The Chief Planner and Executive Director, City Planning, and City Solicitor, Legal Services recommend that:

1. Council adopt the confidential instructions to staff in Attachment 1;
2. Council authorize the public release of the confidential information and recommendations 1 and 2 in Attachment 1 and Attachment 3, if adopted.
3. Recommendation 3 and Attachment 2 remain confidential in its entirety.

Financial Impact

These recommendations will have no financial impact beyond what has already been approved in the current year's budget.

DECISION HISTORY

On April 4, 2013 Council passed By-law 468-2013 to adopt Official Plan Amendment 199 to add new policies to the Official Plan regarding heritage conservation and public realm views. On November 4, 2014 the Minister of Municipal Affairs and Housing issued a decision to approve OPA 199 without amendment. The Minister's decision was appealed on behalf of 49 appellants to the Ontario Municipal Board.

BACKGROUND AND COMMENTS

In 2005 the Province adopted a new Ontario Heritage Act that significantly altered and strengthened a municipality's powers, responsibilities and tools to conserve heritage resources. In 2006 the Growth Plan for the Greater Golden Horseshoe required municipalities to develop and implement Official Plan policies to further the conservation of cultural heritage and archaeological resources, where feasible, as built-up areas intensified. New Official Plan heritage policies were required as part of the Official Plan Review to both reflect the Provincial policy framework and to strengthen the City's heritage conservation policies. Official Plan Amendment 199 establishes new policies to identify, evaluate and conserve cultural heritage resources: individual heritage properties, heritage conservation districts, cultural heritage landscapes, archaeological sites, and important views to landmark buildings, natural features and the city skyline. Without these implementing Official Plan policies to conserve heritage properties, the City will lack the ability to fully protect the resources.

The Minister's decision to approve Official Plan Amendment 199 was appealed by 49 parties to the Ontario Municipal Board. The Building Industry and Land Development (BILD) Association and the Cadillac Fairview Corporation appealed OPA 199 in its entirety. Redpath Sugar appealed OPA 199 as it applied to 95 Queens Quay East and raised general issues of heritage conservation for operating industries. The Roman Catholic Episcopal Corporation for the Diocese of Toronto objected to OPA 199 as it affected the heritage designation of places of worship. The Wychwood Park Ratepayers Association appealed the amendment as it pertained to the Wychwood Park community. The remainder of the appeals were submitted by two law firms seeking to have their clients exempted from the application of OPA 199.

At the April 28 and September 2, 2014 Ontario Municipal Board pre-hearings, a Procedural Order was discussed, the Confederation of Residents and Ratepayers Associations (CORRA) was added as a party, and the parties also agreed to participate in mediation at the Ontario Municipal Board. In October 2014, several mediation sessions took place which resulted in proposed settlements of the full appeals between the City and the Cadillac Fairview Corporation, the Roman Catholic Diocese, Wychwood Park Ratepayers Association and Redpath Sugar. The mediation also resulted in a proposed settlement between the City and BILD covering the entirety of OPA 199 except for two specific policies. An additional mediation session between the City and BILD is scheduled to take place in later February to discuss these few outstanding matters in advance of the scheduled hearing. If this results in a further proposed settlement staff will report further to Committee. CORRA participated in these proposed settlements.

The proposed settlements maintain the purpose, integrity and effect of the original OPA 199 policies regarding heritage conservation, and constitute minor technical changes to the public realm view policies. Staff recommend adoption of the proposed settlements set out in confidential Attachment 1 to this report.

CONTACTS

Kerri A. Voumvakis, Director
Strategic Initiatives, Policy & Analysis
City Planning Division
Phone: 416-392-8148
Email: kvoumva@toronto.ca

Kelly Matsumoto, Solicitor
Planning and Administrative
Tribunal Law, Legal Services
Phone: 416-392-8042
email: kmatsum@toronto.ca

SIGNATURE

Jennifer Keesmaat, MES, MCIP, RPP
Chief Planner and Executive Director
City Planning Division

Anna Kinastowski, LLB
City Solicitor
Legal Services

ATTACHMENT

Attachment 1: Confidential Attachment Proposed Settlement of Appeals to Official Plan
Amendment 199 – Heritage Policy

Attachment 2: Confidential Attachment Outstanding Issues Related to BILD's Appeals to
Official Plan Amendment 199 – Heritage Policies

Attachment 3: Confidential Attachment Amendment No. 199 to the Official Plan
Incorporating Proposed Settlement Wording

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