



**STAFF REPORT
ACTION REQUIRED**
with Confidential Attachment

**251 Manitoba Street – Official Plan and Zoning By-law
Amendment Application – Further Direction Required**

Date:	March 31, 2016
To:	City Council
From:	City Solicitor
Wards:	Ward 6 – Etobicoke - Lakeshore
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 date for one week commencing on July 11, 2016 to hear the official plan and zoning appeals regarding 251 Manitoba Street. The OMB has set a Prehearing for April 12, 2016. Further direction from City Council is required in advance of the Prehearing.

RECOMMENDATIONS

The City Solicitor recommends that:

1. Council adopt the confidential Recommendations to staff in Attachment 1 and authorize the public release of those Recommendations and Appendix 3 with the balance of the report to remain confidential.

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 July 7, 8 and 9, 2015 City Council considered Item EY7.1 dealing with an application to construct a 48-storey tower containing 548 residential units at 251 Manitoba Street.

Council adopted the following recommendations:

1. City Council direct the City Solicitor and other appropriate City staff to attend the Ontario Municipal Board hearing to oppose the appeal of the Official Plan and Zoning By-law Amendment application at 251 Manitoba Street (Application Number 13 253075 WET 06 OZ) in its current form.
2. City Council authorize City staff to continue discussions with the applicant to negotiate an appropriate development proposal for these lands.
3. In the event the Ontario Municipal Board allows the appeal in whole or in part, City Council direct the City Solicitor to request the Ontario Municipal Board to withhold its Order approving the Official Plan and Zoning By-law Amendments until:
 - a. The owner submits, to the satisfaction of the Executive Director, Engineering and Construction Services, an updated Functional Servicing and Stormwater Management Report.
 - b. Arrangements have been made for the environmental remediation, design and partial construction of Legion Road North, at grade from south of Manitoba Street to the Canadian National Railway limit and ending in a cul-de-sac, subject to the owner submitting the Ministry of the Environment's Letter of Acknowledgement of filing the Record of Site Condition (RSC) confirming that the RSC has been prepared and filed in accordance with O.Reg 153/04, as amended, all to the satisfaction of the Executive Director, Engineering and Construction Services.
 - c. The owner submits adequate information to the satisfaction of the Chief Planner and Executive Director, City Planning in consultation with the Chief Building Official and Executive Director, Toronto Building to confirm that Official Plan Policy 3.4.23 has been satisfactorily addressed.
 - d. The owner agreeing to design and construct a 2.1 metre wide municipal sidewalk along the south side of Manitoba Street to the satisfaction of the Executive Director, Engineering and Construction Services and the General Manager, Transportation Services and at no cost to the City.
 - e. The owner submits a detailed wind tunnel or computational study complete with a statistical wind analysis to the satisfaction of the Director, Community Planning, Etobicoke York District.

- f. The owner enters into an Agreement under Section 37 of the *Planning Act* to secure the following facilities, services and matters at the owner's expense:
 - i. An appropriate Section 37 community benefit contribution be made as discussed in the report (May 28, 2015) from the Director, Community Planning, Etobicoke York District.
 - ii. The following matters are also recommended to be secured for the development in the Section 37 Agreement as a legal convenience:
 - The owner shall construct and maintain the development in accordance with Tier 1 performance measures of the Toronto Green Standard, as adopted by Toronto City Council at its meeting of October 26 and 27, 2009.
 - The owner shall construct and maintain the development in accordance with the Noise and Vibration Impact Study, dated July 25, 2014, prepared by J.E. Coulter Associates Limited, which identifies that: warning clauses in offers of purchase and sale are required for all residential units; spandrel panels and non-functional through-the-wall grille assemblies along the south, east and west facades must be installed; and a minimum 1.8 metres high solid acoustic screen, along the south limit, must be provided to protect the at-grade outdoor amenity area associated with the proposed development.
 - The owner shall satisfy the requirements of the Toronto District School Board regarding warning clauses and signage with respect to school accommodation issues.
 - The owner shall enter into a financially secured Development Agreement for the construction of any improvements to the existing municipal infrastructure, should it be determined that upgrades are required to the infrastructure to support this development.
4. City Council request City Legal staff to request the Ontario Municipal Board to impose the following condition on the Applicant:
 - a. The Applicant to accommodate a location for a Zip Car or similar service on site for 20 years.
5. City Council request City Legal staff to request the Ontario Municipal Board to require the proponent to bring the parking requirements into compliance with the

Etobicoke Zoning Code or the Harmonized By-law, whichever parking requirements are higher.

6. In the event the Ontario Municipal Board allows the appeal in whole or in part, City Council authorize the City Solicitor to request the Ontario Municipal Board to withhold any final orders approving the Official Plan and Zoning By-law Amendments until such time as the City and the owner have presented to the Board draft by-laws for the Official Plan and Zoning By-law Amendments and the owner has entered into and registered a Section 37 Agreement to the satisfaction of the City Solicitor, that includes provisions for the community benefits noted in Part 3 above.
7. City Council direct City staff to prepare and submit an Official Plan Amendment for the City-owned lands to the west of the subject site (130 Algoma Street) to re-designate them from Apartment Neighbourhoods to Parks and Open Space Areas.

For a more detailed Decision History, see the Report from the Director, Etobicoke York District regarding 251 Manitoba Street dated May 28, 2015 at the following link:

<http://www.toronto.ca/legdocs/mmis/2015/ey/bgrd/backgroundfile-80787.pdf>

ISSUE BACKGROUND

The OMB held an initial Prehearing on July 8, 2015. At its meeting in July, Council authorized City staff to continue discussions with the applicant to negotiate an appropriate development proposal for the lands. The City participated in mediation at the OMB on October 1 and 2 and October 28, 2015.

On January 20, 2016, the Board held a second Prehearing Conference and the applicant confirmed that it was proceeding with amended plans that include a tower portion and a lower form building. The revised unit count is 499 units from 548 units. Revised drawings were submitted to the City on January 29, 2016 for review.

The applicant has confirmed that it has now altered its project and advised the Ontario Municipal Board that it will be seeking an approval of the revisions.

The revised proposal is to construct a tower portion (87 metres plus 6 metre mechanical penthouse) and mid-rise building at 11-storeys (35 metres plus 6 metre mechanical penthouse) at 251 Manitoba Street.

The following chart provides a comparison between the built form proposed in the original proposal and the built form proposed in the revised proposal, heights in metres represent the heights to the top of the mechanical penthouses:

	Original Proposal	Revised Proposal
Height	48-storeys (158.45 m)	29-storeys (93 m) podium = 4-storeys (13.5 m) mid-rise = 11-storeys (41 m)
Units	548	499
Residential Gross Floor Area	38,225 (m ²)	34,750 (m ²)
Density	4.8 times the area of the lot	4.4 times the area of the lot
Tower Floorplates	750 m ²	750 m ²

COMMENTS

This report is about litigation before the OMB and contains advice or communications that are subject to solicitor-client privilege. Attachment 1 to this report contains confidential information and should be considered by Council in camera.

CONTACT

Amanda S. Hill, Solicitor, Planning & Administrative Tribunal Law
Tel: 416-338-5790; Fax: 416-397-5624; E-mail: ahill@toronto.ca

SIGNATURE

Anna Kinastowski, City Solicitor

ATTACHMENT

Attachment 1 - Confidential Information