



**STAFF REPORT  
ACTION REQUIRED  
With Confidential Attachment**

**75 Canterbury Place - Request for directions regarding  
OMB hearing**

<b>Date:</b>	October 4, 2016
<b>To:</b>	City Council
<b>From:</b>	City Solicitor
<b>Wards:</b>	Ward 23 - Willowdale
<b>Reason for Confidential Information:</b>	This report contains advice or communication that is subject to solicitor-client privilege. This report contains information regarding potential litigation.
<b>Reference Number:</b>	14 230270 NNY 23 OZ and 12 134356 NNY 23 OZ

**SUMMARY**

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The purpose of this report is to seek instruction for the upcoming Ontario Municipal Board (OMB) Hearing on the above-noted matter. The hearing has not yet been scheduled but a second pre-hearing conference will take place on October 28, 2016.

**RECOMMENDATIONS**

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The City Solicitor recommends that:

1. Council adopt the recommendations contained in the Confidential Attachment 1 to this report.
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 at the discretion of the City Solicitor.

**Financial Impact**

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

## **DECISION HISTORY**

The owner of the property at 75 Canterbury Place has appealed its Official Plan and Zoning By-Law amendment applications to the Ontario Municipal Board (OMB) due to Council's failure to make a decision within the time allotted by the *Planning Act*. A site plan application was also submitted by the applicant and appealed to the OMB. A one day pre-hearing conference took place on August 4, 2016 and another one has been set for October 28, 2016, to allow the City Solicitor time to get instructions in this matter.

This application proposes a site-specific amendment to the North York Centre Secondary Plan and former City of North York Zoning By-law to permit a 30 storey and 385 unit residential apartment building at 75 Canterbury Place. While the current site-specific Zoning By-law applies to both 75 Canterbury Place and the existing St. George's Church at 5350 Yonge Street, the proposed changes are only for the 75 Canterbury Place lands.

A final report by the Director, Community Planning, North York District, was considered by North York Community Council on November 10, 2015. The report recommended approval of the proposal, requiring the Bills to be held until a Section 37 agreement could be executed, binding the owner to a monetary contribution in accordance with the requirements of the North York Centre Secondary Plan. The report also recommended that any over-dedication of off-site parkland could be used to offset the s. 37 contribution and that if no offsite parkland could be secured prior to the Bills being introduced, that a cash-in-lieu payment for parkland dedication would be acceptable. North York Community Council submitted the item to City Council without recommendation.

At its meeting of December 9 and 10, 2015, City Council referred Item NY10.40 back to the North York Community Council for further consideration. On December 23, 2015, the applicant appealed this matter to the OMB. The appeal letter set out two issues, parkland dedication and the valuation of the land for the purposes of calculating the quantum of Section 37 contribution.

In response to the appeal, North York Community Council, at its meeting of January 19, 2016, referred the matter back to Staff to prepare a Directions Report with respect to the Ontario Municipal Board appeal in this matter.

For more detailed Decision History, see the Final Report of October 23, 2015 from the Director, Community Planning, North York District, at the following link:  
<http://www.toronto.ca/legdocs/mmis/2016/ny/bgrd/backgroundfile-87012.pdf>

## **ISSUE BACKGROUND**

Further information has been received which has resulted in the need for directions from City Council prior to the October 28, 2016 OMB pre-hearing. A with prejudice settlement offer (the "Offer") has been made to the City Solicitor. A copy of the letter containing the Offer is attached as Appendix "A" to the report.

Appended to the Offer are a revised Zoning By-law and Official Plan amendment. The applicant proposes to settle the matter by proceeding with these instruments rather than the ones appended to the Final Report by the Director, Community Planning, North York District dated October 23, 2015, as a basis for settlement.

The amended Zoning By-law ("ZBA") does not make any substantive changes to the project. The applicant is still proposing the same development that Planning Staff reported on favourably. The proposed changes are to the Parkland Dedication as well as the timing of payment and dispute resolution mechanism for the s. 37 contribution.

The Offer contemplates the possibility of an offsite parkland dedication (to be made at the applicant's discretion), barring which a cash-in-lieu payment will be made. The applicant reserves the right to make the decision regarding such a dedication up until two months after the first above-grade building permit is pulled.

The Offer contemplates payment of the section 37 quantum within 10 days of the ZBA coming into force, but says that if the applicant disagrees with the valuation of the land for the purposes of such payment that they can provide the City with a letter of credit and then pay in accordance with valuation of the land as determined for the s. 42 payment.

## **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 advice and should be considered by Council in camera.

## **CONTACT**

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## **SIGNATURE**

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Brian Haley  
Interim City Solicitor

## **ATTACHMENTS**

Attachment 1 - Confidential Recommendations and Confidential Information