

## **55-65 Broadway Avenue –Zoning Amendment Application – Request for Further Direction Regarding OMB Hearing**

**Date:** October 30, 2017  
**To:** City Council  
**From:** City Solicitor  
**Wards:** Ward 22 - St. Paul's

### **REASON FOR CONFIDENTIAL INFORMATION**

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This report is about litigation or potential litigation that affects the City or one of its agencies or corporations.

This report contains advice or communications that are subject to solicitor-client privilege.

### **SUMMARY**

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The Ontario Municipal Board (the “OMB”) has set a hearing date for five days commencing on January 8, 2018 to hear the zoning amendment application appeal regarding 55-65 Broadway Avenue. Further direction from City Council is required in advance of the hearing.

### **RECOMMENDATIONS**

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The City Solicitor recommends that:

1. City Council adopt the recommendations contained in the Confidential Attachment 1 to this report.
2. If the confidential instructions in Confidential Attachment 1 are adopted, City Council authorize the public release of:

- a. the recommendations contained in the Confidential Attachment 1, with the remainder of the Confidential Attachment 1 to remain confidential at the discretion of the City Solicitor, as it contains advice subject to solicitor-client privilege; and
- b. Confidential Attachment 2.

## **FINANCIAL IMPACT**

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

## **DECISION HISTORY**

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Times 5565 Inc., the owner of the property municipally known as 55-65 Broadway Avenue (the "Subject Property"), applied for a zoning by-law amendment in order to facilitate a proposed redevelopment of the Subject Property. The applications propose two 45-storey residential towers linked by a two-storey base building. In total, the proposed development would contain 487 residential units. The site is currently occupied by two existing residential apartment buildings containing 130 rental units. An application for Rental Housing Demolition and Conversion under Section 111 of the *City of Toronto Act, 2006* (Chapter 667 of the Municipal Code) has been filed by the applicant to permit the demolition of the 130 existing rental dwelling units (known as file no. 16 118650 STE 22 RH). The applicant is proposing to replace all existing rental units within the proposed development.

On May 10, 2016, Toronto and East York Community Council considered Item TE16.33 pertaining to a Preliminary Report from the Director, Community Planning, Toronto and East York District dated April 22, 2016 regarding the proposed development (the "Preliminary Report"). For more information, see the Preliminary Report at the following link:

<http://www.toronto.ca/legdocs/mmis/2016/te/bgrrd/backgroundfile-92277.pdf>

The applicant appealed the zoning amendment application to the Ontario Municipal Board ("OMB") due to City Council's failure to make a decision within the time allotted by the *Planning Act*.

On July 4, 2017, City Council considered Item TE25.19 pertaining to a Request for Direction Report from the Director, Community Planning, Toronto and East York District dated May 30, 2017 regarding the appeal of the application to the OMB (the "Request for Direction Report"). At that meeting Council adopted the following recommendations:

1. City Council authorize the City Solicitor, together with appropriate staff, to attend the Ontario Municipal Board hearing to oppose the applicant's appeal respecting the Zoning Bylaw Amendment application for 55 and 65 Broadway Avenue.

2. City Council defer making a decision at this time on Application 16 118650 STE 22 RH under Chapter 667 of the Toronto Municipal Code pursuant to Section 111 of the City of Toronto Act, 2006, to demolish the 130 existing rental dwelling units at 55 and 65 Broadway Avenue and City Council instruct staff to report on the Rental Housing Demolition and Conversion Application to the Toronto and East York Community Council at such time as an Ontario Municipal Board decision has been issued regarding the Zoning By-law Amendment appeal for such lands at 55 and 65 Broadway Avenue.

3. In the event that 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 the issuance of any Order(s) on the Zoning By-law Amendment appeal for the subject lands until such time as the City Solicitor, in consultation with the Chief Planner and Executive Director, City Planning and the owner, have provided draft by-laws to the Board in a form and with content satisfactory to the Director, Community Planning, Toronto East York District and the City Solicitor, including securing replacement rental dwelling units and rents, tenant assistance and any other rental related matters at least in conformity with Section 3.2.1.6 of the Official Plan, and the owner has entered into and registered a Section 37 Agreement with the City incorporating such replacement rental dwelling units, rents, tenant assistance, any other rental related matters and other section 37 matters, all to the satisfaction of the City Solicitor.

4. In the event that 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 the issuance of any Order(s) on the Zoning By-law Amendment appeal for the subject lands pending City Council approval of the Application 16 118650 STE 22 RH under Chapter 667 of the Toronto Municipal Code pursuant to Section 111 of the City of Toronto Act, 2006, to demolish the 130 existing rental dwelling units at 55 and 65 Broadway Avenue.

5. In the event that 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 the issuance of any Order(s) on the Zoning By-law Amendment appeal for the subject lands pending confirmation of water, sanitary and stormwater capacity from the Executive Director, Engineering and Construction Services, and pending receipt of a satisfactory Functional Servicing Report.

6. In the event that the appeal is allowed in whole or in part by the Ontario Municipal Board, City Council authorize the Chief Planner and Executive Director, City Planning to secure services, facilities or matters pursuant to Section 37 of the *Planning Act*, in consultation with the Ward Councillor, for:

a. public realm improvements in the Yonge-Eglinton Secondary Plan Area;  
and/or

b. additional community services and facilities in the Yonge-Eglinton Secondary Plan Area, together with any matters to be secured as a matter of convenience.

For a more detailed Decision History, see the Request for Direction Report at the following link:

<http://www.toronto.ca/legdocs/mmis/2017/te/bgrd/backgroundfile-104573.pdf>

## **ISSUE BACKGROUND**

Further information has been received which has resulted in the need for directions from City Council prior to the January 8, 2018 OMB hearing.

## **COMMENTS**

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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. Attachment 2 to this report contains confidential correspondence and should be considered by Council in camera.

## **CONTACT**

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## **SIGNATURE**

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Wendy Walberg  
City Solicitor

## **ATTACHMENTS**

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Confidential Attachment 1 - Confidential Recommendations and Confidential Information

Confidential Attachment 2 - Confidential Information