

100 Davenport Road - Request for Directions Regarding OMB Hearing

Date: January 23, 2018

To: City Council

From: City Solicitor

Wards: Ward 27 - Toronto Centre-Rosedale

REASON FOR CONFIDENTIAL INFORMATION

This report contains advice or communications that are subject to solicitor-client privilege. This report contains information regarding potential litigation.

SUMMARY

On December 9, 2015, the City received an application to amend the Zoning By-law to permit a 39-storey tower at 137-metres at 100 Davenport Road. In a report to City Council dated February 19, 2016, City Planning recommended refusal of the application (the "Refusal Report"). City Planning concluded in the Refusal Report that the proposal did not conform to the Official Plan, was inconsistent with Council-approved guidelines; did not fit within the existing and planned context for the Bloor-Yorkville and North Midtown Area, and created adverse shadow impacts on the adjacent lower rise areas.

City Council adopted the recommendations in the Refusal Report and refused the application to amend the Zoning By-law on March 10, 2016. The applicant appealed City Council's decision to the Ontario Municipal Board (the "OMB") on April 4, 2017.

The City subsequently received an application to amend the Official Plan on March 24, 2016. The applicant appealed to the OMB for City Council's failure to make a decision on the application within 180 days of its receipt. In a report to City Council dated March 17, 2017, City Planning provided an overview of the policies, guidelines, and by-laws applicable to the subject site and its comments on the proposed amendment (the "Request for Directions Report"). City Planning recommended in the Request for Directions Report that City Council oppose the Official Plan Amendment appeal at the OMB. City Planning concluded that the proposed Official Plan Amendment was not consistent with the policies of the PPS, was inconsistent with Council-approved guidelines, did not fit within the existing and planned context for the Bloor-Yorkville and North Midtown Area, creates adverse shadow impacts on the adjacent lower rise areas,

and is not good planning. City Council adopted City Planning's recommendation at its meeting on April 26, 2017.

The applicant has revised the development proposal for 100 Davenport Road, reducing the overall height from 39 storeys to 29 storeys, and 137 metres to 106.5 metres. The revised plans and drawings and revised shadow study are attached to this report as Attachments 2, 3 and 4. While the overall height of the proposed tower has been reduced by 10 storeys, the total number of residential units has increased from 51 to 56 units, and the typical tower floor plate has increased from 493 to 527 square metres. The density has been reduced from 13.8 to 11.37 times the area of the lot.

The purpose of this report is to request further instructions for the OMB hearing that is scheduled to commence February 26, 2018.

City Planning has been involved in the preparation of this report.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the recommendations contained in the Confidential Attachment 1 to this report.
2. City Council authorize the public release of the confidential recommendations contained in the Confidential Attachment 1 to this report, if adopted by City Council.
3. City Council direct that all other information contained in Confidential Attachment 1 is to remain confidential at the discretion of the City Solicitor, as it contains advice which is subject to solicitor-client privilege.

FINANCIAL IMPACT

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

DECISION HISTORY

At its meeting of March 10, 2016, City Council adopted the recommendations in Item TE14.32, refusing a Zoning By-law Amendment Application for a 39-storey mixed-use building at 100 Davenport Road. A copy of the Refusal Report is available on the City's website at:

<http://www.toronto.ca/legdocs/mmis/2016/te/bgrd/backgroundfile-90720.pdf>

The owner appealed the Zoning By-law Amendment application to the OMB on April 4, 2016.

At its meeting of April 26, 2017, City Council adopted the recommendations in Item No. TE23.13, refusing a related Official Plan Amendment Application for the 39-storey mixed-use building at 100 Davenport Road. A copy of the Refusal Report is available on the City's website at:

<https://www.toronto.ca/legdocs/mmis/2017/te/bgrd/backgroundfile-102056.pdf>

A three-week hearing is scheduled to commence February 26, 2018.

COMMENTS

The City Solicitor requires further instructions. 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 advice and should be considered by Council in camera.

CONTACT

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SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

Confidential Attachment 1 - Confidential Recommendations and Confidential Information
Public Attachment 2 - Revised Architectural Plans and Drawings
Public Attachment 3 - Revised Shadow Impact Study
Public Attachment 4 - Revised Elevation Drawings