

**169 The Donway West - Request for directions  
regarding Ontario Municipal Board Appeal**

**Date:** January 22, 2018

**To:** City Council

**From:** City Solicitor

**Wards:** Ward 25

**REASON FOR CONFIDENTIAL INFORMATION**

---

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**

---

The purpose of this report is to seek instruction for an OMB Appeal on the above-noted matter. The hearing has not yet been scheduled.

**RECOMMENDATIONS**

---

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 and Appendices "A", "B" and "C" be made public at such time as Council adopts the recommendations. All other information contained in the Confidential Attachment 1 is 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

---

The owner of the property at 169 The Donway West (the "Site") has appealed its rezoning and Official Plan 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*. No hearing has been scheduled. A pre-hearing conference was held in August 2016 and a two day mediation with the parties to the matter took place at the OMB on December 11 & 12, 2017.

The original proposal for this Site was for two towers at 34 and 39 storeys respectively. A total of 736 residential units were proposed, totalling 55,774 square metres of residential gross floor area. A total of 2,987 square metres of retail/office space was also proposed in the two-storey base building for a combined gross floor area of 58,761 square metres and a Floor Space Index (FSI) of 7.2 times the area of the lot.

On January 19, 2016, North York Community Council considered a Preliminary Report from City Planning (dated December 16, 2016) expressing a long list of issues to be resolved in relation to the proposal. For a more detailed Decision History, see the January 16, 2016 Preliminary Report from the Director, Community Planning, North York District, at the following link:

<https://www.toronto.ca/legdocs/mmis/2016/ny/bgrd/backgroundfile-87007.pdf>

On June 26, 2017, the applicant substantially amended its proposal to a single 34 storey tower with a midrise building ranging from 7 to 14 storeys totalling 48,812 square metres of gross floor area and an FSI of 5.9 times the area of the lot with a unit count of 631 units. A 2-6 storey base building connecting the two components was also proposed.

Although Staff was of the view that the re-submission was a significant improvement on the original proposal, they were still of the view that the proposed tower and base building were too high and dense. There were also concerns about the size and configuration of a proposed on-site parkland dedication.

## **ISSUE BACKGROUND**

Further information has been received which has resulted in the need for directions from City Council.

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

## **CONTACT**

---

Jessica Braun, Solicitor, Planning & Administrative Law, Tel: (416) 392-7237, Fax: (416) 397-5624, Email: Jessica.Braun@toronto.ca

## **SIGNATURE**

---

Wendy Walberg  
City Solicitor

## **ATTACHMENTS**

---

Confidential Attachment 1

Appendix "A" - Confidential Information

Appendix "B" and "C" - Confidential Information on file with the City Clerk for the purpose of the January 31, 2018 and February 1 and 2, 2018 City Council Meeting.