

Jul 18



**STAFF REPORT  
ACTION REQUIRED  
with Confidential Attachment**

**West Queen West Triangle – Settlement Report**

<b>Date:</b>	July 18, 2007
<b>To:</b>	City Council
<b>From:</b>	Chief Planner and Executive Director, City Planning Division City Solicitor, Legal Services
<b>Wards:</b>	Ward 18 - Davenport
<b>Reason for Confidential Information:</b>	The report addresses litigation, including matters before an administrative tribunal and provides advice that is subject to solicitor-client privilege
<b>Reference Number:</b>	File No. 2005-199764

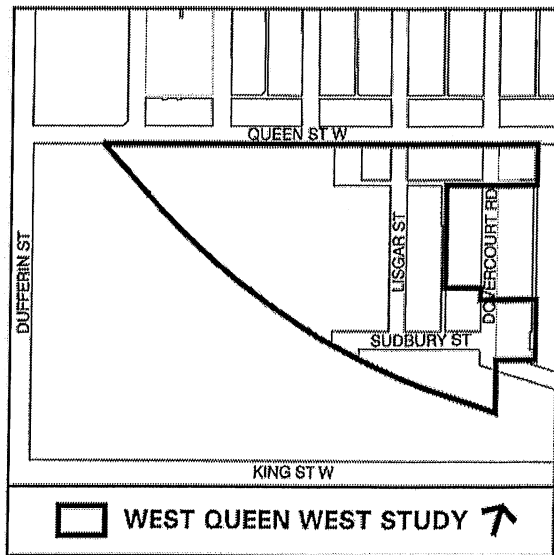
**SUMMARY**

This report, in the confidential attachment, makes recommendations respecting potential settlement respecting developments proposed for the sites known as 1171 Queen Street West, 48 Abell Street and 150 Sudbury Street. All three applications were subject to an Ontario Municipal Board Hearing.

**RECOMMENDATIONS**

The City Planning Division and the City Solicitor recommend that:

1. Council adopt the confidential instructions to staff in Attachment 1; and



2. If the confidential instructions are adopted then those instructions will be made public at the end of the Council meeting along with the appendices referred to in the recommendations.

## **ISSUE BACKGROUND**

The applications for 1171 Queen Street West, 48 Abell Street and 150 Sudbury Street were the subject of a 35 day Ontario Municipal Board (OMB) Hearing in 2006. In January 2007, City Council requested a Section 43 review of the decision of the Ontario Municipal Board. This review request was heard by the OMB in June 2007. On July 10, the OMB released its review decision refusing the City's request. An application to the Divisional Court for leave to appeal of the decision was also launched by the City. The leave application has been held over to July 19, 2007.

The confidential attachment reports on potential settlements directions respecting the development proposals for the three sites. The issue is time sensitive due to the Divisional Court date of July 19 and the OMB direction that all parties report back in September 2007 on progress on finalizing by-laws and relevant agreements among all the parties.

## **CONTACT**

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## **SIGNATURE**

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Ted Tyndorf  
Chief Planner and Executive Director  
City Planning Division

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Anna Kinastowski  
City Solicitor  
Legal Services

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## **ATTACHMENT**

Confidential Attachment 1: West Queen West Triangle– Settlement offers

TE7.6	NO AMENDMENT			Ward: 32
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### **Final Report - Official Plan Amendment and Zoning By-law Amendment - 960 to 968 Eastern Avenue**

#### **City Council Decision**

City Council on July 16, 17, 18 and 19, 2007, adopted the following motions:

1. City Council amend the Official Plan substantially in accordance with the draft Official Plan Amendment attached as Attachment 9 of the report (June 11, 2007) from the Director, Community Planning, Toronto and East York District.
2. City Council amend the Zoning By-law 438-86, as amended substantially in accordance with the draft Zoning By-law Amendment attached as Attachment 10 of the report (June 11, 2007) from the Director, Community Planning, Toronto and East York District.
3. City Council authorize the City Solicitor to make such stylistic and technical changes to the draft Official Plan Amendment and/or draft Zoning By-law Amendment as may be required.
4. Prior to the introduction of the Bills in Council, the owner shall submit to the Executive Director of Technical Services for review and acceptance, a site servicing review to determine the sanitary flow and water supply demand resulting from this development and demonstrate how this site can be serviced and whether the existing municipal infrastructure is adequate.

#### **Background Information**

Staff Report

(<http://www.toronto.ca/legdocs/mmis/2007/te/bgrd/backgroundfile-4832.pdf>)

TE7.7	NO AMENDMENT			Ward: 32
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### **Final Report - Official Plan Amendment and Zoning By-law Amendment Applications - 736 and 738 Kingston Road**

#### **City Council Decision**

City Council on July 16, 17, 18 and 19, 2007, adopted the following motions:

1. City Council amend the Zoning By-law 438-86, as amended substantially in accordance with the draft Zoning By-law Amendment attached as Attachment 8 of the report (June 8, 2007) from the Director, Community Planning, Toronto and East

York District.

2. City Council authorize the City Solicitor to make such stylistic and technical changes to the draft Zoning By-law Amendment as may be required.
3. In recognition of the development of 736 and 738 Kingston Road by Habitat for Humanity Toronto, City Council provide a grant to Habitat for Humanity Toronto, the applicants of this project, in an amount equal to the City's development charges and other permit fees other than sewer and water connections, and that this grant be deemed to be in the interests of the municipality.
4. City Council direct that this project be included on the list of those developments being considered for waiving of additional charges such as sewer and water connections in conjunction with the review of how development charges are calculated.

### Background Information

Staff Report

(<http://www.toronto.ca/legdocs/mmis/2007/te/bqrd/backgroundfile-4587.pdf>)

TE7.8	AMENDED			Ward: 18
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### Final Report - Official Plan and Zoning By-law Amendments - West Queen West Triangle

**Confidential - A proposed or pending acquisition or sale of land for municipal or local board purposes; litigation including matters before an administrative tribunal; and solicitor-client privilege (Attachments)**

### City Council Decision

City Council on July 16, 17, 18 and 19, 2007, adopted the following motions:

1. City Council amend the Official Plan substantially in accordance with the revised draft Official Plan Amendment contained in the revised Attachment 6 to the report (June 11, 2007) from the Director, Community Planning, Toronto and East York District.
2. City Council amend the Zoning By-law for the West Queen West Triangle substantially as described in the staff report and in the attachments attached to the Revised Attachment 6 submitted to the June 26, 2006 meeting of the Toronto and East York Community Council.
3. City Council authorize the City Solicitor to make such stylistic and technical changes to the draft Official Plan Amendment and/or draft Zoning By-law Amendment as may be required.

4. City Council direct the Director, Community Planning, Toronto and East York District and the City Solicitor to continue discussions with the owners of 1171 Queen Street West towards relocating and re-sizing the archway to:
  - a. align it with Northcote Ave; and
  - b. provide clear views south through the triangle.
5. **City Council receive the report (July 18, 2007) from the Chief Planner and Executive Director, City Planning Division (TE7.8a).**
6. **City Council adopt the confidential instructions to staff in Confidential Attachment 1 to the report (July 18, 2007) from the Chief Corporate Officer, the General Manager, Parks, Forestry and Recreation and the Chief Planner and Executive Director, City Planning Division (TE7.8b), as amended.**
7. **City Council authorize the public release of the confidential information and recommendations in Attachment 1, as amended, referred to in Part 6 above, upon completion of the acquisition of the subject properties by the City.**
8. **City Council direct staff to continue negotiations for the acquisition of approximately 0.3 hectares of the property known municipally as 90 Lisgar Street, as shown on the attached Appendix "A" (the "Required Park Land"), for parkland purposes, and grant authority to initiate the expropriation process for the Required Park Land should negotiations for the acquisition of the Required Park Land not be successful.**
9. **City Council approve the Abell Street extension with a modified right-of-way width to meet the intent of the Development Infrastructure Policy and Standards, based on a commitment from Parks, Forestry and Recreation to allow easements in favour of private utility companies should such easements be necessary in the future.**
10. **City Council grant authority to serve and publish Notices of Application for Approval to Expropriate the Required Park Land, to forward to the Chief Inquiry Officer any requests for a hearing that may be received, to attend the hearing to present the City's position and to report the Inquiry Officer's recommendations to City Council for its consideration.**
11. **City Council authorize the Executive Director of Facilities and Real Estate or the Director of Real Estate Services to sign the Notices of Expropriation and Notices of Possession on behalf of the City.**
12. **Council adopt the following confidential instructions to staff in Confidential Attachment 1 to the report (July 18, 2007) from the Chief Planner and Executive Director, City Planning Division, and the City Solicitor (TE7.8c), as amended,**

which are now public:

- “1. Council accept the settlement offers of 1171 Queen Street West and 48 Abell Street as set out in Appendices 1 and 2 to this confidential attachment, the Settlement with 48 Abell being subject to the owner of 48 Abell and the related owner of the lands required for the Sudbury Street extension (the “Sudbury Street Extension Lands”) confirming in writing by the end of July that, should the parties fail to achieve an Agreement of Purchase and Sale with the City:**

    - a. they will not oppose the City in a Hearing of Necessity on the expropriation of the Sudbury Street Extension Lands;**
    - b. at the request of the City, they will convey the Sudbury Street Extension Lands to the City prior to the issuance of building permits, upon payment by the City of an amount calculated pursuant to the Expropriations Act; and**
    - c. at the request of the City, they will agree to refer the determination of value of the Sudbury Street Extension Lands to a mutually acceptable third party appraiser on mutually satisfactory terms of reference, with all parties retaining entitlement to apply to the OMB for the determination of the compensation under Section 30 of the Expropriations Act.**
  - 2. Council direct staff to continue negotiations towards resolving outstanding issues with the owner of 150 Sudbury Street and, should a resolution of those issues satisfactory to the Director, Community Planning, Toronto and East York District and the City Solicitor be achieved, the Director be authorized to accept and approve terms of settlement respecting 150 Sudbury Street.**
  - 3. The Director, Community Planning, Toronto and East York District and the City Solicitor take the necessary steps to implement the foregoing.”**
- 13. If the confidential instructions in Confidential Attachment 1 to the report (July 18, 2007) from the Chief Planner and Executive Director, City Planning Division, and the City Solicitor are adopted, then those instructions will be made public at the end of the Council meeting along with the appendices referred to in the recommendations.**

### **Background Information**

Staff Report

(<http://www.toronto.ca/legdocs/mmis/2007/te/bgrd/backgroundfile-4716.pdf>)

**Lands to a mutually acceptable third party appraiser on mutually satisfactory terms of reference, with all parties retaining entitlement to apply to the OMB for the determination of the compensation under Section 30 of the Expropriations Act.**

- 2. Council direct staff to continue negotiations towards resolving outstanding issues with the owner of 150 Sudbury Street and, should a resolution of those issues satisfactory to the Director, Community Planning, Toronto and East York District and the City Solicitor be achieved, the Director be authorized to accept and approve terms of settlement respecting 150 Sudbury Street.**
  - 3. The Director, Community Planning, Toronto and East York District and the City Solicitor take the necessary steps to implement the foregoing.”**
- 13. If the confidential instructions in Confidential Attachment 1 to the report (July 18, 2007) from the Chief Planner and Executive Director, City Planning Division, and the City Solicitor are adopted, then those instructions will be made public at the end of the Council meeting along with the appendices referred to in the recommendations.**

### **Background Information**

Staff Report

<http://www.toronto.ca/legdocs/mmis/2007/te/bgrd/backgroundfile-4716.pdf>

Attachment 6 (Revised)

<http://www.toronto.ca/legdocs/mmis/2007/te/bgrd/backgroundfile-5333.pdf>

Council also considered the following:

- Report (July 18, 2007) from the Chief Planner and Executive Director, City Planning Division. (TE7.8a)
- Report (July 18, 2007) from the Chief Corporate Officer, the General Manager, Parks, Forestry and Recreation, and the Chief Planner and Executive Director, City Planning Division. (TE7.8b)

Confidential Attachment 1 to the report (July 18, 2007) from the Chief Corporate Officer, the General Manager, Parks, Forestry and Recreation, and the Chief Planner and Executive Director, City Planning (TE7.8b), as amended, remains confidential in its entirety, in accordance with the provisions of the City of Toronto Act, 2006, as it contains information related to proposed or pending land acquisition by the City, pending the completion of the acquisition of the subject properties by the City.

- Report (July 18, 2007) from the Chief Planner and Executive Director, City Planning, and the City Solicitor (TE7.8c)

The confidential instructions to staff, as amended, contained in Part 12 above, and the appendices referred to in the recommendations contained in Confidential Attachment 1 to the report (July 18, 2007) from the Chief Planner and Executive Director, City Planning, and the City Solicitor (TE7.8c), are now public and the balance of the Attachment remains confidential in accordance with the provisions of the City of Toronto Act, 2006, as it contains information related to litigation, including matters before an administrative tribunal and provides advice that is subject to solicitor- client privilege.

Communications:

- (July 12, 2007) from Charles Campbell, Iler Campbell, Barristers and Solicitors. (TE7.8.5)
- (July 12, 2007) from Ronald M. Kanter, Macdonald Sager Manis LLP, Barristers and Solicitors. (TE7.8.6)
- (July 17, 2007) from Ronald M. Kanter, Macdonald Sager Manis LLP, Barristers and Solicitors. (TE7.8.7)