

Clause embodied in Report No. 7 of the Scarborough Community Council, as adopted by the Council of the City of Toronto at its meeting held on September 22, 23, 24 and 25, 2003.

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**Proposed Gerrard/Clonmore Multi-Unit Residential Development  
(Ward 36 – Scarborough Southwest)**

*(City Council on September 22, 23, 24 and 25, 2003, adopted this Clause, without amendment.)  
City Council adopted the following recommendation:*

*“It is recommended that Council adopt the following Recommendations Nos. (2) and (3) embodied in the confidential report dated September 19, 2003, from the City Solicitor, the balance of such report to remain confidential, in accordance with the provisions of the Municipal Act, having regard that it contains information which is subject to solicitor-client privilege:*

*‘It is recommended that:*

- (2) Council direct staff to:
  - (a) negotiate with the applicant to achieve an improved development form;*
  - (b) request that the variance application now before the Committee of Adjustment be further deferred;*
  - (c) request the applicant to bring forward a site plan control application; and*
  - (d) request the applicant to respond to environmental matters set out in this report; and**
- (3) Council direct the Commissioner of Urban Development Services to carry out a study of land use policies and in respect of that area of land lying east of Victoria Park Avenue, south of the CN rail tracks and fronting on Gerrard and Clonmore.’ ”)*

**The Scarborough Community Council recommends the adoption of the following Motion by Councillor Ashton:**

WHEREAS the Zoning permissions that apply to the Gerrard/Clonmore lands were approved in the late 1960’s; and

WHEREAS the densities, built form, and urban design, employed in evaluating the merit of the development, were based on urban planning standards and practices in use over forty years ago; and

WHEREAS the environmental status and condition of the lands has been the subject of numerous studies and reviews; and

WHEREAS the known physical/environmental condition of the lands severely constrain the ability to build in a fashion that effectively mitigates the negative impact of high density development on the urban infrastructure and services; and

WHEREAS the densities were originally premised on the plans for the Scarborough Expressway and the provision of on and off ramps at Victoria Park Avenue and Gerrard Street East; and

WHEREAS the original planning consideration was premised on then existing populations and the availability of service capacity to meet the approved density; and

WHEREAS the current densities have changed dramatically over the past 35 years;

NOW THEREFORE BE IT RESOLVED that the City Solicitor prepare a report to be considered, in camera, at the September 22-24, 2003, meeting of City Council which provides opinion and direction on the following:

- A chronological review of the history of the site;
- Review of the current environmental legislation as it applies to these properties and discussion on areas of responsibilities;
- Review and comment on the status of the mandamus order that was issued January 1979;
- The questions and concerns raised in Councillor Bussin's letter of August 5, 2001, appended hereto; and
- Other related matters which may arise from the foregoing.

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**The Scarborough Community Council submits, for the information of City Council, the following chronology with respect to the history of the proposed Gerrard/Clonmore Residential Development:**

- During the 1940's and early 1950's, the lands were owned by Toronto Brick Company and were used as a sand and gravel quarry.
- From 1954 to 1960, the lands were used as an unregulated municipal landfill site. This landfill was closed in December, 1960. In 1963, Runnymede Development Corporation acquired the lands from the Township of Scarborough.

- The lands were designated and zoned for High Density Residential uses in 1968. The zoning provides for approximately 1,450 apartment units in four buildings and is still in force today. These land use permissions were implemented, in part, in recognition of the planned Scarborough Transportation Corridor, to be located immediately to the north of lands. This corridor was incorporated into both the Metropolitan Toronto and Scarborough Official Plans and was to provide for a high-speed link (rail or road) between downtown Toronto and areas to the east of Metro.
- In the early 1970's, Runnymede entered into a development agreement with the Borough of Scarborough for the apartment development and provided the required levies and land dedications. In late 1974, the Minister of the Environment granted approval to develop the property in accordance with the 1971 Environmental Protection Act.
- Runnymede submitted building permits to develop three of the four apartment buildings in 1975. The Borough denied the permits on the grounds that Runnymede was declining to install the services contemplated through the development agreement.
- In 1976, Planning staff commenced a review of land uses in the community through the Birchcliff Secondary Plan Review. When the proposed plan was made public in early 1977, Runnymede interpreted it to be a reduction in the previously approved density for its lands and responded by taking the City to court for the issuance of the building permits. In January 1979, the Supreme Court issued an Order of Mandamus obliging the Borough to issue the permits for the three buildings upon completion by the applicant of the sewer and water works outlined in the development agreement.
- The apartment market subsequently declined and didn't recover until the late 1980's. During this time, Runnymede didn't pursue the development with any vigour.
- Runnymede began development of the Victoria Crossing Market Place, the retail plaza to the west, in 1984. The storm sewer servicing for this development was to tie into the main on Clonmore Road and a trench for this service was dug through the residential lands. During the excavations for the trench, barrels of xylene were uncovered. The barrels were secured and, with the surrounding earth, removed from the site.
- The City of Scarborough formally introduced Site Plan Control Approval powers in all Zoning By-Laws in 1986.
- When the apartment market picked up, Runnymede approached the City about enforcing the Mandamus Order. The City took the position that Site Plan Control Approval was applicable law and the owner had to go through this process before any building permits could be issued. Runnymede submitted a Site Plan Control Approval application to the City for the three buildings in August, 1988.

- There was significant opposition to the proposed development from the local community and City and Metro Councillors. The opposition was based on environmental, built form compatibility, traffic and social concerns. The Provincial Minister of the Environment was petitioned in mid 1989 to designate the lands for an environmental assessment under The Environmental Assessment Act.
- A hearing in this regard was held by the Environmental Assessment Advisory Committee in October, 1989. Based on the Committee's report, the Minister in January 1990 declined to designate the lands, providing four conditions were met. They were:
  1. The City reviewing and taking a position on the appropriateness of the land use designations of the site.
  2. The owner considering, to the satisfaction of the Minister, alternative ways of managing the waste on the site, including its removal.
  3. The City retaining an independent engineering consultant to review the proposed development and report on the types and location of wastes on the site, whether the wastes should be removed and recommendations for gas emission control and monitoring.
  4. The establishment of a public liaison committee with representation from local residents, the City, the Ministry of the Environment and the owner to set the terms of reference for the consultant review and provide input throughout the proposed project.
- The Public Liaison Committee (PLC) was established in mid 1990 with representatives from two local community associations, the local Councillor, City Planning and Works staff, Ministry of the Environment staff and representatives of the owner. The PLC held a number of community consultation meetings, established the terms of reference for the engineering review, issued a proposal call and interviewed the candidate consultants. MacLaren Engineers was retained in August, 1991 to undertake the environmental audit.
- MacLaren Engineers undertook its fieldwork (consisting of groundwater, soil and methane migration testing) through late 1991 and early 1992. MacLaren submitted its findings in a May, 1992 report which indicated the risks associated with the development of three proposed buildings were acceptable providing a gas collection system was constructed, monitored and maintained. It also concluded that the landfill waste could remain in place and recommended that explosive limit detection alarms be installed in all the buildings.
- The engineering report was presented to the public in an open house on May 26, 1992. It was also submitted to City Council, which authorized its submission to the Ministry of the Environment. The report was submitted to the Ministry for review and approval in June, 1992.

- In October 1992, the Ministry responded to the report with questions around some of the methodologies and assumptions and a request for further information. This request for further information required the City to extend the contract with MacLaren to undertake additional fieldwork. This was done during the winter of 1992-1993. A revised report was prepared in July, 1993 and subsequently submitted to the Ministry.
- The Ministry responded to the revised report in June, 1994 with additional questions. MacLaren responded to the questions in September, 1994 and these responses were submitted to the Ministry by the City. The Ministry again responded in August, 1995 indicating a number of issues had been addressed, but there were still some outstanding concerns.
- A letter was subsequently sent from the City Manager to Runnymede in December, 1995 indicating the City had met its obligations under the terms of the 1990 Ministers Order and it was up to the proponent to obtain a final approval from the Ministry. A similar letter was sent to the Ministry.
- In 1997, the Ministry changed its practices and released the Guidelines for Use at Contaminated Sites in Ontario. This effectively removed the Ministry from approving consultant reports.
- Scarborough City Council formally deleted the Scarborough Transportation Corridor designation from the City's Official Plan in 1995. However, as the designation remained in the Metro Official Plan, Metro appealed this deletion to the OMB. The matter was resolved when Metro also amended its Plan to delete the designation and the appeal was refused by the OMB in 1998.
- After years of inaction, the City formally closed the 1988 Site Plan Control Approval application on April 23, 2002.
- Some time in 1998 or 1999, Runnymede sold the lands to Gerrard Clonmore Developments Ltd. With no prior consultation with Planning staff or the local Councillor, Gerrard Clonmore Developments filed a minor variance application on June 5, 2003 seeking to reduce the minimum sizes of the apartments required in the Zoning By-Law. On July 30, 2003, The Committee of Adjustment deferred consideration of this application until October 15, 2003.

\* This chronology was prepared by Neil Cresswell on August 6, 2003.

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Councillor Ashton tabled with the City Clerk's Office, twenty-one e-mails/letters in opposition to the Gerrard/Clonmore development.

A copy of the communication from Councillor Bussin, referred to in Councillor Ashton's motion, was provided to Members of the Community Council, and a copy thereof has been forwarded to the City Clerk for the information of City Council.

*(City Council at its meeting held on September 22, 23, 24 and 25, 2003, had before it, during consideration of the foregoing Clause, a confidential report (September 19, 2003) from the City Solicitor, such report to remain confidential, in accordance with the provisions of the Municipal Act, having regard that it contains information which is subject to solicitor-client privilege, save and except Recommendations Nos. (2) and (3) embodied therein:*

*Recommendations:*

*It is recommended that:*

- (2) Council direct staff to:
  - (a) negotiate with the applicant to achieve an improved development form;*
  - (b) request that the variance application now before the Committee of Adjustment be further deferred;*
  - (c) request the applicant to bring forward a site plan control application; and*
  - (d) request the applicant to respond to environmental matters set out in this report; and**
- (3) Council direct the Commissioner of Urban Development Services to carry out a study of land use policies and in respect of that area of land lying east of Victoria Park Avenue, south of the CN rail tracks and fronting on Gerrard and Clonmore.)*

*(City Council also had before it, during consideration of the foregoing Clause, the following communication (August 5, 2003) from Councillor Sandra Bussin, Beaches – East York, addressed to the Chief Planner and Executive Director, City Planning, and the City Solicitor:*

*On Wednesday, July 30, 2003 the developer of the Gerrard/Clonmore lands - Gerrard Street East/Victoria Park area - sought the approval of the Scarborough Committee of Adjustment for minor variances on unit size to facilitate the development of a large apartment/condominium complex.*

*Significant concern was raised regarding the impact of this large development on the surrounding residential neighbourhoods. The COA agreed to defer the item to October 15 to provide for resident consultation and broader community notification to residents in Ward 32-Beaches-East York.*

*On reviewing the history of this proposed development, which received zoning approval from Scarborough Council in 1969 for a 1,455 unit, four building apartment complex, I have learned that this site has been determined to have significant environmental deficits. It would appear that the development of this land has not proceeded previously, in part, because of the environmental concerns associated with residential development on contaminated land. The land was used as an unregulated municipal dump from the 1940's to 1960. In fact, the Ministry of the Environment was petitioned to designate the lands in mid-1989 for an environmental assessment under The Environmental Assessment Act.*

*Even though the Minister declined to designate the lands at this time, it was clearly recognized by the Ministry that there was reason for concern. The Ministry required the City to undertake a four-point program to address the land contamination issue before development could occur. There are seven issues to which I request your consideration and response:*

- 1. Is the Mandamus Order of 1982 still in effect?*
- 2. Did the developer at that time – 1982 – apply for building permit(s)?*
- 3. Did the City issue or turn down a permit request?*
- 4. Has the developer abandoned his claim by not acting on the Mandamus Order?*
- 5. Has provincial environment law changed? Is Council approval on an environmental remediation plan required?*
- 6. What is the impact of the formal withdrawal of the former City of Scarborough's 1988 Site Plan Control Approval application on April 23, 2002?*
- 7. Is the City in a position to review the appropriateness of land-use designation on the site?*

*In conclusion, I strongly recommend that your department review the merits of a City Council resolution to apply an Interim Control By-law to require the developer to engage a City approved environmental engineering firm to complete a full assessment of the contamination and to provide a complete remediation plan.*

*Thank you for your consideration of this very important matter.)*