

**Deeming By-law, Maple Leaf Drive, Bourdon Avenue, Venice Drive, Stella Street and Seabrook Avenue – Final Report**

<b>Date:</b>	October 16, 2007
<b>To:</b>	Etobicoke York Community Council
<b>From:</b>	Director, Community Planning, Etobicoke York District
<b>Wards:</b>	Ward 12 – York South-Weston
<b>Reference Number:</b>	File No. 07 253747 WPS 00 TM

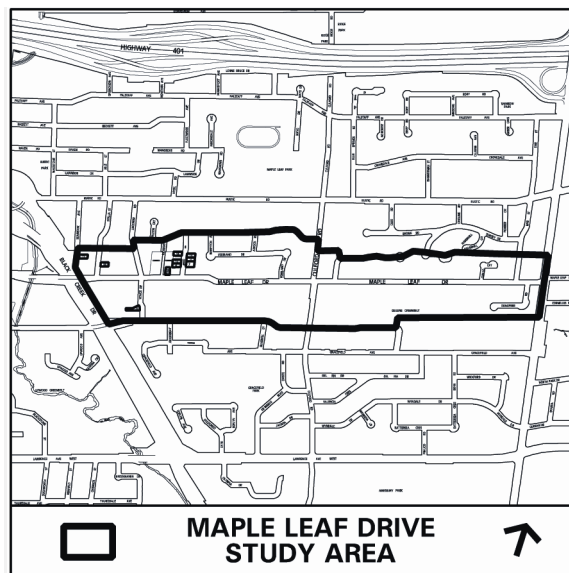
**SUMMARY**

This report responds to a City Council directive to review existing development in the area along Maple Leaf Drive. The report recommends that a by-law be passed to deem certain lots to no longer be a registered Plan of Subdivision. The lots comprise the properties at 194 Maple Leaf Drive, 4, 7, 9, 10, 13, and 14 Bourdon Avenue, 8 Venice Avenue, 39 Stella Avenue and 11 Seabrook Avenue.

**RECOMMENDATIONS**

**The City Planning Division recommends that:**

1. City Council pass a By-law to deem the following lots in the area of Maple Leaf Drive not to be a plan of subdivision in accordance with the draft Deeming By-law attached as Attachment 1; namely, Lots 21 – 22, Registered Plan 1997; Lots 31 – 32, Registered Plan 2012; Lots 1 – 10, 13 – 16, 34 – 35, Registered Plan 2021 and Lots 4 and 14, Registered Plan 2268.



2. City Council authorize the City Solicitor to make such stylistic and technical changes to the By-law as may be required.
3. City Council authorize the City Clerk to give notice of the passing of the By-law to the owners of the lands to which the by-law applies pursuant to the City of Toronto Act.
4. City Council authorize the Etobicoke York Community Council to hear any person to whom a notice was sent who gives notice to the City Clerk within the required time that the person desires to make representation respecting the amendment or repeal of the By-Law at the next meeting following the last day for receiving notice.

### **Financial Impact**

The recommendations in this report have no financial impact.

### **DECISION HISTORY**

At its meeting on May 1, 2007 Etobicoke York Community Council adopted a motion introduced by the Ward Councillor requesting the Director of Community Planning Etobicoke York District City Planning to review the existing development and lot ownership patterns in the area along Maple Leaf Drive and to report to Etobicoke York Community Council by the Fall of 2007 on the appropriateness of passing a By-law to deem certain lots in the area not to be lots on a Plan of Subdivision.

The direction to the Director of Community Planning Etobicoke York is the result of two recent minor variance applications each relating to two abutting legal lots, numbers 26 and 27 on Registered Plan of Subdivision 2021, that are currently occupied by a dwelling house municipally known as 206 Maple Leaf Drive. The dwelling house straddles both lots but is to be demolished. The west lot is owned by one of the current occupants and the east lot is owned by a numbered company also owned by the current occupants. The owners intend to replace the demolished house with two houses, one on each of the lots. A consent application was not required to sever the two lots, as they are already two whole lots on a registered plan of subdivision.

Due to the size and configuration of the individual lots, minor variance applications sought the necessary relief from the lot frontage, lot area, lot coverage and side yard setback requirements of the former City of North York Zoning By-law No. 7625 to permit the new detached dwelling house on each existing smaller lot. The Committee of Adjustment refused the applications as the variances were seen to lead to development that would not be appropriate for the site given the character of existing residential built form in the area. The decision was appealed to the Ontario Municipal Board (OMB) by the applicant.

The City Solicitor and Planning staff were directed by City Council at its meeting on May 23, 24 and 25, 2007 to attend the OMB in support of the refusal decision. Despite

the City's objection, the OMB allowed the appeals in part and authorized the variances subject to conditions; namely, that landscape features within 3 metres of the property line not exceed 0.5 metres in height and no portion of the driveway within the municipal boulevard slope toward the below grade garage.

The Board concluded that the variances were minor, do meet the intent of the Official Plan and Zoning By-law and were desirable to enable development of the legal lots each with a modest dwelling of reasonable size that would respect and reinforce the existing physical character of the neighbourhood nor create any impact on the character or stability of the residential area. The development, in the Board's view, also respected the criteria for infill development on properties that vary from the local pattern in terms of lot size, configuration and/or orientation in established neighbourhoods (policy 4.1.9 of the Toronto Official Plan) notwithstanding that the lots were not newly created and staff's position that they did not constitute infill lots under policy 4.1.9.

The Board viewed the existence of the two legal lots that were each capable of accommodating a dwelling of reasonable size but that did not comply with the frontage and lot area requirements of the Zoning by-law, as presenting a clear hardship for the owner. It concluded that the variances would positively address the hardship situation created by the inconsistency between the existing legal lot frontage and area with the more restrictive zoning requirement, so as to allow the lots to be developed in an appropriate manner.

In staff's assessment of the Board's decision, had the lands not existed as two legal lots but rather one lot of record, a consent approval would also have been required and the hardship factor cited by the Board would not have been a factor in determining the outcome of the proposal. In staff's view, if there was an additional application - a consent approval to create the two lots - staff's evidence that the proposed lot creation and development was not in keeping with the character of existing development would have had more impact in opposition to the development.

## **ISSUE BACKGROUND**

### **Area review**

The direction to review existing development and lot ownership patterns by City Council follows from the Ward Councillor's concern that there is potential for other such applications to occur in the area. Accordingly, staff was requested to assess whether this potential existed and if so, to identify whether corrective action needed to be taken by passing a deeming by-law under section 50(4) of the Planning Act to prevent similar development on undersized but legal lots.

### **Deeming By-laws**

Section 50(4) of the Planning Act allows City Council to prevent what it considers to be inappropriate subdivision of land by passing a by-law to designate or "deem" any plan of subdivision or part thereof that has been registered for eight years or more not to be a

plan of subdivision. One of the purposes of a deeming by-law is to allow a municipality to reconcile the arrangement, size and configuration of lots on a registered plan of subdivision with area zoning standards or other area registered plans of subdivision. The reconciliation of lot configuration can provide for proper and orderly development that will respect and reinforce the character of existing development in an area and that is consistent with the zoning standards applicable to the area. This authority effectively provides another measure to control development and the subdivision of land where circumstances have changed over time.

### **Study Area and Surroundings**

The low density residential area between Black Creek Drive and Keele Street that was reviewed is shown on the Map attached as Attachment 3. The area is a low density residential neighbourhood characterized by lots with large frontages and lot areas each developed with predominantly one and two storey single detached dwellings. The study area is embedded in a larger low density residential neighbourhood characterized by one and two storey single and semi detached dwellings.

### **Official Plan**

The Toronto Official Plan designation for the area reviewed is Neighbourhoods. The neighbourhood policies provide that development in established neighbourhoods is to respect and reinforce the existing physical character of the neighbourhood, including in particular, the size and configuration of lots, the heights, massing, scale and dwelling type of nearby residential properties, the prevailing patterns of rear and side yard setbacks and landscaped open space and prevailing building types, among other matters.

### **Zoning**

The area reviewed is predominantly located in an R4 One- family Detached Dwelling – Fourth Density Zone with a pocket of an R6 One- family Detached Dwelling –Sixth Density Zone located on both sides of Maple Leaf Drive mid block between Culford Road and Liscombe Road/Venice Drive. See Attachment 2. The R4 and R6 zoning provisions for permitted residential uses, lot frontage and lot size are summarized below.

City of North York Zoning By-law 7625  
Selected Zoning Standards for R4 and R6 Zones

	Permitted Residential Use	Lot Frontage	Lot Area
R4	one family detached dwellings and accessory buildings	minimum 15 metres with municipal water and sanitary sewer, minimum 15 metres with municipal water only, otherwise minimum 60 metres	minimum 550 square metres with municipal water and sanitary sewer, minimum 690 square metres with municipal water only, otherwise minimum 8000 square metres
R6	one family detached dwellings and accessory buildings	minimum 12 metres	minimum 371 square metres

## COMMENTS

### Outcome of Area Review

Within the study area, zoning and subdivision plans along Maple Leaf Drive were reviewed together with lot ownership to identify: plans of subdivision that varied from the lot frontage and area zoning requirements; Plans of Subdivision registered for eight or more years; and, instances where abutting whole registered subdivision lots are held in the same ownership and are either undeveloped or developed with an existing permitted use straddling both lots. The application of these criteria enabled staff to identify the potential for the conveyance of individual smaller lots that could then lead to the redevelopment of smaller detached dwelling houses if minor variances from the Zoning By-law were granted by the Committee of Adjustment or, on appeal by the OMB, as was the instance at 206 Maple Leaf Drive.

Lot ownership and property information was obtained from assessment information on the Toronto Property System. The review conducted by staff has identified that the several properties are comprised of at least two legal abutting registered lots held in the same ownership and developed with a detached dwelling over the lots. These lots have been created by plans of subdivision that have been registered for eight or more years. The lots vary appreciably from the minimum lot frontage and lot area requirements of the zoning district within which they are located. Information for these properties is summarized below and the location of the lots is shown on Attachment 3. Accordingly the lots that make up these properties are recommended to be deemed not to be lots on a registered plan of subdivision.

Street Address	Registered Plan No.	Lot No.'s	Lot Frontage (m)	Required Frontage (m)	Lot Area (m <sup>2</sup> )	Required Lot Area (m <sup>2</sup> )
194 Maple Leaf Dr.	2021	34	8.22	15	250	550
	2021	35	8.22	15	250	550
4 Bourdon Ave.	2021	15	7.62	15	250	550
	2021	16	7.62	15	250	550
7 Bourdon Ave.	2021	6	7.62	15	249	550
	2021	7	7.62	15	249	550
	2021	8	7.62	15	249	550
9 Bourdon Ave.	2021	4	7.62	15	249	550
	2021	5	7.92	15	259	550
10 Bourdon Ave.	2021	13	7.62	15	250	550
	2021	14	7.62	15	250	550
13 Bourdon Ave.	2021	1	6.09	15	212	550
	2021	2	7.62	15	249	550
	2021	3	7.62	15	249	550
14 Bourdon Ave.*	2021	9	6.40	15	212	550
	2021	10	7.92	15	260	550
	2021	Pt 11	7.62	15	N/A	550
8 Venice Dr.*	2268	4	9.14	15	250	550
	2268	14	9.14	15	250	550
	2268	Pt 12	11.73	15	N/A	550
	2268	Pt 13	11.73	15	N/A	550
39 Stella St.	2012	31	7.62	15	236	550
	2012	32	7.62	15	236	550
11 Seabrook Ave.	1997	21	7.62	15	255	550
	1997	22	7.62	15	255	550

\*Addresses involving Part Lots N/A-Not available

### **Deeming By-law Procedure Following Passage and Notification**

Section 50 (4) and (26) to (30) of the Planning Act outline the procedure for enactment and registration of a deeming by-law. Unlike many other by-laws, prior notice of Council's intention to pass such a by-law is not required. However, once enacted by Council, notice must then be given to all affected landowners. Those who are notified can request a hearing (delegated to community council) to make representations regarding amendment or repeal of the By-law.

If a hearing is requested, Community Council must consider the representations made and recommend to City Council whether to proceed with the deeming by-law, or to repeal or amend it. If Council proceeds with the By-law it must then be forwarded to the Minister of Municipal Affairs and registered on title to the affected properties in the proper land registry office before it becomes effective.

If no hearing is requested, these same steps will be taken but without further City Council consideration.

Therefore, if City Council considers it appropriate to pass the attached By-law, subject to any stylistic or other technical changes the City Solicitor may make, notice will be given to the affected landowners. If a hearing is requested a further report will be forthcoming, but if no requests are received, the necessary administrative steps will be taken by City staff to have the By-Law registered.

## **CONTACT**

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## **SIGNATURE**

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Gregg Lintern, MCIP, RPP  
Director, Community Planning  
Etobicoke York District

## **ATTACHMENTS**

Attachment 1: Draft Deeming By-law  
Attachment 2: Zoning  
Attachment 3: Maple Leaf Drive Deeming By-law Study Area and Affected Lots Map

## Attachment 1: Draft Deeming By-law

Authority: Etobicoke York Community Council Item ~ [or Report No. ~, Clause No. ~] as adopted by City of Toronto Council on ~, 2007  
Enacted by Council: ~, 2007

### CITY OF TORONTO

Bill No. ~

### BY-LAW No. ~-2007

#### To deem certain lots to no longer be registered lots on a plan of subdivision.

WHEREAS authority is given to Council by Section 50(4) of the *Planning Act*, R.S.O. 1990, c.P. 13, as amended, to pass this By-law to designate any plan of subdivision or part thereof that has been registered for eight years or more, which shall be deemed not to be a registered plan of subdivision for the purpose of subdivision control; and

WHEREAS Plan 1997, 2012, 2021 and 2268 were registered more than eight years ago;

The Council of the City of Toronto HEREBY ENACTS as follows:

1. The following lots are deemed not to be a registered plan of subdivision for the purpose of subsection 50(3) of the *Planning Act*, R.S.O.1990, c.P., 13, as amended:

All of the following lots on Registered Plan 1997  
21 – 22 all inclusive.

All of the following lots on Registered Plan 2012  
31 – 32 all inclusive.

All of the following lots on Registered Plan 2021  
1 – 10, 13 – 16, 34 – 35, all inclusive.

All of the following lots on Registered Plan 2268  
4 and 14.

ENACTED AND PASSED this ~ day of ~, A.D. 2007.

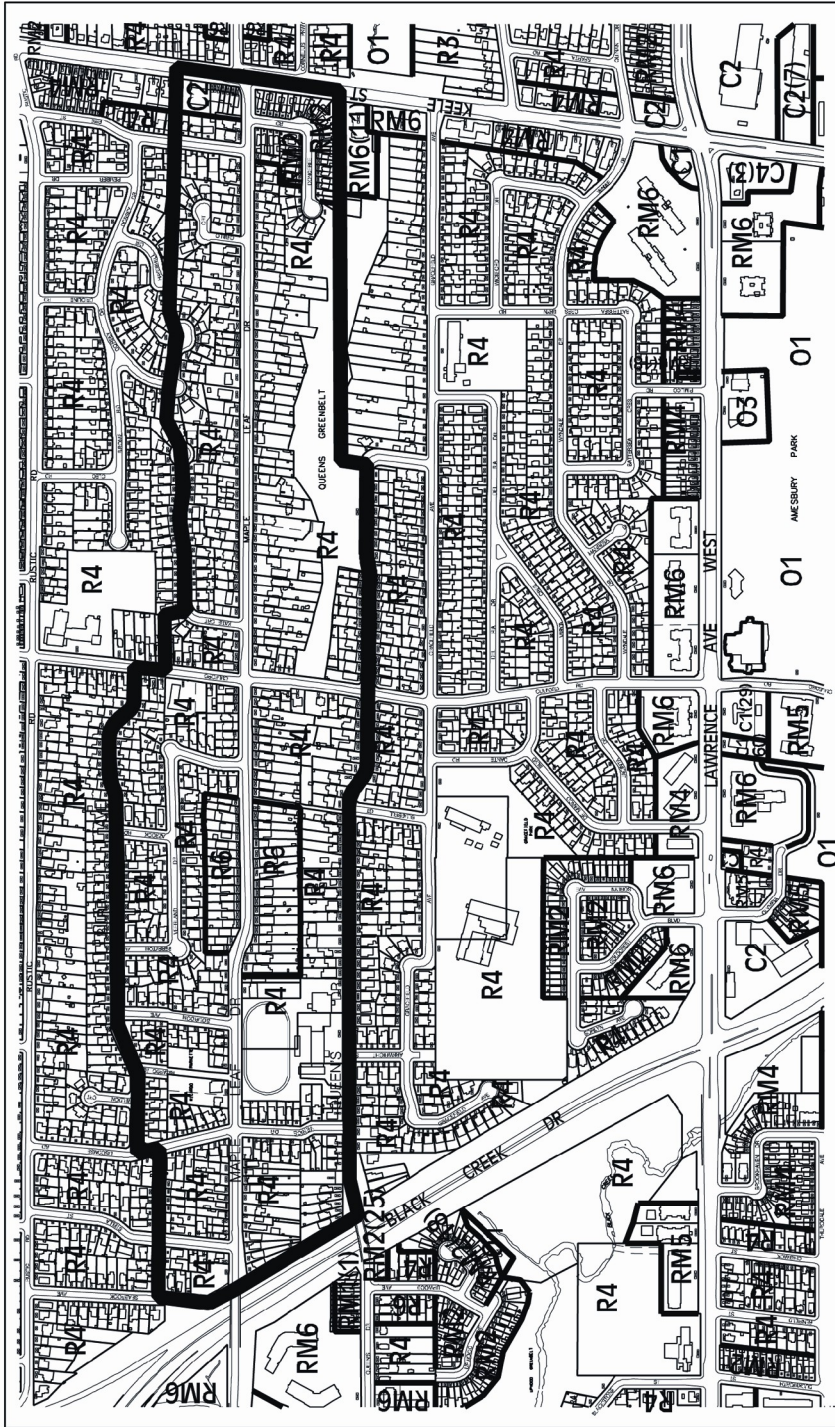
DAVID R. MILLER,  
Mayor

ULLI S. WATKISS,  
City Clerk

(Corporate Seal)



Attachment 2: Zoning



Maple Leaf Drive Study Area

File # 07\_253747

Former North York

- R3 One-Family Detached Dwelling Third Density Zone
- R4 One-Family Detached Dwelling Fourth Density Zone
- R6 One-Family Detached Dwelling Sixth Density Zone
- RM2 Multiple-Family Dwellings Second Density Zone
- RM4 Multiple-Family Dwellings Fourth Density Zone

RM5 Multiple-Family Dwellings Fifth Density Zone

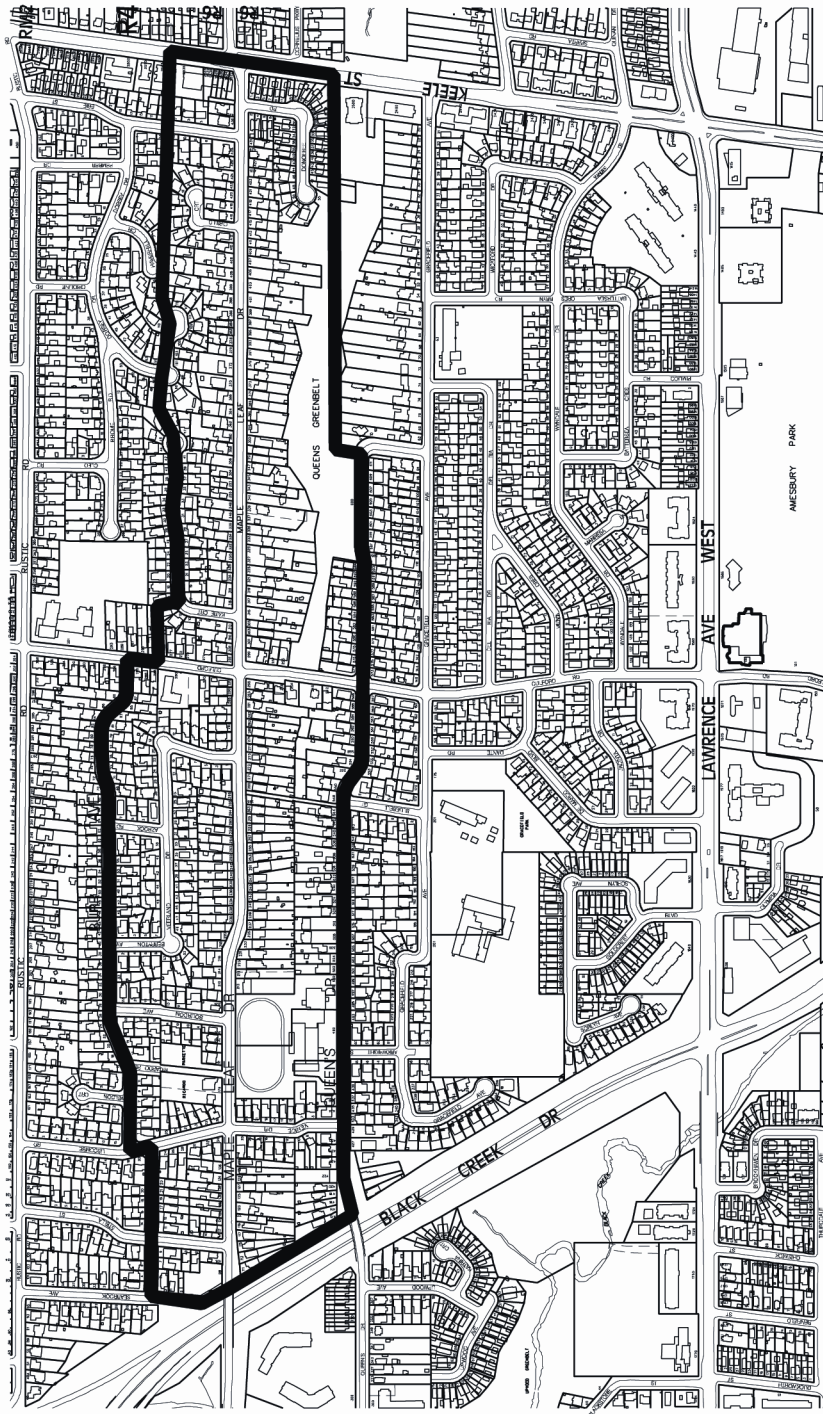
- C2 Local Shopping Centre Zone
- C4 Mixed Use Commercial Zone
- O1 Open Space Zone
- O3 Semi-Public Open Space Zone

NOTE: Numbers in Brackets Denote Exceptions to the Zoning Category



Not to Scale  
Zoning By-law 7625 as amended  
Extracted 10/11/07 - MH

**Attachment 3: Maple Leaf Drive Deeming By-law Study Area and Affected Lots Map**



City Planning

**Maple Leaf Drive Deeming By-law Study Area and Affected Lots Map**



Not to Scale  
Extracted 10/11/07 - MH

File # 07\_253747