

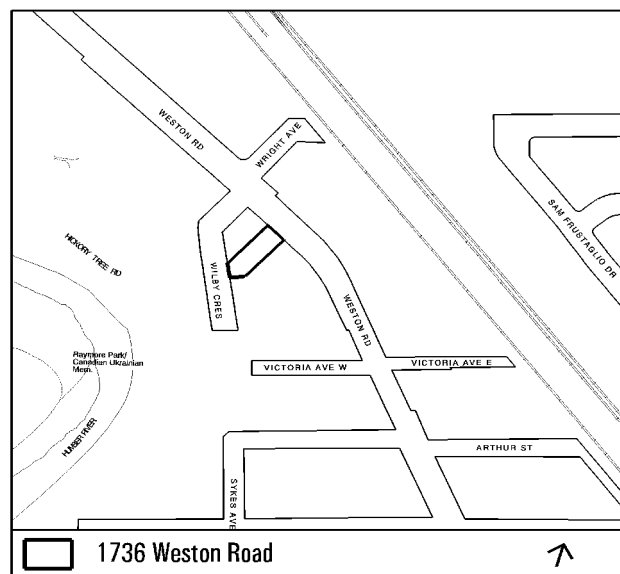
**Supplementary Report
Zoning Application
1736 Weston Road**

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| Date: | December 22, 2006 |
| To: | Etobicoke York Community Council |
| From: | Director, Community Planning, Etobicoke York District |
| Wards: | Ward No. 11– York South-Weston |
| Reference Number: | File No: 01 036373 WHY 11 OZ |

SUMMARY

A rezoning application to permit a place of worship use at 1736 Weston Road was approved by City Council in June 2003, subject to a number of conditions, to be satisfied within a six month period prior to introduction of the Bill to City Council. The conditions were not fulfilled and Municipal Licensing and Standards started prosecution proceedings because the Place of Worship had occupied the premises and continued operations prior to obtaining the necessary approvals.

After two and one half years of inaction in satisfying the conditions of approval a request from the applicant to modify a condition of the original approval of the application relating to the provision of parking for the proposal was reported by the Director, Community Planning (April 25, 2006) to Etobicoke York Community Council. The report’s refusal recommendation was adopted but City Council in July 2006 referred the clause back to Etobicoke York Community Council for further consideration based on Parking Licence Agreements for 48 off-site spaces that were recently secured by Grace Restoration Ministries (the applicant and owner).



Notwithstanding the additional parking secured by the Licence Agreements, refusal of the proposal to revise the approval conditions continues to be recommended because there are insufficient total off-site surplus parking spaces to account for the number of spaces required by the proposed zoning by-law. Furthermore, the onus to cease the Place of Worship and repeal any zoning to permit the church use should the Parking Licence Agreements be terminated would lie with the City.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council refuse the applicant's proposal to revise the approved conditions to permit introduction of the Bill to rezone 1736 Weston Road to permit a Place of Worship on a temporary basis for a period not to exceed one year;
2. City Council authorize City Planning staff to close the application on this matter as the conditions to the original approval have been outstanding for several years; and
3. City Council request Municipal Licensing and Standards to take any necessary action in regard to continued non-compliance with the Zoning By-law.

FINANCIAL IMPACT

There are no financial implications resulting from the adoption of this report.

DECISION HISTORY

At its June 24, 25 and 26, 2003 meeting, City Council approved an application to permit a Place of Worship use at 1736 Weston Road, subject to the number of conditions, as set out in Clause 2 of Report 5 of the Humber York Community Council as adopted by City Council on June 24, 25 and 26, 2003. Since the Place of Worship had already occupied the building prior to obtaining the necessary zoning approvals, the applicant was required to satisfy the conditions within a 6 month period. The applicant did not fulfill the conditions within the required period and in this regard, the Municipal Licensing and Standards Division started prosecution proceedings against the owner for non-compliance with the Zoning By-law.

At its meeting on May 9, 2006, Etobicoke Community Council considered a report from the Director of Community Planning, Etobicoke York District providing a status update on the subject rezoning application and seeking direction with respect to a request from the applicant to modify a condition of approval of the rezoning application as it relates to the provision of off-site parking for the proposal.

The approval condition required a minimum of 50 parking spaces in compliance with the parking space dimensions of the Zoning By-law, a minimum of two spaces to be located on-site and the remainder to be leased off-site within 300 metres of the site. The off-site spaces were to be surplus to the donor site(s), registered on title of the donor site(s) and available at all times for use by the Place of Worship. The rationale for these terms and conditions are set out in the final staff report dated May 9, 2003.

The owner, through its solicitor, indicated that while nine of the ten conditions to approval to permit the Bill to be introduced to Council would be satisfied, the remaining condition related to parking was requested to be modified to:

- a) allow the Church to use its best efforts to secure 48 off-site parking spaces on Sundays from 10:00 a.m. to 3:00 p.m. in agreement with private owners on lands within 300 metres of the application site;
- b) require the City to be notified if private owners terminate the off-site parking space agreements with the Place of Worship; and
- c) if the Place of Worship is unable to provide alternate parking arrangements, satisfactory to the City, the Church will lose its temporary zoning permission.

Etobicoke York Community Council adopted the report recommendation to refuse the applicant's proposal to modify the conditions of approval. City Council at its meetings of May 23, 24 and 25, 2006; June 14, 2006; and June 27, 28 and 29, 2006 postponed consideration of the recommendation as contained in Report 4, Clause 13(a) of Etobicoke York Community Council.

City Council on July 25, 26 and 27, 2006 referred the matter back to Etobicoke York Community Council for further consideration, and requested the Chief Planner and Executive Director, City Planning and the City Solicitor, in consultation with the General Manager, Transportation Services, to report to the Etobicoke York Community Council on the new information provided by the Grace Restoration Church pertaining to the provision of off-site parking, the terms of the lease and other appropriate conditions of the temporary zoning.

ISSUE BACKGROUND

Following Community Council's consideration of the matter on May 9, 2006, new information was provided by the applicant's solicitor in relation to the progress made in fulfilling some of the conditions of approval of the application. In a letter dated May 23, 2006, Mr. R. Kanter, Solicitor for the owner, advised as follows:

- i) Sobey's the owners of the food store and associated parking lot at 1731 Weston Road, opposite the application site, agreed to provide 36 parking spaces to the Church on Wednesday and Friday evenings and on Sunday coincidental with the hours of church activities;

- ii) A landscape architect was retained and a detailed landscape plan and cost estimate was prepared for the front yard and boulevard area; and
- iii) an architect was retained and floor plans were submitted confirming the worship area and other uses as the basis for the required 48 off-site parking spaces.

The letter requested referral of the matter back to Community Council for further consideration in light of the new information.

In a subsequent letter dated July 24, 2006, the applicant's solicitor provided a signed copy of the Parking Space License Agreements that the owner entered into with the owner of 1737 Weston Road and the owner of 1731 Weston Road. In total, 48 off-site parking spaces are licensed for access and use by the Church.

COMMENTS

City Council on June 24, 25 and 26, 2003 approved this application to permit a Place of Worship at 1736 Weston Road on a temporary basis for a one year period subject to conditions of approval to be fulfilled prior to the introduction of the necessary Bill to City Council as outlined in the Final Report dated May 9, 2003.

The conditions of approval generally required fulfillment of the following matters within six months from City Council approval of the application.

- i) the provision and maintenance of 50 parking spaces in compliance with Zoning By-law standards a minimum of two spaces to be located on site. The remaining 48 shall be leased off-site within 300 metres, surplus to the donor site and registered on title of the donor site;
- ii) the provision and maintenance of garbage and recyclable materials storage facilities;
- iii) the provision of a plan of survey and final floor plans to confirm the worship area and other accessory uses and room;
- iv) the provision and maintenance of on-site signage and information advising of the location of leased off-site parking; and
- v) the provision of a Landscape Plan and cost estimate for on-site landscape improvement, an undertaking from the owner agreeing to complete the landscape work within a specified time and a financial security to guarantee completion of the work.

While the applicant has provided new information to address preceding items iii) and v) and has indicated that it can comply items ii) and iv), it has advised that the original conditions relating to the provision and maintenance of surplus off-site parking for the

Church, through a lease agreement registered on title to the donor site(s), could not be provided due to conditions beyond the owner's control.

Instead, two lease agreements have been secured in an attempt to address the original parking conditions to approval.

Parking Space Licence Agreement for Parking at 1737 Weston Road

This agreement grants a licence to the Grace Restoration International Ministries to access and use 12 parking spaces at 1737 Weston Road every Sunday from 10:00 a.m. to 3:00 p.m. for a term of one year to June 30, 2007. No option for extension is provided in the agreement.

The agreement also provides that in the event the property is sold, the spaces are required for redevelopment, or the Licensee fails to abide by the conditions of the agreement, the Licensor has the right to terminate the license upon 30 days notice to the Licensee and the City of Toronto.

Parking Space Licence Agreement for Parking at 1731 Weston Road

This agreement grants a license to the Grace Restoration International Ministries to access and use 36 parking spaces at 1731 Weston Road Sundays from 10:00 a.m. to 3:00 p.m. Wednesdays from 6:30 p.m. to 9:30 p.m. and Fridays from 7:30 p.m. to 10:30 p.m. for a one year term until July 30, 2007. No option for extension is provided in the agreement.

The agreement also provides that in the event the property is sold, the spaces are required by the Licensor of the Licensee fails to abide by the conditions of the agreement, the Licensor has the right to terminate the License upon 14 days notice to the Licensee and the City of Toronto.

Assessment of Off-site Parking Proposal

On the basis of information obtained from Building Division staff for 1731 Weston Road, the site provides 100 parking spaces of which 77 spaces are required to meet minimum zoning by-law parking standards for the existing Price Chopper Food Store. Therefore, twenty three spaces are surplus.

In regard to 1737 Weston Road, 12 parking spaces are provided for the Royal Day Care operating on-site. Planning staff confirmed with a staff member of the daycare that 15 staff are employed and, as such, 8 parking spaces are required to meet zoning by-law standards. Therefore, four parking spaces are surplus.

In total, both sites can provide 27 surplus parking spaces whereas 48 off-site spaces are required to be provided for the church.

Furthermore, only the existing Parking Licence Agreement for 1731 Weston Road with 23 surplus spaces provides parking during the operation of current church activities on Wednesday, Friday and Sunday. The agreement with 1737 Weston Road only makes the

surplus spaces available on Sunday. There is no provision in the agreements to require that parking spaces be made available at other times should church activities and programming increase or should church related or social or assembly functions occur at other times.

Moreover, the existing Parking Space Licence Agreements will expire in summer 2007, can be terminated on short notice and are not transferable to any subsequent owner of the application site in the event that the current church operation ceases and another church occupies the building.

Finally, in the event of a termination of the Parking Space Licence Agreement, it would be incumbent upon the City to initiate a rezoning of the lands to repeal any By-law passed to permit the church use.

The applicant has not provided any indication to the City that they would voluntarily apply for, obtain approval and not appeal an amendment to repeal any by-law passed to permit the church use, should the Parking Space Lease Agreement(s) be terminated or expire.

Municipal Licensing and Standards Division Action

Municipal Licensing and Standards concluded its action on the charge against the owner for using the premises as a Place of Worship in non-compliance with the Zoning By-law. The charge was heard on October 23, 2006 and the owner was found guilty and fined by the court.

It is recommended that Municipal Licensing and Standards monitor the outcome of City Council's decision in relation to this application and take the necessary action to further charge and prosecute if the church use continues in contravention of the Zoning By-law.

Consultation with the Transportation Services Division and City Legal

Transportation Services and Legal staff have reviewed this report and concur with its findings and recommendations.

CONCLUSION

For these reasons and for the reason that the original conditions as set out in the final report approved by City Council with amendment in June 2003 were not acted upon in a timely manner, staff continues to have concerns with the applicant's proposal modification to the approved condition related to parking and recommends that the proposal be refused.

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SIGNATURE

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