

1736 Weston Road – Rezoning Application - Further Supplementary Report

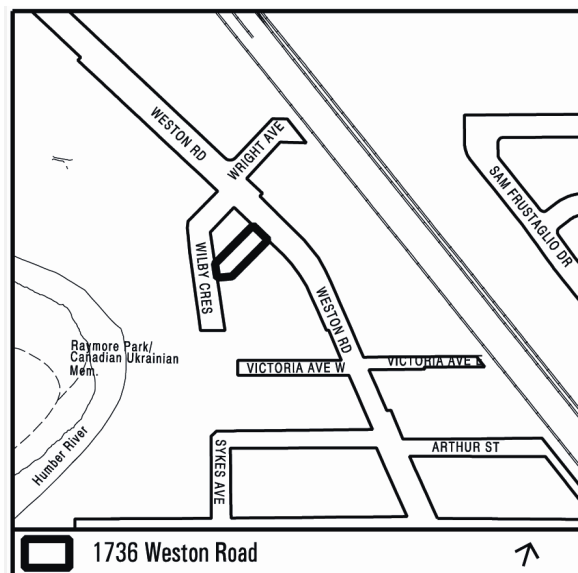
Date:	January 24, 2008
To:	Etobicoke York Community Council
From:	Director, Community Planning, Etobicoke York District
Wards:	Ward 11 – York South-Weston
Reference Number:	File No.: 01 036373 WHY 11 OZ

SUMMARY

A rezoning application to permit a Place of Worship use at 1736 Weston Road was approved on a temporary basis by City Council in June 2003, subject to conditions being fulfilled within a six-month period, prior to the introduction of the Bill to City Council. After two and a half years of inaction to fulfil the conditions of approval, a request was filed from the applicant to modify a condition of the original approval provision among which included requiring off-site Parking Licence Agreements to be registered on title.

In the Supplementary Report by Community Planning, dated December 22, 2006, to Etobicoke York Community Council, staff recommended refusal of the modified conditions as there was an insufficient amount of on-site and off-site parking to comply with the zoning by-law parking requirements and the lease agreements secured by the applicant for off-site parking on private lands were not supported by City staff.

This matter was deferred by Community Council in January 2007 for a period of six months in order for the applicant to complete additional requirements. It is now before Community Council for reconsideration.



Notwithstanding the submission by the applicant of revised parking lease agreements and additional material in support of the applicant's opinion of a sufficient supply and availability of off-site parking for the place of worship, refusal of the proposal to revise the approval conditions for the enactment of a temporary Zoning By-law continues to be recommended by City staff.

The refusal recommendation is based on an insufficient number of surplus off-site parking spaces provided on donor sites, and unacceptable licence agreements that would place the enforcement onus on the City to cease the place of worship and repeal any zoning to permit the church use, should the Parking License Agreements be terminated.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council refuse the applicant's request to revise the original approval conditions to permit the introduction of the Bill to rezone 1736 Weston Road.
2. City Council authorize City Planning staff to close the application as the conditions to the original approval have been outstanding for several years.
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

The recommendations in this report have no financial impact.

DECISION HISTORY

At its June 24, 25 and 26, 2003 meeting, City Council approved a report dated May 9, 2003 from the Director, Community Planning for an application to permit a Place of Worship use at 1736 Weston Road, subject to a number of conditions, as set out in Clause 2 of Report 5 of the Humber York Community Council.

<http://www.toronto.ca/legdocs/2003/agendas/committees/yk/yk030610/it002.pdf>

Since the Place of Worship had already occupied and operated in the building since approximately 2001, prior to obtaining the necessary zoning approvals, the applicant was required to satisfy the conditions within a 6 month period. The conditions were not fulfilled 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 (dated April 25, 2006)

providing a status update on the subject rezoning application and seeking direction with respect to a request from the applicant to modify conditions of approval of the rezoning application in relation to the provision of off-site parking for the proposal.

<http://www.toronto.ca/legdocs/2006/agendas/committees/et/et060509/it016.pdf>

The approval conditions required a minimum of 50 parking spaces to be 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 from the Director, Community Planning.

The owner, through its solicitor, indicated that while nine of the ten conditions of 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 an 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 on May 9, 2006, adopted Community Planning report's recommendation to refuse the applicant's proposal to modify the conditions of approval.

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 to City Council 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.

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 licence agreements and other appropriate conditions of the temporary zoning.

In a 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.

Community Planning staff reviewed the information and brought forward a Supplementary Report dated December 22, 2006 to the Etobicoke York Community Council meeting of January 16, 2007, regarding the provision of off-site parking, the terms of the licences, and other conditions related to the temporary zoning.
<http://www.toronto.ca/legdocs/mmis/2007/ey/bgrd/backgroundfile-531.pdf>

Community Council at its meeting of January 16, 2007, deferred consideration of the proposal to amend the original conditions of approval. Community Council also requested the applicant to:

1. Provide an up to date Parking Demand Study, using data from the last two and a half years regarding attendance, activity times and parking demand for the Place of Worship and associated activities by May 30, 2007;
2. Complete the Landscape work in accordance with the acceptable Landscape Plan by the end of July 2007;
3. Submit a report to the Director, Community Planning, Etobicoke York District, on the status of off-site parking leases secured by the owner of the Place of Worship, and provide copies of such leases, not later than the beginning of August 2007; and
4. Submit an acceptable Cost Estimate for the landscaping to the Director of Community Planning.

Community Council also requested the Director, Community Planning, Etobicoke York District to:

1. Review the Landscape Plan and cost estimate prepared for the Place of Worship to arrive at an acceptable plan for the site; and

2. Report to the Etobicoke York Community Council on the application following the summer period.

This report responds to the matters required to be addressed by Etobicoke York Community Council meeting on January 16, 2007.

COMMENTS

Landscape Plan and Cost Estimate

Following the direction of Community Council on January 16, 2006, Planning staff reviewed the Landscape Plan and cost estimate and provided comments with requested revisions to render an acceptable plan to the applicant's solicitor in May 2007.

An acceptable revised plan and cost estimate was provided in mid-October 2007. The landscape work in accordance with the acceptable landscape plan has not been completed as requested by Community Council. The applicant's solicitor noted in a letter dated August 2, 2007, that the congregation has spent more than \$16,000 to improve the façade of the building.

Parking Demand Study

An up to date Parking Demand Study dated September 24, 2007, prepared by BA Transportation Consultants was submitted in response to Community Council's request. The study has been reviewed by Transportation Services who advise that the updated study indicates that the site cannot accommodate current or forecast levels of on-site parking demand without using both on-site and parking at other lots in the area. Full occupancy of the sanctuary would generate a demand of 50-75 vehicles, as stated in the study. The church would need to rely on thirty-six parking spaces at 1736 Weston Road (vacant Price Chopper store), and 12 spaces at 1737 Weston Road (Royal Day Care), and 13 metered on-street parking spaces on Weston Road, north of the church, and 19 on-street parking on Weston Road, south of the church.

The Parking Demand Study deducted 10 parking spaces from the availability of on-street parking due to spaces occupied by non-worshippers on Sunday mornings. In total the study indicated that with a combination of on-street, off-street, and on-site parking, 73-80 parking spaces would be available.

It is the view of Community Planning and Transportation Services that parking demand generated by a development should be satisfied on site, or properly secured off-site by leased spaces that are surplus to the donor site, within close proximity to the application site, and have been registered both on the donor and recipient lands.

In this instance the place of worship would be relying on the use of street parking to satisfy between one third and one quarter of the total spaces needed to meet the generated demand of 50-75 spaces at full occupancy. The use of on-street municipal parking by land uses, such as churches, that exhibit low vehicle turnover rates, reduce the amount of municipal parking available for adjoining uses and should be discouraged.

Parking Space Licensed Agreements for 1731 and 1737 Weston Road

Two new Parking Space License Agreements that have been entered into between the church and the owners of 1731 Weston Road and 1736 Weston Road, were submitted by the applicant in September 2007, in response to Community Council's request on the status of off-site parking leases.

The two new license agreements have provisions that are identical to the previous agreements, save and except, after the one-year lease expiry date of August 31, 2008, provision is made for an extension of the lease on a month to month basis, subject to the right of the Licensor to terminate the agreement upon providing notice to the church.

As stated in Planning's previous report, dated December 22, 2006, leased off-site parking spaces must be surplus to the required parking for the donor site. Based on information from Toronto Building, the donor sites at 1731 and 1737 Weston Road, have a combined surplus of 27 parking spaces to provide, whereas 48 off-site spaces are required for the church – a shortfall of 21 spaces.

Within each agreement, both donor sites have restricted days and times of use of the parking spaces. The days and times that the spaces are made available generally coincide with existing church activities and services. No provisions exist in the leases to allow the surplus spaces to be used at other times in the event of a change to church related activities or special social or assembly events that may occur.

In addition, the Parking Space Licence Agreements will both expire in August 2008. After such time the lease 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. It is noted that the business at 1731 Weston Road has closed operations on site. The future redevelopment plans for this property is unknown. Given the vacant status of the site, the likelihood that the lease to use the parking on site will be extended beyond August 2008 is questionable.

In the event of a termination of the Parking Space Licence Agreement, it would be incumbent upon the City to pursue Zoning non-compliance prosecution, or to initiate a rezoning of the lands to repeal any By-law passed to permit the church use, as notification of the termination of the lease(s) is required to be given to the City by the donor site owner

Transportation Service staff do not view the parking licences as a supportable parking management tool. Also, with the number of parking spaces that are technically surplus to

the donor sites to remain in compliance with zoning requirements, only 27 parking spaces and 2 on-site spaces would be available for use by the Church. The resulting 29 spaces do not address the parking demand identified by the applicant's Transportation Consultant even if they were provided subject to terms that are acceptable to the City, including registration on both the donor and recipient sites.

Consultation

This report was prepared with input from Transportation Services and they concur with the report recommendations.

Conclusions

Notwithstanding the additional information provided by the applicant, Community Planning staff and Transportation Services staff continue to have concerns with the applicant's proposed modifications to the original conditions of approval of a temporary use by-law for the church. Staff do not support the applicant's proposed modifications to permit the rezoning for a Place of Worship on a temporary or permanent basis.

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SIGNATURE

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