

**318 Clinton Street – Enforcement of Undertaking Requirements**

<b>Date:</b>	October 13, 2009
<b>To:</b>	Toronto and East York Community Council
<b>From:</b>	Director, Community Planning, Toronto and East York District
<b>Wards:</b>	Ward 19 – Trinity-Spadina
<b>Reference Number:</b>	File Nos. 302018, 301013 and 298007

**RECOMMENDATIONS**

**The City Planning Division recommends that:**

1. City Council authorize the City Solicitor to take all appropriate legal action in consultation with the Chief Planner to enforce the developer’s obligation in respect of 318 Clinton Street

**COMMENTS**

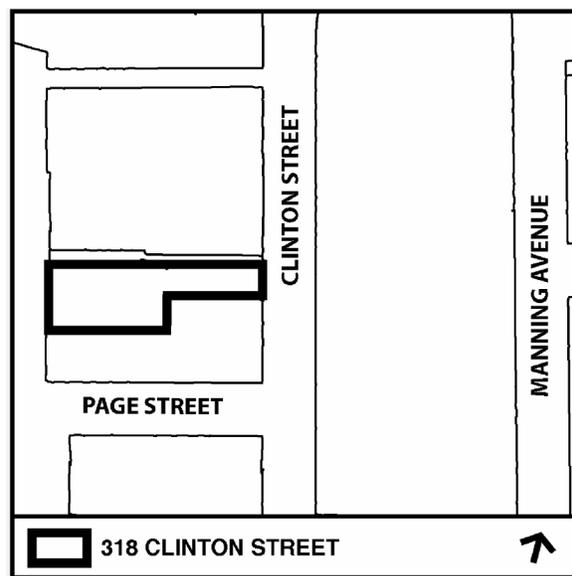
**ISSUE BACKGROUND**

City Council passed a motion at its September 30, 2009 meeting directing the Chief Planner, in conjunction with the City Solicitor, to report at the October 13, 2009 Toronto & East York Community Council meeting on the incomplete and unsatisfactory items by the developer of 318 Clinton Street and what actions need to be taken to bring this property up to acceptable standards.

**HISTORY**

**322 Clinton Street**

In January of 1997 the Ontario Municipal Board approved a rezoning application for 322 Clinton Street (App. No. 196014) to



allow for the creation of eight new townhouse units fronting a newly created private lane. The new lane, referred to as Nancy Pocock Place, is located off the west side of Clinton Street, just south of Bloor Street West. Construction of the townhouse units was completed prior to the end of 1999. The eight townhouse units on the north side of Nancy Pocock Place are all freehold. Rather than being approved as a common element condominium, the development was severed into 8 “L” shaped parcels with each unit having ownership of a portion of the private lane and easements granted over each parcel.

### **318 Clinton Street**

In November of 1998 new Official Plan Amendment and Rezoning applications for 318 Clinton Street (App. No. 298007) were submitted to permit the creation of seven townhouse units to be located on the south side of Nancy Pocock Place. The applications were approved and the By-laws enacted on August 3, 2000.

On October 17, 2000, the Committee of Adjustment approved the severance of the lands to create the 7 new freehold townhouse units and grant access easements for each property over Nancy Pocock Place. As a condition of this approval the applicant was required to pay the cost for any rehabilitation of Nancy Pocock to its original condition due to construction and/or connection to municipal services. A Consent Agreement between the applicant and City was registered on Title on April 23, 2001 (Instrument No. CA720869).

On August 3, 2000 a Statement of Approval/Undertaking was issued which provided final approval of the Site Plan application. However, changes in ownership of the land and changes proposed to the facades of the townhouses, amongst other things, necessitated a revision to the Undertaking. Subsequently, an amended Statement of Approval/Undertaking was executed in August of 2002. While the amended Undertaking includes the final list of approved drawings and conditions under which the townhouses are supposed to be constructed, no letter of credit was requested to secure the implementation of the landscape plan as this application preceded that current practice. The Undertakings were not registered on title, however, they were signed by the applicant and Director of Community Planning, representing a contract between the two parties.

### **Current Status**

The seven townhouse units approved as part of the 318 Clinton Street application were completed and occupied in late 2003 and early 2004, however, one unit still remains unsold and in possession of the developer.

In late 2008 City Planning staff and the local Councillor’s office began receiving complaints from a number of the townhouse unit owners on Nancy Pocock Place regarding the developer’s failure to complete construction of the site as per the approved site plan drawings and conditions contained in the agreements for the 318 Clinton Street applications.

Subsequently, an inspection by City Planning staff revealed that a number of landscaping measures identified in the approved landscape plan for 318 Clinton Street are absent, including, but not limited to:

- Trees and shrubs have not been planted in the front yard of each unit
- The parking lot at the eastern end of the townhouse complex has not been surfaced and the landscaping has not been implemented
- Trees have not been planted in any of the rear yards
- No street lighting has been installed
- Bollards at the end of Nancy Pocock place have not been installed
- A metal picket fence and landscaping is absent from the west end of the site

As well, inspection of the lane (Nancy Pocock Place) revealed that the lane has not been graded properly, does not drain and that the two catch basins were higher than the surrounding surface which results in significant icing of the lane during winter. Condition of the Committee of Adjustment Consent decision, dated October 20, 2000, required that the applicant pay the cost for any rectification required to rehabilitate the easement/right-of-way known as Nancy Pocock Place due to construction and/or connection to municipal services. The substandard state of Nancy Pocock Place would indicate that this decision has not been complied with. This condition was also included in the August 2002 Amended Statement of Approval/Undertaking.

A letter prepared by City Planning staff was sent to the applicant on February 10, 2009 outlining the site deficiencies and requesting that the applicant contact City staff to rectify the problems; no response was received. That letter was followed by one on April 16, 2009 requesting response from the applicant, indicating that a failure to do so may result in further action. To date the City has not been contacted by the applicant and no efforts have been made to rectify any of the identified non-compliance issues.

## **CONCLUSION**

The approvals obtained for the 318 Clinton Street applications were predicated on conditions and agreements requiring the development to be constructed to a standard acceptable to the City of Toronto. The applicant so far has failed to comply with a number of these conditions and agreements. Given that the applicant has made no attempt to respond to requests by City staff to address these issues, City Planning staff recommends that the City Solicitor pursue legal action against the developer of 318 Clinton Street.

## **CONTACT**

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## **SIGNATURE**

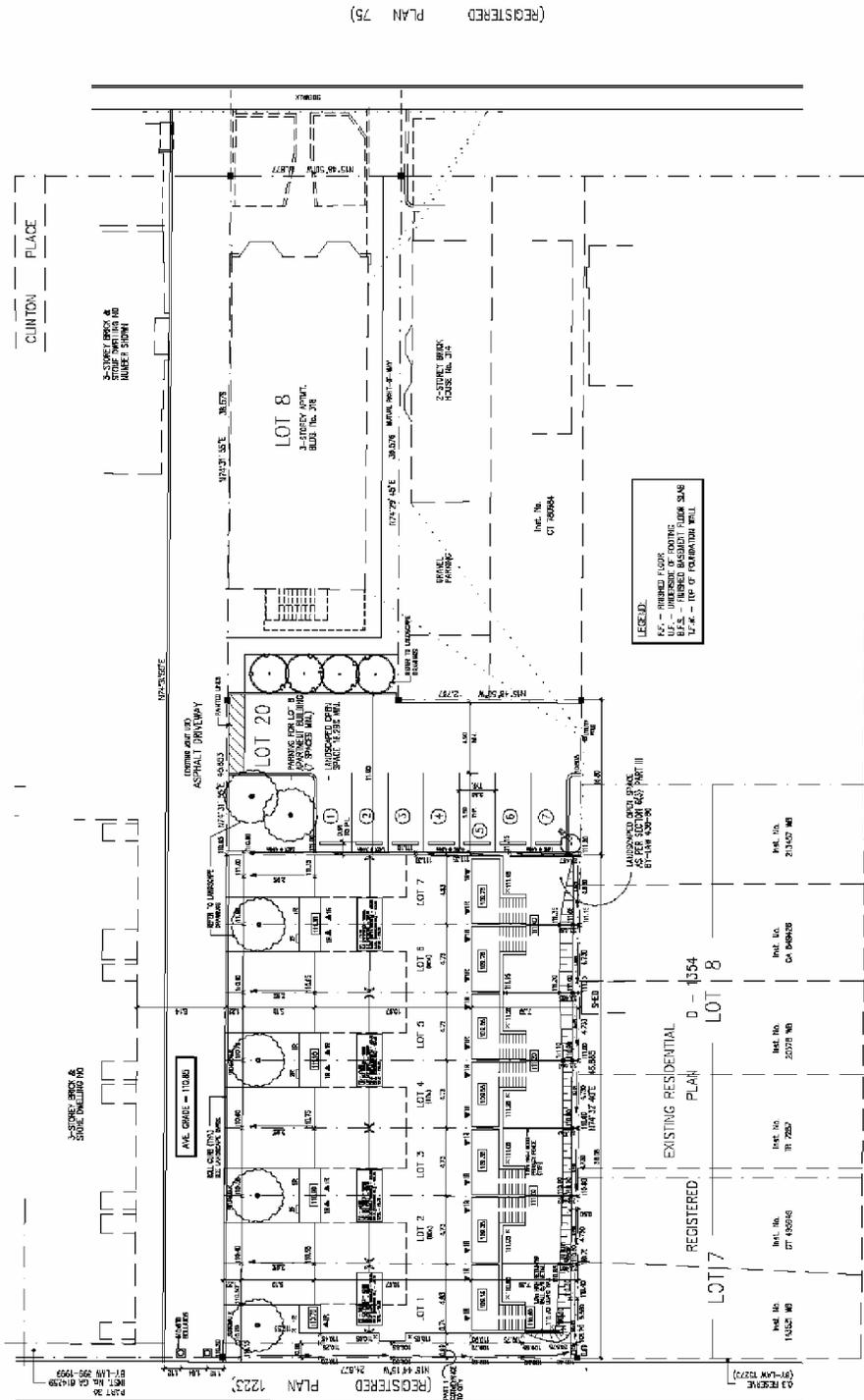
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Raymond David, Director  
Community Planning, Toronto and East York District

## **ATTACHMENTS**

Attachment 1: Site Plan

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**318 Clinton Street**  
**Attachment 1**  
 File # TE SPC 2002 0012

**Site Plan**  
 Applicant's Submitted Drawing  
 Not to Scale  
 06/26/02