

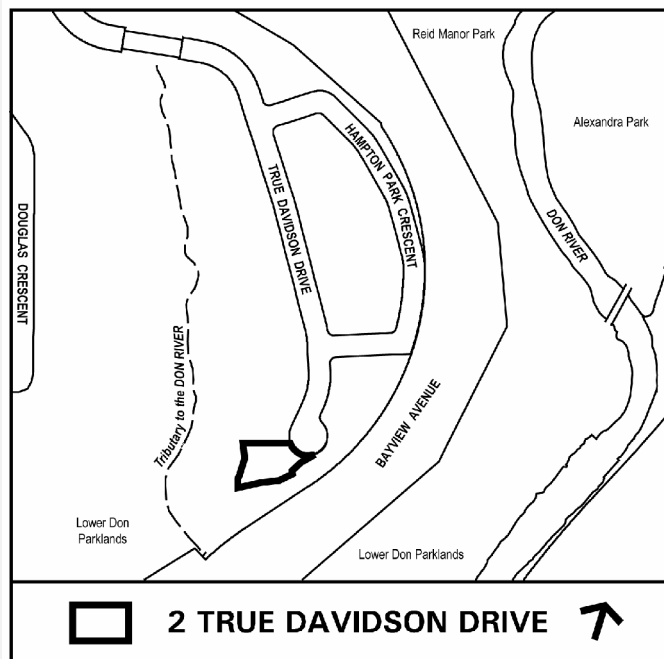
**2 True Davidson Drive - Official Plan Amendment,
Rezoning, Site Plan Control Applications -
Supplementary Report**

Date:	August 24, 2010
To:	City Council
From:	Chief Planner and City Solicitor
Wards:	Ward 29 – Toronto-Danforth
Reason for Confidential Information:	This report contains advice or communications that are subject to litigation and solicitor-client privilege.
Reference Number:	05-102723 STE 29 OZ

SUMMARY

At its meeting of August 17, 2010, in connection with Item TE36.24 Toronto and East York Community Council recommended that the Chief Planner and Executive Director bring forward a Supplementary Report to City Council to address the following matters.

This report addresses issues raised by Toronto and East York Community Council at its meeting of August 17, 2010 including matters addressed in the confidential attachment.



RECOMMENDATIONS

The Chief Planner and the City Solicitor recommends that:

1. City Council adopt the recommendations contained in the Staff Report (Request for Directions), dated July 29, 2010, from the Director, Community Planning, Toronto and East York District for the purpose of attendance at the Ontario Municipal Board.

Financial Impact

The recommendations in this report have no financial impact. There are additional comments in confidential Attachment 1.

DECISION HISTORY

At its meeting of August 17, 2010, Toronto and East York Community Council recommended that Community Planning staff bring forward a Supplementary Report to City Council to address the following matters:

1. Issues raised by speakers, particularly, the absence of a community meeting to date;
2. Site development issues;
3. Provisions in the Subdivision Agreement related to development of the subject site; and
4. The possible planning and legal grounds upon which to oppose the appeals currently before the Ontario Municipal Board.

Item 4 is addressed as a confidential matter as Attachment 1 based on litigation and solicitor-client privilege.

COMMENTS

1. Main issues raised by Deputants

a) Community Meeting

A preliminary report was before Toronto and East York Community Council on May 31, 2005. At that meeting, TEYCC adopted the recommendations in the Preliminary Staff Report which directed staff to schedule a community consultation meeting together with the ward councillor. A Notice of Application sign was posted on the site at the time of the application (2005). Until the recent submission of the Action Report by the Director, Community Planning, Toronto and East York District, dated July 29, 2010, staff had received limited inquiry from residents

regarding the proposal, the status of the application or the Ontario Municipal Board (OMB) hearing.

At the time of application, a number of matters related to the Governor's Bridge Subdivision remained outstanding. This included settling boundaries and the conveyance of certain land to the Toronto Region Conservation Authority (TRCA) and the City of Toronto for slope protection and road widening purposes pursuant to the Subdivision Agreement applicable to the development. The surplus lands remaining after these conveyances constitute the remnant "Lot" being the subject of the Official Plan and Zoning By-law Amendment applications.

At the time, there were also ongoing issues related to the slope stabilization work that had been undertaken by the developer within the proposed widening of Bayview Avenue. Staff considered it important to have these matters resolved or at least closer to resolution prior to presenting the application to the community. These matters remain unresolved. The applicant appealed their applications to the OMB without a community consultation having meeting being held. Notice of the Ontario Municipal Board hearing for October 25 – 28, 2010 has now been circulated in accordance with the *Planning Act*. There is no requirement for community consultation prior to Council giving staff direction required for attendance before the the OMB. On an appeal, by operation of statute, the proceedings before the OMB will be conducted as a new hearing on the merits and the Board will make the final decision. Residents will have an opportunity to make submissions, take participant status or party status at the hearing.

b) Parkland/Open Space

Submissions made to City Clerks and during deputations at TEYCC meeting stated that some purchasers within this subdivision were led to believe that the subject lands were going to be developed into either a park, or remain greenspace.

The Governor's Bridge Subdivision Agreement identifies that the following matters required to satisfy the parkland dedication obligations for this development. The parkland dedication requirements were as follows:

1. Nesbitt Park Improvements; and
2. Cash-in-lieu of Parkland Payment.

The conveyance of land for parkland dedication was not a condition of approval or included in the Governor's Bridge Subdivision Agreement entered into. In fact, the Ontario Municipal Board Decision (No. 0618) dated March 11, 1998, indicated that parkland requirements were the subject of evidence at the time of the hearing. Certain objectors were seeking the requirement for a small neighbourhood park. In its decision, the Board accepted the evidence presented on behalf of the former Borough of East York and concurred that improvements to the existing Nesbitt Park and a cash-in-lieu payment would be more helpful in achieving the goals identified.

No specific parkland conveyance requirement was imposed or expected at the time. There is no basis for the City to require the same at this time in the context of the recent applications.

2. Site Development Issues

The applicant is the owner of what is known as Block 63 within the Governor's Bridge Subdivision (66M-2374). Although the subject site is within the plan of subdivision, it is located outside of the original zoning amendment area applicable to the lots within the plan and, accordingly, appropriate Official Plan and Zoning By-law Amendment approvals are required.

As indicated, 2 True Davidson is being proposed as a development lot being a remnant parcel retained by the owner following certain land conveyances to the City and TRCA pursuant to the Subdivision Agreement. These transfers have not occurred due to outstanding issues pursuant to the Subdivision Agreement and slope stabilization matters.

The slope stabilization work undertaken in connection with the Bayview Avenue widening was not originally done in accordance with the Subdivision Agreement and slope failures resulted. There have been ongoing efforts to ensure long term slope stability along Bayview Avenue, which includes slopes on the lands yet to be conveyed to the City. Inspections indicate that the slope work currently in place appears to be secure and in the final stages, but it has not yet been accepted or approved by Technical Services. This is the reason that the conveyance to the City has not occurred and is why staff have recommended that this be addressed prior to conveyance of the lands to the City and TRCA.

The proposed remnant Lot extends to the top-of-bank of the ravine. Slope stabilization and protection is a primary focus with respect to the development of the subject site. Technical Services staff and the City peer reviewer agree that it is important that the slope vegetation, topography and slope crest/top-of-bank location not be altered in any way, that no cutting or fill be placed at the slope crest or on the slope face, and that no drainage be permitted over the slope crest, into the slope or onto the slope face.

In the Staff Report dated July 29, 2010, staff are proposing the incorporation of "No Build Zones" along the southern and western property boundaries that will remain designated *Parks and Open Space – Natural Area* and that will continue to be zoned Conservation G to ensure the ongoing protection of the long term slope stability within the remnant Lot. The extent of this area is consistent with buffer zones used within the original plan of subdivision. Within the tableland area of the site proposed to be designated *Neighbourhoods* and zoned R1C, the Draft Zoning By-law attached to the July 29, 2010 staff report also incorporates additional ravine protection through use of a building envelope that observes 10 metres top-of-bank setbacks where possible and assists in ensuring consistency with the policies contained within the

new Toronto Official Plan. Additional slope protection measures considered necessary and specific to actual construction will also be incorporated as site plan approval conditions by City staff and TRCA.

It is on the foregoing basis that City Staff and the TRCA are satisfied that the development site issues are being addressed and that the intent and purpose of the Official Plan policies are being maintained in the context of this development. Both City Staff and the TRCA are supportive of the proposed lot boundaries of the remnant Lot (described as Parts 1 and 2, Plan 66R-21079) that will result following the City and TRCA conveyances within Block 63 (Parts 4 and 3, Plan 66R-21079 respectively).

3. Subdivision Agreement Provisions - Block 63

Based on background documentation, it appears that originally Block 63 was included within the plan of subdivision primarily to protect the surrounding steep slopes to the east, west and south. It was recognized that the lands included a central tableland area that would be retained by the owner as surplus lands following required conveyances to the City and the TRCA for road widening and slope protection purposes within that block. The provisions contemplated that the future boundaries of those surplus lands would be determined by the City and TRCA. As indicated, no specific development approvals were contemplated for the expected future surplus lands suggesting that it would not be developed without prior approval by Council of necessary amendments to the Official Plan and Zoning By-law in place at that time. However, service connections are in place for a residence at this location, although a 0.3 metre reserve along the proposed lot frontage precludes any development pending all necessary approvals having been obtained.

As indicated, the Subdivision Agreement also included slope stabilization obligations along Bayview Avenue that, in part, related to Block 63 which have not yet been fully resolved to the satisfaction of Technical Services Division. This is the reason that the conveyance to the City and TRCA have not been finalized and the proposed remnant Lot has not yet been legally created.

4. Ontario Municipal Board Appeals - Grounds to oppose

See Attachment 1- Confidential

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ATTACHMENTS

Attachment 1: Confidential Information