

9 Hanna Ave – Establishment of Public Lane System

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| Date: | February 18, 2010 |
| To: | Toronto and East York Community Council |
| From: | Director, Community Planning, Toronto and East York District |
| Wards: | Ward 19 – Trinity-Spadina |
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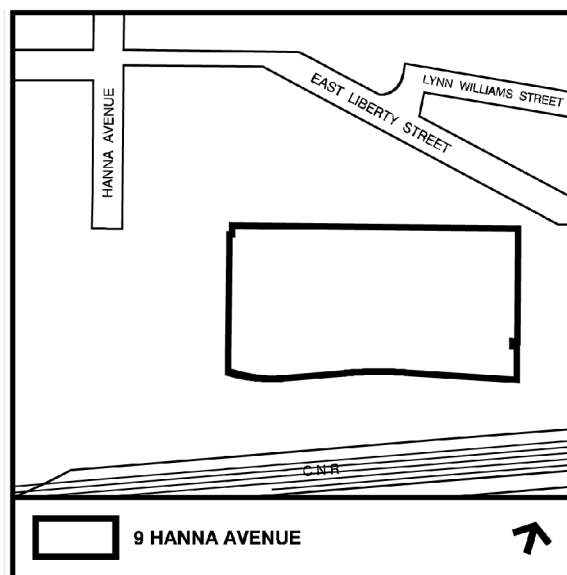
SUMMARY

This report recommends that City staff be directed to proceed with negotiations with the necessary property owners for the acquisition of the lands and the extinguishing of certain property interests required to create a public lane system to the east and west of the Toronto Police Services facility at 9 Hanna Avenue and to report back on the results of those negotiations.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council direct City staff to proceed with negotiations with the necessary property owners to create a public lane system to the east and west of 9 Hanna Avenue, including the extinguishing of certain existing property interests where necessary.
2. City Council require that the lands being conveyed to the City as part of the development approval for 5 Hanna Avenue conform with the City's requirements for environmental remediation and construction to public lane standards.



3. City Council request staff to report back to the Toronto and East York Community Council by June 22, 2010 on the results of the negotiations.

Financial Impact

The recommendations in this report have no financial impact.

DECISION HISTORY

At its meeting held on January 12, 2010, the Toronto and East York Community Council requested (TE30.45) a report from the Chief Planner and Executive Director of City Planning, with the appropriate Departments, regarding the suitable and necessary steps, including timelines, for the public assumption of private lanes to the east and the west of 9 Hanna Avenue.

9 Hanna Avenue

In 2003, City Council authorized the purchase of 9 Hanna Avenue for use by the Toronto Police Service (“TPS”) for Central Traffic Services and Garage and Court Services (Clause No. 20 of Policy and Finance Committee Report No. 8, as adopted by City Council at its meeting held on July 22, 23 and 24, 2003). The purchase transaction was completed in November, 2006 and TPS began operations out of 9 Hanna Avenue in May 2007.

5 Hanna Avenue

In 2005, City Council approved an application to amend the Zoning By-law to permit the construction of a 6 (double height) storey live-work condominium at 5 Hanna Avenue located to the immediate west of 9 Hanna Avenue (Clause No. 7 of Toronto and East York Community Council Report No. 5, as adopted by City Council at its meeting held on June 14, 15 and 16, 2005).

In 2008, the Committee of Adjustment approved a minor variance application to allow the building to add an additional double height storey, amongst other provisions (File No. A0476/08TEY). The approval was subject to a number of conditions, including the requirement that the owner enter into a Section 45(9) Agreement to secure the conveyance of lands required for the local laneway system (identified as being: a portion of the private laneway to the north of the site; the driveway extending from Hanna Avenue at its southerly terminus to 9 Hanna Avenue; and land at the west of the site for the future extension of Hanna Avenue to the south). The applicant was also required to build public laneways on these lands to the City of Toronto public lane standards.

The site currently operates as a commercial parking lot.

65-85 East Liberty Street

In 2005, as part of the larger rezoning approvals for the King Liberty Village Neighbourhood, City Council approved an application to amend the Official Plan and Zoning By-laws to permit the construction of a building containing approximately 880 live/work units and ancillary retail uses on the 65-85 East Liberty Street lands, which are

located to the immediate east of 9 Hanna Avenue (Clause No. 6 of Toronto and East York Community Council Report No. 5, as adopted by City Council at its meeting held on June 14, 15 and 16, 2005).

ISSUE BACKGROUND

Access to 9 Hanna

The building at 9 Hanna Avenue currently houses three Toronto Police Services units that serve the entire City: (i) Traffic Services; (ii) Court Services; and (iii) Central Garage. The facility holds fuel reserves for TPS Divisions and acts as the sole prisoner transfer facility from TPS to Provincial custody and vice versa. The two storey building also contains the only vehicle examination bay in the City capable of accommodating TPS transport trucks. All of the Mobile Command Units are also held on-site as it is the only garage that has the height to store them.

Nine Hanna Avenue is a landlocked property that does not currently have any frontage on a municipal street. Access to the site from Hanna Avenue is currently provided through a 6 metre wide access easement registered on title to the adjacent property at 5 Hanna Avenue.

In 2003, when the City agreed to purchase 9 Hanna Avenue, it was anticipated that the site would eventually front onto the new local road extending from Dufferin Street to Strachan Avenue as part of the Front Street Extension. On January 28, 2009, City Council adopted a report to amend the Official Plan to delete the reference to Front Street West between Bathurst Street and the F.G. Gardiner Expressway, essentially eliminating any plans for the Front Street Extension, as well as any funds set aside for the extension and local road. While an Environmental Assessment is still underway to determine potential routes for a local road, any future road is viewed as a long term plan.

The existing 6 metre wide access easement does not satisfy the needs of TPS. Although the 6 metre wide route is adequate to provide ingress to the lands, there is insufficient space on the TPS site for the numerous large vehicles to turn around and exit via the same 6 metre wide route. As a result, TPS vehicles have been backing into the commercial parking lot on 5 Hanna to turn the trucks around without any formal agreement in place with the property owner. However, the design of the proposed condominium development for 5 Hanna does not allow for a widening of the access route and it eliminates any space on the site for TPS vehicles to turn around. TPS advises that large vehicles, such as a fuel tanker truck, would not be able to safely back out the entire length of the 6 metre wide access route to exit onto Hanna Avenue. As part of the Committee of Adjustment approval for the 5 Hanna Avenue condominium, the 6 metre wide access route will be conveyed to the City.

Given that any future local road is part of a long term vision for the area and that the owner of 5 Hanna wishes to commence construction of the condominium development sometime within this year, TPS is facing a scenario where the vehicles that need to enter

and exit the facility at 9 Hanna will not be able to do so. Therefore, an additional means of access is required.

The 9 Hanna site includes a 6 metre wide strip of land that extends southerly from East Liberty Street down the east side of the building (the “9 Hanna East Strip”). This strip of land cannot currently be used for access purposes given its existing physical condition and the number of surface and sub-surface easements and restrictive covenants that prohibit the City from altering the grade, surface treatment, curbs, etc. of the strip without the prior written consent of the owner of these lands, King West Centre (II) Corp. and the owners of certain other adjoining lands, Toronto Hanna Properties Limited and GT Fiber Services Inc. The covenants also restrict the use of the strip solely for a private access drive for the future condominium approved for 65-85 East Liberty Street.

In addition to the above legal issues, there are also certain practical issues that are currently being investigated. First, engineering consultants have been asked to determine whether the existing cap over the underground fuel tank in front of the 9 Hanna building is strong enough to support the weight of the TPS vehicles that would need to drive over it to exit via the 9 Hanna East Strip. If the existing cap is not sufficient, the cost to reconstruct the cap will have to be calculated and funds will have to be allocated for that purpose. Secondly, turning movement diagrams are being prepared to determine whether there is sufficient room on the south-east side of the property for TPS vehicles to make the turn north to exit the property via the 9 Hanna East Strip. If TPS vehicles cannot make the turn on the land the City currently owns, the City would have to negotiate with the adjoining property owner, Toronto Hanna Properties Limited, for additional land or easements, as may be required.

5 Hanna

This site has been operating as a temporary surface commercial parking lot since approximately 2000.

A site plan application was submitted to the City on December 28, 2009 and is currently under review by the appropriate City Divisions. The applicants have expressed a strong interest to begin the excavation and shoring for the underground garage in the spring or summer of this year.

Through discussions with the applicant, a number of issues related to the access easement and its conveyance to the City and dedication as a public lane have been identified.

To maximize the developable area of the site, the owner of 5 Hanna has asked the City to agree to the temporary narrowing and the permanent realignment of part of the existing 6 metre wide access easement. City staff, together with TPS staff, are in the process of evaluating this proposal to ensure it will meet the requirements of TPS. In the meantime, the owner of 5 Hanna has confirmed that it is willing to convey title to the realigned access route to the City for public lane purposes, as required by the 2008 Committee of Adjustment decision. However, the matter of the environmental condition of these lands and the standard to which they must be constructed as a lane remain outstanding issues.

As part of the 2005 rezoning application for 5 Hanna, a Phase 1 Environmental Site Assessment was conducted to determine the level of contamination that exists on the lands. The report concluded that, given the industrial legacy of the site, there has been sufficient contamination of the lands to require a clean up. Subsequently, in response to City staff's request for additional environmental information on the site, the owner submitted a Phase 2 Environmental Site Assessment ("ESA") dated 2005 and prepared by Terraprobe Limited. The Phase 2 ESA was forwarded to the City's peer review consultant, JSWL. JSWL indicated that the report soil and groundwater samples collected as part of the Phase 2 ESA exceeded the applicable Table 3 Site Condition Standards ("SCS") reflected in O. Reg. 153/04. The City's peer review consultant also noted that the report did not contain sufficient information to allow it to properly assess and evaluate the lands to be conveyed to the City. Accordingly, JSWL has reported to the City that unless demonstrated otherwise, it can be assumed that the lands to be conveyed to the City do not meet O. Reg. 153/04 Table 3 SCS. JSWL recommends that the site, including the lands to be conveyed to the City, be remediated to meet O. Reg. 153/04 Table 3 SCS, or alternatively, be risk assessed in accordance with the City's policies and conditions for accepting risk assessed lands set out in Clause No. 18 of Works Committee Report No. 2, as adopted by City Council at its meeting on April 25, 26, and 27, 2006.

The excavation of the 3 storey below grade parking structure should eliminate any on-site contamination within the excavated area, making the suites safe for live-work use. In accordance with usual practice, City staff will require the owner to provide appropriate certification to confirm that this is the case. However, because the majority of the 6 metre wide strip of land to be conveyed to the City does not need to be excavated for development purposes, it is the owner's position that it should not be required to remediate these lands prior to conveyance to the City in accordance with the City's policy, "Development Review Process: Harmonized Site Remediation Peer Review for Contaminated Sites" (Clause No. 5 of Works Committee Report No. 7, as adopted by City Council at its meeting on June 20, 21 and 22, 2002, updated by Clause No. 7 of Works Committee Report No. 10, as adopted by City Council at its meeting on November 30, December 1 and 2, 2004).

It is the position of the 5 Hanna Avenue owner that the remediation of the lands prior to conveyance to the City was not part of the Committee of Adjustment decision. City staff maintain that as it is Council directed policy that the City not accept any lands that are contaminated and that the condition imposed by the Committee of Adjustment decision, as requested by the City, requires that the conveyance of lands for a local laneway system includes the standard requirement that the lands be remediated before they are conveyed to the City. The 5 Hanna owner should, therefore be required to comply with this requirement. The excavation and shoring permits for the site cannot be issued until a Section 45(9) Agreement has been entered into for these items as was required by the 2008 Committee of Adjustment decision.

The owner of 5 Hanna Avenue has also taken the position that beyond grading the laneway lands towards the existing catch basins on the 5 Hanna site, paving the surface

with asphalt and providing a degree of illumination, the owner should not be required to perform any other work on the laneway lands. City of Toronto public lane standards require that any laneway be constructed with a concrete base of sufficient thickness to accommodate the weight of vehicles expected to use the laneway. As the Committee of Adjustment decision clearly states that the applicant is required to construct the laneway lands to City of Toronto public lane standards, the 5 Hanna owner should also be required to comply with this requirement.

65-85 East Liberty Street

The site, referred to as Block 2B/11A in King Liberty Village, is currently under Site Plan review for three condominium towers, two 23 storeys in height and one 24 storeys in height. The three towers will be connected by a common podium structure having townhouse units located at the ground level along each elevation. The building will also provide four levels of underground parking, with entrances to the garage located on both the east and west facades.

The plans for this site provide for access to the garbage/loading facilities and underground garage proposed on the west side of the building by way of the site's existing access easement over the 9 Hanna East Strip. However, before the new access route can be constructed, the City must obtain the written consent of Toronto Hanna Properties Limited and GT Fiber Services Inc. to the proposed changes to the grade, surface treatment, etc. of the proposed new road.

COMMENTS

In order to create a public lane system to the east and west of 9 Hanna Avenue, the following issues must be addressed:

- (1) the City must acquire title to the existing or realigned 6 metre wide access route from the owner of 5 Hanna Avenue, free of encumbrances and remediated in accordance with the City's Harmonized Site Remediation Peer Review policy, as a condition of development approval;
- (2) a determination must be made as to whether the existing cap over the underground oil tanks in front of the 9 Hanna building is sufficient to support the weight of TPS vehicles and if it is not, what it would cost to reconstruct the cap;
- (3) a determination must be made as to whether there is sufficient room on the south-east side of 9 Hanna for TPS vehicles to make the turn north to exit the property via the 9 Hanna East Strip and if there is not, the City must negotiate with the adjoining property owner, Toronto Hanna Properties Limited, for the acquisition of additional land or easements, as may be necessary;
- (4) the City must obtain a release of the restrictive covenant that is currently registered on title to the 9 Hanna East Strip that restricts the use of these lands solely for the purpose of a private access drive for 9 Hanna; and

- (5) the City must obtain a release of the surface and sub-surface easements that are currently registered on title to the 9 Hanna East Strip.

It is the position of staff that the City not accept the realigned 6 metre wide access route to be conveyed by the owner of 5 Hanna Avenue until the lands have been remediated to acceptable City standards.

Discussions are underway with the necessary groups party to the restrictive covenants and easements registered over the 9 Hanna East Strip. The involved parties have expressed a willingness to co-operate. Staff anticipates a resolution of these items in the next couple of months.

City staff continue to work with Toronto Police Services to determine the turning requirements of the vehicles accessing the site and whether the existing cap over the underground oil tanks is capable of supporting the weight of such vehicles.

It is recommended that staff be directed to proceed with the investigations and negotiations outlined above and report back to the Toronto and East York Community Council by June 22, 2010.

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SIGNATURE

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ATTACHMENTS

Attachment 1: Site Map

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