



**STAFF REPORT
ACTION REQUIRED**

Closing the Existing Pedestrian Connection at the south limit of Windsor Road

Date:	October 14, 2011
To:	Etobicoke York Community Council
From:	Acting Director, Transportation Services – Etobicoke York District
Wards:	Ward 2 - Etobicoke North
Reference Number:	p:\2011\Cluster B\TRA\EtobicokeYork\eycc110153-tp

SUMMARY

The existing high-rise residential condominium buildings at 320-390 Dixon Road visually appear to have frontage along the entire south limit of Windsor Road. While this property frontage is currently fenced, there is an opening in the existing 1.8m high chain link fence that allows pedestrian access from the condominium buildings to Windsor Road. Approximately 500 pedestrians use this connection every weekday between 7 a.m. and 7 p.m.

Windsor Road residents have asked the Ward Councillor to close this pedestrian connection due to concerns over crime and vandalism.

A recent title search found that a 0.305m wide strip of privately-owned land (also referred to as a “one foot reserve”), is situated immediately south of the Windsor Road right-of-way, extending across the entire width of the south limit of Windsor Road. Accordingly, the condominium buildings at 320-390 Dixon Road do not actually have frontage along the south limit of Windsor Road. None of the surrounding owners has registered title to this 0.305m reserve or a registered easement over it. Registry Office records indicate that the reserve is still owned by the same individuals who purchased it as part of a larger site in 1939, and subdivided the site in 1949.

Staff has been unable to find any evidence registered on title to suggest that the owners of the 0.305m reserve ever granted an easement to the adjoining properties to the south at 320-390 Dixon Road to permit vehicle or pedestrian access to Windsor Road or that the owners of the properties to the south have otherwise acquired a right to use the reserve to gain access to Windsor Road. Consequently, while this pedestrian connection has been in existence for many years, it appears that the presence of the 0.305m private reserve prohibits legal access to Windsor Road from 320-390 Dixon Road. Although the owners of the reserve do continue to have legal access to Windsor Road, it is unlikely that they will object to the closure given that they no longer own any of the lands adjoining the reserve. Accordingly, Transportation Services staff suggests closing this existing pedestrian connection to address the crime and security concerns expressed by Windsor Road residents

It should be noted, however, that if the owners of the 0.305m reserve do come forward and object to the closure and/or if the owners of the properties to the south produce satisfactory evidence that they have acquired a legal right to cross the reserve to access Windsor Road, then the City will either have to re-open the pedestrian connection or take formal steps to permanently close part of Windsor Road, at its south terminus, to legally prohibit access between Windsor Road and the properties to the south.

Transportation Services staff has no way of directly contacting the owners of the adjoining 0.305m reserve, given that these individuals acquired the property in 1939, and there have been no registered dealings with the property since registration of the 1949 plan of subdivision.

This matter is scheduled as a deputation item. Public notice regarding the proposal to close this pedestrian connection has been placed on the City's website and on the existing fence at this location.

If City Council decides that this pedestrian connection should remain open, then Transportation Services staff recommends that the Director of Real Estate Services be requested to report back to City Council on the steps and costs to acquire the one foot reserve adjoining the south limit of Windsor Road and York Road.

RECOMMENDATIONS

It is recommended that:

1. City Council close the existing pedestrian connection at the south limit of Windsor Road, the Acting Director of Transportation Services be authorized and directed to install a chain link fence 1.8 metres in height across the opening in the existing fence.

OR

2. City Council maintain the existing pedestrian connection at the south limit of Windsor Road, and the Director of Real Estate Services be requested to report back to Council, through the Government Management Committee, on the steps and costs to acquire, through expropriation if necessary, the privately-owned 0.305 metre reserves adjoining the south limit of Windsor Road and York Road, for dedication as part of Windsor Road and York Road.

Financial Impact

There are no financial impacts to the City that result from adopting this report, as sufficient funds exist in the Transportation Services Road Operations budget to close the opening in the existing chain link fence. Staff wishes to point out, however, that sufficient funds are not available in either the 2011 or 2012 operating budgets to replace the existing chain link fence with either a solid wood screen fence, masonry screen fence or noise wall.

PREVIOUS DECISION

At its meeting of October 4, 2011 (EY10.19), Etobicoke York Community Council adopted the following:

1. Requested the Acting Director, Transportation Services, Etobicoke York District, to report to the November 2, 2011 meeting of Etobicoke York Community Council on closing the existing pedestrian connection at the south limit of Windsor Road.

COMMENTS

There is an existing pedestrian connection to Windsor Road from the high-rise residential condominium buildings at 320-390 Dixon Road. This connection appears to have been in existence since these buildings were built in the 1970s. The subject properties do not have frontage along the south limit of Windsor Road as there is a 0.305m wide strip of privately-owned land that separates the condominium property from the south limit of Windsor Road.

Dixon Park is located directly south of Windsor Road, separated from the south limit of Windsor Road by the 0.305m wide strip of private land and a private driveway that leads to 320-390 Dixon Road. Attachments 1 and 2 provide photographs of the subject site.

A pedestrian count done on September 30, 2010, found that approximately 500 pedestrians, more than two-thirds of whom are children and youths under the age of 13, use this connection on typical weekdays between 7:00 a.m. and 7:00 p.m., evidently to take access to the schools located to the north.

Windsor Road residents maintain that the presence of this pedestrian connection aggravates crime and vandalism in the area, and have asked the Ward Councillor to have it closed. On September 30, 2011, Councillor Doug Ford held a community meeting on this issue at St Maurice Separate School. About 80 people attended, all of whom were residents of either Windsor Road or the area to the north of 320-390 Dixon Road, and all favour closing this connection.

In response to this request, Councillor Ford asked Etobicoke York Community Council to request that the Acting Director of Transportation Services report back on this issue at the November 2, 2011, Etobicoke York Community Council meeting.

In considering this request, Transportation Services staff asked the Surveys and Mapping Section to search title to this section of Windsor Road and the adjoining properties to determine if there are any legal encumbrances preventing vehicle or pedestrian access from 320-390 Dixon Road to Windsor Road.

Surveys and Mapping found a 0.305m wide strip of privately-owned land adjoining the south limit of Windsor Road. According to Surveys and Mapping, previous assessment information from the former Township of Etobicoke did not identify the existence of this reserve. A similar reserve, also privately-owned by the same individuals who own the Windsor Road reserve exists at the south limit of York Road, one block east of Windsor Road.

“One foot reserves” are a form of access control, most often employed by municipalities, to prohibit vehicle and pedestrian access to a public street. Typically, reserves are conveyed to the municipality when a plan of subdivision is registered, so that the municipality can control access to the adjoining public street.

In this particular case, the 0.305m reserves are shown on the original 1949 plan of subdivision for the area north of 320-390 Dixon Road, but were never conveyed to the municipality. Registry Office records indicate that the reserves are still owned by the same individuals who purchased the site in 1939 and subdivided it in 1949. It would appear that the purpose of the reserves was to both prohibit the southerly extension of Windsor Road and York Road, and alternatively, to prohibit access to Windsor Road and York Road from the properties to the south.

Where the York Road issue differs from Windsor Road is that there is both pedestrian and vehicle access from the properties to the south to York Road. Prohibiting vehicle and pedestrian traffic to York Road from the south will have a serious impact on access to St. Maurice Catholic School at 45 Kingsview Boulevard as well as to Kingsview Village Community School on York Road. The York Road vehicle and pedestrian connection has existed for many years and will become even more important if the Windsor Road pedestrian connection is closed.

It is not known at this time if the registered owners of the reserves are still alive, or if they are deceased, who has inherited their property. But without evidence that the owners of the 0.305m reserve, or evidence to establish that the owners to the south have otherwise acquired a legal right to cross the reserves, legal access to Windsor Road and York Road from the properties to the south does not exist. No such evidence has been found on title. Although the owners of the reserve do continue to have legal access to Windsor Road, it is unlikely they will object to the closure, if these persons can even be found, given that they no longer own any of the lands adjoining the reserve.

Accordingly, to address the crime and security concerns expressed by Windsor Road residents, Transportation Services staff suggests closing the existing pedestrian connection to Windsor Road. Pedestrians from 320-390 Dixon Road who currently use the Windsor Road link will have to divert to Kipling Avenue, Chetta Place or Islington Avenue to gain access to the areas north of the site. This will result in a substantial increase in walk times for these residents, as well as for residents using Dixon Park.

It should be noted, however, that if the owners of the 0.305m reserve do come forward and object to the closure, and/or if the owners of the properties to the south produce satisfactory evidence that they have acquired a legal right to cross the reserve to access Windsor Road, then the City will either have to re-open the pedestrian connection or take formal steps to permanently close part of Windsor Road at its south terminus to legally prohibit access between Windsor Road and the properties to the south.

In view of the fact that closing this connection will impact a significant number of pedestrians, this issue has been scheduled as a deputation item and public notice about the proposed closing has been placed on the City's website, as well as on the existing fence at this location.

Transportation Services staff has no way of directly contacting the owners of the adjoining 0.305m reserve, given that these individuals acquired the property in 1939 and there have been no registered dealings with the property since the 1949 plan of subdivision was registered. Given the passage of time, ownership of the reserve has most likely passed to the heirs of the original owners, who are unknown at this time. Vehicle and pedestrian access from the south to York Road should, however, remain as it currently exists

In view of the fact that closing the Windsor Road pedestrian connection will have a significant impact on the mobility of residents in the area, if Council wishes to keep the pedestrian connection to Windsor Road open, Transportation Services staff recommends that the Director of Real Estate Services be requested to report back to Council on the necessary steps and costs that would be involved for the City to acquire, through expropriation if necessary, the privately-owned one foot reserve adjoining the south limit of Windsor Road, for dedication as part of Windsor Road.

CONTACT

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SIGNATURE

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ATTACHMENTS

Attachment 1: Photograph
Attachment 2: Arial Photograph