

**Supplementary Report - 130 & 150 Cherry Street
Site Plan Control Application**

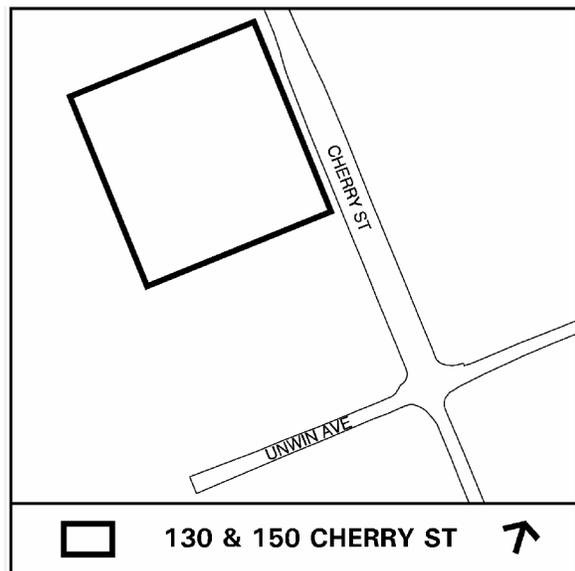
Date:	January 28, 2009
To:	City Council
From:	Chief Planner and Executive Director, City Planning Division
Wards:	Ward 30 – Toronto-Danforth
Reference Number:	07-286170 STE 30 SA

SUMMARY

At its January 13, 2009 meeting, Toronto and East York Community Council recommended that City Council approve, in principle, subject to any required revisions and resubmission of information as outlined in the conditions set out in Attachment No. 7 of the report, the proposal for dockwall uses, a one-storey office/waiting area and a parking lot at 130 and 150 Cherry Street and recommended that City Council grant the Chief Planner and Executive Director, or his designate, the authority to issue Site Plan Approval.

Community Council also requested that appropriate staff review the pre-approval conditions related to the road widening conveyance of the TEDCO lands to determine if these conditions can be revised to allow the RCYC development to proceed in advance of the conveyance of the TEDCO lands while assuring the City's interests in securing the widening are maintained. Staff were requested to report directly City Council.

Based on this review by staff, the report recommends that the pre-approval conditions related to the road widening conveyance be removed from Site Plan Approval and secured through a separate



Undertaking between the City of Toronto and TEDCO. This approach will help expedite the relocation of RCYC from the East Bayfront lands to 130 & 150 Cherry Street and allow the RCYC development to proceed separate from the road widening conveyance.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council amend Toronto East York Community Council Recommendation to remove pre-conditions 5, 6, 7, 8, 9, 10, 11, 12 and 13 as outlined in Attachment No. 1 of the report, dated December 15, 2008, from the Acting Director of Community Planning, Toronto and East York and approve in principle, the proposal for dockwall uses, a one-storey office/waiting area and a parking lot at 130 & 150 Cherry Street substantially in accordance with the amended conditions (Attachment No. 1 of this report).
2. City Council direct City Planning and City Legal staff to draft and enter into an Undertaking with TEDCO which will contain conditions and requirements substantially in accordance with the conditions outlined in Attachment 2.
3. City Council direct City Planning staff to work further with RCYC to refine the proposed one-storey building to the satisfaction of City Planning and to amend the necessary drawings as listed on the draft Notice of Approval Conditions. (See Attachment No. 1).
4. City Council grant the Chief Planner and Executive Director, or his designate, the authority to issue Site Plan Approval in accordance with the amended draft Notice of Approval Conditions (See Attachment 1).
5. City Council grant TEDCO up to two years from the date of Site Plan Approval to satisfy the execution and completion of all Ministry and Toronto City Council approved environmental policies related to land conveyance for 4.76 metre wide strip of land abutting the west limit of Cherry Street, for road widening purposes, as described as PART 7 on the draft Reference Plan of Survey stamped received by City Planning staff on July 17, 2008. In this particular case, the owner has elected to proceed using the risk assessment and risk management process approved by Council in 2006 for the use of Risk Assessment methodology for the conveyance of land to the City.
6. City Council require a financial security from TEDCO for all of the costs associated with the risk assessed and risk management process for PART 7. The amount of the security will be determined following the submission and review of the Phase 1 and 2 Environmental Site Assessment reports, and the Risk Assessment report to the City for Peer Review to the satisfaction of the Executive Director, Technical Services.

7. City Council require that TEDCO will arrange for the risk assessment and risk management of the 4.76 metre wide strip of land abutting the west side of Cherry Street, as identified as PART 7 on the draft Reference Plan of Survey stamped received by City Planning staff on July 17, 2008 to the standard as determined by the City of Toronto and the Ministry of Environment and shall thereafter convey such land to the City of Toronto free of all encumbrances for eventual dedication for highway purposes. This will be secured through an undertaking. (See Attachment No. 2).

Financial Impact

The recommendations in this report have no financial impact.

BACKGROUND

Currently, the Royal Canadian Yacht Club (RCYC) operates their City Station facility to their club on Toronto Island in part on lands leased from TEDCO at the Parliament Street Slip. In order to facilitate development in the East Bayfront lands, it is necessary for RCYC to relocate their City Station facility from the East Bayfront to another waterfront site.

As such, the RCYC organization has entered into a lease agreement with both the Toronto Port Authority and the Toronto Economic Development Corporation for the lands at 130 & 150 Cherry Street for their relocation. RCYC filed a Site Plan Control application on December 17, 2007.

COMMENTS

ISSUE

In order to advance the Central Waterfront Plan (CWP) and the East Bayfront Precinct Plan for development, RCYC has to move from their present location in East Bayfront to their new location at 130 & 150 Cherry Street. RCYC has worked with TEDCO and Toronto Port Authority (TPA) to find this new location. A lease arrangement has been made between RCYC, TEDCO and TPA for the Cherry Street property to allow development to proceed.

RCYC has appealed the Central Waterfront Secondary Plan as adopted by City Council as OPA No. 257, on a site specific basis. In order to facilitate the hearing process, staff have included Pre-condition No. 5 in the draft Notice of Approval Conditions (See Attachment No. 1) for RCYC to withdraw their appeal on the Central Waterfront Secondary Plan.

The proposal is for an RCYC City Station facility. The uses include a parking lot, a small one-storey office/waiting area building, boat storage, dockwall uses such as a boat launch, and a pedestrian walkway for public access through the site.

Cherry Street is an important street for transit, pedestrians, cyclists and other vehicles in the development of the Port Lands. It has been determined through staff review of the site plan application that a road widening of 4.76 metres abutting the west limit of Cherry

Street, as described as PART 7 on the draft Reference Plan of Survey is required and would conform with the Official Plan policy for Cherry Street. The conveyance of the PART 7 road widening had been requested as a draft Notice of Approval Condition pre-condition.

The City's policy with respect to a land conveyance is that all necessary conveyances must be completed prior to the granting of Site Plan Approval and that the soil must first be determined to be 'clean' according to the permitted use before conveyance. In this case, the land must be 'clean' to the standard for Industrial zoned lands.

TEDCO has begun the process of conducting environmental site assessment. Currently, TEDCO is preparing the required Phase 1 & 2 Environmental Site Assessment reports as well as the Risk Assessment report for the site to submit to the City for Peer Review.

Staff have considered an option for RCYC to apply for a Conditional Building permit in order for them to proceed with development of their one-storey structure while conditions of the draft Notice of Approval are being satisfied. However, it has been realized that since the structure proposed is modest in size and design, that the construction and completion of the building may out pace satisfaction of conditions including the land conveyance. Therefore, they would not be able to receive a final building permit in time to render the site operational.

City staff have been advised by the solicitor from TEDCO that the lease arrangements with RCYC would not permit inclusion of conditions in the site plan approval that would not be fulfilled by RCYC itself.

Therefore, staff have determined, through discussions with TEDCO, that in order to advance development in the East Bayfront Precinct by relocating RCYC to Cherry Street, and to have RCYC operational in the near future, that pre-conditions relating to the environmental site assessment and remediation should be removed, and the City and TEDCO should enter into a separate Undertaking to secure the road widening. Since the recommendation is to move this from a site plan pre-condition to a separate undertaking, staff consider it reasonable to set a two year period, from the date of the Site Plan Approval, to satisfy all of the environmental post conditions. This is the standard time given to fulfill pre-approval conditions.

Conclusion

Staff have met with RCYC, TEDCO and the Councillor to achieve a resolution which would enable the RCYC to relocate their activities from the East Bayfront lands to 130 & 150 Cherry Street and be operational sooner, rather than later, while the appropriate risk assessment and risk management processes will continue to the City's and the Ministry of the Environment's requirements.

Staff do not see the proposed method for securing this land conveyance as a typical circumstance. It is acceptable in this instance in order to advance in the East Bayfront Precinct and to secure the withdrawal of a Central Waterfront Secondary Plan appeal.

Staff are satisfied with the revisions to the draft Notice of Approval Conditions and the proposed Undertaking therefore, Site Plan Application No. 07 286170 STE 30 SA for 130 & 150 Cherry Street should be approved.

CONTACT

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SIGNATURE

Gary Wright
Chief Planner and Executive Director
City Planning Division

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ATTACHMENTS

Attachment 1: Notice of Approval Conditions
Attachment 2: Draft Conditions – Undertaking between the City of Toronto and TEDCO

Attachment 1: Draft Notice of Approval Conditions

Scott Burns Planning Consultants
 330 Bay Street, Suite 802
 Toronto, Ontario
 M5H 2S8

Re: **Draft Notice of Approval Conditions**
Site Plan Control Application No. 07-286170 STE 30 SA
 130 & 150 Cherry Street
 PL 675 E PT BLOCK B
 Ward 30 – Toronto-Danforth

The City Planning Division Toronto and East York District, has completed the review of your proposal for a 1-storey office/waiting area building, dockwall uses and a parking lot as outlined in the following plans and drawings:

Plan No.:	Plan Title:	Date Stamped by the City Planning Division:	Prepared By:
L-0	Tree Protection/Removal Plan	July 8, 2008	ENVISION - the hough group
L-1	Site Plan	October 31, 2008	ENVISION - the hough group
L-2	Landscape Plan	October 9, 2008	ENVISION – the hough group
L-3	Details	October 9, 2008	ENVISION – the hough group
L-4	Details	October 9, 2008	ENVISION – the hough group
E-1	Site Lighting Plan	October 9, 2008	ENVISION – the hough group
A001	Floor & Elevation Plan	October 15, 2008	RDI – Ramp Design Inc.

The issuance of the City’s Notice of Approval Conditions letter does not constitute site plan approval. The Chief Planner’s designate, the Director of Community Planning will be in a position to issue approval of the plans and drawings listed herein and to satisfy applicable law requirements of Section 41(16) of the *Planning Act* and Section 114 of the *City of Toronto Act*, once the Owner has satisfied all of the pre-approval conditions set out herein.

It is the Owner’s responsibility to work with the respective City divisions to satisfy the pre-approval conditions set out below. Please note that if the pre-approval conditions are not fulfilled within two (2) years of the date of this notice, then this notice is no longer

valid and a new submission is required unless a written request for time extension is received and granted by the Chief Planner or his designate.

A. PRE-APPROVAL CONDITIONS

LEGAL SERVICES – Stephanie Morrow, Phone: 416-397-5379

1. The owner shall enter into the City’s standard site plan agreement to and including registration of the site plan agreement on title to the subject lands by the City at the Owner’s expense.

URBAN FORESTRY – Jetmir Balashi, Phone: 416-392-0967

2. The owner shall provide tree removal payment in the form of a certified cheque or money order payable to Treasurer, City of Toronto, in the amount of \$2,332.00 to cover the appraised tree value, and set fees of City owned trees to be removed as part of this project. This tree removal payment must be submitted to the attention of the Supervisor of Urban Forestry, Tree Protection & Plan Review.
3. The owner shall provide a tree protection security deposit in the form of an irrevocable Letter of Credit or certified cheque payable to Treasurer, City of Toronto, in the amount of \$1,166.00 to cover the appraised tree value, removal and replacement costs of two (2) City owned trees. This deposit shall be drawn upon to cover all costs incurred by the City of Toronto if the City owned trees require maintenance or removal and replacement as a result of construction activities associated with this project.

CITY PLANNING – Diane Silver, Phone: 416-397-4648

4. The owner shall submit financial security in the amount of \$407,463.21 to the Director, Community Planning, Toronto & East York District in the form a Letter of Credit or certified cheque to guarantee the provision of landscape development works as detailed on the approved Landscape Plans.
5. The owner shall ensure that RCYC provide an undertaking to the City Solicitor to withdraw their appeal of the Central Waterfront Secondary Plan, OPA No. 257.

TECHNICAL SERVICES – Ana Maria Luciani, Phone: 416-392-3986

6. The owner shall provide clearance from the Toronto Port Authority and the Ministry of the Environment that their requirements have been satisfied for the proposed storm water management facilities on site and the storm outlet to Lake Ontario.
7. The owner shall provide documentation from Toronto Buildings that they are willing to accept the use of a sanitary holding tank for this development.

8. The owner shall provide certification to the Executive Director of Technical Services by the Professional Engineer who designed and supervised the construction that the stormwater management facilities and site grading have been constructed in accordance with the accepted Functional Servicing Report and the accepted Grading Plans.

B. POST APPROVAL CONDITIONS

In addition to the above pre-approval conditions, the following post approval conditions are to be fulfilled by the Owner following site plan approval and will be incorporated into a site plan agreement:

9. The proposed development shall be carried out and maintained in accordance with the plans and drawings referred to herein, to the satisfaction of the City of Toronto.

URBAN FORESTRY

10. The owner shall protect at all times the two (2) City right-of-way trees, located on the adjacent property to the south in accordance with the City of Toronto's 'Tree Protection Policy and Specifications for Construction Near Trees' and to the satisfaction of the General Manager of Parks, Forestry & Recreation.
11. Prior to any construction related or grading activities taking place, tree protection barriers shall be installed for the subject trees. Such barriers must be installed to the satisfaction of Urban Forestry, Tree Protection & Plan Review on behalf of the General Manager of Parks, Forestry & Recreation.
12. Prior to the issuance of a Landscape Permit (by Transportation Services, Right-of-Way Management), the owner shall provide a tree planting security deposit in the form of an irrevocable Letter of Credit or certified cheque payable to the Treasurer, City of Toronto, in the amount of \$11077.00 (\$583.00 per tree, subject to change) for new tree planting within the City Road allowance. The tree planting security deposit must be submitted to the attention of the Supervisor of Urban Forestry, Tree Protection & Plan Review. The deposit will be drawn upon to cover all costs incurred by the City of Toronto in enforcing and ensuring that the trees are planted and kept in a healthy and vigorous state during the two-year guarantee period.

TECHNICAL SERVICES

13. The owner shall remove all existing accesses, curb cuts, traffic control signs etc. along the development site frontage that are no longer required and restore the Cherry Street Boulevard and curb to City of Toronto standards.

14. The owner shall retain a private refuse collection firm to collect the refuse and recyclable materials generated by this development and store all refuse on private property.
15. The owner shall construct and maintain stormwater management measures/facilities and site grading as recommended in the Functional Servicing Report when such report is accepted by the Executive Director, Technical Services.
16. The owner shall construct and maintain site servicing indicated on the accepted site servicing plan, as accepted by the Executive Director, Technical Services.
17. The owner shall provide certification to the Executive Director of Technical Services by the Professional Engineer who designed and supervised the construction that the stormwater management facilities and site grading have been constructed in accordance with the accepted Functional Servicing Report and the accepted Grading Plans.

SITE PLAN ADVISORY COMMENTS

The owner is advised that the following approvals and/or permits are required for this development:

Urban Forestry

18. A completed Agreement for Contractors to Perform Arboricultural Services on City Owned Street Trees is required prior to removal and stumping of City owned trees. Utility locates must be obtained prior to the work commencing.
19. Where it is not possible to retain a tree on City road allowance that qualifies for protection under the City of Toronto's Street Tree By-law, it will be necessary for the applicant to submit an application requesting permission to remove the tree in question to Urban Forestry. There is a fee of \$300 for each tree included in an application. Payment may be made by certified cheque or money order, and must be submitted with the application. Urban Forestry requires the approval of the Ward Councillor to permit the removal of the existing City owned street trees. If approved, the applicant will be responsible for removing the trees and for the value and replacement costs associated with the trees.
20. Where it is not possible to retain a tree on private property that qualifies for protection under the City of Toronto's Private Tree By-law, or where construction activity will encroach upon a protected tree's minimum tree protection zone, it will be necessary for the applicant to submit an application requesting permission to injure or destroy the trees in question to Urban Forestry. There is a fee of \$300 for each tree included in an application. Payment may be made by certified cheque or money order, and must be submitted with the application.
21. The owner shall conduct an investigation of underground utilities prior to proposing new tree planting within the City road allowance. If planting is not possible due to a utility conflict, a utility locate information sheet from the respective utility company must be provided to the Supervisor of Urban Forestry, Tree Protection & Plan Review.
22. The applicant shall notify Jetmir Balashi, Urban Forestry, Assistant Planner, at 416-392-0967 to arrange for an inspection of the site and approval of aforementioned tree protection requirements. The owner must not proceed with any construction related or grading activities until clearance has been received from Urban Forestry that the tree protection barriers have been installed in accordance with the above noted plan.
23. Tree protection barriers must remain in place and in good condition during construction and must not be altered or moved. Established tree protection zones must not be used as construction access, storage or staging areas. Grade changes are not permitted within established tree protection zones. Tree protection

barriers may be removed once development and all site activities are complete and only when Urban Forestry has approved their removal.

24. The owner shall provide a two-year renewable guarantee for all new tree plantings within the City road allowance and shall notify the Supervisor of Urban Forestry, Tree Protection & Plan Review in writing, of the planting date prior to planting. This date is used to establish the anniversary date of the required two-year renewable guarantee.
25. The owner shall maintain all new tree plantings within the City road allowance in good condition. Trees will be inspected during and prior to the end of the renewable guarantee period. If the trees are in good condition at the end of the renewable guarantee period, the City will assume maintenance and ownership of the trees.
26. The owner shall be responsible for the maintenance or replacement of all new tree plantings within the City road allowance if during or at the end of the renewable guarantee period the trees are not in good condition, require maintenance or require replacement. The owner will be responsible for rectifying the problem as determined by and to the satisfaction of the General Manager of Parks, Forestry & Recreation.
27. The owner shall maintain all newly replanted trees within the City road allowance in good condition and shall provide an additional two-year renewable guarantee.

Technical Services

28. The owner is advised of the need to make separate application to the General Manager of Transportation Services for permits to carry out any works involving construction in, or occupancy of, the Cherry Street public right-of-way, as widened and enter into an encroachment agreement for the proposed retaining wall for the bioswale as may be required. For further information, the applicant should contact the Right of Way Management Section, Toronto and East York District, Construction Activities at 416-392-7877.
29. That a request has been initiated with the Real Estate Division for the transfer of ownership of the Cherry Street widening lands comprised of PART 8 of the Draft Reference Plan stamped received by City Planning staff as July 17, 2008, to the jurisdiction of Transportation Services and the necessary steps will be undertaken to dedicate these lands for public highway purposes.
30. Part 46 comprising a portion of Cherry Street adjacent the seawall is owned by The Toronto Port Authority. Therefore, Part 6 cannot be taken as a road widening under the Official Plan at this time. However, the owner must be advised that it may become required by the City in the future and therefore should be treated as such.

31. The owner will be required to make an application to the General Manager of Toronto Water for the installation of any proposed water services within the right-of-way after acceptance of the stormwater management report and site servicing plan. For further information, please contact Jeff Buchyns, District Operations, Toronto Water, Toronto and East York District at 416-392-7845.
32. The site is comprised of two properties and the owner will be required to apply for revised municipal numbering prior to filling an application for a building permit.
33. As established by Toronto By-law, Chapter 880, it is required that an approved fire access route be provided, and an application for which must be submitted to Toronto Fire services prior to occupancy.

Toronto Transit Services

34. The owner be advised that noise, vibration, electro-magnetic interference (EMI), and stray current may be transmitted by our futures transit operations into the proposed building(s). The Commission will not accept responsibility for such effects on any building(s) and/or its occupants. Therefore, the owner is advised to apply attenuation measures so that the levels of noise, vibration, EMI, and stray current in the proposed development will be at the lowest levels technically feasible. The owner is advised to inform prospective purchasers or lessees, through a clause in the purchase or rental agreement, of the potential for noise, vibration, EMI and stray current, and the TTC accepts no responsibility for any such effects.

Toronto Port Authority

35. The owner be advised that the Toronto Port Authority will not allow trees to be planted on the western property line fence of the subject site due to requirements under the ISPS Code (International Ship and Port Security Code). Trees close to the fence will cause potential security issues.

Attachment 2

Draft Conditions - Undertaking between the City of Toronto and TEDCO

1. The owner shall prepare all documents and subject to the satisfaction of conditions 4 to 8 convey to the City within 2 years from the date of Site Plan Approval, at nominal cost, a 4.76 m wide strip of land abutting the west limit of Cherry Street, in fee simple for road widening purposes, as more particularly described as PART 7 on the draft Reference Plan of Survey stamped received by City Planning staff on July 17, 2008, such lands to be free and clear of all physical and title encumbrances, and subject to a right-of-way for access in favour of the Grantor until such time as said lands have been dedicated as public highway, all to the satisfaction of the Executive Director of Technical Services and the City Solicitor.
2. The owner shall submit a draft Reference Plan of Survey, in metric units and integrated with the Ontario Co-ordinate System, showing the co-ordinate values of the main corners, and as a separate PART thereon the land to be conveyed to the City in accordance with Condition No. 1 above, and the lands to be transferred to the jurisdiction of Transportation Services for the purposes of widening Cherry Street, in accordance with Condition No. 29, as listed under the 'Site Plan Advisory Comments' heading to the Executive Director of Technical Services for review and approval, prior to depositing it in the Land Registry Office.
3. The owner shall pay all costs for registration and preparation of reference plan(s).
4. The owner shall retain, or cause to retain, a Qualified Person to conduct environmental site assessments for the lands to be conveyed to the City.
5. The owner shall submit, or cause to be submitted, all environmental site assessment reports (2 copies of each) prepared in accordance with the Record of Site Condition Regulation (O. Reg. 153/04) describing the current conditions of the land to be conveyed to the City and the proposed remedial action plan based on the site condition standards approach, to the Executive Director, Technical Services, for peer review.
6. The owner shall pay or caused to be paid all costs associated with the City retaining a third-party peer reviewer including a 7% administrative cost to the City, and submit a certified cheque payable to the City of Toronto in the amount of \$3,000.00, as an initial deposit towards the cost of the peer review to the Executive Director of Technical Services. Submit further deposits when requested to cover all costs of retaining a third-party peer reviewer.
7. At the completion of the site remediation process, the owner shall submit, or shall cause to be submitted, a Statement from the Qualified Person, to the Executive Director of Technical Services, for peer review and concurrence that, based on all necessary supporting environmental documents:

- a. The land to be conveyed to the City meets the Site Condition Standards of the intended land use OR the most environmentally sensitive adjacent land use, whichever is more stringent, and
 - b. it is unlikely that there is any off-site contamination resulting from past land uses on or in the vicinity of the development site, that has migrated on to the adjacent right-of-way, that would exceed the application Site Condition Standards.
8. The owner shall file, or cause to be filed, the Record of Site Condition (RSC) on the Ontario's Environmental Site Registry and submit the Ministry of the Environment's Letter of Acknowledgement of Filing of the Record of Site Condition (RSC) confirming that the RSC has been prepared and filed in accordance with O. Reg. 153/04, and that the MOE will not audit the RSC at this time or that the RSC has passed an MOE audit, to the Executive Director of Technical Services.