STAFF REPORT
ACTION REQUIRED

Revision to Timing for Completion of Park & Related Conveyances: K & G Oakburn Apartments I and II Limited; 1-12 Oakburn Crescent and 14-40 Oakburn Place

Date: March 3, 2011
To: North York Community Council
From: City Solicitor
Wards: Ward 23 - Willowdale
Reference Number: OPA & Rezoning Application 05 105152 NNY 23 OZ Subdivision Application 05 105158 NNY 23 SB

SUMMARY

This report proposes to adjust the timing for completion of Link Road 2 (which will travel across the northeast portion of the site linking Harrison Garden Boulevard/Oakburn Place to Oakburn Crescent) and for completion of the park and related land conveyances within this development project. The time-lines authorized by Council and the OMB decision are expressed as the earliest of three dates. This report substitutes fixed dates for the delivery of the road link and completed park, together with some flexibility for the applicant to respond to market conditions and to the phased construction schedule. Revisions to the road closure by-law are necessary to permit an earlier road closure so that work on the park can commence as soon as Link Road 2 is operational. These time-line adjustments necessitate revising the agreement of purchase and sale for the sale of the closed road.
RECOMMENDATIONS

The City Solicitor recommends that:

1. staff be authorized to amend the Phase 1 subdivision agreement to provide that Link Road 2 shall be designed and constructed to the satisfaction of the General Manager of Transportation Services and conveyed to the City no later than December 31, 2012;

2. staff be authorized to amend the Phase 1 subdivision agreement to provide that the central park to be installed on Blocks 8, 14 and 15 is no longer required to be completed prior to the release of the first plan of subdivision in Phase 2, but shall be completed one year after base course asphalt is installed on Link Road 2, but no later than December 31, 2013;

3. Council has no objections to the Chief Planner's intention to amend the conditions of draft plan of subdivision approval (relating to those phases for which a plan has not yet been registered) to reflect the above resolutions relating to the timing for completion of Link Road 2 and completion of the central park;

4. Council has no objections to the Chief Planner's intention to amend the conditions of draft plan of subdivision approval such that the timing of required land conveyances relating to the portions of Oakburn Place described as Parts 1 and 2 on Plan 66R-25308 is no longer linked to the date of completion of Link Road 2;

5. staff be authorized to introduce a bill in Council to amend By-law No. 1048-2007 to provide that the north-south portion of Oakburn Place, designated as Part 1 on Plan 66R-25308 be permanently closed as a public highway upon Link Road 2 being designed and constructed, deemed acceptable for public use by the General Manager of Transportation Services, transferred to the City and dedicated as public highway; and

6. the agreement of purchase and sale for the portions of Oakburn Place described as Parts 1 and 2 on Plan 66R-25308 be amended to require that the conveyance shall occur after Link Road 2 has been constructed, deemed acceptable for public use by the General Manager of Transportation Services, transferred to the City and dedicated as public highway and on the earlier of (a) release of the first plan of subdivision in Phase 2 or (b) the commencement of the 6th year after substantial performance in construction of rental Building E.

Financial Impact

The recommendations in this report have no financial impact.
DECISION HISTORY

City Council on February 5, 6, 7 and 8, 2007 provided the City Solicitor with authorization to settle the Municipal Board appeal relating to this development proposal (http://www.toronto.ca/legdocs/mmis/2007/cc/decisions/2007-02-05-cc02-dd.pdf).

The development project involves the redevelopment of the existing Oakburn Crescent and Oakburn Place lands. Upon completion, the project will replace approximately 286 rental units and will build-out to approximately 1,195 new residential units arranged into 5 towers ranging in height from 15-21 storeys, and multiple townhouse blocks. The phasing of the project is somewhat complex, and involves demolishing existing rental units as a new rental high-rise is constructed, construction of a new road from Harrison Gardens Boulevard on the west through the site to link to Oakburn Crescent on the northeast. Portions of existing Oakburn Place will be closed and will ultimately form part of a central park, in part, and part of the new link road in part.

At this point in time, a plan of subdivision has been registered for the western portion of the site. The rental replacement tower has been completed and the adjacent townhouses are under construction. Two proposed condominium towers on the southern portion of the site are nearing completion. The applicant anticipates occupancy of those buildings later in 2011.

In addition, a site plan application has been submitted for two additional towers on the eastern portion of the site. The applicant anticipates filing its proposed plan of subdivision for this area in the coming months. This would be the first plan within Phase 2.

COMMENTS

Parks Completion

Currently, the draft plan of subdivision approval and the subdivision agreement registered for a portion of the Phase 1 lands provide that the central park shall be completed on the earlier of three events. Those events are set out below, together with an estimate as to when each might occur and a comment on the impact of each event:

(a) before the commencement of the 6th year after substantial performance in construction of the rental Building E: That occurred in December, 2010. As a result, the park would have to be completed by December 2015. This was intended as the "outside" date when the park would have to be completed. However, the proposed resolutions advance the parks completion date by two years;

(b) 1 year after base course asphalt is installed on Link Road 2: The applicant is willing to commit to a deadline that this work will be accomplished by December 31, 2012. As a result, the park will be completed by December 31, 2013, two years ahead of schedule;
(c) prior to the release of the 1st plan of subdivision in Phase 2: The applicant proposes to replace this deadline with the fixed dates referenced in (b) above. Deleting this deadline gives the applicant flexibility to move forward immediately (depending on market conditions) with its 1st plan of subdivision in Phase 2 without having completed central park. If this deadline is not deleted, the applicant cannot even commence work on the central park (which includes park to be installed on a portion of the current Oakburn Place) until Link Road 2 is open to the public and Oakburn Place has been closed. This would potentially delay the applicant's next plan of subdivision until 2013.

In order for work on the new park to commence as soon as possible, staff seek authority to bring forward a bill to amend road closure By-law 1048-2007 to close the north-south portion of Oakburn Place at such time as Link Road 2, linking Harrison Gardens Boulevard to Oakburn Crescent, is operational to the satisfaction of the General Manager of Transportation Services in consultation with the Executive Director of Technical Services and is dedicated as a public highway.

Related Land Conveyances

Currently, the draft plan of subdivision approval and the subdivision agreement registered for a portion of the Phase 1 lands provide that required land conveyances relating to Block 15 of the central park (also described as Part 1 on Plan 66R-25308) and to Part 2 of the same plan relating to a portion of Oakburn Place, shall occur on the earlier of three events. Those events are set out below, together with an estimate as to when each might occur and a comment on the impact of each event:

(a) before the commencement of the 6th year after substantial performance in construction of the rental Building E: That occurred in December, 2010. As a result, the park conveyances would have to be completed by December 2015. This would remain as the "outside" date when these conveyances would occur. This outside date provides the applicant with some flexibility, should market conditions slow, to continue (as expressed in the current agreement and OMB decision) to defer this payment and its related section 37 density contributions until that time. In the event that the land conveyances are deferred, the City would nonetheless, by December 31, 2013 have a completed and operational park, in part, on the former Oakburn Place. The deferral would continue to relate to the payment, but not to the park completion;

(b) prior to the release of the 1st plan of subdivision in Phase 2, assuming that Link Road 2 is complete and is dedicated for public use: The applicant anticipates (subject to market conditions) that it will move forward with its next plan of subdivision through 2011-2012, which would trigger the requirement to complete the parks related land conveyances;

(c) 1 year after base course asphalt is installed on Link Road 2: This is the condition that the applicant wishes to delete. If the road is completed by December 2012, this condition would establish a fixed date for the land conveyances, thereby eliminating
flexibility in the event that market conditions or the further approvals process delays release of this plan until after December 2013. If this condition is deleted, the applicant might defer Phase 2 depending on market conditions, but would in any event be required to complete these conveyances by December 2015.

If Council adopts the recommendations in this report, the subdivision agreement registered for a portion of the Phase 1 lands on the west would be amended, the draft plan of approval conditions, which still apply to the balance of the lands would be revised and the agreement of purchase and sale for a portion of Oakburn Place would be amended. Staff are of the view that advancing the time line for completion of the Link Road and the park is beneficial to the City. Although a portion of the park will be constructed on part of the closed Oakburn Place, subsequent land conveyances involving this land will not be non-compliant with the Official Plan, since the land conveyances will result in equivalent parkland being provided to the City.

This report has been prepared in consultation with Community Planning, Technical Services, Transportation Services and Parks, Forestry and Recreation.

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SIGNATURE

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