SUMMARY

This report responds to the deferral and directive from Scarborough Community Council on its consideration of the January 26, 2011 Staff Report which was Item SC4.23 at Community Council's meeting on February 16, 2011.

In deferring the matter, Community Council asked the City Solicitor to report back to Community Council on what opportunities are available to ensure the City's position with respect to the development of this property is provided to potential purchasers.

RECOMMENDATIONS

The City Solicitor recommends that:

1. The recommendations in the Community Planning Staff Report, item SC4.23 from February 16, 2011 be adopted.
2. The Subdivision Agreement to be registered on title to the subject property include a warning clause to the satisfaction of the City of Solicitor notifying purchasers of erosion in the nearby Rouge Valley.

Financial Impact

The recommendations in this report have no financial impact.

ISSUE BACKGROUND

As outlined in the January 26, 2011 staff report, the lands were the subject of an Ontario Municipal Board (OMB) hearing for a five lot subdivision. The main issue between the City, the Toronto and Region Conservation Authority and the applicant was the setback of development from the long-term stable slope. Based on Geotechnical studies, the parties agreed on the location of the long-term stable slope line which runs along the rear of Lots 4 and 5. Despite the City and the TRCA's requirement for a 30 metre setback, the OMB Decision was that the 10 metre buffer was sufficient. The OMB further required slope stabilization measures and required the 10 metre buffer to be conveyed to the TRCA.

Following the OMB Decision, as part of an OMB settlement, the City was further able to negotiate draft plan of subdivision conditions with the applicant that included restorative plantings, fencing, erosion control methods, access and also a requirement that no additions or structures, including above and below ground swimming pools be permitted in Lots 4 and 5. Furthermore, the OMB approved amendments to the Scarborough Rouge Community Zoning By-law 15907 and the new City of Toronto Zoning By-law 1156-2010 that also prohibit accessory buildings or structures, including above and below ground swimming pools in the rear yards of Lots 4 and 5. Since these erosion control methods were part of the zoning amendments and will be part of the subdivision agreement, City Planning, TRCA and Legal Services staff agreed to bring forward a request to remove the residential lots from the provision of site plan control since no further benefit could be achieved through the site plan control process.

At its meeting of February 16, 2011, Scarborough Community Council deferred Item SC4.23 and referred the following motions for the City Solicitor to report back to the next meeting:

1. What opportunities are available to ensure the City's position with respect to the development of this property is provided to potential purchasers.

2. A requirement that, as a minimum, City Staff ensure new homeowners are provided with a letter outlining the OMB Decision and further outlining the City's position with respect to any erosion issues which may occur to the subject properties.
COMMENTS

Following the February 16, 2011 meeting of Scarborough Community Council, City Planning staff spoke with the applicant and they agreed that as part of the subdivision agreement to be registered on title, they would include a warning clause within that agreement, that will also reference the fact that the subdivision was approved by the Ontario Municipal Board.

Legal Services staff will work with the applicant to include a warning clause in the subdivision agreement to be registered on title to the property advising all future purchasers of the OMB's Decision, and that the City will not assume any responsibility or liability for erosion damage that may occur in this area. Staff further request that the recommendations contained in the Community Planning Staff Report, item SC4.23 from February 16, 2011 be adopted.

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SIGNATURE

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Anna Kinastowski, City Solicitor