Drainage problems related to lack of Site Plan Approvals for properties on Sheppard Ave East

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<tr>
<th>Date:</th>
<th>May 25, 2012</th>
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<td>To:</td>
<td>North York Community Council</td>
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<td>From:</td>
<td>Director of Toronto Building and Deputy Chief Building Official</td>
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<td>Wards:</td>
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<td>Reference Number:</td>
<td>File No. 2012NY008</td>
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SUMMARY

This report responds to the Memo from Councillor Filion dated April 13, 2012 and which was adopted at the April 17, 2012 meeting of the North York Community Council, and to the preliminary report received at the May 15, 2012 meeting of the North York Community Council as to how flooding occurred in the backyards of residential properties on Granlea Road due to failure by the City to obtain Site Plan Agreements for the abutting businesses on Sheppard Avenue East.

RECOMMENDATIONS

It is recommended that this report be received for information

Financial Impact
There are no financial implications resulting from the adoption of this report.

DECISION HISTORY
North York Community Council, at its meeting on April 27, 2012:

1. Requested a report from the Building Division, Planning Division and Municipal Licensing & Standards on how this situation occurred, why staff in the various Divisions were unable to find a solution, what solution they have
so that situations such as this do not reoccur and any action that can be taken by Community Council or City Council to assist in this matter and that the requested report be submitted for consideration by the North York Community Council at its meeting on May 15, 2012.

North York Community Council, at its meeting on May 15, 2012:

1. Received the preliminary report submitted by Toronto Building dated April 26, 2012

**ISSUE BACKGROUND**

**317 Sheppard Ave East**
- The building located on this property was originally constructed as a Single Family Dwelling (SFD).
- Records show that there was an MLS complaint received in 2004 indicating that the property was being used for a business, however, inspection at that time concluded that the property was not being used for a business.
- The use appears to have been changed to commercial use in 2008 without the benefit of a Building Permit for change of use.
- The veterinary clinic has been occupying the premises since 2009.

**Other addresses on Sheppard Ave East**
While the issue of flooding seems to be centred around No. 317 Sheppard Ave East and 18 Granlea Rd, the map below shows the relationship between No. 307 – 325 Sheppard Ave East and 8 – 26 Granlea Rd.
COMMENTS

Issuing an Order to Comply

It has been Toronto Building's understanding, and practice, that based on the Building Code Act and the Ontario Limitations Act; there was a one year window to require a permit when work was done without the benefit of a permit. The year was measured from the time the work was done. In discussions with Legal Services, a recent court case in York Region has provided a different way to look at these situations.

While the facts surrounding the York Region case and the issue related to 317 Sheppard East differ; based on discussion with Legal Services, Toronto Building has issued an Order To Comply to the owners of 317 Sheppard Ave East. The order requires the owner to obtain a building permit for change of use for the conversion of the building from a single family dwelling to a veterinary clinic.

Toronto Building's objective in issuing the order is to have the owner submit an application for building permit, however, if the owner fails to submit for the application by the end of July 2012, court action will be initiated within 30 days from the end of July.

Given that the facts of this issue differ somewhat from the above noted York Region Case, the outcome of the prosecution is unknown and the City may not be successful in obtaining a conviction for work without a permit and forcing the owner to obtain a building permit.

Building Permit

A building permit submitted for change of use will be reviewed for compliance with the Ontario Building Code, Zoning Bylaw and all Applicable Law. The Ontario Building Code and Zoning Bylaw do not specify drainage requirements of a property, other than requiring drainage to be away from a building.

Toronto Building has determined that changing the use of the residential building to a veterinary clinic is considered development and therefore will require Site Plan Approval.

Site Plan Approval, as required under Section 114 of the City of Toronto Act and Section 41 of the Planning Act is Applicable Law and will be required prior to the issuance of a building permit.

Failure to obtain Site Plan Approval for a development is not an offense and charges cannot be laid for a development that does not get the approval, the mechanism to require Site Plan Approval is the Building Code Act and the building permit process.
Site Plan Approval

Storm Water Management is one aspect that will be reviewed as part of the Site Plan Approval process. Technical Services can ensure that the storm water drainage patterns are addressed in a manner to reduce negative impact on neighbouring properties.

The Site Plan Approval process can also examine the design and technical aspects of a proposed development to ensure it is attractive and compatible with the surrounding area and contributes to the economic, social and environmental vitality of the City. Features such as building designs, storm water management, site access and servicing, parking, loading and landscaping are reviewed.

This report was prepared in consultation and has been reviewed by City Planning and Municipal Licensing and Standards.

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SIGNATURE

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