**2321 Keele Street – Zoning Violations**

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<tr>
<th>Date:</th>
<th>September 25, 2012</th>
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<td>To:</td>
<td>Etobicoke York Community Council</td>
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| From:           | City Solicitor  
                        Deputy City Manager  
                        Deputy Chief Building Official, Director, Toronto Building - Etobicoke York District  
                        Director, Investigation Services, Municipal Licensing and Standards |
| Wards:          | Ward 12 – York-South Weston |
| Reason for Confidential Information: | This report contains advice or communications that are subject to solicitor-client privilege. |
| Reference Number: |                     |

**SUMMARY**

At its meeting on September 11, 2012, the Etobicoke York Community Council requested the District Manager, Municipal Licensing and Standards, the Deputy Chief Building Official, and the City Solicitor, to explore the zoning violations that exist at 2321 Keele Street, and submit a joint report to the October 10, 2012 meeting of the Etobicoke York Community Council to accompany the supplementary report for the zoning violations at 2319 Keele Street.

**RECOMMENDATIONS**

The City Solicitor recommends that:

1. Etobicoke York Community Council receive this report for information; and
2. Confidential Attachments 4 and 5 to this report remain confidential.
FINANCIAL IMPACT

There is no financial impact beyond what has already been approved in the current year’s budget.

DECISION HISTORY

A written request dated September 10, 2012 was received from the Ward 12 Councillor, Councillor Frank Di Giorgio (Attachment 1). In the submission to the Committee the Councillor states that he believes there are a number of zoning provisions that do not comply with the current uses located at this address. He requested that staff investigate these zoning violations.

ISSUE BACKGROUND

Zoning

The subject property is located in an MC(H) Industrial Commercial Zone on the east side of Keele Street, north of Milford Avenue (Attachment 2).

Official Plan

The property is designated Employment Area by Toronto Official Plan Map 2.

COMMENTS

In his September 11, 2012 letter to Etobicoke York Community Council, Councillor Di Giorgio states that he is of the opinion that the property located at 2321 Keele Street is a non complying building with the former City of North York Zoning By-law. The Councillor further contends that Section 6(15) of the former City of North York Zoning By-law 7625 is applicable to this property and the issuance of building permits are subject to this provision of the Zoning By-law.

The following are staffs findings in response to the suggestion that the use at 2321 Keele Street is non complying and four (4) specific issues the Councillor requested staff to investigate are:

Non-Complying / Non-conforming use

The uses located at this property with respect to compliance with the applicable provisions of the former City of North York Zoning By-law 7625 have been extensively reviewed since questions concerning the operation of an auto body repair shop at 2321 Keele Street were first raised in 2009 by Councillor Di Giorgio. As a result of these extensive reviews by staff from Toronto Building and Legal Services it has been established that an auto body repair use has existed at this property dating back to the
early 1960's and that the current use of an auto body repair operation is a legal non-conforming use as permitted by the provisions in the Planning Act.

In reviewing the most recent communications from Councillor Di Giorgio, there have been no changes with respect to the uses or the property at 2321 Keele Street that would change the determination that the use at this property of an auto body repair operation is a legal non-conforming use.

**Invalid Business License**

In his letter the Councillor makes the following statement concerning the issuance of a business license:

1) "The issuance of an invalid business license in April 2009 for an accessory use as motor vehicle body repair shop to a car dealership agency located at 2319 Keele Street."

A business license was issued to Highlight Auto Ltd. O/A Highlight Auto Collision Centre on April 6, 2009 for a Public Garage at 2321 Keele Street. A business license was issued on April 19, 2008 and expired on April 19, 2009 for a car dealership to Dave Nicholls Toyota at 2319 Keele Street. These two businesses are independent of each other and the auto body repair shop at 2321 Keele Street is not an 'accessory use' to any other business. Therefore, the business license was not issued incorrectly and is valid.

**Unauthorized changes and alterations**

In his letter the Councillor makes the following statement concerning unauthorized changes and alterations to the property:

2) "Unauthorized changes and alterations to a non-complying building in violation of Sect 6(15) of the zoning by-law and that affected both the existing use, the streetscape on the site and the landscaping requirements."

Section 6(15) of the former City of North York By-law states the following:

"Notwithstanding any non-compliance with any provisions of this By-law, any building, the use of which is permitted by this By-law and which has been lawfully erected may be added to or otherwise enlarged or altered provided that,

(a) the whole building as added to or otherwise enlarged or altered does not violate any provision of this By-law previously complied with;

(b) the addition, enlargement or alteration does not add to or enlarge any portion of the building which does not comply with any provision of this By-law; and"
(c) the addition, enlargement or alteration complies with all other provisions of this By-law."

Staff have not observed any changes or alterations to the building nor the streetscape or landscaping that are contrary to the provisions found in Section 6(15) of the By-law.

**Southerly driveway**

In his letter the Councillor makes the following statement with the use of the southerly driveway and municipal boulevard:

3) "The continued use of the southerly driveway whereas curbs were required to prevent parking on the public boulevard and access to the southerly entrance."

In March 2010 a settlement was reached concerning an Ontario Municipal Board hearing with respect to 2321 Keele Street. One of the conditions agreed to in this settlement was that the owner of 2321 Keele Street would maintain pre-cast concrete curbstones to prevent unauthorized parking on the municipal boulevard. An inspection conducted on September 21, 2012 has confirmed that there are no vehicles parked on the municipal boulevard and curbstones prevent this parking (Attachment 3).

**Adherence to permit plans**

In his letter the Councillor makes the following statement with respect to compliance with building permit plans:

4) "Adherence and compliance with the building permit plans approved in 1987 that restricts any legal non conforming use to within the building unless subsequent necessary planning approvals are attained."

Since it has been determined that the use of this property as an auto body repair shop is a legal non-conforming use, there is no restriction in law to prevent the use of the auto body repair shop from expanding to areas beyond the original area where it was located within the building. No planning approvals are required for such an expansion provided the expansion is contained wholly within the existing building, which is currently the case.

There have been three building permits issued authorizing alterations to the original building that was constructed in the 1950's. The first permit was issued in 1987 and was for the installation of windows, exterior cladding and interior concrete block walls. The second permit was issued in 1994 and it was for the installation of an interior wall to create a new vehicle service area and 'parts' area. The third permit was issued in 2009 and was for the installation of a replacement spray paint booth. The issuance of these permits was done in accordance with the requirements of the *Building Code Act*, the Ontario Building Code and any other applicable law.
Based on the findings above and in response to the issues raised by Councillor Di Giorgio in his letter dated September 11, 2012 staff have completed their investigation and concluded that no further action warranted.

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SIGNATURE

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Director, Toronto Building  
Etobicoke York District

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Director, Investigation Services

ATTACHMENTS

Attachment 1: September 11, 2012 letter from Councillor Di Giorgio  
Attachment 2: Site Map/Aerial view  
Attachment 3: Photo of 2321 Keele Street  
Attachment 4: Confidential Attachment – Legal Services  
Attachment 5 – Confidential letter from Aird & Berlis
September 11, 2012

To: Chair and Members of Etobicoke York Community Council
   c.c.: Rosemary MacKenzie – Committee Administrator
   Re: 2321 Keele St. – Zoning Violations

MOTION

That the District Manager, Municipal Licensing Standards explore zoning violations that exist at 2321 Keele St. and submit a report to the next meeting of Community Council to accompany the supplementary report for the zoning violations at 2319 Keele Street.

SUMMARY

Although I intend to defer item EY 18.19 to the next meeting of Community Council to permit a more comprehensive investigation of zoning violations at 2319 Keele Street, I believe there are a number of zoning provisions that the current uses located at 2321 Keele St. and 2319 Keele St. do not comply with. The subject buildings are both non-complying buildings and Sec 6 (15) of the North York Zoning by-law 7625 underlies the zoning violations. Essentially, where there is a substantial alteration to the existing non-complying buildings, the building changes are subject to Sec 6 (15) of the zoning by-law prior to the issuance of any building permit. These zoning violations prevail in spite of the existence of any legal non-conforming use on the sites.

Accordingly, I respectfully request the investigation of the following additional zoning violations.
2319 Keele St.

1.) The issuance of an invalid business licence in August 2009 for a car rental agency that was conditional and resulted in a parking shortage on the site, a violation of landscaping requirements and included an illegal accessory use located at 2321 Keele St.

2321 Keele St.

1.) The issuance of an invalid business license in April 2009 for an accessory use of a motor vehicle body repair shop to a car dealership agency located at 2319 Keele St.

2.) Unauthorized changes and alterations to a non-complying building in violation of Sec 6 (15) of the zoning bylaw and that affected both the existing use, the streetscape on the site and the landscaping requirements.

3.) The continued use of the southerly driveway whereas curbs were required to prevent parking on the public boulevard and access to the southerly entrance.

4.) Adherence and compliance with the building permit plans approved in 1987 that restrict any legal non-conforming use to within the building unless subsequent necessary planning approvals are attained.

It appears that the approvals and the necessary permits to authorize the above noted changes were not obtained prior to submission of any application to the Committee of Adjustment in February 2009 that claimed the existing changes were legally established. It is my understanding and belief that there are still no valid building permits for the changes to the buildings to accommodate the current uses.

Thank you.

[Signature]

Councillor Frank Di Giorgio
York South - Weston, Ward #12

Attachment 1: September 11, 2012 letter
Attachment 2: Site Map/Aerial View

Confidential Staff Report for action – 2321 Keele Street
Attachment 3: Photo of 2321 Keele Street

Confidential Staff Report for action – 2321 Keele Street