TORONTO

STAFF REPORT
ACTION REQUIRED

55 Mac Frost Way – Appeal of Zoning Amendment and Subdivision Applications to the Ontario Municipal Board

Date:	March 25, 2013
To:	Scarborough Community Council
From:	City Solicitor
Wards:	Ward 42 – Scarborough Rouge River
Reference Number:	

SUMMARY

The owners of 55 Mac Frost Way have appealed their applications for a rezoning and plan of subdivision based on City Council's failure to make a decision within the time frame set-out in the *Planning Act*. The Ontario Municipal Board has not yet set a hearing date, but one could be set at any time. This report is provided to assist City Council in its deliberations on the Final Report from the Director, Community Planning, Scarborough District dated September 14, 2012.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council consider this report while considering the recommendations in the Final Report from the Director, Community Planning, Scarborough District dated September 14, 2012.

Financial Impact

The recommendations will have no financial impact beyond what has already been approved in the current year's budget.

DECISION HISTORY

In a September 14, 2012 Final Report the Director, Community Planning, Scarborough District (the "Final Report") recommended approval of the rezoning and indicated the

Chief Planner's intention to approve the draft plan of subdivision applications. A copy of that report can be found at the following link:

(http://www.toronto.ca/legdocs/mmis/2013/sc/bgrd/backgroundfile-53897.pdf)

On October 10, 2012, Scarborough Community Council deferred its consideration of the Final Report to its meeting on November 6, 2012.

At the November 6, 2012 meeting, Scarborough Community Council adopted a recommendation to City Council that the rezoning application be approved in accordance with the Final Report and to support the Chief Planner's intention to approve the subdivision.

At its meeting of November 27, 28 and 29, 2012, City Council referred the matter back to the Scarborough Community Council meeting of January 22, 2013 and directed the Chief Planner to report to that meeting on a proposed draft plan of subdivision condition dealing with the sharing of development costs incurred for the development of the Morningside Heights Community. The relevant decision document can be found at the following link:

(http://www.toronto.ca/legdocs/mmis/2013/sc/bgrd/backgroundfile-55141.htm)

In a report responding to Council's direction dated January 17, 2013, from the Director, Community Planning, Scarborough District, it was recommended that the condition pertaining to the sharing of development costs be maintained in the form set-out in the September 14, 2012 Final Report. A copy of the January report can be found at the following link:

(http://www.toronto.ca/legdocs/mmis/2013/sc/bgrd/backgroundfile-55370.pdf)

At its meeting of January 22, 2013, Scarborough Community Council adopted the recommendation in the January 17, 2013 report from the Director, Community Planning, Scarborough District.

At its February 20 and 21, 2013 meeting, City Council again referred the matter back to Scarborough Community Council for further consideration. A copy of the relevant decision document can be found at the following link:

http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.SC21.27

ISSUE BACKGROUND

Applications for a rezoning and draft plan of subdivision for lands located at 55 Mac Frost Way were filed with the City on February 3, 2012. These applications would permit the redevelopment of a 1.14 hectare portion of the existing Cedar Brae Golf Course for 37 residential units.

On March 1, 2013, the owners of 55 Mac Frost Way filed a Notice of Appeal of their application for a rezoning because City Council had failed to make a decision on the application within 120 days as set out in the *Planning Act*. At the same time, the owners appealed their application for a plan of subdivision based on the fact that no decision had been made on the plan within 180 days of the application being made as set out in the *Planning Act*.

COMMENTS

Approval of the rezoning and subdivision application is now under the jurisdiction of the Ontario Municipal Board. A hearing date has yet to be set, but City Council will need to instruct the City Solicitor to take a position on the rezoning appeal as soon as possible because a hearing or pre-hearing could be set down at any time.

City Planning has recommended the approval of the rezoning application and has advised of an intention to approve the proposed draft plan of subdivision subject to conditions. Although the Chief Planner has delegated authority to instruct the City Solicitor on what position to take at an Ontario Municipal Board hearing in respect of conditions to the approval of a plan of subdivision, the zoning that applies or will apply to the site is among the criteria that regard must be had for in considering whether to support or approve a draft plan of subdivision.

CONTACT

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SIGNATURE

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Anna Kinastowski, City Solicitor