

**City Council****Notice of Motion**

MM11.22	ACTION			Ward:12
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**Required Monitoring of Conditional Permit Agreement at 2522 and/or 2522-2542 Keele Street - by Councillor Frank Di Giorgio, seconded by Vincent Crisanti**

*\* Notice of this Motion has been given.*

*\* This Motion is subject to referral to the Etobicoke York Community Council. A two-thirds vote is required to waive referral.*

**Recommendations**

Councillor Frank Di Giorgio, seconded by Vincent Crisanti, recommends that:

1. City Council direct the Chief Building Official and Executive Director, Toronto Building, in consultation with the City Solicitor, to report back to the Etobicoke York Community Council meeting on January 19, 2016, on the status of the Conditional Permit Agreement and include the following information:

- a. the reasons the owner and applicant did not apply for a building permit and opted for a conditional permit agreement instead;
- b. a copy of the final Zoning By-law that was submitted to the Ontario Municipal Board and adopted by Council in accordance with Section 8(3)(a) of the Building Code Act, precedent to the Conditional Permit Agreement; and
- c. a list of any remaining approvals required under applicable law including required agreements, consents to assignment of the agreements, releases of registered agreements and required authorization to secure any and all agreements.

**Summary**

Subsequent to an Ontario Municipal Board hearing conducted on August 12, 2013, the Chair issued a decision on August 27, 2013 approving both the Zoning By-law Amendment and the Site Plan Application together for the subject site. The mixed uses on the site were limited to a maximum density of 10,000 square metres of gross floor area and as emphatically stated by the Chair, there were no Section 37 Public Benefits.

About two years later, the Ontario Municipal Board issued an amended decision on July 22, 2015, that again approved the Zoning By-law Amendment and Site Plan applications together. Notwithstanding the aforementioned approvals, the owner and applicant never proceeded to

apply for a building permit that they were entitled to. Instead the owner and applicant opted to enter into a Conditional Permit Agreement on July 31, 2015, under Section 8(3) of the Building Code Act. I can attest that the agreement was issued after consultation with but not the support of the local Councillor and that the Conditional Permit Agreement allows the City to revoke the Conditional Building Permit if there is not substantial compliance with the conditions.

This irregular and unusual decision by the owner and applicant verifies that there are still remaining necessary approvals under applicable law which includes a future Board hearing to resolve a relevant Community appeal of By-law 569-2013 that impacts the development proposal. In essence I believe that the Zoning By-law may not become applicable law until the Ontario Municipal Board has disposed of all appeals related to the project. Moreover, municipalities cannot enact zoning by-laws that do not adhere to principles of procedural fairness.

### **Background Information (City Council)**

Member Motion MM11.22