

**North-west of Gerrard Street East and Clonmore Drive -  
Site Plan Application - Request for Direction Report**

<b>Date:</b>	May 26, 2016
<b>To:</b>	Scarborough Community Council
<b>From:</b>	Acting Director, Community Planning, Scarborough District
<b>Wards:</b>	Ward 36 – Scarborough Southwest
<b>Reference Number:</b>	07 258554 ESC 36 SA

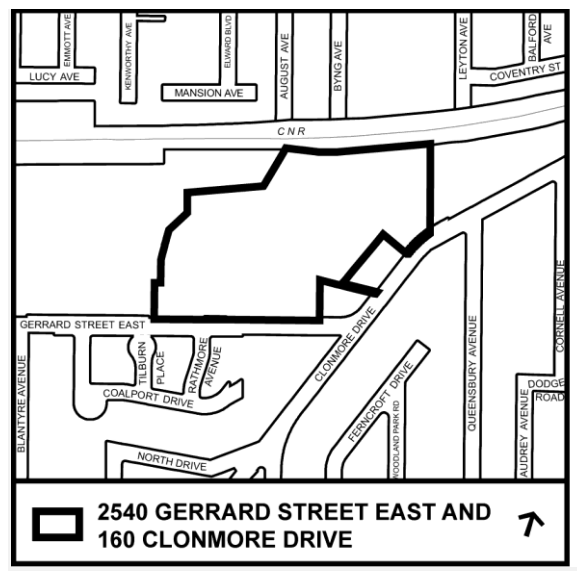
**SUMMARY**

The purpose of this report is to obtain City Council direction on a request by the Owner that the Ontario Municipal Board impose conditions of site plan approval that would require the Owner to convey a wooded portion of the subject lands to the City, for nominal consideration, at an upcoming site plan condition appeal hearing of the Ontario Municipal Board scheduled for August 4 and 5, 2016. The proposal is a response to conditions the Toronto and Region Conservation Authority has indicated would apply to a future fill permit for the development before the Board at this hearing.

**RECOMMENDATIONS**

**The City Planning Division recommends that:**

1. City Council authorize and direct the City Solicitor and other appropriate City staff to support the Owner's request at the Ontario Municipal Board to add conditions to the previously approved site plan, such conditions as are generally contained in Attachment 4 to the report dated May 26, 2016, to a) require the conveyance of Block 6 to the City for parks, forestry and renaturalization purposes, and b)



- require satisfactory access to Block 6 for the public and City staff through a portion of Block 4, both of which are identified on Attachment 1 to the report dated May 26, 2016.
2. City Council authorize City staff to accept the conveyance of Block 6 and the related access easement over a portion Block 4 subject to the Owner complying with the terms as generally contained in Attachment 4: Proposed Block 6 Site Plan Conditions to the report dated May 26, 2016, to the satisfaction of the City Solicitor and the General Manager of Parks, Forestry and Recreation.
  3. City Council authorize the City Solicitor, the Chief Planner and other City staff to take any necessary steps to implement the foregoing, including but not limited to amending the conditions contained in Attachment 4 to the report dated May 26, 2016 as required.
  4. City Council instruct the City Clerk to advise the Toronto and Region Conservation Authority of Council's decision in this regard.

### **Financial Impact**

The applicant will be responsible for the closing costs and environmental remediation (if required) of the proposed conveyance. The nominal payment of \$2 will be funded from the Parkland Acquisition – General Services Capital Project account.

The future operating impact for this Property will be reviewed and added to the following year's Operating Budget submission after the conveyance is completed and when full maintenance services are expected to commence. It is also noted that this report proposes the Ontario Municipal Board apply a site plan condition requiring the Owner to contribute \$80,000 to the City to be used toward the renaturalization of this Property.

The Deputy City Manager and Chief Financial Officer have reviewed this report and agree with the financial impact information.

### **DECISION HISTORY**

In a series of Decisions dated August 10, 2010, March 10, 2011 and June 27, 2011, the Ontario Municipal Board (OMB) approved rezoning and site plan applications by GDC Trustee Limited (the Owner) relating to portions of the subject lands. The applications had been appealed by the Owner due to the City's failure to make a decision on the applications within the time periods prescribed by the *Planning Act*. The rezoning approved by the Board adjusted certain development standards relating to dwelling unit size requirements, setbacks, and intensity of use permissions to reflect larger revised configurations of two proposed apartment blocks fronting Gerrard Street East, indicated as Blocks 1 and 2 on Attachment 1: Block Plan. The aforementioned site plan approval applied to a 24-storey, 369-unit apartment building on Block 2 only.

In a subsequent disposition dated September 28, 2011, the Board further confirmed the final conditions for the Block 2 site plan approval to be set out in a site plan agreement. The City and the Owner have not yet executed this agreement.

The OMB on November 6, 2012 also issued a Decision approving a consent to sever the approximately 11,907 square metre Block 2 from the balance of the subject lands in order to implement the approved site plan and associated conditions. The severance application had been appealed to the Board by the Owner due to the City's failure to make a decision on the application within the prescribed time period pursuant to Section 53(14) of the *Planning Act*. That approval lapsed on November 5, 2015 without registration of Block 2 by the Owner as a separate parcel of land.

The OMB has also now convened a further hearing on August 4 and 5, 2016 to consider the Owner's request for amendments to various site plan approval conditions arising from the Block 2 site plan approval (i.e. on Block 2 as indicated on Attachment 1: Block Plan).

## **ISSUE BACKGROUND**

Despite a Development Agreement (i.e. a Subdivision Agreement today) having been executed by the previous landowner, Runnymede Development Corporation Limited, with the former Township of Scarborough on November 10, 1964, a plan of subdivision for the subject lands was never registered. The subject 7.47 hectare (18.46 acre) lands therefore remain one large parcel without separately registered development blocks. Common reference over the years, however, has been made to the six blocks by number identified on Attachment 1: Block Plan (and as further referenced in this report), as if the blocks having the various zones currently indicated on Attachment 3: Current Zoning exist as separate parcels of land.

### **Block 2 – Revised Site Plan Conditions (OMB Hearing)**

The September 2011 OMB decision approving the site plan for Block 2 as well as the related conditions were drafted in a manner that assumed Block 2 would be a distinct development parcel. With the lapsing of the consent approval to create Block 2, however, the Owner proposed to the City on November 4, 2015 that certain of the Board-approved site plan conditions required deletion or amendment to better reflect the fact that the Block 2 development would indeed proceed as part of the larger site and not as a discrete single parcel. On December 15, 2015, the Owner filed an appeal with the OMB asking that it revise its previously approved site plan conditions in this manner. A hearing for this appeal has now been scheduled for August 4 and 5, 2016.

Legal Services staff, in consultation with appropriate City Planning, Parks, Forestry & Recreation and Engineering & Construction Services staff, have conducted a number of discussions with the Owner on the details of the revised site plan approval conditions being proposed. City staff are of the opinion that the requested changes, with some modifications proposed by the City in response, are appropriate and necessary in order to properly implement what the Board has ordered with respect to the site. The City Solicitor expects these changes can be made on a consent basis with the applicant to the

OMB. Additional directions in regard to these particular changes are not requested through this report because the changes are purely technical and administrative in nature.

In the December 15, 2015 appeal letter to the OMB, the Owner requested that the conditions be amended to reflect a proposed land transfer between the Owner and the City as it relates to a woodlot on Block 6. The Block 2 development and any future development on adjacent Block 1 are both located on a wetland feature consisting of a remnant pit from past quarrying activities. Over the years, the pit filled with groundwater and gradually renaturalized to create a cattail marsh. The placement of fill and disruption to this wetland has been regulated by the Toronto and Region Conservation Authority (TRCA) since 2006 pursuant to Ontario Regulation 166/06. The OMB therefore noted as an Advisory Comment in its September 28, 2011 approval of the final site plan conditions for the Block 2 development that further TRCA approvals and permitting under Ontario Regulation 166/06 is required prior to the City's issuance of building permit(s) for the development.

In the latter part of 2014, the Owner approached TRCA to explore and identify the conditions under which TRCA would be prepared issue a fill permit for Block 2. As part of these discussions, TRCA conducted its own assessment of the current ecological functioning of the wetland, together with on-site meetings with the Owner that also included City Urban Forestry staff. By letter to the Owner dated January 23, 2015, the TRCA indicated that by way of compensation for loss of the wetland using its draft compensation protocol, issuance of a permit would be considered conditional on the following:

- i) The conveyance of the northerly 1.03 hectare (2.5 acre) forested Block 6 (indicated on Attachment 1: Block Plan) to the City of Toronto;
- ii) An agreement that will ensure that any future development of the adjacent Block 4 (also indicated on Attachment 1) includes a 10 metre conveyance, widened for a portion to 15 metres, along the east side of this block to the City of Toronto;
- iii) An easement to the City of Toronto that will immediately allow public access and construction of a trail over this future conveyance (to provide a pedestrian connection from Clonmore Drive to and through Block 6); and
- iv) An \$80,000 payment to the City of Toronto for renaturalization of Block 6.

TRCA further noted that the City of Toronto must also support the proposal in an official capacity (i.e. City Council resolution), in order for TRCA staff to recommend approval of a permit application. Issuance of the permit will also require TRCA's Executive Committee to approve the permit and any associated conditions to be satisfied. These TRCA requirements form the basis for this report to City Council.

### **Block 6 Conveyance Through Amended Block 2 Site Plan Conditions**

The Owner has indicated a willingness to convey the woodlot on Block 6 to the City for nominal consideration and City staff are currently engaged in discussions with the Owner on various details of this proposed conveyance, including environmental and access

requirements. As mentioned above, the Owner wants this conveyance added as a condition of site plan approval at its OMB appeal hearing scheduled for August 4 and 5, 2016.

City staff do not, however, currently have express City Council direction or other legislative authority to acquire Block 6, or the related access over Block 4, for nominal consideration. This report therefore seeks City Council instructions to the City Solicitor on this proposed land acquisition, to confirm appropriate site plan conditions applied to Block 2 in this regard for submission to the OMB, and to provide TRCA and the Owner with an appropriate record of Council's determination for the purposes of further TRCA permitting.

### **Provincial Policy Statement and Provincial Plans**

The Provincial Policy Statement (PPS), 2014 provides policy direction on matters of provincial interest related to land use planning and development. These policies support the goal of enhancing the quality of life for all Ontarians. Key policy objectives include: building strong healthy communities; wise use and management of resources and protecting public health and safety. The PPS recognizes that local context and character is important. Policies are outcome-oriented, and some policies provide flexibility in their implementation provided that provincial interests are upheld. City Council's planning decisions are required to be consistent with the PPS.

The Growth Plan for the Greater Golden Horseshoe provides a framework for managing growth in the Greater Golden Horseshoe including: directions for where and how to grow; the provision of infrastructure to support growth; and protecting natural systems and cultivating a culture of conservation. City Council's planning decisions are required to conform, or not conflict, with the Growth Plan for the Greater Golden Horseshoe.

### **Official Plan**

All of the subject lands are currently designated *Mixed Use Areas* on Map 21 of the Official Plan. *Mixed Use Areas* are made up of a broad range of commercial, residential and institutional uses, in single use or mixed use buildings, as well as parks, open spaces and utilities. Development in *Mixed Use Areas* will create a balance of high quality commercial, residential, institutional and open space uses that reduce automobile dependency and meets the needs of the local community.

This designation was appealed by the Owner when the Official Plan was first adopted in 2002, with the Owner instead seeking a designation of its residential lands to *Apartment Neighbourhoods*. This appeal remains outstanding.

### **Zoning**

On January 18, 1965, Council of the former Township of Scarborough enacted By-law No. 11769 to amend Birchcliff Community Zoning By-law 8786, as amended, to establish the first residential apartment zoning permissions on four blocks of the subject lands.

On September 9, 1968, Council of the former Borough of Scarborough enacted By-law No. 13310 to further amend these zoning permissions by substantially reconfiguring the development parcels and revising the Apartment Residential (A) permissions and development standards, as indicated on Attachment 2: By-law No. 13310 (Schedule 'A'). The amended zoning permitted an overall 1,455 apartment dwelling units on the four blocks now shown cross-hatched on Attachment 3: Current Zoning. (While also zoned Apartment (A), the central fifth parcel indicated without hatching remains restricted to permit landscaping uses only.)

In both of the above by-laws, the remaining northern portion of the subject lands adjacent to the GO Lakeshore East rail line, comprising Block 6 under discussion, were indicated for future expressway purposes planned at that time. Block 6, however, still retains pre-1960 Community Commercial (CC) zoning and, if created as a separate parcel, would be 'land-locked' and therefore undevelopable in zoning terms.

The current zoning on the subject lands has remained in place largely unchanged for almost 50 years, until certain development standards applying to Blocks 1 and 2 were amended through the 2010 and 2011 Ontario Municipal Board decisions noted above. While density permissions were not at issue at the time, the Board also deemed it appropriate at the Owner's request to expressly reaffirm the overall zoned density permissions for 1,455 apartment units on the subject lands as first established in 1968.

## **COMMENTS**

Block 6 was largely left undisturbed during sand and gravel quarrying operations underway on the larger Birchcliff Quarry lands from the late 1800's through to the mid-1900's. A municipal storm sewer easement angles across the site, generally in line with the boundary between Blocks 4 and 5 shown on Attachment 1: Block Plan, extending north-westerly to the rail line and August Avenue in Oakridge Community beyond. A portion of the lands may, however, have been impacted by unrestricted municipal landfill activities that occurred on the subject lands during the late 1950's. This waste material has since been capped with a minimum 1.5 metres (5 feet) of clean fill and is largely contained within Block 5 shown on Attachment 1: Block Plan.

Block 6 remains largely in a natural state today. It can be characterized as a well treed Dry-Fresh Oak Deciduous Forest containing many mature red and white oak trees and numerous other species together with some grassed areas. There is evidence of frequent informal pedestrian activity by the local community along the block for casual recreational purposes (e.g. dog-walking, hiking, nature walks, etc.).

Urban Forestry staff advise that while the trees on the block are generally healthy, many are in need of proper arborist maintenance while some are undesirable invasive non-native species. TRCA's proposed \$80,000 permit condition discussed above is intended to assist the City in continued management and renaturalization of Block 6 as a significant forested City feature that is also highly valued by local residents.

Planning staff note that Block 6 would be a natural extension to adjacent parkland on the Build Toronto site that will extend westerly along the rail line as and when Build Toronto's plan of subdivision is registered. Until such time, however, Block 6 would remain landlocked. As the City would not accept such a landlocked parcel, Parks staff have requested that an easement for maintenance and public access purposes to the block be established down the east side of Block 4 shown on Attachment 1: Block Plan. TRCA has reflected a similar requirement in its proposed permit conditions as discussed above. City staff and the Owner are currently engaged in negotiations on the terms of access to Block 6 and the City would not accept conveyance of this land without appropriate and satisfactory access. The conditions in Attachment 4: Proposed Block 6 Site Plan Conditions address the City's requirements for access to Block 6.

As indicated above, a portion of Block 6 may have been impacted by prior municipal landfill activities. It is a standard requirement under the City's Municipal Code relating to land conveyances to the City that lands be unencumbered and free of contamination. Parklands Acquisition staff advised the Owner in 2015 on the City's requirements that an Environmental Site Assessment (ESA) be submitted for review and acceptance by the City's peer reviewer. The peer review process is on-going and may continue beyond the August hearing. Accordingly, appropriate new conditions in this regard, reflecting standard conditions for land conveyances to the City, are set out on Attachment 4: Proposed Block 6 Site Plan Conditions for submission to the OMB. The City will not accept the conveyance of Block 6 until these conditions are satisfied.

The conveyance of Block 6 to the City for parks purposes would be over and above the statutory requirement under the *Planning Act*. Such requirements were fully satisfied many years ago by Runnymede's dedication of the Parks (P) block abutting the west side of the subject lands as indicated on Attachment 3: Current Zoning.

Lastly, it is important to note that should City Council determine not to accept conveyance of Block 6, this decision alone would not necessarily preclude the Owner from ultimately obtaining a TRCA permit for Block 2 under revised conditions.

### **Provincial Policy Statement and Provincial Plans**

Policy 1.5.1 of the PPS under 'Public spaces, Recreation, Parks, Trails and Open Space' states, in part, that:

Healthy, active communities should be promoted by:

- a) Planning public streets, spaces and facilities to be safe, to meet the needs of pedestrians, foster social interaction and facilitate active transportation and community connectivity; and
- b) Planning and providing for a full range and equitable distribution of publicly-accessible built and natural settings for recreation, including facilities, parkland, public spaces, open space areas, trails and linkages, and, where practical, water-based resources.

The proposed acquisition of Block 6 by the City for public recreation purposes, improved community connectivity and maintenance of an important natural feature would support and be consistent with the PPS.

The Growth Plan for the Greater Golden Horseshoe under Section 4.2. – Policies for Protecting What is Valuable, Policy 4.2.1. – Natural Systems states, in part, that:

- 3) Planning authorities are encouraged to identify natural heritage features and areas that complement, link, or enhance natural systems;
- 4) Municipalities, conservation authorities, non-governmental organizations, and other interested parties are encouraged to develop a system of publicly-accessible parkland, open space and trails within the Greater Golden horseshoe that:
  - a) clearly demarcates where public access is and is not permitted;
  - b) is based on a coordinated approach to trail planning and development;
  - c) is based on good land stewardship practices for public and private lands;and
- 5) Municipalities are encouraged to establish an urban open space system within built-up areas, which may include rooftop gardens, communal courtyards, and public parks.

The proposed acquisition of Block 6 by the City for the above noted public purposes would similarly support and be consistent with the Growth Plan.

## **CONCLUSION**

The uncertain future of the Birchcliff Quarry lands has been of great concern to residents both within and beyond Birchcliff Community for many decades. Block 6 particularly, once planned to accommodate a future expressway which was cancelled many years ago, is still zoned to permit only commercial uses, and has been used informally by area residents for many years for outdoor enjoyment.

The offer by the Owner to now convey Block 6 to the City for nominal consideration, albeit for the purposes of obtaining a TRCA fill permit required to secure a building permit for the Block 2 development, provides an important opportunity to bring these lands into public ownership and stewardship for the long term benefit of all Torontonians. This is an opportunity that could perhaps be lost and not available in the future which warrants due consideration by City Council.

City Planning staff, in consultation with Legal Services and Parks, Forestry and Recreation (Parklands Acquisition and Urban Forestry) staff, believe that subject to satisfying all usual City requirements for such land acquisitions, as well as securing appropriate and satisfactory access to the land, it would be appropriate for the City to acquire ownership of Block 6. It would also be appropriate to achieve this acquisition by way of additional related conditions on site plan approval for Block 2 which the OMB could consider applying at the upcoming August hearing.



**CONTACT**

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**SIGNATURE**

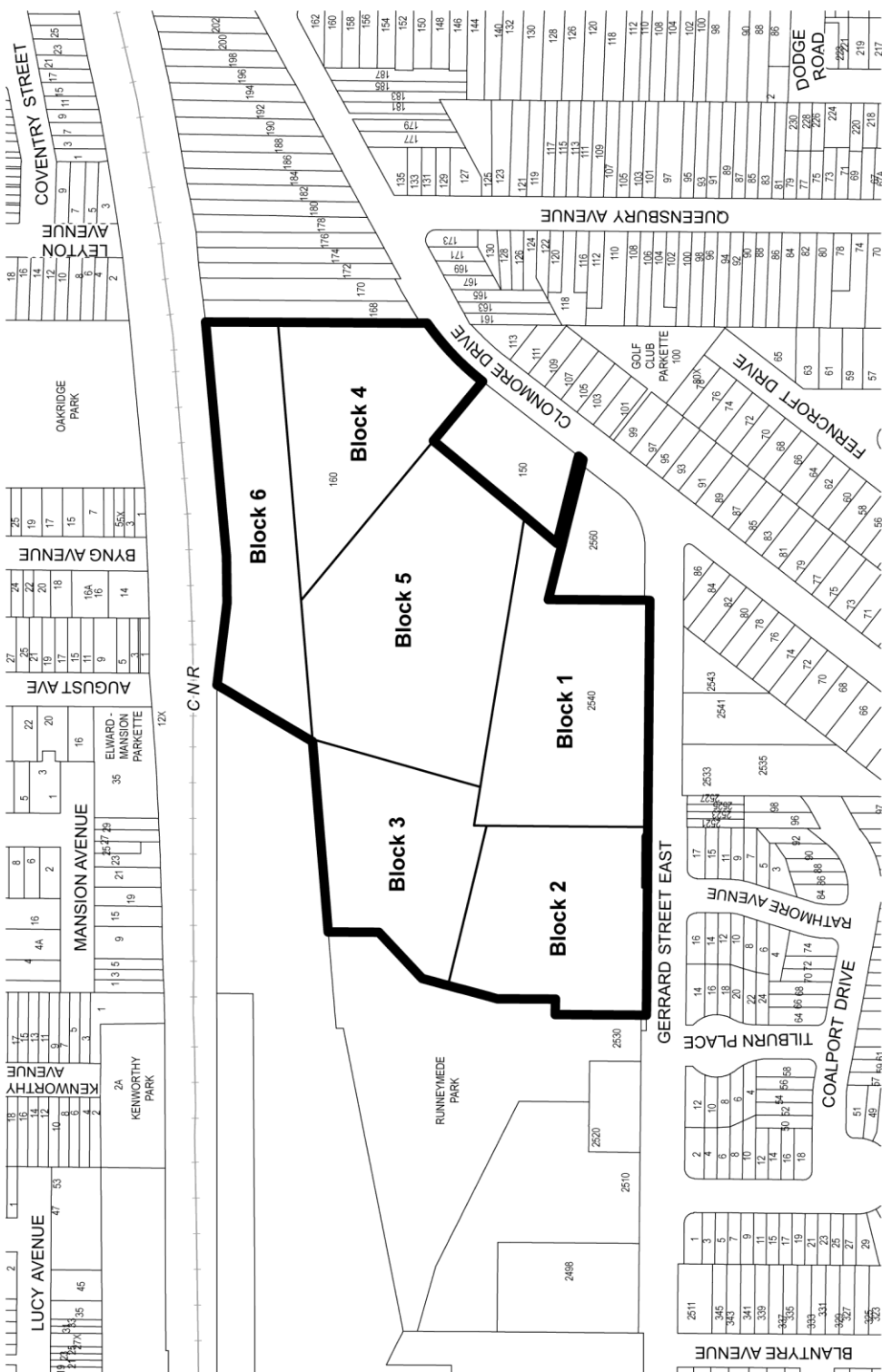
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Paul Zuliani, Acting Director  
Community Planning, Scarborough District

**ATTACHMENTS**

Attachment 1: Block Plan  
Attachment 2: By-law No. 13310 (Schedule 'A')  
Attachment 3: Current Zoning  
Attachment 4: Proposed Block 6 Site Plan Conditions

# Attachment 1: Block Plan



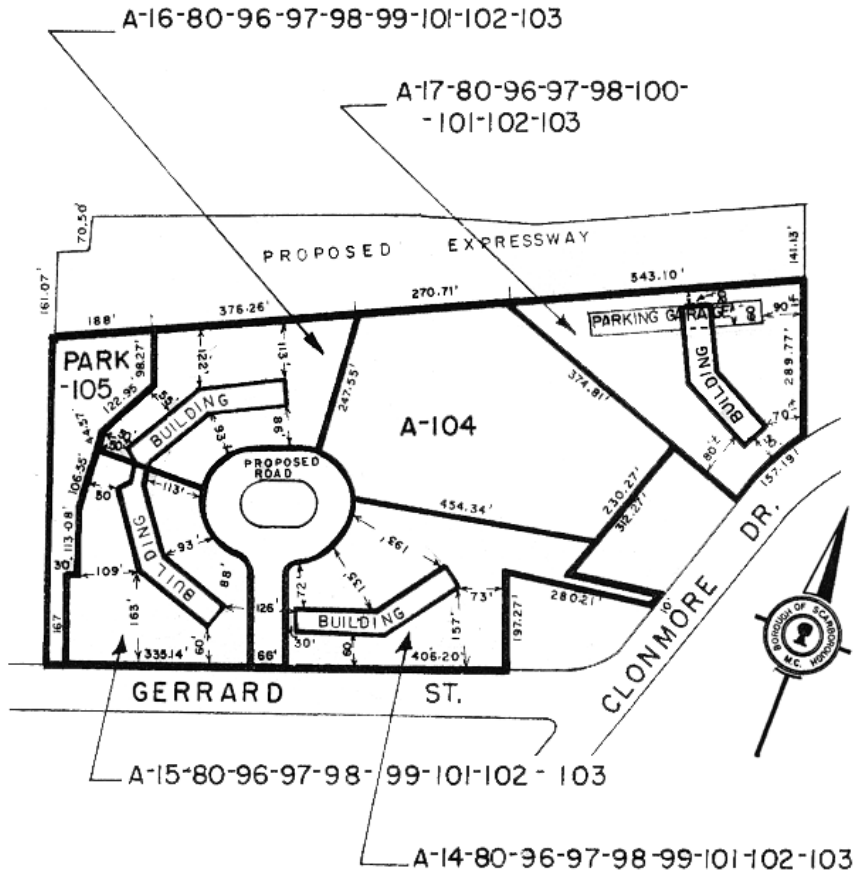

**TORONTO** City Planning  
**Block Map**  
 Location of Application

**2540 Gerrard Street East and 160 Clonmore Drive**

File # 07 258554 ESC 36 SA  
 Not to Scale  
 05/18/16

Attachment 2: By-law No. 13310 (Schedule 'A')

LOT 34 CON. A



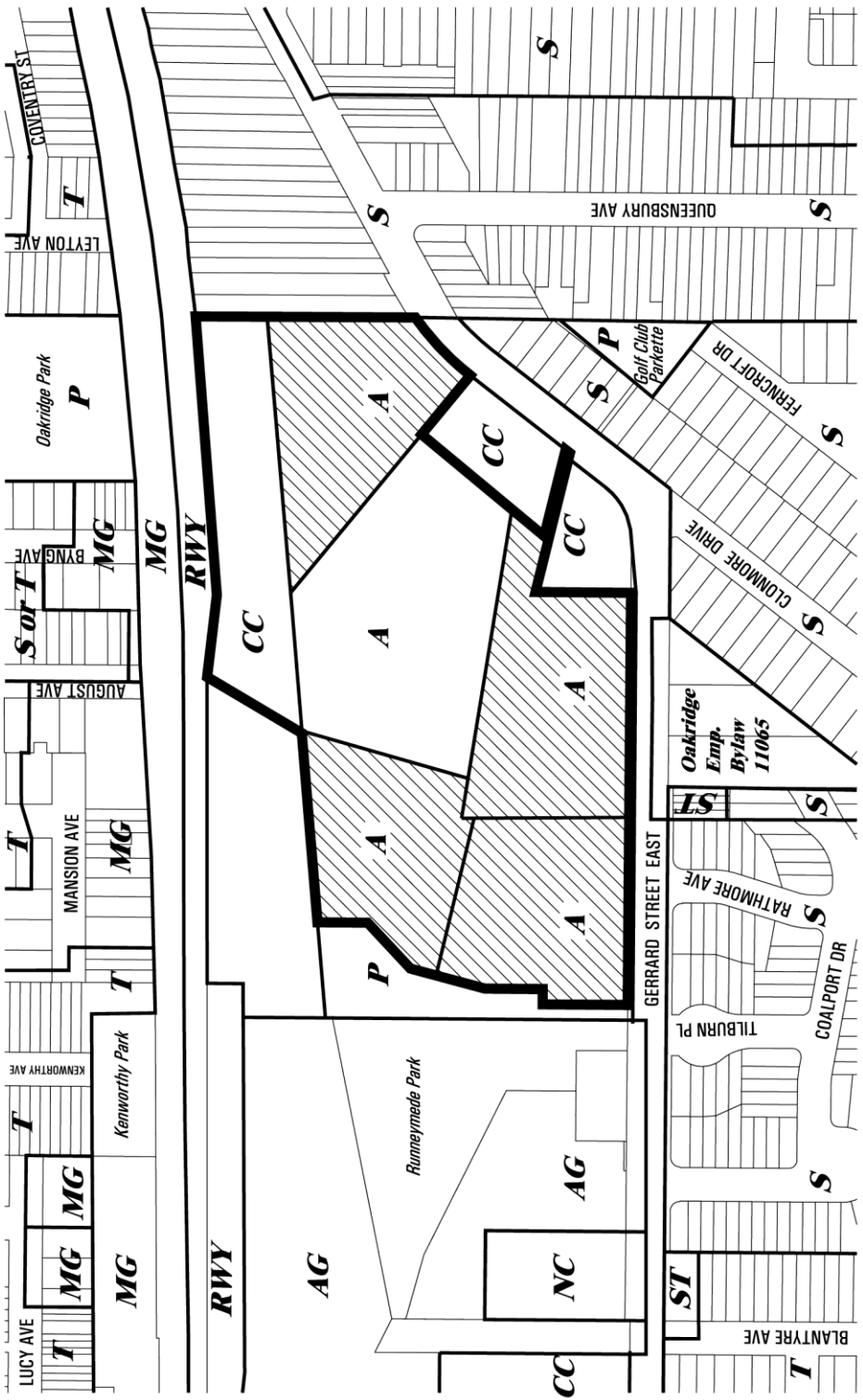
REVISED SECTION OF SCHEDULE 'A' TO THE BIRCHCLIFF

COMMUNITY BY-LAW No. 8786..

AS AMENDED BY BY-LAW No. 13310

 AREA AFFECTED BY THIS BY-LAW

### Attachment 3: Current Zoning



**Toronto** City Planning  
**Zoning**  
 2540 Gerrard Street East and 160 Clonmore Drive  
 File # 07 258554 ESC 36 SA

- S** Single-Family Residential
- T** Two-Family Residential
- M** Multiple-Family Residential
- ST** Street Townhouse Residential
- A** Apartment Residential
- CC** Community Shopping Commercial
- NC** Neighbourhood Commercial
- HC** Highway Commercial
- MG** General Industrial Uses
- RWY** Railway Corridor
- AG** Agricultural Holding
- P** Park

Birchcliff & Oakridge Community Bylaws  
 Not to Scale  
 09/19/08



#### **Attachment 4: Proposed Block 6 Site Plan Conditions**

- XX. The Owner shall agree to convey Block 6 to the City of Toronto, free and clear of all physical and title encumbrances to the satisfaction of the City Solicitor, for nominal consideration and to complete registration of the conveyance at no cost to the City.
- XX. The Owner shall acknowledge that the conveyance of Block 6 to the City of Toronto does not apply toward parkland contributions under Section 42 of the *Planning Act* for the further development of its lands.
- XX. Upon conveyance of Block 6 to the City of Toronto, the Owner shall provide \$80,000 in the form of a certified cheque made out to the Treasurer, City of Toronto, to be used by the General Manager of Parks, Forestry and Recreation to support the renaturalization of the Block 6 woodlot.
- XX. The Owner shall submit a draft Reference Plan of Survey to the Executive Director of Technical Services, for review and approval prior to depositing it in the Land Registry Office, that identifies Block 6 and which:
- a) Is in metric units and integrated with the Ontario Co-ordinate System (3<sup>o</sup> MTM, Zone 10, NAD 83, CSRS);
  - b) Delineates by separate PARTS the lands to be conveyed to the City, the remainder of the site and any appurtenant rights-of-way and easements; and,
  - c) Shows the co-ordinate values of the main comers of the subject lands in a schedule on the face of the plan.
- XX. The Owner shall pay all costs for registration and preparation of the reference plan for Block 6 referred to above.
- XX. The Owner shall agree that any future development of the adjacent Block 4 will include a 10 metre conveyance (widened for a portion to 15 metres) along the east side of this block to the City of Toronto, the details of which shall be determined at a future date to the satisfaction of the City Solicitor and the General Manager of Parks, Forestry and Recreation.
- XX. The Owner agrees to grant an access easement to the City of Toronto, simultaneously with the conveyance of Block 6, that will allow the public and City staff access from Clonmore Drive to Block 6. This easement shall be located on the east side of Block 4, shall be a minimum of 10 metres wide with a portion widened to 15 metres, and shall allow for the construction and maintenance of a trail, be free and clear of all physical and title encumbrances and shall be to the satisfaction of the City Solicitor and the General Manager of Parks, Forestry and Recreation. The easement shall not be released until the conveyance contemplated in condition XX

occurs to the satisfaction of the City Solicitor and the General Manager of Parks, Forestry and Recreation.

- XX. The Owner shall retain a Qualified Person to conduct environmental site assessments for the lands to be conveyed to the City and submit all environmental site assessment reports prepared in accordance with the Record of Site Condition Regulation (O.Reg. 153/04) describing the current conditions of the land to be conveyed to the City and the proposed remedial action plan based on the site condition standards approach, to the General Manager, Parks, Forestry and Recreation, for peer review.
- XX. The Owner shall pay all costs associated with the City retaining a third-party peer reviewer of the work pursuant to XX. above, including a 7% administrative cost to the City, and submit a certified cheque payable to the City of Toronto in the amount of \$3,000.00 as an initial deposit towards the cost of the peer review, to the General Manager, Parks, Forestry and Recreation. Further deposits shall be provided when requested to cover all costs of retaining a third-party peer reviewer and associated administration costs to the City.
- XX. At the completion of the site remediation process, the Owner shall submit a Statement from the Qualified Person, to the General Manager, Parks, Forestry and Recreation, for peer review and concurrence that, based on all necessary supporting environmental documents:
- a) The land to be conveyed to the City meets either:
    - i. The applicable MOE Generic Site Condition Standards (Tables 1, 2 or 3) for the most environmentally sensitive adjacent land use; or,
    - ii. The Property Specific Standards (PSSs) as approved by the MOE for a Risk Assessment/Risk Management Plan which was conducted in accordance with the City Policies and Conditions for the Acceptance of Risk Assessed Lands (Clause 18, of Works Committee Report 2, April 25, 26 and 27, 2006); and,
  - b) It is unlikely that there is any off-site contamination resulting from past land uses on or in the vicinity of the development site, that has migrated on to the adjacent rights-of-way, that would exceed the applicable Site Condition Standards.
- XX. The Owner shall file the Record of Site Condition (RSC) on the Ontario's Environmental Site Registry and submit the Ministry of the Environment's Letter of Acknowledgement of Filing of the Record of Site Condition (RSC) confirming that the RSC has been prepared and filed in accordance with O. Reg. 153/04, and that the MOE will not audit the RSC at this time or that the RSC has passed an MOE audit, to the General Manager, Parks, Forestry and Recreation.

XX. The Owner shall agree and acknowledge that the final conveyance of Block 6 to the City of Toronto will not proceed until the General Manager, Parks, Forestry and Recreation has accepted all supporting environmental documentation required above as being complete and satisfactory, and is satisfied with the accompanying access over Block 4.