

Residential Demolition Application – 251 Dunvegan Road

Date: June 21, 2023
To: Toronto and East York Community Council
From: Bill Stamatopoulos, Director and Deputy Chief Building Official,
Toronto Building
Wards: Ward 12 (Toronto- St. Paul's)

SUMMARY

This staff report is about a matter for which the Toronto and East York Community Council has delegated authority to make a final decision.

In accordance with Section 33 of the Planning Act and the City of Toronto Municipal Code, Ch. 363, Article 6 "Demolition Control," the application for the demolition of the existing two-storey detached dwelling at 251 Dunvegan Road (Application No. 23-140969 DEM 00 DM) is referred to the Toronto and East York Community Council for consideration. Toronto Building received a written objection with concerns of the impacts of demolition on the existing trees.

RECOMMENDATIONS

The Director and Deputy Chief Building Official, Toronto Building, Toronto and East York District recommends that the Toronto and East York Community Council give consideration to the demolition application for 251 Dunvegan Road, and decide to:

1. Approve the application to demolish the existing two-storey detached dwelling without any conditions; or
2. Approve the application to demolish the existing two-storey detached dwelling with the following conditions:
 - a) That construction fences be erected in accordance with the provisions of the Municipal Code, Chapter 363, Article 7, if deemed appropriate by the Chief Building Official;

- b) That all debris and rubble be removed immediately after demolition;
- c) That sod be laid on the site and that the site be maintained free of garbage and weeds, in accordance with the Municipal Code Chapter 629-10, paragraph B and 629-11; and
- d) That any holes on the property are backfilled with clean fill.

FINANCIAL IMPACT

There are no financial impacts to the City resulting from the recommendations in this report.

DECISION HISTORY

There is no City Council, or Community Council decision history for this property.

COMMENTS

On May 2, 2022, the owner of the property submitted an application to demolish an existing two storey detached dwelling located at 251 Dunvegan Road. Toronto Building has not issued a building permit for a replacement building.

On May 18, 2023, a written objection letter was received from local residents in the neighboring properties with concerns about the proposed demolition and its effects on the boundary trees on the property line. The primary concern is that the demolition is premature and would threaten the health of the large and long-standing boundary trees on the property line between 251 Dunvegan Road and the neighboring properties. This letter is included as attachment #2 of this report.

The Ward Councillor has been notified of the application. The existing house is not currently on the list of designated historical buildings.

The land is not within a Toronto and Region Conservation Authority regulated area.

CONTACT

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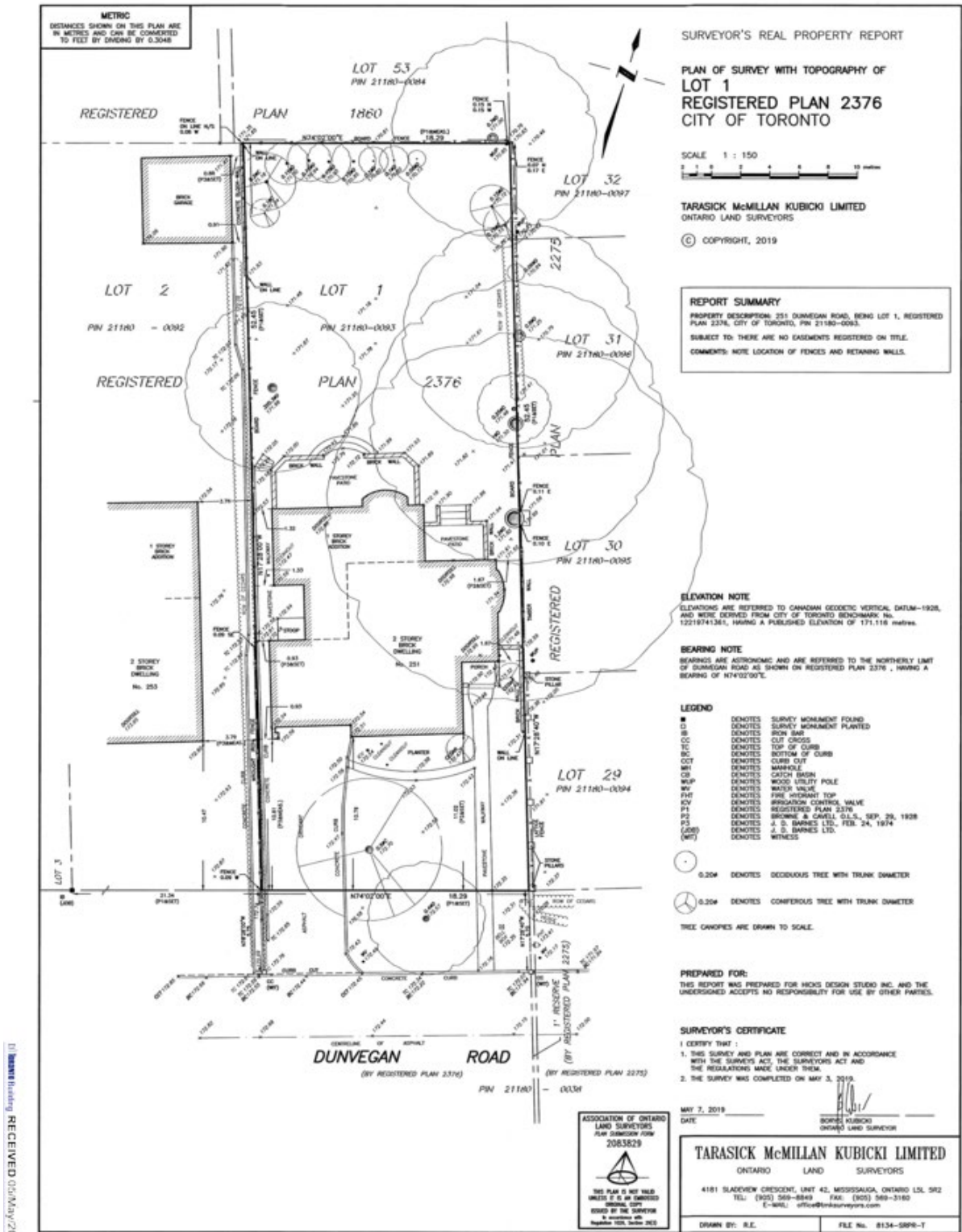
SIGNATURE

Bill Stamatopoulos
Director & Deputy Chief Building Official, Toronto Building
Toronto and East York District

ATTACHMENTS

1. Survey
2. Objection Letter

Attachment 1: Survey



Attachment 2: Objection Letter



Barristers & Solicitors
Bay Adelaide Centre
333 Bay Street, Suite 3400
Toronto, Ontario M5H 2S7

May 18, 2023

Our File No.: 230947

Director and Deputy Chief Building Official
Toronto Building Toronto and East York
100 Queen Street West
Toronto, ON M5H 2N2

Dear Sirs/Mesdames:

**Re: 251 Dunvegan Road
Application No. 23 140969 DEM 00 DM
Objection to Residential Demolition Application**

We are counsel to [REDACTED], who owns the property known municipally as 500 Russell Hill Road ("500 Russell Hill") along with his wife [REDACTED], the owner of the property known municipally as 502 Russell Hill Road ("502 Russell Hill") along with his wife [REDACTED]. Our clients' properties abut the eastern boundary of the property known municipally as 251 Dunvegan Road (the "Subject Property"), which is the subject of the above-noted application (the "Demolition Application") to demolish the existing dwelling on the Subject Property (the "Existing Dwelling").

We write on behalf of our clients to object to the approval of the Demolition Application. Demolition of the Existing Dwelling is premature and would threaten the health of large and long-standing boundary trees on the property line between the Subject Property and our clients' properties (the "Boundary Trees"), in which our clients have an ownership interest. Demolition should not be permitted in the absence of an approved tree protection plan, an issued permit from Urban Forestry with respect to the Boundary Trees, the imposition of rigorous conditions to ensure the protection of the Boundary Trees during demolition, and our clients' consent to any work involving the Boundary Trees in light of our clients' ownership interest.

The Boundary Trees

The Subject Property is located on the north side of Dunvegan Road, near the corner of Dunvegan Road and Russell Hill Road. Given its corner position, the eastern boundary of the Subject Property abuts the rear of a number of properties on the west side of Russell Hill Road, including our clients' properties.

As noted above, a number of trees are located on the property line between the Subject Property and our clients' properties (the "Shared Property Line"). The Boundary Trees include two large

stature red oak trees, one of which is approximately 150 years old and a mature Norway Maple tree. As shown in the images attached in Appendix A to this letter, the trees provide an expansive canopy, spanning much of the rear yard of 500 Russell Hill and approximately three quarters of the width of the Subject Property. Based on the age, species and size of the trees, Mr. Peter Kuntz, a registered professional arborist, has advised that their roots traverse the entire back yard of the Subject Property. Our clients care deeply about the Boundary Trees and want them to continue to thrive. With proper care, they have been advised that the trees could live a further 350 years.

The Proposed Demolition is Premature

The Existing Dwelling is located less than 2 metres from the Shared Property Line and within the tree protection zone of two of the Boundary Trees. Demolition would require excavation in very close proximity to the Boundary Trees, including in the heart of the tree protection zone for the 150-year old red oak tree. This work will necessarily involve cutting and injuring substantial portions of the root system of the Boundary Trees. As outlined in the report prepared by Mr. Kuntz, which is attached to this letter as Appendix B (the “Kuntz Report”), demolition of the Existing Dwelling will subject the Boundary Trees to a “war zone” of construction activity and result in tremendous root loss that will ultimately undermine the health of the Boundary Trees. Damage to the Boundary Trees would be an irreparable loss, as trees of their size and stature cannot be replaced in our lifetimes.

As co-owners of the Boundary Trees, our clients’ consent is required for any work involving the Boundary Trees. Yet their consent has not been sought. Further, no permit has been issued for the proposed injuries to the Boundary Trees as required. Our understanding is that Urban Forestry staff are not satisfied with the tree protection approach proposed, including that the replacement dwelling includes features, such as a concrete window well, that are likely to threaten the continued viability of the Boundary Trees.

The applicant recently excavated trenches within the Subject Property, which revealed very large and very thick roots from the Boundary Trees in areas that will be affected by the proposed demolition. Pictures of these roots are included in the Kuntz Report. Our understanding is that this excavation work was done without the required permit to injure, which is deeply troubling. Further, our understanding is that this (unauthorized) excavation work was done to advance the applicant’s efforts to develop a tree protection strategy for the Subject Property. Despite our clients’ co-ownership of the Boundary Trees and requests to be involved in such processes, our clients have not been provided an opportunity to participate in the root exploration work or review the results of the excavations. Further, as noted above, Urban Forestry has not approved the proposed approach to tree protection.

The applicant’s recent exploratory work on the Subject Property indicates that work to devise an appropriate tree protection strategy is still ongoing. It is not appropriate to permit demolition of the Existing Dwelling, which will necessarily involve injury to the Boundary Trees, until an appropriate tree protection strategy is fully developed, vetted and approved, through collaboration

with all owners of the Boundary Trees. In these circumstances, approval of the Demolition Application is wholly premature.

Further, any approval to demolish the Existing Dwelling should be subject to conditions to ensure rigorous protection measures, including those ultimately reflected in any Urban Forestry permit to injure, are followed when undertaking demolition. In the absence of an issued permit to injure, those conditions are not yet known – yet another indication that approval of the Demolition Application is premature.

In these circumstances, we respectfully ask that the Demolition Application be refused at this time. Approval should not be granted until an approved tree protection plan developed in collaboration with all owners of the Boundary Trees is in place, Urban Forestry has issued a permit with respect to the Boundary Trees, and rigorous conditions to ensure the protection of the Boundary Trees are imposed.

We would be pleased to discuss if it would assist.

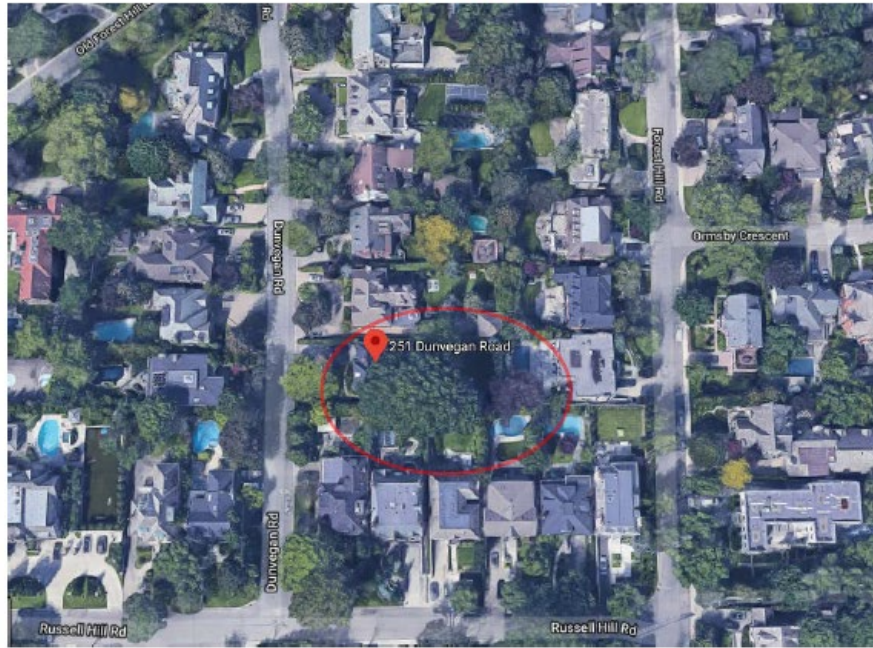
Yours truly,

Goodmans LLP

cc. Clients
Goodmans LLP

Encl

APPENDIX A
PHOTOS OF THE RED OAK TREE









Photos of the Boundary Trees

APPENDIX B
KUNTZ REPORT DATED MAY 18, 2023
[See next page]

7377424

18 May 2023

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RE: Proposed Demolition of Existing Dwelling at 251 Dunvegan, Toronto

Retainer and Background

1. I am a Registered Professional Forester (R.P.F.) and Principal of Kuntz Forestry Consulting Inc. (KFCI) with 39 years of experience as an arborist.
2. _____, owner of 500 Russell Hill Road, and _____, owner of 502 Russell Hill Road, have retained me to review the proposal to demolish the existing dwelling at 251 Dunvegan Road in Toronto (the "Property") from an arboricultural and tree protection perspective.

The Trees on the Property

3. Trees 1093, 1091, 1090 and 1089 as shown in the applicant's tree preservation plan included as Map 1 in this report are trees with trunks and/or roots located on the Property. Trees 1093 and 1091 are large stature Red Oak trees that significantly contribute to the urban canopy characteristic of Forest Hill and this neighbourhood.
4. Upon inspection in connection with the previous application for the Property, Tree 1093 was noted to have Fair crown vigor with 15% Crown Dieback. The latter is also an indication of vigor. While the precise age of Tree 1093 is not known, it is likely at least 150 years old. Some of the decline in vigor may be attributable to its age and natural decline but oak trees can live to 500 years given favorable conditions.
5. It is well known that roots of open grown deciduous trees can extend up to 3 times the dripline (crown width). As the crown diameter of Tree 1093 is 16m (8m radius distance), it can be expected that roots from this tree traverse the entire back yard of 251 Dunvegan Road or certainly over to Tree 03 (a tree situated on the other side of the lot).

Proposal

My understanding is that the Applicant has submitted an application to facilitate the demolition of the existing house and construct a new 3 storey house.

6. Specifics to the current *demolition* application are as follows:
 - The proposed demolition would involve extensive work in the minimum tree protection zone (mTPZs) for the above-noted trees and would result in tremendous root loss for Trees 1093 and 1091, significant large specimen oak trees.

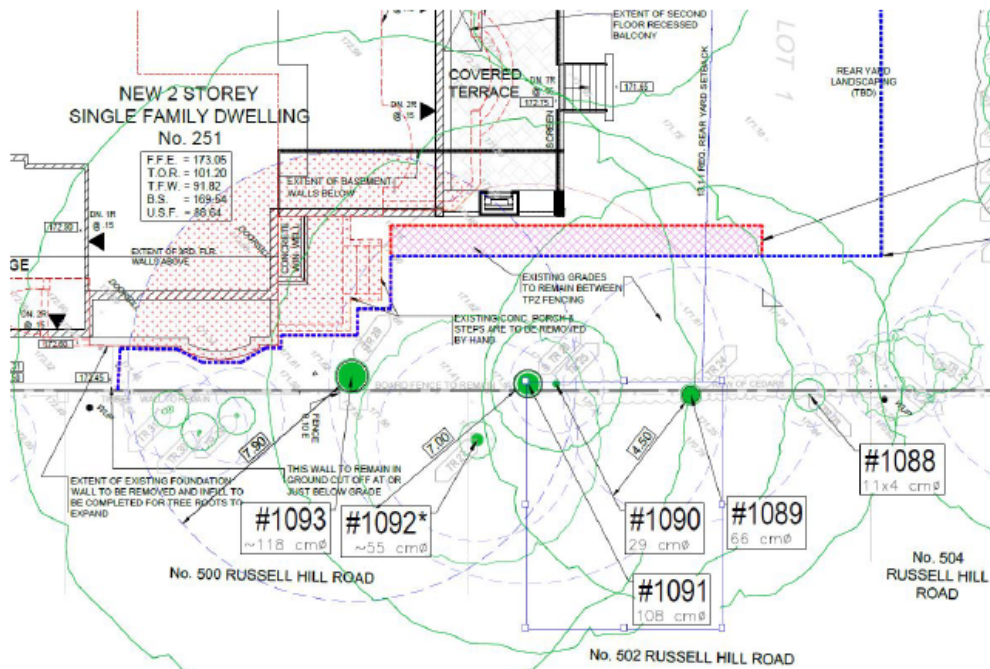
- Proposed Disturbances to the Boundary Trees noted above include the following:
 - Removal of existing cement steps & patio to back door is required. The extent of roots from Tree 28 within this area is uncertain as the exploration of roots in that area has never been conducted.
 - Construction of a precast concrete window well is proposed in the area of where the existing rear cement porch is to be removed. Roots from Tree 1093 could be encountered in this area and are likely up against the foundation of the existing house.
 - The proposed TPZ fencing scheme is woefully inadequate to protect the Boundary Trees.
 - Two fences are prescribed suggesting a phased approach.
 - Phase fencing (temporary) 1 would allow for the removal of the concrete steps and porch by hand.
 - A second (Phase 2) more permanent fencing (solid wood hoarding) is proposed well inside the mTPZ of the Boundary Trees where grades will not be changed ("existing grades to remain"), rendering this significant root area to be exposed to construction activity (passing of equipment and materials, house construction, storage of materials etc.).
- 7. The applicant's Tree Preservation Plan depicts an area where "it is assumed that tree roots do not exist". This assumption is inappropriate and very likely inaccurate. To my knowledge, root exploration was not conducted in critical areas such as adjacent to the cement porch and steps that are proposed for removal.
- 8. My understanding is that an exploratory trench was recently dug on property to determine the extent of roots of boundary trees, at critical locations that would generally correspond to the proposed locations of phased preservation fencing. That exploration showed extensive roots that range in size from smaller feeder roots to structural roots to be affected by the demolition. Severing roots at these locations would seriously injure Trees 1093 and 1091 as structural roots are involved and volume of roots inside the mTPZ is extensive.
- 9. In all, the proposal will result in tremendous root loss for trees designated for preservation. In particular, Trees 1093 and 1091 will experience cultural shock and be forced to expend tremendous energy to regenerate new roots. The proposed site plan does not permit any area for root regeneration with the proposed house construction and rear yard landscaping. Truncating roots and subjecting the remaining roots and tree parts to extensive construction activity across the majority of the property (akin to a "war zone") are not considered favorable growing conditions as it is well known that construction measures are seldom implemented and maintained perfectly or as intended and that construction crews take short cuts in order to get their work done with little to no regard for trees (roots, trunk or aerial parts of the tree). As a result, there is a good likelihood that these trees will die in time even if mitigation measures are not in place and strictly followed.

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10. As Trees 1093 and 1091 are large stature trees with Fair vigor, it will not respond to the above noted impacts as well as smaller more vigorous trees would.
 11. It is my opinion that even with mitigation measures, there is no certainty that Trees 1093 and 1091 will survive the proposed demolition. If the impacts set out above prove to be too much for the tree to overcome, the consequences would be irreparable and could present a serious safety hazard.

Respectfully Submitted,

Kuntz Forestry Consulting Inc.

BScF, R.P.F., BNA, TRAQ, TPAQ
Principal, Consulting Professional Forester



Map 1. Snippet of 7 Oaks Tree Preservation Plan (December 30, 2022).