

603-615 Sheppard Avenue East, 9-17 Rean Drive, and 6-10 Dervock Crescent – OMB Decision - Use of Section 37 Contributions

Date:	May 22, 2008
To:	North York Community Council
From:	City Solicitor
Wards:	Ward 24 – Willowdale
Reference Number:	

SUMMARY

The purpose of this report is to obtain direction from City Council as to the use of a \$157,230.00 Section 37 community benefits payment to be received with respect to the subject development. This is a time sensitive matter that must be dealt with prior to June 30, 2008.

RECOMMENDATIONS

The City Solicitor recommends that City Council determine whether the \$157,430.00 community benefit payment with respect to the subject development should be used for either:

1. the provision of six-month transit passes for the purchasers of dwelling units in the subject development; or
2. community centre purposes in the local area.

FINANCIAL IMPACT

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

DECISION HISTORY

The mixed use development to be constructed at the subject addresses consists of four buildings with heights of 7, 10, 9 and 3 storeys, a gross floor area of approximately 41,000 square metres, and a density of 3.0 FSI. Pursuant to City Council's instructions

under Clause 37 of Report 7 of North York Community Council which was adopted, as amended, by City Council at its meeting of September 25, 26 and 27, 2006, the City Solicitor opposed the zoning and site plan appeals to the Ontario Municipal Board on the issues of how the designated density would be allocated on the site and at what height, and secondly, with respect to what community benefit payments should be required from the developer pursuant to the provisions of Section 37 of the Planning Act.

The primary community benefit payments sought by the City were six-month transit passes for the purchasers and a payment of approximately \$221,000.00 to be used for community centre purposes in the area.

The Ontario Municipal Board, in its Decision No. 0457 under Case No. PL060415, approved the form of the development and ordered a community benefit payment in the amount of \$157,430.00 with the proviso that the City could take it in the form of a six-month transit pass for the purchasers of the residential units within the development, or elect to take it as a cash payment.

ISSUE BACKGROUND

In accordance with the OMB Decision, the final forms of both the zoning by-law and the Section 37 Agreement were drafted to give City Council the option to take a cash payment of \$157,430.00 instead of the six-month transit passes for the purchasers. Under the Section 37 Agreement, if the City wants to take the \$157,430.00 cash payment, it must in writing advise the developer of that election prior to June 30, 2008, failing which, the developer is instead obligated to provide the six-month transit passes to the purchasers. If the City elects to take the cash payment, the developer is obligated to make the payment to the City forthwith upon that election.

COMMENTS

This is a time sensitive matter since if the City does not elect prior to June 30, 2008 to take the \$157,430.00 cash payment, then the developer will instead be obligated under the provisions of the Section 37 Agreement to provide the six-month transit passes to the purchasers. Since City Council directed the City Solicitor to seek at the OMB Hearing a Section 37 payment for community centre purposes and given the evidence of the City's planning consultant at the OMB Hearing addressed the use of community benefit payments for community centre purposes in the area, it is appropriate in the event City

Council elects to take the cash payment of \$157,430.00, that those funds be used for community centre purposes in the area of the development.

CONTACT

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SIGNATURE

Anna Kinastowski, City Solicitor