

30 Weston Road and Part of 33 Gunns Road - Zoning By-law Amendment Application - Final Report

Date:	September 27, 2013
To:	Etobicoke York Community Council
From:	Director, Community Planning, Etobicoke York District
Wards:	Ward 11 – York South-Weston
Reference Number:	13 148014 WET 11 OZ

SUMMARY

At its meeting of April 3, 2013, City Council directed the Director, Community Planning, Etobicoke York District, to submit a Preliminary Report to Etobicoke York Community Council regarding a City-initiated amendment to Site-Specific Zoning By-law 1203-2009, pertaining to 30 Weston Road and Part of 33 Gunns Road, to reallocate the Section 37 community benefit provisions of this By-law. The total amount of the Section 37 funds collected would not be altered.

The subject property also has a Section 37 Agreement registered on title that must be amended to secure the Section 37 community benefit provision consistent with the proposed change to the Section 37 provisions in the Zoning By-law.

As directed by City Council, this report proposes amendments to Site Specific Zoning By-law 1203-2009 to reallocate the Section 37 community benefit provisions of this By-law.

As also directed by Etobicoke York Community Council, this report proposes amendments to this By-law to delete the requirement for medical offices or a medical clinic on the subject lands.



RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council amend Site-Specific Zoning By-law 1203-2009 for the lands at 30 Weston Road and Part of 33 Gunns Road substantially in accordance with the draft Zoning By-law Amendment attached as Attachment 1.
2. City Council authorize the City Solicitor to make such stylistic and technical changes to the draft Zoning By-law Amendment as may be required.
3. Before introducing the necessary Bills to City Council for enactment, require the Owner to enter into an Amending Agreement pursuant to Section 37 of the *Planning Act* to reallocate the secured Section 37 funds.

Financial Impact

The recommendations in this report have no financial impact.

DECISION HISTORY

City Council at its meeting on December 4, 2009 adopted a site-specific by-law (By-law 1203-2009) for the lands municipally known as 30 Weston Road and Part of 33 Gunns Road to permit the development of a 51,544 m² commercial development, which includes a large retail store and a combination of small and mid-size retail stores, office uses and service shops.

This By-law includes a Section 37 community benefits clause which requires a \$350,000 cash contribution (indexed) for improvements to local parks and recreation facilities, with priority given to improvements to Viella Tarragona Park, including a water play area; and a public art contribution of 1 percent of the gross construction costs of the shell building. The owner opted to provide a cash contribution for the public art and paid \$779,500 to the City. With accrued interest on both contributions, current balances are \$355,008 for the parks/recreation improvements and \$783,495 for public art, for a total balance of \$1,138,503.

This By-law, among other matters, also requires that medical offices or a medical clinic having a minimum of 500 m² of non-residential gross floor area be provided and maintained on the lands for any development having a minimum non-residential gross floor area of 40,000 m².

At its meeting of April 3, 2013 City Council directed the Director, Community Planning, Etobicoke York District, to forward a Preliminary Report to Etobicoke York Community Council regarding a City-initiated amendment to Site-Specific Zoning By-law 1203-2009, to amend the Section 37 provisions as follows:

- a. to allow up to \$325,000 of the \$783,495, including accrued interest, secured and obtained for public art, to also be used for capital improvements to parks and recreation facilities in Ward 11, within the vicinity of the development, to be determined by the General Manager of Parks, Forestry and Recreation, in consultation with the Ward Councillor; and
- b. to allow the \$350,000 plus indexing and accrued interest, secured and obtained for improvements to local parks and recreation facilities with priority consideration given to Viella Tarragona Park, including a water play area, to also be used for capital improvements to parks and recreation facilities in Ward 11, within the vicinity of the development, to be determined by the General Manager of Parks, Forestry and Recreation, in consultation with the Ward Councillor.

City Council's decision can be found at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.MM32.18>.

Etobicoke York Community Council at its meeting of September 10, 2013 requested the Director, Community Planning, Etobicoke York District, to prepare and bring forward to Etobicoke York Community Council, a draft Zoning By-law to amend By-law 1203-2009 by deleting Section 2(vi) which requires the provision and maintenance of medical offices or a medical clinic. Etobicoke York Community Council also directed Planning staff to provide notification pursuant to the *Planning Act* for a Public Meeting at Etobicoke York Community Council in October, 2013 on the draft Zoning By-law, and the cost of such notification to be borne by the owner of the lands. The Etobicoke York Community Council decision can be found at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.EY26.49>

COMMENTS

Amendments to the Section 37 Provisions

The Ward Councillor has indicated that a plan for Viella Tarragona Park was developed through consultation with the local community that provides for a splash pad and a public art work associated, but not integrated, with the splash pad.

The proposed splash pad in Viella Tarragona Park is estimated by Parks, Forestry and Recreation staff to cost \$550,000. The public art installation is estimated to cost \$250,000, including an estimated \$30,000 for the related public art competition. The splash pad design and the public art competition is currently being conducted, with the construction of the splash pad and public art installation to occur in 2014. The remaining balance of funds in the amount of approximately \$338,500 is intended to be used for park improvements in Ward 11 but has not been budgeted at this time.

The reallocation of up to \$325,000 of the public art funds to provide for park improvements in Ward 11 will allow the cost of the splash pad to be fully funded, with a

small contingency, and also allow for approximately \$125,000 to be used at a later date in other parks in Ward 11.

An amendment to Site-Specific Zoning By-law 1203-2009 and a revision to the Section 37 Agreement registered on title to the subject lands are necessary to reallocate the Section 37 funds. The draft Zoning By-law Amendment attached as Attachment 1 incorporates this revision.

The Ward Councillor held a community consultation meeting on June 22, 2013 with local residents and no issues or concerns were raised with the reallocation of the funds as proposed.

Amendments to Delete the Requirement for Medical Offices or Medical Clinic

In a submission to the September 10, 2013 Etobicoke York Community Council meeting the Ward Councillor indicated that to-date, the owner has been unable to secure a medical office or medical clinic tenant for the site. However as the site specific zoning for the site requires a minimum of 500 m² to be provided for this use, this floor area must be retained for this use. The Ward Councillor indicated that while there was, and still is a desire for medical uses on this site, the intent of the by-law requirement was not to preclude the owner from leasing this space for another use if a medical office or clinic could not be found to occupy the space.

As such, the Ward Councillor introduced a motion which was approved by Etobicoke York Community Council directing staff to prepare a Zoning By-law Amendment deleting this requirement from By-law 1203-2009. The draft Zoning By-law Amendment attached as Attachment 1 incorporates this revision.

This report has been prepared pursuant to the direction given by City Council and Etobicoke York Community Council.

CONTACT

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SIGNATURE

Neil Cresswell, MCIP, RPP
Director, Community Planning
Etobicoke York District

ATTACHMENTS

Attachment 1: Draft Zoning By-law Amendment

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Authority: Etobicoke York Community Council Item ~ as adopted by City of Toronto
Council on ~, 20~
Enacted by Council: ~, 20~

CITY OF TORONTO

Bill No. ~

BY-LAW No. ~-20~

To amend Site-Specific Zoning By-law 1203-2009, With respect to the lands municipally known as 30 Weston Road and Part of 33 Gunns Road

WHEREAS authority is given to Council by Section 34 of the *Planning Act*, R.S.O. 1990, c.P. 13, as amended, to pass this By-law; and

WHEREAS Council of the City of Toronto has provided adequate information to the public and has held at least one public meeting in accordance with the *Planning Act*;

The Council of the City of Toronto HEREBY ENACTS as follows:

1. Delete Section 2(vi) which requires the provision and maintenance of medical offices or a medical clinic.
2. Delete Section 6 INCREASE HEIGHT AND DENSITY and replace with the following:

6. INCREASED HEIGHT AND DENSITY

Matters which are to provided pursuant to Section 37 of the *Planning Act*, R.S.O. 1990, c.P. 13, as amended, in order to permit the increased height and retail floor area authorized under section (l) of this exception are:

SECTION 37 AGREEMENT

The owner of the subject lands shall enter into one or more agreements with the City of Toronto pursuant to Section 37 of the *Planning Act* to secure the facilities, services and matters referred to below, which agreement or agreements shall be registered against the title of the lands to which this By-law applies in the manner and to the extent specified in such agreements and to the satisfaction of the City Solicitor. The owner of the subject lands, at the owner's expense and in accordance with, and subject to the agreements referred to above, shall provide or fund the following facilities, services and/or matters on terms satisfactory to the City of Toronto, acting reasonably:

- (i) Prior to the issuance of the first building permit for the development, the owner will pay by cash or certified cheque the amount of \$350,000 to the City, indexed to the CPI index from the date of registration of the Section 37 Agreement, to be used to secure and obtain improvements to local parks and recreation facilities with priority consideration given to Viella Tarragona Park, including a water play area, and for capital improvements to parks and recreation facilities in Ward 11, within the vicinity of the development, to be determined by the General Manager of Parks, Forestry and Recreation, in consultation with the Ward Councillor; and
- (ii) The owner agrees to make a public art contribution of \$779,500 to the City, of which up to \$325,000 may be used for capital improvements to parks and recreation facilities in Ward 11, within the vicinity of the development, to be determined by the General Manager of Parks, Forestry and Recreation, in consultation with the Ward Councillor and the balance is to be used for public art.

ENACTED AND PASSED this ~ day of ~, A.D. 20~.

ROB FORD,
Mayor

ULLI S. WATKISS,
City Clerk

(Corporate Seal)