

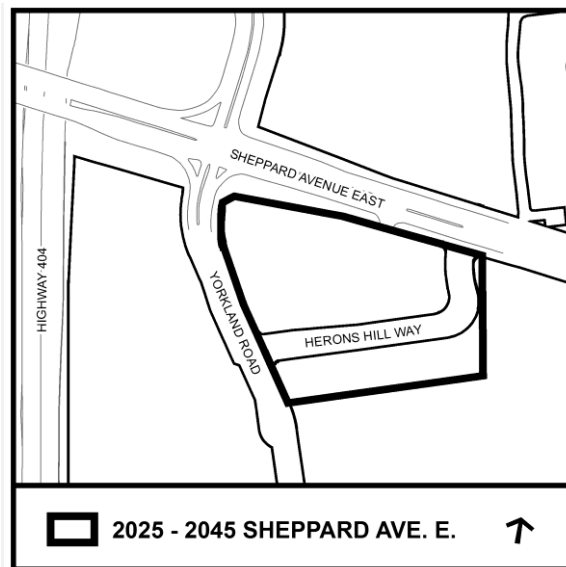
**2025-2045 Sheppard Avenue East –
Official Plan and Zoning By-law Amendment Applications
and Request to Amend Section 37 Agreement -
Final Report**

| | |
|--------------------------|---|
| Date: | March 17, 2014 |
| To: | North York Community Council |
| From: | Director, Community Planning, North York District |
| Wards: | Ward 33 – Don Valley East |
| Reference Number: | 13 219804 NNY 33 OZ |

SUMMARY

This application proposes to amend the Section 37 provisions contained in the site specific Official Plan policy and zoning by-law and the Section 37 Agreement for the lands at 2025-2045 Sheppard Avenue East. The proposal is to amend the timing in the Section 37 provision requiring the substantial completion of an office/commercial building prior to occupancy of the third residential building. The application does not involve any change to the built form, density or use permissions applicable to the lands.

This report reviews and recommends approval of the application to amend the Official Plan and Zoning By-law to amend the Section 37 Agreement requirement as to the timing of when the commercial building has to be completed, as set out in the report.



RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council amend the Official Plan, for the lands at 2025-2045 Sheppard Avenue East substantially in accordance with the draft Official Plan Amendment attached as Attachment No. 5.
2. City Council amend former City of North York Zoning By-law No. 7625 for the lands at 2025-2045 Sheppard Avenue East substantially in accordance with the draft Zoning By-law Amendment attached as Attachment No. 6.
3. City Council authorize the City Solicitor to make such stylistic and technical changes to the draft Official Plan Amendment and draft Zoning By-law Amendment as may be required.
4. City Council authorize the City Solicitor, in consultation with relevant City staff, to amend the Section 37 Agreement dated November 7, 2007 as amended on July 12, 2011, applying to the lands at 2025-2045 Sheppard Avenue East, by deleting the provisions dealing with occupancy of the third residential building and timing of the substantial completion of the commercial building and replacing them with the provisions substantially in accordance with Attachment 3.
5. Before introducing the necessary Bills to City Council for enactment, require that the Section 37 Agreement as amended, be amended to the satisfaction of the City Solicitor as set out in Recommendation 4.

Financial Impact

The recommendations in this report have no financial impact.

DECISION HISTORY

The Ontario Municipal Board, in a Decision issued in 2004 and an Order issued in 2007, approved an Official Plan Amendment and zoning by-law for the lands at 2025-2045 Sheppard Avenue East. Official Plan Amendment No. 586 to the North York Official Plan and Zoning By-law 295-2010 which were approved by the OMB permit development of 3 residential buildings and commercial uses on the lands on the north side of a new public road, with office and commercial uses on the south side of the road and set out a number of Section 37 provisions. Monarch also entered into a Section 37 Agreement with the City dated November 7, 2007. One of the Section 37 requirements was that a commercial building which has a minimum gross floor area of 3,995 m² on the south side of the new road shall be substantially completed prior to the occupancy of the third residential building.

On July 14, 2011, City Council enacted Official Plan Amendment No. 588 to the North York Official Plan and Zoning By-law 928-2011 to amend the site-specific Official Plan and zoning by-law dealing with the Section 37 provisions, by reducing the required size of the commercial building to be completed on the southerly parcel from 3,995 m² to 1,970 m² and securing an additional Section 37 requirement that Monarch provide a further contribution of \$300,000 for pedestrian related improvements along Sheppard Avenue East. The Section 37 Agreement was amended on July 12, 2011 to reflect these changes.

ISSUE BACKGROUND

Proposal

Following approval by the OMB of the redevelopment of the subject site, in 2007 Monarch relocated their head office from this site to a new location at 2550 Victoria Park Avenue with a 10 year lease. Monarch advises that it is their intention to relocate their head office back to the subject site following expiry of their lease in August 2017.

However, Monarch anticipates that the third residential building will be ready for occupancy in May 2014. As a result, Monarch is seeking amendments to the Official Plan, zoning by-law and Section 37 Agreement provisions requiring the substantial completion of the commercial building prior to occupancy of the third residential building. Monarch is proposing to set out a new timing for the completion of the commercial building and that it would provide security to the City in the form of land and a letter of credit to ensure the construction and completion of the commercial building.

Site and Surrounding Area

The 2.68 ha site is located on the south side of Sheppard Avenue at Yorkland Road, just east of Highway 404. The site is comprised of 2 parcels of land separated by a new public road (Herons Hill Way). Construction of the Herons Hill development began in 2008. The first phase of the redevelopment is complete and consists of a 25 storey residential building and a 5 storey mixed use podium building on Sheppard Avenue with a total of 330 units and a 3 storey recreation complex. The second residential building (39 storeys with 423 units) is nearing completion and the third residential building (33 storeys with 402 units) is under construction. On the south side of the new public road (Herons Hill Way) Monarch has their sales centre, construction office and construction parking area.

North: On the north side of Sheppard Avenue East are three 22 storey residential buildings.

South: 3 storey office building and industrial buildings

East: car wash, restaurant, auto repair and gas station

West: two 8 storey office buildings and a private school

Provincial Policy Statement and Provincial Plans

The Provincial Policy Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and development. The PPS sets the policy foundation for regulating the development and use of land. The key objectives include: building strong communities; wise use and management of resources; and protecting public health and safety. 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.

The proposal maintains the lands on the south side of Herons Hill Way for employment uses and therefore is consistent with the PPS and is in conformity with the Growth Plan for the Greater Golden Horseshoe.

Official Plan

The site is subject to the former City of North York Official Plan. The land located north of Herons Hill Way is designated Mixed Use and the land located south of Herons Hill Way is designated Industrial. The site is subject to site specific policy C.9.277 of the North York Official Plan which permits residential and commercial uses on the land designated Mixed Use and permits commercial uses on the land designated Industrial. The policy also sets out the maximum number of residential units and gross floor area and also sets out a number of Section 37 provisions which are also included in the site specific zoning by-law including the following:

"one or more buildings which collectively have a minimum gross floor area of 1,970 square metres on the south side of the new public road shall be substantially completed prior to the occupancy of the third residential building".

It is this provision that Monarch is seeking to amend.

Zoning

The site is subject to former City of North York Zoning By-law 7625. The site is zoned C1(127) General Commercial with a site specific exception and Committee of Adjustment variances that permit the following:

- Residential and commercial uses on the lands located north of the new road with 3 residential buildings with heights of 25, 39 and 33 storeys with a maximum of 1,155 dwelling units and a maximum gross floor area of 88,021 m².

- Commercial and office uses on the lands located south of the new road.
- A maximum gross floor area for all the lands of 93,814 m².

The zoning by-law sets out a number of Section 37 provisions including financial contributions for community facility improvements, public art, pedestrian related improvements, traffic monitoring, and the provision of a shuttle bus service to the Don Mills subway station. These Section 37 provisions have been fulfilled. The by-law also includes the following Section 37 provision:

"one or more buildings which collectively have a minimum gross floor area of 1,970 square metres on the south side of the new public road shall be substantially completed prior to the occupancy of the third residential building".

Monarch is seeking to amend this provision to modify the timing of when the commercial building on the south side of the new public road has to be substantially completed.

Site Plan Control

On July 8, 2013 the applicant submitted a site plan application for a 3 to 4 storey office building for the portion of the site located on the south side of the new public road (Heron's Hill Way) shown as Parcel 2 on Attachment 1 to this report.

Reasons for Application

The Section 37 provisions of the site specific North York Official Plan policy and North York zoning by-law require that prior to occupancy of the third residential building a commercial building with a minimum gross floor area of 1,970 m² is to be substantially completed. Monarch has indicated that occupancy of the third residential building is anticipated in May 2014 and that the commercial building will not be completed by this date. Consequently an amendment to the site specific Official Plan policy and zoning by-law and Section 37 Agreement are needed.

Community Consultation

A community consultation meeting was held on December 9, 2013 attended by approximately 12 people. No one raised any concerns with the proposal to amend the Section 37 provisions dealing with the timing of construction of the commercial building. The following issues and concerns were raised:

- Traffic congestion in the area.
- Make walking along Sheppard Avenue more enjoyable by adding trees, benches, move sidewalk away from the curb.
- Currently the site is not well kept with dust emanating from construction vehicles. Until the commercial building is built, improve the appearance of the site.

Agency Circulation

The application was circulated to all appropriate agencies and City divisions. Responses received have been used to assist in evaluating the application.

COMMENTS

Monarch is seeking changes to the timing of construction of the commercial building that it is required to build as part of the residential development. While the third residential building is near completion, construction of the commercial building has not yet commenced. Monarch has indicated that occupancy of the third residential building is anticipated sometime in May 2014. A new timing is proposed for the commercial building which would see its construction commence by December 31, 2015 and completion of the commercial building by December 31, 2016. Monarch has proposed to provide the City with security in the form of land and a letter of credit as set out in Attachment 3 to ensure adherence to this new timing. Monarch is also proposing to provide the City with quarterly payments representing the difference in property taxes that would be due as if the commercial building were built until the date when the building is constructed. Staff have consulted with the Legal, Economic Development and Finance departments on these matters.

Staff believe that the proposed securities are sufficient to ensure that the commercial building is completed. The financial securities provided to the City can be used for community facilities or parks improvements in Ward 33 east of Highway 404 and south of Van Horne Avenue, to be determined through consultation with the local Councillor. Staff recommend that the Section 37 provisions be amended in accordance with the details outlined in Attachment 3.

Monarch has submitted a site plan application for the commercial building which is currently under review.

CONTACT

Nimrod Salamon, Senior Planner
Tel. No. (416) 395-7095
Fax No. (416) 395-7155
E-mail: nsalamon@toronto.ca

SIGNATURE

Allen Appleby, Director
Community Planning, North York District

ATTACHMENTS

Attachment 1: Master Plan

Attachment 2: Zoning

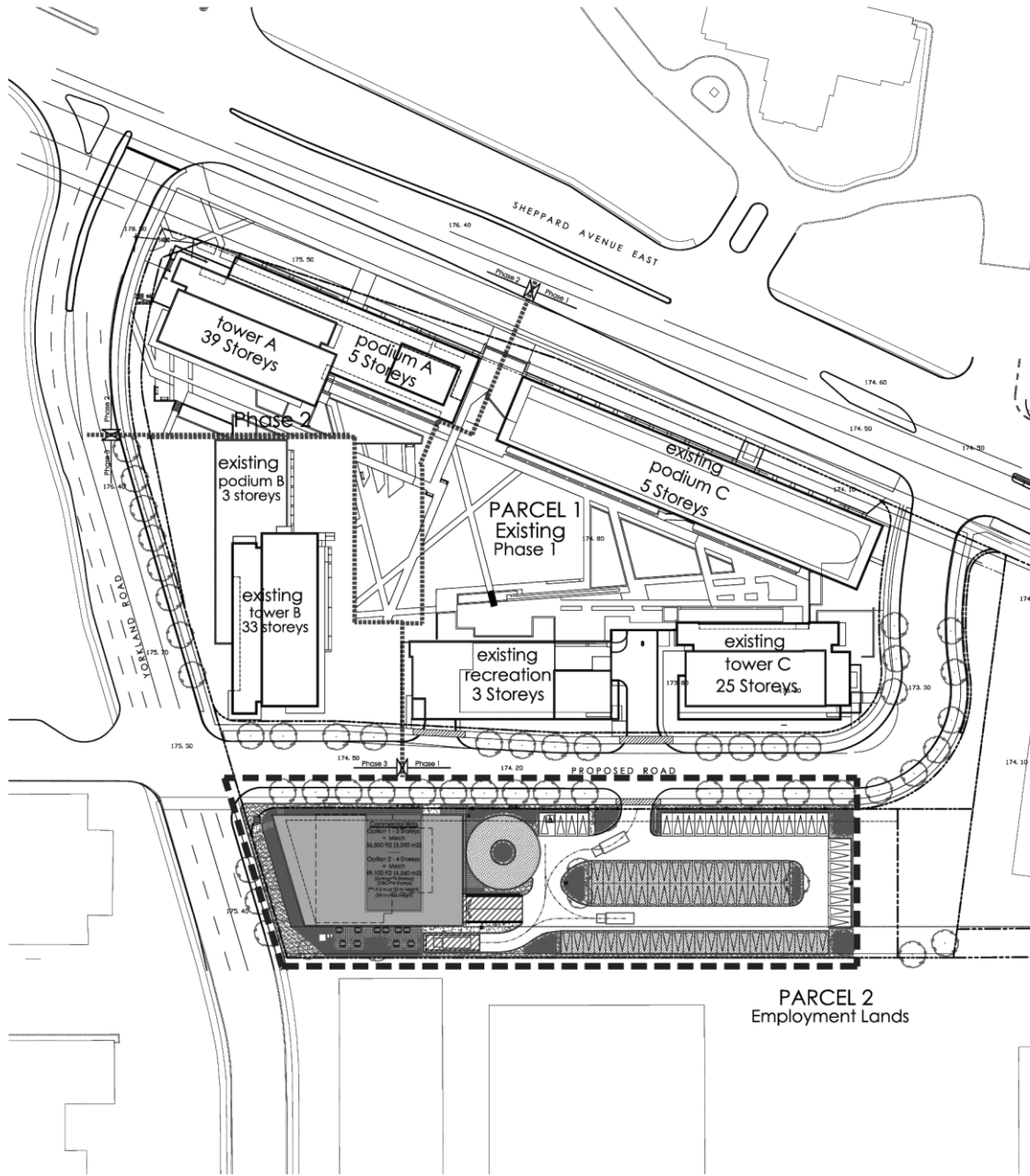
Attachment 3: Changes to the Section 37 Provisions

Attachment 4: Application Data Sheet

Attachment 5: Draft Official Plan Amendment

Attachment 6: Draft Zoning By-law Amendment

Attachment 1: Site Plan



Master Plan

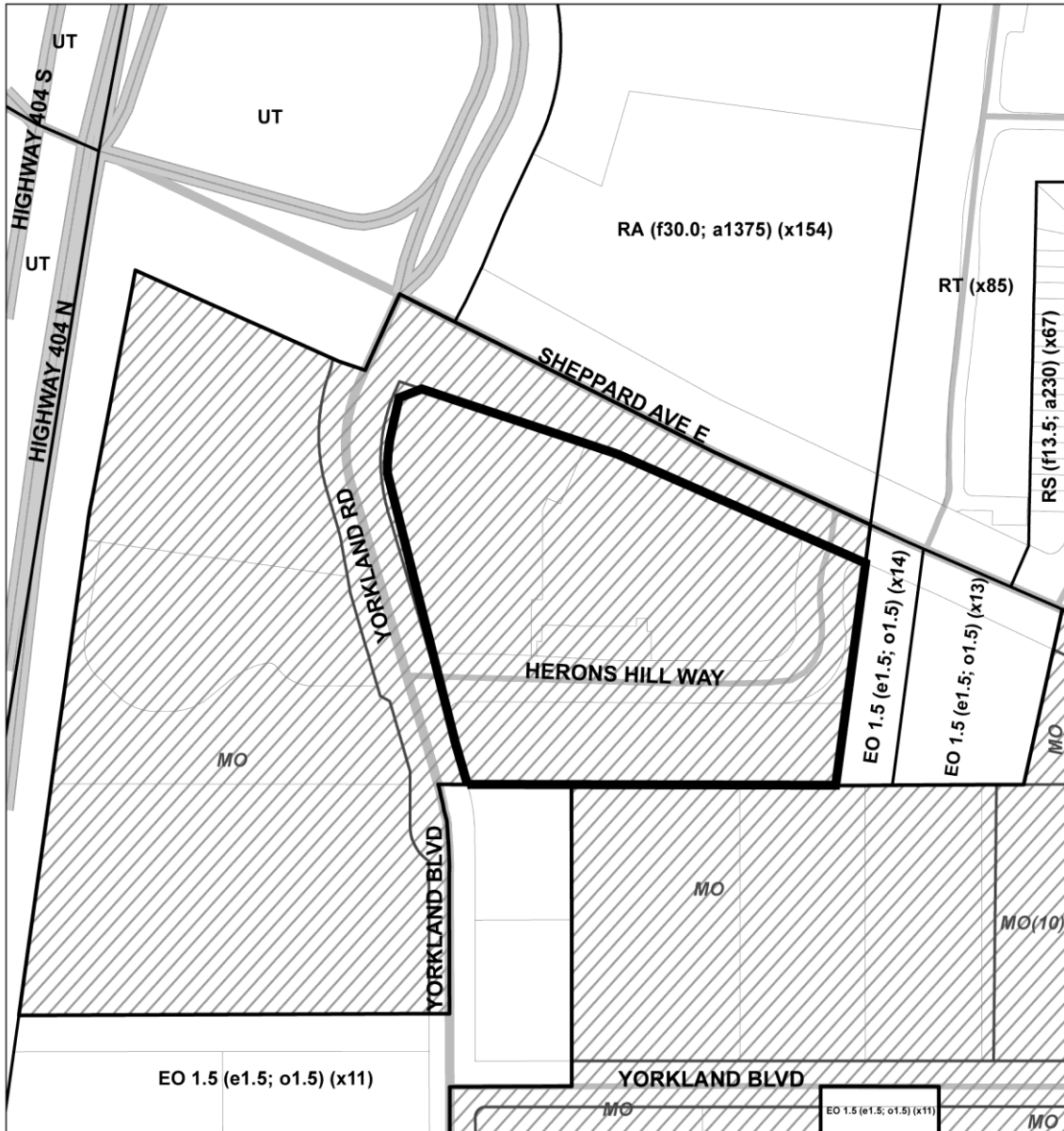
2025 - 2045 Sheppard Ave. E.

Applicant's Submitted Drawing

Not to Scale
08/20/2013

File # 13 219804 NNY 33 0Z

Attachment 2: Zoning



TORONTO City Planning

Zoning By-law 569-2013

2025 - 2045 Sheppard Ave. E.

File # 13 219804 NNY 33 0Z

- Location of Application
- RT Residential Townhouse
- RS Residential Semi-Detached
- RA Residential Apartment
- EO Employment Industrial Office

UT Utility and Transportation

See Former City of North York Bylaw No. 7625

MO Industrial-Office Business Park Zone

Not to Scale
 Extracted 08/20/2013

Attachment 3
Changes to Section 37 Provisions

1. One or more buildings which collectively have a minimum gross floor area of 1,970 square metres shall be Substantially Completed on the south side of the new public road subject to the following terms respecting security and other remedies:
 - A. Substantially Completed shall mean completion of the walls, floors and roof structure of the said building(s).
 - B. Commercial Building Lands shall mean those lands that are identified as Parcel 2 on Schedule C1(127) of City of Toronto By-law No. 295-2010 (OMB).
 - C. In the event that the owner has not filed an application for any permit pursuant to the Building Code Act on or before the 183rd day following the date the owner receives site plan notice of approval conditions, the City may realize on security therefor, by taking title to the Commercial Building Lands.
 - D. In the event that the owner has received a building permit but construction has not commenced on or before December 31, 2015 of the building on the Commercial Building Lands, the City may realize on the security therefor by taking title to the Commercial Building Lands.
 - E. At the time of issuance of a foundation permit, the owner is to submit a letter of credit to the City for \$6.5 million.
 - F. In the event that the building on the Commercial Building Lands has not been Substantially Completed on or before December 31, 2016 (the "Completion Deadline"), then commencing on the last day of the month that follows the Completion Deadline:
 - a. the City can draw \$100,000 on the last day of each month for the first 6 months; and
 - b. after 6 months, the City can draw an additional amount of \$325,000 on the last day of each month,except that such sums identified in this Paragraph F are to be pro rated for any month during which the building is Substantially Completed between the first and last day of the month.

- G. The owner shall remit funds in the amount of \$5,428 to the City to be paid every 3 months commencing from the date of occupancy of the third residential building until the building on the Commercial Building Lands is Substantially Completed, with the last payment being pro-rated on a daily basis.
- H. Such other terms as are set out in the Section 37 agreement to address force majeure and other unforeseen delays in permit issuance.
- I. Any Funds payable hereunder shall be used for community facilities or parks improvements in Ward 33 east of Highway 404 and south of Van Horne Avenue, to be determined through consultation with the local Councillor.

Attachment 4: APPLICATION DATA SHEET

| | | | |
|------------------|------------------------------------|---------------------|---------------------|
| Application Type | Official Plan Amendment & Rezoning | Application Number: | 13 219804 NNY 33 OZ |
| Details | OPA & Rezoning, Standard | Application Date: | August 13, 2013 |

Municipal Address: 2025-2045 SHEPPARD AVE EAST
 Location Description: CON 4 EY PT LOT 15 RP R4021 PART 1 TO 2
 Project Description: To amend the Official Plan and Zoning By-law Section 37 provisions dealing with the timing for construction of a commercial building on the south side of the new public road prior to occupancy of the third residential building. No additional development is proposed.

| | | | |
|---------------------------|---------------|-------------------|---------------------------|
| Applicant: | Agent: | Architect: | Owner: |
| Monarch Heron's Hill Ltd. | | | Monarch Heron's Hill Ltd. |

PLANNING CONTROLS

| | | | |
|----------------------------|----------------------|--------------------------|---------|
| Official Plan Designation: | Mixed Use/Industrial | Site Specific Provision: | C.9.277 |
| Zoning: | C1(127) | Historical Status: | |
| Height Limit (m): | | Site Plan Control Area: | Y |

PROJECT INFORMATION

| | | | | |
|------------------------------------|----------|---------|-----------------|--------------|
| Site Area (sq. m): | 26794.19 | Height: | Storeys: | |
| Frontage (m): | 219 | | Metres: | |
| Depth (m): | | | | |
| Total Ground Floor Area (sq. m): | | | | Total |
| Total Residential GFA (sq. m): | | | Parking Spaces: | |
| Total Non-Residential GFA (sq. m): | | | Loading Docks | |
| Total GFA (sq. m): | | | | |
| Lot Coverage Ratio (%): | | | | |
| Floor Space Index: | | | | |

DWELLING UNITS

FLOOR AREA BREAKDOWN (upon project completion)

| | | | |
|--------------|----------------------------------|--------------------|--------------------|
| Tenure Type: | | Above Grade | Below Grade |
| Rooms: | Residential GFA (sq. m): | | |
| Bachelor: | Retail GFA (sq. m): | | |
| 1 Bedroom: | Office GFA (sq. m): | | |
| 2 Bedroom: | Industrial GFA (sq. m): | | |
| 3 + Bedroom: | Institutional/Other GFA (sq. m): | | |
| Total Units: | | | |

| | | |
|-----------------|----------------------|---------------------------------------|
| CONTACT: | PLANNER NAME: | Nimrod Salamon, Senior Planner |
| | TELEPHONE: | (416) 395-7095 |

Attachment 5: Draft Official Plan Amendment

Authority: North York Community Council Item ~ as adopted by City of Toronto Council on ~, 2014

Enacted by Council: ~, 2014

CITY OF TORONTO

Bill No. ~

BY-LAW No. --2014

**To adopt Amendment No. 589 to the Official Plan
for the former City of North York
respecting the lands known municipally in the year 2007 as
2025-2045 Sheppard Ave East**

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

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. The attached Amendment No. 589 to the Official Plan of the former City of North York is hereby adopted pursuant to the *Planning Act*, as amended.

ENACTED AND PASSED this ~ day of ~, A.D. 2014.

ROB FORD,
Mayor

ULLI S. WATKISS,
City Clerk

(Corporate Seal)

**AMENDMENT NO. 589 TO THE OFFICIAL PLAN
OF THE FORMER CITY OF NORTH YORK**

**LANDS MUNICIPALLY KNOWN IN THE YEAR 2007 AS
2025-2045 SHEPPARD AVENUE EAST**

The Official Plan of the former City of North York is amended as follows:

1. Amendment No. 586 to the Official Plan of the former City of North York is amended as follows:
 - (a) ITEM 2, Clause 1, C.9.277 section (d)(xi) is deleted and replaced with the following:

"(d)(xi) one or more buildings which collectively have a minimum gross floor area of 1,970 square metres shall be Substantially Completed on the south side of the new public road subject to the following terms respecting security and other remedies:

 - A. Substantially Completed shall mean completion of the walls, floors and roof structure of the said building(s).
 - B. Commercial Building Lands shall mean those lands that are identified as Parcel 2 on Schedule C1(127) of City of Toronto By-law No. 295-2010 (OMB).
 - C. In the event that the owner has not filed an application for any permit pursuant to the Building Code Act on or before the 183rd day following the date the owner receives site plan notice of approval conditions, the City may realize on security therefor, by taking title to the Commercial Building Lands.
 - D. In the event that the owner has received a building permit but construction has not commenced on or before December 31, 2015 of the building on the Commercial Building Lands, the City may realize on the security therefor by taking title to the Commercial Building Lands.
 - E. At the time of issuance of a foundation permit, the owner is to submit a letter of credit to the City for \$6.5 million.
 - F. In the event that the building on the Commercial Building Lands has not been Substantially Completed on or before December 31, 2016 (the "Completion Deadline"), then commencing on the last day of the month that follows the Completion Deadline:

- a. the City can draw \$100,000 on the last day of each month for the first 6 months; and
- b. after 6 months, the City can draw an additional amount of \$325,000 on the last day of each month,

except that such sums identified in this Paragraph F are to be pro rated for any month during which the building is Substantially Completed between the first and last day of the month.

- G. The owner shall remit funds in the amount of \$5,428 to the City to be paid every 3 months commencing from the date of occupancy of the third residential building until the building on the Commercial Building Lands is Substantially Completed, with the last payment being pro-rated on a daily basis.
- H. Such other terms as are set out in the Section 37 agreement to address force majeure and other unforeseen delays in permit issuance.
- I. Any Funds payable hereunder shall be used for community facilities or parks improvements in Ward 33 east of Highway 404 and south of Van Horne Avenue, to be determined through consultation with the local Councillor."

Attachment 6: Draft Zoning By-law Amendment

Authority: North York Community Council Item ~ as adopted by City of Toronto Council on ~, 2014

Enacted by Council: ~, 2014

CITY OF TORONTO

Bill No. ~

BY-LAW No. ~-2014

**To amend former City of North York Zoning By-law No. 7625, as amended,
With respect to the lands municipally known in 2007 as
2025-2045 Sheppard Ave East**

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. Subsection 64.23(127) of former City of North York Zoning By-law No. 7625 is amended by deleting subsection (ee)(xi) and replacing it with the following:

"(ee)(xi) one or more buildings which collectively have a minimum gross floor area of 1,970 square metres shall be Substantially Completed on the south side of the new public road subject to the following terms respecting security and other remedies:

- A. Substantially Completed shall mean completion of the walls, floors and roof structure of the said building(s).
- B. Commercial Building Lands shall mean those lands that are identified as Parcel 2 on Schedule C1(127) of City of Toronto By-law No. 295-2010 (OMB).
- C. In the event that the owner has not filed an application for any permit pursuant to the Building Code Act on or before the 183rd day following the date the owner receives site plan notice of approval conditions, the City may realize on security therefor, by taking title to the Commercial Building Lands.
- D. In the event that the owner has received a building permit but construction has not commenced on or before December 31, 2015 of the building on the Commercial Building Lands, the City may realize on the security therefor by taking title to the Commercial Building Lands.

- E. At the time of issuance of a foundation permit, the owner is to submit a letter of credit to the City for \$6.5 million.
- F. In the event that the building on the Commercial Building Lands has not been Substantially Completed on or before December 31, 2016 (the "Completion Deadline"), then commencing on the last day of the month that follows the Completion Deadline:
 - a. the City can draw \$100,000 on the last day of each month for the first 6 months; and
 - b. after 6 months, the City can draw an additional amount of \$325,000 on the last day of each month,except that such sums identified in this Paragraph F are to be pro rated for any month during which the building is Substantially Completed between the first and last day of the month.
- G. The owner shall remit funds in the amount of \$5,428 to the City to be paid every 3 months commencing from the date of occupancy of the third residential building until the building on the Commercial Building Lands is Substantially Completed, with the last payment being pro-rated on a daily basis.
- H. Such other terms as are set out in the Section 37 agreement to address force majeure and other unforeseen delays in permit issuance.
- I. Any Funds payable hereunder shall be used for community facilities or parks improvements in Ward 33 east of Highway 404 and south of Van Horne Avenue, to be determined through consultation with the local Councillor."

ENACTED AND PASSED this ~ day of ~, A.D. 2014.

ROB FORD,
Mayor

ULLI S. WATKISS,
City Clerk

(Corporate Seal)