

**205, 215, 225 and 235 Sherway Gardens Road – City-Initiated Zoning By-law Amendment Application– Final Report**

<b>Date:</b>	May 25, 2016
<b>To:</b>	Etobicoke York Community Council
<b>From:</b>	Director, Community Planning, Etobicoke York District
<b>Wards:</b>	Ward 5 – Etobicoke-Lakeshore
<b>Reference Number:</b>	16 149925 WET 05 OZ

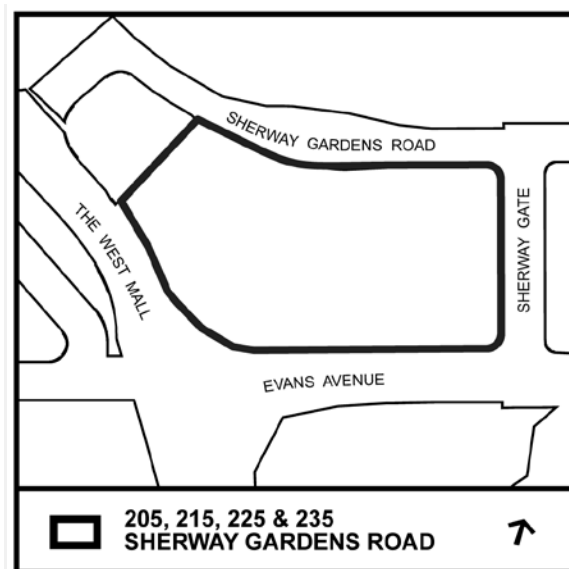
**SUMMARY**

This City-initiated application proposes to amend the Zoning By-law and Section 37 Agreement for the lands at 205, 215, 225 and 235 Sherway Garden Road (formerly known as 700 Evans Avenue) to reallocate previously secured Section 37 community benefits for parkland improvements in Ward 5.

At its meeting of May 15, 2012 Etobicoke York Community Council directed staff to review the status of secured but unexpended Section 37 funds in Ward 5 for the purpose of identifying funds that could be reallocated to alternate appropriate community benefits and to undertake City-initiated Zoning By-law Amendments accordingly.

The property at 205, 215, 225 and 235 Sherway Gardens Road (formerly known as 700 Evans Avenue) was identified as one such property with a Section 37 Agreement which could be amended.

At its meeting of July 16-19, 2013, City Council received for information a report recommending re-allocation of Section 37 funds. To date, most of the funds remain unspent.



This report is required because the current proposal is to reallocate the funds, which were previously secured for improvements to the Etobicoke Creek Trail in the general vicinity of the development, to be spent on capital parkland improvements in Ward 5.

## **RECOMMENDATIONS**

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**Should City Council wish to reallocate the Section 37 community benefits related to the development at 205, 215, 225 and 235 Sherway Gardens Road, City Council can provide the following direction:**

1. City Council amend Site Specific Zoning By-law No. 760-2006 (OMB), for the lands at 205, 215, 225 and 235 Sherway Gardens Road (formerly known as 700 Evans Avenue) substantially in accordance with the draft Zoning By-law Amendment attached as Attachment No. 1 to the report of the Director of Community Planning, Etobicoke York District, dated May 25, 2016.
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. City Council authorize the City Solicitor to amend the registered Section 37 Agreement for the property at 205, 215, 225 and 235 Sherway Gardens Road (formerly known as 700 Evans Avenue) to reallocate the remainder of the original \$400,000 contribution (plus accrued interest) for Section 37 community benefits to capital parkland improvements within Ward 5.
4. Before introducing the necessary Bills to City Council for enactment, require the owner to execute an Amending Section 37 Agreement, satisfactory to the Chief Planner and Executive Director, City Planning Division, and the City Solicitor.

### **Financial Impact**

The recommendations in this report have no financial impact.

### **DECISION HISTORY**

The Ontario Municipal Board, in Order 3122 issued in 2006, approved the development of 990 residential units on the lands formerly known as 700 Evans Avenue. The Section 37 contributions were valued at \$959,000.00 which included \$400,000.00 for Etobicoke Creek Trail improvements in the general vicinity of the development, \$59,000.00 for road and transit improvements, \$350,000.00 for above base park improvements and \$150,000.00 for public art.

The funds were received by the City and the Section 37 Agreement was registered on title November 25, 2005. Of the \$400,000 allocation for Etobicoke Creek Trail improvements, only \$42,306 has been spent.

At its meeting of May 15, 2012 Etobicoke York Community Council directed staff to review the status of secured but unexpended Section 37 funds in Ward 5 for the purpose of identifying funds that could be reallocated to alternate appropriate community benefits in Ward 5 and to undertake City-initiated Zoning By-law Amendments to reallocate such funds. These alternative appropriate community benefits were defined in this direction as parks, streetscape improvements, recreation, public art or community facilities. The link to the direction is as follows: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.EY16.25>

At its meeting of July 16, 17, 18 and 19, 2013, City Council received for information a proposal for a City-initiated Zoning By-law Amendment to re-allocate Section 37 benefits related to 700 Evans Avenue from the Etobicoke Creek Trail improvements to parkland improvements in Ward 5. At the time, the City-initiated application was circulated to all appropriate agencies and City Divisions, residents of the development and other property owners within 120 metres of the site, the relevant condominium corporations, as well as the original developer, Sherway Gate Development Corp. Circulation comments, including a resolution from the City of Mississauga, and comments from the community consultation meeting held in 2013 were in opposition to the proposed reallocation. The link to the Council decision is: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.EY25.3>

The condominiums at 205, 215, 225 and 235 Sherway Gardens Road are occupied and registered. Accordingly, the existing Section 37 Agreement registered on title will need to be amended and executed with the Condominium Boards, who are now the other party to the Section 37 Agreement, rather than the original developer.

### **Reasons for Application**

The majority of the funds collected for improvements to the Etobicoke Creek Trail through the rezoning at 205, 215, 225 and 235 Sherway Gardens Road (formerly known as 700 Evans Avenue) have not been spent, ten years after the rezoning occurred. The remainder of the original contribution of \$400,000 (plus accrued interest) is estimated at \$369,222.74.

In order to spend the Section 37 funds on anything other than improvements to the Etobicoke Creek Trail in the general vicinity of the development, a Zoning By-law Amendment and Section 37 Agreement amendment are required.

### **COMMENTS**

A Section 37 Agreement was registered on title for the property at 205, 215, 225 and 235 Sherway Gardens Road (formerly known as 700 Evans Avenue) in conjunction with an Official Plan and Zoning By-law Amendment. The agreement originally secured, among other matters, a contribution of \$400,000.00 for Etobicoke Creek Trail Improvements in the general vicinity of the development.

The Ward Councillor has identified a need for parkland improvements in Ward 5. The Councillor has secured written consent from the condominium corporations at 205, 215, 225 and

235 Sherway Gardens Road to amend the Section 37 Agreement for this purpose, though the Section 37 Agreement amendment has not yet been executed.

If directed to do so by City Council, City staff would follow a multi-step process to implement the recommendations of this report. Once City Legal has drafted the amendment to the Section 37 Agreement, City staff would approach the relevant parties (i.e. the four condominium corporations) to have the amended Section 37 Agreement executed. Following the amended Section 37 Agreement being executed, City staff would forward the Bill for the Zoning By-law Amendment (in Attachment No. 1 to this report) to City Council for enactment.

## **CONCLUSION**

Should City Council wish to re-allocate the Section 37 contribution to allow for the remainder of the original \$400,000 contribution (plus accrued interest) to be allocated towards capital parkland improvements in Ward 5, City staff will implement the Recommendations of this report. The overall \$400,000 contribution for Section 37 would remain unchanged, and all other matters of the agreement would be maintained.

## **CONTACT**

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## **SIGNATURE**

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

## **ATTACHMENT**

Attachment 1: Draft Zoning By-law Amendment

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**CITY OF TORONTO**

**Bill No. ~**

**BY-LAW No. ~-20~**

**To amend Zoning By-law No. 760-2006(OMB)  
With respect to the lands municipally known as  
205, 215, 225 and 235 Sherway Gardens Road  
(formerly known as 700 Evans Avenue)**

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

WHEREAS the 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*; and

WHEREAS the Council of the City of Toronto wishes to amend the Section 37 provisions that are set out in Zoning By-law No. 760-2006(OMB);

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

**1.** Section 15 (a) of Zoning By-law No.760-2006(OMB) is deleted and replaced by the following:

15 (a)

Contribution of \$400,000 to the City to be used for capital parkland improvements within Ward 5 and to be paid as follows:

(i) \$100,000 prior to the issuance of the first above-grade building permit for the first building of the first phase of the development on the Lands;

(ii) \$100,000 prior to the issuance of the first above-grade building permit for the second building of the first phase of the development on the Lands; and

(iii) \$200,000 prior to the issuance of the first above-grade building permit for the first building of the second phase of the development on the Lands.

In the event the cash contributions have not been used for the intended purpose within three (3) years of this By-law coming into full force and effect, the cash contributions may be redirected for another purpose, at the discretion of the Chief Planner and Executive Director of City Planning, in consultation with the local Councillor, provided that the purpose is identified in the Toronto Official Plan and will benefit the community in the vicinity of the property.

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

JOHN TORY  
Mayor  
(Corporate Seal)

ULLI S. WATKISS  
City Clerk