



## REPORT FOR ACTION

# Unilever Precinct Planning Study Secondary Plan and Planning Framework, and East Harbour Official Plan and Zoning By-law Amendment Applications – Supplementary Report

**Date:** June 5, 2018

**To:** Planning and Growth Management Committee

**From:** Chief Planner and Executive Director, City Planning Division

**Wards:** 30

## SUMMARY

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The Report from the Chief Planner and Executive Director, City Planning Division, dated May 24, 2018 included a general description of the Section 37 package related to the East Harbour development proposal at 21 Don Valley Parkway, 30 Booth Avenue, and 375 and 385 Eastern Avenue. It identified that further detail on that package would be provided in a Supplementary Report. This Report provides these details.

## RECOMMENDATIONS

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The Chief Planner and Executive Director, City Planning, recommends that:

1. City Council replace Recommendation 8 from the report (May 24, 2018) from the Chief Planner and Executive Director, City Planning, with the following recommendation:

8. City Council require the owner(s) of 21 Don Valley Parkway, 30 Booth Avenue, and 375 and 385 Eastern Avenue (the "East Harbour Lands") to enter into and/or register an Agreement(s) pursuant to Section 37 of the Planning Act, together with satisfactory provisions in the amending by-laws, to secure the items described below, all to the satisfaction of the Chief Planner and Executive Director, City Planning and the City Solicitor and at the owner's expense, before introducing the necessary Bills to City Council for enactment of Recommendations 3 and 4 above:

a. Public art on site equivalent to a minimum value of \$11,000,000, generally in accordance with the approach outlined in the City of Toronto's Percent for Public Art Guidelines. Art will be provided throughout the development, with delivery linked to development phasing, and in

accordance with the Public Art Plan contained within the Unilever Precinct Planning Framework. Details will be further defined through the completion by the landowner of a Public Art Master Plan, to the satisfaction of the Chief Planner and Executive Director, City Planning, and in consultation with the Ward Councillor and the community.

b. Design, construction, and provision by the owner of a minimum of 1,400 square metres of gross floor area to be used as affordable incubator employment space. The space will be finished to a shell condition, to be leased at nominal cost to the City for a term of 25 years within the approved development, with a contribution by the owner of \$613,291 towards the fit-out of the space. The owner consents to the City subleasing the workspace to qualified not-for-profit partners or a post-secondary institution that will operate the space and deliver the small business incubation programming.

c. Design, construction, and provision by the owner of a minimum of 2,800 square metres of gross floor area, with a prominent ground floor presence and being on the first and second storeys, to be used as affordable community and/or cultural space. The space will be finished to a shell condition, to be leased at nominal cost to the City for a term of 25 years within the approved development, with a contribution by the owner of \$1,226,581 towards the fit-out of the space. The owner consents to the City subleasing the community and/or cultural space to qualified not-for-profit partners or a post-secondary institution that will operate the space and deliver the programming.

d. A cash contribution by the owner to the City of \$2,500,000 to be allocated to support the construction of off-site affordable rental housing in the immediate area.

e. A cash contribution by the owner to the City of \$4,000,000 to be allocated to community services and facilities priorities to serve the area worker population as well as the adjacent neighbourhood, including all or some combination of:

- non-profit licensed workplace ancillary daycare facilities to serve the worker population;
- multi-purpose community space to be located in an accessible and highly visible location for non-profit community organizations to deliver human services and/or arts and cultural programs all or some combination of;
- improvements to library and recreation facilities that serve the area; and/or
- the refurbishment and adaptive reuse of the listed buildings at 433 and 447 Eastern Avenue buildings, in the event that these buildings are no longer required for municipal works yard purposes and surplus, with such contribution to be specifically targeted towards the adaptive reuse of these buildings for arts and cultural uses.

f. A cash contribution by the owner to the City of \$500,000 to be allocated to public realm enhancements within the Broadview Avenue Underpass, which may include lighting and public art (e.g. mural) installations

g. The design, construction and maintenance of landscape and public realm improvements on top of the flood protection landform, at a value of at least \$1,500,000, the timing of and design of which shall be to the satisfaction of the Toronto and Region Conservation Authority and the Chief Planner and Executive Director, City Planning.

h. The design and construction of Above Base Park Improvements, with a minimum value of \$500,000, to be coordinated with the improvements described in Recommendation 8.g. and to the satisfaction of the General Manager, Parks, Forestry and Recreation and the Chief Planner and Executive Director, City Planning.

i. East Harbour will be developed in phases, and the owner will provide the community benefits set out in 8 a.-f. above in accordance with the phases set out below in Table 1, with the phases as generally illustrated on Attachment 7. The community benefits for each phase, including the timing and location thereof, shall be secured in phase-specific Section 37 Agreement(s), to be executed prior to the issuance of the first above-grade building permit for each phase, as applicable. Each phase-specific agreement(s) shall address the appropriate timing of the contributions in relation to the gross floor area under development.

**Table 1:**

<b>Phase</b>	<b>Section 37 Obligation</b>
A	<ul style="list-style-type: none"> <li>• Design and construction of incubator space in the amount of 1,400 square metres, in accordance with Recommendation 8.b.</li> <li>• Financial contribution towards fit-out costs to a minimum amount of \$613,291.</li> </ul>
B	<ul style="list-style-type: none"> <li>• Delivery of public art valued at a minimum of \$4,070,000.</li> <li>• Design and construction of public realm improvements on top of a flood protection landform, at a minimum value of \$1,500,000, to the satisfaction of the Toronto and Region Conservation Authority and the Chief Planner and Executive Director, City Planning.</li> <li>• Design and construction of above-base park improvements at a minimum value of the sum \$500,000, to the satisfaction of the General Manager, PFR and the Chief Planner and Executive Director, City Planning.</li> <li>• Financial contribution of \$500,000 to the City to support enhancements to the public realm within the planned Broadview Avenue Underpass.</li> <li>• Financial contribution of \$1,000,000 to the City, to be allocated to community services and facilities priorities as set out in Recommendation 8.e.</li> </ul>

Phase	Section 37 Obligation
C	<ul style="list-style-type: none"> <li>• Delivery of public art valued at a minimum of \$3,735,000.</li> <li>• Design and construction of non-profit community/cultural space in the amount of 2,800 square metres, in accordance with Recommendation 8.c.</li> <li>• Financial contribution towards fit-out costs to a minimum amount of \$1,226,581.</li> </ul>
D	<ul style="list-style-type: none"> <li>• Delivery of public art valued at a minimum of \$1,100,000.</li> <li>• A financial contribution of \$1,500,000 to the City, to be allocated to off-site affordable rental housing</li> <li>• A financial contribution of \$1,500,000 to the City, to be allocated to community services and facilities priorities to serve the neighbourhood, as set out in Recommendation 8.e.</li> </ul>
E	<ul style="list-style-type: none"> <li>• Delivery of public art valued at a minimum of \$2,095,000.</li> <li>• A financial contribution of \$1,000,000 to the City, to be allocated to off-site affordable rental housing</li> <li>• A financial contribution of \$1,500,000 to the City, to be allocated to community services and facilities priorities to serve the neighbourhood, as set out in Recommendation 8.e.</li> </ul>

j. Council authorizes staff to move the community benefits in Table 1 between phases, without requiring an amendment to the zoning by-laws, as long as any such changes are secured in the phase-specific agreement(s) pursuant to Section 37(3) of the Planning Act, or amendments thereto, to the satisfaction of the Chief Planner and Executive Director, City Planning Division and the City Solicitor.

k. In the event the cash contributions referred to in 8 a.-i. above have not been used for the intended purpose within ten (10) years of the date of the issuance of the first above-grade building permit for the identified timeframe within the subject provision, the cash contribution may be directed for another purpose, at the discretion of the Chief Planner and Executive Director, 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 lands.

l. The payments required in Clause 8 a.-i. herein, shall increase in accordance with the increase in the Non-Residential Construction Price Index for the Toronto CMA, reported quarterly by Statistics Canada in Building Construction Price Indexes Publication No. 327-0058, or its successor, calculated from the date of execution of the Section 37 Agreement or, if the site specific by-laws for the project are appealed to the Local Planning Appeal Tribunal, from the date of the Tribunal order approving the by-laws, to the date of submission of the funds by the owner to the City.

m. The benefits identified in Recommendations 8 b. and c. will be administered by the General Manager, Economic Development & Culture,

subject to terms and conditions to the satisfaction of the Director, Real Estate Services.

n. The following matters shall be secured in the Section 37 Agreement and the zoning by-law amendments as a legal convenience to support development, at the owner's expense, all to the satisfaction of the Chief Planner and Executive Director, City Planning, and the City Solicitor:

1. The owner shall agree to provide the following, to the satisfaction of the General Manager, Transportation Services, the Chief Engineer and Executive Director, Engineering and Construction Services, the Director, Real Estate Services, the Chief Planner and Executive Director, City Planning, and the City Solicitor, in consultation with the Ward Councillor:

- Transportation, streetscape, intersection and public realm improvements linked to the development proposal, including letters of credit to secure works.
- Construction of a Flood Protection Landform, in accordance with the final detailed design of the Port Lands Flood Protection project, and conveyance of the constructed landform in its entirety to the Toronto and Region Conservation Authority.
- Submission of a Construction Management Plan and Traffic Mitigation Plan for each phase of development, to the satisfaction of the General Manager of Transportation Services, and the Chief Building Official, in consultation with the Ward Councillor.
- Creation of area-specific design guidelines to the satisfaction of the Chief Planner and Executive Director, City Planning, to govern design excellence and high quality materials for the future buildings within the Precinct.
- Construction and maintenance of the development in accordance with Tier 1 performance measures of the Toronto Green Standard, as adopted by Toronto City Council at its meeting held on October 26 and 27, 2009 through the adoption of item PG32.3 of the Planning and Growth Management Committee, as further amended by City Council from time to time.
- Provision and implementation of landscape phasing plans to reflect interim conditions for each development phase during its construction period.
- Publicly-Accessible Privately Owned Space (POPS), easements over the POPS, and other public access easements as necessary over privately-owned open spaces, all to provide public access for use by the general public, which easements shall include provisions for rights of support if necessary, and insurance and indemnification of the City by the owner, to the satisfaction of the Director, Real Estate Services, the Chief Planner and Executive Director, City Planning, and the City Solicitor, in consultation with the Ward Councillor. The public access easements are to be conveyed to the City free and clear of all physical and title

encumbrances unless otherwise agreed to by City Planning and the City Solicitor. The owner shall own, operate, maintain and repair the POPS and other publicly accessible spaces. The owner shall install and maintain signage within the POPS, in accordance with the City's Urban Design Guidelines for POPS.

- Prior to issuance of the first above grade building permit for any phase or building, the owner shall, at the request of the Chief Planner and Executive Director, City Planning, submit an updated, detailed Wind Study including wind tunnel analysis, satisfactory to the Chief Planner and Executive Director, City Planning, which identifies recommendations for the pedestrian realm and the outdoor areas of the podiums to mitigate wind impacts year-round, and the owner shall implement and maintain in support of the development all recommended mitigation measures to the satisfaction of the Chief Planner and Executive Director, City Planning.
- Prior to issuance of the first above grade building permit for any phase or building, the owner shall submit, or provide updated submissions of, a compatibility study or studies, which shall be prepared to the satisfaction of the City of Toronto in consultation with the Ministry of the Environment and Climate Change, evaluating how potentially sensitive uses within 1,000 metres of existing major facilities such as the Enbridge facility located at 405 Eastern Avenue and the City works yard located at 433 Eastern Avenue and 50 Booth Avenue, would affect the ability of those facilities to carry out normal business activities. The compatibility study or studies shall also evaluate potential adverse effects from odour, noise and/or other contaminants on anticipated users of the proposed sensitive uses, and recommend how potential adverse effects may be mitigated to minimize risk to public health and safety and to ensure the long term viability of major facilities. Mitigation measures shall be implemented by the proponent of development and secured through planning instruments.
- At the time of registration of draft plan of subdivision, in accordance with Section 42 of the Planning Act, the owner shall convey to the City an on-site parkland dedication with direct frontage on New Street E, south of New Street E and east of the Don Roadway, as shown generally on the Master Plan Update dated May 2018, page 13, prepared by Urban Strategies Inc., to the satisfaction of the General Manager, Parks, Forestry & Recreation (PFR), and the City Solicitor.
- The owner shall at its expense provide knock-out panels along the north walls of any future concourse level of the buildings immediately adjacent to the Transit Hub, for potential future underground pedestrian network connections, to the satisfaction of the Chief Planner and Executive Director, City Planning Division.
- The owner shall, at the request of the Toronto Transit Commission (TTC), agree to complete a TTC technical review(s) respecting the development and a potential future Relief Line TTC second

exit/entrance facility, and shall address all concerns arising from the technical review(s) to the satisfaction of the TTC in consultation with the Chief Planner and Executive Director, City Planning Division, and Metrolinx.

- The owner shall convey an easement or fee simple conveyance to the City and Toronto Transit Commission (TTC), at its election, for access and other rights as may be required for the TTC second exit/entrance facility over and through the portion of development lands owned by the Owner, should such be requested to connect to the Relief Line in future.
- The owner shall enter into agreement(s) with the Toronto Transit Commission that will set out the Owner's obligations to construct and maintain a new exit/entrance within the development and the necessary easements in place for public egress and ingress. The terms of the agreement shall be negotiated with the Owner, in consultation with the Chief Planner and Executive Director, City Planning Division and the agreement shall be to the satisfaction of TTC in consultation with the Chief Planner and Executive Director, City Planning Division.

2. Add a new Recommendation 12, as follows:

12. Council approve entering into an agreement between the City and the owner to reimburse the owner to a maximum of \$4,494,975 for the eligible cost of construction of the First Gulf/Unilever flood protection landform, as approved by the Toronto and Region Conservation Authority and the Chief Engineer & Executive Director, Engineering & Construction Services, and upon acceptance by the City. The reimbursement will be funded through the approved budget for Port Lands Flood Protection and/or a development charge credit against the Storm Water Management component of the Development Charge payable for the development in accordance with the City's Development Charges By-law, as may be amended from time to time.

## **COMMENTS**

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Should any refinements be identified as desirable in the consideration of these items, staff will provide a subsequent report to the July 2018 meeting of the Planning and Growth Management Committee and/or Council, as directed.

## **CONTACT**

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## **SIGNATURE**

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