



**STAFF REPORT
ACTION REQUIRED**

**120 and 166 Sheppard Ave. East, 150 and 163
Maplehurst Avenue and 160 Greenfield Avenue
Section 37 Agreement Implementation of OMB Decision
Kenneth-Sheppard**

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|--------------------------|-----------------------------|
| Date: | May 15, 2009 |
| To: | City Council |
| From: | City Solicitor |
| Wards: | Ward 23 – North York Centre |
| Reference Number: | UDZ-00-04 (UDOP-99-05) |

SUMMARY

The Ontario Municipal Board (OMB) issued Decisions in 2001 and 2002 approving the redevelopment of the lands at 160 Greenfield Avenue, 150 Maplehurst Avenue and 120 Sheppard Avenue East. This project will involve the demolition and partial replacement of 123 affordable rental dwelling units. The City has now settled with the owner a Section 37 Agreement implementing the OMB-approved tenant assistance package and rental unit replacement provisions.

It is timely to authorize the execution of the Section 37 Agreement to implement the existing OMB Decisions in this matter. The matter is urgent due to an OMB pre-hearing conference scheduled for June 22, 2009, in which this matter will be dealt with in conjunction with the settlement of a related appeal to the new Official Plan for the City of Toronto.

RECOMMENDATIONS

It is recommended that:

1. the appropriate City officials be authorized to execute an Agreement under Section 37 of the *Planning Act* to implement the community benefits package arising out of Ontario Municipal Board Decision/Orders 1414 and 1736, as described herein-below.

Staff report for action – 120 and 166 Sheppard Avenue East, 150 and 163 Maplehurst Avenue and 160 Greenfield Avenue

FINANCIAL IMPACT

The approval of the Section 37 Agreement will result in payment of \$980,000.00 to the City for deposit to the Capital Revolving Fund for Affordable Housing.

DECISION HISTORY

By Decision/Order 1414 issued on August 30, 2001, the OMB approved with modifications an Official Plan and Zoning By-law amendment appeal launched by Kenneth-Sheppard Limited in respect of lands municipally known as 160 Greenfield Avenue, 150 Maplehurst Avenue and 120 Sheppard Avenue East. The OMB issued a further Decision/Order 1736 on December 19, 2002 to elaborate on certain matters still in dispute. It has held its main Order under the 2001 Decision until the planning instruments and a s.37 Agreement were settled between the parties.

Subsequent to the OMB Decisions, the City adopted a comprehensive Official Plan for the new City of Toronto and Kenneth-Sheppard Limited appealed it to the OMB on a site specific basis to protect its prior OMB approval.

A Final Planning Report entitled “Application to Amend the Zoning By-law – UDZ-00-04 (UDOP-99-05) – Robert G. Doumani on behalf of Kenneth-Sheppard Limited – 120 and 166 Sheppard Avenue East, 150 and 163 Maplehurst Avenue and 160 Greenfield Avenue – North York Centre “ was adopted by City Council on August 1, 2, 3 and 4, 2000.

ISSUE BACKGROUND

The original application, which was opposed by the City at the time of the Final Planning Report in August 2000, was to permit a residential development consisting of 3 apartment buildings containing 385 dwelling units at the above-noted site. The site contains 3 existing apartment buildings with a total of 123 affordable rental units and it is a policy of Council to protect the existing tenants and replace the lost affordable units in the event of an OMB approval for a new development.

COMMENTS

Both City staff and Kenneth-Sheppard Limited seek to conclude the outstanding OMB approvals on the basis that the necessary Official Plan and Zoning By-law amendments and Section 37 Agreement have now been settled as to form. Furthermore, City staff and Kenneth-Sheppard Limited have agreed upon a form of Official Plan modification to the new Official Plan that would translate the prior approvals under the former City of North York Official Plan into the language and format of the new Official Plan. This will settle the related appeal to the new Official Plan which remains before the OMB.

The OMB has requested that these appeals be dealt with at a pre-hearing conference to be held June 22, 2009, hence the urgency of City Council dealing with this matter. This Report seeks City Council authorization for the execution of the section 37 Agreement needed to implement the Board Decision.

The Section 37 community benefits contained in the Agreement fall into several categories. It initially secures 3 separate areas of parkland to be conveyed to the City tied to the issuance of a building permit for new development on the site, as well as a pedestrian walkway connecting either Greenfield Avenue or Maplehurst Avenue to the park dedication lands. Other provisions deal with setting standards for private indoor recreational space, bicycle storage space, restricted access turning movements as specified for Greenfield Avenue and Maplehurst Avenue as well as maximum floor area size by unit type for 25 per cent of all newly constructed dwelling units.

As the OMB approval involved the demolition of the existing apartment buildings containing 123 dwelling units, the Section 37 Agreement contains extensive provisions negotiated by City staff giving the existing tenants extended notice of termination, additional compensation, regulated rent and rent increases over time and opportunities to return to the new development on the site. A 5 year no-demolition period following upon the initial Board approval has now expired.

In addition a single payment of \$980,000.00 is to be made to the City upon execution of the Agreement to stand as compensation for the loss of 49 affordable dwelling units on the site. A minimum of 74 rental replacement units are required to be built on this site with a specified unit and size mix.

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SIGNATURE

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