STAFF REPORT
ACTION REQUIRED

939 Lawrence Avenue East, 1090 Don Mills Road, 75 and 85 The Donway West - Request to Amend Section 37 Agreement - Final Report

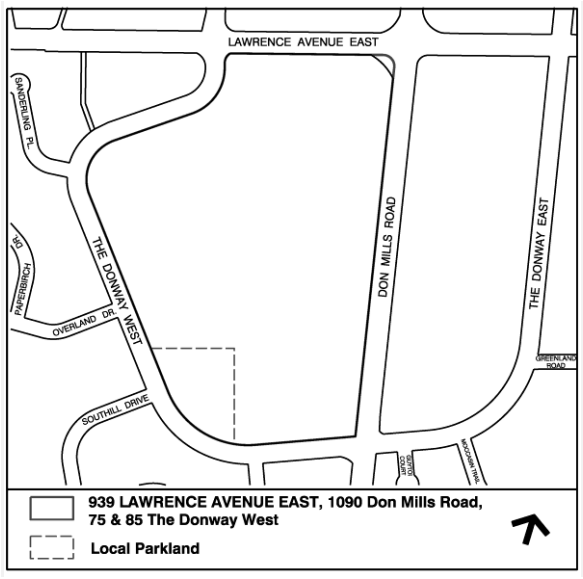
Date:	December 6, 2013
To:	North York Community Council
From:	Director, Community Planning, North York District
Wards:	Ward 25 – Don Valley West
Reference Number:	01 036318 NMI 25 OZ

SUMMARY

On March 2, 2011, Official Plan Amendment No. 587 to the former City of North York Official Plan and Zoning By-law No. 342-2011(OMB) were approved by the Ontario Municipal Board (OMB). The planning instruments implement City Council's settlement on the redevelopment of the southern portion of the Don Mills Centre lands (Phase 2) with a mixed development including a Local Park and a public Community Centre.

A Section 37 Agreement was entered into between the Owner of the lands, C/F Realty Holdings Limited (Cadillac Fairview) and the City, which among other matters, sets out the timing requirements for the conveyance of the Local Park to the City.

This report recommends that the timing requirements for the conveyance of the Parkland Dedication Lands component of the Local Park be extended as set out in the report.



RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council authorize the City Solicitor, in consultation with relevant City staff, to amend the registered Section 37 Agreement dated February 22, 2011 by deleting the reference to Building B1 (85 The Donway West) from Section 1.89 (the definition of "Release Date") of the Agreement; and

2. City Council authorize the appropriate City officials to take the necessary action to give effect to the above including execution and registration of the amended Section 37 Agreement.

Financial Impact

The recommendations in this report have no financial impact.

DECISION HISTORY

On March 2, 2011, Official Plan Amendment No. 587 to the former City of North York Official Plan and Zoning By-law No. 342-2011(OMB) were approved by the Ontario Municipal Board (OMB). The planning instruments implement City Council's settlement on the redevelopment of the southern portion of the Don Mills Centre (Phase 2). The redevelopment calls for the demolition of a commercial building at 49 The Donway West, the conversion of an office building at 75 The Donway West to a residential condominium building, the construction of 2,050 condominium units in a series of mixed use buildings ranging from 6 to 32 storeys in height and the construction of a 4,512 m² public community centre at the northwest corner of Don Mills Road and The Donway West. The development is planned to be developed in phases over a number of years. Construction has recently been completed on a 12-storey, 106-unit condominium at 85 The Donway West and construction is currently underway on the conversion of 75 The Donway West. Further, the existing commercial building at 49 The Donway West has been demolished.

A Section 37 Agreement was also entered into between the Owner of the lands, C/F Realty Holdings Limited (Cadillac Fairview) and the City, which among other matters, sets out the timing for the conveyance of the Local Park to the City. The terms of the Agreement requires the Transfer Deed for the Parkland Dedication Lands component of the Local Park to be registered on the "Release Date" which is defined in Section 1.89 of the Agreement to be the date that is the earlier of the Condominium Registration of any Buildings B1, 75 The Donway West, B2 and D and October 12, 2020. Building B1 is 85

The Donway West and Buildings B and D are mixed use buildings located east of, and immediately adjacent to, the Local Park (see Attachment 1 – Master Plan).

Further, the Agreement stipulates that prior to registration of the Transfer Deed, the lands must be in an environmental condition suitable for use for public park purposes, improved to at least base park condition and include improvements above base park standards as may be mutually agreed by representatives of the Owner, the Don Mills Ratepayers Incorporated and the General Manager, Parks, Forestry and Recreation.

ISSUE BACKGROUND

Davies Ward Phillips & Vineberg LLP, on behalf of the owners of the lands C/F Realty Holdings Limited (Cadillac Fairview) and 85 The Donway West Inc. (Fram Building Group), filed a letter with City Planning dated November 4, 2013 requesting an amendment to the Section 37 Agreement to extend the timing with respect to conveying the Parkland Dedication Lands component of the Local Park to the City.

The letter states while significant progress has been made for the completion of the conditions necessary for the transfer of the Parkland Dedication Lands to the City, some of the work that remains to be completed is ongoing and weather dependent. As a result, the Owner expects to have the conditions for the transfer of the Local Park to the City completed by the Fall of 2014. Attached as Attachment 3 to this report is a timeline provided by the applicant that sets out the tasks completed to date and what remains to be completed.

Local Park

The Local Park on the Don Mills Centre lands is shown on Attachment 1 – Master Plan. It is comprised of two separate (but immediately adjacent) components: the Park Top-up Lands and the Parkland Dedication Lands. The Park Top-up lands are identified as Parts 14 and 53 on Reference Plan 66R-25039 (see Attachment 2 – Reference Plan). These lands are required to meet the Official Plan requirements associated with the land exchange contemplated under the Section 37 Agreement. They are situated immediately south of, and adjacent to, 75 The Donway West. The Parkland Dedication Lands (the larger of the two park component parts) are identified as Parts 16 and 40 and are required to meet the parkland dedication requirements under Section 42 of the Planning Act.

In accordance with the timing set out in the Section 37 Agreement, the Park Top-up Lands will be conveyed to the City at the same time as the Community Centre lands (located at the northwest corner of Don Mills Road and The Donway West). The City Solicitor has express authority under the Section 37 Agreement to revise the timing requirements associated with the Top-up Lands. However, as noted previously, conveyance of the Parkland Dedication Lands are subject to different timing requirements.

COMMENTS

Pursuant to the terms of the Section 37 Agreement, the Transfer Deed for the conveyance of the Parkland Dedication lands component of the Local Park is to be registered on the "Release Date". The Release Date is defined under Section 1.89 of the Section 37 Agreement to mean the date that is the earlier of the Condominium Registration of any of Buildings B1 (85 The Donway West), 75 The Donway West, B2 and D and October 20, 2020. The intent of this requirement was to ensure a mechanism or trigger is in place to complete the park in a timely manner as new residents move into the area.

As noted in the applicants timeline in Attachment 3 of this report, significant progress has been made over the past year on the design of the park, obtaining necessary approvals and permits from Toronto Hydro, Urban Forestry and Toronto Water (to install stormwater and water service connection). However, some of the work that remains to be completed including obtaining environmental City Peer Review and Ministry of Environment approvals is ongoing and completion of the park is weather dependent. The Owner is currently completing the tendering process for the earthworks and the civil works (storm pipes/manholes/catchbasins). Parks Forestry & Recreation staff has advised the design of the Local Park has been approved. The design was prepared in consultation with the Don Mill Ratepayers Incorporated in accordance with the terms of the Section 37 Agreement.

The Owner is targeting to commence construction on the Local Park in May 2014 and anticipates substantial completion by September 2014. This timing to complete the park coincides with the anticipated Condominium Registration at 75 The Donway West. Site Plan approval has been granted for the residential condominium development at 75 The Donway West. The Site Plan Agreement has been registered on title and a building permit has been issued. Construction is currently underway to convert the existing office building to a residential condominium building containing 172 dwelling units including a 3-storey townhouse block containing four grade-related townhouse units. Occupancy is targeted for September 2014.

Residents of 85 The Donway West (106 units) began moving into the completed condominium in September 2013. Extending the timing to convey the Local Park to the City to the condominium registration for 75 The Donway West maintains the intent of the Agreement with the City and provides the least disruption to the future owners of the condominium units at 85 The Donway West ensuring their closings can occur in a timely manner.

This report recommends City Council authorize the City Solicitor, in consultation with relevant City staff, to amend the registered Section 37 Agreement dated February 22, 2011 by deleting the reference to Building B1 (85 The Donway West) from Section 1.89 (the definition of "Release Date") of the Agreement. The owners obligations to complete all works associated with the Local Park would therefore be triggered through the Plan of

Condominium process for 75 The Donway West, currently under construction. Parks, Forestry & Recreation staff is in concurrence with the proposed timing.

CONTACT

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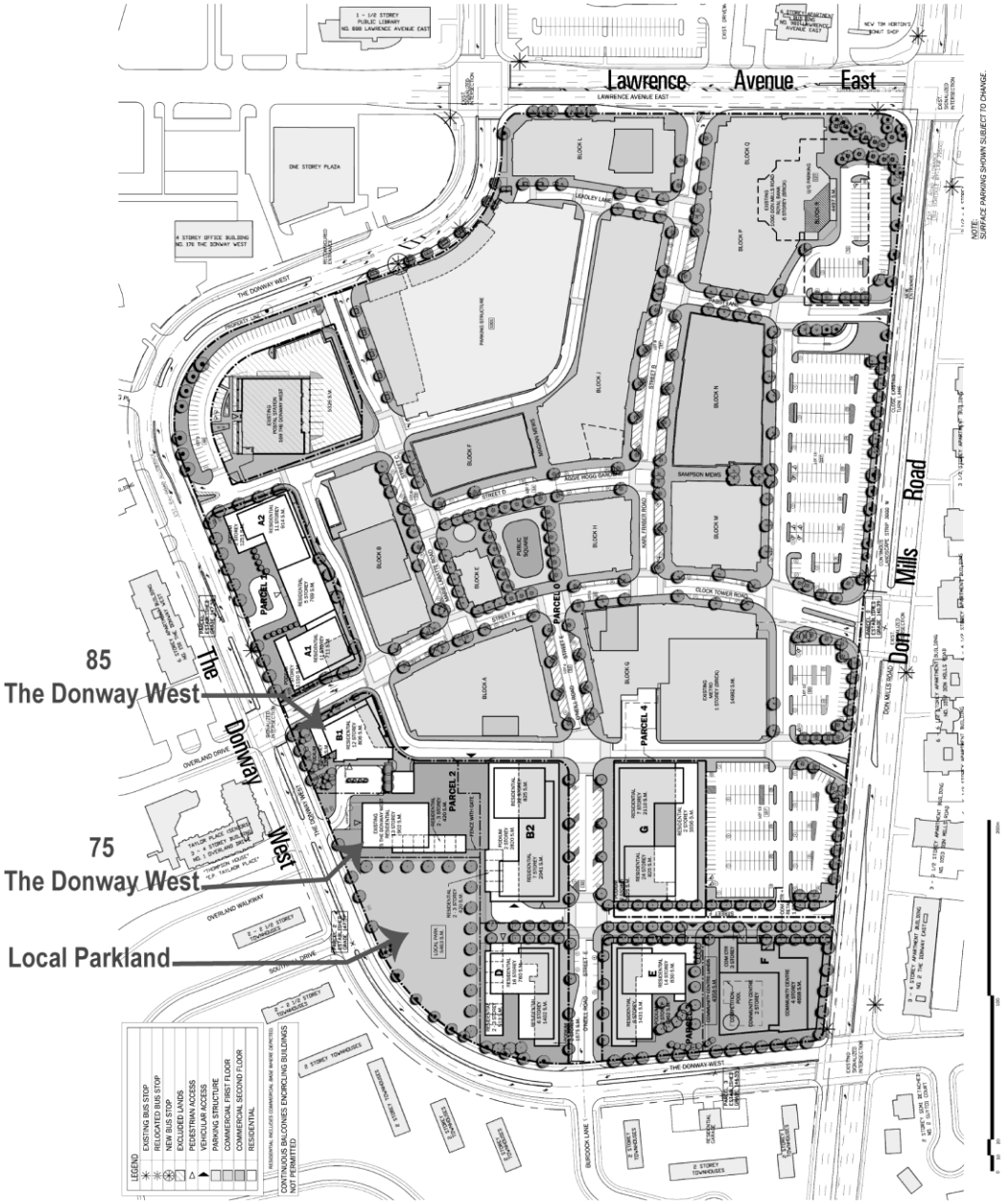
SIGNATURE

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Allen Appleby, Director
Community Planning, North York District

ATTACHMENTS

Attachment 1: Approved Master Plan
Attachment 2: Reference Plan – Local Parkland
Attachment 3: Timelines on the Park Design and Construction Status

Attachment 1: Approved Master Plan



Site Plan

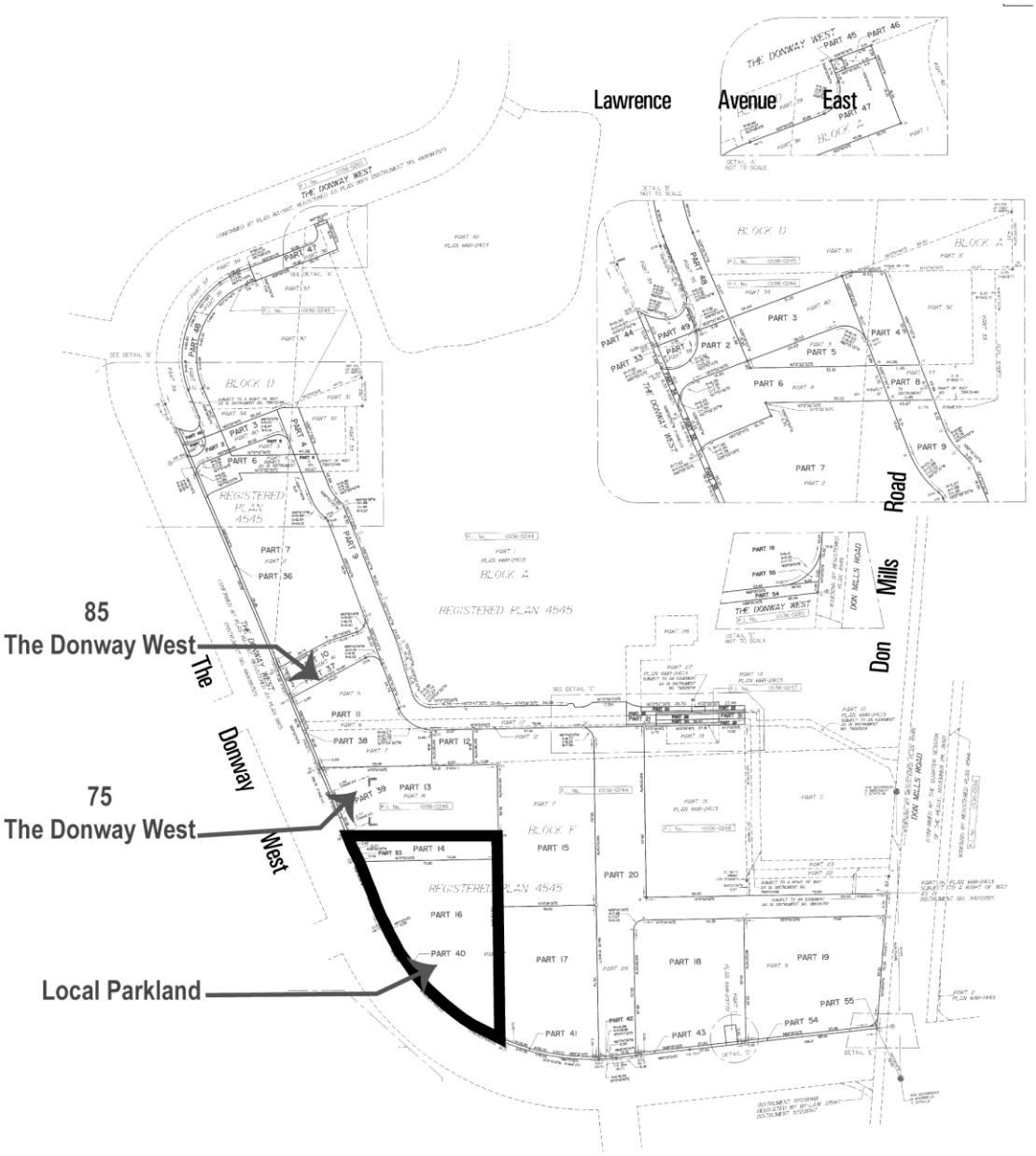
939 Lawrence Avenue East, 1090 Don Mills Road, 75 & 85 The Donway West

Applicant's Submitted Drawing

File # 01 036318 NNY 25 OZ

Not to Scale
12/01/13

Attachment 2: Reference Plan – Local Parkland



Reference Plan

939 Lawrence Avenue East, 1090 Don Mills Road, 75 & 85 The Donway West

Applicant's Submitted Drawing

File # 01 036318 NNY 25 OZ

Not to Scale
12/01/13

Attachment 3: Timelines on the Park Design and Construction Status

Shops at Don Mills

Park Design and Construction Status – November 1, 2013

A: COMPLETED TO DATE

January, 2013 – discussions with DMRI re; playground locations and clarification on design. PMA (CF 's landscape architect) and subconsultants preparing detailed drawing set for submission to City.

February, 2013 – 80% design drawings filed with Parks, Forestry and Recreation, Toronto Water (100% design), and Toronto Hydro. Approval for Toronto Hydro service obtained. Last leases in 49 The Donway terminated and remaining tenants move out.

March, 2013 – Toronto Water approval on March 7, 2013 to install stormwater and water service connection, and they sent out for tendering. Application for Tree Removals filed with Urban Forestry (required for park construction, and removal of salt-impacted soil). Meetings with environmental consultant internally to determine where to test for salt-impacted soil.

April, 2013 – Parks Forestry and Recreation provided comments on 80% Design Drawing (12 minor comments). Drawings going through refinements prior to tendering and resubmission. Demolition Permit application for 49 The Donway filed. Tendering for 49 The Donway. Additional Environmental Boreholes completed over a 3 week period (drilling and lab work). 100% Design Drawings submitted to Parks, Forestry and Recreation for review.

May, 2013 – Permit received from Urban Forestry for Tree Removals. Meeting with City Environmental Departments to discuss impact of salt across park block and to discuss approach/commencement of environmental peer review. Tender received from Toronto Water and cheque for $50,000 issued to Toronto Water to install Water and Storm connections to park property line. Demolition permit for 49 The Donway demolition issued by City. Environmental Phase 1 and Phase 2 reports (including analysis of additional testing on site for Sodium and Chloride) completed. Park Landscaping works tendered to contractors and results received. Comments received from Parks, Forestry and Recreation on Design Drawings.

June, 2013 – 49 The Donway Demolition commenced and completed. Base Park Connections (Storm, Water, Hydro feed) have been completed to the park property line. Modified Generic Risk Assessment submitted to City of Toronto for Environmental Peer Review. Excavation of environmental materials and import of clean materials tendered.

July, 2013 – 40 The Donway (4 storey concrete retail/ office building) demolition was completed and park site has been fenced off. Revision/ address comments received by City Parks Department on Landscaping design.

August, 2013 – Modified Generic Risk Assessment under City Peer Review. City of Toronto Parks reviewing final submitted version of Landscaping design drawing set for final approval.

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September, 2013 – City Peer Review of Modified Generic Risk Assessment completed and submitted to Ministry of Environment for approval. 85 The Donway residents (106 units) are moving into the completed condominium. City of Toronto Parks, Forestry and Recreation has approved final Park Design (project can proceed to be fully awarded).

October, 2013 - Modified Generic Risk Assessment under review by Ministry of Environment for approval. Revisions to Tendering of Earthworks and Civil works (storm pipes/ manholes/ catchbasins below clean cap) to be completed. Tendering/ negotiations with Park Landscaping Contractor can also be completed. 85 The Donway resident closings are completed by October 31, 2013.

November, 2013 - Removal of 1.5m of salt impacted soil and replacement with clean cap to commence tentatively in November, 2013 pending receipt of MOE comments, weather and contractor/ fill availability. Civil works to run concurrently with Earthworks operation. If Earthworks completed in November, then Record of Site condition/ final paperwork/ City Peer Review final letters by January/ February, 2014.

April, 2014 – August 2014 - Landscape Park Contractor starts installation of park works. If earthworks completed in early 2014, then Park Contractor would start in early May, 2014.

September, 2014 – Landscape Park Contractor completes all park works with target of substantial completion/opening to the public in mid September, 2014. 75 The Donway Condo (second condo in the project) residents will start to move in summer of 2014, with Condo Registration targeted for late September, 2014.

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