

30 Weston Road and Part of 33 Gunns Road - Zoning By-law Amendment Application - Final Report

Date:	January 26, 2015
To:	Etobicoke York Community Council
From:	Director, Community Planning, Etobicoke York District
Wards:	Ward 11 – York South-Weston
Reference Number:	14 217441 WET 11 OZ

SUMMARY

At its meeting of August 25, 2014, City Council directed the Director, Community Planning, Etobicoke York District, to "bring forward a Zoning By-law amendment to Etobicoke York Community Council to amend the Section 37 provisions of By-laws 1203-2009 and 1678-2013, pertaining to 30 Weston Road and Part of 33 Gunns Road, to allow up to \$200,000 of the remaining \$456,520.97 including accrued interest, secured and obtained for public art, to be used for capital improvements to parks and recreation facilities in Ward 11". The total amount of the Section 37 funds collected would not be altered.

As it is intended these reallocated funds will be used to improve a park 6 km from the subject property, it should be noted this direction is not consistent with City Council's approved Implementation Guidelines for Section 37 of the *Planning Act* as adopted at its meeting held on April 1, 2 and 3, 2014. The guidelines require the community benefit to have an appropriate geographic relationship to the contributing development.



The subject property also has a Section 37 Agreement registered on title that must be amended to secure the Section 37 community benefit provision consistent with the proposed change to the Section 37 provisions in the Zoning By-law.

As directed by City Council, this report proposes amendments to Site Specific Zoning By-law 1203-2009, as amended by By-law 1678-2013, to reallocate a portion of the funds secured under the Section 37 provisions of this By-law.

RECOMMENDATIONS

Consistent with City Council's August 25, 2014 direction, City Council can:

1. Amend Site-Specific Zoning By-law 1203-2009 as amended by By-law 1678-2013 for the lands at 30 Weston Road and Part of 33 Gunns Road substantially in accordance with the Draft Zoning By-law Amendment attached as Attachment 1.
2. Authorize the City Solicitor to make such stylistic and technical changes to the Draft Zoning By-law Amendment as may be required.
3. Require the owner to enter into an Amending Agreement pursuant to Section 37 of the *Planning Act* to reallocate the secured Section 37 funds before introducing the necessary Bills to City Council for enactment.

Financial Impact

The recommendations in this report have no financial impact.

DECISION HISTORY

City Council at its meeting on December 4, 2009 adopted a Site-Specific By-law (By-law 1203-2009) for the lands municipally known as 30 Weston Road and Part of 33 Gunns Road to permit the development of a 51,544 m² commercial development, which includes a large retail store and a combination of small and mid-size retail stores, office uses and service shops.

This By-law includes a Section 37 community benefits clause which requires a \$350,000 cash contribution (indexed) for improvements to local parks and recreation facilities, with priority given to improvements to Viella Tarragona Park, including a water play area; and a public art contribution of 1 percent of the gross construction costs of the shell building. The owner opted to provide a cash contribution for the public art and paid \$779,500 to the City.

City Council's decision can be found at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2009.EY31.16>

City Council at its meeting on November 13, 14, 15 and 18, 2013 adopted By-law 1678-2013 to amend the Section 37 provision of By-law 1203-2009. The City initiated an amendment to Site-Specific Zoning By-law 1203-2009, to amend the Section 37 provisions as follows:

- a. allowed up to \$325,000 of the funds, secured and obtained for public art, to also be used for capital improvements to parks and recreation facilities in Ward 11, within the vicinity of the development, to be determined by the General Manager of Parks, Forestry and Recreation, in consultation with the Ward Councillor; and
- b. to allow the \$350,000 plus indexing and accrued interest, secured and obtained for improvements to local parks and recreation facilities with priority consideration given to Viella Tarragona Park, including a water play area, to also be used for capital improvements to parks and recreation facilities in Ward 11, within the vicinity of the development, to be determined by the General Manager of Parks, Forestry and Recreation, in consultation with the Ward Councillor.

City Council's decision can be found at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.EY28.2>

At its meeting of August 25, 2014, City Council directed the Director, Community Planning, Etobicoke York District, to "bring forward a Zoning By-law amendment to Etobicoke York Community Council to amend the Section 37 provisions of By-laws 1203-2009 and 1678-2013, pertaining to 30 Weston Road and Part of 33 Gunns Road, to allow up to \$200,000 of the remaining \$456,520.97 including accrued interest, secured and obtained for public art, to be used for capital improvements to parks and recreation facilities in Ward 11".

City Council's decision can be found at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.MM55.103>

COMMENTS

Amendments to the Section 37 Provisions

The rezoning for the development at 30 Weston Road and Part of 33 Gunns Road was approved by City Council in 2009. As part of the approvals, the owner was required to provide Section 37 community benefits for local park improvements and public art. The developer chose the cash contribution option for the public art and paid \$779,500 to the City. In November 2013, City Council amended the allocation of the secured public art contribution to allow up to \$325,000 to be used towards park and recreation facilities improvements in Ward 11, within the vicinity of the development. With accrued interest, the current balance of the funds available exclusively for public art is \$456,520.97 of

which \$250,000 has already been spent or allocated towards a public art project currently underway. This leaves a balance of \$206,520.97 in available funds for public art in Ward 11.

The Ward Councillor advised that she has been working with area residents to revitalize Swanek Park. Until recently, Swanek Park had serious drainage issues which rendered the park virtually unusable during the spring and summer months. Phase 1 of the park's revitalization has been able to correct this, and residents are anxious for the City to move forward with the next phase in this park's revitalization so that the community can begin to enjoy this local park once more. The next phase of the park's revitalization includes playground enhancements and a walking path around the park. As the funds allocated towards improvements at this park had to be used to address the drainage issues, funds are required to now implement the remaining improvements to advance the community's vision for the park.

The Ward Councillor advised that the reallocation of an additional \$200,000 of the public art funds secured through the Section 37 agreement for 30 Weston Road and Part of 33 Gunns Road is to address park improvements in Ward 11 so that work can continue at Swanek Park.

The Ward Councillor held a community consultation meeting on December 16, 2014 at the Luso Canadian Charitable Society with local residents and Planning staff in attendance. Comments centred on the ongoing improvements to Viella Tarragona Park and the proposed public art and no comments were raised with the reallocation of the funds.

An amendment to Site Specific Zoning By-law 1203-2009, as amended by By-law 1678-2013 and a revision to the Section 37 Agreement registered on title to the subject lands are necessary to reallocate the Section 37 funds. The Draft Zoning By-law Amendment attached as Attachment 1 incorporates this revision.

This report and Draft Zoning By-law have been prepared pursuant to the direction given by City Council.

It should be noted this direction is not consistent with City Council's approved Implementation Guidelines for Section 37 of the *Planning Act* as adopted at its meeting held on April 1, 2 and 3, 2014. The guidelines require the community benefit to have an appropriate geographic relationship to the contributing development. An appropriate geographic relationship exists if one or more of the following criteria are applicable: the contributing development is located within the catchment area of the facilities being constructed or improved as a community benefit; the contributing development is located within the community or neighbourhood that benefits from the provision of the community benefits; the occupants of the contributing development will have the opportunity to use the facilities being constructed or improved; and the contributing development will benefit from the provision of the community benefits, possibly through increased value, or enhanced marketing or business opportunities. Swanek Park does not

have an appropriate geographic relationship to 30 Weston Road as it is located over 6 km away.

CONTACT

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SIGNATURE

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

ATTACHMENTS

Attachment 1: Draft Zoning By-law Amendment

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Authority: Etobicoke York Community Council Item ~ as adopted by City of Toronto Council on ~, 20~
Enacted by Council: ~, 20~

CITY OF TORONTO

Bill No. ~

BY-LAW No. ~-20~

**To amend Site Specific Zoning By-law 1203-2009 as amended by By-law 1678-2013,
With respect to the lands municipally known as
30 Weston Road and Part of 33 Gunns Road**

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. Delete Section 6. INCREASED HEIGHT AND DENSITY and replace with the following:

6. INCREASED HEIGHT AND DENSITY

Matters which are to provided pursuant to Section 37 of the *Planning Act*, R.S.O. 1990, c.P. 13, as amended, in order to permit the increased height and retail floor area authorized under section (l) of this exception are:

SECTION 37 AGREEMENT

The owner of the subject lands shall enter into one or more agreements with the City of Toronto pursuant to Section 37 of the *Planning Act* to secure the facilities, services and matters referred to below, which agreement or agreements shall be registered against the title of the lands to which this By-law applies in the manner and to the extent specified in such agreements and to the satisfaction of the City Solicitor. The owner of the subject lands, at the owner's expense and in accordance with, and subject to the agreements referred to above, shall provide or fund the following facilities, services and/or matters on terms satisfactory to the City of Toronto, acting reasonably:

- (i) Prior to the issuance of the first building permit for the development, the owner will pay by cash or certified cheque the amount of \$350,000 to the

City, indexed to the CPI index from the date of registration of the Section 37 Agreement, to be used to secure and obtain improvements to local parks and recreation facilities with priority consideration given to Viella Tarragona Park, including a water play area, and for capital improvements to parks and recreation facilities in Ward 11, within the vicinity of the development, to be determined by the General Manager of Parks, Forestry and Recreation, in consultation with the Ward Councillor;

- (ii) The owner agrees to make a public art contribution of \$779,500 to the City, of which up to \$525,000 may be used for capital improvements to parks and recreation facilities in Ward 11, to be determined by the General Manager of Parks, Forestry and Recreation, in consultation with the Ward Councillor and the balance is to be used for public art; and
- (iii) In the event the cash contributions referred to in (i) and (ii) above has not been used for the intended purpose within three (3) years of this By-law coming into full force and effect, the cash contribution may be redirected for another purpose, at the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor, provided that the purpose is identified in the Toronto Official Plan and will benefit the community in the vicinity of the lands.

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

JOHN TORY,
Mayor

ULLI S. WATKISS,
City Clerk

(Corporate Seal)