

## **Don Mills Centre - Request for Instructions**

**Date:** June 27, 2017

**To:** City Council

**From:** City Solicitor

**Wards:** Ward 25 - Don Valley West

### **REASON FOR CONFIDENTIAL INFORMATION**

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This report contains advice or communications that are subject to solicitor-client privilege.

### **SUMMARY**

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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.

### **RECOMMENDATIONS**

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The City Solicitor recommends that:

1. City Council adopt the confidential instructions to staff in Confidential Attachment 1.
2. City Council authorize the public release of the recommendation contained in Confidential Attachment 1, if adopted by City Council, with the remainder of the Confidential Attachment to remain confidential as it contains information that is subject to solicitor-client privilege.

## **FINANCIAL IMPACT**

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There is no financial impact arising from the adoption of the confidential recommendation.

## **DECISION HISTORY**

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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 m<sup>2</sup> 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.

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 for the conveyance of a parcel at the south east corner of the site to the City and the related construction of a community centre on that parcel (the "Community Centre Lands"). The Community Centre Lands were originally required to be conveyed to the City on October 12, 2011 (the "Transfer Date"). The Community Centre is required to be completed by October 12, 2020.

The agreement contemplates that concurrent with the transfer of the Community Centre Lands, the City would provide the owner with an option to purchase a City-owned parcel of land located in the middle of the subject block with associated mutual driveway rights that extend to Don Mills Road. The Civitan Arena is currently situated on these City-owned lands (the "Civitan Arena Lands"). In the event that the owner exercises its option to purchase the Civitan Arena Lands, the agreement requires the owner to lease the lands back to the City until October 31, 2020. The purpose of the lease-back arrangement was to permit the Civitan Arena to operate until such time as the Community Centre was completed.

The agreement permitted extension to the Transfer Date which had last been extended to February 28, 2017.

In November of 2016, the City Solicitor's office was contacted by Cadillac Fairview. At that time, Cadillac Fairview advised that it would not be able to convey the Community Centre Lands to the City by the Transfer Date on the basis that the lands had not yet been remediated to the extent required by the agreement as a pre-condition to the transfer.

The City Solicitor extended the Transfer Date until July 10, 2017 to allow for critical discussions between Cadillac Fairview and City divisions to occur respecting a realistic

and expeditious timeline for remediation in order to determine a reasonable Transfer Date.

Cadillac Fairview has provided the attached timelines for remediation and construction.

## **COMMENTS**

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The City Solicitor is requesting further instructions relating to the extension of the Transfer Date and related matters.

## **CONTACT**

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## **SIGNATURE**

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Wendy Walberg  
City Solicitor

## **ATTACHMENTS**

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Confidential Attachment 1 - Confidential Report from the City Solicitor