



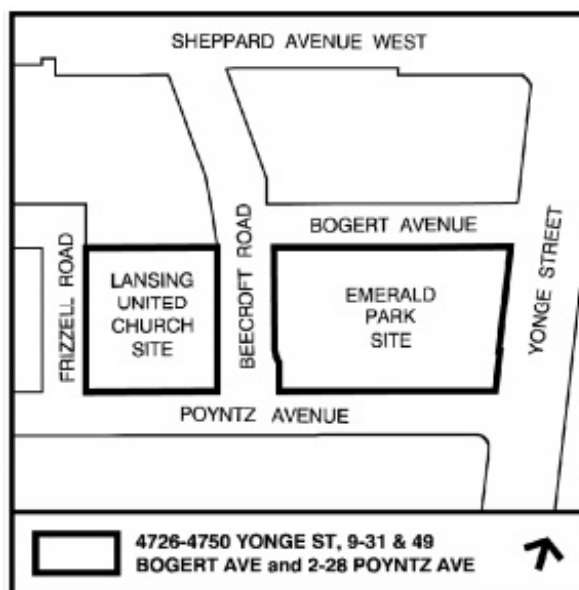
STAFF REPORT ACTION REQUIRED

49 Bogert Avenue – City Initiated Amendment to a Section 37 Agreement – Final Report

Date:	June 27, 2017
To:	City Council
From:	Jennifer Keesmaat, Chief Planner & Executive Director
Wards:	Ward 23 – Willowdale
Reference Number:	08 178556 NNY 23 OZ

SUMMARY

On December 16, 2010 Toronto City Council enacted site specific Zoning By-law No. 23-2011 to permit a mixed use development with two residential condominium towers on the lands municipally described as 4726-4750 Yonge Street, 9-31 Bogert Avenue, and 2-28 Poyntz Avenue. The site specific zoning by-law also permitted the renovation and expansion of the existing Lansing United Church building for the establishment of a non-profit social facility with a non-profit child care facility and community meeting room space. Lansing United Church, located on the lands municipally described as 49 Bogert Avenue was included in the applications for zoning by-law amendment to permit the transfer of density arising from a provision in the North York Secondary Plan which included a density incentive for social facility space.



As part of the application, a Section 37 Agreement was registered which required the Trustees of the Lansing Congregation of the United Church of Canada to construct, provide, and maintain a social facility space consisting of a non-profit private community centre space and a non-profit child care centre. Details of the Section 37 Agreement include the provision of a child care facility that is free of basic rent for a minimum

period of 5 years following occupancy, \$307,000.00 in reserve funds to maintain the operation of a community centre space, \$100,000.00 to defray operational deficits incurred in the first year of operation for the community centre space, \$100,000.00 in reserve funds to maintain the child care facility, and \$100,000.00 to defray operational deficits incurred in the first year of operation for the child care facility.

Following discussions between City Planning staff and the appropriate staff of City of Toronto's Children's Services and Parks, Forestry and Recreation Divisions, all parties have agreed to the proposed amendments.

This report recommends that the Section 37 Agreement be amended to restructure the lease agreement of the child care facility, redirect the funds originally allocated towards the community centre space as a rent subsidy for the future child care operator of the child care facility, and extend the payment schedule for the two \$100,000.00 reserve funds dedicated to the child care facility. The proposed amendments will allow Lansing United Church to begin accruing revenue in their first year of operation which will enable them to better provide necessary services in the community.

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 between the Trustees of the Lansing Congregation of the United Church of Canada and the City of Toronto for the lands known municipally as 49 Bogert Avenue as follows:
 - a. Restructure the lease agreement for the future child care operator of the child care facility from, free of basic rent for the first 5 years of operation, to a discounted rate of market rent for the first 10 years of operation.
 - b. Reallocate the \$307,000.00 in reserve funds to maintain the operation of the community centre space and the \$100,00.00 dedicated to defray the operational deficits incurred in the first year of operation of the community centre space as a rent subsidy for years 11 through 20 in the amount of \$407,000.00 for the future child care operator of the child care facility;
 - c. Initiate a payment schedule for the \$100,000.00 reserve fund dedicated to maintain the child care facility which is to be paid in full over a three year period and the \$100,000.00 dedicated to defray the operational deficits incurred in the first year of operation of the child care facility which is to be paid in full on January 1, 2019.

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

Financial Impact

There are no financial implications associated with the adoption of the recommendations in this report.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

On December 16, 2010 City Council enacted site specific Zoning By-law No. 23-2011 to permit a mixed-use development with two residential condominium towers on the lands municipally described as 4726-4750 Yonge Street, 9-31 Bogert Avenue, and 2-28 Poyntz Avenue. The site specific zoning by-law also permitted the renovation and expansion of the existing Lansing United Church building for the establishment of a non-profit social facility with a non-profit child care facility and community meeting room space, located at 49 Bogert Avenue.

COMMENTS

Section 37 Agreement

The Trustees of the Lansing Congregation of the United Church of Canada approached the City with the request to make amendments to the Section 37 Agreement they entered into with the City of Toronto in December of 2010. The Trustees now advise that the clause of the Agreement which required Lansing United Church to construct, provide, and maintain at its own cost, a child care facility that was free of basic rent for the first 5 years of operation would be burdensome for a non-profit organization as it restricts their ability to accrue revenue. The proposed restructuring of the lease agreement will prorate the discounted rent for the future non-profit operator of the child care facility for the first 10 years of operation while allowing Lansing United Church to generate some revenue. Likewise, the \$407,000.00 payment for the maintenance and operational deficits of the community centre space is difficult for a non-profit organization to dedicate to reserve funds. As a result, the \$407,000.00 will be reallocated as a rent subsidy for years 11 through 20 for the future operator of the child care facility, however, the community centre space will still be provide on-site. Should the Trustees of the Lansing Congregation of the United Church of Canada default on their maintenance and operating obligations related to the community centre space, that space would then be transferred to the City or a replacement operator.

This report recommends that City Council authorize the City Solicitor to amend the Section 37 Agreement for 49 Bogert Avenue to restructure the lease agreement of the child care facility, redirect the funds originally allocated towards the community centre space as a rent subsidy for the future child care operator of the child care facility, and extend the payment schedule for the two \$100,000.00 reserve funds for the child care

facility. This report also includes a recommendation to permit the City Solicitor and appropriate City officials to give effect to the above.

Reallocation of the funds dedicated to the community centre space as a rent subsidy for the future child care operator of the child care facility and the restructuring of the leasing agreement for the child care facility is recommended as these amendments will provide a continuous subsidy for a period of 20 years for the operator of the child care facility to deliver much needed child care to this area.

The recommended amendments to the Section 37 Agreement do not require an amendment to the site specific zoning by-law as the proposed changes and obligations to provide five years free basic rent and dedicate reserve funds for the community centre space and child care facility are not detailed in the provisions of the zoning by-law.

City Planning staff, in consultation with the appropriate staff of City of Toronto's Children's Services and Parks, Forestry and Recreation Divisions have agreed to the proposed amendments.

The City is keeping the value of the original Section 37 Agreement intact, as the value is being re-prioritized and dedicated towards the child care facility while recognizing that Lansing United Church performs a necessary service in the community and operate as a non-profit organization.

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SIGNATURE

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