

## City Council

### Motion without Notice

MM41.26	ACTION			Ward:23
---------	--------	--	--	---------

**4841 to 4881 Yonge Street, 2 and 50 Sheppard Avenue East and 4 and 6 Forest Laneway - Authorization to Amend Section 37 Agreement - by Councillor John Filion, seconded by Councillor Mary Fragedakis**

*\* Notice of this Motion has not been given. A two-thirds vote is required to waive notice.  
\* This Motion is subject to referral to the North York Community Council. A two-thirds vote is required to waive referral.  
\* This Motion has been deemed urgent by the Chair.*

### Recommendations

Councillor John Filion, seconded by Councillor Mary Fragedakis, recommends that:

1. City Council amend the Section 37 Agreement for 4841 to 4881 Yonge Street, 2 and 50 Sheppard Avenue East and 4 and 6 Forest Laneway to provide that:
  - a. the hard and soft costs of the Additional Improvements shall not exceed maximum of \$891,000.00 (\$788,495.00 plus HST) (the "Fixturing Amount"), plus an additional amount to comply with the Fair Wage Policy and Labour Trades Contractual Obligations in the Construction Industry up to a maximum of \$239,000.00 (\$211,505.00 plus HST) (the "Fair Wage Amount");
  - b. the Owner shall request reimbursement of the total cost of the Additional Improvements in an amount not exceeding the Fixturing Amount plus the Fair Wage Amount, by providing true copies of invoices for the Additional Improvements, Fixturing Amount, and Fair Wage Amount, together with a certificate of completion from the Owner's architect and/or quantity surveyor acceptable to the City, certifying the total cost of work completed for the Additional Improvements;
  - c. the Fixturing Amount and the Fair Wage Amount shall be refunded by the City to the Owner, from part of the Monetary Contribution paid by the Owner to the City;
  - d. the Owner shall execute final versions of the Social Facility Lease and the Child Care Facility Lease on or before the execution of a Site Plan Agreement in relation to the development of the Lands;
  - e. the Owner shall provide a fair market value appraisal of the City's ninety-nine (99) year leasehold interests in the Social Facility and the Child Care Facility on or before the

execution of a Site Plan Agreement in relation to the development of the Lands, at least forty-five (45) days prior to registration of the Social Facility Lease and the Child Care Facility Lease on title; and

f. the Owner shall complete the Child Care Facility and Social Facility and have them ready for occupancy and available to the City and/or the operator within thirty-one (31) months of issuance of the first Above-Grade Building Permit for the Phase 1 Retail Renovations.

2. City Council authorize the City Solicitor and any other necessary staff to take the necessary steps to carry out Recommendation 1 above.

## **Summary**

RK (Sheppard Centre) Inc. (the "Owner") is the owner of lands municipally known as 4841 to 4881 Yonge Street, 2 and 50 Sheppard Avenue East, and 4 and 6 Forest Laneway (the "Sheppard Centre"). On March 31, 2015, city Council approved the Owner's applications for amendments to the Official Plan and Zoning By-law, Site Plan, and Rental Housing Demolition in order to permit the development of the Sheppard Centre site with a 39 storey residential apartment with grade related retail commercial uses (the "Development"). The Development also includes the replacement of 25 existing residential rental units.

As a precondition to enacting the Zoning By-law Amendment, Council required the Owner to enter into a financially secured Agreement pursuant to Section 37 of the Planning Act which secured, among other things, a monetary contribution (the "Monetary Contribution") and required the Owner to construct and complete a social facility (the "Social Facility") in accordance with a number of base-building improvements related to floors, walls, ceilings, life safety systems, accessible washroom facilities, and doors, along with a child care facility (the "Child Care Facility").

The Section 37 Agreement was executed and registered on title on June 15, 2015. The amount of the Monetary Contribution paid by the Owner to the City on January 28, 2018 was \$3,916,202.40.

A number of amendments to the Section 37 Agreement are now required as a result of changed circumstances.

First, the Ward Councillor has requested that a portion of the Monetary Contribution be allocated toward improvements, finishes, furnishing and equipment of the Social Facility in excess of the base-building improvements already required by the Section 37 Agreement, to be approved by the City's General Manager of Children's Services (the "Additional Improvements"). In order to allocate the funds as described, the Section 37 agreement must be amended. The zoning by-law that initially authorized the Section 37 benefits, By-Law No. 527-2015, which allowed for the redevelopment of the subject lands does not need to be amended to implement these changes because the Social Facility was included as possible Section 37 benefits under this by-law.

Second, previously authorized amendments to the Section 37 Agreement provide that the Owner is required to register executed lease agreements for the Social Facility and for the Child Care Facility, no later than the execution of a Site Plan Agreement in relation to the development of the Lands. The currently authorized timing of the registration of the Social

Facility Lease and the Child Care Facility Lease will not allow for the timely execution of the Site Plan Agreement, in light of other requirements on the Owner to deliver appraisals of the above-noted leasehold interests, with sufficient time for staff review of those appraisals. The Section 37 agreement must be amended to allow for a change in the timing of registration of the Child Care Facility Lease and the Social Facility Lease, to ensure the timely execution of the Site Plan Agreement.

Third, the Owner has requested an extension of time of one month to complete the Child Care Facility and have it ready for occupancy. Staff are satisfied that the requested short delay is acceptable. The Section 37 agreement must be amended to allow for the extension of time.

This matter is time sensitive and urgent due to the need to facilitate the timely execution of the Site Plan Agreement and the timely construction of the Social Facility.

### **Background Information (City Council)**

Member Motion MM41.26