



721 Eastern Ave – Official Plan Amendment, Zoning Amendment, and Subdivision Applications – Supplementary Report

Date: July 4, 2018

To: Planning and Growth Management Committee

From: Chief Planner and Executive Director, City Planning

Wards: 30

SUMMARY

The purpose of this report is to provide Planning and Growth Management Committee (PGMC) with additional information with respect to the June 25, 2018 report (PG31.2) 721 Eastern Avenue – Official Plan Amendment, Zoning Amendment, and Subdivision Applications – Final Report. The report included a number of recommendations including Recommendations 10 and 11, which dealt with Section 37 considerations that have been refined by staff with input from the local councillor.

This report summarizes the adjustments to the Section 37 package and other minor refinements described in the June 25, 2018 Report from the Chief Planner.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.PG31.2>

RECOMMENDATIONS

The Chief Planner and Executive Director, City Planning recommends that:

1. Recommendation 10 of the report (June 25, 2018) to the Planning and Growth Management Committee be deleted and replaced with the following:

City Council require the owner of 721 Eastern Avenue to enter into and/or register an Agreement pursuant to Section 37 of the Planning Act, together with satisfactory provisions in the amending by-laws, to secure the items described generally below all to the satisfaction of the Chief Planner and Executive Director, City Planning and the City Solicitor and at the owner's expense, before introducing the necessary Bills to City Council for enactment of Recommendations 2, 3, and 4 above:

- a) Enter into a lease agreement for a 99-year term with the City of Toronto or a non-profit organization chosen by the City, its appointed delegate, on the terms and conditions as set out in Attachment "A" to the Supplementary

Report of the Chief Planner and Executive Director, City Planning, dated July 4th, 2018, and on such other terms and conditions satisfactory to the Deputy City Manager, Internal Corporate Services, in consultation with the General Manager, Economic Development and Culture, for a minimum of 1,300 square metres (14,000 square feet) of Class A or B office space at grade in Building 'A', as identified on Attachment 3 to this report, for a nominal rent. The space will be designated for creative industries and entrepreneurship use and may include design, fashion incubators, technology start-up space, digital and screen-based organizations, music and sound recording, and other appropriate creative industry uses. The City agrees that the owner of Block A, as identified on Attachment 3: Existing Buildings, may have access to Eastern Avenue through Building A and may use Building A prior to the City taking occupancy of the space.

- b) Prior to Site Plan Approval the owner will provide a cash contribution of \$800,000 in the form of a certified cheque to the City of Toronto to be applied to the fit out costs for the space described in 10 (a) above.
- c) The owner will make best efforts to allow the future tenants of Building 'A' to continue operations during construction and redevelopment of the site. If this is not possible, the owner has a one-time option to relocate the future tenants to another space of a similar size and quality for a temporary duration and in a location and on terms and conditions satisfactory to the Deputy City Manager, Internal Corporate Services, in consultation with the General Manager, Economic Development and Culture until such time as Building 'A' is available for occupancy. The owner shall be responsible for any and all costs associated with relocating future tenants as a result of the redevelopment of the site.
- d) In the event the cash contribution referred to in 10(b) above has not been used for the intended purpose within five (5) years of this By-law coming into full force and effect, the 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 City of Toronto Official Plan and will benefit the community in the vicinity of the lands.
- e) The payments required in 10(b) above, shall increase in accordance with the increase in the Non-Residential Construction Price Index for the Toronto CMA, reported by Statistics Canada in Construction Price Statistics Publication No. 62-007-XPB, or its successor, calculated from the date of execution of the Section 37 Agreement or, if the site specific by-laws for the project are appealed to the Local Planning Appeal Tribunal, from the date of the Tribunal order approving the by-laws, to the date of submission of the funds by the owner to the City.
- f) The design, construction and maintenance of landscape and public realm improvements on the Lake Shore Boulevard East right-of-way, according to

the approved plans, the timing of and design of which shall be to the satisfaction of the Chief Planner and Executive Director, City Planning.

2. Recommendation 11 of the report (June 25, 2018) to the Planning and Growth Management Committee be deleted and replaced with the following:

The following matters be secured in the Section 37 Agreement as a legal convenience to support development, at the owner's expense, all to the satisfaction of the Chief Planner and Executive Director, City Planning and the City Solicitor:

- a) Prior to Site Plan Approval for Block A, or the issuance of any building permit related to Block A, not including a building permit related to any other Block that may include site preparation, excavation, demolition or alteration of a portion of Building B to make possible construction of any other Block (See Attachment 3), the owner shall:
 - i. enter into a Heritage Easement Agreement for Building A and Building B at 721 Eastern Avenue, as identified on Attachment 3: Existing Buildings, and shall not object to the designation of 721 Eastern Avenue (Building A and Building B) under Part IV of the Ontario Heritage Act.
 - ii. provide a Conservation Plan for Building A and Building B at 721 Eastern Avenue, prepared by a qualified heritage consultant, to the satisfaction of the Senior Manager, Heritage Preservation Services.
 - iii. provide a Heritage Interpretation Plan for the subject property to the satisfaction of the Senior Manager, Heritage Preservation Services, and the Director, Urban Design.
 - iv. provide a Heritage Lighting Plan that describes how the heritage properties will be sensitively illuminated to enhance their character, and thereafter shall implement such Plan to the satisfaction of the Senior Manager, Heritage Preservation Services, and the Director, Urban Design.
 - v. provide a detailed Landscape Plan for the subject property to the satisfaction of the Senior Manager, Heritage Preservation Services, and the Director, Urban Design.
- b) Prior to the issuance of any building permit related to the alteration of a portion of Building B to make possible development on Block A or construction of any other Block, the owner shall provide a memorandum, prepared by a qualified heritage consultant, detailing the careful removal of existing building components and protection of the remaining structure during construction, to the satisfaction of the Senior Manager, Heritage Preservation Services and the Director, Urban Design.
- c) Prior to the issuance of any above grade building permit for Block C, the owner shall convey to the City for nominal consideration, a Publicly-

Accessible Privately Owned Space (POPS) easement with a minimum width of 10 metres as identified on approved plans to provide public access for use by the general public, which easements shall include provisions for rights of support if necessary, and insurance and indemnification of the City by the owner, to the satisfaction of the Chief Planner and Executive Director, City Planning, and the City Solicitor. The POPS is to be conveyed to the City free and clear of all physical and title encumbrances unless otherwise agreed to by the Chief Planner and Executive Director, City Planning, and the City Solicitor. The owner shall own, operate, maintain and repair the POPS. The owner shall install and maintain a centralized sign on the proposed POPS, at its own expense, generally in accordance with the City of Toronto POPS Urban Design Guidelines. Members of the public shall be entitled to use the POPS and the east-west link connecting the southern end of the POPS 365 days a year, subject to temporary closures on terms and conditions being satisfactory to the Chief Planner and Executive Director, City Planning. The owner shall explore the retention of Building G's industrial framing and clerestory in the design of the POPS (as identified on Attachment 3: Existing Buildings).

- d) Prior to the earlier of the first above building permit for Block C, or the registration of the plan of subdivision, the owner shall secure and construct all transportation, streetscape, intersection and public realm improvements linked to the development proposal, including letters of credit to secure works, which letters of credit shall increase in accordance with the increase in the Non-Residential Construction Price Index for the Toronto CMA, reported by Statistics Canada in Construction Price Statistics Publication No. 62-007-XPB, or its successor, calculated from the date of execution of the Section 37 Agreement or, if the site specific by-laws for the project are appealed to the Local Planning Appeal Tribunal, from the date of the Tribunal order approving the by-laws, to the date of submission of the funds by the owner to the City.
- e) Prior to the earlier of any first above grade building permit, or the registration of the Plan of Subdivision, the owner shall secure, pay for and construct any improvements to the municipal infrastructure in connection with the site servicing assessment, should it be determined that upgrades are required to the infrastructure to support this development to the satisfaction of the Chief Engineer and Executive Director of Engineering and Construction Services.
- f) Prior to the first above grade building permit, the owner shall satisfy the Parkland dedication in accordance with Section 42 of the Planning Act through cash-in-lieu, to the satisfaction of the General Manager, Parks, Forestry and Recreation (PFR), and the City Solicitor.
- g) Prior to final Site Plan Approval of any development beyond the adaptive reuse and/or fitting out and renovation of Building A, the owner shall submit a plan detailing improvements to the public realm for the subject site to be implemented in support of the development, which will include but not be limited to, details regarding hard and soft landscaping, paving and curb

details, lighting, sidewalk treatment, outdoor seating, planting, cycling facilities, and Toronto Transit bus shelters.

- h) Prior to the issuance of the first above grade building permit, the owner shall provide a letter of credit in the amount of the cost of all associated public realm works as described in Recommendation 11(g) above, such letter of credit shall increase in accordance with the increase in the Non-Residential Construction Price Index for the Toronto CMA, reported by Statistics Canada in Construction Price Statistics Publication No. 62-007-XPB, or its successor, calculated from the date of execution of the Section 37 Agreement or, if the site specific by-laws for the project are appealed to the Local Planning Appeal Tribunal, from the date of the Tribunal order approving the by-laws, to the date of submission of the funds by the owner to the City.
- i) Prior to the issuance of the first above grade building permit for Block C, not including a building permit related to site preparation, excavation, demolition, or alteration of existing buildings or construction of roads, the owner shall, build and convey a public street between Lakeshore Boulevard East and Eastern Avenue, according to approved plans, including intersection improvements and any identified new signals and pedestrian/cycling infrastructure to the City's applicable standards for public roads, the precise location and specifications of which are to be secured in conjunction with site plan approval for the development of Block C or plan of subdivision to the satisfaction of the General Manager, Transportation Services.
- j) Prior to the earlier of the registration of the Plan of Subdivision or the issuance of the first above grade building permit for Block C, the owner shall convey the required road widening along Eastern Avenue to the City free of all physical and title encumbrances except as otherwise agreed to by the City Solicitor, and all to the satisfaction of the City Solicitor.
- k) Prior to the earlier of the registration of the Plan of Subdivision or the issuance of the first above grade building permit for Block C, the owner shall dedicate all roads, road widening and corner roundings as shown on the submitted plans to the satisfaction of the Chief Engineer & Executive Director of Engineering and Construction Services free of all physical and title encumbrances except as otherwise acceptable to by the City Solicitor, and all to the satisfaction of the City Solicitor.
- l) Prior to the earlier of the registration of the Plan of Subdivision or the issuance of the first above grade building permit for Block C, the owner shall secure and pay for all costs associated with the design, installation and future maintenance of traffic control signals, stop signs, and other streetscape infrastructure at the intersection of Rushbrooke Avenue and Eastern Avenue and the intersection of Rushbrooke Avenue and Lake Shore Boulevard East to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services.

- m) Prior to the issuance of a building permit related to any excavation and shoring work, the owner will submit a Construction Management Plan and Construction Traffic Mitigation Strategy, to the satisfaction of the Chief Planner and Executive Director, City Planning, the General Manager, Transportation Services, and the Chief Building Official and Executive Director, Toronto Building, in consultation with the Ward Councillor and thereafter in support of the development, will implement the plan during the course of construction. The Construction Management Plan will include, and may be expanded, to the satisfaction of the Chief Engineer and Executive Director of Engineering and Construction Services, and the Ward Councillor:
 - i. details regarding size and location of construction staging areas;
 - ii. dates and significant concrete pouring activities;
 - iii. parking strategies that deal with providing on-or off-site parking for existing uses;
 - iv. mitigation strategies to reduce the impact on adjacent residents including negative effects of safety lighting, air debris from demolition works, construction vehicle parking locations, refuse storage, site security, site supervisor contact information, and any other matters deemed necessary; and
 - v. communication strategy with the surrounding community.
- n) The owner shall submit any applications required to remove or injure trees (both City and private) to the satisfaction of the General Manager, Parks, Forestry and Recreation prior to Site Plan Approval.
- o) The owner shall be financially responsible for all costs associated with the excavation, improvement, removal and/or relocation of any above or below-grade public or private utility resulting from the development of this property to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services.
- p) Prior to Site Plan Approval the applicant agrees to withdraw all appeals to By-law 569-2013 as well as any objections to OPA 231 respecting 721 Eastern Avenue.

FINANCIAL IMPACT

The City would be responsible for any operating costs related to the lease of the 1,300 square metres (14,000 square feet) if during the term of the lease the space is not occupied by a non-profit organization identified in Recommendation 10(a).

DECISION HISTORY

The purpose of this report is to provide the Planning and Growth Management Committee (PGMC) with additional information with respect to the June 25, 2018 report (PG31.2) 721 Eastern Avenue – Official Plan Amendment, Zoning Amendment, and Subdivision Applications – Final Report. The report included a number of recommendations including Recommendations 10 and 11, which dealt with Section 37 considerations that have been refined by staff with further comment from the local councillor.

COMMENTS

In the June 25, 2018 Report from the Chief Planner and Executive Director, City Planning, the general details of the Section 37 package were described. Since June 25, staff have had further discussions with the local councillor and the applicant with a view of finalizing the Section 37 contributions including fit out costs for the proposed creative industry space, among other matters.

The package of Section 37 benefits recommended in this report includes a contribution of \$800,000 towards the construction fit out costs for creative industry space within an existing on-site building with heritage value. A Privately-Owned Publicly Accessible Open Space (POPS) has also been included as a legal convenience with frontage on Eastern Avenue, providing enhanced pedestrian access and an improved public realm design for the site.

The applicant has generally agreed to the primary benefit of this Section 37 package – the provision of a 1,300 square metre space for creative industries and entrepreneurship uses. However, the applicant has not accepted the full package of Section 37 benefits recommended by staff. The applicant cites concerns with the overall direct and indirect cost of the package, including fit out costs and heritage conservation.

Staff will continue to work to reach full agreement on these matters prior to the July 23, 2018, City Council meeting.

CONTACT

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SIGNATURE

Gregg Lintern, MCIP, RPP
Chief Planner and Executive Director
City Planning

ATTACHMENTS

- 1. Attachment A - Major Terms and Conditions - Lease for Creative Industries**

Attachment A
Major Terms and Conditions - Lease for Creative Industries

Leased Premises:	A minimum of 1,300 square metres (14,000 square feet) of Class A or B office space at grade in Building "A", municipally known as 721 Eastern Avenue, Toronto
Landlord:	General Motors Company of Canada
Tenant:	City of Toronto or a non-profit organization chosen by the City.
City as third party:	If the tenant is a non-profit organization, the City will be a third party to the lease with rights. If the tenant is in default, the City has option to: (i) assign lease to another non-profit, (ii) lease the Creative Hub, or (iii) terminate the lease.
Term:	Ninety-nine (99) years, no later than two (2) years after any above grade building permit for the overall site.
Extension Option:	None
Basic Rent:	Basic Rent of One Dollar (\$1.00) for each year of the Term.
Additional Rent, Operating Costs:	The Tenant is responsible for operating costs, save and except for repairs and replacements to: <ul style="list-style-type: none">(i) the foundation, bearing walls, structural columns and beams and other structural components;(ii) the outside of all exterior walls;(iii) any part of the roof;(iv) the loading dock; and(iv) the plumbing, mechanical, electrical, heating and air conditioning systems.
Registration of Lease:	To protect the 99 year term, the lease shall be registered on title at the landlord's sole expense. The landlord shall provide all required postponements and pay registration costs as well as land transfer tax based on fair market value (based on an appraisal acceptable to the City), and provide a title opinion from its solicitor, in the form required by the City Solicitor. The landlord shall also provide an indemnity to the Tenant, with respect to land transfer tax liability.
Relocation:	To protect the 99 year term, the owner has no right to relocate the tenant, save and except for a one time option to relocate the Tenant during substantial construction and redevelopment of the site as detailed in Recommendation 10 (c) in the supplementary report (July 4, 2018) from the Chief Planner and Executive Director, City

Planning

Substantial Damage:

In the event of substantial damage, to the extent that in the reasonable opinion of: (i) the General Manager, Economic Development ("GM") and Culture and/or the Deputy City Manager, Internal Corporate Services (DCM – ICS"), that the Tenant cannot conduct its usual operations in the Leased Premises; or (ii) an independent qualified architect given within sixty (60) days after the date of such damage, that the damage is incapable of being repaired within 180 days; if requested by the GM and/or DCM - ICS, the owner shall relocate the leased Premises to a similar location within the vicinity, for the remainder of the Term, with the size, location, materials and design of the relocated Leased Premises (as well as any temporary facility, if applicable) and terms of the move to be to the satisfaction of the GM and/or DCM - ICS (the "Alternate Premises"). For greater certainty, such relocation shall be at no cost to the Tenant. This Lease shall be amended to substitute the Alternate Premises for the Leased Premises and the lease of such Alternate Premises shall continue for the remainder of the Term. The provisions of this Lease, including construction and completion of the Leased Premises, shall apply in all respects to the Alternate Premises.