



REPORT FOR ACTION

1245 Dupont Street, 1260 Dufferin Street, and 213 Emerson Avenue - Official Plan Amendment and Zoning Amendment Applications - Request for Directions

Date: March 19, 2019

To: City Council

From: City Solicitor

Wards: Davenport - Ward 9

SUMMARY

This Report is further to City Council's adoption of Item TE33.5 on June 26, 2018, at which time City Council required the owner of the lands municipally known as 1245 Dupont Street and 213 Emerson Avenue to enter into and register against title an agreement with the City pursuant to Section 37 of the *Planning Act* to secure community benefits, at the owner's expense, in connection with the proposed development of the owner's lands and City-owned lands municipally known as 1260 Dufferin Street.

The City Solicitor requires further instructions from City Council related to the preparation of the Section 37 Agreement.

RECOMMENDATIONS

The City Solicitor recommends that City Council direct the City Solicitor to secure the following matters as a legal convenience to support development through a Section 37 Agreement between the City and the owner:

1. prior to the issuance of the first above-grade building permit for Phase 1 of the development, the owner shall submit a letter of credit equal to 120 percent of the Parks and Recreation component of the Development Charges payable for all Phases of the development, to be adjusted in accordance with changes to Development Charges payable over time, to secure the owner's financial obligations to construct a recreation centre and above-base park improvements to the parkland dedication for which the provision of a development charge credit has been authorised in accordance with City Council's adoption of Item TE33.5, Recommendation 8 and Recommendation 9, on June 26, 2018, to the satisfaction of the General Manager, Parks, Forestry and Recreation;

2. the 150 affordable rental housing units which are required to be provided by the owner pursuant to City Council's adoption of Item TE33.5, Recommendations 6a. and 6g. on June 26, 2018 shall be ready and available for occupancy prior to the issuance of an above grade building permit for the second building to be constructed as a part of Phase 2 of the development, to the satisfaction of the Chief Planner and Executive Director, City Planning; and
3. the owner shall create a Park Master Plan in consultation with Parks, Forestry, and Recreation staff and the local community, for the parkland dedication required in connection with the development and adjacent City-owned lands, to the satisfaction of the General Manager, Parks, Forestry and Recreation.

FINANCIAL IMPACT

The recommendations of this report have no financial impact.

DECISION HISTORY

A Final Report from the Director, Community Planning, Toronto East York District, dated May 18, 2018 (the "Report") was considered by Toronto East York Community Council on June 6, 2018. Community Council's decision to adopt amended recommendations of the Report can be found at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.TE33.5>

City Council adopted the amended recommendations of Toronto East York Community Council at its meeting on June 26, 27, 28, and 29, 2018. City Council's decision can be found at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.TE33.5>

Finally, the future recreation centre will be built on the owner's lands. These lands are the subject of a City Council approved land exchange with City-owned lands municipally known as 1260 Dufferin Street which are currently occupied by the Wallace Emerson Community Centre which will be demolished following the completion and conveyance of the new recreation centre and related facilities to the City. City Council's decision in respect of the land exchange with the owner can be found at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.GM28.28>

COMMENTS

City Council has directed the City Solicitor to prepare a Section 37 Agreement in order to secure a number of items as community benefits, at the owner's expense, in connection with the development and various matters as a legal convenience to support the development.

One of the community benefits to be secured by the Section 37 Agreement is the provision of a phasing plan for the development. The owner has requested staff provide it with flexibility with respect to the development sequencing of blocks shown on Attachment 14, Schedule B to the Report which has the effect of reducing the number of phases for the development from 5 to 4. On account of this request, the phasing of development with respect to individual development blocks will generally proceed according to the following sequence: Phase 1 (Block 5 and Block 6); followed by Phase 2 (Block 1 and Block 2); followed by Phase 3 (Block 3); and then concluding with Phase 4 (Block 4).

This change has consequences for other directions from City Council which the City Solicitor believes should be clarified by further direction. In particular, the owner is required to provide 150 affordable rental housing units to be ready for occupancy prior to the first above-grade building permit for Phase 5 of the development, now Phase 4 on account of the owner's request of staff. Furthermore, the provision of this important community benefit should occur as early as possible which, in this case, is prior to the issuance of an above-grade building permit for the second building to be constructed after the completion of Phase 1 of the development.

The City Council directions also do not provide instructions for the purpose of securing the owner's financial contribution to the development of a new recreation centre to be constructed by the owner on Block 6 and above base park improvements to the parkland dedication. Though City Council has authorised the provision of a development charge credit against the Parks and Recreation component of the Development Charges payable for the entire development in return for the owner's construction of the recreation centre and above base park improvements, City Council's directions do not require the owner to provide a letter or credit to the City in an amount equal to the Parks and Recreation component of Development Charges payable for the entire development in order to secure these financial obligations. In the event the owner satisfies the General Manager, Parks, Forestry, and Recreation that its financial obligations with respect to these works been met by the time above-grade building permits are issued for Phases 2, 3 and/or 4, the owner would be released from the obligation to provide financial security to the City in respect of the Parks and Recreation component of Development Charges payable for the entire development in accordance with the City's standard process for the release of letters of credit and subject to the City's standard holdbacks for warranty period purposes.

Finally, the Report states the owner will create a Park Master Plan in consultation with Parks, Forestry, and Recreation staff and the local community. City Council, however, did not direct the City Solicitor to secure the provision of the Park Master Plan in the Section 37 Agreement or by other means. Accordingly, the City Solicitor recommends securing this Plan as a part of the Section 37 Agreement as a legal convenience.

CONTACT

Kasia Czajkowski, Solicitor, Tel. No. 416-338-5725, Fax No. 416-397-5624, Email:
Kasia.Czajkowski@toronto.ca

Mark Piel, Solicitor, Tel. No. 416-392-2124, Fax No. 416-397-5624, E-mail:
Mark.Piel@toronto.ca

SIGNATURE

Wendy Walberg
City Solicitor