



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

Don Mills Centre - Request for Instructions

Date: March 19, 2019

To: City Council

From: City Solicitor

Wards: Ward 16 - Don Valley East

REASON FOR CONFIDENTIAL INFORMATION

The attachment to this report contains advice or communications that are subject to solicitor-client privilege.

SUMMARY

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) now continued as the Local Planning Appeal Tribunal (LPAT). 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. The City Solicitor is seeking instructions from City Council with respect to a requirement of the Section 37 Agreement.

RECOMMENDATIONS

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 confidential instructions to staff contained in Confidential Attachment 1, once adopted by City Council, with the confidential information or advice in the remainder of the Confidential Attachment to remain confidential, as it contains information that is subject to solicitor-client privilege.

FINANCIAL IMPACT

There is no financial impact arising from the adoption of the confidential instructions to staff.

DECISION HISTORY

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) now continued as the Local Planning Appeal Tribunal (LPAT). 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 m² 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.

By Item CC31.14, adopted by City Council on July 4, 5, 6 and 7, 2017, City Council adopted the confidential instructions to staff contained in Confidential Attachment to the report (June 27, 2017) from the City Solicitor, which instructions are now public, and thereby extended the deadline for the conveyance of land to the City for a community centre until April 30, 2019.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.CC31.14>

COMMENTS

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 permits extensions to the Transfer Date on consent of the parties' solicitors, and, accordingly, it has been extended by Cadillac Fairview's solicitors and the City Solicitor on several occasions 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 environmentally remediated to the extent required by the agreement as a pre-condition to the transfer.

The City Solicitor agreed to extend the Transfer Date from February 28, 2017 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.

A further extension of the Transfer Date was required in the summer of 2017. However, as the Transfer Date had been extended multiple times, the City Solicitor sought and obtained instructions from Council for a further extension until April 30, 2019.

The City Solicitor is requesting instructions relating to a further extension of the Transfer Date.

CONTACT

Amanda Hill, Solicitor, Tel: 416-338-5790, Fax: 416-397-5624, Email: Amanda.Hill@toronto.ca

Jack Payne, Solicitor, Tel: 416-338-0802, Fax: 416-397-5624, Email: Jack.Payne@toronto.ca

Matt Schuman, Solicitor, Tel: 416-397-4227; Fax: 416-397-5624; Email: Matt.Schuman@toronto.ca

SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

Confidential Attachment 1 - Confidential Instructions to Staff