

City Council

Motion without Notice

MM35.50	ACTION			Ward: 18
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Authority to Accept Land at 5200 Yonge Street for Use as the Site of a Food Incubator Program - by Councillor John Filion, seconded by Councillor Mike Colle

** This Motion has been deemed urgent by the Chair.*

** This Motion is not subject to a vote to waive referral. This Motion has been added to the agenda and is before Council for debate.*

Recommendations

Councillor John Filion, seconded by Councillor Mike Colle, recommends that:

1. City Council exempt the stratified parcel of land at 5200 Yonge Street, required to be conveyed to the City pursuant to the Section 37 Agreement between the City and 5200 Yonge Street Limited Partnership (the "Developer") and intended for use as a Food Incubator Program (the "Food Incubator Tenancy Space") from the application of Section 5.4.5.3 of the Policy for Accepting Potentially Contaminated Lands to be Conveyed to the City under the Planning Act, such that the City will accept the conveyance of the Food Incubator Tenancy Space subject to the ongoing indoor air and ground water monitoring requirements pursuant to the Certificate of Property Use affecting the 5200 Yonge Street site, including the Food Incubator Tenancy Space.
2. City Council authorize the amendment to the Section 37 Agreement between the City and the Developer to include an indemnity agreement with the Developer, whereby the Developer assumes all responsibility for the indoor air and ground water monitoring obligations under the Certificate of Property Use, and indemnifies the City from any and all liability associated with such monitoring obligations under the Certificate of Property Use.
3. City Council deem the ongoing indoor and ground water monitoring obligations identified in the Certificate of Property Use not to be an encumbrance

against the Food Incubator Tenancy Space for the purposes of the conveyance required under the Section 37 Agreement.

Summary

At its meeting on June 8 and 9, 2021, City Council approved the implementation of a Food Incubator Tenancy Program at 5200 Yonge Street to encourage the establishment and initial growth of small food service businesses pursuant to section 84 of the City of Toronto Act, 2006. City Council further authorized the execution of below market rent lease agreements for four (4) eligible owners ("the Tenants") to operate in food stations and one (1) Food Learning, Innovation Place operator selected by a Tenant Selection Committee.

The purpose of this Food Incubator Tenancy Program is to provide the infrastructure and training through the City's Small Business Enterprise Centre program ("Enterprise Toronto") to allow start-up food entrepreneurs to begin a new and innovative food service business of their own in a shared food hall equipped with commercial-grade kitchen appliances. This program is also consistent with the objective of laying the foundation for Toronto's social and economic recovery as outlined in EX17.1 "Towards Recovery and Building a Renewed Toronto".

Food Incubator Tenancy Space at 5200 Yonge Street

The Food Incubator Tenancy Space is located on the northeast corner of the condominium building located at 5200 Yonge Street. This space will be conveyed to the City imminently as part of the Section 37 benefit related to the development of 5200 Yonge Street. A Tenant Selection Committee has already selected the four initial food operators and has a schedule to execute the leases and open the operation by September 1, 2020.

The Ministry of Environment, Conservation and Parks has issued a Certificate of Property Use against the property, including the space of which the City is taking ownership and in which the Food Incubator program will operate, which requires ongoing groundwater and indoor air monitoring. The Certificate of Property Use requirement is related to existing contamination from a former dry cleaner that previously operated on an adjacent property. The developer of the adjacent property has confirmed that remediation has occurred already. As such, the City believes that, with 2-5 years of monitoring data, the risk of the Ministry of Environment, Conservation and Parks requiring further groundwater and indoor air monitoring is low.

The City's Policy for Accepting Potentially Contaminated to be Conveyed to the City under the Planning Act ("the policy") does not permit the City to accept

lands that are subject to ongoing groundwater or soil vapour monitoring and reporting requirements. Moreover, the Section 37 Agreement stipulates that the City must be given the space free of all encumbrances.

However, in lieu of the City space not being in proximity to where the groundwater and indoor air monitoring will need to occur, the developer has offered to both conduct the monitoring and reporting required by the Certificate of Property Use as well as to indemnify the City from liability emerging from any non-compliance with the Certificate of Property Use. As such, staff do not view that the Certificate of Property Use should be regarded as an encumbrance.

In the interest of avoiding a delay to the scheduled opening of the Food Incubator Program and to expedite the near term economic recovery among the four (4) selected Tenants, the recommendations enclosed in this Motion seek an exemption from the policy and authority to exempt the Certificate of Property Use from being defined as an encumbrance.

Background Information (City Council)

Member Motion MM35.50