

City Council

Motion Without Notice

MM37.34	ACTION			Ward: 20
---------	--------	--	--	----------

Authority to Accept Development Block at 411 Victoria Park Avenue for Affordable Rental Housing - by Councillor Gary Crawford, seconded by Councillor Michael Thompson

** 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 Gary Crawford, seconded by Councillor Michael Thompson, recommends that:

1. City Council exempt the parcel of land within the development at 411 Victoria Park Avenue currently shown as Block 5 on the draft plan of subdivision application filed with the City as application no. 19 263636 ESC 20 SB required to be conveyed to the City for development of affordable rental housing (the “AR Lands”), 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 (the “Policy”), such that the City will accept the conveyance of the AR Lands subject to a Certificate of Property Use, and develop the lands in accordance with the Certificate of Property Use at CreateTO's expense, or at the expense of a third party provider that is responsible for the construction, operation and maintenance of this block (the "AR Developer") in accordance with the agreement of purchase and sale between Build Toronto Holdings (Victoria Park) Inc. (“Build Toronto”) and the developer.
2. City Council authorize CreateTO to act on the City's behalf and on behalf of the AR Developer to assume all responsibility for the work required under the Certificate of Property Use.
3. City Council deem the Certificate of Property Use to be a permitted encumbrance against the AR Lands for the purposes of the conveyance required under the required Section 37 Agreement.

Summary

The property municipally known as 411 Victoria Park Avenue, 2510 and 2530 Gerrard Street East, Toronto, Ontario (the “Property”) was purchased by the developer from Build Toronto in accordance with an agreement of purchase and sale dated February 23, 2018 (as same has been amended, restated, supplemented, revived or otherwise modified, from time to time) between

Build Toronto Holdings (Victoria Park) Inc. (“Build Toronto”) and the developer (the “Agreement of Purchase and Sale”).

As a requirement of the Agreement of Purchase and Sale, the developer was obligated to re-convey to Build Toronto a parcel of land for the purposes of developing affordable housing. The Agreement of Purchase and Sale acknowledges that these lands would comprise risk assessed lands, subject to a Certificate of Property Use. Further, as a requirement of the Agreement of Purchase and Sale, Build Toronto, as a landowner and acting as an agent for the City who was also a part landowner of the Property, obtained the required environmental approvals, including a risk assessment accepted by the Ministry of Environment, Conservation, and Parks, resulting in a Certificate of Property Use and Record of Site Condition for residential development, for the portions of the property containing the Affordable Housing Lands. Subsequently, at its meetings on June 25 and July 14, 2021, Scarborough Community Council and City Council, respectively, through Item SC25.1, approved amendments to the Official Plan and Zoning By-law for the Property. As part of these approvals and pursuant to Section 37 of the Planning Act, the developer is required to convey the AR Lands to the City for the purposes of constructing at least 62 affordable rental units.

The Ministry of Environment, Conservation and Parks issued a Certificate of Property Use in respect of the portion of the property including the AR Lands prior to the developer’s purchase from Build Toronto. The Policy does not permit the City to accept lands that are subject a Certificate of Property Use that will impact or restrict the intended use of the conveyed lands or will result in any significant future cost implications to the City. The Certificate of Property Use requires the future development of the Affordable Housing Lands to include construction and ongoing monitoring of specific risk management measures associated with the construction of buildings on the Affordable Housing Lands.

In 2019, City Council approved an exemption to this policy to enable a portion of this property, which has the same Certificate of Property Use and which is to the south of the AR Lands, to be transferred back to the City for parkland. The condition of the lands was contemplated in the APS and accepted by Build Toronto at the time the APS was executed, such that intent of the Agreement of Purchase and Sale was that the development of the AR Lands in accordance with the Certificate of Property Use would be at the expense of Build Toronto (now CreateTO), the City or a third party developer. The City’s housing secretariat is aware of and supports this direction.

CreateTO has the subject matter expertise and budget to support any additional costs from and to undertake the requirements of and obligations set out in the Certificate of Property Use stemming from the terms of this Agreement of Purchase and Sale.

This development is unique in a number of ways. Due to its previous ownership of the lands and its continued long-standing involvement with the Property, CreateTO has an intimate knowledge of and commitment to undertaking the works required by the Certificate of Property Use. That Council has already provided an exemption from the Policy for the parkland on this development indicates the City's comfort with the Certificate of Property Use for this site. Finally, the development aligns with the City’s desire to secure critically needed affordable housing development opportunities which can be undertaken whilst fulfilling the obligations of the Certificate of Property Use.

Due to these specific facts distinguishing this site, an exemption from the Policy is warranted.

This matter is urgent because the Section 37 Agreement approved by Council by way of SC25.1 on July 14, 15 and 16, 2021 cannot be executed – nor can the transfer of land to the City contemplated therein be completed - without this exemption. The Bills are at Council this meeting for matters already approved but cannot be passed unless the Motion moves forward.

Background Information (City Council)

Member Motion 37.34