

45, 57-93 Balliol Street - Community Benefits Charge In-kind Offer

Date: January 17, 2024

To: Toronto and East York Community Council

From: Director, Community Planning, Toronto and East York District

Ward: 12, Toronto-St. Paul's

Planning Application Number: 21 235311 STE 12 OZ

SUMMARY

On July 19, 2023, City Council approved the Zoning By-law Amendment and Rental Housing Demolition applications at 45, 57-93 Balliol Street to permit a 128.6-metre (40 storeys, excluding mechanical penthouse) residential building with 477 residential units including 19 replacement rental dwelling units. Zoning By-law 983-2023 was enacted as a result of City Council's adoption of the applications.

The proposal includes a new 906 square metre open space, including 435 square metres of parkland dedication that was secured as part of the Zoning By-law Amendment. The open space fronts onto Balliol Street, and mirrors the parkland that was secured on the neighbouring property to the east at 93-131 and 155 Balliol Street.

This report presents a Community Benefits Charge (CBC) in-kind contribution to secure a portion of the 471 square metres of additional open space adjacent to the onsite parkland. The CBC in kind offer is to provide 174.44 square metres of the 471 square metres as additional parkland to be conveyed to the City as the entirety of the CBC. The 174.44 square metres represents 4% of the developable area of the site.

Based on discussions to date with the owner it is City staff's intention that the remaining 296.56 square metres of open space will be purchased by the City for parkland. Required approvals specific to the purchase will be sought at a later date.

RECOMMENDATIONS

The Director, Community Planning, Toronto and East York District recommends that:

1. City Council allow the owner of 45 and 57-93 Balliol Street to convey 174.44 square metres of additional open space as part of the development free and clear, above and below grade, of all easements, encumbrances, and encroachments, in an acceptable environmental condition, prior to the earlier of three years following the first above grade building permit or condominium registration, to the satisfaction of the Chief Planner and

Executive Director, City Planning and the General Manager, Parks, Forestry and Recreation, as an in-kind contribution pursuant to subsection 37(6) of the Planning Act, in accordance with the following terms:

- a. City Council attribute a value to the in-kind contribution set out in Recommendation 1 equal to one hundred percent (100 percent) of four percent (4 percent) of the value of the lands at 45 and 57-93 Balliol Street (net of any exclusions or exemptions authorized under the Community Benefits Charge By-law), as determined the day before the day the building permit is issued in respect of the development and direct staff to advise the owner of such valuation.
- b. City Council authorize the Chief Planner and Executive Director, City Planning to enter into an agreement pursuant to subsection 37(7.1) of the Planning Act (the "In-kind Contribution Agreement") to address the provision of the in-kind contribution identified in Recommendation 1 to the satisfaction of the Chief Planner and Executive Director, City Planning and the City Solicitor, with such agreement to be registered on title to the lands at 57-93 Balliol Street, which agreement shall be evidence of arrangements for the provision of the in-kind contribution that are satisfactory to City Council.
- c. A Section 118 restriction on the Parkland Over-Dedication will be registered prior to the issuance of the first above-grade building permit and removed at the time that the Parkland Over-Dedication is conveyed to the City.
- d. The owner may propose the exception of encumbrances of tiebacks, where such an encumbrance is deemed acceptable by the General Manager, Parks, Forestry and Recreation, in consultation with the City Solicitor; and such an encumbrance will be evaluated during the purchase price negotiations, to the satisfaction of the General Manager, Parks, Forestry and Recreation and the Executive Director, Corporate Real Estate Management.

FINANCIAL IMPACT

The City Planning Division confirms that there are no financial implications resulting from the recommendations included in this report in the current budget year or in future years

The CBC in-kind contribution, if approved, will provide 174.44 square metres of additional parkland to the City. The estimated value of the CBC in-kind proposed is 4% of the value of the land that is the subject of the development or redevelopment in accordance with the CBC By-Law. The percentage ascribed to the in-kind contribution will not be a direct CBC payment to the City.

The financial implications to the fair market value purchase of part of the Parkland Dedication will be presented at a future date, at such a time as when the authority to enter into an Agreement of Purchase and Sale is being sought.

DECISION HISTORY

A Decision - Approval Report was adopted by Toronto City Council on July 19, 2023. The City Council decision is available here: [Agenda Item History - 2023.TE6.13 \(toronto.ca\)](#)

COMMENTS

In-kind Parkland Offer

The [Decision Report](#) adopted by City Council on July 19, 2023 for the subject site, references a 435 square metre on-site parkland dedication secured on-site at 45 and 57-93 Balliol Street along the east property line to expand the park secured at 95-131 and 155 Balliol Street.

The proposal includes a new 906 square metre open space, including 435 square metres of parkland dedication which fully satisfies the development's statutory parkland dedication requirement.

This report presents a Community Benefits Charge (CBC) in-kind contribution to secure a portion of the 471 square metres of additional open space adjacent to the onsite parkland. The CBC in kind offer is to provide 174.44 square metres of the 471 square metres as additional parkland to be conveyed to the City as the entirety of the CBC. The 174.44 square metres represents 4% of the developable area of the site.

The remaining 296.56 square metres is intended to be purchased by the City at fair market value at a future date, the authority for which will be sought through delegated approval or a future Council decision as appropriate.

All three pieces of parkland will be conveyed to the City at the same time, prior to the earlier of three years following the first above grade building permit or condominium registration.

Securing the full 906 square metres of open space on site as parkland will result in a 1,812 square metre park when combined with the parkland secured on the adjacent property at 95-131 and 155 Balliol Street. The new park will be designed through a public consultation process, ensuring the park meets the needs of the community.

Acquisition framework for Remaining Parkland

As part of the negotiations in the review of the Zoning By-law Amendment application, the City and the Owner have agreed that it is the City's intention to purchase 296.56 square metres of the Parkland Over-Dedication, being 6.8% of the Developable Area, at fair market value for the purposes of parkland (the "6.8% Parkland Over-Dedication Component").

It is intended that the Agreement of Purchase and Sale for the 6.8% Parkland Over-Dedication Component be negotiated and executed by the Owner and the City prior to the issuance of the first building permit. The timing is meant to align with the In-kind Contribution Agreement for the 4% Parkland Over-Dedication, as noted in the section of

the report above, to ensure a coordinated approach to the delivery of the full park. At that time, staff will seek authority to enter into the Agreement of Purchase and Sale through a report to Council or delegated authority as appropriate.

The proposed approach discussed by City staff and the owner, as set out in the in-kind community benefits offer in Attachment 1, is intended to align with the City's policy on land acquisition in Chapter 213 of the Municipal Code, and to coordinate where appropriate with the 4% Parkland Over-Dedication and the statutory parkland dedication.

CONTACT

Shane Taylor, Planner, Tel. No. 416-397-9254, E-mail: Shane.Taylor@toronto.ca

SIGNATURE

Oren Tamir
Director, Community Planning
Toronto and East York District

ATTACHMENTS

Attachment 1: In-kind Offer
Attachment 2: Site Plan

Attachment 1: In-kind Offer

1. The Owner agrees to convey 174.44 square metres of the Parkland Over-Dedication, being 4 percent of the Developable Area, to the City for the purposes of parkland (the “4% Parkland Over-Dedication Component”) on the condition that:

a) City Council allows the owner to convey the 4% Parkland Over-Dedication Component as an in-kind contribution pursuant to subsection 37(6) of the Planning Act (the “**In-Kind Contribution**”), prior to the earlier of three years following issuance of the first above-grade building permit or condominium registration;

b) City Council attributes a value to the In-Kind Contribution equal to 100 percent of 4 percent of the value of the Developable Area (net of any exclusions or exemptions authorized under the City’s Community Benefits Charge By-law), as determined the day before the day the first building permit is issued, pursuant to subsection 37(7) of the Planning Act. The Owner will not be required to make any further cash payments for the development in satisfaction of any community benefit charge obligation; and

c) City Council authorizes the Chief Planner and Executive Director, City Planning to enter into an agreement pursuant to subsection 37(7.1) of the Planning Act (the “**In-kind Contribution Agreement**”) to address the provision of the In-Kind Contribution to the satisfaction of the Chief Planner and Executive Director, City Planning and the City Solicitor, with such agreement to be executed and registered on title to the Site prior to the issuance of the first building permit, which agreement shall be evidence of arrangements for the provision of the In-kind Contribution that are satisfactory to City Council.

2. The Owner agrees to sell 296.56 square metres of the Parkland Over-Dedication, being 6.8 percent of the Developable Area, to the City for the purposes of parkland (the “**6.8% Parkland Over-Dedication Component**”) on the condition that:

a) The Agreement of Purchase and Sale for the 6.8% Parkland Over-Dedication Component will be negotiated and executed by the Owner and the City prior to the issuance of the first building permit;

b) The City will purchase the 6.8% Parkland Over-Dedication Component from the Owner at fair market value (“**FMV**”) to be determined as part of the negotiation of the Agreement of Purchase and Sale and through one or more appraisals. The FMV of the 6.8% Parkland Over-Dedication Component as though vacant shall be determined through a Direct Comparison Approach by one or more Accredited Appraiser Canadian Institute designated appraiser with requisite urban land valuation experience and completing a Narrative valuation report in accordance with Canadian Uniform Standards of Professional Appraisal Practice regulations;

c) The cost and process for construction of base park improvements on the 6.8% Parkland Over-Dedication Component, including coordination with the Statutory Parkland and the 4% Parkland Over-Dedication Component, will be addressed in the Agreement of Purchase and Sale. Base park improvements may impact the fair market value of the land and, as such, will form part of the negotiations regarding valuation for the purposes of the Agreement of Purchase and Sale for the 6.8% Parkland Over-Dedication Component; and

d) The closing date of the sale of the 6.8% Parkland Over-Dedication Component will be concurrent with the conveyance of the 4% Parkland Over-Dedication Component by the Owner to the City.

3. The offer presented in paragraphs 1 and 2 above are further subject to the following conditions:

a) City Council acknowledges that the Owner's conveyance of the Parkland Over-Dedication may be subject to encumbrances of tiebacks and the Owner acknowledges that tiebacks are considered an encumbrance and will be evaluated accordingly during the purchase price negotiations;

b) City Council approve a development charge credit against the Parks and Recreation component of the development charges for the design and construction by the Owner of the above base park improvements on the Parkland Over-Dedication;

c) A Section 118 restriction on the Parkland Over-Dedication will be registered prior to the issuance of the first above-grade building permit and removed at the time that the Parkland Over-Dedication is conveyed to the City; and

d) Should the Owner elect to construct the above base park improvements on the Parkland Over-Dedication, the Owner will coordinate the design of such improvements with any above base park improvements for the parkland located at 95-131 and 155 Balliol Street. For clarity, the Owner will not be required to construct any park improvements at the same time as any park improvements at 95-131 and 155 Balliol Street.

