

City Council

Motion without Notice

MM30.32	ACTION			Ward: 13
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Authorization to Amend Section 37 Agreement on Parkland Timing of Obligations in Response to Committee of Adjustment Application for 545-601 Sherbourne Street and 3-7 Howard Street - by Councillor Chris Moise, seconded by Councillor Shelley Carroll

** 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 Chris Moise, seconded by Councillor Shelley Carroll, recommends that:

1. If the Committee of Adjustment approves the Minor Variance Application A0282/25TEY for the property municipally known as 545-601 Sherbourne Street and 3-7 Howard Street, City Council require the Owner to enter into an Amending Section 37 Agreement, pursuant to Section 37 of the Planning Act (as it read the day before the date Section 1 of Schedule 17 of the COVID-19 Economic Recovery Act, 2020, came into force), to make amendments to the existing Section 37 Agreement registered on title to the lands as Instrument Number AT5824084 to implement the Committee's decision in a manner, content and form satisfactory, all to the satisfaction of the City Solicitor and the General Manager, Parks and Recreation.

Summary

At its meeting on March 27 and 28, 2019, City Council approved Item 2019.TE4.13 to amend the zoning by-law for the lands municipally known as 545-601 Sherbourne Street and 3-7 Howard Street to permit a 51-storey mixed-use building with 532 rental dwelling units (Agenda Item History - 2019.TE4.13). Following Council's approval, By-laws 1528-2019 and 1529-2019 were enacted and passed on October 30, 2019 securing the built form regulations and Section 37 provisions of the development. The Section 37 Agreement was registered and receipted as Instrument Number AT5824084 on July 19, 2021.

Among other matters, the development included the redesign and lease extension of the existing leased park, St. James Town Park West, and an on-site parkland conveyance of 607.64 square metres to the City comprised of 536.64 square metres to satisfy the Section 42 parkland dedication requirement for the development and 80.9 square metres of parkland over-dedication as a Section 37 community benefit. The Council decision, site specific zoning by-laws, and Section 37 Agreement all require the combined 607.64 square metre parkland dedication to be conveyed to the City prior to the first above grade building permit in accordance with Chapter 415 of the Toronto Municipal Code.

As part of redevelopment of the Site, the Owner replaced the membrane between the existing underground parking garage and St. James Town West Park as the membrane was approaching the end of its life expectancy. To facilitate this work, numerous mature trees within the park were removed via a tree injury and removal permit. Subsequently, City staff indicated throughout the review of the development's Site Plan Control application that a handful of the remaining trees located on the lands to be conveyed to the City, including one memorial tree, were required to be protected and preserved.

As per the City of Toronto's Policy for Accepting Potentially Contaminated Lands to be Conveyed to the City as a Condition of a Development Application Approval, the land being conveyed as parkland is required to meet a certain soil and groundwater quality to protect the City from potential liabilities associated with known or suspected environmental contamination. In this instance, the typical "dig and dump" method of remediation cannot be used as this work would require the removal of the trees flagged for preservation. Therefore, the Owner is required to undergo a Risk Assessment to allow the preservation of the trees while delivering the lands to the City in a state that meets conveyance policy.

The risk assessment is likely to take one to two years to complete whereas the development is able to obtain their first above grade permits very shortly. As such, City staff and the Owner, with consultation from Legal Services, have agreed to postpone the conveyance until two years after the issuance of first above grade building permit. The Owner has agreed to extend the lease agreement for the leased portion of the park prior to first above grade building permit as per the Council decision, site specific zoning by-laws, and Section 37 Agreement.

In support of the Minor Variance application, Parks Development staff has prepared a memo requesting that the Committee of Adjustment approve the application imposing several conditions of approval, including: obtaining approval from City Council to amend the Section 37 agreement; registering a Section 118 restriction on the site; and providing separate letters of credit for the value of the Section 42 and Section 37 parkland dedication.

This motion is urgent because the Committee of Adjustment hearing is on June 11, and requires City Council direction with regards to amending the Section 37 agreement.

Background Information (City Council)

Member Motion MM30.32