

City of Mississauga

Corporate Report



Date: February 14, 2020

To: Chair and Members of Planning and Development Committee

From: Andrew Whittemore, M.U.R.P., Commissioner of Planning & Building

Originator's files:
OZ 18/007 W1

Meeting date:
March 9, 2020

Subject

SECTION 37 COMMUNITY BENEFITS REPORT (WARD 1)

Community Benefits contribution under Section 37 to permit a nine storey apartment dwelling with 35 units and one level of underground parking

55 Port Street East

Owner: Brown Maple Investments Ltd.

File: OZ 18/007 W1

Recommendation

That the report dated February 14, 2020, from the Commissioner of Planning and Building outlining the recommended Section 37 Community Benefits under File OZ 18/007 W1, Brown Maple Investments Ltd. (FRAM), 55 Port Street East, be adopted and that a Section 37 agreement be executed in accordance with the following:

1. That the sum of \$178,500 be approved as the amount for the Section 37 Community Benefits contribution.
2. That City Council enact a by-law under Section 37 of the *Planning Act* to authorize the Commissioner of Planning and Building and the City Clerk to execute the Section 37 agreement with Brown Maple Investments Ltd. and that the agreement be registered on title to the lands in a manner satisfactory to the City Solicitor to secure the community benefits contribution.

Report Highlights

- The City is seeking a Community Benefits contribution under Section 37 of the *Planning Act*, in conjunction with the proponent's rezoning application
- The proposal has been evaluated against the criteria contained in the Corporate Policy

and Procedure on Bonus Zoning

- The Community Benefits contribution comprises of a \$178,500 cash contribution and will be used towards public art along the waterfront trail and/or in the vicinity of the subject property

Background

On October 15, 2019, a Recommendation Report was presented to Planning and Development Committee (PDC) recommending approval of rezoning applications on the subjects lands under File OZ 18/007 W1, by Brown Maple Investments Ltd. (FRAM), to a permit 9 storey apartment building subject to certain conditions. PDC passed Recommendation PDC-0075-2019 which was subsequently adopted by Council on October 23, 2019. As part of the recommendation, staff was directed to hold discussions with the applicant to secure Community Benefits in accordance with Section 37 of the *Planning Act* and the Corporate Policy and Procedure on Bonus Zoning, and to return to Council with a Section 37 report outlining the recommended Community Benefits. The purpose of this report is to provide comments and a recommendation with respect to the proposed Section 37 Community Benefits.

Comments

An aerial photograph and the concept plan for the proposed development is provided in Appendices 1 and 2.

Section 37 Community Benefits Proposal

Council adopted Corporate Policy and Procedure 07-03-01 – Bonus Zoning on September 26, 2012. In accordance with Section 37 of the *Planning Act* and policies contained in Mississauga Official Plan, this policy enables the City to secure community benefits when increases in permitted development are deemed good planning by Council through the approval of a development application. The receipt of the Community Benefits discussed in this report conforms to Mississauga Official Plan and the Corporate Policy and Procedure on Bonus Zoning.

"Community Benefits" is defined in the Corporate Policy and Procedure as meaning facilities or cash secured by the City and provided by an owner/developer for specific public capital facilities, services or matters. Chapter 19.8.2 of the Official Plan provides examples of potential Community Benefits, e.g. the provision of public art, the provision of multi-modal transportation facilities, the provision of streetscape improvements, etc.

Following Council's approval in principle of the subject applications, Planning staff consulted with representatives from Community Services, Transportation and Works, and Corporate Services to discuss potential community benefits. Subsequent to this meeting, Planning staff then met with the developer and Ward 1 Councillor, Stephen Dasko on separate occasions to discuss the possible community benefits relating to the proposal.

Written confirmation has been provided by the owner confirming that the Community Benefit of a \$178,500 cash contribution towards the public art along the waterfront trail and/or within the vicinity of the subject property.

Guiding Implementation Principles

The Section 37 Community Benefits proposal has been evaluated against the following guiding implementation principles contained in the Corporate Policy and Procedure on Bonus Zoning.

1. Development must represent good planning.

A fundamental requirement of the use of Section 37 is that the application being considered must first and foremost be considered "good planning" regardless of the Community Benefit contribution.

The Recommendation Report dated August 23, 2019, presented to PDC on October 15, 2019, evaluated the proposed rezoning and recommended that the application be approved as it was found acceptable from a planning standpoint and represents good planning.

2. A reasonable planning relationship between the secured Community Benefit and the proposed increase in development is required.

The proposed contribution towards public art on the waterfront trail or within the vicinity of the subject property is considered a Community Benefit.

In order to determine a fair value of the Community Benefit, Realty Services retained an independent land appraisal to determine the increased value of the land resulting from the height and density increase. The overall increased value of this land has been determined to be \$595,000. According to the Corporate Policy and Procedure, a Community Benefit contribution should be in the range of 20% to 40% of the increased value of the land. The contribution of \$178,500 represents a 30% of the land lift value and is acceptable to the property owner.

3. Community Benefit contributions should respond to community needs.

Mississauga Official Plan contains various policies that encourage the incorporation of public art City wide. In particular, the Port Credit Local Area Plan identifies public art as a contributing factor to the character of the Port Credit Community Node.

Mississauga Official Plan, within the Implementation Chapter of the plan, lists the provisions of public art as an item in which Community Benefit funds can be attributed towards.

In accordance with the Corporate Policy and Procedure, Ward 1 Councillor, Stephen Dasko, has been consulted regarding the negotiations and supports the proposed Community Benefit contribution.

4. Ensure that the negotiation process of Section 37 Agreements is transparent.

The land appraisal report prepared by an independent land appraiser is available for viewing. Any proposed public art initiatives would be subject to a detailed assessment and may be subject to community consultation and Council approval.

Section 37 Agreement

The Planning and Building Department and the owner have reached a mutually agreed upon terms and conditions of the Community Benefit and related agreement for the subject lands. The agreement provisions will include the following:

- a Community Benefit contribution of \$178,500;
- the contribution is to be used towards public art along the waterfront trail and/or within the vicinity of the property;
- the agreement is to be registered on title to the lands in a manner satisfactory to the City Solicitor, to secure the said benefits.

Financial Impact

Cash benefits received from a Section 37 agreement will be collected by the Planning and Building Department and held in a Section 37 Reserve Fund set up for that purpose. This fund will be managed by Accounting, Corporate Financial Services, who are responsible for maintaining a record of all cash payments received under this policy.


Conclusion

Cash benefits received from a Section 37 agreement will be collected by the Planning and Building Department and held in a Section 37 Reserve Fund set up for that purpose. This fund will be managed by Accounting, Corporate Financial Services, who are responsible for maintaining a record of all cash payments received under this policy.

Attachments

Appendix 1: Aerial Photograph

Appendix 2: Concept Plan



Andrew Whittemore, M.U.R.P., Commissioner of Planning & Building

Prepared by: David Ferro, MCIP, RPP, Development Planner