

City of Mississauga
Corporate Report



<p>Date: October 28, 2022</p> <p>To: Chair and Members of Planning and Development Committee</p> <p>From: Andrew Whittemore, M.U.R.P., Commissioner of Planning & Building</p>	<p>Originator's file: OZ 19/003 W1</p>
	<p>Meeting date: November 21, 2022</p>

Subject

SECTION 37 COMMUNITY BENEFITS REPORT (WARD 1)

Community Benefits contribution under Section 37

Mixed use waterfront community with employment, commercial, institutional, cultural, park uses and 8,050 residential units

1082 Lakeshore Road East and 800 Hydro Road, south side of Lakeshore Road East, east of Lakefront Promenade

Owner: Lakeview Community Partners Limited

File: OZ 19/003 W1

Recommendation

That the report dated October 28, 2022, from the Commissioner of Planning and Building outlining the recommended Section 37 Community Benefits under File OZ 19/003 W1, Lakeview Community Partners Limited, 1082 Lakeshore Road East and 800 Hydro Road, be approved and that a Section 37 agreement be executed in accordance with the following:

1. That the sum of \$14,000,000.00 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 Lakeview Community Partners Limited, 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.

Executive Summary

- 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 comprises of a \$14,000,000 contribution owing in addition to \$2,049,000 worth of benefits already provided
- The request can be supported subject to the execution of a Section 37 agreement and payment of the cash contribution by the owner

Background

On November 8, 2021, a Recommendation Report was presented to Planning and Development Committee (PDC) recommending approval of draft plan of subdivision, official plan amendment and rezoning applications on the subjects lands under Files T-M19001 W1, OZ 19/003 W1 and OZ 19/021 W1, by Lakeview Community Partners Limited, to permit a mixed use waterfront community with 8,050 residential units subject to certain conditions. PDC passed Recommendation PDC-0064-2021 which was subsequently adopted by Council on November 10, 2021. As part of the recommendation, staff were 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.

Present Status

The official plan amendment approved under file OZ 19/021 W1 is now in effect. The rezoning application approved under file OZ 19/003 W1 has been appealed by neighbouring industrial property owners to the north. The stated reasons for the appeal relate primarily to traffic capacity and road connections. A pre-hearing conference meeting is scheduled with the Ontario Land Tribunal on October 24, 2022. A hearing date has not yet been determined. Staff continue to process and work with the owners on the technical and engineering matters relating to the draft plan of subdivision under file T-M19001 W1.

Comments

Background information including 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 met 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 will be \$14,000,000 towards any combination of the following five community items:

- Improvements and works to the Lakeview Pier
- Enhancements and works to City-owned parks within the development
- Works associated with a City-owned public parking structure within the development
- Cultural facilities and infrastructure and public artwork contained on City-owned land within the development
- Contribution towards the implementation of affordable housing up a maximum of 20% of the contribution (\$2,800,000)

The owner has confirmed that \$2,000,000 will be provided prior to the execution of the Section 37 agreement as a cash contribution.

The balance of the contribution in the amount of \$12,000,000 will be contributed by way of either cash contribution or performance of works for the items listed above.

The balance of the contribution in the amount of \$12,000,000 will be required to be paid prior to any residential approvals above 6800 units. The Zoning By-law approved by Council on June 8, 2022 included an 'H' Holding provision which would prevent development beyond 6800 residential units until the community benefit requirements are fulfilled.

The balance of the contribution in the amount of \$12,000,000 will be subject to an indexing rate to ensure that any deferred payments or performance of works take into account the rising cost of inflation over time.

The City commissioners, in consultation with the developers and the Ward Councillor, will reach final confirmation of how the contribution funds will be divided amongst the five community benefits identified prior to the registration of the subdivision under file T-M19001. The Region will be consulted on any matters relating to affordable housing.

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 October 15, 2021 presented to PDC on November 8, 2021, evaluated the proposed draft plan of subdivision, official plan amendment and rezoning and recommended that the applications be approved as they are acceptable from a planning standpoint and represent good planning.

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

The proposed five community benefit items identified above to which the contribution can be used towards are considered "highest priority" Community Benefits, as they are on-site and have a direct impact on the livability and enjoyment of the community.

In order to determine a fair value of the Community Benefits, Realty Services retained an independent land appraisal to determine the increased value of the land resulting from the height and density increase. Section 13.3.11 of Mississauga Official Plan contains policies which outline the parameters under which the Section 37 benefit is evaluated for the Lakeview Waterfront Major Node. The policies indicate that the increase in value is measured by the increase in density beyond the 6,800 residential units which were permitted on the site and increases in height above 25 storeys for the Waterway District and 15 storeys for the balance of the site.

In addition to the \$14,000,000, Lakeview Community Partners Limited outlined a number of other community benefits which have already been contributed during the master plan and development application review process which are mutually beneficially to both themselves and the City. Staff have acknowledged that given the benefit to the community, these contributions can be partially or wholly counted towards the overall

Section 37 contribution. These contributions include the donation of concrete used in the construction of the Jim Tovey Conservation Area, the realignment of Serson Creek which benefits the adjoining Regional lands, the capping of clarifier ponds at the G.E. Booth wastewater treatment facility as an odour mitigation measure, technical analysis and use of engineering consultants in evaluating the feasibility of district energy and other community enjoyment activities such as the Sunset and Sounds events, sunflower fields and Artscape commissioned sculptures and murals. Staff have evaluated the costs of these contributions and determined that a value of \$2,049,000 can be attributed as a Section 37 contribution. Combined with the aforementioned \$14,000,000 contribution which will be forthcoming, the total value of the Community Benefits is \$16,049,000.

Staff have determined that the relationship between the proposed \$16,049,000 worth of community benefits and the land value of the requested height and density increase is acceptable. This amount represents 30% of the land lift value, which is in line with the Corporate Policy and Procedure and is acceptable to both the City and the owner.

3. Community Benefit contributions should respond to community needs.

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 contributions.

All five community benefit items identified will be contained within the new waterfront community and will be of benefit to future residents, visitors and the broader Lakeview community.

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 contribution towards the Pier, City Parks, arts and cultural features or a future public parking garage will be subject to a detailed review by the Community Services Department or the Transportation and Works Department, respectively. Any contribution towards affordable housing will be subject to a detailed review by the Planning and Building Department and the Region of Peel.

The City, in consultation with the local area Councillor, and the developers will further define the allocation of the Community Benefit contribution amongst the five community elements identified prior the registration of the plan of subdivision. As the parks design process progresses, identification of enhanced park features and their costs will help to inform the allocation of the contribution as either a cash contribution or a performance of works contribution. City leadership members will confirm the allocation of the contribution prior to subdivision registration.

Affordable Housing

The affordable housing requirement of 5% of the total residential units is independent of the Section 37 Community Benefit. The requirement for affordable housing will be secured for through the Subdivision Agreement. A phasing schedule will be included which will secure for the inclusion of affordable housing into the phased development of the various blocks. The delivery of affordable housing will have to be in keeping with the City's housing strategy.

In an effort to encourage affordable housing, the City has used community benefits towards the implementation of affordable housing initiatives on other projects. In this instance, the costs associated with the implementation of 5% affordable housing would far outweigh the value of the community benefit. The City and the owners have agreed to limit the amount of the contribution that can go towards affordable housing to a maximum of 20% of the value. This will ensure that the majority of the community benefit will go towards features that will enhance and improve the livability of the community.

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 \$14,000,000;
- the contribution is to be used towards any combination of the following community items;
 - Improvements and works to the Lakeview Pier
 - Enhancements and works to City-owned parks within the development beyond standard park design
 - Works associated with a City-owned public parking structure within the development
 - Cultural facilities and infrastructure and public artwork contained on City-owned land within the development
 - Contribution towards the implementation of affordable housing up to a maximum of 20% of the contribution (\$2,800,000)
- the agreement is to be registered on title to the lands in a manner satisfactory to the City Solicitor, to secure the said benefits

Engagement and Consultation

The Community Services Department conducted a waterfront parks feedback survey in the winter of 2020. The survey collected information on the priorities of park visitors and features they would like to see incorporated. A follow up survey was conducted in the winter of 2021 which further defined the user preferences and the most desirable features. Over 5000 individual comments were captured through the online survey. The feedback from the survey is helping to inform the enhanced features that will be included in the park system that the community benefits can be used towards. A summary document outlining key findings and recommendations from the surveys can be found here:

<https://yoursay.mississauga.ca/lakeviewparks>

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

Staff have concluded that the proposed Section 37 Community Benefit is appropriate, based on the increased height and density being recommended through the official plan amendment and rezoning applications, and that the proposal adheres to the criteria contained in the Corporate Policy and Procedure on Bonus Zoning.

Attachments

Appendix 1: Aerial Photograph

Appendix 2: Concept Plan



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

Prepared by: David Breveglieri, Development Planner