

City of Mississauga
Corporate Report



<p>Date: December 23, 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 files: OZ 18/016 W5 and T-M18005 W5</p>
	<p>Meeting date: January 16, 2023</p>

Subject

SECTION 37 COMMUNITY BENEFITS REPORT (WARD 5)

**Community Benefits contribution under Section 37 to permit six condominium apartment buildings with heights of 19, 24, 25, 35, 35 and 37 storeys which will contain 2,433 condominium apartment units and retail and office uses, 16 three storey condominium townhomes, public park, and public and condominium roads 91 and 131 Eglinton Avenue East and 5055 Hurontario Street, North side of Eglinton Avenue East, East of Hurontario Street
Owner: 91 Eglinton Limited Partnership (Liberty Development Corporation)
Files: OZ 18/016 W5 and T-M18005 W5**

Recommendation

That the report dated December 23, 2022, from the Commissioner of Planning and Building outlining the recommended Section 37 Community Benefits under Files OZ 18/016 W5 and T-M18005 W5, 91 Eglinton Limited Partnership (Liberty Development Corporation), 91 and 131 Eglinton Avenue East and 5055 Hurontario Street, be approved and that a Section 37 agreement be executed in accordance with the following:

1. That the sum of \$15,000,000.00 be approved as the amount of 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 Liberty Development Corporation (91 Eglinton Limited Partnership), 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 official plan amendment and rezoning applications
- The proposal has been evaluated against the criteria contained in the Corporate Policy and Procedure on Bonus Zoning
- The Community Benefits comprise a \$15,000,000.00 contribution towards affordable housing
- The request can be supported subject to the execution of a Section 37 agreement and payment of the cash contribution by the owner, or by providing and setting aside 5% of the units for affordable housing purposes, up to a maximum of 125 units.

Background

On November 9, 2020, a Recommendation Report was presented to Planning and Development Committee (PDC) recommending approval of official plan amendment, rezoning and draft plan of subdivision applications on the subject lands under files OZ 18/016 W5 and T-M18005 W5, by 91 Eglinton Limited Partnership (Liberty Development Corporation) to permit six condominium apartment buildings with heights of 19, 24, 25, 35, 35 and 37 storeys which will contain 2,433 condominium apartment units and retail and office uses, 16 three storey condominium townhomes, public park, and public and condominium roads subject to certain conditions. PDC passed Recommendation PDC-0042-2020, which was subsequently adopted by Council on November 25, 2020. 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.

Present Status

The official plan amendment (MOPA 114) approved under file OZ 18/016 W5 is now in effect. Staff continue to process and work with the applicant on the technical engineering matters related to the draft plan of subdivision under file T-M18005 W5, which has been draft approved.

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 Departments to discuss potential community benefits. Subsequent to this meeting, Planning staff then met with the developer and Ward 5 Councillor, Carolyn Parrish, 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 \$15,000,000.00 towards affordable housing, consisting of either a cash contribution by the owner of \$120,000.00 per unit (indexed to the Consumer Price Index annually) due at the time a by-law is passed to remove the 'H' Holding-provision for each phase, or by providing and setting aside 5% of the units for affordable rental or affordable ownership housing purposes, up to a maximum of 125 units in the development. The closing of the sale of these units will take place after condominium registration of the phase in which a unit is located. These units may be sold to and operated by a non-profit housing provider as an affordable ownership unit and/or an affordable rental unit.

The Consumer Price Indexing rate will ensure that any deferred payments or performance of works take into account the rising cost of inflation over time.

The Region of Peel will be consulted on any matters related 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, 2020 presented to PDC on November 9, 2020, evaluated the proposed official plan amendment, rezoning and draft plan of subdivision 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 contribution towards affordable housing is considered a "highest priority" Community Benefit, as it involves the sale of affordable units or rental of affordable units on-site. However, if the applicant chooses to provide a financial contribution towards affordable housing at the time of the lifting of the "H" Holding-provision, it would be considered a "next priority" Community Benefit, as in this case it would be a contribution in the form of funds used to address a City-wide need which is related to the site, but which cannot be included on the site.

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. In this instance, Mississauga Official Plan policies permit apartment buildings with a maximum height of 25 storeys, and a maximum floor space index (FSI) of 2.9. In this area, staff have determined that the relationship between the proposed \$15,000,000.00 worth of community benefits and the land value of the requested height and density increase is acceptable. This amount represents approximately 41% of the land lift value, which meets and exceeds the Corporate Policy and Procedure and is acceptable to both the City and the owner.

3. Community Benefit contributions should respond to community needs.

The creation of complete communities including affordable housing is one of Mississauga Official Plan's guiding principles. Providing a variety of affordable dwelling types for both the ownership and rental markets is one way in which the City can achieve this goal.

In accordance with the Corporate Policy and Procedure, Ward 5 Councillor, Carolyn Parrish, 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 contribution towards affordable housing will be subject to a detailed review by the City of Mississauga's Planning and Building Department and the Region of Peel.

In lieu of a cash contribution, should the owner choose to provide and set aside 5% of the units (up to a maximum of 125 units in the development) for affordable rental or affordable ownership housing purposes, documents and records of this will be provided to the City Planning Strategies Division as confirmation that the affordable units have been established as intended. Alternatively, following the receipt of the Community Benefit financial contribution, City Planning Strategies Division staff would review the opportunities to implement affordable housing in this community. The proposed housing and timing of implementation would be subject to a detailed assessment. The earliest complete implementation date of this is likely to be 2037 based on the applicant's proposed timelines.

Section 37 Agreement

The Planning and Building Department and the owner have reached 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 \$15,000,000.00;
- the contribution is to be used towards affordable housing;
- the agreement is to be registered on title to the lands in a manner satisfactory to the City Solicitor, to secure 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. The City also has a Housing Reserve Account that any cash contribution for housing can be transferred to.

Conclusion

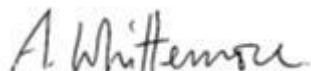
Staff have concluded that the proposed Section 37 Community Benefit is appropriate, based on the increased height and density being recommended through the official plan amendment, rezoning and draft plan of subdivision applications; and, that the proposal adheres to the criteria contained in the Corporate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

towards affordable housing will help to implement the guiding principle of complete communities in Mississauga Official Plan.

Attachments

Appendix 1: Aerial Photograph

Appendix 2: Concept Plan



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

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