

City of Mississauga

Corporate Report



<p>Date: October 25, 2023</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: HOZ 23-1 W1</p>
	<p>Meeting date: November 13, 2023</p>

Subject

SECTION 37 COMMUNITY BENEFITS REPORT (WARD 1)

Community Benefits contribution under Section 37 for an 11 storey apartment building with ground floor commercial space

1381 Lakeshore Road East

Owner: Brixen Developments (Lakeview) Inc.

File: HOZ 23-1 W1

Recommendation

That the report dated October 25, 2023, from the Commissioner of Planning and Building outlining the recommended Section 37 Community Benefits under File HOZ 23-1 W1, Brixen Developments (Lakeview) Inc., be approved and that a Section 37 agreement be executed in accordance with the following:

1. That the sum of \$325,000 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 Brixen Developments (Lakeview) Inc., 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 Lifting of the Holding Provision application

- The proposal has been evaluated against the criteria contained in the Corporate Policy and Procedure on Bonus Zoning
- The Community Benefits contribution comprised of \$ 325,000 and will be used towards the Small Arms Inspection Building Phase 2 Construction project

Background

On May 10, 2021, Planning and Development Committee endorsed a recommendation from planning staff to refuse the originally submitted Official Plan Amendment and Rezoning applications by City Park (Lakeshore) Inc. under File OZ 20/18 W1 that sought to permit an 8 to 15 storey apartment building with ground floor commercial. This decision was required due to the applicant's appeal for non decision to the Ontario Land Tribunal (OLT) on February 19, 2021.

On July 26, 2023, the OLT approved a settlement with City Park (Lakeshore) Inc. and the City to permit an 11 storey apartment building with ground floor commercial. The implementing site specific Zoning By-law included a Holding Provision that required staff to enter into a Community Benefits agreement in accordance with Section 37 of the *Planning Act* and the Corporate Policy and Procedure on Bonus Zoning for storeys 8 to 11, and to return to Council with a Section 37 report outlining the recommended Community Benefits.

Since that time, Brixen Developments (Lakeview) Inc. purchased the property and has submitted Holding Provision Removal and Site Plan applications. The purpose of this report is to provide comments and a recommendation with respect to the proposed Section 37 Community Benefits.

Comments

Background information including an aerial photograph and a rendering 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 is \$325,000 towards the Small Arms Inspection Building Phase 2 Construction.

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.

On July 26, 2023, the Ontario Land Tribunal approved a settlement between City Park (Lakeshore) Inc. and the City to permit an 11 storey apartment building with ground floor commercial space on the subject lands.

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

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, acknowledging that Mississauga Official Plan policies permit developments of up to eight storeys in this area, staff have determined that the relationship between the proposed \$325,000 worth of community benefits and the land value of the requested height and density increase is acceptable. This amount represents 23% 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.

The proposed contribution towards the Small Arms Inspection Building Phase 2 Construction project is considered a Community Benefit, which is located in the immediate vicinity of the subject property.

3. Community Benefit contributions should respond to community needs.

Mississauga Official Plan, within the Implementation Chapter of the plan, lists the provisions of community infrastructure 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. In addition, staff are reporting out on the conclusion of the community contribution process in relation to the subject development proposal in the form of this report.

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 \$325,000;
- the contribution is to be used towards Small Arms Inspection Building Phase 2 Construction;
- 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.

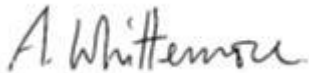
Conclusion

Staff have concluded that the proposed Section 37 Community Benefit is appropriate, based on the increased height permitted by the OLT approved settlement; 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: Applicant's Rendering



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

Prepared by: David Ferro, Development Planner, MCIP RPP