

City of Mississauga  
**Corporate Report**



<p>Date: July 10, 2024</p> <p>To: Chair and Members of Planning and Development Committee</p> <p>From: Andrew Whittemore, M.U.R.P., Commissioner of Planning &amp; Building</p>	<p>Originator's file: H-OZ 22-10 W11</p>
	<p>Meeting date: July 29, 2024</p>

## Subject

### **SECTION 37 COMMUNITY BENEFITS REPORT (WARD 11)**

**Community benefits contribution under Section 37 to permit a 6-storey condominium apartment building**

**6616 McLaughlin Road, on the west side of McLaughlin Road, north of Navigator Drive**

**Owner: City Park (McLaughlin) Inc.**

**File: H-OZ 22-10 W11**

## Recommendation

That the report dated July 10, 2024, from the Commissioner of Planning and Building outlining the recommended Section 37 community benefits under File H-OZ 22-10 W11, City Park (McLaughlin) Inc., 6616 McLaughlin Road, be approved and that a Section 37 agreement be executed in accordance with the following:

1. That the sum of \$580,000.00 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 City Park (McLaughlin) 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 comprise a \$580,000.00 contribution which will be used toward general improvements to Scott's Brae Park and the Orangeville Rail Corridor Trail Bridge Crossing decking renovation and rest stop adaptation
- 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 March 7, 2022, a Recommendation Report was presented to Planning and Development Committee (PDC) recommending that Council direct Legal Services, appropriate City staff and any necessary consultants to attend the Ontario Land Tribunal (OLT) hearing on applications for official plan amendment, rezoning and draft plan of subdivision on the subject lands under Files OZ 20-14 W11 and T-M20003 W11, by City Park (McLaughlin) Inc., to permit a six storey condominium apartment building and five detached homes in support of the Report's recommendations. The Report concluded that the proposed applications are acceptable from a planning standpoint and should be approved subject to certain requirements including the application of a "H" Holding Provision to address outstanding technical requirements and to allow for a Section 37 agreement. PDC passed Recommendation No. 0019-2022 which was subsequently adopted by Council on March 23, 2022.

On July 25, 2022, the OLT issued a decision to approve an official plan amendment, rezoning application and the draft plan of subdivision to facilitate the proposed development on the subject lands. The approved rezoning established Zoning Exception **R10-11** (Detached Dwelling - Exception) on the westerly portion the subject lands to accommodate five new detached dwellings as well as zoning exception **H-RA2-60** (Apartment – Exception) on the easterly portion of the subject lands to facilitate the development a six storey condominium building subject to a "H" Holding Provision to address outstanding technical requirements and to allow for the execution of a Section 37 agreement.

The purpose of this report is to provide comments and recommendations with respect to the proposed Section 37 community benefits.

## Present Status

Official Plan Amendment No. 137 and the implementing zoning by-law came into force under the OLT Order dated July 25, 2022. This report addresses the outstanding Section 37 contribution that is required to be made to the City as part of the application to lift the "H" Holding Provision from the zoning on the subject lands.

## 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 the OLT Order that approved the applications to facilitate the proposed development, the proponent prepared and submitted the application to remove the "H" Holding Provision from the zoning on the subject lands. The application was deemed complete on December 6, 2022. To satisfy the Section 37 agreement provision, the applicant has engaged in discussions with City staff to secure community benefits in accordance with Section 37 of the *Planning Act* and the Corporate Policy and Procedure on Bonus Zoning.

Planning staff engaged in discussions with representatives from Community Services and Transportation and Works Departments to discuss potential community benefit projects. Subsequent to these discussions, Planning staff met with Ward 11 Councillor, Brad Butt, to discuss the potential projects that could receive Section 37 funding.

Confirmation has been provided by the owner that the community benefits totalling \$580,000.00 may be used to fund general improvements to Scott's Brae Park and the Orangeville Rail Corridor Trail Bridge Crossing decking renovation and rest stop adaptation.

### 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 February 11, 2022, presented to PDC on March 7, 2022, evaluated the proposed official plan amendment, rezoning and draft plan of subdivision applications on the subject lands, recommended approval and that Council direct the necessary City representatives to attend the OLT hearing on the proposed applications in support of the Report's recommendations. The Report concluded that the proposed applications are acceptable from a planning standpoint and should be approved subject to certain requirements including the application of an "H" Holding Provision to address outstanding technical requirements and to allow for a Section 37 agreement. PDC passed Recommendation No. 0019-2022 which was subsequently adopted by Council on March 23, 2022.

The OLT issued a decision on July 25, 2022, to approve the official plan amendment, zoning by-law amendment and draft plan of subdivision to facilitate the proposed development on the subject lands. Consistent with the Council-adopted recommendations on the applications, the OLT Order applied a Holding Provision "H" on the amending by-law to address outstanding technical requirements and to allow for a Section 37 agreement.

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

The proposed contribution towards improving Scott's Brae Park is considered a "highest priority" community benefit as it is in the general vicinity of the site and the proposed contribution towards improving the Orangeville Rail Corridor is considered a "next priority" community benefit, as it is a contribution in the form of funds used to address a City-wide need.

In order to determine a fair value of the community benefits, Colliers International prepared an independent land appraisal to determine the increased value of the land resulting from the height and density increase. In this instance, staff have determined that the relationship between the proposed \$580,000.00 worth of community benefits and the land value of the requested height and density increase is acceptable. This amount represents approximately 20% 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.**

The creation of complete communities, including easy access to recreational opportunities; and, creating a multi-modal city, including active transportation, are some of Mississauga Official Plan's guiding principles.

In accordance with the Corporate Policy and Procedure, Ward 11 Councillor, Brad Butt, 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.**

Upon receipt of the proposed community benefit, the funds will be placed in a Section 37 Reserve fund and then allocated to the Parks, Forestry and Environment Division and Infrastructure Planning and Engineering Services Division. The park related projects will ultimately be managed by Park Development in consultation with Facilities and Property Management.

**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 \$580,000.00
- the contribution is to be used towards general improvements to Scott's Brae Park and the Orangeville Rail Corridor Trail Bridge Crossing decking renovation and rest stop adaptation
- 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.

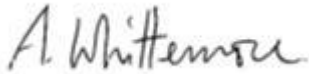
**Conclusion**

Staff have concluded that the proposed Section 37 community benefit is appropriate, based on the increased height and density achieved through the official plan amendment and rezoning application approved by the Order of the OLT issued on July 25, 2022, and that the proposal adheres to the criteria contained in the Corporate Policy and Procedure on Bonus Zoning. The contribution towards general improvements to Scott's Brae Park and the Orangeville Rail Corridor Trail Bridge Crossing decking renovation and rest stop adaptation will help to implement the principles of the Mississauga Official Plan including the creation of complete communities, providing easy access to recreational opportunities and creating a multi-modal city.

## Attachments

Appendix 1: Aerial Photograph

Appendix 2: Concept Plan



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

Prepared by: Jason De Luca, RPP, Development Planner