

City of Mississauga  
**Corporate Report**



<p>Date: April 14, 2023</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 files:  OZ 20/001 W4 and H-OZ  21-5 W4</p>
	<p>Meeting date:  May 8, 2023</p>

## Subject

### **SECTION 37 COMMUNITY BENEFITS REPORT (WARD 4)**

**Community Benefits contribution under Section 37 to permit a 32 storey apartment building with ground floor commercial uses**

**1 Fairview Road East, Northeast corner of Fairview Road East and Hurontario Street**

**Owner: Edenshaw Fairview Developments Inc.**

**Files: OZ 20/001 W4 and H-OZ 21-5 W4**

## Recommendation

That the report dated April 14, 2023, from the Commissioner of Planning and Building outlining the recommended Section 37 Community Benefits under Files OZ 20/001 W4 and H-OZ 21-5 W4, Edenshaw Fairview Developments Inc., 1 Fairview Road East, be approved and that a Section 37 agreement be executed in accordance with the following:

1. That the sum of \$3,300,000 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 Edenshaw Fairview Developments 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 Community Benefit contributions 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 contribution comprises \$3,300,000 which will be allocated to the park improvements in Ward 4 and affordable housing initiatives in the City
- 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 June 14, 2021, a Recommendation Report was presented to Planning and Development Committee (PDC) recommending approval of official plan amendment and rezoning applications on the subject lands under File OZ 20/001 W4, by Edenshaw Fairview Developments Inc., to permit a 32 storey apartment building with ground floor commercial uses subject to certain conditions. PDC passed Recommendation PDC-0040-2021 which was subsequently adopted by Council on June 30, 2021. 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. Further, the applicant agreed to provide 18 affordable housing units as part of the development. However, in lieu of this requirement, the applicant is providing a monetary contribution towards affordable housing initiatives. The purpose of this report is to provide comments and a recommendation with respect to the proposed Section 37 Community Benefits contributions.

## 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 4 Councillor, John Kovac, 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 in the amount of \$1,140,000 will be used towards existing community park upgrades in Ward 4. Further, the Affordable Housing contribution in the amount of \$2,160,000 will be used towards affordable housing initiatives in the City.

### **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 May 21, 2021 presented to PDC on June 14, 2021, evaluated the proposed official plan amendment and rezoning and recommended that the applications be approved as they are 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 park improvements in Ward 4 is considered a "highest priority" Community Benefit, as it is in the immediate vicinity of 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, acknowledging that Mississauga Official Plan policies permit developments of up to 25 storeys in this area, staff have determined that the relationship between the proposed \$1,140,000 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. Further, in lieu of the 18 affordable housing units that were to be provided as part of the development, a one time cash contribution in the amount of \$2,160,000 will be made, which is in line with Mississauga's Housing Strategy (2017) and is acceptable to both the City and owner.

**3. Community Benefit contributions should respond to community needs.**

In accordance with the Corporate Policy and Procedure, Ward 4 Councillor, John Kovac, 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 Parks, Forestry and Environmental 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 \$3,300,000;
- the contribution is to be used towards park improvements in Ward 4 and affordable housing;
- 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.

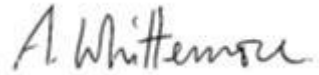
**Conclusion**

Staff have concluded that the proposed Section 37 Community Benefit is appropriate, based on the increased height and density 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. Further, the contribution towards park improvements in Ward 4 and affordable housing will help to implement complete communities guiding principle in Mississauga Official Plan.

**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: Adam Lucas, Development Planner