

REPORT

Planning and Development Council

Meeting Date: November 1, 2021

FROM: Planning Services Department

DATE: October 26, 2021

SUBJECT: 3064 Trafalgar Road Holdings Inc. (Distrikt), Section 37 Agreement

LOCATION: 3064 Trafalgar Road
West side of Trafalgar Road, north of Dundas Street

WARD: Ward 7

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RECOMMENDATION:

That the report from the Planning Service Department regarding 3064 Trafalgar Road Holdings Inc. (Distrikt), Section 37 Agreement, dated October 26, 2021, be received.

KEY FACTS:

The following are key points for consideration with respect to this report:

- In 2014, Council approved a corporate policy (MS-CDV-001), Bonusing Procedure, to ensure that Council, staff, the development community and the public have a clear and consistent direction on the use and objectives of Section 37 of the *Planning Act*.
- The report summarizes the details of the community benefit exchange for additional height at 3064 Trafalgar Road as permitted in By-law 2021-032.
- By-law 2021-032 was approved by the Planning and Development Council on April 12, 2021, permitting the development of two 20 storey residential buildings.
- In accordance with the North Oakville East Secondary Plan (NOESP), the subject lands are eligible for bonusing to a maximum height of 30 storeys. A Section 37 Agreement is required between the Owner of the lands and the Town of Oakville to permit additional height.

BACKGROUND:

The effect of the approved rezoning of the lands, identified in Figure 1, permitted the development of two 20 storey residential buildings with a podium and underground parking. A satisfactory bonusing exchange of height for community benefit to the Town is required to increase the maximum height of the two buildings from 20 storeys up to a maximum height permission of 30 storeys for each building.



Figure 1: Air Photo

Town Council, as part of implementing its power under subsection 37 (1) of the *Planning Act* adopted Procedure Number: MS-CDV-001-001 effective December 16, 2013 to complement the bonusing policies in the Livable Oakville Plan and the NOESP. The procedure ensures a transparent process and clear and consistent direction on the use of Section 37 of the *Planning Act*.

The Bonusing Procedure Flowchart outlines the Town's process for evaluating a bonusing opportunity, requiring that staff present the development proposal and community benefits identified in the Official Plan to Council and the public. The

approved site specific zoning by-law must also include permissions to bonus additional height on a subject property in exchange for an agreed upon community benefit. Finally, with the authority delegated to staff for executing a Section 37 Agreement, final discussions may take place with the applicant to conclude the terms and conditions of the agreement. Staff have followed the procedure for the 3064 Trafalgar Road bonusing proposal and have prepared a final agreement that is acceptable to both the Town and the Owner of the lands.

In accordance with the disposition at the Planning and Development Council meeting on April 12, 2021, which was in response to the Ward 7 Councillors expressed interest in the details of the Section 37 Agreement, staff have prepared this report to Council for information prior to registering the agreement on title of the subject lands.

Community Benefits

The Council approved OPA 321 updated the NOESP Trafalgar Urban Core land use policies to reflect transit supportive minimum densities and clarified the provision of bonusing in the Urban Core Areas, subject to Section 7.10.2. In addition, OPA 321 added new definitions to NOESP, including Complete Communities, Regional Transit Priority Corridor and Strategic Growth Areas from the Growth Plan, 2017.

The success and impact of that amendment will be most noticeable through development proposals such as 3064 Trafalgar Road Holdings Inc. (Distrikt). The location of the lands fronting onto the Trafalgar Road transit priority corridor that intersects with the Dundas Street transit priority corridor, and in close proximity to a transit terminal, is ideal for achieving an urban and compact built form contributing to municipal and provincial growth objectives.

Council received the Planning Department report, dated April 12, 2021, which outlined the merits of the application and its conformity to Provincial, Regional and local planning policies and objectives through the provision of a high quality compact urban form that surpasses minimum transit supportive densities. The proposal also includes the conveyance of natural heritage system lands, access to open space and the provision of more affordable housing options.

Summary of the Section 37 Agreement

In preparation of a Section 37 Agreement an applicant must retain an accredited appraisal company to prepare a land value appraisal of the subject lands that provides a monetary comparison between the before bonusing and after bonusing scenarios as outlined in Table 1. The comparison identifies the differential between the two scenarios.

Table 1: Comparison of Before and After Bonusing Scenarios

Before Bonusing	After Bonusing	Overall Differential
\$17,700,000	\$20,790,000	\$3,090,000
2 x 20 storeys	2 x 30 Storeys	20 storeys
495 units	698 units	203 units
421,718 sq ft of GFA	519,842 sq ft of GFA	98,124 sq ft of GFA

The Owner has elected to provide a cash payment of 50% of the overall differential in the amount of \$1,545,000 to be used for Community Benefits; ie: certain facilities, services and matters in the vicinity of the subject lands in return for an increase in the height and density on the lands as set forth in the Official Plan and the Zoning By-law, as amended, and approved by Council. The cash payment shall be deposited by the Town in a Bonus Zoning Reserve Fund prior to the issuance of a building permit. At the time of this report, the monies have not been dedicated to a specific project, but will be used for a benefit in proximity to the subject property.

Within the 2006 Official Plan, Part F, the following community benefit options could be achieved in this area when considering the exchange of community benefits for height and density:

- i. Provision of additional public parking;
- ii. Provision of additional open space;
- iii. Provision of Natural Areas;
- iv. Provision of improved access to public transit;
- v. Provision of arcades and public walkways within development;
- vi. Provision of assisted or other low income housing;
- vii. Provision of public institutional facilities;
- viii. Protection of heritage buildings and features;
- ix. Protection of significant vistas and views;
- x. Provision of affordable housing, above and beyond the basic requirement of 25%.

The Owner has submitted a site plan application for two 30 storey towers that is currently under review by Town departments and agencies.

CONSIDERATIONS:

(A) PUBLIC

The public notification requirements in accordance with the *Planning Act* were satisfied during the processing and approval of the development application to rezone the subject lands.

(B) FINANCIAL

There are no financial impacts resulting from this report. The payment collected in accordance with the Section 37 Agreement will be deposited to the Bonus Zoning Reserve Fund, to be used for future community benefits within proximity of the subject property.

(C) IMPACT ON OTHER DEPARTMENTS & USERS

There are no impacts on other departments and users.

(D) CORPORATE STRATEGIC GOALS

This report addresses the corporate strategic goal(s) to:

- be the most livable Town in Canada.

(E) CLIMATE CHANGE/ACTION

The proposed development has been reviewed to ensure compliance with the Town's sustainability objectives of the North Oakville East Secondary Plan.

The proposal has been reviewed in the context of Council declaring a Climate Change Emergency on June 24, 2019. The developer is exploring options to reduce the environmental footprint of the proposal. This is being reviewed in detail through the current site plan approval process.

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