

**43 Hanna Ave – City-initiated amendment to site specific Zoning By-law – Supplementary Report**

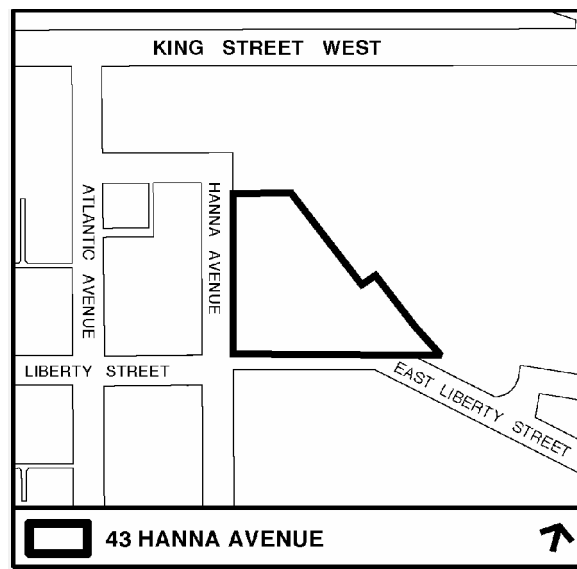
<b>Date:</b>	March 12, 2008
<b>To:</b>	Toronto and East York Community Council
<b>From:</b>	Acting Director, Community Planning, Toronto and East York District
<b>Wards:</b>	Ward 19 – Trinity-Spadina
<b>Reference Number:</b>	03-202612 STE 19 OZ

**SUMMARY**

Official Plan Amendment No. 311 (By-law No. 860-2004) and site specific Zoning By-law No. 861-2004 were approved by City Council to permit the renovation and redevelopment of the Irwin Toy Factory building to create 215 live/work units. A Section 37 Agreement was entered into, which required a \$270,000.00 cash contribution toward an area specific public art project.

At its meeting of January 29-30, 2008, City Council directed the City Solicitor and City staff to amend the Section 37 Agreement, to reallocate \$100,000.00 of the cash contribution for public art to on-site heritage improvements. City staff were directed to report on the extent to which amendment to related planning documents would also be required. Staff have determined that, although no further official plan amendment is necessary, amendment to By-law No. 861-2004, the site specific zoning amendment, is needed.

Following further consultation with the Ward Councillor during preparation of this report, staff are also now recommending that the remainder of the original financial contribution for public art (\$170,000.00) be reallocated toward the cost of an alternate community project, namely the design and



construction of the King-Liberty Pedestrian link.

## **RECOMMENDATIONS**

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### **The City Planning Division recommends that:**

1. City Council authorize the City Solicitor, in consultation with relevant City staff, to amend Section 4 of the registered Section 37 Agreement for 43 Hanna Avenue to reflect the reallocation of the \$270,000.00 cash contribution originally committed to the King West railway underpass enhancement project as follows:
  - a) \$170,000.00 to be directed as a cash contribution toward the City cost of designing and constructing the King-Liberty pedestrian link;
  - b) \$100,000.00 to be applied by the owner toward the cost of on site heritage improvements related to the replication and reinstallation of the Irwin Toy Factory water tower;
2. City Council amend Site specific Zoning By-law No. 861-2004, to reallocate financial contributions in the Section 37 Agreement for 43 Hanna Avenue as contemplated in this report, substantially in accordance with the draft Zoning By-law Amendment attached as Attachment No. 1;
3. City Council authorize the appropriate City officials to take the necessary action to give effect to the above, including execution of the amended Section 37 Agreement and appropriate redistribution/repayment of the original cash contribution made to the City by the owner as applicable; and
4. City Council authorize the City Solicitor to make such stylistic and technical changes to the draft Zoning By-law Amendment as may be required.

### **Financial Impact**

The recommendations in this report have no financial impact.

### **DECISION HISTORY**

The Toy Factory building is located in Liberty Village on the northeast corner of Hanna Avenue and East Liberty Street. Council enacted site specific Official Plan Amendment No. 311 (By-law No. 860-2004) and site specific Zoning By-law No. 861-2004 on September 30, 2004. Site plan approval was granted in 2004. Together, these approvals permit the recently-completed restoration and redevelopment of the existing building into 215 live-work units.

The original Irwin Toy Factory building which was the subject of this development is listed on the City of Toronto Inventory of Heritage Properties. The water tower that was part of the original factory is considered to be a landmark in the Liberty Village area. As

part of the approvals process, the owner agreed to restore the water tower and reinstall it on site.

## **COMMENTS**

### **Section 37 Agreement**

The Section 37 Agreement, entered into as part of the approvals process for 43 Hanna Avenue, was registered as Instrument AT648486 on November 3, 2004. Section 4 of the Agreement requires that the owner pay the City \$270,000.00 to be used for “the purpose of funding a publicly owned public art project for the enhancement of the King Street West railway underpass located east of Atlantic Avenue.” This payment has been received by the City.

Since the registration of the Agreement, City staff have determined that the railway underpass public art enhancement is no longer feasible for a variety of reasons. In addition, the owner has advised that the Irwin Toy Factory water tower had deteriorated to a state of disrepair such that it could not be restored but had to be replicated. It has not yet been reinstalled. The cost of replicating the water tower significantly exceeds the restoration that the owner had committed to.

In order to ensure the replacement of this landmark, in a report to Toronto and East York Community Council dated January 14, 2008 staff recommended that the Section 37 Agreement be amended to permit reallocation of \$100,000.00 from the \$270,000.00 contribution for the railway underpass enhancement toward the heritage improvements at 43 Hanna Avenue. It was contemplated that this money would be applied toward the owner’s additional costs associated with the replication and re-installation of the Toy Factory water tower. At its meeting of January 15, 2008, Toronto and East York Community Council adopted this recommendation.

At the Toronto City Council meeting of January 29-30, 2008 through a Notice of Motion the recommendations were modified and Planning Staff were directed to report on amendments to OPA No. 311, the Toronto Official Plan and site specific Zoning By-law No. 861-2004, as applicable and as may be required to implement and reflect the approved reallocation of financial contributions in the Section 37 Agreement. This report responds to the request.

Staff have taken the opportunity to consider potential reallocation of the remaining \$170,000.00 which was originally allocated to the railway underpass. In consultation with the Ward Councillor, Planning staff have identified an appropriate alternative community benefit for these funds. Accordingly, this report also recommends that the remaining \$170,000.00 be reallocated to the design and construction of a pedestrian bridge/tunnel from a location in the vicinity of Shaw Street across the rail corridor to the King-Liberty Neighbourhood, known as the King-Liberty pedestrian link. Partial funding of this bridge has been secured in another Section 37 agreement and an Environmental Assessment process for the link has been approved by Council. This report also outlines

the amendment to the Section 37 Agreement and planning documents as are determined appropriate to also provide for the reallocation of the remaining funds.

## **Official Plan**

Site specific Official Plan Amendment No. 311 under the Official Plan of the former City of Toronto was not brought forward into the Toronto Official Plan as a site and area specific amendment.

The proposed reallocation of a portion of the Section 37 contribution towards the replication and reinstallation of the Toy Factory water tower is consistent with the policies in the City of Toronto Official Plan. Policy 6a) in Section 5.1.1, allows for “the conservation of heritage resources that are designated and/or listed on the City of Toronto Inventory of Heritage Properties,” to be included as community benefits that can be secured through Section 37. The Toy Factory at 43 Hanna Avenue, which includes the water tower, is listed on the City of Toronto Inventory of Heritage Properties.

Similarly, the reallocation of the remaining portion of the Section 37 contribution towards the King-Liberty pedestrian link is also consistent with the Policy 6 in Section 5.1.1 of the Official Plan. Accordingly, no official plan amendment is required.

## **Zoning By-law No. 861-2004**

Section 12 of the site specific Zoning By-law (By-law No. 861-2004) contains specific reference to the nature and amount of the community benefits to be secured in the Section 37 Agreement. Accordingly amendment to the Section 37 Agreement, as well as amendment to Section 12 of site specific Zoning By-law No.861-2004, are required to reflect the reallocation of the financial contribution now contemplated.

The community benefits recommended to be secured through amendment to the Section 37 Agreement and the site specific Zoning By-law are as follows:

1. A cash contribution in the amount of \$270,000.00, of which \$170,000.00 is to be paid by the owner to the City for the purpose of contributing toward the cost of design and construction of the King-Liberty pedestrian link and \$100,000.00 is to be applied by the owner toward the total cost of on site heritage improvements related to replication and reinstallation of the Toy Factory water tower, to the satisfaction of the Chief Planner and Executive Director.

This recommended amendment is included in the draft Zoning By-law Amendment attached as Attachment No. 1 of this report.

## **CONTACT**

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## **SIGNATURE**

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Raymond David, Acting Director  
Community Planning, Toronto and East York District

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## **ATTACHMENTS**

Attachment 1: Draft Zoning By-law Amendment

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**CITY OF TORONTO**

**BY-LAW No. \_\_\_\_\_**

**To further amend By-law No. 438-86 of the former City of Toronto with respect to lands known municipally as 43 Hanna Avenue.**

The Council of the City of Toronto HEREBY ENACTS as follows:

1. By-law No. 861-2004 is amended by deleting the text of Section 1. (12) (i) and replacing it with the following:

“a cash contribution of \$270,000.00, of which \$170,000.00 is to be paid by the owner to the City for the purpose of contributing toward the cost of design and construction of the King-Liberty pedestrian link and \$100,000.00 is to be applied by the owner toward the cost of on site heritage improvements related to replication and reinstallation of the Toy Factory water tower to the satisfaction of the Chief Planner and Executive Director”.

ENACTED AND PASSED this     day of                     , A.D. 2008.

DAVID R. MILLER,  
Mayor

ULLI S. WATKISS  
City Clerk

(Corporate Seal)