



**SUBJECT: Section 37 Community Benefits for 4853 Thomas Alton Boulevard, ADI Developments Inc.**

**TO: Development and Infrastructure Committee**

**FROM: Planning and Building Department**

Report Number: PB-86-16

Wards Affected: 5

File Numbers: 505-05/15 and 520-08/15

Date to Committee: November 8, 2016

Date to Council: November 28, 2016

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**Recommendation:**

Approve community benefits in relation to the development of 612 dwelling units consisting of traditional townhouse, stacked townhouse, and condominium dwelling units at 4853 Thomas Alton Boulevard consisting of direct and indirect benefits as outlined in this report; and

Direct staff to prepare and execute an agreement pursuant to Section 37 of the *Planning Act* securing the benefits agreed to and to the satisfaction of the Director of Planning and Building and the City Solicitor and that such Agreement be registered on title to the lands in a manner satisfactory to the City Solicitor to secure said community benefits; and

Direct the Clerk and Mayor to execute the amending by-law once the owner enters into the Section 37 agreement.

**Purpose:**

The purpose of this report is to outline to Committee the direct and indirect community benefits that Staff propose to be secured related to the development of 612 development units consisting of townhouse, stacked townhouse, and residential apartment dwelling units by ADI Developments Inc. at 4853 Thomas Alton Boulevard.

The development proposal and the recommendations contained within this report align with the following objectives in Burlington's Strategic Plan 2015-2040:

A City that Grows

- Intensification
- Focused Population Growth

A Healthy and Greener City

- Healthy Lifestyles

An Engaging City

- Good Governance
- Community Building through Arts and Culture via Community Activities

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## **Background and Discussion:**

Section 37 of the *Planning Act* is a planning tool which allows municipalities to accept tangible “Community Benefits” when granting increased density and/or height through a change in zoning or Official Plan policy. A fundamental requirement of the use of Section 37 is that the application being considered must first and foremost be considered “good planning” irrespective of the potential for the community benefit. Staff of the Planning and Building Department must be able to recommend the approval of the application with or without a community benefit being received. Generally speaking, there should also be a location or functional connection between the development proposed and the facilities, services or other benefits being required under the Section 37 agreement.

The benefits obtained through Section 37 agreements may be in the form of funds or ‘in kind’ payments and may be used for items that are over and above those typically funded through development charges and other contribution tools. Eligible items for consideration as community benefits are identified in Part VI Implementation Section 2.3.2 of the current Official Plan. For example, Section 37 can be used to secure public parking, public art, affordable housing, provision of streetscape improvements, green space above the five per cent parkland contribution, conservation of heritage features, and other amenities. Community benefits are negotiated between City staff and the proponent on an individual case-by-case basis. Community benefits are then secured by way of a Section 37 agreement, registered on title of the subject property.

The subject lands are currently vacant. The applicants are proposing to construct two 19 storey residential apartment towers with retail commercial uses at grade, stacked townhouses, and traditional townhouses on the subject property. The majority of parking is located in an underground structure. Site specific permissions were also sought for variances from the zoning by-law to implement the proposal.

At the Development and Infrastructure Committee meeting of July 11, 2016, Committee directed Staff to prepare Official Plan and zoning by-law amendments to redesignate the lands from Residential-High Density to Residential-High Density and to rezone the lands from “RAL4-331” to “RAL4-464”, subject to Section 37 negotiations. The approval of these recommendations occurred at the Council meeting of July 18, 2016.

The acceptance of the community benefits discussed in this report conforms to the City of Burlington Official Plan, specifically Part VI Implementation, Section 2.3.

Staff have discussed with the applicants possible community benefits relating to the proposed Official Plan and zoning by-law amendments to permit the development proposal. Staff and the owners have agreed to the following direct and indirect community benefits:

- The applicant agrees to construct and the future condominium corporation will maintain a surface outdoor amenity space on the subject lands. These open space lands will be developed to a high standard and public access will be assured by way of an easement to be registered on title of the lands allowing public access to and use of this park space. This amenity space will be subject to a Landscape Plan and lighting review at the site plan approval stage. This indirect community benefit has been assessed at a value of \$519,800.00.
- The applicant agrees to provide 20 residential dwelling units at a cost of \$35,000 below market rate (approximately \$262,000.00) to a housing provider (such as but not limited to Region of Halton Housing, Habitat for Humanity, etc.) for the purposes of delivering affordable housing on a long term basis. This indirect community benefit has been assessed at a value of \$700,000.00.
- The applicant agrees to provide a direct community benefit valued at \$60,000.00 towards improvements at Doug Wright park, located in close proximity to the subject lands. It is anticipated that these funds will be spent on the creation of a community garden. The City agrees to erect signage acknowledging financial contributions were made by ADI Developments Inc. by the community garden facility.

Before enacting the amending zoning by-law, the applicant will be required to execute an Agreement pursuant to Section 37 of the *Planning Act* to the satisfaction of the Director of Planning and Building and the City Solicitor, and that such agreement be registered on title to the lands in a manner satisfactory to the City Solicitor, to secure

said benefits. The provisions for community benefits are also included in the zoning by-law.

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### **Financial Matters:**

Not applicable.

### **Total Financial Impact**

The City will receive a \$60,000.00 financial contribution to be placed into a specific reserve fund for Doug Wright Park on Palladium Way. It is anticipated that these funds will be spent on improvements to Doug Wright Park within 5 years of receipt to allow sufficient timing for park planning, procurement, and installation of agreed upon items.

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### **Connections:**

Members of the Section 37 Protocol Committee have met to discuss this matter and concur with the recommendation of this report.

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### **Public Engagement Matters:**

The development applications were subject to the standard notification requirements to residents within 120 metres of the site following the submission of a complete application in November 2015. A neighbourhood meeting was held on December 1, 2015 and the statutory public meeting was held on February 16, 2016. Furthermore, interested parties were notified of the July 11, 2016 Development and Infrastructure Committee meeting.

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### **Conclusion:**

As per Report PB-63-16, Committee has approved in principle the application to allow 2 19 storey residential buildings with commercial retail uses at grade, conventional townhouse, and stacked townhouse dwellings of a condominium tenure to be located at 4583 Thomas Alton Boulevard. Staff are of the opinion that the proposed community benefits are appropriate based on the increased density recommended for the site and are to be used on a public park located in close proximity to the subject lands.

Staff recommend that the proposed community benefits as outlined in this report be approved by Committee and that staff be directed and the applicant be required to execute an Agreement pursuant to Section 37 of the *Planning Act* to the satisfaction of the Director of Planning and Building and the City Solicitor, and that such agreement be registered on title to the lands in a manner satisfactory the City Solicitor, to secure these community benefits.

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Respectfully submitted,

Tami Kitay, MCIP RPP  
Manager of Development Planning  
905-335-7600 ext. 7638

**Notifications:**

Shane Cooney, ADI Developments Inc. - shane@adidevelopments.com

**Report Approval:**

All reports are reviewed and/or approved by Department Director, Director of Finance and Director of Legal. Final approval is by the City Manager.