

**City Council****Motion without Notice**

MM44.51	ACTION			Ward:4
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**Construction timing for 4208-4214 Dundas Street West (Kingsway by the River) - by Councillor John Campbell, seconded by Councillor Michael Thompson**

- \* Notice of this Motion has not been given. A two-thirds vote is required to waive notice.*
- \* This Motion is subject to referral to the Etobicoke York Community Council. A two-thirds vote is required to waive referral.*
- \* This Motion has been deemed urgent by the Chair.*

**Recommendations**

Councillor John Campbell, seconded by Councillor Michael Thompson, recommends that:

1. City Council authorize an amendment to the Section 37 Agreement between the City and 4208 Dundas Development GP Inc., dated April 1, 2017, relating to 4208, 4210 and 4214 Dundas Street West, to allow for the issuance of a conditional above grade structural permit in advance of registration of the plan of subdivision, provided that the owner has entered into a subdivision agreement with the City to the satisfaction of the Chief Planner and Executive Director, City Planning and the Chief Engineer and Executive Director, Engineering and Construction Services.
2. City Council authorize and direct the City Solicitor to prepare such amendment agreement as is required and to register the same on title to the subject lands in priority to other interests to the satisfaction of the City Solicitor.
3. City Council authorize the appropriate City Officials to take necessary steps to implement Recommendations 1 and 2 above, including execution of an amending Section 37 Agreement.

**Summary**

On December 13, 14 and 15, 2016, site specific Zoning By-law 463-2017 was enacted to permit the development of a 21-storey residential building, an 8-storey mid-rise mixed use building and stacked townhouses at 4208-4214 Dundas Street West. Prior to enactment of the zoning amendment, a Section 37 Agreement was entered into between the owner and the City dated April 1, 2017 and registered on title (AT4535692). An application for plan of subdivision was subsequently submitted (Number 16 250552 WET 04 SB). Among other matters, the plan includes a new road, parkland and provision of land for a future road as was contemplated in the zoning amendment and the Section 37 Agreement. The Section 37 provisions included timing triggers for the owner to enter into a subdivision agreement, satisfy

preconditions and to register the plan prior to the issuance of any above grade building permit.

The development at 4208-4214 Dundas Street West was issued shoring and excavation permits in the winter of 2017. The owner anticipated being in position to enter into the subdivision agreement and register in the summer of 2018 which would have allowed for the issuance of permits as applicable for continued foundation and then above-grade construction. However, prior to registration of the plan, which includes the street being vested in the City, the applicant must satisfy environmental requirements. The owner has advised that, based on the current anticipated timeline for approval of the Record of Site Condition by the Ministry of the Environment and Climate Change, although a subdivision agreement could be entered into, registration of the plan may not be able to occur until early in 2019. This means that, if registration of the plan is required prior to any above grade permits, there could be significant delay and result in a potential hiatus in construction. Construction delays or stoppage would have negative impacts on the local community and would also have financial impacts on the owner.

In this case the owner is proceeding by way of risk assessment of the future roads, which is a slightly longer process with the Ministry of the Environment and Climate Change, but has advised that there are no significant environmental issues and that salt is the only primary contaminant as a result of previous use as a commercial parking lot.

This Motion proposes to authorize the necessary amendment to the Section 37 Agreement to allow for issuance of a conditional above grade structural permit in advance of registration of the plan of subdivision. This is expected to ensure a continuous construction process by adjustment of timing without compromise to the City requirements in respect of the obligations of the owner, including relating to roads and servicing. Registration of the plan of the plan of subdivision will be required to have occurred prior to issuance of any subsequent permit. It is the expectation of City Staff that draft plan conditions will be issued, notice of approval for site plan will be issued and a subdivision agreement entered into in advance of issuance of any above-grade building permit.

This Motion recommends that Council authorize an amendment to the Section 37 Agreement as may be required to permit the adjustment in timing contemplated and directs the City Solicitor to prepare such an amending agreement.. Authority for City execution of the amending agreement is also contemplated.

This Motion is urgent so that construction can proceed without delay.

### **Background Information (City Council)**

Member Motion MM44.51