

**City Council****Notice of Motion**

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| MM16.13 | ACTION |  |  | Ward: 8 |
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**Authorization to Amend Section 37 Agreement on Timing of Obligations in Response to Committee of Adjustment Application Regarding 3450 Dufferin Street - by Councillor Mike Colle, seconded by Councillor James Pasternak**

*\* Notice of this Motion has been given.*

*\* This Motion is subject to referral to the North York Community Council. A two-thirds vote is required to waive referral.*

**Recommendations**

Councillor Mike Colle, seconded by Councillor James Pasternak, recommends that:

1. If the Committee of Adjustment decision on Application A0002/24NY, for the property municipally known 3450 Dufferin Street, is not appealed or is upheld by the Toronto Local Appeal Body on appeal, City Council require the Owner to enter into an Amending Section 37 Agreement, pursuant to Section 37 of the Planning Act (as it read the day before the date Section 1 of Schedule 17 of the COVID-19 Economic Recovery Act, 2020 came into force), to make amendments to the existing Section 37 Agreement registered on title to the lands as Instrument AT5385339 to implement the Committee’s decision in a manner, content and form satisfactory to the City Solicitor and the Chief Planner and Executive Director, City Planning.

**Summary**

In 2019, Official Plan and Zoning By-law Amendments, and a Draft Plan of Subdivision, were approved by the Ontario Land Tribunal, to permit the redevelopment of the subject property, which is located on the west side of Dufferin Street, south of the intersection of Dufferin Street and the Highway 401 southbound off-ramp. The approved development consisted of three tall buildings (Buildings “A,” “B,” and “C” from west to east) including a Child Care Facility located within a podium shared by Buildings A, B, and C, and associated with Building C. The timing of the construction and completion of the Child Care Facility, to a level of substantial performance, was secured in the site specific Zoning By-law Amendment, and in the Section 37 Agreement for the redevelopment and was to be prior to the first residential occupancy of Building C.

As a result of refinements to the design, as generally identified in drawings dated September 15, 2023, a shared podium is now proposed for only Buildings A and B; with Building C proposed to stand alone. The Child Care Facility is proposed to be located in the easterly portion of Building B, rather than Building C. Further the Owner has advised that Building C will be occupied prior to Buildings A and B.

On this basis, the Owner submitted an application to the Committee of Adjustment for a Minor Variance to the site specific Zoning By-law to modify the timing of construction and completion of the Child Care Facility. More particularly, the application sought to postpone the construction and completion of the Child Care facility to “prior to the first residential occupancy of the second most easterly building,” which would align the construction of the Child Care Facility with the first residential occupancy of the building in which the Child Care Facility is located (Building “B”).

In a report to the Committee of Adjustment (the “Committee”), attached as Attachment “1,” Community Planning staff advised the Committee that Children’s Services was satisfied with the proposed change in timing, and that Community Planning staff was of the opinion that the proposal to align the construction of the Child Care Facility with Building “B” met the four tests set out in Section 45(1) of the Planning Act. Community Planning staff also recommended that the Committee impose the following condition of authorization, which was agreed to by the Owner:

“The Owner shall obtain approval from City Council for any changes required to the existing Section 37 Agreement registered on title to the lands as Instrument AT5385339 as an amending Section 37 Agreement to be entered into and registered on title to the lands to the satisfaction of the Chief Planner and Executive Director, City Planning and the City Solicitor.”

The Committee authorized the requested variance, subject to the condition requested by Community Planning staff, following a hearing on February 29, 2024. The Notice of Decision (the “Decision”) is attached as Attachment “2.” The Decision may be appealed to the Toronto Local Appeal Body (the “TLAB”) until March 20, 2024.

City Council approval is required to amend the Section 37 Agreement, should the Decision not be appealed or, if it is appealed, the Minor Variance is authorized by the Toronto Local Appeal Body. This motion will provide staff with the necessary authority to amend the existing Section 37 Agreement, to reflect the revised timing for the construction and completion of the Child Care Facility, and to ensure that the agreement is consistent with the Minor Variance. Nothing in this motion will fetter the consideration of the Minor Variance application by the Toronto Local Appeal Body, should the Committee’s decision be appealed.

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

Member Motion MM16.13

(March 12, 2024) Report from the Director, Community Planning, North York District on 3450 Dufferin Street

<https://www.toronto.ca/legdocs/mmis/2024/mm/bgrd/backgroundfile-244027.pdf>

Committee of Adjustment North York Panel Notice of Decision on application for Minor Variance/Permission/Consent for 3450 Dufferin Street

<https://www.toronto.ca/legdocs/mmis/2024/mm/bgrd/backgroundfile-244028.pdf>