

3450 DUFFERIN STREET Committee of Adjustment Application

Date: February 12, 2024

To: Chair and Committee Members of the Committee of Adjustment, Etobicoke York District

From: David Sit, Director, Community Planning, North York District

Ward: Eglinton-Lawrence

File No: A0002/24NY

Hearing Date: February 29, 2024

RECOMMENDATIONS

City Planning staff respectfully recommend that should the Committee of Adjustment approve the application A0002/24NY, the following condition be attached:

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 No. 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.

APPLICATION

To permit the postponement of the delivery of a Child Care Facility.

The construction of a Child Care Facility is currently required prior to the first residential occupancy of the easterly building on the Site. The application seeks to postpone the construction of the Child Care Facility to prior to the first residential occupancy of the second most easterly building on the Site.

REQUESTED VARIANCE TO THE ZONING BY-LAW:

Section "A" Paragraph 1, By-law 687-2020 (LPAT)

No later than the earlier of registration of the condominium corporation in the second most easterly building on the Site, the first residential occupancy of the easterly building on the Site, registration of a condominium corporation in the easterly building on the Site or three years after the issuance of an above-grade building permit for any building on the Site, the owner at its sole expense agrees to construct, complete to a level of substantial performance as defined in the Construction Act, with all systems commissioned, operating, fully functional and in good repair, a Child Care Facility in the podium between the two easterly buildings on the Site, including associated exterior play space in compliance with

the City of Toronto Child Care Development Guideline September 2016, and, as applicable, Toronto Children's Services Early Learning & Child Assessment for Quality Improvement, 2014 (AQI), the Toronto Accessibility Guidelines, 2004 and all then-current criteria necessary to obtain a license to operate the Child Care Facility, technical standards issued by governing authorities for child care facilities, all provincial legislation, regulations and codes, municipal by-laws and regulations as may be amended, including, without limitation: the Child Care and Early Years Act, 2014; CAN/CSA-Z614-03 Children's Play Spaces & Equipment or equivalent, Annex H; the Accessibility for Ontarians with Disabilities Act; and the Tier 1, Toronto Green Standard, all to the satisfaction of the Chief Planner and Executive Director, City Planning.

Requested Variance:

No later than the earlier of registration of the condominium corporation in the second most easterly building on the Site, the first residential occupancy of the second most easterly building on the Site, registration of a condominium corporation in the easterly building on the Site or three years after the issuance of an above-grade building permit for any building on the Site, the owner at its sole expense agrees to construct, complete to a level of substantial performance as defined in the Construction Act, with all systems commissioned, operating, fully functional and in good repair, a Child Care Facility as generally reflected on the plans dated September 15, 2023 and filed with the City on September 28, 2023, including associated exterior play space in compliance with the City of Toronto Child Care Development Guideline September 2016, and, as applicable, Toronto Children's Services Early Learning & Child Assessment for Quality Improvement, 2014 (AQI), the Toronto Accessibility Guidelines, 2004 and all then-current criteria necessary to obtain a license to operate the Child Care Facility, technical standards issued by governing authorities for child care facilities, all provincial legislation, regulations and codes, municipal by-laws and regulations as may be amended, including, without limitation: the Child Care and Early Years Act, 2014; CAN/CSA-Z614-03 Children's Play Spaces & Equipment or equivalent, Annex H; the Accessibility for Ontarians with Disabilities Act; and the Tier 1, Toronto Green Standard, all to the satisfaction of the Chief Planner and Executive Director, City Planning.

BACKGROUND

The subject property is located on west side of Dufferin Street, south of the intersection of Dufferin Street and the Highway 401 off-ramp going south. The property is designated *Mixed Use Areas* in the Official Plan and is subject to the Dufferin Street Secondary Plan. It is also subject to site specific Zoning By-law 687-2020 (LPAT), which amends City-wide Zoning By-law 569-2013 by adding a new exception 204 to Article 900.11.10. A minor variance application to increase the building height, adjust the gross floor area, permit a day nursery on the 2nd floor, include a private school, permit stacked bicycle parking, and permit accessible parking within 25 metres of a barrier free entrance/elevator was approved for the site in 2022 with a Notice of Decision dated October 6, 2022 (File No. A0492/22NY).

COMMENTS

The proposed development consists of three tall buildings (Buildings "A", "B", and "C"), including a Child Care Facility within the eastern portion of Building B. Building C is the

most easterly building while building B is the second most easterly building.

The Child Care Facility was previously located within a podium shared by Buildings A, B, and C, but refinements to the design as generally identified in the drawings dated September 15, 2023, resulted in a shared podium for Buildings A and B only, the relocation of the Child Care Facility to Building B, and a standalone Building for Building C.

In Section "A" Paragraph 1 of the applicable By-law 687-2020 (LPAT), the Child Care Facility is to be constructed prior to the first residential occupancy of Building C (the easterly building on site) which is no longer associated with the Child Care Facility. Further, the applicant has advised that Building C will be occupied prior to Buildings A and B.

The minor variance application seeks to align the construction of the Child Care Facility with the first residential occupancy of Building B within which it is located (second most easterly building). This is acceptable to Children's Services. The applicant has also agreed to any future changes that may be requested by Children's Services to meet Ontario Building Code or legislative requirements.

The proposal to align the construction of the Child Care Facility with Building B meets the four tests set out in Section 45 (1) of the Planning Act. It maintains the general intent of the City's Official Plan and the applicable Zoning By-law. It is also minor in nature and is desirable for the use of the lands.

Should the Committee of Adjustment approve the minor variance application, staff recommends that the Owner obtain approval from City Council for any changes required to the existing Section 37 Agreement registered on title to the lands as Instrument No. 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.

CONTACT

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SIGNATURE



Signed by Shelly Cham, Manager, Community Planning, North York District on behalf of David Sit, MCIP, RPP, Director, Community Planning, North York District

cc. Laura Bisset, Deputy Director, Legal Services, City of Toronto