

2 Tecumseth Street and 125-133 Niagara Street - Amending Section 37 Agreement - Decision Report

Date: August 28, 2024

To: Toronto and East York Community Council

From: Director, Community Planning, Toronto and East York District

Ward: 10 - Spadina-Fort York

Planning Application Numbers: 17 264041 STE 19 OZ

SUMMARY

This report recommends that the Section 37 Agreement for the development at 2 Tecumseth Street and 125-133 Niagara Street be amended to revise the timing and delivery of the proposed Multi-Use Path and the Tecumseth Street Improvements. This amendment reflects planned construction phasing that has been introduced by the applicant following the 2022 approval of the rezoning application by the Ontario Land Tribunal (OLT).

The applicant has consulted with Community Planning staff and will be applying for a minor variance application to also revise the Section 37 benefits noted in Site-Specific By-law 1336-2023(OLT). The amendment to the Section 37 Agreement would be prepared following the Committee of Adjustment's approval of these minor variances.

The proposed adjustments to reflect the development phasing are minor, in keeping with the intent of the original approvals, and would assist in enabling the development and delivery of the associated community improvements in a timely manner.

RECOMMENDATIONS

The Director, Community Planning, Toronto and East York District recommends that:

1. Subject to the Committee of Adjustment granting necessary minor variances to the Site-specific Zoning By-law 1336-2023(OLT) for the lands at 2 Tecumseth Street and 125-133 Niagara Street, City Council direct the City Solicitor, in consultation with the Director, Community Planning, Toronto and East York District, to prepare for execution and registration on title, an amendment to the Section 37 Agreement between the City and the Owner, dated August 22, 2022, which amends the timing and delivery of the Multi-Use Path and Tecumseth Street Improvements.

2. City Council authorize the appropriate City officials to take the necessary action to give effect to the above, including execution and registration of the amended Section 37 Agreement.

3. City Council direct that, prior to final Site Plan Approval, the amending agreement be registered on title and that the Owner has obtained the final and binding notification for the approval of the minor variance application for the subject property.

FINANCIAL IMPACT

The City Planning Division confirms that there are no financial implications resulting from the recommendations included in this report in the current budget year or in future years.

DECISION HISTORY

The Official Plan and Zoning By-law Amendment application for the development at 2 Tecumseth Street and 125-133 Niagara Street was deemed complete on November 17, 2017.

The applicant appealed the Zoning By-law Amendment application for the development at 2 Tecumseth Street and 125-133 Niagara Street to the Local Planning Appeal Tribunal (now known as the Ontario Land Tribunal, the "Tribunal") on March 29, 2018 for the City's failure to make a decision within the prescribed timelines of the Planning Act. The applicant then filed an appeal for the Official Plan Amendment application on May 28, 2018.

On July 23, 2018, City Council adopted recommendations for appropriate City Staff to attend the Tribunal to oppose the redevelopment as initially proposed, while also continuing to work with the applicant to revise the proposal into a form that was supportable development for the site. The Council decision can be found here: <https://secure.toronto.ca/council/agenda-item.do?item=2018.TE34.28>

On October 2, 2019, City Council approved revised plans and authorized the appropriate City Staff to attend the Tribunal in support of the revised proposal. The Council decision can be found here: <https://secure.toronto.ca/council/agenda-item.do?item=2019.TE8.17>

On January 16, 2020, the Applicant and the City provided uncontested evidence to the Tribunal in support of the revised proposal. On February 21, 2020 the Tribunal issued an interim order approving the revised proposal in principle, pending the fulfilment of several conditions, including preparing the final form of the Zoning By-law amendment and entering into a Section 37 Agreement to secure community benefits and matters of legal convenience. The Tribunal's interim order can be found here:

<https://www.canlii.org/en/on/onlpat/doc/2020/2020canlii14769/2020canlii14769.html?resultIndex=3&resultId=308cc71ffd6841708a07aec532a10c26&searchId=2024-08-20T16:17:13:0717a0430106d8340d78ca7d8c011379713>

On August 16, 2022, the Tribunal issued its final order approving both the Official Plan and Zoning By-law Amendment application that brought into effect OPA 273 and Site-specific Zoning By-law 1336-2023(OLT). The Tribunal's final order can be found here: <https://www.canlii.org/en/on/onlt/doc/2022/2022canlii75890/2022canlii75890.html?resultIndex=1&resultId=e0f0b30f66a44af2a496df957a23f3f9&searchId=2024-08-20T16:19:06:360/e9732f2af5c64e9eadc7133239a241c2>

COMMENTS

Site-specific Zoning By-law 1336-2023 (OLT) secured a number of important matters, including:

- affordable housing;
- parkland dedication;
- a Multi-Use Path for pedestrians and cyclists at the rear of the site along the rail corridor;
- public realm improvements on Tecumseth Street that is pedestrian-oriented;
- the inclusion of a district energy facility; and
- a minimum amount of employment space on the lands.

Since the Tribunal's approval of the redevelopment and given recent economic uncertainty in the housing market, the applicant has advised that the project will need to be phased in order to secure the necessary funding. As such, staff require revisions to certain components of the Section 37 Agreement to provide clarity on when and how the Multi-Use Path and Tecumseth Street Improvements are to be delivered that correspond to the proposed project phasing.

As part of the original approval, the Multi-Use Path was intended to be constructed and delivered in one piece. Now with the proposed construction phasing, an Interim Multi-Use Path will be introduced to ensure that pedestrians and cyclists, and in particular future residents of the project's first phase, will be able to use the path in the interim instead of waiting for final build out of the path once the remaining buildings are constructed. This Multi-Use Path is part of the larger cycling network plan and will provide connections to the West Toronto Rail Path to the west and the downtown core to the east.

The Tecumseth Street Improvements were also intended to be fully completed in one piece. Now with the construction phasing, the full build out of Tecumseth Street will be delivered in two phases that align with the two construction phases for the residential buildings.

Conclusion

Following discussions between City Planning and other appropriate City staff including the local Councillor, all parties support the proposed amendments. Council pre-authorization to direct preparation and execution of any necessary amendment to the Section 37 Agreement is in no way intended to impose or direct the Committee of Adjustment in making its decision on the minor variance application.

The original Section 37 obligations will remain applicable while recognizing the revised delivery of the Multi-Use Path and Tecumseth Street improvements.

CONTACT

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SIGNATURE

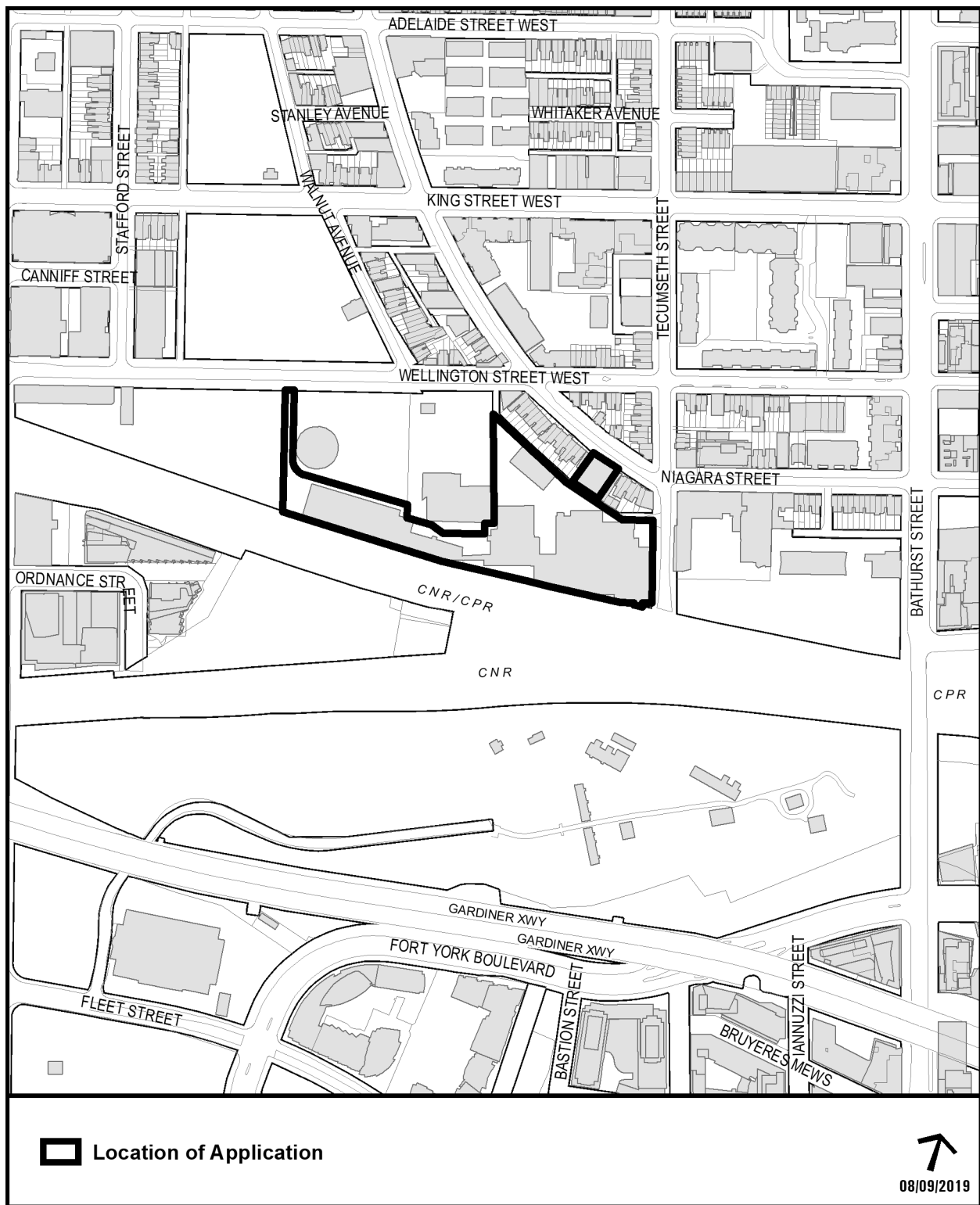
A handwritten signature in black ink, appearing to read 'Carly R', followed by a long horizontal flourish.

Carly Bowman, Director
Community Planning, Toronto and East York District

ATTACHMENTS

Attachment 1: Location Map
Attachment 2: Draft Phasing Plan

Attachment 1: Location Map



Attachment 2: Draft Phasing Plan

