

NOTICE OF MOTION

743 Warden Avenue – Amending Section 37 Agreement for Blocks 6, 7 and 8 Plan 66M-2549

Moved by: Councillor

Paul Ainslie

Seconded by: Councillor

Gord Perks

RECOMMENDATIONS:

1. City Council authorize the City Solicitor, in consultation with the Executive Director, Development Review, to amend the Section 37 Agreement, dated December 7, 2015 (AT4254031), between Zahavish Downtown Developments Ltd. and the City of Toronto, entered into 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), as amended by an Amending Agreement, dated April 23, 2024 (AT6574560), to further adjust construction phasing provisions allowing for concurrent construction of the final phase of the residential blocks (Blocks 6, 7 and 8 66M-2549) and commercial blocks (Blocks 21 and 22 66M-2549) on terms further set out in the amending agreement, including that Notice of Site Plan Approval Conditions will have been issued in connection with one or both of the commercial blocks.
2. City Council authorize City Officials to take such action as necessary to implement the recommendation above, including execution and registration of necessary agreement(s).

SUMMARY:

In 2013, Official Plan Amendment (OPA), Zoning By-law Amendment (ZBA), Draft Plan of Subdivision and Site Plan Control applications were submitted for the lands at 743 Warden Avenue. The applications sought permission for 202 residential townhouse units, three commercial buildings, a network of public roads and lanes, a public park, and a storm water management pond.

Following appeal by the applicant and a subsequent settlement hearing endorsed by City Council in 2015 (Item 2015.CC8.2), the former Ontario Municipal Board approved, in principle, the draft OPA and ZBA and Draft Plan of Subdivision to re-designate the lands from *Employment Areas* to *Mixed Use Areas* and *Neighbourhoods* as per the recommended settlement.

The site specific zoning by-law (By-law 528-2016 (OMB)) established three primary phases of development: Phase 1 (Blocks 1-5 and 9-20); Phase 2 (Block 21 and/or Block 22); Phase 3 (Blocks 6, 7 and 8); and Phase 4 (the remaining Block 21 or Block 22 if only one of these blocks

is constructed as part of Phase 2). Blocks 6, 7 and 8 were identified as Phase 3 in part to ensure co-ordination of certain required municipal road infrastructure for those lands and in part to ensure co-ordination of the commercial and residential blocks within the development, particularly commercial Blocks 21 and 22. Along with the addition of a holding provision in the By-law for Blocks 6, 7 and 8, the sequencing of all of the phases were to be further set out.

A Section 37 Agreement, dated December 7, 2015, was registered on title for the lands at 743 Warden Avenue (AT4254031) (the "Section 37 Agreement"). In addition to securing community benefits, the Section 37 Agreement secured the phasing set out in the zoning amendment as a legal convenience. Specifically, Sections 4.6 and 4.7 included provisions for sequencing construction and linked building permits and completion of construction on at least one of Block 21 and 22 prior to construction on Blocks 6, 7 and 8.

The final Plan of Subdivision was registered on June 25, 2018 as 66M-2549. The associated Subdivision Agreement, dated March 28, 2017, was registered on title (AT4908517) and also included phasing provisions.

The original objective of the phasing had been to build in an incentive to build out the commercial blocks coincidental to the larger residential component Phase 1 of the development, which is now complete.

In 2023 the owner requested adjustment of the construction phasing language in the Section 37 Agreement to allow for construction of residential Blocks 6-8 (Phase 3) to proceed concurrently with, not subsequent to, commercial Blocks 21 and 22 (Phase 2/4) on certain conditions. At its meeting on February 6 and 7, 2024, City Council adopted Item 2024.SC 10.6 and approved amendment to the Section 37 Agreement to adjust the construction of phasing provisions and allow for concurrent construction provided that building permits had been issued and construction commenced relating to the commercial blocks. An amending Section 37 Agreement, dated April 23, 2024, was executed and registered (AT6574560). A corresponding amending Subdivision Agreement, dated April 23, 2024, was also approved and executed by the Director of Community Planning and subsequently registered (AT6574562).

The holding provisions relating to the residential Blocks 6, 7 and 8 were lifted by By-law 189-2024(PLN) enacted March 15, 2024. At its meeting on December 16 and 17, 2025, City Council assumed the roads and services within the Subdivision (Item 2025.SC 27.3) and subsequently enacted assumption By-law 345-2026.

A request has now been made by the applicant to further amend the Section 37 Agreement to allow development of the remaining residential Blocks 6, 7 and 8 to proceed following the provision of Notice of Approval Conditions for site plan approval for either commercial Block 21 or 22. The Director, Community Planning, Scarborough District is supportive of a similar further revision to the Subdivision Agreement, as amended. This will enable completion of the residential component of the subdivision and allow the construction of much needed housing on Blocks 6, 7 and 8 to proceed expeditiously and still allow either or both of Block 21 and Block 22 to proceed to development concurrently.

Date: July __, 2026