



**STAFF REPORT  
ACTION REQUIRED  
Confidential Attachment**

**108 Stayner Avenue- Amendments to approved site plans**

<b>Date:</b>	May 14, 2007
<b>To:</b>	City Council
<b>From:</b>	City Solicitor
<b>Wards:</b>	Ward 15 Eglinton-Lawrence
<b>Reason for Confidential Information:</b>	This report is about litigation or potential litigation that affects the City and contains advice or communications that are subject to solicitor-client privilege.
<b>Reference Number:</b>	

**SUMMARY**

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By Decision/Order dated June 8, 2006, the Ontario Municipal Board (the “OMB”) approved the site plans for 108 Stayner Avenue (the “Land”), which approval was based on the consent of the owner, Merin Investments Inc. (the “Owner”), and the City of Toronto. The Land consisted of seven new residential building lots including the rebuilding of the existing heritage house one of the lots (see Attachment). Building permits were issued for the lots but with respect to four of the lots, the architectural plans submitted were not in accordance with the approved site plans or else the plans were changed at the construction stage. Orders to Comply were issued by Toronto Building North York District against the owner on March 22, 2007 and work has ceased on these lots.

The Owner must either apply to the OMB or to the City to amend its approved site plans. The Owner is requesting that the City consent to the application to the OMB for amendment of the site plans.

## **RECOMMENDATIONS**

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The City Solicitor recommends that:

1. Council adopt the confidential instructions to staff in Attachment 1.
2. Council authorize the public release of the confidential recommendations in Attachment 1 at the end of the Council meeting in the event they are adopted by Council.

## **FINANCIAL IMPACT**

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There are no financial implications resulting from the adoption of this report.

## **DECISION HISTORY**

<http://www.toronto.ca/legdocs/2006/agendas/council/cc060214/ny2rpt/cl016.pdf>  
[http://www.toronto.ca/legdocs/2006/agendas/council/cc060425/nomi\(35\).pdf](http://www.toronto.ca/legdocs/2006/agendas/council/cc060425/nomi(35).pdf)

At its meetings of February 14, 2006 and April 25, 26 and 27, 2006, City Council approved Notice of Approval Conditions for Site Plan Approval for the Land. The matter had been appealed to the OMB by the Owner and the approval of the site plan conditions by City Council effected a settlement between the Owner and the City. The OMB approved the elevations and siting of the houses for each of the seven lots on the Land. However, the building permits issued for Lots 4, 5 and 6 were not in accordance with the OMB approved site plans. While the building permit for Lot 7 was issued in accordance with the OMB approved site plans, these plans were flipped during construction. On March 22, 2007, Orders to Comply were issued by the City and work on these lots has ceased.

## **COMMENTS**

The building permits for these houses were reviewed and building permits issued in August of 2006. The zoning review was based on the OMB approved by-law and the site plan submitted by the applicant and attached to every building permit. The proposed dwellings were required to be constructed in accordance with the approved site plans. The architectural drawings for Lots 4, 5 and 6 were submitted in a mirror image and the drawings for Lot 7 were shown in the actual image. The use of the mirror image drawings for single family dwellings does not contradict the Building Division practice of issuing building permits since the owner is required to position the house in accordance with the approved site plan. During the construction the owner made further changes to the elevations and location of these four houses along Locksley Avenue.

The Owner has stated that the elevations and siting of the houses on the lots which were submitted to and approved by the OMB, were inconsistent in that the front elevations for

model “1” (Lots 4 & 6) reflected a layout that is the reverse of the layout shown on the floor plan and those approved elevations which had windows would have been too close to the lot lines and therefore in contravention of the *Building Code*. The building plans were then “flipped” so as to comply with the *Building Code*. The layout for Lot 5 was flipped back during construction which caused it to be in conformity with the OMB approval but the foundation was shifted closer to the northerly lot line so as to permit windows in the south elevation and thus comply with the *Building Code*. The plans for Lot 7 were flipped because of a boundary line dispute with the neighbour to the north. The houses have been constructed and bricked with the exception of Lot 7. There are no issues with respect to compliance with Zoning By-law No. 7625 for the former City of North York.

The Owner has requested that the approved site plans be amended in order to complete the houses. It can either apply to the OMB or to the City to have the site plans amended to the “as built” construction on the lots. The Owner has requested that the City consent to an application to the OMB to amend the site plans.

## **CONTACT**

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## **SIGNATURE**

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Anna Kinastowski, City Solicitor

## **ATTACHMENTS**

Confidential Recommendations and Confidential Information – Amendments to  
Approved Site Plans

Site Plan