

**225 Wellesley Street East
Winchester Square
Request to amend Section 37 Agreement**

Date:	March 8, 2007
To:	Toronto and East York Community Council
From:	Director, Community Planning, Toronto and East York District
Wards:	Ward No. 28 – Toronto Centre - Rosedale
Reference Number:	File Nos. 07 112402 STE 28 SA and 07 112417 STE 28 SA

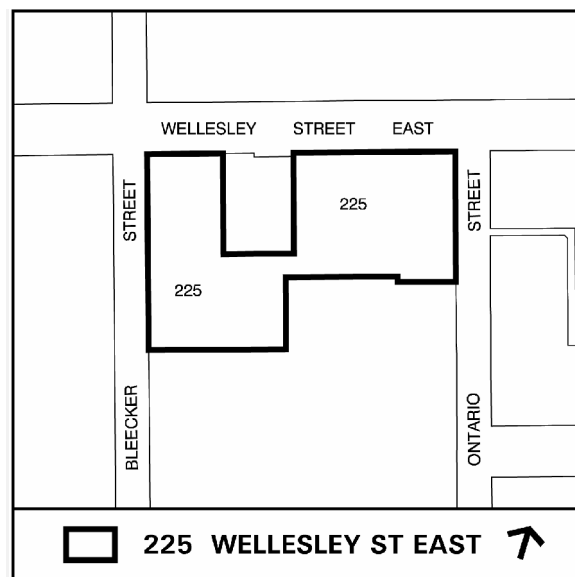
SUMMARY

This report reviews a request by the owner of the remaining Winchester Square lands to amend an existing Section 37 Agreement registered against the title of the properties. Revisions to the Section 37 agreement are one part of a series of planning approvals that would be required to permit an alternative form of development on the site. The agreement would only be revised if the Committee of Adjustment approves required minor variances.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council authorize the following revisions to the Section 37 Agreement for the Winchester Square lands as set out in this report, if the Committee of Adjustment approves minor variances for Parcel A of the Winchester Square lands to permit retention of the existing ramp that provides access to the underground garage of 550 Ontario Street and



- minor variances for Parcel B of the Winchester Square lands to permit a townhouse form of development:
- a) delete the Conceptual Plan and Alternative Conceptual Plan attached to the Section 37 Agreement and replace with a Conceptual Plan substantially-in-accordance with the Plan attached to this report as Attachment 1;
 - b) remove the requirement to close, deck and landscape the existing ramp that provides access to the underground garage of 550 Ontario Street; and
 - c) remove the obligation to tender and enter into a Parking Operation Agreement with a parking lot operator;
2. City Council direct the City Solicitor to prepare revisions to the Section 37 Agreement necessary to implement the changes set out in Recommendation 1; and
 3. the appropriate City Officials be authorized and directed to take the necessary action to give effect thereto.

Financial Impact

The recommendations in this report have no financial impact.

DECISION HISTORY

In 2004, the Ontario Municipal Board approved By-law 740-2004 to amend general zoning by-laws and site specific By-law 657-76 with respect to lands known as Winchester Square. The by-law prescribes development standards for the properties historically known municipally as 225 Wellesley Street East (Parcel A and Parcel B of Winchester Square). The by-law also secures community benefits pursuant to Section 37 of the Planning Act.

The Section 37 Agreement includes a Conceptual Plan to guide site planning for development of both parcels. Council adopted an Alternative Conceptual Plan to supplement the Conceptual Plan with respect Parcel A in June 2006. The City issued Site Plan Approval pursuant to Section 41 of the Planning Act for Parcel A in January 2007, consistent with the Alternative Conceptual Plan.

The Section 37 Agreement requires the closing, decking over, and landscaping of the ramp to the underground garage of Hugh Garner Co-op, located adjacent to Parcels A and B at 550 Ontario Street. In January 2007, Council received an Information Report summarizing the steps and actions which would be necessary to permit and implement retention of Hugh Garner Co-op's ramp.

ISSUE BACKGROUND

The planning process that resulted in by-law 740-2004 was unusually lengthy. An application for rezoning was submitted in 1987 and eventually led to an OMB hearing which convened in 1993 and 1994. A 1995 OMB decision directed and guided settlement discussions which concluded in 2003. The OMB issued an order in 2004 enacting the by-law.

Winchester Square includes two remaining development parcels: Parcel A on the corner of Wellesley Street East and Ontario Street and Parcel B on the corner of Wellesley Street East and Bleecker Street. The two parcels share a property line. The Hugh Garner Co-operative is a neighbouring property located at 550 Ontario Street. Access to its underground garage is via a driveway which crosses Parcel A. A second level of the underground garage beneath Hugh Garner Co-op is owned under strata title by the applicant.

By-law 740-2004 permits a 10-storey mid-rise building for Parcel A and a 12-storey mid-rise building for Parcel B. Both buildings would be primarily residential, with permission for non-residential uses at grade. Among other matters, the by-law also set minimum standards for landscaped open space.

The Section 37 Agreement further prescribes development on both Parcels through a Conceptual Plan attached to the agreement, and requires that Site Plan Approval conform with the principles of the Conceptual Plan. The Conceptual Plan intends to consolidate landscaped open space in the centre of the block and contemplates a shared service driveway that crosses both properties, integrated with the landscaped space. The Alternative Conceptual Plan adopted by Council in June 2006 shows acceptable alternative locations for the loading space and garage access ramp for Parcel A and provides for a differently configured landscaped open space and service access to the interior of the site.

The Section 37 Agreement also secures public benefits, including:

- a) a cash contribution towards construction of public recreational facilities in the vicinity of the site;
- b) closing, decking over, and landscaping of the neighbouring Hugh Garner Co-op's garage access ramp to provide additional landscaped open space on the block; and
- c) an obligation to put out to tender a Parking Operation Agreement to potential commercial parking operators for the operation of a 75-space public parking garage in the portion of underground garage beneath Hugh Garner Co-op to which the owner of Parcel A owns strata title.

The applicant's development proposal for both Parcel A and Parcel B is different than what is permitted by the zoning and the Conceptual Plans attached to the Section 37 Agreement. The proposal for Parcel A is a 12-storey building, rather than the 10-storey building that is permitted. The proposal for Parcel B is a three-storey stacked townhouse

development of approximately 60 units, rather than the 12-storey mid-rise apartment building permitted by the by-law. The proposals also do not conform to provisions of the Section 37 Agreement.

To proceed, the proposals for both Parcels represent a “package” of revisions to the original development approval. The “package” requires minor variances to the Zoning By-law, Site Plan Approval for Parcel B, an amended Site Plan Approval for Parcel A, and amendments to the Section 37 Agreement. The applicant has submitted pertinent applications with respect to both minor variances and Site Plan Approval, which are delegated to the Committee of Adjustment and to the Chief Planner, respectively. Council authority is required to amend the existing Section 37 Agreement, which is the purpose of this report.

COMMENTS

Form of Development

As noted above, the Section 37 Agreement secures certain principles and form of development through a Conceptual Plan. The proposal reflected in the current Site Plan and minor variance applications submitted by the applicant for both parcels differ from the Conceptual Plan and Alternative Conceptual Plan attached to the Section 37 Agreement. As a result, the applicant has proposed a revised Conceptual Plan that would replace the Conceptual Plan and Alternative Conceptual Plan.

With respect to Parcel A, the proposed revised Conceptual Plan would include a maximum height of 12 storeys for the building on Parcel A, rather than the 10-storeys shown on the Alternative Conceptual Plan accepted by Council in June 2006 and permitted by site-specific By-law 740-2004. The proposed Conceptual Plan would also show the retention of the existing ramp to Hugh Garner Co-op’s underground garage. In other respects the revised Conceptual Plan as it relates to Parcel A is consistent with the Alternative Conceptual Plan. The merits of the requested height increase will be reviewed and assessed through the Site Plan Approval process, in advance of consideration of minor variances by the Committee of Adjustment. The merits of the retention of the Hugh Garner Co-op ramp are discussed later in this report.

The revised Conceptual Plan for Parcel B reflects the stacked townhouse proposal submitted by the applicant. On Parcel B, the revised Conceptual Plan would permit development of three buildings which do not match the building footprints shown on the current Conceptual Plan and permitted by site-specific Zoning By-law 740-2004. As a result, the configuration of landscaped open space on the parcel would also change. At the same time, the revised Conceptual Plan would secure a lower scale of development:

- a) height of development would be limited to 17 metres, whereas the Zoning By-law otherwise permits a height of 37.5 metres;
- b) gross floor area of the development would be limited to 5500 square metres, whereas the Zoning By-law otherwise permits 15,130 square metres; and

- c) the unit count of the development would be reduced to 60 units, whereas the Zoning By-law does not limit the number of units.

The proposal for Parcel B would provide its required parking in the level of underground parking garage beneath the Hugh Garner Co-op owned by the applicant, with access provided through the underground garage on Parcel A. As a result, the revised Conceptual Plan has eliminated separate vehicle access on Parcel B. It also eliminates the service driveway across both parcels.

The proposed revised Conceptual Plan as it relates to Parcel B Conceptual Plan has a number of merits. It retains built-form located on the parcels in a way that addresses and defines the street. The elimination of the service driveway creates an opportunity to provide a better quality area of landscaped open space. The low-scale of development proposed for Parcel B will reduce impacts of the built-form that would otherwise be permitted on the site.

Hugh Garner Co-op Ramp Closing

The Section 37 Agreement provides for the closing, decking over, and landscaping of the ramp access into the underground parking garage of Hugh Garner Co-op. The purpose of the ramp closing was to secure the opportunity for additional landscaped open space on the Winchester Square block. Closing of the ramp would require Hugh Garner Co-op to share the ramp of the building proposed for Parcel A. The approved Site Plan for Parcel A shows the ramp to be closed, in compliance with the Section 37 Agreement.

As reported in the information report received by Council in January 2007, both the applicant and the Board of Directors of the Hugh Garner Co-op have expressed a strong interest in retaining the existing ramp to provide separate garage access for Hugh Garner Co-op. Retaining the ramp would simplify the relationship between the two properties and provide for more convenient parking access for Hugh Garner residents.

The amended Site Plan Approval requested by the applicant for Parcel A would retain the ramp. The retention is acceptable to City Planning staff, as the revised Conceptual Plan includes the opportunity for a meaningful area of consolidated landscaped open space on Parcel B. Furthermore, Hugh Garner Co-op is an immediately affected stakeholder and has expressed support for the revision.

Tender of Public Parking Spaces

A 1977 Development and Land Exchange Agreement between the City and the owners of the Winchester Square lands secured a requirement to provide a public parking facility of at least 150 spaces.

The 2004 planning approval revised the obligation to provide public parking spaces. In exchange for a commitment on the part of the owner to provide community space, the parking obligation was reduced to 75 spaces located in an existing garage-level under Hugh Garner Co-op, which would be offered for tender to a parking lot operator. The City agreed to pay 50% of the cost of renovation of the parking spaces (indexed from

\$93,000 in 1996 dollars). If no parking lot operator accepts the tender within five years, the owner is no longer obligated to provide for public parking.

The applicant has satisfied this obligation for four years, and has requested that the obligation now be removed from the Section 37 Agreement, a year earlier than would otherwise be required. One reason for the request is that the Site Plan proposal for Parcel B provides parking for the proposed townhouse units in existing spaces under Hugh Garner Co-op that have otherwise been reserved for public parking.

At this time, staff recommend removing the requirement from the Section 37 Agreement, for the following reasons:

- a) The applicant has never received a positive response to the tender. As recently as March 1, 2007, the Toronto Parking Authority wrote to the applicant that it had no interest in owning or operating the garage.
- b) With only one year remaining, the obligation represents relatively little public benefit.
- c) The applicant has proposed a significant reduction in height and density on Parcel B, which will be secured through the revised Conceptual Plan to be attached to and form part of the Section 37 Agreement.
- d) The City will be relieved of a potential obligation to pay for 50% of the renovation costs of the parking spaces.

Planning Approval Process

As noted above, revisions to the Section 37 Agreement are just one part of a package of planning approvals which will be required for the applicant's proposal to proceed. This report is before Council early in the process. Staff believe that supportable development on the site can meet the principles of the proposed revised Conceptual Plan. Adoption of this report's recommendations will allow staff to continue to review and process the applications in a timely fashion, should the Committee of Adjustment approve the required variances and should the Site Plans be supportable.

The Site Plan applications for both parcels were submitted only recently and staff review is not complete. Review may result in direction to the applicant for revisions to the proposal to address both technical and design issues. Similarly, staff will provide comment to the Committee of Adjustment regarding the requested minor variances once they have completed a full review of the proposal.

CONTACT

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SIGNATURE

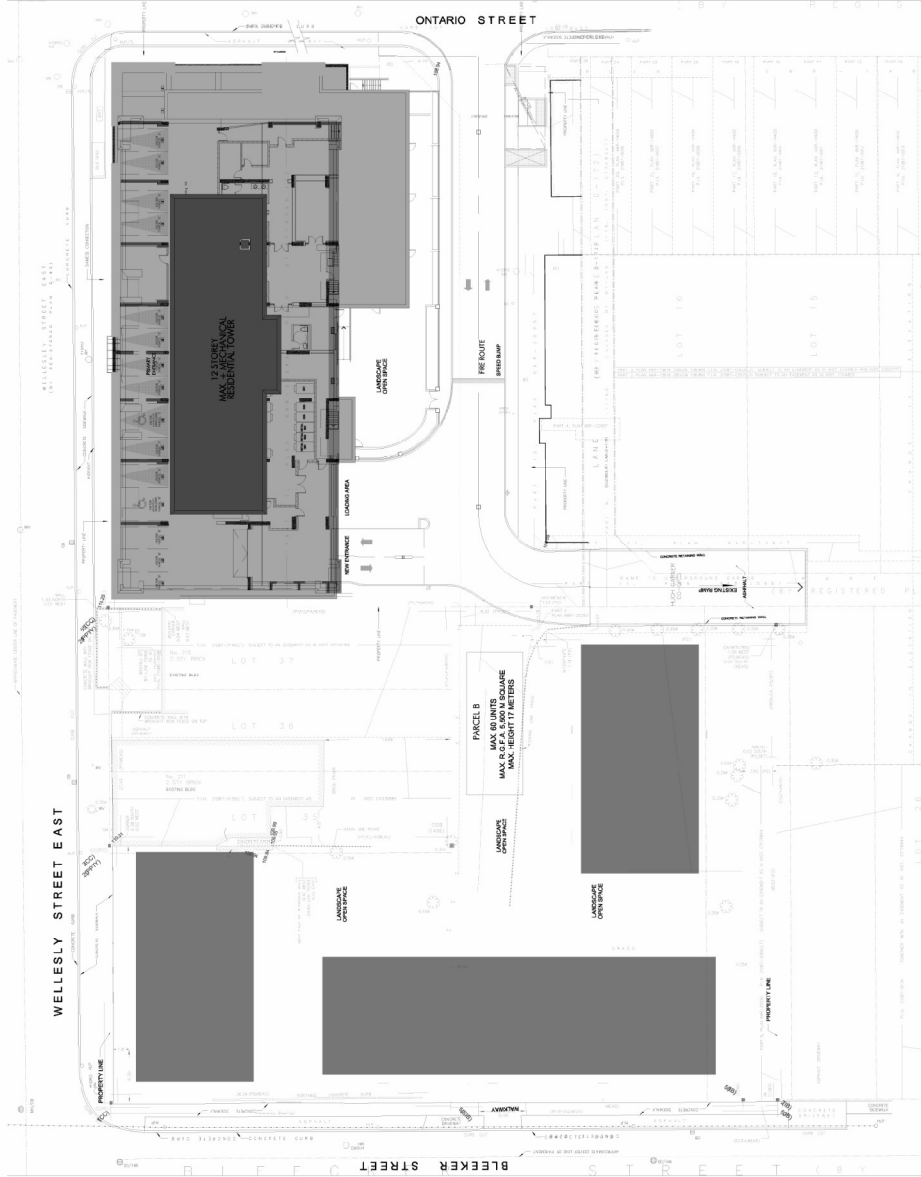
Gary Wright, Director
Community Planning, Toronto and East York District

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ATTACHMENTS

Attachment 1: Conceptual Plan

Attachment 1: Conceptual Plan



209 & 225 Wellesley Street East

Conceptual Plan
 Applicant's Submitted Drawing
 Not to Scale
 03/07/07

