

**38 – 40 The Esplanade and 1 Scott Street
Request to amend Section 37 Agreement**

Date:	September 17, 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 No. 04 108075 STE 28 OZ

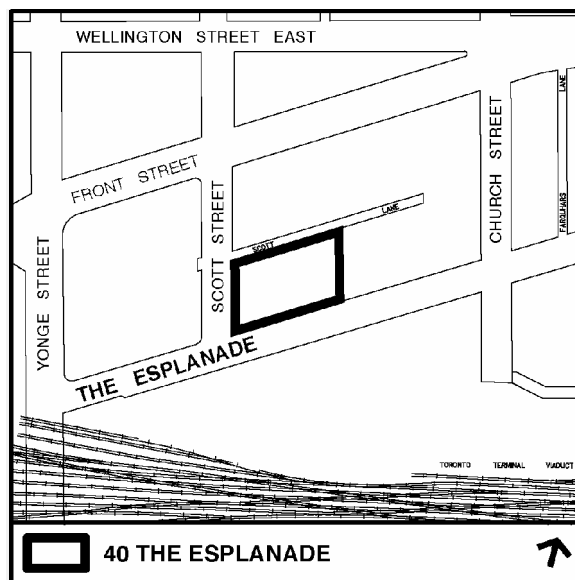
SUMMARY

This report reviews a request by the owner of 38-40 The Esplanade and 1 Scott Street to amend the Section 37 Agreement registered against the title of the property. The requested amendment would permit the width of weather protection canopies required over the sidewalk to be reduced. The purpose of the reduction relates to structural issues raised by the public art plan for the development. The agreement would only be revised if the Committee of Adjustment approves required minor variances.

RECOMMENDATIONS

The City Planning Division recommends that:

1. Subject to Recommendation 2 of this report, City Council authorize the revisions to the Section 37 Agreement for 38-40 The Esplanade and 1 Scott Street, which will permit the required weather



- protection to be discontinuous in three locations and to have a depth reduced to 2.5 metres and reduced to 1.5 metres within 13 metres of the east property line.
2. The Section 37 Agreement be revised as set in Recommendation 1 only on condition that:
 - (a) the Committee of Adjustment grants minor variances to permit a reduced width of weather protection and interruptions in the weather protection; and
 - (b) the applicant submit revised Site Plan drawings showing the revisions satisfactory to the Chief Planner;
 3. 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
 4. 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

The Ontario Municipal Board (OMB) approved Official Plan and Zoning By-law Amendments to permit development of the property at 38-40 The Esplanade and 1 Scott Street in an order issued October 3, 2006. The development consists of two residential towers (32 storeys and 15 storeys) joined by a 5-storey podium which contains a mix of commercial and residential uses. The proposed development is largely consistent with the position which City Council instructed the City Solicitor to put forward at the OMB hearing.

On October 26, 2006, the OMB issued an order approving a Site Plan for the development, having been advised by the City that the applicant had executed a Site Plan Agreement for the development.

Council approved a public art plan for the development at its meeting of July 25-27, 2006.

ISSUE BACKGROUND

Weather protection is important to achieve in new development, in order to improve amenity for pedestrians.

Site-specific zoning By-law 26-2007 for the site requires that the development provide continuous weather protection for pedestrians with a minimum depth of 3 metres along the frontages of Scott Street and The Esplanade, including the corner wrap-around, with the exception that the portion of the continuous weather protection provided along The Esplanade may have a minimum depth of 2.1 metres within 13 metres of the east property line.

A Section 37 Agreement registered against the title of the property secures a number of public benefits in exchange for the permitted increase in height and density. Among others, the benefits include a public art program. The agreement also requires provision of continuous weather protection to the satisfaction of the Chief Planner and as required by the Zoning By-law.

COMMENTS

The applicant has undertaken a public art program which incorporates the weather protection canopy. Chilean artist Francisco Gazitua has been retained and has designed a series of unique three-dimensional steel sculptures that will function as brackets to support the weather protection canopy. Typical snow loads in the winter would require a 3 metre wide canopy to have large structural members which would obscure the prominence of the artwork. Although 3 metres is generally a reasonable width for weather protection, in this case reducing the canopy width to 2.5 metres will ensure the prominence of the public art.

The applicant has also proposed interrupting the weather protection at three locations. These are locations where different components of the building intersect and result in a shift in the plane of the building façade. Visually, the canopy will continue with sculptural elements of the public art.

The proposed artwork will add visual interest to the canopy and contribute to the quality of the public realm. Staff are prepared to support the request of the applicant in order to facilitate implementation of the artwork designed through the approved public art program.

Revisions to the Section 37 Agreement are not the only changes to previous approvals that the applicant requires. The proposal also requires minor variances to grant relief from the weather protection requirements of the site-specific zoning. Staff recommend that Council authorize the Section 37 revision on condition that the Committee of Adjustment approve the required variances. The applicant will also need to submit revised drawings to the satisfaction of the Chief Planner showing the reduced canopy width and the proposed interruptions in weather protection, to demonstrate that the revision is in substantial conformity with the previously approved site plan.

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SIGNATURE

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ATTACHMENTS

None