

TORONTO STAFF REPORT

May 22, 2003

To: Toronto East York Community Council

From: Director, Community Planning, South District

Subject: 33 Bay Street
Amendments to the Section 37 Agreement
TE SPC 2003 0010
Pinnacle International (Page + Steele Architect)
Toronto Centre-Rosedale, Ward No. 28

Purpose:

To recommend changes to the existing Section 37 Agreement related to the development of the site for a mixed-use building with four towers, 1,771 dwelling units, a day care, and 1,574 square metres (16,942.9 square feet) of at grade retail. The changes involve revision to the provisions for the Harbour Street pedestrian bridge, phasing of the development, a daycare centre, and landscaping.

Financial Implications and Impact Statement:

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

Recommendations:

It is recommended that the City Solicitor be authorized to amend the Section 37 agreement as outlined in this report.

Background:

The Section 37 Agreement dated July 15, 1998 was registered on August 26, 1998. The agreement applies to 30 and 33 Bay Street, and 60 Harbour Street. The Section 37



Agreement requires that the owner of 33 Bay Street provide community benefits including the following:

- a daycare centre;
- pedestrian bridge over Harbour Street;
- parking for the City owned conference centre to the south;
- visitor parking for the two residential condominiums located to the south; and
- streetscape improvements on the east side of Bay Street and the west side of Yonge Street between the north limit of Lake Shore Boulevard and south limit of Harbour Street.

The Harbour Street pedestrian bridge was to provide a public walkway connecting the conference centre and visitor parking located at 33 Bay Street, and the sidewalks on the north and south sides of Harbour Street. The bridge is to be constructed prior to the construction of the parking located at 33 Bay Street for the conference centre.

The Agreement was amended by an Amending Agreement dated March 11, 1999 that was registered on June 21, 1999. The Amending Agreement made changes to the daycare centre provisions and allowed for a \$400.00 per unit levy to be paid for any phase of development constructed before the daycare centre was constructed.

On March 3, 1998, the owner of the property also signed a visitor parking agreement with Metropolitan Toronto Condominium Corporation No. 979 (10 Yonge Street). The agreement requires that 25 visitor-parking spaces be provided at 33 Bay Street when the underground parking garage is constructed at 33 Bay Street.

Committee of Adjustment application A689/01TO was approved on January 24, 2002. The applicant requested variances to permit a mixed-use development with four towers instead of the originally approved mixed-use development with three towers.

On February 5, 2003 site plan application TE SPC 2003 0010 was received and circulated. The application involves a mixed use development with four towers, 1,771 dwelling units, a daycare, and 1,574 square metres (16,942.9 square feet) of at grade retail.

Committee of Adjustment application A0068/03TEY was approved on April 2, 2003. The applicant requested variances to provisions relating to gross floor area, number of dwelling units, mechanical penthouse, parking, massing of the building, location of the Harbour Street pedestrian bridge and recreation space. The Committee of Adjustment refused variances to the location of the Harbour Street pedestrian bridge and the residential parking. The massing was revised to switch the height of the phase 1 tower (northeast corner of the site) from 30 storeys to 37 stories and the phase 2 tower (southeast corner of the site) from 37 storeys to 30 storeys.

A Community Consultation meeting on the site plan and Committee of Adjustment applications was held on March 13, 2003. The meeting was held by the local Councillor for the unit owners and residents at 10 Yonge Street and 10 Queens Quay to discuss the proposed development and planning process.

The Committee of Adjustment application was appealed to the Ontario Municipal Board by the solicitor for 10 Yonge Street and 10 Queens Quay on April 22, 2003.

Comments:

Harbour Street Pedestrian Bridge

In addition to the parking to be provided for the land uses on-site, the Section 37 Agreement requires that the following parking be provided:

- 303 public parking spaces for the use of the Westin Hotel conference centre which is located at the northeast corner of Bay Street and Queens Quay and is owned by the City; and
- 25 parking spaces for the residential condominium located at 10 Yonge Street.

The Section 37 Agreement requires that a Harbour Street pedestrian bridge be constructed no later than the completion of the buildings or structures containing the conference centre parking facilities. The Agreement requires that the bridge be:

- located to the satisfaction of the Commissioner of Urban Development Services;
- open to the public for free on a 24 hour, seven day a week basis;
- have illuminated stairs and walking surfaces;
- have access from the sidewalks on both sides of Harbour Street;
- have a minimum width of 2.5 metres; and
- be repaired and maintained by the owner of 33 Bay Street.

The site plan application submitted in February 2003 included the 303 parking spaces required by the Agreement for the conference centre, 25 visitor parking spaces required by the Agreement for 10 Yonge Street, 25 visitor parking spaces for 10 Queens Quay, and a Harbour Street pedestrian bridge connecting directly into the conference centre. Through consultations with the applicant, local Councillor, City staff, and the residents at 10 Yonge Street and 10 Queens Quay it was decided that the bridge was not desirable for the following reasons:

- the bridge connection into the conference centre was not desirable or feasible given the floor plan of the building;
- a connection into the second floor area of the 10 Queens Quay building abutting Harbour Street would require changes to the floor plan and security requirements, and therefore possibly increase the maintenance fees for unit owners;
- the condominium corporation for 10 Yonge Street has the option, at its expense, to construct an underground pedestrian tunnel to connect the visitor parking located at 33 Bay Street to their property and the owner of 33 Bay Street shall provide an easement and right-of-way to the visitor parking spaces for 10 Yonge Street;
- the bridge would be expensive to build and maintain;
- from an urban design and safety perspective it is more appropriate to keep pedestrians at grade and improve the at grade crossings;
- the City was not pursuing options contained in Section 37 agreements for other properties in the area for above or below grade pedestrian connections; and
- pedestrian improvements to Yonge Street between The Esplanade and Queens Quay are a higher priority and the funds secured in lieu of the construction and maintenance of the bridge could be applied to this priority.

As part of site plan approval, the owner is required by the Section 37 Agreement to provide a landscape plan and funding for streetscape improvements on the east side of Bay Street and the west side of Yonge Street between the north limit of Lake Shore Boulevard to the south limit of Harbour Street. Staff recommend that the Harbour Street pedestrian bridge requirement in the Section 37 Agreement be deleted and replaced with text to secure funding for the pedestrian streetscape improvements on Yonge Street between The Esplanade and Queens Quay. The funding is to be equal in value to the construction and maintenance cost of the Harbour Street pedestrian bridge. Please refer to Attachment 1: List of Yonge Street Streetscape Improvements from The Esplanade to Queens Quay to be Funded by the Owner of 33 Bay and to Replace the Construction and Maintenance Cost of the Harbour Street Pedestrian Bridge. The construction and maintenance cost of the bridge has not been finalized. Staff are continuing discussions with the owner and will provide more information at the June 10, 2003 Community Council meeting. Funding would also be secured for the same streetscape treatment as the Yonge Street frontage of 33 Bay Street and existing guard rails would be removed and replaced with bollards. Staff have requested that the owner's landscape architect provide a cost estimate for the streetscaping improvements recommended to replace the Harbour Street pedestrian bridge.

Pedestrian improvements that are recommended include sidewalk lighting on the west and east side of the Yonge Street underpass of the railway. There is currently no lighting on these sidewalks. The lighting improvements would be jointly funded by the owner of 18 Yonge Street who has submitted site plan and Committee of Adjustment applications related to the development of a mixed-use building immediately north of 33 Bay Street (please refer to

Attachment 3: Context Plan). Funding would be secured prior to site plan approval for both 18 Yonge Street and 33 Bay Street that is anticipated to be prior to the end of 2003. Staff recommend that the Section 37 Agreement for 33 Bay Street be amended to reflect this timing for funding.

To replace the pedestrian benefit that the Harbour Street pedestrian bridge would have resulted in to the owners and residents of 10 Yonge Street and 10 Queens Quay, staff recommend that funding for streetscape improvements on the west side of Yonge Street between the south limit of Harbour Street and the north limit of Queens Quay be secured. This section of Yonge Street already has a good streetscape consisting of a band of decorative pavers, five non-irrigated street trees, a wide concrete sidewalk bisected by decorative pavers, three bicycle lock ring and posts, and four Railway Lands street light standards with banners. Staff recommend that the streetscape in this area be enhanced with additional trees grouped in irrigated beds to create a double row of trees. Feasibility of additional street furniture and pedestrian amenities will be discussed with the condominium boards for 10 Yonge Street and 10 Queens Quay.

Staff have met with the owner of 1 Yonge Street (east side of the street between Harbour Street and Queens Quay). Other streetscape improvements to their frontage of Yonge Street may be feasible and may involve the Toronto Waterfront Revitalization Corporation. Staff have also met with the owner of 18 Yonge Street to discuss securing funds from the owner for streetscape improvements to the east side of Yonge Street between the railway and north limit of Lake Shore Boulevard.

All of the streetscape improvements, with the exception of lighting the sidewalks in the Yonge Street underpass of the railway, would be secured as a condition of site plan approval and be completed prior to the occupancy of any building.

Phasing

The applicant is proposing that the development be constructed in four phases with Phase 1 being the residential tower at the northeast corner of the site, Phase 2 being the residential tower near the southeast corner of the site, Phase 3 being the residential tower near the northwest corner of the site and Phase 4 being the residential tower at the southwest corner of the site. When the development was originally approved by the Ontario Municipal Board in 1994, it was assumed that development would proceed from the Bay Street side to the Yonge Street side. Community benefits such as the daycare centre, Harbour Street pedestrian bridge and the conference centre parking were tied to this phasing plan.

It is recommended that the Section 37 agreement be amended to address the proposed development phasing and to require the submission to and approval of the Commissioner of Urban Development Services of a phasing plan prior to site plan approval. The details of the phasing plan requirements are attached as Attachment 2: Phasing Plan Requirements.

The property abuts the Gardiner Expressway. It is recommended that text be added in the Section 37 Agreement to require the submission of a Phase 5 plan showing the at-grade parking area abutting the expressway being divided into commercial space if the abutting section of

elevated expressway is removed. It is recommended that the Agreement require that a minimum of 50% of the length of the Lake Shore Boulevard at-grade building wall be commercial use if the expressway is removed.

Daycare Centre

The applicant proposes to provide the required daycare centre in Phase 2 of the development. The 1998 Section 37 Agreement assumed that the daycare centre would be built in the last phase of the development which was the most easterly building. The City had wanted an interim daycare centre to be built on the westerly side of the site. The owner at the time did not want to provide the interim daycare centre and negotiated an 1999 Amending Agreement to permit a payment of \$400.00 per unit daycare levy to be paid prior to the issuance of a building permit for any phase of development other than the eastern phase. Amendments to both the 1998 Section 37 Agreement and 1999 Amending Agreement are required to address the proposed phasing of the daycare centre in Phase 2.

Landscaping

The applicant has submitted a draft landscape plan. It is recommended that text be added to the Section 37 Agreement to require that the landscape plan include the lands bordered by Lake Shore Boulevard, Yonge Street, Bay Street and 33 Bay Street. It is recommended that the part of these lands that are not required to be paved be covered in river rock. This landscape improvement has been required for other developments abutting the Gardiner Expressway.

The draft landscape plan shows the streetscaping along the north side of Harbour Street after the completion of Phase 4. The existing concrete sidewalk on the north side of Harbour Street has a minimum width of approximately 0.3 metres. The sidewalk would not be widened until the completion of Phase 4. Staff recommend that the Section 37 Agreement be amended to require a concrete sidewalk with a minimum width of 3 metres along the north side of Harbour Street prior to the occupancy the Phase 1 building.

The draft landscape plan shows a 1.5 metre wide pedestrian walkway with canopy protection along the north side of the building from Bay Street to Yonge Street. After the completion of Phase 1, pedestrians will require a route through the remaining parking lot located between Bay Street and part of the constructed pedestrian walkway. Staff recommend that the Section 37 Agreement be amended to require a concrete sidewalk with a minimum width of 2 metres along the north side of parking lot prior to the occupancy the Phase 1 building.

In light of City Council's direction to staff to secure irrigation systems for street trees, it is recommended the Section 37 Agreement be amended to include the following text:

“that the owners provide an irrigation system for all street trees in the public right-of-way with automatic timer at the applicant's expense and that the irrigation system be designed to be water efficient by a Certified Landscape Irrigation Auditor (CLIA) and constructed with a back flow preventer to the satisfaction of the Commissioner of Works and Emergency Services, including requirements to maintain the entire system in continuing good order and operation.”

Conclusions:

Staff recommend that the City Solicitor be authorized to amend the Section 37 Agreement for provisions relating to the Harbour Street pedestrian bridge, phasing of the development, a daycare centre, and landscaping. To replace the requirement to construct and maintain the Harbour Street pedestrian bridge, public benefits in the form of streetscape improvements on Yonge Street between The Esplanade and Queens Quay are recommended.

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List of Attachments:

Attachment 1: List of Yonge Street Streetscape Improvements from The Esplanade to Queens Quay to be Funded by the Owner of 33 Bay and to Replace the Construction and Maintenance Cost of the Harbour Street Pedestrian Bridge

Attachment 2: Phasing Plan Requirements

Attachment 3: Context Plan

Attachment 4: Site Plan

Attachment 5: Zoning

Attachment 1

List of Yonge Street Streetscape Improvements from The Esplanade to Queens Quay to be Funded by the Owner of 33 Bay and to Replace the Construction and Maintenance Cost of the Harbour Street Pedestrian Bridge

1. Sidewalk lighting on the west and east side of the Yonge Street underpass of the railway (50% contribution to be paid prior to site plan approval).
2. On the east side of Yonge Street, between the north limit of Lake Shore Boulevard and the south limit of the Gardiner Expressway, the same streetscape treatment as the west side of the same section of Yonge Street as per City of Toronto streetscape standards (band of granite pavers, wide concrete sidewalk, bicycle lock ring and posts, trash receptacles, benches, Railway Lands pedestrian lighting and street light standards) and including the following:
 - 200 mm concrete curb;
 - 1.2 metre wide area of granite pavers set on concrete base;
 - 200 mm concrete strip;
 - 5.8 metre wide concrete sidewalk.
 - the remainder of the area under the Gardiner Expressway east of Yonge Street would be covered in river rock.

(funding to be secured as a condition of site plan approval)

3. On the east side of Yonge Street, between the south limit of the Gardiner Expressway and the south limit of Harbour Street, the same streetscape treatment as the west side of the same section of Yonge Street as per City of Toronto streetscape standards (band of granite pavers, double row of trees grouped in beds, wide concrete sidewalk, bicycle lock ring and posts, trash receptacles, benches, Railway Lands pedestrian lighting and street light standards) and including the following:
 - 200 mm concrete curb;
 - 1.2 metre wide area of granite pavers;
 - 200 mm concrete strip;
 - 5.8 metre wide concrete sidewalk and within this area are located pairs of street trees in beds with a minimum width of 1.8 metres and minimum length of 8.4 metres;

- 11.8 metre wide concrete unit paving sidewalk within this area are located pairs of street trees in beds with a minimum width of 3.6 metres and minimum length of 8.4 metres;
- the remainder of the triangle boarded by the south limit of the Gardiner Expressway, Harbour Street and Yonge Street would be covered in sod.
- all guard rails within the areas subject to the streetscape improvements will be removed and replaced with bollards as per City standards.

(funding to be secured as a condition of site plan approval)

4. On the west side of Yonge Street, between the south limit of the Harbour Street and the north limit of Queens Quay, additional street trees grouped in beds and irrigated. Additional street furniture and pedestrian amenities will be discussed with the condominium boards for 10 Yonge Street and 10 Queens Quay.

(funding to be secured as a condition of site plan approval)

Attachment 2

Phasing Plan Requirements

The Phasing Plan will address the following requirements:

- parking labelled and totalled by type (resident, visitor, conference centre, visitors to 10 Yonge Street and 10 Queens Quay, and daycare) and by floor during and after the completion of each phase;
- pedestrian and vehicular access to parking by type and by floor during and after the completion of each phase;
- pedestrian and vehicular signage for parking by type and floor during and after the completion of each phase;
- temporary and permanent on-site landscaping to be completed with each phase;
- off-site landscaping to be completed with each phase;
- easements for public walkways to be established with each phase; and
- elevations of each tower illustrating the built form after the completion of each phase.

The applicant proposes to provide parking spaces for the City-owned conference centre as follows:

Phase	Location
Prior to construction	303 surface parking spaces
During construction of Phase 1	160 surface parking spaces
Completion of Phase 1	160 surface parking spaces and 143 below grade parking spaces
During construction of Phase 2	101 surface parking spaces and 143 below grade parking spaces
Completion of Phase 2	101 surface parking spaces and 202 below grade parking spaces
During construction of Phase 3	202 below grade parking spaces
Completion of Phase 3	303 below grade parking spaces
During construction of Phase 4	303 below grade parking spaces
Completion of Phase 4	303 below grade parking spaces

The Section 37 Agreement assumed that all of the required 303 conference centre parking spaces would be provided in the underground parking area in the first and westerly phase of the

development. Staff recommended that the Section 37 Agreement be amended to address the approved parking phasing for the conference centre.

The applicant proposes to provide 25 visitor parking spaces for the residential condominium towers located at 10 Yonge Street and 10 Queens Quay as follows:

Phase	Location
Prior to construction	50 surface parking spaces
During construction of Phase 1	18 surface parking spaces
Completion of Phase 1	18 surface parking spaces and 32 at-grade covered parking spaces
During construction of Phase 2	11 surface parking spaces and 32 at-grade covered parking spaces
Completion of Phase 2	18 surface parking spaces and 32 at-grade covered parking spaces
During construction of Phase 3	32 at-grade covered parking spaces
Completion of Phase 3	50 at-grade covered parking spaces
During construction of Phase 4	50 at-grade covered parking spaces
Completion of Phase 4	50 at-grade covered parking spaces

The Section 37 Agreement assumed that all of the required visitor parking spaces would be provided in the underground parking area in the first and westerly phase of the development. The Section 37 Agreement requires that the 25 visitor parking spaces for 10 Yonge Street be provided free of charge for 50 years commencing on July 8, 1995. Staff recommended that the Section 37 Agreement be amended to address the approved parking phasing for the surface level and at-grade visitor parking for 10 Yonge Street and 10 Queens Quay.