



**STAFF REPORT
ACTION REQUIRED
with Confidential Attachment**

**25 Queens Quay East – Directions Report Regarding
Appeal of Minor Variance Application No. A0349/07TEY
to the Ontario Municipal Board and Requested
Amendments to Section 37 Agreement and Three Party
Agreement**

Date:	July 15, 2008
To:	City Council
From:	City Solicitor
Wards:	Ward 28
Reason for Confidential Information:	This report contains advice or communications that are subject to solicitor-client privilege.
Reference Number:	

SUMMARY

The purpose of this report is to obtain instructions for an upcoming Ontario Municipal Board hearing and to report on a possible settlement of the appeal to the Ontario Municipal Board of the refusal of the Committee of Adjustment to grant zoning by-law variances with respect to the subject property under application A0349/07TEY. It is a time sensitive matter as the Ontario Municipal Board Hearing is scheduled for July 17 and 18, 2008. The report also addresses the owner's request to amend the Section 37 Agreement and the Three Party Agreement which are registered on title.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the confidential recommendations in Attachment 1; and

2. City Council authorize the public release, at the end of the Council meeting, of the confidential instructions if adopted by Council.

FINANCIAL IMPACT

There is no financial impact resulting from the adoption of this report.

DECISION HISTORY

The Council for the former Corporation of the City of Toronto enacted zoning By-law No. 1996-0483 on October 7, 1996 to permit a mixed use residential/commercial development at 25 Queens Quay East. The by-law was appealed to the Ontario Municipal Board. The Board subsequently approved the by-law on August 5, 2005 pursuant to Decision/Order No. 2058.

The original development allowed by site specific zoning By-law No. 1996-0483 for the site established built form, setbacks, building orientation, phasing, height, density and housing mix. It also provided for Section 37 contributions including park land conveyances, money for park land improvements, the conveyance and construction of a 20 m wide extension of Freeland Street, a minimum 33 space and up to 52 space day care facility, community service and facility space of between 497 and 768 square metres, public art, and noise abatement secured through a Three Party Agreement, securing acceptable noise conditions relating to noise emanating from the adjoining lands owned by Redpath. Some of the key provisions of the by-law that the OMB approved included:

Density:

- maximum non-residential gross floor area of 71,308 square metres
- maximum residential gross floor area of 142,226 square metres
- community services gross floor area of 5,250 square metres

Height:

- maximum height across the site of 44 metres

Parks/Open Space:

- 8,913.5 square metres for parks purposes comprising a 25 metre wide water's edge promenade along the Yonge Street Slip and harbour's edge

Other zoning provisions included the need to prepare a detailed Section 37 Agreement and a Master Concept Plan to include urban design guidelines/phasing/various background studies and reports. The owner was also required to make a payment of \$500,000 for the provision of noise attenuation measures on Redpath prior to the mixed use zoning coming into force.

A site plan approval application was received on April 25, 2002 for 1,291 units with retail/commercial at grade in four buildings to be constructed in four phases. A Section 37 Agreement between Avro Quay limited and the City and a Three Party Agreement

between Avro Quay Limited, Redpath Industries Limited and the City were registered on title on October 25, 2001. Those agreements, the OMB Decision and By-law 1996-0483 outlined the background studies/plans that Avro needed to complete prior to site plan approval. By 2003, Avro had completed all outstanding background materials and site plan approval was granted by the City on October 23, 2003.

In addition, the noise abatement measures required and secured by the Three Party Agreement have since been paid for and installed.

The new owner of the site, Pier 27 Toronto Inc., has proposed changes to the development, including built form changes. The applicant submitted minor variance Application A0349/07/TEY on April 24, 2007 and a Site Plan Approval application in March 2007.

ISSUE BACKGROUND

The new owner of the property wishes to alter the phasing, building mass and architectural design of the approved development. As well the owner proposes changes to certain of the Section 37 public benefits. Two 14 storey, residential condominium buildings are proposed in Phase I. With respect to Phase I, the owner submitted Application No. A0349/07TEY to the Committee of Adjustment for variances to zoning By-law Nos. 1996-0483 and 438-86. The requested variances are set out in the Public Hearing Notice attached to this report as Attachment 2.

The Committee of Adjustment refused the variances and the owner has appealed that refusal to the Ontario Municipal Board. The hearing is scheduled for July 17 and 18, 2008.

The owner has also requested that City Council authorize revisions to the Section 37 Agreement and the Three Party Agreement which are required to implement the proposed, revised development.

COMMENTS

This report provides in the confidential attachment an analysis of the proposed, revised development and the requested amendments to the Section 37 and Three Party Agreements, and makes recommendations for possible settlement.

CONTACT

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SIGNATURE

Anna Kinastowski
City Solicitor

ATTACHMENTS

Attachment 1 – Confidential Recommendations and Confidential Information
Attachment 2 – Public Hearing Notice for Application A0349/07/TEY