

2522 – 2542 Keele Street– Response to Request from Etobicoke York Community Council

Date:	June 22, 2017
To:	Toronto City Council
From:	Chief Planner and Executive Director, City Planning
Wards:	Ward No. 12 – York South-Weston
Reference Number:	P:\2017\Cluster B\PLN\City Council\CC17014

SUMMARY

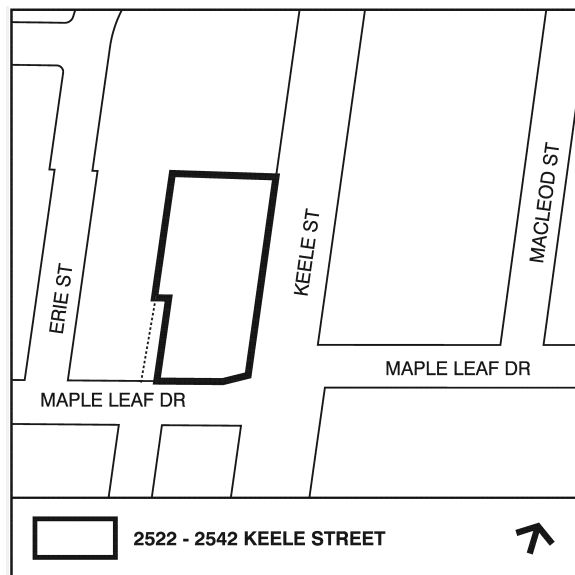
At its meeting of June 13, 2017, Etobicoke York Community Council requested “the Director, Community Planning, Etobicoke York District, to determine whether the March 9, 2017 decision of the Ontario Municipal Board implements a zoning amendment that includes Section 37 public benefits in violation of the Board Order of August 27, 2013, and report directly to City Council for its July 4, 2017 meeting” (EY23.73). This report responds to that request.

Planning staff are of the opinion that the March 9, 2017 Ontario Municipal Board Order is consistent with the August 27, 2013 Decision. This report was reviewed by City Legal staff who concur with its conclusion.

RECOMMENDATION

The Chief Planner and Executive Director, City Planning Division recommends that:

1. City Council receive this report for information.



BACKGROUND

An application to amend the former City of North York Zoning By-law No. 7625 and a related Site Plan Control application to permit a nine-storey, 144 unit mixed use building at 2522-2542 Keele Street were submitted on May 3, 2012.

On April 23, 2013 the applicant appealed both applications to the Ontario Municipal Board citing City Council's failure to make a decision on the applications within the timelines of the *Planning Act*. A hearing date of August 12, 2013 was scheduled by the Board.

Staff prepared a Request for Direction Report that was introduced to City Council by way of Motion (MM 37.67) on July 16, 2013. City Council referred the Motion and the report to Etobicoke York Community Council.

As City Council did not provide instructions for the City Solicitor to attend the hearing, the City was not a party to the hearing. The Board issued its original Decision on August 27, 2013, but withheld the final orders on the Zoning By-law Amendment and Site Plan Control applications pending the finalization of certain outstanding matters and the satisfaction of certain conditions.

The Board allowed the appeals of the Zoning By-law Amendment and the Site Plan. The August 27, 2013 decision contains specific reference to Section 37 community benefits on page 5 of the decision, which states “no s. 37 request has been made and no solicitor appeared on behalf of the City at the hearing. The Board has no jurisdiction to impose such conditions other than those general (non-s. 37) conditions already agreed to by the Applicant. Accordingly, s. 37 benefits will not be attached to the Board’s allowance of the appeals.”

The Board reiterated this position on page 6 where it stated “Note that the Board will not entertain any condition that seeks a s. 37 benefit for the reasons stated.”

The implementing Zoning By-law was finalized and the Board issued a final Order approving the zoning, dated July 22, 2015. In accordance with the August 27, 2013 Board decision, the relevant Zoning By-law (By-law No. 889-2016 (OMB)) does not include any requirement for Section 37 benefits.

A further Board Order of March 9, 2017, provided a final Site Plan Approval. This March 9, 2017 Order was also consistent with the August 27, 2013 Board decision.

CONCLUSION

The March 9, 2017 Ontario Municipal Board Order provides for Site Plan Approval only. The July 22, 2015 Order provides for final zoning approval and the related Zoning By-law, By-law No. 889-2016(OMB), does not include any requirement for Section 37 community benefits. Both final Orders are consistent with (and not in violation of) the August 27, 2013 Ontario Municipal Board Decision.

CONTACT

Neil Cresswell, MCIP, RPP
Director, Community Planning
Etobicoke York District
Tel No.: (416) 394-8211
Fax No.: (416) 394-6063
e-mail: Neil.Cresswell@toronto.ca

SIGNATURE

Jennifer Keesmaat, M.E.S, MCIP, RPP
Chief Planner & Executive Director
City Planning Division