

**STAFF REPORT****67 Morse Street
Committee of Adjustment Application**

Date: November 22, 2018

To: Chair and Committee Members of the Committee of Adjustment, Toronto and East York District

From: Director, Community Planning, Toronto and East York District

Ward: 30, Toronto-Danforth (14, Toronto-Danforth)

File No: B0045/18TEY, A0421/18TEY and A0422/18TEY

Application to be heard: November 28, 2018

RECOMMENDATIONS

Planning staff respectfully recommend the collective refusal of Applications No. B0045/18TEY, A0421/18TEY and A0422/18TEY. However, in the event that the applicant wishes to defer in order to address the concerns set out in this report by way of a revised application, Planning would be supportive of a deferral.

APPLICATION

The applicant is seeking consent to sever the subject property into two undersized residential lots. Additionally, the applicant is seeking relief from the provisions of the applicable zoning by-law to (i) maintain the existing three-storey semi-detached dwelling with two dwelling units and construct a new rear detached garage on the retained lot, and (ii) construct a new three-storey detached dwelling and maintain the existing rear detached garage on the conveyed lot.

Variances are collectively requested with respect to lot frontage, side yard setback, floor space index and soft landscaping.

CONTEXT

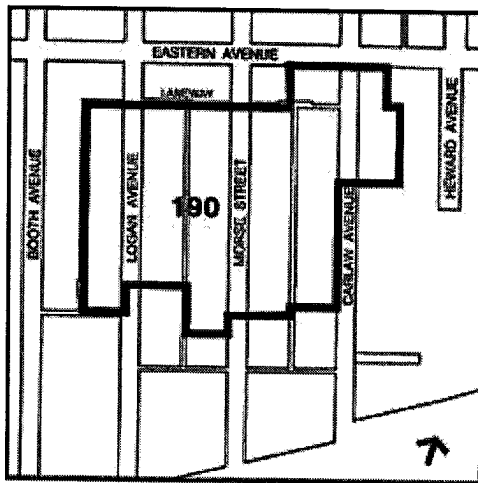
The subject property is located south of Eastern Avenue and west of Carlaw Avenue. The property is zoned R (d0.6) in Zoning By-law 569-2013 of the City of Toronto. The purpose of the zoning by-law is to respect and reinforce a stable built form and to limit the impact of new development on adjacent residential properties.

Notwithstanding the residential zoning designation, the subject property is designated *Core Employment Areas* in the in-force City of Toronto Official Plan (the "**Current OP**"), as amended by Official Plan Amendment 231 ("**OPA 231**").

OPA 231 was adopted by Council in December 2013 and approved by the Minister of Municipal Affairs and Housing in July 2014. Portions of OPA 231 remain under appeal at the Local Planning and Appeal Tribunal (formerly the Ontario Municipal Board). The subject property is not subject to a site- or area-specific appeal to OPA 231.

Policies 4.6.1 and 4.6.14 of the Current OP, as amended by OPA 231, were approved by the Ontario Municipal Board in December 2016 and were in force as of the date of the application. These policies designate the subject property as a *Core Employment Area* and establish the uses permitted in such areas. Specifically, in-force Policy 4.6.1 describes *Core Employment Areas* as places for business and economic activities, with permitted uses including, among others, all types of manufacturing, processing, warehousing, wholesaling, distribution, storage and offices. Residential uses are not among the permitted uses.

The subject property is also subject to Site- and Area-Specific Policy 190 ("**SASP 190**") under the Current OP. SASP 190 is reproduced in its entirety below:



190. 42-120 and 59-125 Logan Avenue, 22-108 and 31-111 Morse Street, 26-88 and 63-103 1/2 Carlaw Avenue and 523-549 Eastern Avenue

Residential uses existing on November 26, 2002 are permitted.

The policy intent of SASP 190 is to recognize those residential uses that existed in the delineated area prior to the specified date as permitted uses within the *Core Employment Area* designation. No new residential uses are permitted, as per in-force Policy 4.6.1 of the Current OP.

Policies 2.2.5.9 and 2.2.5.10 in the Growth Plan for the Greater Golden Horseshoe (2017) (the "**Growth Plan**") only permit municipalities to convert lands within *Employment Areas* to non-employment uses by way of a municipal comprehensive review process and where certain conditions have been fulfilled. This restriction on conversions is further articulated in Policies 2.2.4.9-2.2.4.12 in the Current OP, as amended by OPA 231. While Policies 2.2.4.9-2.2.4.12 of OPA 231 remain under appeal and are not currently in effect, they were adopted by Council and provide policy direction regarding the development of non-employment uses in *Employment Areas*.

Finally, the subject property is located within the boundaries of, and is subject to the terms of, the provincially-identified Lower Don Special Policy Area (the "**Lower Don SPA**"), pursuant to the former City of Toronto Official Plan dated June 1998 (the "**Former OP**") and the Provincial Policy Statement, 2014 (the "**PPS**").

COMMENTS

Planning staff are of the opinion that the effect of the proposed application would be to create a new residential use that did not exist on November 22, 2002 and that falls beyond the scope of SASP 190. As a result, the proposed application is subject to the *Core Employment Areas* policies of the Current OP, as amended by OPA 231, and the Growth Plan. As noted above, both the Growth Plan and the emerging policies set out in OPA 231 preclude any conversions of *Core Employment Areas*-designated lands to other land uses without a municipal comprehensive review.

The proposed application is also subject to those policies of PPS, 2014 and the Former OP applicable to development in the Lower Don SPA. Pursuant to Section 3.1.4 of the PPS, 2014, creating a new lot that changes the land use designations or boundaries applying to SPA lands constitutes "*development*" requiring approval by each of the Minister of Municipal Affairs and Housing and the Minister of Natural Resources.

As a result of the foregoing, Planning staff are of the opinion that the proposed application fails to conform to the Official Plan, as required for a consent by Sections 53(12) and 51(24) of the *Planning Act*, and fails to maintain the general intent and purpose of the Official Plan, as required for a minor variance by Section 45(1) of the *Planning Act*.

CONTACT

Kasia Kmiec, Assistant Planner
Community Planning, Toronto and East York District
416-392-0674
kasia.kmiec@toronto.ca

SIGNATURE



Signed by Kyle Knoeck, Manager, Community Planning on behalf of
Lynda H. Macdonald, MCIP, RPP, OALA
Director, Community Planning, Toronto and East York District

copy: Councillor Paula Fletcher, Ward 30
Tomasz Debowski, Agent
Michael Vaughan, Lawyer