

## **1221 Markham Road, Committee of Adjustment Application**

Date: December 2, 2021

To: Chair and Committee Members of the Committee of Adjustment, Scarborough Panel

From: Director, Community Planning, Scarborough District

Wards: Scarborough-Guildwood

**File Number: A0347/21SC**

**Hearing Date: December 8, 2021**

### **RECOMMENDATIONS**

---

Community Planning recommends that the Committee of Adjustment **refuse** the subject minor variance application.

### **SUMMARY**

---

The purpose of the application is to enable construction of a mixed-use development consisting of three residential towers having heights of 21, 27 and 30 storeys and comprising 879 dwelling units in total.

### **REQUESTED VARIANCES TO THE ZONING BY-LAW**

---

1. Performance Standard 180, Zoning By-law 1000-2011(OMB)  
The maximum height of any building, excluding permitting projections, on "Block A", as shown on Schedule '1', shall not exceed 77 m.

In this case, the height of the building on "Block A", as shown on Schedule '1', will be 97.6 m (calculated from Canadian Geodetic Elevation of 159.044 m).

2. Performance Standard 181, Zoning By-law 1000-2011(OMB)  
The maximum height of any building on "Block B", as shown on Schedule '1', shall not exceed 62 m.

In this case, the height of the building on "Block B", as shown on Schedule '1', will be 69.1 m (calculated from Canadian Geodetic Elevation of 159.044 m).

3. Performance Standard 182, Zoning By-law 1000-2011(OMB)  
The maximum height of any building on "Block C", as shown on Schedule '1', shall not exceed 80 m.

In this case, the height of the building on "Block C", as shown on Schedule '1', will be 87.1 m (calculated from Canadian Geodetic Elevation of 159.044 m).

4. Performance Standard 183, Zoning By-law 1000-2011(OMB)  
Mechanical penthouses, elevator machine rooms, chimneys, vents, skylights, antennae, and parapet walls located on any building on "Block A", "Block B", and "Block C", as shown on Schedule '1', shall not exceed a height of 5 m.

In this case, mechanical penthouses, elevator machine rooms, chimneys, vents, skylights, antennae, and parapet walls located on any building on "Block A", "Block B", and "Block C", as shown on Schedule '1', will not exceed a height of 9 m.

5. Performance Standard 184, Zoning By-law 1000-2011(OMB)  
The distance between the main wall of the building on "Block B" to a main wall of the building on "Block C", as shown on Schedule '1', shall be a minimum of 14 m.

In this case, the distance between the main walls of the building on "Block B" to the main walls of the building on "Block C", as shown on Schedule '1', will be 0 m at the 1st storey to the 4th storey above grade.

6. Performance Standard 185, Zoning By-law 1000-2011(OMB)  
For a building with 20 or more units on lands identified as "Block A", "Block B" and "Block C", as shown on Schedule '1', indoor and outdoor amenity space shall be provided at a minimum rate of 4 m<sup>2</sup> per unit for each dwelling unit, of which a minimum of 2 m<sup>2</sup> per unit must be provided as indoor amenity space.

In this case, indoor amenity space will be provided at a minimum rate of 1.72 m<sup>2</sup> per unit for all buildings on lands identified as "Block A", "Block B" and "Block C", as shown on Schedule '1', 1.92 m<sup>2</sup> per unit for all buildings on lands identified as "Block A", as shown on Schedule '1', and 1.09 m<sup>2</sup> per unit for all buildings on lands identified as "Block B", as shown on Schedule '1'. Indoor and outdoor amenity space will be provided at a minimum rate of 3.65 m<sup>2</sup> per unit for all buildings on lands identified as "Block C", as shown on Schedule '1'.

7. Performance Standard 186, Zoning By-law 1000-2011(OMB)  
The combined lot area of the lands identified as "Block A", "Block B" and "Block C", as shown on Schedule '1', shall not exceed 13,940 m<sup>2</sup>.

In this case, the combined lot area of the lands identified as "Block A", "Block B" and "Block C", as shown on Schedule '1', will be 13,946.8 m<sup>2</sup>.

8. Performance Standard 218, Zoning By-law 1000 2011(OMB)

The gross floor area for "Block A", "Block B" and "Block C", as shown on Schedule '1', shall not exceed 62,165 m<sup>2</sup>.

In this case, the gross floor area for "Block A", "Block B" and "Block C", as shown on Schedule '1', will be 75,760 m<sup>2</sup>.

9. Performance Standard 219, Zoning By-law 1000-2011(OMB)  
The gross floor area of all buildings on lands identified as "Block A", as shown on Schedule '1', shall not exceed 26,556 m<sup>2</sup>, of which the total maximum gross floor area of all retail and office uses shall not exceed 720 m<sup>2</sup>.  
In this case, the gross floor area of all buildings on lands identified as "Block A", as shown on Schedule '1', will be 30,309.0 m<sup>2</sup>, of which 865.4 m<sup>2</sup> will be used for retail and office uses.
10. Performance Standard 220, Zoning By-law 1000-2011(OMB)  
The gross floor area of all buildings on lands identified as "Block B", as shown on Schedule '1', shall not exceed 15,844 m<sup>2</sup>.  
  
In this case, the gross floor area of all buildings on lands identified as "Block B", as shown on Schedule '1', will be 19,787 m<sup>2</sup>.
11. Performance Standard 221, Zoning By-law 1000-2011(OMB)  
The gross floor area of all buildings on lands identified as "Block C", as shown on Schedule '1', shall not exceed 19,766 m<sup>2</sup>.  
  
In this case, the gross floor area of all buildings on lands identified as "Block C", as shown on Schedule '1', will be 25,664 m<sup>2</sup>.
12. Performance Standard 222, Zoning By-law 1000-2011(OMB)  
The maximum number of dwelling units shall not exceed 733 for lands identified as "Block A", "Block B" and "Block C", as shown on Schedule '1'.  
  
In this case, the number of dwelling units will be 879 for lands identified as "Block A", "Block B" and "Block C", as shown on Schedule '1'.
13. Performance Standard 223, Zoning By-law 1000-2011(OMB)  
The total lot coverage of all buildings on lands identified as "Block A", "Block B" and "Block C", as shown on Schedule '1', shall not exceed 38% of the total combined area of "Block A", "Block B" and "Block C".  
  
In this case, the lot coverage of all buildings on lands identified as "Block A", "Block B" and "Block C", as shown on Schedule '1', will be 45.1%.
14. Performance Standard 225, Zoning By-law 1000-2011(OMB)  
The floor area of the 6th storey of a building on lands identified as "Block A", as shown on Schedule '1', shall be a maximum 975 m<sup>2</sup> per floor from the 6th storey to the 7th storey.

In this case, the floor area of the 6th storey will be 1,785.3 m<sup>2</sup> for a building on

lands identified as "Block A", as shown on Schedule '1'.

15. Performance Standard 228, Zoning By-law 1000-2011(OMB)  
The main building setbacks from the Markham Road street line on lands identified as "Block A", as shown on `Schedule 1', shall be a minimum of 3 m at the 1st storey to the 2nd storey and 5 m at the 3rd storey to the 25th storey above grade.

In this case, the main wall building setbacks from the Markham Road Street line on lands identified as "Block A", as shown on Schedule '1', will be 5 m at the 3rd storey to the 6th storey and 10 m at the 7th storey to the 25th storey and above.

16. Performance Standard 229, Zoning Bylaw 1000-2011(OMB)  
The main building setbacks from the Markham Road street line on lands identified as "Block B", as shown on Schedule '1', shall be a minimum of 78 m at the 1st storey to the 5th storey and 81 m at the 6th storey to the 20th storey, above grade.

In this case, the main wall building setbacks from the Markham Road street line on lands identified as "Block B", as shown on Schedule '1', will be 70.1 m at the 1st storey to the 4th storey and 72.3 m at the 5th storey to the 20th storey and above, above grade.

17. Performance Standard 230, Zoning Bylaw 1000-2011(OMB)  
The main building setbacks from the Markham Road street line on lands identified as "Block C", as shown on Schedule '1', shall be a minimum of 130 m at the 1st storey to the 5th storey, above grade and 133 m at the 6th storey to the 26th storey, above grade.

In this case, the main wall building setbacks from the Markham Road street line on lands identified as "Block C", as shown on Schedule '1', will be 124.5 m at the 1st storey to the 5th storey, above grade and 133 m at the 6th storey to the 26th storey and above.

18. Performance Standard 231, Zoning Bylaw 1000-2011(OMB)  
The main wall building setbacks from the north lot line on lands identified as "Block A", as shown on Schedule '1', shall be a minimum of 9 m at the 3rd storey to the 5th storey and 26 m at the 6th storey to the 25th storey above grade.

In this case, the main wall building setbacks from the north lot line on lands identified as "Block A", as shown on Schedule '1', will be 9 m at the 3rd storey to the 6th storey and 26 m at the 7th storey to the 25th storey and above, above grade.

19. Performance Standard 232, Zoning Bylaw 1000-2011(OMB)  
The main wall building setbacks from the north lot line on lands identified as "Block B", as shown on Schedule '1', shall be a minimum of 15 m at the 1st storey to the 5th storey and 16 m at the 6th storey to the 20th storey, above grade.

In this case, the main wall building setbacks from the north lot line on lands identified as "Block B", as shown on Schedule '1', will be 9.8 m at the 1st storey to the 4th storey and 13.3 m at the 5th storey to the 20th storey and above, above grade.

20. Performance Standard 233, Zoning Bylaw 1000-2011(OMB)  
The main wall building setbacks from the north lot line on lands identified as "Block C", as shown on Schedule '1', shall be a minimum of 47 m at the 1st storey to the 5th storey and 50 m at the 6th storey to the 26th storey, above grade.

In this case, the main wall building setbacks from the north lot line on lands identified as "Block C", as shown on Schedule '1', will be 21.8 m at the 1st storey to the 4th storey and 46.6 m at the 5th storey to the 26th storey and above, above grade.

21. Performance Standard 234, Zoning Bylaw 1000-2011(OMB)  
The main wall building setbacks from the south lot line on lands identified as "Block A", as shown on Schedule '1', shall be a minimum of 21 m at the 1st storey to the 2nd storey, 22 m at the 3rd storey to the 5th storey and 33 m at the 6th storey to the 25th storey, above grade.

In this case, the main wall building setbacks from the south lot line on lands identified as "Block A", as shown on Schedule '1', will be 3 m at the 1st storey to the 2nd storey, 4 m at the 3rd storey to the 6th storey and 8.5 m at the 7th storey to the 25th storey and above, above grade.

22. Performance Standard 235, Zoning Bylaw 1000-2011(OMB)  
The main wall building setbacks from the south lot line on lands identified as "Block B", as shown on Schedule '1', shall be a minimum of 55 m at the 1st storey to the 5th storey and 56 m at the 6th storey to the 20th storey, above grade.

In this case, the main wall building setbacks from the south lot line on lands identified as "Block B", as shown on Schedule '1', will be 37.6 m at the 1st storey to the 4th storey and 41.5 m at the 5th storey to the 20th storey and above, above grade.

23. Performance Standard 236, Zoning Bylaw 1000-2011(OMB)  
The main wall building setbacks from the south lot line on lands identified as "Block C", as shown on Schedule '1', shall be a minimum of 22 m at the 1st storey to the 5th storey and 24 m at the 6th storey to the 26th storey, above grade.

In this case, the main wall building setbacks from the south lot line on lands identified as "Block C", as shown on Schedule '1', will be 4 m at the 1st storey to the 4th storey and 8.5 m at the 5th storey to the 26th storey and above, above grade.

24. Performance Standard 237, Zoning Bylaw 1000-2011(OMB)  
The main wall building setbacks from the east lot line on lands identified as "Block A", as shown on Schedule '1', shall be a minimum of 133 m at the 1st storey to the 5th storey and 152 m at the 6th storey to the 25th storey, above grade.

In this case, the main wall building setbacks from the east lot line on lands identified as "Block A", as shown on Schedule '1', will be 127 m at the 1st storey to the 6th storey and 129.4 m at the 7th storey to the 25th storey and above, above grade.

25. Performance Standard 238, Zoning Bylaw 1000-2011(OMB)  
The main wall building setbacks from the east lot line on lands identified as "Block B", as shown on Schedule '1', shall be a minimum of 74 m at the 1st storey to the 5th storey and 77 m at the 6th storey to the 20th storey, above grade.

In this case, the main wall building setbacks from the east lot line on lands identified as "Block B", as shown on Schedule '1', will be 46 m at the 1st storey to the 4th storey and 67.9 m at the 5th storey to the 20th storey and above, above grade.

26. Performance Standard 239, Zoning Bylaw 1000-2011(OMB)  
The main wall building setbacks from the east lot line on lands identified as "Block C", as shown on Schedule '1', shall be a minimum of 22 m at the 1st storey to the 5th storey and 25 m at the 6th storey to the 26th storey, above grade.

In this case, the main wall building setbacks from the east lot line on lands identified as "Block C", as shown on Schedule '1', will be 4.8 m at the 1st storey to the 4th storey and 6.5 m at the 5th storey to the 26th storey and above, above grade.

27. Performance Standard 241, Zoning By-law 1000-2011(OMB)  
The vehicle parking supply shall be provided on "Block A", "Block B" and "Block C", as shown on Schedule '1', in accordance with the following:
- i) a minimum of 0.9 spaces for each one-bedroom dwelling unit, except that no resident parking spaces are required for a maximum of 60 one-bedroom dwelling units;
  - ii) a minimum of 1.0 spaces for each two-bedroom dwelling unit;
  - iii) a minimum of 1.2 spaces for each three-bedroom dwelling unit;
  - iv) a minimum of 0.2 spaces for each dwelling unit provided for visitors; and,
  - v) a minimum of 1.5 parking spaces per 100 m<sup>2</sup> of retail and office gross floor area.

In this case, the proposed vehicle parking supply may be provided anywhere on the lands identified as "Block A", "Block B" and "Block C", as shown on Schedule '1', in accordance with the following:

- i) a minimum of 0.7 spaces for each one-bedroom dwelling unit;
- ii) a minimum of 0.9 spaces for each two-bedroom dwelling unit;
- iii) a minimum of 1.0 spaces for each three-bedroom dwelling unit;
- iv) a minimum of 0.1 spaces for each dwelling unit provided for visitors; and,
- v) a minimum of 9 parking spaces for the retail and office gross floor area.

28. Exception 73, Clause 4(ii)(d), Zoning By-law 1000-2010(OMB)

The Section 37 Agreement will require that the owner to agree to enter into the City's standard service agreement in respect of the public roads, which agreement shall provide that the roads be substantially completed to base asphalt to the satisfaction of the Executive Director of Technical Services, prior to the issuance of the first building permit for the proposed redevelopment of the Site (excluding demolition permit).

In this case, the Section 37 Agreement shall secure construction and conveyance of the public roads, and shall provide that prior to the issuance of any above-grade building permit for the proposed redevelopment of the Site (i) the roads be substantially completed to base asphalt, (ii) the roads be conveyed to the City, and (iii) services be accepted, all to the satisfaction of the Chief Engineer & Executive Director of Engineering and Construction Services.

## **COMMENTS**

---

The subject property has a rather unique zoning framework established by the former Ontario Municipal Board (now Ontario Land Tribunal) in 2011. As illustrated on Figure 1: Zoning Schedule '1' - By-law 1000-2011(OMB) attached to this report, in the absence of an actual draft plan of subdivision application the subject lands were treated as four distinct blocks. Blocks A, B and C (as also referenced in the subject application) were delineated to accommodate three individual, slightly staggered apartment buildings from front to rear, with Block 4 intended to accommodate a new 18.5 metre wide public street off Markham Road as contemplated under the City's 2009 Markham-Ellesmere Revitalization Study.

The 2011 by-law established specific development standards for such matters as building setbacks, heights, gross floor areas, building coverages, etc. that were based on the previous owner's relatively conceptual site plans. Where other zoning by-law amendments would have typically created three separate zones on this property, these new development standards were applied to the entire site while variously referencing both each building individually by block and in some cases as collective standards as well. Planning staff note that the number of variances now requested under the subject application is largely a reflection of this current rather complex zoning framework, since filing three separate applications (each seeking far fewer variances individually) was not otherwise an available option.

The current owner of the subject property has now significantly advanced previous site planning through site plan application (file number 20 171710 ESC 24 SA) that currently remains under City review. Many of the minor variances now requested by the owner reflect multiple planning and urban design discussions with, and particular suggestions

made by, City staff to date. This includes a City proposal that Buildings B and C should be connected by a new common shared podium base building, which in itself gives rise to a number of requested variances that City Planning can support.

The above OMB decision and resulting zoning by-law amendment from 2011, however, also specified that the increase in height and density was permitted in return for the owner providing, prior to the first building permit for any phase of development, \$440,000 toward community benefits under Section 37 of the *Planning Act*. As there was no draft plan of subdivision otherwise involved, requirements for the owner's construction of the new public street and timing for its conveyance to the City were also secured through the resulting Section 37 agreement as a legal convenience as well.

Under the existing registered Section 37 agreement the above noted monies (\$240,000.00 allocated to improvements to Woburn Park, and \$200,000.00 allocated to improvements to the Scarborough Animal Shelter and/or streetscape improvements to public roads in the vicinity of the site) are to be provided prior to issuance of the first building permit for any phase of construction. These amounts are also required to be indexed in accordance with the Statistics Canada Non-Residential Construction Price Index from the date the 2011 Zoning Bylaw amendment came into full force and effect to the date they're collected. Given the index as of the third quarter of 2021, the original \$440,000 would amount to approximately \$618,874 if collected today. Planning staff are of the opinion that even as indexed, these decade-old obligations already fail to adequately reflect contemporary needs in this community at a rate comparable to other more recent development approvals and Section 37 contributions in this same area.

The current application is now seeking additional density increases of approximately 20% in the number of permitted dwelling units (from 733 units in 2011 to 879 units) and approximately 21.9% in gross floor area (from 62,165 square metres overall in 2011 to 75,760 square metres). Accordingly, a requirement for provision of further increased community benefits associated with such increased density is a very appropriate planning consideration.

Unfortunately Planning staff are not currently in a position to suggest what level of additional community benefit contributions would represent an appropriate exchange for the building heights and development densities now proposed. Further input in this regard from the Ward Councillor is also necessary, as is ultimately City Council approval of any adjusted financial amounts, their intended purposes and authorization for the City entering an amended Section 37 agreement that would be required.

Requested variance 28 above also proposes to alter the owner's current Section 37 obligations for the construction and conveyance of the new public street to the City, as has been discussed extensively by the owner with City Engineering & Construction Services and Transportation Services staff. Community Planning staff conclude, however, that this requested variance represents a material and substantive change to the intent of both current zoning requirements and the associated Section 37 agreement. Planning staff conclude that this particular variance is therefore not appropriate for consideration by Committee of Adjustment and is more properly a matter to be considered by City Council by way of formal application to amend the zoning by-law.



In addition to fulsome consideration of the proposed section 37 changes relating to the new public street, a rezoning application would also afford City staff and the Ward Councillor improved opportunity for additional community consultation on the increased building heights, increased density and altered development standards being proposed, together with discussion on appropriate new community benefits. A new by-law amendment would also enable updated development standards using simplified language than that utilized in the majority of the individual variances currently proposed, to provide greater clarity and certainty for future zoning interpretation

On the basis of the foregoing, Community Planning staff conclude that the requested variances collectively more properly constitute a rezoning application requiring City Council's consideration, and therefore recommend that the Committee of Adjustment **refuse** the subject application.

## **CONTACT**

---

Rod Hines, Principal Planner  
Tel: 416-396-7020  
Email: [rod.hines@toronto.ca](mailto:rod.hines@toronto.ca)

## **SIGNATURE**

---



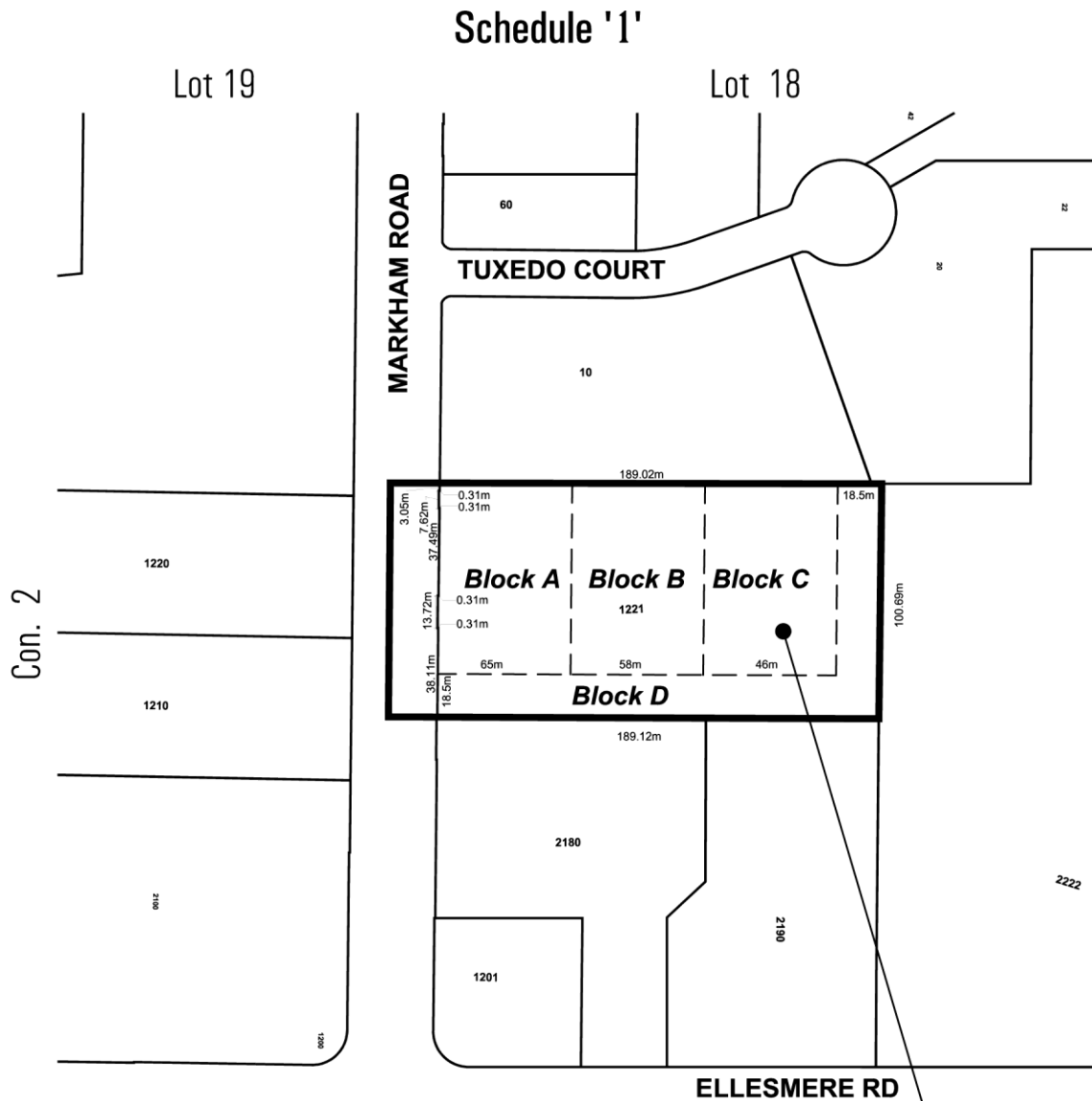
Signed by Paul Zuliani, Director, Community Planning, Scarborough District.

## **ATTACHMENTS**

---

Figure 1: Zoning Schedule '1' - By-law 1000-2011(OMB)

Figure 1: Zoning Schedule '1' - By-law 1000-2011(OMB)



A-179-180-181-182-183-184-185-186-187-188-218-219-  
 220-221-222-223-224-225-226-227-228-229-230-231-232-  
 233-234-235-236-237-238-239-240-241-242-243-244

**TORONTO** City Planning Division  
**Zoning By-Law Amendment**

1221 Markham Road  
 File # 07 288612 ESC 38 0Z

 Area Affected By This By-Law

Woburn Community  
 Not to Scale  
 03/03/011