

Date: November 2, 2023

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

From: Michael Mizzi, Director, Community Planning, Etobicoke York District

Ward: 3 (Etobicoke-Lakeshore)

File No: A0269/23EYK

Address: 8-26 Jopling Avenue South

Application to be heard: November 9, 2023

RECOMMENDATIONS

1. Should the Committee choose to approve minor variance 6, staff recommend that the variance be corrected and revised to read as follows to be consistent with the Zoning Waiver submitted by the applicant:

The maximum permitted Gross Floor Area of all building and structures on the land shall not exceed 51,100 m², of which the residential gross floor area shall not exceed 50,500 m², and the minimum non-residential gross floor area shall be 900 m² and the maximum non-residential shall not exceed 950 m².

The maximum proposed Gross Floor Area of all building and structures on the land shall not exceed 53,600 m², of which the residential gross floor area shall not exceed 52,600 m². The minimum non-residential gross floor area shall be 450 m² in Area A and 450 m² in Area B on the revised Schedule B, and the maximum nonresidential shall not exceed 950 m².
2. Should the Committee choose to approve minor variances 3, 4, 5, 6 and 7, staff recommend that prior to issuance of the first above-grade building permit, the owner shall enter into an agreement pursuant to Section 45(9) of the *Planning Act* and make a cash contribution to the City in the amount of \$484,500 by certified cheque payable to the Treasurer, City of Toronto, to be allocated at the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor, toward capital improvements in the area within the Ward, and the cash contribution shall be indexed upwardly in accordance with the Statistics Canada Non-Residential Building Construction Price Index for Toronto Census Metropolitan area, reported quarterly by Statistics Canada in Building Construction Price Indexes Table: 18-10-0135-10, or its successor, calculated from the date of execution of the Section 45(9) Agreement to the date of payment; and
3. Should the Committee choose to approve variance 8 for a reduction in outdoor amenity space, staff recommend that the request to reduce the total amenity

space from 4.0 to 3.9 square metres per dwelling unit be refused.

APPLICATION

To construct a mixed-use development consisting of a 29-storey tower and a 38-storey tower connected by a six-storey base with amenity space above.

REQUESTED VARIANCE(S) TO THE ZONING BY-LAW:

1. Section 3.4, By-law 187-2022

"Bicycle Parking Space - Visitor" are not specifically permitted to be located in a Stacked Bicycle Parking position.

"Bicycle Parking Spaces - Visitor" may be located in a Stacked Bicycle Parking position, with the minimum vertical clearance for each bicycle parking space being at least 2.5 m, with a horizontal dimension of at least 1.85 m in length and 0.45 m in width.

2. Section 3.13, By-law 187-2022

"Privately Owned Publicly Accessible Space" or "POPS" means a landscaped area as shown on Schedule B attached, which is open and accessible to the public.

"Privately Owned Publicly Accessible Space" or "POPS" means a landscaped area as shown on Schedule B attached, which is open and accessible to the public except when required for construction staging on a temporary basis.

3. Section 5.4, By-law 187-2022

The Height of any building or structure, as measured from Grade to the top of slab does not exceed the Height in m specified by the numbers following the symbol H and the permitted maximum number of storeys is the numerical value followed by the letters "ST" shown on Schedule B.

The Height of any building or structure, as measured from Grade to the top of slab does not exceed the Height in m specified by the numbers following the symbol H and the permitted maximum number of storeys is the numerical value followed by the letters "ST" shown on the revised Schedule B.

4. Section 5.6, By-law 187-2022

Notwithstanding Section 5.4 of By-law 187-2022, the following building elements and structures may exceed the permitted maximum heights shown on Schedule B:

- (i) equipment used for the functional operation of the building including electrical, utility, mechanical and ventilation equipment, lightning rods, enclosed stairwells, roof access, maintenance equipment, storage, elevator shafts, elevator overrun, chimneys, vents and water supply facilities may project above the height limits to a maximum of 6 m;
- (ii) structures that enclose, screen or cover the equipment, structures and parts of a building listed in 5.5(i) and 5.5(ii) above, inclusive of a

mechanical penthouse and Indoor Amenity Space and Outdoor Amenity Space, may project above the height limits to a maximum of 6 m;

(iii) pools, hot-tubs, open-air recreation, trellises, pergolas, and unenclosed structures providing safety or wind protection to rooftop Outdoor Amenity Space may project above the height limits to a maximum of 3 m; and

(iv) roof eaves, roof access, window sills, railings, cornices, guard rails, balustrades, guards, guardrails, window washing equipment, balconies, bay windows, doors, canopies, wheelchair and covered ramps, parapets, awnings, skylights, architectural and ornamental features, public art features, satellite dishes, screens, antennae, flag poles, lighting fixtures, fences, landscape features and seating areas, elements and structures associated with a green roof, retaining walls, ramps to an underground garage, may project above the height limits to a maximum of 6 m.

Notwithstanding Section 5.4 of By-law 187-2022, the following building elements and structures may exceed the permitted maximum heights shown on the Revised Schedule B:

- (i) equipment used for the functional operation of the building including electrical, utility, mechanical and ventilation equipment, lightning rods, enclosed stairwells, roof access, maintenance equipment, storage, elevator shafts, elevator overrun, chimneys, vents and water supply facilities may project above the height limits to a maximum of 6 m;
- (ii) structures that enclose, screen or cover the equipment, structures and parts of a building listed in 5.5(i) and 5.5(ii) above, inclusive of a mechanical penthouse and Indoor Amenity Space and Outdoor Amenity Space, may project above the height limits to a maximum of 6 m;
- (iii) pools, hot-tubs, open-air recreation, trellises, pergolas, and unenclosed structures providing safety or wind protection to rooftop Outdoor Amenity Space may project above the height limits to a maximum of 3 m; and
- (iv) roof eaves, roof access, window sills, railings, cornices, guard rails, balustrades, guards, guardrails, window washing equipment, balconies, bay windows, doors, canopies, wheelchair and covered ramps, parapets, awnings, skylights, architectural and ornamental features, public art features, satellite dishes, screens, antennae, flag poles, lighting fixtures, fences, landscape features and seating areas, elements and structures associated with a green roof, retaining walls, ramps to an underground garage, may project above the height limits to a maximum of 6 m.

5. Section 5.8, By-law 187-2022

Notwithstanding Section 5.4 of By-law 187-2022, no portion of a building or structure shall be higher than the horizontal distance from any Residential zone to any portion of the building or structure. Additionally, no building or structure may penetrate a 45-degree angular plane as measured at a line parallel to and at a height of 70 m above the north lot line of the subject property.

A building or structure may be higher than the horizontal distance from any

Residential zone to any portion of the building or structure, and a building or structure may penetrate a 45-degree angular plane as measured at a line parallel to and at a height of 70 m above the north lot line of the subject property, so long as the height does not exceed the height in m specified by the numbers following the symbol H shown on the revised Schedule B.

6. Section 6.1, By-law 187-2022

The maximum permitted Gross Floor Area of all building and structures on the land shall not exceed 51,100 m², of which the residential gross floor area shall not exceed 50,500 m², and the minimum non-residential gross floor area shall be 900 m² and the maximum non-residential shall not exceed 950 m².

The maximum proposed Gross Floor Area of all building and structures on the land shall not exceed 55,750 m², of which the residential gross floor area shall not exceed 54,811 m². The minimum non-residential gross floor area shall be 450 m² in Area A and 450 m² in Area B on the revised Schedule B, and the maximum nonresidential shall not exceed 950 m².

7. Section 7.1, By-law 187-2022

The maximum number of dwelling units permitted on the Lands is 688.

The maximum number of dwelling units proposed on the Lands is 750.

8. Section 8.1, By-law 187-2022

Resident amenity space shall be provided at a minimum rate of 4.0 m² for each dwelling unit, of which:

- (i) at least 2.0 m² for each dwelling unit is Indoor Amenity Space;
- (ii) at least 2.0 m² for each dwelling unit is Outdoor Amenity Space;
- (iii) at least 40.0 m² is Outdoor Amenity Space in a location adjoining or directly accessible to the Indoor Amenity Space; and
- (iv) no more than 25% of the Outdoor Amenity Space may be a green roof that is accessible by the residents.

Resident amenity space shall be provided at a minimum rate of 3.9 m² for each dwelling unit, of which:

- (i) at least 2.0 m² for each dwelling unit is Indoor Amenity Space;
- (ii) at least 1.9 m² for each dwelling unit is Outdoor Amenity Space;
- (iii) at least 40.0 m² is Outdoor Amenity Space in a location adjoining or directly accessible to the Indoor Amenity Space; and
- (iv) no more than 25% of the Outdoor Amenity Space may be a green roof that is accessible by the residents.

9. Section 9.1, By-law 187-2022

A minimum of 0.50 parking spaces per dwelling unit are required for Residential occupants.

A minimum of 0.35 parking spaces per dwelling unit are proposed for Residential occupants, and maximum parking rates are proposed as follows:

- (i) 0.8 parking spaces is proposed for each bachelor dwelling unit up to 45 m².
- (ii) 1.0 parking space for each bachelor dwelling unit greater than 45 m².

- (iii) 0.9 parking spaces is proposed for each one bedroom dwelling unit.
- (iv) 1.0 parking spaces is proposed for each two-bedroom dwelling unit.
- (v) 1.2 parking spaces is proposed for each three or more bedroom dwelling unit.

10. Section A, By-law 320-19

Handicapped automobile parking space(s) shall be located as close as practical to the principal entrance(s) of a building.

Handicapped automobile parking space(s) are proposed be located at least 25.0 m to the principal entrance(s) of a building.

COMMENTS

Official Plan and Zoning

The subject site is located within the Etobicoke Centre Secondary Plan (Secondary Plan) and is designated *Mixed Use Areas* on Map 15 in the Toronto Official Plan and *Mixed Use Areas A* on Map 12-5 of the Secondary Plan. The site is zoned as EC 2 in the Etobicoke Code and is subject to site-specific Zoning By-law 187-2022.

Site History

The site is located on the west side of Jopling Avenue South, between Bloor Street West and Dundas Street West.

A Zoning By-law Amendment application (File 19 252405 WET 03 OZ) was submitted for the site on November 22, 2019, and site-specific Zoning By-law 187-2022 amending the Etobicoke Zoning Code and By-law 1088-2002 was enacted and passed on March 9, 2022. The City Council decision can be found here:

<https://secure.toronto.ca/council/agenda-item.do?item=2022.EY29.1>

There is an active Site Plan Control application (File 23 138662 WET 03 SA) for the site.

Application Review

City Planning staff have advised that a Zoning By-law Amendment application is more appropriate for what the applicant seeks, in terms of a review process; however, City Planning staff have reviewed the minor variances application and supporting materials. Based on this review, staff have no objections to variances 1, 2, 9 and 10. However, staff do have concerns with variances 3, 4, 5, 6, 7 and 8, relating to the proposed increase in height and gross floor area; and the reduction in amenity space.

Height and Massing (Variances 3, 4 and 5)

Prior to the 2022 Zoning By-law Amendment application, the site was zoned for a mid-rise built form given that the site is on the perimeter of the Centre, abutting *Neighbourhoods*. Since the site is (1) in close proximity to higher order transit, (2) adjacent to taller buildings and (3) the *Neighbourhoods* to the west is separated by a

utility corridor, a taller than the as-of-right permission proposal was considered provided that the development could demonstrate consistency with the policy objectives in the Official Plan, Secondary Plan, and applicable guidelines, including the provision of an appropriate transition to the lower-scale surrounding context. The table below summarizes the details of the original Zoning By-law Amendment (ZBA) in June 2020, the approved Zoning By-law Amendment (By-law 187-2022), and the proposed minor variance request.

	Original ZBA (June 2020)	Approved ZBA (March 2022)	Proposed minor variances	Proposed increase from approved ZBA
Height (not including mechanical penthouse)	35 (115 m) and 38 storeys (124 m)	27 (84 m) and 33 storeys (104 m)	29 (91.4 m) and 38 storeys (118.4 m)	2 (5 m) and 5 storeys (15 m)
Gross floor area	57,052 m ²	51,100 m ²	53,600 m ²	4,650 m ²
Floor space index	12.7	11.3	11.9	0.6
Number of units	750	688	750	62
Parking spaces	438	422	263	-159

The approved heights in By-law 187-2022 with the northern tower at 27 storeys (84.4 metres) and the southern tower at 33 storeys (103.6 metres) was supported by staff as the towers would fit within two angular planes, ensuring an appropriate transition in scale:

- a 45-degree plane measured from the lower-scale neighbourhood west of the site and abutting Hydro corridor; and
- a 45-degree angular plane measured from the sidewalk on the north side of Bloor Street West.

These two angular planes ensure previously approved proposal provides adequate transition between the new development and the lower-scale neighbourhood residential properties to the west and the pedestrian scale height main street buildings along Bloor Street West in accordance with the Official Plan policies and design guidelines.

The proposed variances 3, 4 and 5 to increase the proposed tower heights would penetrate the angular plane and cast additional shadows on the north side of Bloor Street West. Given that the site previously only had permissions for a mid-rise building form with maximum height of 24 metres, the currently proposed tower heights of 29 storeys (91.4 metres) and 38 storeys (118.4 metres) would not have been supported through Zoning By-law Amendment process.

Increase in Units and Gross Floor Area (Variance 6 and 7)

Variance 6 proposes to increase the total permitted gross floor area from 51,100 square metres to 53,600 square metres, an increase of 2500 square metres, of which 2100 square metres is residential gross floor area. This represents a 4 percent increase in total gross floor area. The current permitted number of units on the site is 688. Variance 7 is requesting increase the permitted units to 750, an increase of 62 units (9 percent). Staff have concerns regarding the proposed increase in gross floor area and units given the associated height increase because it would result in net increase of shadows on the public realm.

The minimum non-residential gross floor area requirement is proposed to remain at minimum 900 square metres and not exceeding 950 square metres. The variance is asking to permit the phasing of the minimum non-residential gross floor area with 450 square metres provided in the first phase of the project and 450 square metres to be provide in the second phase of the project. Staff have no concerns related to the phasing of the non-residential space.

Section 45(9)

Through the Zoning By-law Amendment application, a Section 37 Agreement was executed to secure a 467 square metre Community Agency Space, \$560,000 for future capital improvements to the Community Agency Space; and a cash contribution in the amount of \$1,440,000 to be allocated at the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor, toward capital improvements for one or more of the following capital improvements within the ward:

- a) Hydro corridor multi-use trail (Bloor-Kipling - Burnhamthorpe);
- b) Public art, streetscape improvements and enhanced pedestrian and cycling connections;
- c) Local parks; and
- d) Local not-for-profit childcare.

Should the Committee choose to approve variances 3, 4, 5, 6 and 7 to further increase the height and density permissions, staff recommend that an additional cash contribution in the amount of \$484,500 to be secured and allocated at the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor, toward capital improvements within the Ward.

Amenity Space (Variance 8)

The applicant is proposing to increase the amount of indoor amenity space provided in the previously approved application to correspond to the proposed increase in dwelling units. However, there are site constraints to adding more outdoor amenity space, thus the applicant has requested to permit an outdoor amenity space rate of 1.9 square metres per unit instead of the required 2.0 square metres per unit. This would also result in a total amenity space rate of 3.9 square metres per unit instead of the required 4.0 square metres per unit. Staff are of the opinion that if outdoor amenity space cannot be expanded further due to site constraints to meet this requirement, additional indoor

amenity space should be identified to achieve 4.0 square metres of total amenity space per unit. Should the Committee choose to approve variance 8, staff recommend that request to reduce the total amenity space requirement from 4.0 to 3.9 square metres per unit be refused.

Therefore, should the Committee choose to approve minor variances 3, 4, 5, 6 and 7, staff recommend that prior to issuance of the first above-grade building permit, the owner shall enter into an agreement pursuant to Section 45(9) of the *Planning Act* and make a cash contribution to the City in the amount of \$484,500 by certified cheque payable to the Treasurer, City of Toronto, to be allocated at the discretion of the Chief Planner and Executive Director, City Planning, in consultation with the Ward Councillor, toward capital improvements in the area within the Ward. The cash contribution shall be indexed upwardly in accordance with the Statistics Canada Non-Residential Building Construction Price Index for Toronto Census Metropolitan area, reported quarterly by Statistics Canada in Building Construction Price Indexes Table: 18-10-0135-10, or its successor, calculated from the date of execution of the Section 45(9) Agreement to the date of payment; and

Should the Committee choose to approve variance 8 for a reduction in outdoor amenity space, staff recommend that the request to reduce the total amenity space from 4.0 to 3.9 square metres per dwelling unit be refused.

CONTACT

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SIGNATURE



Signed by Al Rezoski, MCRP, AICP, Manager, Community Planning, on behalf of
Michael Mizzi, MCIP, RPP
Director, Community Planning
Etobicoke York District