DA TORONTO

REPORT FOR DIRECTION

1840 Bayview Avenue – Zoning By-law Amendment Application – Appeal Report

Date: March 29, 2023 To: North York Community Council From: Director, Community Planning, North York District Ward: 15 - Don Valley West

Planning Application Number: 22 210813 NNY 15 OZ Related Planning Application Number: 22 2210812 NNY 15 SA

SUMMARY

This application proposes a 34-storey (109.85 metres, plus 8 metres mechanical penthouse for a total of 117.85 metres) mixed-use building with 24,103 square metres of residential gross floor area for a total of 377 units, and 202 square metres of ground floor retail fronting onto Bayview Avenue. The development will have a total gross floor area of 24,305 square metres with a FSI of 14.75.

On March 16, 2023, the applicant appealed the Zoning By-law Amendment application to the Ontario Land Tribunal ("OLT") due to Council not making a decision within the time frame prescribed in the Planning Act. A Case Management Conference has been scheduled for July 11, 2023.

This report recommends that City Council instruct the City Solicitor with the appropriate City staff to attend the OLT hearing and oppose the application in its current form and to continue discussions with the Applicant to resolve outstanding issues.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council direct the City Solicitor and appropriate City staff to attend the Ontario Land Tribunal in opposition to the current Application regarding the Zoning By-law Amendment appeal for the lands at 1840 Bayview Avenue.

- 2. In the event that the Ontario Land Tribunal allows the appeals in whole or in part, City Council authorize the City Solicitor to request that the issuance of any final Orders be withheld until such time as the City Solicitor advises that:
 - a) the final form and content of the draft Zoning By-laws are to the satisfaction of the City Solicitor and the Chief Planner and Executive Director, City Planning;
 - b) the owner has satisfactorily addressed the Engineering and Construction Services matters in the Engineering and Construction Services Memorandum dated April 20, 2023, or as may be updated, in response to further submissions filed by the Owner, all to the satisfaction of the Chief Engineer & Executive Director;
 - c) the owner has satisfactorily addressed Transportation Services matters in the Transportation Services memo dated May 23, 2023, or as may be updated, in response to further submissions filed by the Owner, all to the satisfaction of the Chief Engineer & Executive Director;
 - d) the owner has submitted a revised Transportation Demand Management Plan acceptable to, and to the satisfaction of the Chief Planner and Executive Director, City Planning and the General Manager, Transportation Services and that such matters arising from such study be secured if required;
 - e) the owner has satisfactorily addressed matters from the Urban Forestry memorandum dated January 24, 2023, or as may be updated, in response to further submissions filed by the Owner, all to the satisfaction of Urban Forestry; and
 - f) the owner has submitted an updated complete Toronto Green Standards (TGS) Checklist and Statistics Template, to the satisfaction of the Chief Planner and Executive Director, City Planning.
- 3. Should it be determined that upgrades are required to the infrastructure to support the development according to the accepted Functional Servicing Report and/or the Transportation Impact Study or that mitigation is required per the Subsurface Investigation, City Council direct the City Solicitor and appropriate City staff to request that a Holding provision (H) be included in the final form of the site-specific Zoning By-law Amendment, not to be lifted until such time as the owner has made satisfactory arrangements, including entering into appropriate agreement(s) with the City for required mitigation, as well as the design and construction of any improvements to the municipal infrastructure and the provision of financial securities to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services and General Manager, Transportation Services.

- 4. City Council authorize the City Solicitor and appropriate City staff to continue discussions with the applicant to address outstanding issues, including but not limited to those outlined in this report.
- 5. City Council authorize the City Solicitor and City staff to take any necessary steps to implement City Council's decision.

FINANCIAL IMPACT

The City Planning Division confirms that there are no financial implications resulting from the recommendations included in this report in the current budget year or in future years.

SITE AND SURROUNDING AREA

Description: The site is rectangular in shape with approximately 31 metres of frontage on Bayview Avenue, 51 metres of frontage along Broadway Avenue, and a total lot area of 1,647.3 square metres. The site generally slopes downwards from north to south.

Existing Uses: The site is currently occupied by a gas station and an associated convenience store.

Surrounding uses include:

North: Immediately north of the site are low-rise residential dwellings. Further north includes additional low-rise residential dwellings, as well as a two-storey commercial building with a pharmacy, bank, grocery store and professional services.

East: Immediately east of the site is Bayview Avenue. Across the street is a 5-storey apartment building and low-rise residential dwellings, where a 25-storey building is currently proposed (Application 21 233980 NNY 15 OZ). Further east are residential neighbourhoods comprised of low-rise residential dwellings.

South: Immediately south are a block of townhouse dwellings, where a 34-storey building is currently proposed (Application 22 177066 NNY 15 OZ). This application is currently under appeal at the OLT. Further south includes an 8-storey mixed use building, low-rise residential dwellings, additional commercial uses, a 9-storey apartment building along the east side of Bayview Avenue, and two shopping plazas.

West: Immediately west is a residential neighbourhood comprised of low-rise residential dwellings.

THE APPLICATION

Height: 34-storey (109.85 metres to top of roof, 117.85 metres to the top of the mechanical penthouse).

Gross Floor Area: Total gross floor area of 24,305 square metres, consisting of 24,103 square metres of residential gross floor area and 202 square metres of non-residential gross floor area.

Density (Floor Space Index): 14.75 times the area of the lot.

Unit Count: The proposed 377 dwelling units include 28 studio units (7%), 213 onebedroom (56%), 99 two-bedroom (26%), and 37 three-bedroom (10%) units.

Access, Parking and Loading: Vehicular access is provided through a two-way driveway off Broadway Avenue at the western edge of the site. The driveway, through an internal ramp, leads to the two-level underground parking garage, which contains a total of 68 vehicular parking spaces, of which 58 parking spaces are for residents 7 are for visitors, 2 care-share spaces, and 1 short-term space. Loading is provided through a Type-G loading space located at-grade, adjacent to the ramp leading to the underground parking.

Additional Information

See Attachments 1-5 of this report for a location map, Application Data Sheet, three dimensional representations of the project in context and a site plan of the proposal. The Application Data Sheet contains additional details on the proposal including: site area and dimensions; floor area; unit breakdowns; and parking counts.

Detailed project information including all plans and reports submitted as part of the application can be found on the City's Application Information Centre at: www.Toronto.ca/1840BayviewAvenue

Reason for the Application

The application proposes to amend Toronto Zoning By-law no. 569-2013 and North York Zoning By-law 7625, to vary performance standards including but not limited to: gross floor area and floor space index; building height; building setbacks, and parking space rates. Additional amendments to the Zoning By-laws may be identified as part of the application review.

Site Plan Control

The proposal is subject to Site Plan Control. A Site Plan Control application has been submitted (Application No. 22 210812). The site plan application has not been appealed.

POLICY CONSIDERATIONS

Provincial Land-Use Policies

All decisions of Council in respect of the exercise of any authority that affects a planning matter shall be consistent with the Provincial Policy Statement (PPS), and shall conform to provincial plans.

Official Plan Designation

The site is designated Mixed Use Areas on Map 17 of the Official, and more specifically designated as Mixed Use Areas "C" on Map 21-4 of the Yonge-Eglinton Secondary Plan. In the Yonge Eglinton Secondary Plan, the site is within the Bayview Focus Core Character Area on Map 21-2. A height range of 20 to 35 storey is set out for the Bayview Focus Character Area. It is noted that an Official Plan Amendment is not required in order to achieve a greater or lesser height than the range.

On Map-21-3, the site is located within a 500 metre radius of the Leaside Station Area and its associated Secondary Zone. On March 25, 2022, the Planning and Housing Committee approved for consultation 97 MTSA/PMTSAs, of which Leaside Station was identified as a PMTSA with a proposed minimum density target of 200 people and jobs per hectare. The MTSA/PMTSAs are currently pending approval from the province.

Zoning

Under Zoning By-law no. 569-2013, the site is subject to the Commercial Residential Zone CR 1.0 (c1.0; r0.0 SS3 (x86)).Under former North York Zoning By-law 7625, the site is subject to General Commercial Exception 46 C1(46) Zone.

Design Guidelines

The following design guidelines have been used in the evaluation of this application:

- Tall Building Design Guidelines;
- Growing Up Guidelines Planning for Children in New Vertical Communities;
- Pet Friendly Design Guidelines;
- Best Practices for Bird-Friendly Glass;
- Best Practices for Effective Lighting;
- Retail Design Manual; and
- Toronto Accessibility Design Guidelines.

Toronto Green Standard

The TGS is a set of performance measures for green development. Applications for Zoning By-law Amendments, Draft Plans of Subdivision and Site Plan Control are required to meet and demonstrate compliance with Tier 1 of the Toronto Green

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Standard. The TGS can be found here: <u>https://www.toronto.ca/citygovernment/planning-development/official-plan-guidelines/toronto-green-standard/</u>

Additional information on applicable policy documents can be found in Attachment 6.

COMMUNITY CONSULTATION

A Virtual Community Consultation Meeting was hosted by City staff on March 27 2023. Approximately 120 people participated, as well as the Ward Councillor. Following a presentation by City staff and the Applicant, the following comments and issues were raised:

- Coordination with the adjacent development at 2-20 Glazebrook Avenue should be considered;
- Concerns for traffic congestion and pedestrian safety;
- Concerns that the proposed unit types are not supportive of families and are not affordable;
- Concerns regarding the impact of tall buildings in the area;
- Concerns for the lack of new infrastructure in the area;
- Concerns for the removal of a gas station in the area;
- Concerns for the capacity of schools in the area; and
- Concerns regarding the reduced number of parking spaces.

COMMENTS

Provincial Framework

Staff's review of this application has had regard for the relevant matters of provincial interest set out in the Planning Act. Staff have reviewed the current proposal for consistency with the Provincial Policy Statement and conformity with the Growth Plan. Staff find the proposal to be consistent with the PPS and conforms with the Growth Plan.

Official Plan

The site is designated Mixed Use Areas under the Official Plan, and as Mixed Use Areas 'C' under the YESP. The site is directly adjacent to Official Plan designated Neighbourhoods to the west. In addition, the site is within the Leaside Transit Node "Secondary Zone" (as shown in Map 21-3) and near the "Built-up Zone" of the Leaside Transit Node.

Section 2.4.2 states the intensity of development in a "Secondary Zone" should be lower than that of a "Station Area Core." The policy further states "Development will generally transition down in height and scale to surrounding Built-up Zones;" In addition, Policy 1.3.5.d directs for the Bayview Focus Character Area "Core" to be "predominantly

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characterized by mid-rise buildings punctuated with tall buildings in proximity to the new transit station...".

Given the above, taller buildings should be located closest to the Bayview and Eglinton Station Area Core, to define the node along the Eglinton Avenue corridor, with a transition down in height and scale to the Secondary Zone and Built-up Zones. These area specific policies and statements are further enforced by policies in Section 5.3 ("Midtown Tall Buildings"), which speaks to the design and transition for the base building and the tower, and to generally achieve the provision of transition in scale for the base building height down to adjacent lower-scale planned contexts. As such, a revision to the overall massing and height is required to meet the relevant policies applicable to this site.

Land Use

The proposed land use for a mixed-use building with retail at grade along Bayview Avenue and residential units above generally conforms with the Official Plan and the Yonge-Eglinton Secondary Plan.

Built Form

The proposed built form does not conform to the relevant policies of the Official Plan and the Yonge-Eglinton Secondary Plan. As currently proposed, the proposal has not demonstrated that the site can appropriately accommodate a tall building. Per policies prescribed in the Official Plan and Yonge-Eglinton Secondary Plan, and further detailed in design guidelines, consideration is needed for reduced floorplates, increased building setbacks and tower separation to adjacent lands, appropriate stepbacks, reduction in building height, and consolidation of landholdings to achieve an appropriately sized site to support a development that conforms to the policy objectives, and that does not prevent orderly development of the adjacent properties designated Mixed Use. In addition, consideration is also required regarding height and design as it relates to transition to the adjacent Neighbourhood areas and the public realm, particularly with regard to the base and tall building.

In addition, further coordination is required to explore opportunities of consolidating site elements such as access and servicing with the adjacent site located at 2-20 Glazebrook Avenue and to ensure appropriate tower separation is provided. The proposed condition of the 'Private Green Alley' is potentially establishing an unsafe Crime Prevention Through Environmental Design (CPTED) condition, which does not positively contribute to the Bayview public realm.

Sun and Shadow

The submitted shadow study demonstrates shadowing on lands within the Built-Up Zone's Neighbourhood designation. Elements such as increased setbacks, increased

stepbacks, decreased tower floorplates, and improved massing can be investigated to minimize and improve shadow impacts.

Wind

The Pedestrian Level Wind Study dated September 8, 2022 recommended mitigation for the residential lobby entrance, retail entrances, and the level 5 outdoor amenity space. Massing modifications to the proposed building should be considered to address these areas of concern prior to considering site specific mitigation measures, and ensure these recommendations have been implemented as it relates to policies 5.6.6 and 5.7.2 of the YESP.

In addition, the wind study may not be relevant without inputting the development potential identified in the block context study. As previously noted, coordination between neighbours should be established to ensure wind mitigation does not negatively impact the wider block's public realm.

Public Realm

The Yonge-Eglinton Secondary Plan designates Bayview Avenue as a Priority Retail Street in policy 2.6.1 and the street should include a continuous frontage of at-grade, pedestrian-oriented retail and service uses and/or community service facilities. Additional setbacks should be provided on Bayview Avenue to allow for ample spill out areas for pedestrians, provide tree planting opportunities, and coordinating entrances to ensure an animated, safe, weather-protected, and active public realm. Further setbacks and design attention should also be put towards the articulation at the Bayview Avenue and Broadway Avenue corner and base building.

In addition, coordination is required with the adjacent site at 2-20 Glazebrook Avenue to ensure a consistent base building and streetwall condition is created for Bayview Avenue, taking into consideration the grade.

Parkland

The site is approximately a 400 metre walk from Howard Talbot Park, a 49,000 square metres park which contains two baseball diamonds including one with lights, a multipurpose sports field and track, two outdoor tennis courts, a splash pad, and a children's playground.

In accordance with Section 42 of the Planning Act, the Owner is required to satisfy the parkland dedication requirement through cash-in-lieu. As per Toronto Municipal Code Chapter 415-29, the appraisal of the cash-in-lieu will be determined under the direction of the Executive Director, Corporate Real Estate Management. Additionally, the Toronto Municipal Code Chapter 415-28, requires that the payment be made prior to the issuance of the first above-ground building permit for the land to be developed.

Tree Preservation, Soil Volume and Public Utilities

Urban forestry requires revisions to the proposed soil volumes to comply with minimum soil volume requirements and the Toronto Green Standards. As currently proposed, the soil volumes does not meet the required standards. In the event that the OLT allows the Zoning By-law Amendment application appeal in whole or in part, the final Order should be withheld pending confirmation that the owner has satisfactorily addressed matters from the Urban Forestry memorandum dated January 24, 2023, or as may be updated, in response to further submissions filed by the Owner, all to the satisfaction of Urban Forestry.

Transportation Services

As per the memo from Transportation Services dated May 23, 2023, an updated Transportation Impact Study, revisions to plans, and other relevant information is required to address comments raised by the Transportation Services Division.

The applicant's transportation consultant, BA Group, submitted an Urban Transportation Consideration report dated September 13, 2022. The report estimates that the proposed development will generate 245 and 225 new two-way residential trips in the weekday morning and afternoon peak hours, respectively. Of these trips, 75 two-way will be made using a vehicle during both the weekday morning and afternoon peak hours. The study concludes that the proposed development will have a minor impact on the overall operation of the other network signalized and unsignalized intersections. However, Transportation Services Division has not accepted the report and its conclusions as additional information and reivsions are required to the report.

According to the site statistics, a total of 68 parking spaces, including 58 residential, 1 short-term, 7 visitor, and 2 car share parking spaces will be provided for this project, which meets the minimum and maximum parking requirements. The effective resident parking rate is 0.15. The proposed parking rate is considered appropriate for this application based on the recently reduced residential and visitor parking supply ratio for buildings in a similar context. In addition, a 0.40m wide conveyance is required along Bayview Avenue within the frontage of the site. Comments related to site access arrangements, site circulation and layout, design of the proposed site entrance driveway, layout of the proposed parking supply, access to the parking spaces, and other site design matters will be provided through the Site Plan Control review process.

In the event that the OLT allows the Zoning By-law Amendment application appeal in whole or in part, the final Order should be withheld pending confirmation that the owner has satisfactorily addressed Transportation Services matters in the Transportation Services memo dated May 23, 2023, or as may be updated, in response to further submissions filed by the Owner, all to the satisfaction of the Chief Engineer & Executive Director.

Transportation Demand Management (TDM)

A TDM plan was included as part of the applicant's Urban Transportation Considerations Report. The TDM plan specified measures such as a bicycle repair station and car-share spaces to reduce the single occupancy auto vehicle trips generated by the proposed development. However, additional information is required in order for staff to assess the appropriateness of the proposed TDM Plan.

In the event that the OLT allows the Zoning By-law Amendment application appeal in whole or in part, the final Order should be withheld pending confirmation that the owner has submitted a revised Transportationravel Demand Management Plan acceptable to, and to the satisfaction of the Chief Planner and Executive Director, City Planning and the General Manager, Transportation Services and that such matters arising from such study be secured if required.

Servicing and Stormwater Management

As per the memo from Engineering and Construction Services dated April 20, 2023, the applicant is required to provide, amongst other matters, revisions to the Hydrogeological Investigation, the site Servicing Assessment and the Stormwater Management Report. Relevant drawings will also be required to be revised.

In the event that the OLT allows the Zoning By-law Amendment application appeal in whole or in part, the final Order should be withheld pending the confirmation the Functional Servicing and Stormwater Management Report has been revised to the satisfaction of the Chief Engineer and Executive Director, Engineering and Construction Services and it is demonstrated that the municipal water, waste, sanitary and storm sewer systems can support the proposed development and whether upgrades or improvements of the existing municipal infrastructure are required.

Waste Management Services

A portion of the site lies within 250 metres of a closed municipal landfill. Therefore, the owner of the property was required to retain a qualified person (as that term is defined in Ontario Regulation 153/04) (the "Qualified Person") to conduct a subsurface investigation for the possible presence of methane gas at the property. The applicant has submitted a Surface Methane Investigation by EXP Services Inc. dated September 2022, which confirms no potential risk was identified due to sub-surface methane gas on the site. The report has been accepted by Waste Management Services.

Indoor/Outdoor Amenity Space

The proposed development has 0.94 square metres of outdoor amenity space per dwelling unit, or 353 square metres for 377 dwelling units. The applicant should revise the proposal to increase the outdoor amenity space and meet the minimum of 2.0

square metres of outdoor amenity space per dwelling unit. The required indoor amenity space is being provided.

Toronto Green Standard (TGS)

The applicant is required to meet Tier 1 of the Toronto Green Standard, and is encouraged to achieve Tier 2 or higher to advance the City's objectives for resilience and achieving net-zero emissions by 2040 or sooner. Standards for matters such as tree planting, tree soil volume, and transportation-related requirements as noted previously in this report, have not been met by the proposed development. In the event that the OLT allows the Zoning By-law Amendment application appeal in whole or in part, the final Order should be withheld pending confirmation that the owner has submitted an updated complete Toronto Green Standards (TGS) Checklist and Statistics Template, to the satisfaction of the Chief Planner and Executive Director, City Planning.

Further Issues

City Planning continues to receive additional information regarding these applications as a result of ongoing review by City commenting divisions, materials submitted in support of the proposal and through deputation made by members of the public to Community Council. Staff may also be required to evaluate supplementary or revised plans and supporting materials submitted by the applicant after the date of this report. As a result, Planning staff may continue to identify further issues or supplement the reasons provided in this report. Where substantive changes to the proposal are made by the applicant, Staff may report back to City Council as necessary.

Conclusion

The proposal has been reviewed against the policies of the PPS (2020), the Growth Plan (2020), the Toronto Official Plan, including the Yonge-Eglinton Secondary Plan, and applicable City guidelines intended to implement Official Plan policies. The current proposal does not conform with the Toronto Official Plan and the Yonge-Eglinton Secondary Plan and does not meet the intent of relevant Design Guidelines.

This report recommends that City Council direct the City Solicitor, with appropriate staff, to attend the OLT in opposition to the Application in its current form and to continue discussions with the Applicant in an attempt to resolve outstanding issues.

CONTACT

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David Sit, MCIP, RPP, Director Community Planning, North York District

ATTACHMENTS

Attachment 1: Location Map Attachment 2: Application Data Sheet Attachment 3: 3D Model of Proposal in Context Looking Northwest Attachment 4: 3D Model of Proposal in Context Looking Southeast Attachment 5: Site Plan Attachment 6: Official Plan Land Use Map Attachment 7: Yonge-Eglinton Secondary Plan Midtown Character Area Map Attachment 8: Yonge-Eglinton Secondary Plan Midtown Transit Station Area Map Attachment 9: Yonge-Eglinton Secondary Plan Land Use Map Attachment 10: Zoning By-law No. 569-2013 Map Attachment 11: Zoning By-law No. 7625 Map

Attachment 1: Location Map



Attachment 2: Application Data Sheet

APPLICATION DATA SHEET

Municipal Address:	1840 BAYVIEW AVE	Date Received:	September 29, 2022		
Application Number:	22 210813 NNY 15 OZ				
Application Type:	OPA / Rezoning, Rezoning				
Project Description:	Proposal for a 34-storey mixed use building with 24,103 square metres of residential gross floor area and 202 square metres of ground floor retail area fronting Bayview Avenue for a total of 24,305 square metres with a 14.75 FSI.				
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Applicant	Agent	Architect	Owner
2288116 ONTARIO INC	N/A	Architects Alliance	Mac's Convenience Stores Inc

EXISTING PLANNING CONTROLS

Official Plan Designation:	Mixed Use Areas	Site Specific Provision:	
Zoning:	CR 1.0 (c1.0; r0.0) SS3 (x86)	Heritage Designation:	
Height Limit (m):	10.5	Site Plan Control Area:	Y

PROJECT INFORMATION

Site Area (sq m):	1,647	Frontage (m):	49	Depth (m): 28
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Building Data	Existing	Retained P	roposed	Total
Ground Floor Area (sq m):	140		948	948
Residential GFA (sq m):			24,103	24,103
Non-Residential GFA (sq m):	140		202	202
Total GFA (sq m):	140		24,305	24,305
Height - Storeys:	1		34	34
Height - Metres:	5		110	110
Lot Coverage Ratio (%): 57.55		Floor Space Inde	ex: 14.75	

Floor Area Break	down	own Above Grade (sq m) Below Grade (sq m)				
Residential GFA:		24	1,103			
Retail GFA:			202			
Office GFA:						
Industrial GFA:						
Institutional/Other	GFA:					
Desidential Units	_					
Residential Units by Tenure	5	Existing	Retaine	d	Proposed	Total
Rental:						
Freehold:						
Condominium:					377	377
Other:						
Total Units:					377	377
Total Residential	l Units by	Size				
	Rooms	Bachelor	1 Bedro	om	2 Bedroom	3+ Bedroom
Retained:						
Proposed:		28		213	99	37
Total Units:		28	2	213	99	37
Parking and Loading						
Parking Spaces:	68	Bicycle Parking	Spaces:	416	Loading Do	ocks: 1
CONTACT:						
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Angela.Zhao@tor	onto.ca					



Attachment 3: 3D Model of Proposal in Context Looking Northwest



Attachment 4: 3D Model of Proposal in Context Looking Southeast

Attachment 5: Site Plan



Attachment 6: Official Plan Land Use Map





Attachment 7: Yonge-Eglinton Secondary Plan Midtown Character Area Map



Attachment 8: Yonge-Eglinton Secondary Plan Midtown Transit Station Area Map



Attachment 9: Yonge-Eglinton Secondary Plan Land Use Map





Attachment 11: Zoning By-law No. 7625 Map

