



STAFF REPORT

Committee of Adjustment Application

Date: August 19, 2024

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: A0266/24EYK

Address: 1306-1310 The Queensway

Application to be heard: August 29, 2024

RECOMMENDATIONS

1. City Planning staff recommend that the Minor Variance application be refused.

OR

2. Should the Committee decide to approve the Minor Variance application, staff recommend:

- a. 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 \$510,000 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

APPLICATION

To modify the development standards from site specific By-law 199-2022.

COMMENTS

Official Plan and Zoning

The site is designated *Mixed Use Areas* on Map 15 in the Toronto Official Plan. The site is zoned Commercial-Residential (CR) and is subject to site-specific Zoning By-law 199-2022.

Policy 4.5.2 of the Official Plan states, “In *Mixed Use Areas* development will:

- c. locate and mass new buildings to provide a transition between areas of different development intensity and scale, as necessary to achieve the objectives of this Plan, through means such as providing appropriate setbacks and/or a stepping down of heights, particularly towards lower scale *Neighbourhoods*;
- d. locate and mass new buildings so as to adequately limit shadow impacts on adjacent *Neighbourhoods*, particularly during the spring and fall equinoxes;
- e. locate and mass new buildings to frame the edges of streets and parks with good proportion and maintain sunlight and comfortable wind conditions for pedestrians on adjacent streets, parks and open spaces; and
- f. provide an attractive, comfortable and safe pedestrian environment.”

Site History

The subject site is located on the northwest corner of Kipling Avenue and The Queensway. The site consists of two lots that are each occupied by a 1-storey building currently used for a temporary automobile dealership. The site has a frontage of 114.3 metres on Kipling Avenue and 95.7 metres on The Queensway and an overall site area of 11,800 square metres.

A Zoning By-law Amendment application (File 19 263887 WET 03 OZ) was submitted for a mixed-use development on December 20, 2019. Following Community Planning staff review and comments, revisions were made to the proposal, resulting in an approved Zoning By-law Amendment application to permit a mixed-use development consisting of 1,018 square metres of retail space at grade and 840 dwelling units. The development would consist of a 10-storey mid-rise building and two towers of 24 and 35-storeys connected via an 8-storey base building.

City Planning staff wrote a Final Report to Etobicoke York Community Council, dated March 30, 2021, recommending approval of the application, as revised, which was considered and adopted without amendments by Etobicoke York Community Council on May 17, 2021. Subsequently, at its meeting on June 8, 2021, City Council approved the application. The approval was implemented through site-specific By-laws 198-2022 and 199-2022. By-law 198-2022 amended Chapters 304, 320 and 324 of the former Etobicoke Zoning Code and By-law 199-2022 amended Zoning By-law 569-2013 to rezone the subject site to allow for the development of a 10-storey mid-rise building and two towers of 24 and 35-storeys connected via an 8-storey base building, with total gross floor area of 67,458 square metres, which would result in a Floor Space Index (FSI) of 5.72 times the area of the lands. The overall approved height of the mid-rise

component was 38.5 metres, inclusive of mechanical penthouse. The tower heights were approved at 81.7 and 113.3 metres. A new 1,575 square metre public park was also approved and to be provided on the south-east corner of the site and an additional 759 square metres of Privately-Owned Publicly Accessible Space (POPS) was approved between the buildings.

No Site Plan Control application was submitted to advance the approval.

Application Review

City Planning staff have reviewed the proposed Minor Variance application and supporting materials and have concerns with all proposed variances.

The application should be refused. The Minor Variances sought are not in keeping with what is desirable or approved as per previous processing reviews and decisions. Furthermore, the applicant has been advised that a Zoning By-law Amendment application, from a processing perspective, is the more appropriate process to review such a proposal.

The table below summarizes the details of the original Zoning By-law Amendment (ZBA) in December 2019, the approved Zoning By-law Amendment (By-law 199-2022), and the proposed minor variance request.

	Original ZBA (December 2019)	Approved ZBA (June 2021)	Proposed MV (August 2024)	Proposed Change from Approved ZBA
Height (storeys)				
Mid-Rise	12-storeys	10-storeys	12-storeys	+2-storeys
Tower A	31-storeys	35-storeys	40-storeys	+5-storeys
Tower B	24-storeys	24-storeys	29-storeys	+5-storeys
Height (metres; excluding mechanical penthouses)				
Mid-Rise	38 metres	34 metres	38.45 metres	+4.45 metres
Tower A	95 metres	109 metres	122.1 metres	+13.1 metres
Tower B	74 metres	78 metres	89.75 metres	+11.75 metres
Number of units	845 units	840 units	1,124 units	+284 units
Gross floor area	69,340 m ² (5.88 FSI)	67,458 m ² (5.72 FSI)	74,791 m ² (6.34 FSI)	+7,333 m ²
Setbacks and Building Envelope	-	See Diagram 6	See Revised Diagram 6	-
Angular Plane	-	No portion of a building, excluding those features	The proposed upper levels of the towers and the building	-

		listed in (F) and (M) of By-law 199-2022, may penetrate a 45-degree angular plane projected over the lot, starting at a line along a lot line of any lot in the O, ON or OR Zone or the Residential Zone category or Residential Apartment Zone category.	fronting Kipling Avenue will penetrate a 45-degree angular plane from the closest Residential Zone Category.	
Loading	One Type 'G' One Type 'B'	One Type 'G' One Type 'B'	Two Type 'G'	-
Parkland Dedication	650 m ² on-site 850 m ² stratified	1,575 m ²	1,575 m ²	-
POPs	750 m ²	759 m ²	759 m ²	-

Staff have concerns regarding the proposed increase in gross floor area and units given the associated height increase because it would result in an undesirable net increase of shadows on the public realm.

Staff stated that the 2019 proposed development as originally proposed with 12-, 31- and 24- storeys did not achieve the objectives set out in the City's Official Plan and did not provide adequate built form that fits within its context.

The design and placement of the approved buildings was done in a way to create a site layout that achieves an appropriate fit with the surrounding built form context and a transition in scale towards lower scale development on the east side of Kipling Avenue. Through the review of the previous Zoning By-law Amendment application, the height of the proposed mid-rise building was reduced from 12-storeys (43 metres, exclusive of mechanical penthouse) to 10-storeys (33.5 metres, exclusive of mechanical penthouse) and the top eastern portion of Tower A was articulated with incremental stepping. With these revisions, all the approved buildings would fall below a 45-degree angular plane from the *Neighbourhoods* designated lands to the east and northeast.

The approved heights in By-law 199-2022 at 10-, 35-, and 24- storeys were supported by staff as the tower would fit within the 45-degree angular plane at a height equivalent to 80% of the abutting right-of-way.

The proposed variances to increase the proposed tower heights and massing would penetrate the angular plane and cast additional shadows on the *Neighbourhoods*. Through a review of the Minor Variance application, Community Planning staff advise that the application does not conform to the general intent and purpose of the Official Plan or the Zoning By-law, is not minor in nature, and the requested variances are not desirable for the appropriate development of the land.

Therefore, Community Planning staff recommend that the application be refused.

Through the Zoning By-law Amendment application, a Section 37 Agreement was executed to secure a cash contribution in the amount of \$510,000 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.

Should the Committee decide to approve the application and allow further increase the height and density permissions, 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 \$510,000 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.

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