

**STAFF REPORT**
Committee of Adjustment
Application

Date: Thursday, February 6, 2020

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

From: Neil Cresswell, Director, Community Planning, Etobicoke York District

Ward: 9 (Davenport)

File No: A1136/19TEY

Address: 861-863 St. Clair Avenue West

Application to be heard: Wednesday, February 12, 2020

RECOMMENDATIONS

Should the Committee of Adjustment choose to approve Variance No. 2, Planning staff recommend that the following condition is imposed:

1. The locations of the proposed west side windows be developed in accordance with the West Elevation drawing (Plan No. A5.04) held on file with the Committee of Adjustment, date stamped November 1, 2019, to the satisfaction of the Director, Community Planning, Etobicoke York District. Any other variances that may appear on these plans but are not listed in the written decision are not authorized.

APPLICATION

To construct a 10-storey mixed-use building containing 76 residential units above-grade, retail at-grade, three levels of below grade parking and rooftop amenity space.

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

1. **Section 12(1) 479(4)(e)(i)(a)(i), By-law No. 438-86**
The maximum permitted height of a stair tower, elevator shaft, chimney stack or other heating, cooling or ventilating equipment or window washing equipment on the roof of the building or a fence, wall or structure enclosing such elements is 35.00 m.
The mixed-use building with an elevator shaft will have a height of 36.28 m.
2. **Section 8(3) Part II 1(b)(ii), By-law No. 438-86**
The minimum required main window setback for a mixed-use building containing more than five dwelling units is 5.5 m from a non-street lot line.
The west side main windows of the mixed-use building will be located 1.26 m from the non-street lot line.
3. **Section 8(3) Part XI 2(2), By-law No. 438-86**
A commercial use located on the ground floor of a mixed-use building must have a minimum width of 60% of any street frontage of the building: 12.98 m on Winona Drive.

The commercial use located on the ground floor of the mixed-use building will have a width of 46.23% of the street frontage of the building: 9.92 m on Winona Drive.

4. Section 4(2)(a)(ii)(B), By-law No. 438-86

A structure on the roof of a building used for outside or open air recreation, safety or wind protection purposes may exceed the permitted height provided that no part of the structure is less than 2.0 m from an adjacent outside wall or a vertical projection of the wall.

The outdoor rooftop amenity space will be located 0.0 m from an adjacent wall or projection thereof.

COMMENTS

Official Plan

The subject property is located on the south side of St. Clair Avenue West, west of Winona Drive. The property is designated *Mixed Use Areas* in the City of Toronto's Official Plan. The *Mixed Use Areas* designation provides for a range of commercial, residential, and institutional uses, in single use or mixed use buildings, as well as parks and open spaces and utilities.

The Official Plan identifies St. Clair Avenue West as an *Avenue*, which are areas intended to accommodate additional growth and intensification. The subject site was included in the St. Clair Avenue Study which examined the mixed used corridor along St. Clair Avenue West between Bathurst Street and Glenholme Avenue. Area-specific Official Plan and Zoning By-law amendments were adopted to implement the findings and recommendations of the St. Clair Avenue Study.

The property is subject to Site and Area Specific Policy 326 (SASP 326) of the Official Plan. SASP 326 describes and identifies, through mapping, certain properties that are designated *Neighbourhoods* to the north and south of St. Clair Avenue West as "Area A" lands. These "Area A" lands, also referred to as enhancement zones in area-specific Zoning By-law No. 1103-2009, are intended to be used in conjunction with a development on St. Clair Avenue West to help facilitate mid-rise buildings on properties along St. Clair Avenue West that do not have the sufficient lot depth to accommodate a mid-rise building. The "Area A" lands generally consist of parcels of land containing a single detached dwelling or a pair of semi-detached dwellings. These lands are intended to be cleared of any buildings or structures and essentially act as a buffer between the rear of a St. Clair development and the side yard of a residential property.

In accordance with Policy c) of SASP 326, the intent and purpose of "Area A" lands are to prevent the destabilization of nearby lands designated *Neighbourhoods* and their character from encroachment by mixed use developments by, in particular, securing a minimum standard of open space, distance and sky views from nearby low-rise *Neighbourhoods*, and creating rear lanes where servicing, loading, and vehicle access will be located for all new developments with frontage on St. Clair Avenue West.

According to Policy e) of SASP 326, lands located in "Area A" that have not been conveyed or leased to the City or its agencies:

- i) will not be severed from ownership of the lands with frontage on St. Clair Avenue West designated as a *Mixed Use Area* and where such lands are developed as a

- condominium, the lands identified in Area A will form part of the common elements of such condominium corporation; and
- ii) will be maintained by the owner of the adjacent lands with frontage on St. Clair Avenue West.

As identified on Map B of SASP 326, the lands immediately to the south of the subject property are located in "Area A" and include a 3.05 m wide parcel of land abutting the subject property. This parcel is owned by the property owners of 180 Winona Drive and is subject to an easement (Instrument No. CT702847) in favour of 863 St. Clair Avenue West.

Zoning

The subject property is zoned Mixed Use – Commercial Residential (MCR) under the former City of Toronto Zoning By-law No. 438-86 and is subject to the provisions of Zoning By-law No. 1103-2009, as amended. The MCR zoning district permits both residential and non-residential uses, including a mixed use building having a total gross floor area of 5.5 times the lot area. The maximum permitted height is nine storeys or 30 m, plus a 5 m mechanical penthouse. The Zoning By-law includes detailed provisions for the use of enhancement zones in conjunction with a development proposal on a lot in a MCR district. These provisions apply to enhanced lots which are comprised of a lot within an MCR district together with a lot wholly within an enhancement zone held by the same owner(s).

Decision History

A previous Minor Variance application (File No. A0858/18EYK) was considered by the Committee of Adjustment, Etobicoke York District, on May 23, 2019. To permit the proposed mixed use building, the applicant sought a number of variances, in particular in relation to the rear setback from the abutting R District, the rear angular plane, number of storeys and building height. SASP 326 of the Official Plan and the Zoning By-law outline a series of policies and zoning standards for the use of "Area A" lands, also referred to as the enhancement zone, should these lands be utilized in conjunction with a development along St. Clair Avenue West. The intent of these policies and standards is that "Area A" lands be under the same ownership as the adjacent St. Clair property if the lands are utilized by the St. Clair site.

As mentioned, the abutting 3.05 m wide strip of land to the south of the subject property is a part of the "Area A" lands and enhancement zone. This parcel is not owned by the owner(s) of 861-863 St. Clair Avenue West, however, the land is subject to an easement in favour of 863 St. Clair Avenue West. The proposed mixed use development utilizes this land for loading vehicle access and to provide the minimum required distance and transition to the nearby lands designated *Neighbourhoods*. In review of the application, Planning staff submitted a Staff Report, dated May 21, 2019, providing the opinion that in order for the application to be in keeping with the general intent and purpose of the Official Plan and Zoning By-law, the easement is required to be preserved and maintained by the owner(s) of 861-863 St. Clair Avenue West. Accordingly, staff recommended that the following conditions be imposed, should the application be approved:

1. The owner of 861-863 St. Clair Avenue West shall continue and preserve its right in easement over the entire 3.05 m wide strip of land abutting the south lot line of the property;
2. The owner shall provide at its sole expense maintenance and repair over the entire lands to which it holds a right in easement;

3. The owner of 861-863 St. Clair Avenue West and the owner of the lands subject to the easement shall enter into and register on title, one or more Agreement(s) to secure Conditions 1 and 2 above, all to the satisfaction of the City Solicitor, in consultation with the Chief Planner and Executive Director, City Planning; and
4. The proposal shall be developed substantially in accordance with the north, south, east and west elevation drawings, and the building section drawing submitted and held on file by the Committee of Adjustment office, date stamped May 16, 2019, to the satisfaction of the Director, Community Planning, Etobicoke York District. Any other variances that may appear on these plans but are not listed in the written decision are not authorized.

On May 23, 2019, it was the decision of the Committee of Adjustment, Etobicoke York District, to approve the application on condition. The above-listed conditions were imposed. Absent these conditions, staff are of the opinion that the Minor Variance application would fail to satisfy Section 45(1) of the *Planning Act*.

The proposed development is subject to Site Plan Control. An application for Site Plan Approval (File No. 18 259789 WET 17 SA) was submitted and is currently under review.

Comments

Planning staff have reviewed the current Minor Variance application and requested variances. The application proposes windows along the west elevation on the fifth, sixth, seventh and eighth floors of the mixed use building. As identified through Variance No. 2, main windows are required to be set back a minimum of 5.5 m from a non-street lot line. The proposed west side windows would be located 1.26 m from the non-street lot line. Should the Committee of Adjustment choose to approve Variance No. 2, it is recommended that the locations of the proposed west side windows be developed in accordance with the west elevation drawing (Plan No. A5.04) held on file with the Committee of Adjustment, date stamped November 1, 2019.

CONTACT

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SIGNATURE



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