

## TORONTO LANDS CORPORATION

### Local Planning Appeal Tribunal (LPAT) Matters

To: Chair and Members of the Toronto Lands Corporation

Date: April 27, 2020

#### Recommendation:

That this report be accepted for information.

#### Rationale

TLC's expanded mandate includes the responsibility of all land use planning matters on behalf of the TDSB, which includes all matters before the Local Planning Appeal Tribunal (LPAT). This report provides an update on all LPAT matters of TLC interest that were recently or are currently at the LPAT.

#### Context

TLC reviews all development applications (official plan amendments, zoning by-law amendments, site plans, plans of subdivision) circulated by to the City of Toronto, as well as all City-initiated planning policies and initiatives, to determine and address:

- impacts on local school accommodation (in conjunction with TDSB accommodation planning staff), including the need for new schools; and
- land use impacts on TDSB properties and the health and safety of the school community e.g. shadows on school playgrounds, transportation impacts, construction hazards.

All land use planning decisions of City Council (or lack of decision by Council on development applications within the statutory timeframe) can be appealed to the LPAT. The LPAT is a provincial administrative tribunal that hears appeals on a range of municipal land use planning matters.

TLC has recently been involved in or has an active interest in 14 LPAT matters, as set out in **Appendix 1**. The table has been updated from the table included in the TDSB's Trustees' Weekly Update on February 7, 2020 and will continue to be updated periodically to inform stakeholders of LPAT matters of interest to TLC/TDSB. As a result of the Emergency Order (O.Reg. 73/20), the LPAT has adjourned all hearing events scheduled between March 16, 2020 and June 30, 2020, and suspended all timelines during that period. At this time, the impact of this on TLC is not significant.

The 14 LPAT matters of interest are as follows and described in greater detail in **Appendix 2**:

- A. Midtown:** 8 residential development applications in an area experiencing significant student accommodation challenges
- B. High Park:** City-initiated official plan amendment and 2 residential development applications in an area experiencing significant student accommodation challenges
- C. Etobicoke Centre:** 1 development application adjacent to Islington Junior Middle School
- D. Port Lands:** City-initiated official plan modification to the Central Waterfront Secondary Plan, where TDSB has identified the need for new schools
- E. City-wide:** Comprehensive Zoning By-law 569-2013, which affects all TDSB properties

Preparing for an LPAT hearing requires a significant amount of TLC staff time, and often the considerable expense of hiring external legal and other expertise for assistance/ representation before the tribunal. However, there are circumstances where it is important for TLC to be involved in LPAT appeals to ensure that the TDSB's interests are protected.

### Significant Accommodation Pressures

Certain areas of the City of Toronto are experiencing significant and unprecedented residential intensification and population growth. Where TDSB accommodation planning staff have identified significant student accommodation pressures, it is important for TLC to be involved in LPAT appeals to ensure that development is phased to align with the TDSB's timing and strategy for providing sufficient local school accommodation.

In June 2019, the TLC Board approved a strategy outlined in TLC Report 2019-06-779 with respect to requesting the LPAT to approve a holding provision or other appropriate tool to phase development in the Midtown area to align with TDSB's planned provision of school accommodation. The report is available at this link: <https://www.torontolandscorp.com/wp-content/uploads/2019/11/Strategy-to-Address-Growth-and-Intensification.pdf>

In the fall 2019, TDSB accommodation planning staff established timelines for developing long-term accommodation strategies to address growth in the Midtown and High Park areas that are intended to achieve sufficient local elementary school accommodation by September 2024. TLC and TDSB staff continued to meet with City staff to discuss the accommodation strategies, as well as tools to align the timing of development with school accommodation.

In January 2020, in light of upcoming LPAT hearings where the City had settled with the developers, TLC executed three settlement agreements with developers of high-rise residential development in the Midtown and High Park areas, whereby the developers agreed to delay the occupancy of the developments. TLC also participated in two LPAT mediation sessions in late 2019 with two developers in the Midtown area, where agreements in principle were reached with respect to occupancy timing; one settlement agreement has been executed in early April 2020 and the second settlement agreement is expected to be executed shortly. Outside of the LPAT process, TLC has also reached a settlement agreement with a developer in the High Park area with respect to delaying occupancy timing of a residential development that was recently approved by City Council. These six settlements achieve TLC's objective of phasing residential development to align with the TDSB's timing for sufficient local accommodation. These agreements have also eliminated the need for lengthy and costly LPAT hearings, which have uncertain outcomes.

TLC, through its external legal counsel, will continue to reach out to developers with active LPAT appeals in efforts to secure development timing that aligns with the TDSB's timing for sufficient accommodation in the area.

Meetings are also being arranged between TLC and City of Toronto senior leadership to provide greater direction to staff level discussions regarding strategies to align the timing of development with the provision of education facilities.

### Adverse Impacts of Development Near TDSB Properties

For development that is proposed in close proximity to TDSB properties, it is important for TLC to be part of the LPAT process in order to address the adverse impacts (such as shadowing, wind, noise, traffic, non-complimentary land uses, construction management) that can affect the use of the TDSB properties and the health and safety of the school community.

In Etobicoke Centre, TLC is party to the LPAT proceedings for a proposed residential development adjacent to Islington Junior Middle School. TLC is engaged in discussions with the developer with respect to TLC's concerns in order to ensure that if development proceeds, it will proceed in a manner that minimizes adverse impacts on the school property and school community.

### City Planning Initiatives

It is important that City planning policies and zoning regulations protect the TDSB's interests and recognize schools as a component of complete communities. TLC is a party to LPAT proceedings for City planning initiatives in order to ensure (i) the accommodation requirements of the TDSB are met (examples include the identification of potential new school sites through policy and/or mapping; and policies that appropriately phase of development commensurate with the provision of school accommodation); and (ii) existing TDSB properties are not adversely impacted.

TLC staff are continuing to have discussions with City staff in effort to address and resolve TLC's concerns with proposed policies and zoning regulations.

### **Appendices**

Appendix 1: Table of Recent/Active LPAT Matters

Appendix 2: LPAT Matters by Area

### **Routing**

TLC Board: April 27, 2020

### **From**

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**Appendix 1: Table of Recent/Active LPAT Matters – March 2020**

	<b>TDSB WARD</b>	<b>COM- MUNITY</b>	<b>DEVELOPMENT ADDRESS</b>	<b>LPAT File # (link to LPAT page)</b>	<b>STATUS AT LPAT<sup>1</sup></b>	<b>RECENT/ UPCOMING HEARINGS</b>	<b>ISSUES</b>
<b>Development Applications</b>							
1.	3	Etobicoke Centre	<b>12-20 Cordova Ave</b>	<a href="#">PL190405</a>	Party	Case management conference held Jan 21, 2020; Hearing scheduled Jan 2021	Land Use (impact on adjacent Islington JMS)
2.	7	High Park	<b>35, 41-63, 65, 95 High Park Ave &amp; 66, 102-116 Pacific Ave</b>	<a href="#">PL170954</a>	Party	Settlement hearing held Jan 2020	Student Accommodation (Keele PS)
3.	7	High Park	<b>111 Pacific Ave, 255 Glenlake Ave, 66 Oakmount Rd</b>	<a href="#">PL170866</a>	Party	Settlement hearing held Jan 2020	Student Accommodation (Keele PS)
4.	8	Midtown	<b>22 Balliol St</b>	<a href="#">PL171113</a>	Seeking Party Status	Hearing scheduled June 2020 (adjourned; to be re-scheduled)	Student Accommodation (Midtown generally, but specifically Davisville PS and Hodgson MS)
5.	8	Midtown	<b>1925, 1927, 1941, 1951 Yonge St, 17, 21 Millwood Rd, 22 Davisville Ave</b>	<a href="#">PL171228</a>	Party	Hearing scheduled Oct 2020	Student Accommodation (Midtown generally, but specifically Davisville PS and Hodgson MS) and Land Use (impact on adjacent Davisville PS)
6.	8	Midtown	<b>2440-2444 Yonge St</b>	<a href="#">PL171386</a>	Seeking Party Status	Prehearing conference scheduled Mar 2020 (adjourned; to be rescheduled)	Student Accommodation (Midtown generally)

1. To be involved in an LPAT hearing, the LPAT would need to grant either Party or Participant status. Parties have a more active role and certain statutory obligations, whereas Participants are generally limited to providing participant statements.

	TDSB WARD	COM-MUNITY	DEVELOPMENT ADDRESS	LPAT File # (link to LPAT page)	STATUS AT LPAT <sup>1</sup>	RECENT/ UPCOMING HEARINGS	ISSUES
7.	8	Midtown	<b>30 Merton St</b>	<a href="#">PL180021</a>	Party	Mediation held Dec 2019; Hearing scheduled Sept 2020	Student Accommodation (Midtown generally, but specifically Davisville PS and Hodgson MS)
8.	8	Midtown	<b>265 Balliol St</b>	<a href="#">PL180213</a>	Party	Mediation held Nov 2019; Hearing scheduled July 2020	Student Accommodation (Midtown generally, but specifically Davisville PS and Hodgson MS)
9.	8	Midtown	<b>141 Davisville Ave</b>	<a href="#">PL180310</a>	Party	Prehearing conference scheduled July 2020; No hearing scheduled yet	Student Accommodation (Midtown generally, but specifically Davisville PS and Hodgson MS)
10.	8	Midtown	<b>808 Mount Pleasant Rd</b>	<a href="#">PL180617</a>	Seeking Party Status	No case management conference or hearing scheduled yet	Student Accommodation (Midtown generally, but specifically Eglinton Jr PS and Hodgson MS)
11.	8	Midtown	<b>90 Eglinton Ave E</b>	<a href="#">PL190008</a>	Party	Settlement hearing held Jan 15, 2020	Student Accommodation (Midtown generally, but specifically Eglinton Jr PS and Hodgson MS)
<b>City Planning Initiatives</b>							
12.	7	High Park	<b>High Park Official Plan Amendment 419 (OPA 419) / Site and Area Specific Policy 551 (SASP 551)</b>	<a href="#">PL180759</a>	Party	Hearing scheduled July 2020	Policies to align growth with school accommodation
13.	9	Port Lands	<b>Port Lands Official Plan Modification to Central Waterfront Official Plan</b>	<a href="#">PL030514</a>	Party	Phase 1 Hearing scheduled Aug/Sep 2020	Policies that permit appropriate school sites and align growth with school accommodation

1. To be involved in an LPAT hearing, the LPAT would need to grant either Party or Participant status. Parties have a more active role and certain statutory obligations, whereas Participants are generally limited to providing participant statements.

	<b>TDSB WARD</b>	<b>COM- MUNITY</b>	<b>DEVELOPMENT ADDRESS</b>	<b>LPAT File # (link to LPAT page)</b>	<b>STATUS AT LPAT<sup>1</sup></b>	<b>RECENT/ UPCOMING HEARINGS</b>	<b>ISSUES</b>
			<b>Amendment 257</b>				
14.	All	City-Wide	<b>City-wide Zoning By-law 569-2013</b>	<a href="#">PL130592</a>	Party	Mediation held Oct 2017; Proceeding on separate track from general appeals	Zoning of school uses and school sites

1. To be involved in an LPAT hearing, the LPAT would need to grant either Party or Participant status. Parties have a more active role and certain statutory obligations, whereas Participants are generally limited to providing participant statements.

## **Appendix 2: LPAT Matters by Area**

### **A. Midtown**

The Midtown area of the City of Toronto is experiencing significant residential intensification and population growth, with a large number of development applications at various stages of approval. The TDSB is facing serious challenges in accommodating students locally in the area. The TDSB projects a shortage of 800 elementary pupil spaces in the Midtown area over the long term. A number of development applications in the Midtown area have been appealed to the LPAT and are shown on the following map.

In order to address the Midtown development applications that were appealed to the LPAT, the TLC Board approved in June 2019 the strategy set out in TLC Report 2019-06-779 with respect to phasing development, available at this link:

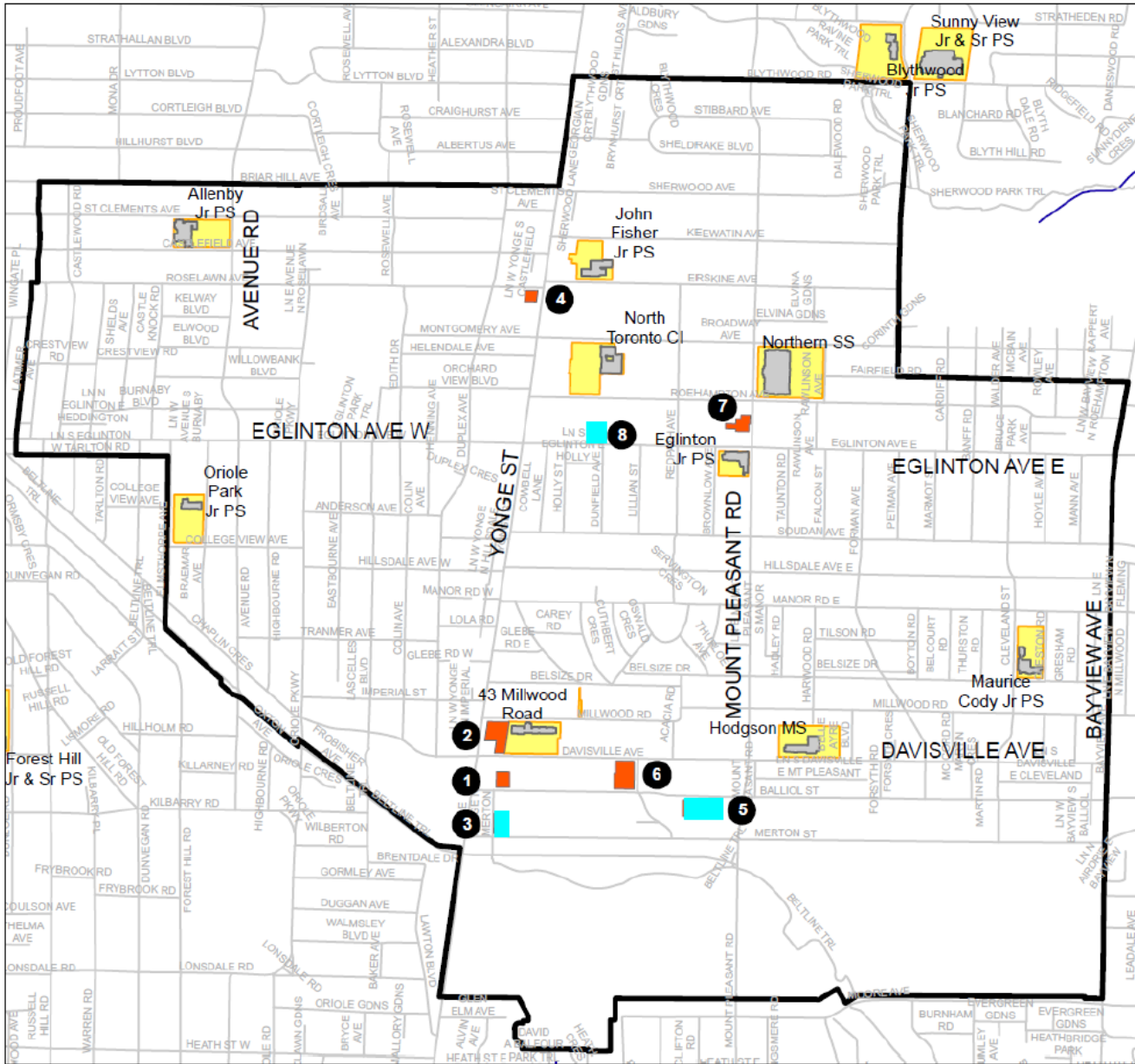
<https://www.torontolandscorp.com/wp-content/uploads/2019/11/Strategy-to-Address-Growth-and-Intensification.pdf>

TDSB accommodation planning staff has further established a timeline for developing a long-term accommodation strategy to address growth in the Midtown area that is intended to achieve sufficient local elementary school accommodation by September 2024. This timeline incorporates TDSB's current system-wide Secondary School review and French programs review, which will potentially help relieve enrolment pressures in the Midtown area. TLC and TDSB staff have met with City planning staff to advise of TDSB's timeline and discuss strategies to align the timing of development with the provision of education facilities, including the use of a holding by-law. Further discussions are being held between TLC and City of Toronto senior leadership to provide greater direction to staff level discussions.

In November and December 2019, TLC and TDSB staff attended LPAT mediation sessions for two Midtown development applications that were appealed to the LPAT, and had reached agreements in principle with the two developers regarding the occupancy timing of the proposed developments. A settlement agreement has been executed with one of the developers. At the time of this report, a settlement agreement is being prepared for the second development. The Minutes of Settlement will be referenced in the recitals and attached to the developers' Section 37 agreements with the City, which will become public documents to be registered on title of the properties.

In January 2020, TLC also successfully reached a settlement with a developer who has agreed to delay occupancy of their proposed development to align with TDSB's September 2024 timing.

TLC, through its external legal counsel, will continue to reach out to developers with active LPAT appeals in the Midtown Area to secure development timing that aligns with the TDSB's timing for sufficient accommodation in the area. These efforts will hopefully eliminate the need for a lengthy and costly LPAT hearing.



**ACTIVE APPEALS**

- 1 22 BALLIOL ST
- 2 1925, 1927, 1941, 1951 YONGE ST/  
17, 21 MILLWOOD RD/ 22 DAVISVILLE AVE
- 4 2440-2444 YONGE ST
- 6 141 DAVISVILLE AVE
- 7 808 MOUNT PLEASANT RD

**SETTLED APPEALS**

- 3 30 MERTON ST
- 5 265 BALLIOL ST
- 8 90 EGLINTON AVE E

**OFFICIAL PLAN AMENDMENT 405  
(MIDTOWN IN FOCUS AREA)**

**TDSB SITES**

Produced by:  
Toronto Lands Corporation  
April 2020  
Source:  
Base Map- Geospatial Competency Centre





## **B. High Park**

For the past ten years, the TDSB has been facing persistent accommodation challenges for elementary students in the High Park area (TDSB Ward 7), in particular at Keele Street PS. In December 2016, two large scale residential development applications in this area were submitted to the City, proposing a total of approximately 1,800 residential units. In response, the City initiated a character study to evaluate infill development proposals, culminating in the adoption of Official Plan Amendment 419 and Site and Area Specific Study 551 (OPA 419/SASP 551) in June 2018. OPA 419/SASP 551 was appealed by several appellants, including the TDSB on the basis that the OPA 419/SASP did not appropriately address TDSB's concerns regarding school capacity and accommodations.

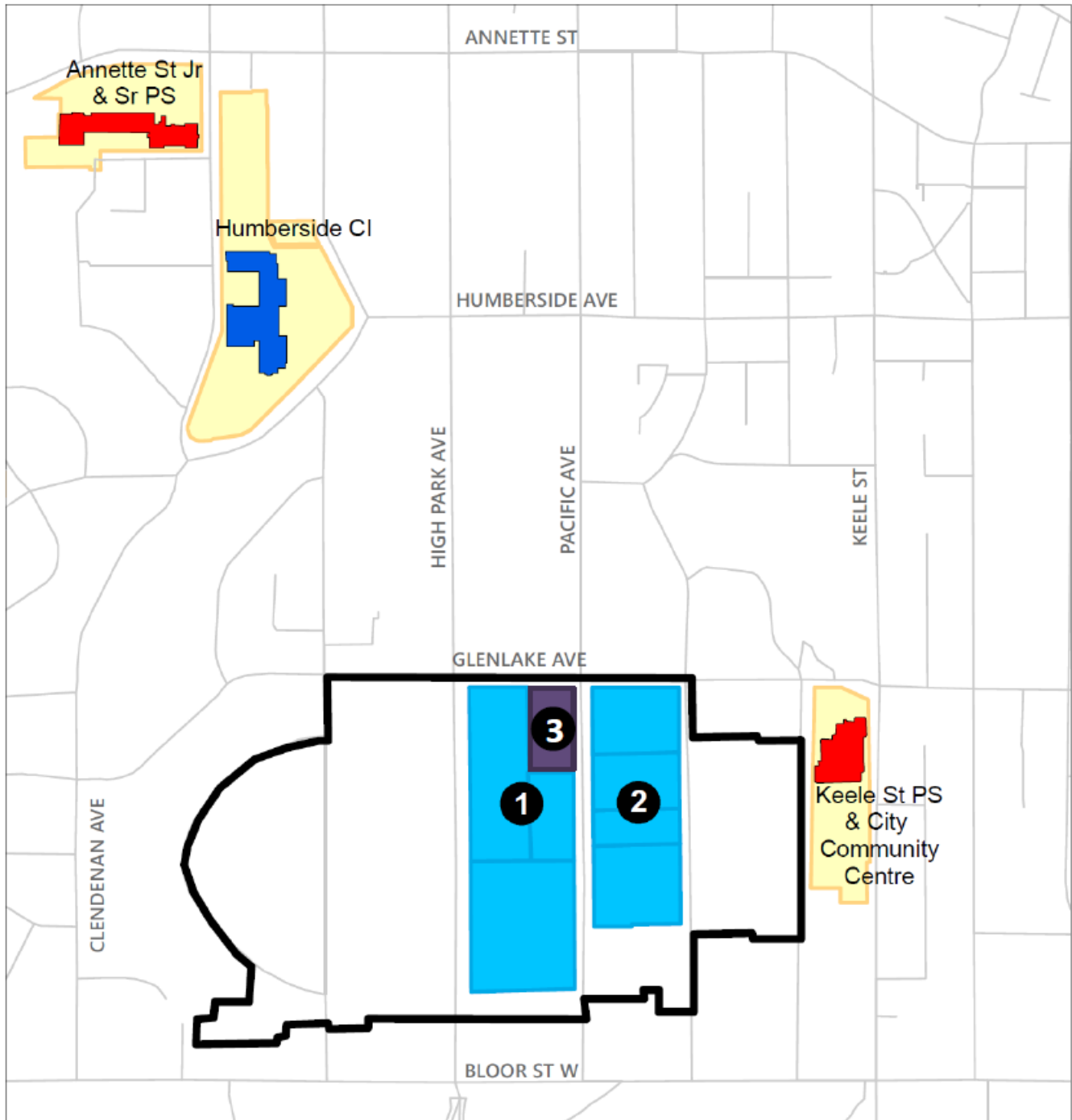
The two above-noted large scale residential development applications in this area were also appealed to the LPAT by the developers on the basis of City Council's failure to make a decision on the applications. The TDSB was a party to those matters, and worked with external legal counsel, TDSB accommodation planning staff and an external land use planning witness to prepare for the hearing that scheduled to commence late January 2020.

TDSB accommodation planning staff has established a timeline for developing a long-term accommodation strategy to address growth in the High Park area that is intended to achieve sufficient local elementary school accommodation by September 2024. This timeline also incorporates TDSB's current system-wide Secondary School review and French programs review, which will potentially help relieve enrolment pressures in the High Park area.

In early January 2020, TLC reached a settlement with the two developers, who have agreed to delay occupancy of their proposed developments, with phasing such that the timing aligns generally with TDSB's 2024 accommodation strategy for High Park.

In January 2020, City Council approved another residential development in the High Park area. As TLC made written submissions to City Council on this application, TLC would have the right to appeal the zoning application after City provides notice of its enactment. Outside of the LPAT process, TLC has reached a settlement agreement with the developer. In exchange for TLC's right to appeal to the application, the developer has agreed that occupancy of the proposed development will not take place prior to September 2024.

In light of the settlements on the two appealed residential developments and the recent Council-approved residential development, which occupy a significant portion of the OPA 419/SASP 551 area, TLC has undertaken a site-by-site analysis of the remaining development potential. Based on the policies in OPA 419/SASP 551, TLC has determined that there is some, but limited, additional development potential. TLC has discussed its analysis with TDSB accommodation planning staff. TLC and TDSB staff are of the opinion that there is no longer a need to pursue a hearing on OPA 419/SASP 551 regarding TDSB's concerns over the accommodation of students from development within the High Park area covered by OPA 419/SASP.



**SETTLED APPEALS**

- 1** 35, 41-63, 65 & 95 HIGH PARK AVE & 66 AND 102-116 PACIFIC AVE
- 2** 111 PACIFIC AVE, 255 GLENLAKE AVE & 66 OAKMOUNT RD

**SETTLED APPLICATION (NOT APPEALED)**

- 3** 299 GLENLAKE AVENUE

**OFFICIAL PLAN AMENDMENT 419/  
SITE & AREA SPECIFIC POLICY 551**

**TDSB SITES**

Produced by:  
Toronto Lands Corporation  
April 2020

Source:  
Base Map- Geospatial Competency Centre

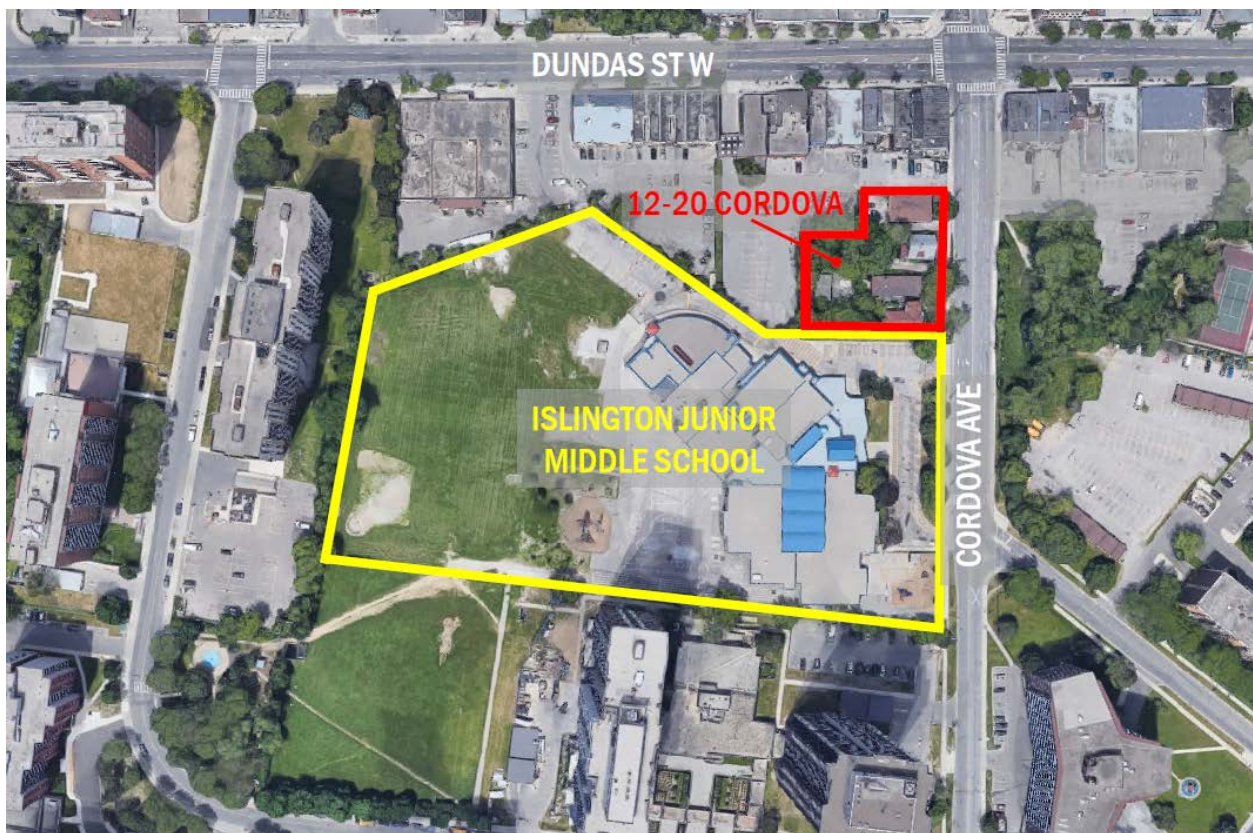


### C. Etobicoke Centre

A 27-storey residential development is proposed directly adjacent to Islington Junior Middle School. TLC's concerns relate to impacts of built form (height, setbacks) on the school site, the proposed interface between the proposed development and school site, transportation impacts (road safety), demolition/construction, and the cumulative impact of development applications in the area with respect to school capacity.

In June 2019, City Council refused the developer's official plan amendment and zoning by-law amendment applications, which were subsequently appealed by the developer. TLC obtained party status at the LPAT case management conference held in January 2020. The hearing is scheduled for January 2021.

TLC is in preliminary discussions with the developer to explore whether there is opportunity to resolve and mitigate TLC's concerns without the need for a contested LPAT hearing.



### D. Port Lands

The Port Lands occupy an area of 325 hectares (800 acres) along Lake Ontario to the southeast of downtown. The Port Lands planning framework and Official Plan Modification (OPM) to the Central Waterfront Secondary Plan establish that this area is planned to accommodate a new mixed use community, including up to 21,000 residents, with a potential for up to an additional 10,000 residents. The TDSB has identified the need for new schools (both elementary and secondary) in the Port Lands.

The TDSB is an appellant to the Port Lands OPM to ensure that the Port Lands OPM includes appropriate policies to facilitate new TDSB school sites to serve the emerging community. The first phase of the hearing with respect to land use planning and transportation issues is scheduled to

commence August 31, 2020. TLC has been meeting with City staff and legal counsel to discuss potential resolution of TDSB's issues.

**E. City-wide Zoning By-law**

In May 2013, the City passed the new comprehensive zoning by-law 569-2013 (New ZBL), harmonizing the 43 former zoning by-laws that applied to different areas of the pre-amalgamated municipalities. The City received hundreds of appeals to the New ZBL, including an appeal by the TDSB. Mediation sessions between TDSB and City staff were held in October 2017, with some positive discussion and alignment on some issues, but no formal action was undertaken to implement the agreed-upon discussions.

TLC and external legal counsel are now re-engaging with City staff regarding bringing forward a partial motion to implement agreed-upon areas and to further discuss and try to resolve outstanding issues.