Clerk's Files



Originator's Files OZ 07/004 W5

DATE:	June 5, 2007				
TO:	Chair and Members of Planning and Development Committee Meeting Date: June 25, 2007				
FROM:	Edward R. Sajecki Commissioner of Planning and Building				
SUBJECT:	Information Report Rezoning Application To permit an off site shared parking arrangement for Club 108 1325 Eglinton Avenue East and 5120-5130 Dixie Road Northwest quadrant of Dixie Road and Eglinton Avenue East Owner: Dixie Eglinton Construction Ltd. Applicant: Kentridge Johnston Limited Bill 51				
	Public Meeting Ward 5				
RECOMMENDATION:	Public Meeting Ward 5 That the Report dated June 5, 2007, from the Commissioner of Planning and Building regarding the application to amend the "MC-1435" (Mixed Industrial and Commercial) and "MC-1614" (Mixed Industrial and Commercial) zoning to permit a shared parking arrangement for Club 108 under file OZ 07/004 W5, Dixie Eglinton Construction Ltd., 1325 Eglinton Avenue East and 5120- 5130 Dixie Road, be received for information.				

COMMENTS:

The subject lands are divided into two parcels, known municipally as 1325 Eglinton Avenue East (Eglinton Lands) and 5120-5130 Dixie Road (Dixie Lands) (see Appendix I-4). Multi-unit industrial buildings were constructed on both properties in 1986. The application has been filed on behalf of Club 108 (known as Body English Nite Club), which occupies Units 1 through 6 (1,839 m² or 19,795 sq. ft.) on the Eglinton Lands.

A night club/commercial entertainment centre has been operating on the Eglinton Lands since 1988, under a variety of names, and has received a number of variances to operate with a reduced parking standard. The most recent application to the Committee of Adjustment was refused, with the decision being upheld by the Ontario Municipal Board, partly on the basis that the matter is more appropriately dealt with through a Zoning By-law Amendment application (see Appendix I-1).

The purpose of the application is to permit a portion of the required parking for the Eglinton Lands to be provided off site on the abutting Dixie Lands to the north, and to amend the parking tables that form part of the zoning for both properties to reflect the new parking arrangement as proposed. No additional built form is proposed for the lands as part of the subject application, nor is an expansion to the commercial entertainment centre being proposed. Additional details of the proposal are as follows:

Development	Proposal
Complete	
Application	
submitted:	March 19, 2007
Existing Gross	
Floor Area -	
Eglinton Lands:	7,799 m ² (83,948 sq. ft.)
Dixie Lands:	7,263 m ² (78,178 sq. ft.)
Height -	
Eglinton Lands:	2 storeys
Dixie Lands:	1 storey
Parking	
Required -	
Eglinton Lands:	486 parking spaces

Development Proposal			
Dixie Lands:	552 parking spaces		
Total Parking:	1,038 parking spaces		
Parking			
Provided -			
Eglinton Lands:	343 delineated parking spaces		
Dixie Lands:	428 parking spaces		
Total Parking:	771 parking spaces		
Supporting	Parking Analysis completed by BA		
Documents:	Consulting dated February 2007		

Site Characteristics			
Frontage:			
Eglinton Lands:	125 m (410 ft.)		
Dixie Lands:	139 m (456 ft.)		
Depth:			
Eglinton Lands:	151 m (495 ft.)		
Dixie Lands:	210 m (689 ft.)		
Net Lot Area:			
Eglinton Lands:	1.88 ha (4.65 ac.)		
Dixie Lands:	2.87 ha (7.09 ac.)		

Additional information is provided in Appendices I-1 to I-8.

Neighbourhood Context

The subject properties are located in a fully developed mixed industrial and commercial area. In addition to Club 108, other uses on the Eglinton Lands include offices, a banquet hall and two restaurants. Information regarding the history of the site is found in Appendix I-1.

The surrounding land uses are described as follows:

North:	Industrial (Aimco Industries Ltd.)
East:	Esso and Canadian Tire gas bars with associated retail
	uses, vacant zoned industrial land
South:	Multi-tenant industrial and commercial uses (Bank of
	Nova Scotia)
West:	Multi-tenant industrial buildings

Current Mississauga Plan Designation and Policies for the Northeast District (May 5, 2003)

"General Commercial" which permits a range of establishments for the sale of goods and services, and also includes recreation, entertainment and accommodation to the general public. In addition, business employment uses are permitted in this area.

The application is in conformity with the land use designation and no official plan amendments are proposed. However, through the processing of the application, Official Plan policies respecting commercial land uses and urban design policies that speak to parking, access, safety and pedestrian movements would need to be considered.

Existing Zoning

Eglinton Lands: "MC-1614" (Mixed Industrial and

Commercial), which permits a range of industrial, office and commercial uses, including a Commercial Entertainment Centre which is defined as a building or structure providing live entertainment and where food is offered for sale to the public, but not prepared within the building or structure, and excludes a dining room, restaurant, dining lounge, or club where full course meals are served, and adult entertainment parlour. A night club is not a permitted use.

Historically, through the approval of the associated minor variance applications, Club 108 has been referred to as a night club, notwithstanding that nightclubs are not permitted. Club 108 is permitted as it was considered to be a Commercial Entertainment Centre. Through this application, it will need to be confirmed whether or not the business continues to meet the definition of "Commercial Entertainment Centre".

Dixie Lands: "MC-1435" (Mixed Industrial and Commercial), which permits a range of industrial, office and commercial uses, but not a Commercial Entertainment Centre.

Parking Standards

In a number of mixed use areas of the City, the Zoning By-law provides opportunities for a shared parking arrangement, based on a mathematical formula, which takes into account that each of the permitted uses generates more parking at certain times of the day. While this formula allows for a shared parking arrangement amongst the various businesses, it also stipulates that there must be a minimum number of spaces provided based on the busiest time of day, known as "Percent of Peak Period". Both the "MC-1614" and "MC-1435" Zone categories make use of Percent of Peak Period tables to calculate required parking.

Zoning Regulations Specific to Night Clubs

In 1992, Council increased the parking standard for night clubs from 15 spaces per 100 m² (1,076 sq. ft.) to 25.2 spaces per 100 m² (1,076 sq. ft.). In addition, Council in 1999 and 2000 adopted provisions specific to the operation of a night club as follows: a maximum gross floor area of 1,115 m² (12,000 sq. ft.); an 800 m (2,625 ft.) distance separation from residentially zoned lands; an 800 m (2,625 ft.) distance separation between night clubs; and must front onto a major road.

As Club 108 is viewed as a Commercial Entertainment Centre, the above does not apply. The parking standard for a Commercial Entertainment Centre is 15 spaces per 100 m^2 (1,076 sq. ft.).

Proposed Zoning By-law Amendment

The applicant has requested that the provisions of the above two zone categories be modified to accomplish the following:

- To permit a portion of the required parking for the Eglinton Lands, principally associated with the Commercial Entertainment Centre, to be provided off site on the abutting Dixie Lands to the north (see Appendix I-5);
- 2. To amend the Percent of Peak Period tables that form part of the zoning for both properties to reflect the new parking arrangement as proposed, by adding a Late Evening column.

- 5 -

Details on the revised tables are included in Appendix I-7.

Draft Mississauga Zoning By-law

A report on the new draft Zoning By-law was received at the Planning and Development Committee on April 30, 2007. A further addendum report was adopted by Council on May 23, 2007, with the exception of the Harris Farm. The implementing by-law is anticipated to be passed by Council on June 20, 2007.

The draft Zoning for both properties is "C3-46" (Commercial) which permits a range of commercial and industrial uses, including a night club, which must be located a minimum of 800 m (8,611 ft.) from a residential zone, and have a maximum floor area of 1,115 m² (12,000 sq. ft.). The timing of the site specific Zoning By-law to permit the proposed development may be affected by the passage of the new Mississauga Zoning By-law and potential appeals. A recommendation will be included in the supplementary report to address the new Mississauga Zoning By-law.

Business Licensing By-law Status

The City's Business Licensing By-law requires that a license be issued for the operation of a Night Club, as defined within the Bylaw. An application has been filed with the City but refused on the basis of the decisions made by the Committee of Adjustment and Ontario Municipal Board respecting the use. This decision has been appealed by the applicant to the City's Licensing Appeal Committee. A hearing date has not been set.

COMMUNITY ISSUES

No community meetings were held and no written comments were received by the Planning and Building Department.

DEVELOPMENT ISSUES

Agency comments are summarized in Appendix I-6. Based on the comments received and the applicable Mississauga Plan policies, the following matters will have to be addressed:

	 review and comment on the parking study submitted in support of the subject application; registration of easements to reflect any parking arrangement; clarification as to whether or not Club 108 continues to be defined as a Commercial Entertainment Centre, or if it should be considered a night club.
	OTHER INFORMATION
	Development Requirements
	In conjunction with the proposed rezoning, there are certain other matters which may require the applicant to enter into appropriate agreements with the City.
FINANCIAL IMPACT:	Development charges will be payable in keeping with the requirements of the applicable Development Charges By-law of the City as well as financial requirements of any other official agency concerned with the development of the lands.
CONCLUSION:	Most agency and City department comments have been received and after the public meeting has been held, the Planning and Building Department will be in a position to make a recommendation regarding this application.
ATTACHMENTS:	Appendix I-1 - Site History Appendix I-2 - Aerial Photograph Appendix I-3 - Excerpt of Northeast District Land Use Map Appendix I-4 - Excerpt of Existing Land Use Map Appendix I-5 - Shared Parking Plan Appendix I-6 - Agency Comments Appendix I-7 - Proposed Zoning Provisions Appendix I-8 - General Context Map

Edward R. Sajecki Commissioner of Planning and Building

Prepared By: Rob Hughes, Development Planner

File: OZ 07/004 W5

Site History

1325 Eglinton Avenue East

- July 28, 1986 A Site plan application, under file SP 023/86, was approved to permit the construction of a multi-tenant industrial building.
- October 26, 1987 Council adopted implementing By-law 0818-87, under file OZ-022/87 W5, which rezoned the lands from "M1" (Industrial) and "M2" (Industrial) to "MC-1614" (Mixed Industrial and Commercial).
- April 21, 1988 The Committee of Adjustment refused a minor variance application, under file A-130/88, to permit an existing night club (Entex Entertainment Centre) to remain, providing no parking by virtue of its off peak hours of operation.
- May 19, 1988 The Committee of Adjustment approved a minor variance application, under file A-207/88, for a two year period to permit an existing night club (Entex Entertainment Centre) to remain, providing no parking by virtue of its off peak hours of operation, subject to conditions respecting hours of operation, security, signage, and a suitable barrier along the westerly limit.
- July 19, 1990 The Committee of Adjustment approved a minor variance application, under file A-349/90, for the night club parking as previously approved on May 19, 1988, for a five year period.
- November 22, 1990 The Committee of Adjustment approved a minor variance application, under file A-547/90, to permit an automotive accessory installation business.
- July 22, 1993 The Committee of Adjustment approved a minor variance application, under file A-295/93, for the night club parking as previously approved on July 19, 1990, for a new owner (The Mix Nightclub Limited) for a one year period.
- July 21, 1994 The Committee of Adjustment approved a minor variance application, under file A-441/94, for the night club parking as previously approved on July 22, 1993, specific to Club 107 for a five year period.
- March 20, 1995 The Committee of Adjustment approved a minor variance application, under file A-118/95, to permit a food vending cart, for a three year period.

- June 26, 1995 The Committee of Adjustment approved a minor variance application, under file A-324/95, to permit a food vending cart, as approved on March 20, 1995, but under a new owner, for a three year period.
- September 24, 1998 The Committee of Adjustment approved a minor variance application, under file A-631/98, for the night club parking as previously approved on July 21, 1994, specific to 1197801 Ontario Inc. for a seven year period.
- November 15, 2001 The Committee of Adjustment refused a minor variance application, under file A-772/01, to permit the establishment of an outdoor patio ancillary to the existing night club known as Club 107. The matter was appealed to the Ontario Municipal Board which allowed the appeal in a decision dated December 13, 2002.
- July 18, 2002 The Committee of Adjustment refused a minor variance application, under file A-512/02, to permit a hot dog vending cart. The matter was appealed to the Ontario Municipal Board but subsequently withdrawn through minutes of settlement addressed before the Board in a decision dated December 31, 2002.
- September 8, 2003 A Site Plan application, under file SP 01/371 W5, was approved for the development of a side yard outdoor patio, as approved by the Ontario Municipal Board on December 13, 2002.
- September 22, 2005 The Committee of Adjustment refused a minor variance application, under file A-289/05, to permit the continued operation of a Night Club use (Club 107 and Club 108) on the subject property, providing no additional parking by virtue of an off-peak use arrangement, as previously approved by the Committee on September 24, 1998. The matter was appealed to the Ontario Municipal Board which upheld the Committee's ruling in a decision dated July 11, 2006, stating that the matter is more appropriately dealt with through the submission of a rezoning application supported by a parking utilization study.

5120-5130 Dixie Road

- April 4, 1985 A Site plan application, under file SP-240/84 W5 was approved to permit the construction of a multi-tenant industrial building.
- April 14, 1986 Council adopted implementing By-law 0326-86, under file OZ-028/85 W5, which rezoned the lands to "MC-1435" (Mixed Industrial and Commercial).

- A number of minor variances have been approved for the lands as follows:
 - November 6, 1986 (A-710/86) to permit a convenience variety store
 - November 2, 1986 (A-663/89) to permit a convenience variety store
 - November 1, 1990 (A-514/90) to permit a specialty food store
 - February 28, 1991 (A-94/91) to permit a delicatessen
 - December 23, 1991 (A-665/91) to permit restaurant/night club for five years
 - February 20, 1992 (A-117/92) to permit the expansion of a restaurant
 - April 9, 1992 (A-231/92) to permit a billiard hall and snack bar
 - June 25, 1992 (A-456/92) to permit an arcade
 - January 21, 1993 (A-22/93) to permit tool and equipment rental business
 - December 2, 1993 (A-621/93) to permit a convenience variety store
 - February 8, 1996 (A-43/96) to permit a martial arts club
 - August 15, 1996 (A-390/96) to permit accessory retail for baked goods
 - April 3, 1997 (A-335/97) to permit a night club for three years
 - March 6, 1997 (A-336/97) to permit a billiard hall and snack bar
 - June 19, 1997 (A-559/97) to permit a night club for three years
 - June 4, 1998 (A-227/98) to permit a billiard hall and snack bar
 - June 18, 1998 (A-489/98) to permit a convenience variety store
 - October 1, 1998 (A-655/98) to permit a dance studio
 - February 4, 1999 (A-47/99) to permit a night club for one year
 - February 10, 2000 (A-62/00) to permit an accessory lounge for dance studio
 - May 4, 2000 (A-249/00) to permit a night club for five years
 - August 16, 2001 (A-483/01) to permit a convenience store
 - September 27, 2001 (A-679/01) to permit accessory retail for baked goods
 - May 9, 2002 (A-263/02) to permit a mezzanine structure
 - June 6, 2002 (A-336/02) to permit a night club for three years
 - November 11, 2003 (A-819/03) to permit a dance studio
 - September 16, 2004 (A-408/04) to permit a restaurant (convenience and take-out)
 - February 16, 2006 (A-50/06) to permit a dance studio
 - November 2, 2006 (A-478/06) to permit a commercial school
 - November 23, 2006 (A-497/06) to permit a convenience store
 - December 7, 2006 (A-528/06) to permit a restaurant

Night Club General

• January 13, 1992 - Council adopted implementing By-law 0008-1992 which, among other things, increased the parking standard for night clubs from 15 spaces per 100 m² (1,076 sq. ft.) to 25.2 spaces per 100 m² (1,076 sq. ft.)

• March 31, 1999 - Council adopted implementing By-laws 0142-1999, 0143-1999 and 0144-1999 which restricted the gross floor area of night clubs to 1,115 m² (12,000 sq. ft.) and required an 800 m (2,625 ft.) distance separation from residentially zoned lands. Additional restrictions were added through the adoption of By-law 0440-2000 on September 13, 2000 which required that night clubs be separated from other night clubs at least 800 m (2,625 ft.), front onto a major road, and be permitted within industrial zones.



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DESIGN FILE

APPENDIX I-5



File: OZ 07/004 W5

Agency Comments

The following is a summary of comments from agencies and departments regarding the application.

Agency / Comment Date	Comment		
Region of Peel (May 15, 2007)	As no additional buildings are proposed, municipal water and sanitary sewer site services and waste service comments are not applicable to this application. Prior to approval, the applicant is required to submit to Regional staff Legal Easements for the proposed shared parking between the two properties. This is to be illustrated on a Draft Reference Plar and submitted for Regional review and comment. All costs associated with establishing the easements are to be 100% pa by the applicant.		
City Community Services Department – Planning, Development and Business Services Division (April 11, 2007)	This Department has no concerns or conditions regarding the subject application.		
City Community Services Department – Fire and Emergency Services Division (May 15, 2007)	This Department has reviewed the rezoning application from an emergency response perspective and has no concerns.		
City Transportation and Works Department (May 3, 2007)	This Department indicated that as no physical changes are proposed to the site, we have no concerns at this time. Access and servicing to Dixie Road shall be determined to the satisfaction of the Region of Peel as this road is under their jurisdiction. Further comments will be provided prior to the Supplementary Report proceeding to City Council.		
Other City Departments and External Agencies	The following City Departments and external agencies offered no objection to this application provided that all technical matters are addressed in a satisfactory manner: - Canada Post - City Development Services. - City Economic Development Office - Greater Toronto Airports Authority		

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Dixie Eglinton Construction Ltd.

Agency / Comment Date	Comment
	The following City Departments and external agencies were
	circulated the application but provided no comments:
	- Bell Canada
	- Enbridge Gas Distribution Inc.
	- Enersource Hydro Mississauga
	- Hydro One Networks Inc.
	- Realty Services
	- Rogers Cable

File: OZ 07/004 W5

Proposed Zoning Provisions

1325 Eglinton Avenue East "MC-1614" (Mixed Industrial and Commercial) Existing Charts

PERCENT OF PEAK PERIOD (Weekday)						
Land Use	Morning	g Noon Afternoor		n Evening		
Industrial/Office	100	90	95	10		
Retail	80	65	100	100		
Restaurants (includes restaurants, convenience restaurants, take-out restaurants and banquet halls)	20	100	30	100		
Commercial Entertainment Centre	0	100	100	100		
TOTAL						

PERCENT OF PEAK PERIOD (Saturday)						
Land Use	Morning	Noon	Afternoon	Evening		
Industrial/Office	10	10	10	10		
Retail	80	100	100	30		
Restaurants (includes restaurants, convenience restaurants, take-out restaurants and banquet halls)	20	100	50	100		
Commercial Entertainment Centre	0	100	100	100		
TOTAL						

File: OZ 07/004 W5

1325 Eglinton Avenue East "MC-1614" (Mixed Industrial and Commercial) Proposed Charts

PERCENT OF PEAK PERIOD (Weekday)						
Land Use	Morning	Noon	Afternoon	Evening	Late Evening	
Industrial/Office	100	90	95	10	5	
Retail	80	65	100	100	10	
Restaurants (includes restaurants, convenience restaurants, take-out restaurants and banquet halls)	20	100	100	100	10	
Commercial Entertainment Centre	0	0	0	25	100	
TOTAL						

PERCENT OF PEAK PERIOD (Saturday)						
Land Use	Morning	Noon	Afternoon	Evening	Late Evening	
Industrial/Office	10	10	10	10	0	
Retail	80	100	100	30	0	
Restaurants (includes restaurants, convenience restaurants, take-out restaurants and banquet halls)	20	100	50	100	10	
Commercial Entertainment Centre	0	0	0	25	100	
TOTAL						

File: OZ 07/004 W5

5120-5130 Dixie Road "MC-1435" (Mixed Industrial and Commercial) Existing Charts

PERCENT OF PEAK PERIOD (Weekday)					
Land Use	Morning	Noon	Afternoon	Evening	
Industrial/Office	100	90	95	10	
Retail	80	65	100	100	
Medical Office	100	60	95	20	
Restaurants (includes restaurants, convenience restaurants, and take- out restaurants)	20	100	30	100	
TOTAL					

PERCENT OF PEAK PERIOD (Saturday)					
Land Use	Morning	Noon	Afternoon	Evening	
Industrial/Office	10	10	10	10	
Retail	80	100	100	30	
Medical Office	100	60	95	20	
Restaurants (includes restaurants, convenience restaurants, and take- out restaurants)	20	100	50	100	
TOTAL					

File: OZ 07/004 W5

5120-5130 Dixie Road "MC-1435" (Mixed Industrial and Commercial) Proposed Charts

PERCENT OF PEAK PERIOD (Weekday)					
Land Use	Morning	Noon	Afternoon	Evening	Late Evening
Industrial/Office	100	90	95	10	5
Retail	80	65	100	100	10
Restaurants (includes restaurants, convenience restaurants, and take- out restaurants)	20	100	30	100	10
Medical Offices	100	60	95	20	0
TOTAL					

PERCENT OF PEAK PERIOD (Saturday)					
Land Use	Morning	Noon	Afternoon	Evening	Late Evening
Industrial/Office	10	10	10	10	0
Retail	80	100	100	30	0
Restaurants (includes restaurants, convenience restaurants, and take- out restaurants)	20	100	50	100	10
Medical Offices	100	60	95	20	0
TOTAL					



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