



## Consolidated Qs&As - Development at 18-30 Erskine Avenue (Updated as of April 28, 2017)

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Consolidated Qs&As - Development at 18-30 Erskine Avenue  
(Updated as of April 28, 2017)

This matter concerns the development of a high-rise residential apartment building on the property adjacent to John Fisher Junior Public School known municipally as 18-30 Erskine Avenue, Toronto (the “Development”) by KG Apartment Holdings II Inc. and prior owners (the “Developer”).

The purpose of this document is to provide comprehensive information in response to the most commonly-raised questions and concerns regarding the Development and its impact on the John Fisher Junior Public School students, staff, facility, child care and site.

This document consolidates, updates and replaces the Qs&As documents dated November 8, 2016, December 2, 2016, March 21, 2017, March 22, 2017 and March 31, 2017, which were previously posted on the school website.

**A. The Nature of the Development**

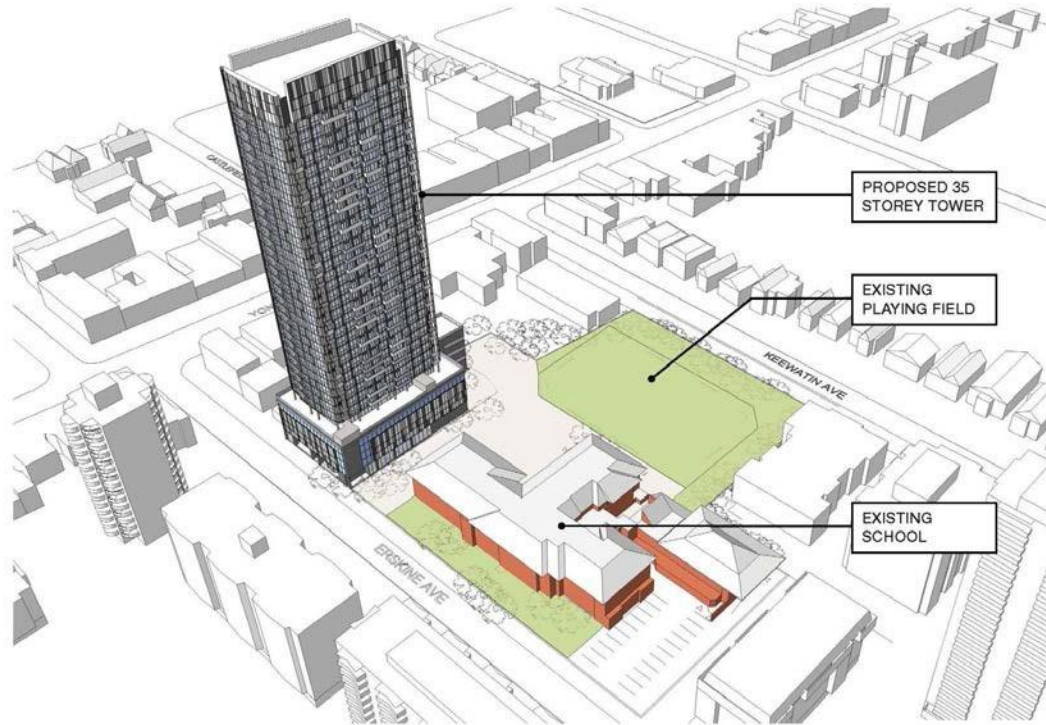
**1. What is the Development?**

The Developer owns a 0.4 acre parcel of land on Erskine Avenue immediately adjacent to, and on the west side of, the 2.7 acre John Fisher Junior Public School site owned by the TDSB. The site is east of the intersection at Yonge Street and Erskine Avenue, just north of the major intersection at Yonge Street and Eglinton Avenue.

The Developer’s site currently consists of a vacant parking lot and a 3-storey residential apartment building. The John Fisher site consists of a 2-storey school building, playground areas and a surface parking lot.

The Developer is proposing to demolish the residential building on its site and to build a 35-storey rental apartment building which will be approximately 107 metres in height and containing approximately 300 rental units. The widest part of the proposed building will be the street level 3-storey podium, above which a narrower and recessed tower will sit.

Below is a sketch of the proposed Development:



**APPENDIX B2: VIEW FROM SOUTH EAST - 18-30 ERSKINE REZONING APPLICATION**  
John Fisher Junior Public School (Showing Proposal by the Pemberton Group & Rafael + Bigauskas Architects)  
40 Erskine Ave, Toronto, ON  
November 13, 2013

Taylor\_Smytharchitects

## 2. What is the timing of the Development?

City zoning approvals are now in place. There is not yet an approved Site Plan Agreement nor has a building permit been issued.

It is anticipated that a demolition permit, to allow for the demolition of an the existing 3-storey residential building on the Developer's site, will likely be issued in the coming months for demolition over a two week period in July, 2017.

The Developer has retained Deltera Contracting Inc. as its construction manager for the Development and is projecting that construction will start immediately upon completion of the demolition work in July, 2017.

The Developer is projecting that: Shoring & Excavation will take approximately five months (July, 2017 to November, 2017); below-grade formwork will take approximately five months (December, 2017 to April, 2018); and, above-grade construction will take approximately 24 months (May, 2018 to April, 2020). External construction is expected to be completed by the end of August, 2019, with all further work being internal finishing work.

**B. The OMB Proceedings**

**1. How did the Development get zoning approval in these circumstances?**

The proposed Development required the Developer to submit an application for a zoning by-law amendment to the City of Toronto, which it did in October, 2012. The City of Toronto failed to make a decision on the application for the zoning by-law amendment.

On April 13, 2015, the Developer appealed the failure of the City to make a decision to the Ontario Municipal Board (the “OMB”). Two resident groups intervened in the OMB proceedings: (i) 17-30 Keewatin Neighbours Group; and (ii) Sherwood Park Residents’ Association. A parent, Nancy Schmeler, was also a participant. The TDSB did not participate in the OMB proceedings.

In a report to City Council dated June 30, 2015, the City Planning Division recommended, in part, that “City Council authorize City staff to continue discussions with the applicant to negotiate an appropriate development proposal. . .”

As a result, City Council authorized City staff to continue discussions with the Developer on a negotiated development proposal. Initially, the hearing before the OMB was scheduled for August 11, 2015. In a Memorandum of Oral Decision delivered on August 11, 2015, the OMB noted that:

The Board was advised that in advance of this hearing event, the Applicant/Appellant and the City agreed that mediation may be beneficial in this case. Having now been assessed and approved for Board-assisted mediation services, the parties agree that it would be appropriate to make use of the two-days of the current scheduled hearing for this purpose.

In the result, on the consent of the parties, the August 11th hearing was adjourned to allow the mediation to take place. In a Memorandum of Oral Decision delivered on January 6, 2016, the OMB noted:

A Board-led mediation process preceded today's settlement hearing and the parties were joined in that process by the participants, Sherwood Park Residents' Association and 17-30 Keewatin Neighbours Group. Participant Nancy Schmeler was in attendance for today's hearing. Now, a settlement has been reached.

All of the requisite provincial and municipal planning instruments and guidelines were referenced and all of the relevant policies are determined by the Board to be achieved through the revised proposal.

In the result, the OMB approved the zoning by-law amendment to permit the Development.

## **2. Has this situation occurred elsewhere in the City of Toronto?**

Yes. The Developer has identified numerous similar large-scale construction projects in close proximity to schools in the Toronto area. It is also noted that there are 11 other developments pending in the City of Toronto that will be near to an existing TDSB facility.

## **3. Why didn't the TDSB participate in the OMB proceedings?**

The TDSB has no automatic right to participate in OMB proceedings and does not enjoy any special statutory protection under the Planning Act.

In December, 2014, after efforts by the TDSB to engage the Developer in discussion regarding a revised development proposal proved unsuccessful, the TDSB met with the Land Planning Committee of the John Fisher Junior Public School to discuss the possibility of development of the school property to fund a new school building. During this period, the file was passed to the Toronto Lands Corporation (TLC) for it to assist in identifying opportunities for development and reinvestment in the school.

In 2015, during the OMB proceedings, the TLC was actively considering development options for the John Fisher site, including a severance and sale of a .5 acre parcel of land at the John Fisher site. While it is likely that the TDSB could have been granted status in the OMB proceeding, in light of then active consideration of redevelopment, and based on expert legal and planning advice, the TDSB did not seek status to participate in the OMB proceeding.

In particular, the TDSB received expert planning advice that:

- (i) The John Fisher site is designated "Apartment Neighbourhood" under the City's Official Plan which permits residential uses to be combined with current educational use;
- (ii) The John Fisher site sits within the "Yonge-Eglinton Centre" one of five specific areas in the City of Toronto where intensification is encouraged in accord with the Province of Ontario's Growth Plan, 2006;

- (iii) The proposed Development is considered by City staff to conform to the City's Official Plan, so the proposed Development is acceptable to the City, in principle, subject to the City and the Developer agreeing on the details; and
- (iv) The OMB is likely to approve the Development and the TDSB, if it were to participate, would not likely be able to influence the OMB in this regard.

Based on all of the foregoing, the TDSB did not participate in the OMB proceedings.

#### **4. What is the impact of the TDSB not participating in the OMB proceedings?**

The OMB decision does not and will not preclude the TDSB from addressing the construction related issues that are of concern to it (which include, but are not limited to: vibration, noise, dust, and adequate safety precautions for students, staff and premises). The TDSB has been addressing, and will continue to address, these issues in accord with its risk mitigation strategy outlined below.

#### **5. Why didn't the TDSB pursue redevelopment options on the John Fisher School site?**

The community voiced strong opposition to the severance and sale of any of the John Fisher property. Therefore, the TDSB approved a resolution declining to declare any portion of the John Fisher property as surplus - a necessary step in any severance. This decision was based on legitimate concerns about the disruption that redevelopment would have caused to the community and which ultimately would have reduced the outdoor space at the school.

### **C. Construction and Risk Mitigation**

#### **1. What is the TDSB's plan to protect the health and safety of students and staff?**

The TDSB has developed and implemented a comprehensive risk mitigation strategy based on the following Guiding Principle:

The TDSB is acting, and will continue to act, in a good faith effort to address legitimate concerns related to the Development so as to meet its obligations to provide appropriate school accommodation for students. The TDSB's primary concerns are the safety of students and staff and the safety and integrity of the John Fisher building.

The TDSB considers transparency with parents, staff and the public to be of utmost importance in this process.

The TDSB has retained an independent expert, Environmental Consultants Occupational Health (“ECOH”) to undertake a risk assessment in relation to the Development. ECOH provides a full range of environmental and consulting engineering service and is a member in-good-standing with the Professional Engineers of Ontario (PEO), Environmental Abatement Council of Ontario (EACO), the American Industrial Hygiene Association (AIHA), Healthy Indoor Partnership (HIP), Phylmar Affiliate Network and the Toronto Construction Association (TCA).

Some risks were identified in a Phase I Risk Assessment Report dated February 9, 2017, delivered by ECOH. But, this was only a generic risk assessment based on a review of the relevant literature and other publicly available information, with limited information specific to the Development.

The TDSB has engaged ECOH to undertake a Phase II Risk Assessment and to deliver a further report to the TDSB (the “Phase II Risk Assessment Report”) which will be based on specific risk mitigation measures for the Development. So, while the Phase I Risk Assessment Report is helpful in identifying potential areas of concern, the Phase II Risk Assessment Report will be critical to help gain a real picture of the risks and appropriate next steps.

It is anticipated that the Phase II Risk Assessment Report will be delivered by mid-April, 2017. Both reports will be uploaded to the school website once this phase is complete.

The TDSB has developed the following risk mitigation strategy regarding the forthcoming Phase II Risk Assessment Report:

- (i) The TDSB will dialogue with the Developer and the City to determine if risks identified in the Phase II Risk Assessment Report can be addressed; and/or, mitigated by the Developer to the satisfaction of TDSB based on the Guiding Principle.
- (ii) The TDSB will hold the City of Toronto to its obligations in relation to an appropriate site plan agreement and construction management plan that recognizes and addresses, to the extent possible, risks in the Phase II Risk Assessment Report. If the City does not meet its obligations, the TDSB will consider all available options, including legal options, to ensure compliance. The TDSB, together with many other stakeholders, is already engaged with the City as a member of the Construction Management Committee.
- (iii) The TDSB will also hold the Developer to meet its legal obligations, including its common law duties not to unreasonably interfere with the use and enjoyment of the land and premises at John Fisher. If the Developer does not meet its legal obligations, the TDSB will consider all available options, including legal options, to ensure compliance.



- (iv) The TDSB will appoint a site-manager who will visit the site regularly to monitor the status and whether the Developer is honouring all legal and regulatory obligations and to document and report any default or risk of default in a timely way to the TDSB.
- (v) The TDSB will designate a point person to communicate all pertinent information on the proposed Development, if and when construction begins.

**2. Did the TDSB accelerate the delivery of the Phase II Risk Assessment Report because of staffing needs for the 2017-2018 school year?**

No. While the TDSB had previously contemplated that a Phase II Risk Assessment Report would not be available by mid-April, information from the City of Toronto and the Developer is being provided to ECOH within a shorter timeline than previously expected and ECOH has advised that they expect to be able to deliver a completed Phase II Risk Assessment Report by mid-April.

**3. Are there mitigation steps that will be taken prior to or during construction?**

Yes. In addition to the comprehensive risk mitigation strategy undertaken by the TDSB, as outlined above, the TDSB has also already developed a draft Master Plan to: (i) alter the school grounds by moving the play areas further from the adjoining Development; (ii) improve the playscape for students; and (iii) make additional upgrades to better manage any adverse conditions associated with the Development, such as the provision of air conditioning in certain areas of the school. This plan will be implemented after receipt of the Phase II Risk Assessment Report, which will confirm whether the draft Master Plan may need to be changed or may be implemented as drafted. This draft Master Plan may be viewed on the school website.

Further, while the TDSB anticipates that details of construction mitigation will be contained in the Phase II Risk Assessment Report, which will be provided to parents when it is available, the Developer has committed to the following:

Barrier: The Developer will install a 12-foot-high fence of solid plywood prior to excavation.

Crane: The Developer will not be using a swing crane - meaning there will be no crane or construction material in the air space over the school's property. Instead, the Developer will be using a crane that is designed for use in tight spaces and all "staging" will be on the Developer's property. This addresses significant concerns expressed by the community and the TDSB.

Dust: The Developer has committed to: frequent wetting of any exposed soft and hard surfaces; applying a tarp on top of all truck loads, together with the rinsing of truck tires, prior to departure of the site; and adjusting activities when there are high winds.

Traffic: The Developer will have its own staging and delivery area and has arranged for private parking spaces for construction workers. The Developer has also committed to on-site traffic coordinators during construction hours.

**4. Did the TDSB negotiate an agreement with the Developer that includes the master plan for the school grounds? Why did the developer post a master plan with a TDSB logo on its website?**

The TDSB did not negotiate a deal with the developer nor receive funding in connection with the development of the Master Plan or other considerations. On March 31, 2017, it was discovered that the developer included a copy of the TDSB's draft Master Plan on its website without any recognition that for now, the TDSB is conducting a risk assessment that may require changing previous plans. The TDSB requested that the developer remove the draft Master Plan as the information is not current. The Developer did remove it from the website.

**D. The Placement of Students Who May Choose to Leave French Immersion**

**1. Why was there a special placement process motion passed by the Board on March 22, 2017?**

The intent of the TDSB is to maintain and support a viable French immersion program. Nonetheless, some parents have indicated that even if the TDSB determines that it is safe to operate the John Fisher Junior Public School at its current location, they may withdraw their child/ren from French Immersion and seek placement at an English school in the local area.

The TDSB has been planning for growth in the Yonge-Eglinton area schools through its Long-Term Program and Accommodation Strategy since 2014. Staff planning projections have always assumed that John Fisher JPS would remain to serve students in French Immersion within its catchment area. The Board's current policy does not consider the possibility that a large number of students would withdraw at once from the same program. In addition, there is the possibility that the TDSB may need to temporarily close a school due to unavoidable circumstances. There are 11 other developments pending in the City of Toronto that will be near to an existing TDSB facility.

Therefore, the Board of Trustees passed a motion on March 22, 2017 to address the placement of students in exceptional circumstances. This was an important step to address potential outcomes and provide a transparent and fair process for the accommodation of students. In developing and implementing a special placement process, TDSB staff will consider space available, grade, siblings, distance, child care and necessary staffing adjustments. A copy of the motion is available on the school website.

Parents/guardians who choose to withdraw their child/ren from French Immersion at John Fisher JPS would normally be enrolled at an English school based on their home address. Under normal circumstances, schools would be able to accommodate the few students who apply for admission each year. The special placement process stated in the motion does not strip any legal rights from parents and does not provide TDSB staff with open-ended or arbitrary powers to place students. The motion sets out specific criteria that staff will consider when facilitating student placement at local schools.

The Director has designated the situation at John Fisher JPS as an exceptional circumstance. Therefore, the TDSB is developing and implementing a special placement process.

## **2. What is the special placement process?**

The TDSB is now developing and implementing a special placement process. In a letter to parents dated March 31, 2017, the TDSB is circulating a draft of the special placement process for comments. A copy of that letter and the draft special placement process will be available on the school website.

It is anticipated that for those students who choose to withdraw from French Immersion, most will be accommodated at their home English schools such as Bedford Park PS, Blythwood JPS, John Wanless JPS and Hodgson SPS.

However, because many students currently attending John Fisher JPS live in the Eglinton Junior Public School's catchment area, which is over-capacity on a site that cannot accommodate portables, they are likely to be the most impacted. The following schools are being considered to accommodate students living in the Eglinton Junior Public School's catchment area: Maurice Cody JPS and Whitney JPS. The pathway to middle and secondary school will revert back to the student's home address. Any comments

on the draft special placement process are to be provided to Principal Marlene Harroun by April 10, 2017.

**3. Is the special placement process legal?**

Some parents have suggested that the special placement process may be illegal because the law requires school boards to conduct a Pupil Accommodation Review (PAR) process. This is not true. John Fisher Junior Public School is not part of a PAR process.

Otherwise, there is a strong legal and factual basis for the motion which adopted the special placement process in exceptional circumstances and it is our position that the motion was legal. The facts have been outlined in some detail above. The purpose of the motion was to provide a transparent and fair process for the accommodation of students in exceptional circumstances. The motion must be assessed against this background. If it is safe to stay at John Fisher JPS during construction, the school and the French Immersion program will continue at its current location. However, if the school must close due to safety issues, the "closure" falls under section 19 of the Education Act, which deals with temporary closures due to unavoidable emergencies in the following terms: A board may close or authorize the closing of a school or class for a temporary period where such closing appears unavoidable because of, (a) failure of transportation arrangements; or (b) inclement weather, fire, flood, the breakdown of the school heating plant, the failure of an essential utility or a similar emergency ``.

**4. What happens while the special process is being developed and before it is fully implemented?**

Principals are holding registrations of students that are subject to the special placement process. This process will be managed centrally by TDSB staff. The special placement process is fair and transparent and it would not be fair to accept students on a first-come first-served basis outside of the special placement process.

**5. Distance is one of the factors to be considered as part of the special placement process. For families in the Eglinton Junior Public School's catchment area catchment, is "distance" based on which of Whitney JPS and Maurice Cody JPS is closest to the home address or based on relative proximity of all families applying for special placement?**

For those with addresses in the Eglinton Junior Public School's catchment area that are within the 1.6 km walking distance threshold to Maurice Cody Junior Public School, they will be assigned to that

school. All other addresses within the Eglinton Junior Public School's catchment area will be directed to Whitney Junior Public School.

**6. Are there any other factors besides those listed that might be considered?**

At this time there are no other factors besides those listed, but the application form will allow parents to provide additional comments for staff to consider.

**7. Does this placement process also apply to students from other schools that are moving into the Eglinton JPS catchment?**

No, it does not. This special placement is intended to deal with a potentially large influx of students from John Fisher JPS.

**8. If younger siblings of current John Fisher students apply to attend Eglinton Junior Public School when eligible to attend school and are admitted, would the older child be permitted to move to Eglinton at a later date to join the younger sibling?**

We do not anticipate that there will be space at Eglinton JPS. However, if enrolment decreases at Eglinton JPS in the future then this could be considered.

**9. If I require child care, will I be guaranteed a spot at the English school? And for younger siblings, will they be guaranteed a spot at the English school and the daycare?**

Admission into before and after child care programs (B&A) should only be given if the child is already a registered student at the school in which the child care is located. We cannot guarantee that all children will be accommodated in the English school's child care (B&A or younger siblings). Each child care is subject to their own waitlist policies and operating capacity. If there is an increased demand for B&A, we will work with the child care to support an expansion, but this must be financially viable and they are not obligated to expand if this does not suit their business model.

**10. For families within Eglinton Junior Public School's catchment area, will parents be informed of whether their child will be attending either Whitney Junior Public School and Maurice Cody Junior Public School before a final decision is made by the family?**

Yes. By May 26, 2017, the Planning Department will offer a placement. From May 29 to June 2, parents may contact the principal of the school to arrange a visit. Parents must respond to the placement offer by June 9.

**11. What happens if most parents choose to move back to their home school? Could John Fisher close?**

We intend to keep John Fisher open and accommodating French Immersion students.

**12. Is there any data on new SK students enrolling at John Fisher? Could a dearth of new students affect the viability of a program at John Fisher in the coming years?**

78 students have accepted placement into Senior Kindergarten at John Fisher for September, 2017. If these students do not attend John Fisher in September 2017 the school will have a smaller enrolment but we intend to keep the school open.

**E. Vaughan Road Academy**

**1. What is the current situation at Vaughan Road Academy?**

Vaughan Road Academy is currently a secondary school and child care centre that will be closing in June, 2017. It is located at 529 Vaughan Road on a 5.36 acre site. It is approximately 183,000 square feet and can accommodate over 1200 students. There are 55 instructional rooms, two gyms, a pool, auditorium and cafetorium.

**2. Why is Vaughan Road being considered as a potential holding site during construction?**

If it is deemed necessary for the safety of students and staff to temporarily relocate John Fisher during construction, Vaughan Road Academy is the closest TDSB site with sufficient space to accommodate all staff and students and will be vacant and available for September, 2017. Relocation to another school is not the Board's preferred option and no decision has been made or will be made without further consultation with parents. The TDSB recognizes that the relocation of students and the daycare would pose significant challenges for the school community. Relocation is a last resort option.

**3. Is Vaughan Road Academy suitable for elementary students?**

It is recognized that some renovations would be necessary to make Vaughan Road Academy suitable for younger students. The TDSB is reviewing all classroom and site requirements and will make any necessary renovations prior to September, 2017, should it be necessary to relocate from John Fisher JPS. Will transportation be provided to Vaughan Road?

If the school is temporarily relocated during construction, the TDSB will provide transportation for all John Fisher students, including Grade 6 students, who have been relocated. Parents who send their children to the French Connection Child Care Centre will also be accommodated on a bus. The TDSB will share more details as they become available.

**4. Would this be the first time the TDSB has had to relocate a school?**

No. This would not be the first time the TDSB has relocated a school. Schools such as Eglinton JPS, Lambton-Kingsway JMS, Avondale PS and Avondale Elementary Alternative School have been relocated during construction of replacement school buildings.

**5. Isn't the location previously occupied by Bannockburn Public School also a viable alternative?**

No. That property is leased until June 30, 2018, and is being used as a Montessori school. The site is also too small to accommodate the entire school and childcare.

**6. Will TDSB commit to ensuring that, if a move to Vaughan Road Academy takes place, students will be displaced for no more than two years?**

If the TDSB makes a decision to temporarily relocate to Vaughan Road Academy, we anticipate being able to return to the John Fisher site by no later than September, 2019, (perhaps earlier) but will remain at Vaughan Road Academy for as long as needed to ensure student safety, achievement and well-being.

**7. If, following receipt and review of the Phase II Risk Assessment Report and discussions with the Developer and the City, the TDSB determines that it intends to stay at the current location, will the TDSB still move to Vaughan Road Academy based on survey results that indicate parent demand for that move?**

Yes. If there is sufficient demand (to the thresholds specified below), the TDSB will move from the current location to the Vaughan Road Academy location.

**8. How will the survey be assessed and how will TDSB use the information to make a final decision?**

If 2/3 of the current student population (SK through Grade 5) indicate a preference to move to Vaughan Road Academy and there is an adequate number of students from each grade preferring to move, the TDSB will temporarily relocate to the Vaughan Road Academy.