# **DA** TORONTO

# STAFF REPORT ACTION REQUIRED

# 2590 – 2594 Midland Avenue - Official Plan and Zoning Amendment Applications - Request for Direction Report

Date:	September 27, 2013
То:	Scarborough Community Council
From:	Director, Community Planning, Scarborough District
Wards:	Ward 41 – Scarborough-Rouge River
Reference Number:	12 211648 ESC 41 OZ

## SUMMARY

The purpose of this report is to seek City Council's direction for an upcoming, but yet unscheduled, Ontario Municipal Board (OMB) hearing. The basis for the applicant's appeal to the OMB was due to City Council's failure to make a decision within the prescribed timeframe under the Planning Act on the Official Plan and rezoning application. The subject lands are located at 2590 and 2594 Midland Avenue.

The application is to provide for a residential development on lands comprised of the consolidation of 2 lots that contain 2 detached dwellings. The original development

scheme submitted, proposed 24 townhouses. The revised development scheme proposes 22 dwelling units of which 20 are townhouse units and 2 are semi-detached units. Access to the dwelling units would be from Midland Avenue via a private road that would form part of a common elements condominium.

The applicant's proposal is not consistent with the Official Plan policies and in particular the Site and Area Specific policies applying to the subject lands, the Public Realm policies to require public streets within new developments, built form policies and the criteria for infill development. The proposal does not



implement City Council's adopted criteria for being an exception to being on a public street nor does the proposal conform to the Infill Townhouse Guidelines.

This report recommends that the City attend the OMB in opposition to the application.

#### RECOMMENDATIONS

#### The City Planning Division recommends that:

- 1. City Council direct the City Solicitor and City staff to attend the OMB in opposition to the applicant's original and revised proposal for the lands located at 2590 and 2594 Midland Avenue.
- 2. City Council authorize the City Solicitor and any other City staff to take any necessary steps to implement the foregoing.

#### **Financial Impact**

There are no financial implications resulting from the adoption of this report.

#### **DECISION HISTORY**

On September 28, 29 and 30, 2005, City Council identified an area of the Agincourt Community as an Agincourt Heritage Conservation District Study Area. The study area generally contains the lands bounded by Sheppard Avenue East to the south, the railway tracks (Canadian National Railway) to the west, Lockie Avenue to the north and Midland Avenue to the east. The subject lands are located within the study area which is identified in the Official Plan by Site and Area Specific Policy No. 305, illustrated on Attachment 10: Site and Area Specific Policy No. 305.

The purpose of the study, which has been authorized by City Council, would be to review the significant architectural and historical resources of the original rural hamlet known as Agincourt, and to determine the area's suitability for designation under the Ontario Heritage Act. Link to the staff report:

http://www.toronto.ca/heritage-preservation/pdf/hcd\_agincourt\_study\_bylaw.pdf

A preliminary report for the subject application was considered by Scarborough Community Council on October 10, 2012. The report described the nature of the preliminary discussion that occurred with the applicant and the issues which needed to be addressed prior to a formal pre-application meeting being convened. The report further identified the issues that would need to be addressed satisfactorily prior to a final report being advanced. Link to the preliminary report:

http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.SC19.21

#### **ISSUE BACKGROUND**

#### **Original Proposal**

The proposal contemplated a development of 24, 3-storey townhouses with access from Midland Avenue via an internal private road. The private road extended the full length of the subject property, terminating with a hammerhead. The private road would form part of a common elements condominium.

Each townhouse would have an integral single-car garage and private amenity space consisting of a minimum 3 metre rear yard with a private amenity deck above. The original development scheme is illustrated on Attachment 1, Site Plan.

#### **Revised Proposal**

On June 14, 2013, a revised proposal was submitted to the City. A further submission of the building elevations and floor plans were submitted on August 13, 2013 however, only the front building elevations for Block 3 were provided. The revised proposal is illustrated on Attachment 2, Revised Site Plan, with the building elevations for the development blocks illustrated on Attachments 3, 4, 5 and 6.

The revised development scheme contemplates a total of 22 dwellings consisting of 20, 3-storey townhouses in 3 blocks fronting onto an internal private road and, 2, 2½-storey semi-detached units fronting onto Midland Avenue. The location of the hammerhead has been shifted to now provide frontage to the rear block of townhouses (Block 2) and the private road now incorporates a landscape island in which a significant oak tree is located. Each townhouse would have an integral garage however the semi-detached dwellings would have a detached rear yard garage, accessed from the internal private road. A driveway having a minimum length of 5.6 metres is proposed in front of the integral garages for the townhouses except for the semi-detached dwelling which would have minimum driveway lengths of approximately 2 and 11 metres. Four visitor parking spaces are also proposed.

Pedestrian access to the semi-detached units would be from Midland Avenue whereas the internal private road would provide pedestrian access to the townhouses.

The townhouse units contain at-grade rear patio's, with rear yard space varying between 5 metres to 6.5 metres in depth. The semi-detached dwellings have rear yards of 3.7 metres to 7.5 metres. Specific details for the subject proposal are contained in Attachment 11, Application Data Sheet.

#### Site and Surrounding Area

The subject property represents the consolidation of 2 lots, each containing a 2-storey, single-detached dwelling. The dwelling on the southerly lot is unoccupied and boarded-up. The lots have 25.8 and 23.7 metre frontages on Midland Avenue and lot depths of approximately 82 metres. A number of trees exist on each lot.

Single-detached dwellings primarily exist to the south, west and north of the subject lands. A townhouse development with access from Midland Avenue occurs adjacent to the Agincourt Junior Public School located at the corner of Midland and Lockie Avenues. This school is a designated heritage building, originally constructed in 1914 to serve the Village of Agincourt, and later expanded in 1948.

Located on the east side of Midland Avenue are: Agincourt Collegiate on the north side of Rural Avenue, 2 single detached dwellings immediately south of Rural Avenue and, the Knox United Church and cemetery at the northeast corner of Midland Avenue and Sheppard Avenue East. The Knox United Church, originally built in 1872 and expanded in later years, is also a designated heritage building. The church manse, located at 2656 Midland Avenue, is also a designated heritage building. North of Rural Avenue is Agincourt Collegiate Institute and single-detached dwellings further north and northeast. Single and semi-detached dwellings exist along Rural Avenue.

#### **Provincial Policy Statement and Provincial Plans**

The Provincial Policy Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and development. The PPS sets the policy foundation for regulating the development and use of land. The key objectives include: building strong communities; wise use and management of resources; and, protecting public health and safety. City Council's planning decisions are required to be consistent with the PPS.

The Growth Plan for the Greater Golden Horseshoe provides a framework for managing growth in the Greater Golden Horseshoe including: directions for where and how to grow; the provision of infrastructure to support growth; and protecting natural systems and cultivating a culture of conservation.

City Council's planning decisions are required by the Planning Act, to conform, or not conflict, with the Growth Plan for the Greater Golden Horseshoe.

#### **Official Plan**

The subject lands are designated as Neighbourhoods on Map 19, Land Use Plan. Policy 4.1.1 states that Neighbourhoods are considered physically stable areas made up of residential uses in lower scale buildings such as detached and semi-detached houses, duplexes, triplexes, townhouses and walk-up apartments up to 4 storeys. Polices and development criteria within these areas aim to ensure that physical changes to established neighbourhoods are sensitive, gradual, and generally "fit" the existing physical character.

Policy 4.1.5 states that new development in established neighbourhoods will respect and reinforce the existing physical character of the neighbourhood, including in particular:

- patterns of streets, blocks and lanes, parks and public building sites;
- size and configuration of lots;
- height, massing, scale and dwelling type of nearby residential properties;
- prevailing building type(s);

- setbacks of buildings from the street or streets;
- prevailing patterns of rear and side yard setbacks and landscaped open space;
- continuation of special landscape or built-form features that contribute to the unique physical character of the neighbourhood; and
- conservation of heritage buildings, structures, and landscapes.

Policy 4.1.7 states that proposals for intensification on land on major streets in Neighbourhoods are not encouraged. This policy is reinforced as it applies to the subject lands by Site and Area Specific Policy No. 262. The site and area specific policy also applies to many other properties in the area along Midland Avenue and other major streets as Brimley Road, and only allows detached and semi-detached dwellings.

Site and Area Specific Policy No. 305 identifies Agincourt as a Potential Heritage Conservation District which has been authorized for study.

The Built Form policies in Policy 3.1.2 specify that new development be located and organized to fit with its context and to frame and support adjacent streets, parks and open spaces to improve the safety, pedestrian interest and casual views to these spaces from the development. New developments are to locate and organize vehicular parking, vehicular access and service areas and utilities to minimize their impact on the property and on surrounding properties to improve the safety and attractiveness of adjacent streets, parks and open spaces. New developments are to be massed to fit harmoniously into their existing planned context and to provide amenity for adjacent streets and open spaces to make these areas attractive, interesting, comfortable and functional for pedestrians.

The Public Realm policies in Policy 3.1.1.15 states that new streets should be public streets. Private streets, where they are appropriate, should be designed to integrate into the public realm and meet the design objectives for new streets. These design standards are contained in the Council adopted Development Infrastructure Policy and Standards (DIPS). Developments which may be considered an exception to providing public streets are on small sites and which, among other matters, contain 10 or less residential units on a private street that is 45 metres or less in length.

The Healthy Neibourhood policies in Policy 2.3.1.1 states that Neighbourhoods are considered physically stable areas and developments within Neighbourhoods will be consistent with this objective and will respect and reinforce the existing physical character of buildings, streetscapes and open space patterns. Policy 2.3.1.5 promotes environmental sustainability by investing in naturalization and landscaping improvements, and tree planting and preservation. The Natural Environment policies in Policy 3.4 support strong communities, a competitive economy and a high quality of life, public and private city-building activities and changes to the built environment based on protecting and improving the health of the natural ecosystem and preserving and enhancing the urban forest by providing suitable growing environmental for trees, increasing the tree canopy and regulating the injury and destruction of trees.

Policy 5.3.1.3 in the implementation chapter of the Official Plan states that Council is to be satisfied that any development permitted under an amendment to the Plan is compatible with its physical context and that it does not affect nearby Neighbourhoods in a manner contrary to the neighbourhood protection policies of the Plan.

#### Zoning

The subject lands are zoned as Singe-Family Residential (S) Zone in the Agincourt Community Zoning By-law No. 10076 which permits single-family dwellings on lots having minimum 15 metre frontages and minimum 696 square metres lot areas. City of Toronto Zoning By-law No. 569-2013 does not apply to the lands.

#### Site Plan Control

Site plan control is applicable to the proposed development. An application has not been submitted.

#### **Reasons for the Application**

Site and Area Specific Policy 262 only allows for single and semi-detached dwellings and, therefore, an amendment to the Official Plan is sought to delete the policy from applying to the subject lands. The zoning by-law also does not permit townhouses and a rezoning is sought to permit the use and to establish appropriate development standards for the proposal.

#### **Community Consultation**

On September 24, 2012, the Ward Councillor held a meeting with area residents regarding the original proposal. The meeting was attended by approximately 78 area residents as well as the applicants and planning staff. Issues raised at that time included: the preservation of the Agincourt character of single-detached dwellings and of its heritage/rural character; the safety of children as there are no signals lights at this location on Midland Avenue; tree preservation; the size of the rear yards; location of rear decks; and, a suggestion for an alternative development scheme that addresses matters such as inadequate vehicle turning areas, lack of snow storage, lack of parking, density, and stormwater management to prevent flooding.

Based on comments received, the applicant presented a revised development of 22 townhouses at the community consultation meeting held on January 29, 2013. This development scheme was not formally submitted to the City, however, it is similar to that submitted to the City on June 14, 2013 which is shown on Attachment 2, Revised Site Plan. Notification for the community consultation was to an expanded notice area. The meeting was attended by approximately 50 residents. Issues raised at the meeting were similar to those raised at the Councillor's meeting of September 29, 2012. The issues included: lack of internal sidewalks, snow storage areas, and parking; potential for basement flooding on adjacent rear properties due to the existing slope on the property; need for traffic signals at Midland Avenue; the proposal does not maintain the heritage and rural character of the area; and the proposed intensification is not appropriate for the

area and may trigger other similar proposals especially on the 2 properties immediately to the north.

The community consultation meeting concluded with residents generally not supporting townhouses on the subject property.

### COMMENTS

#### **Provincial Policy Statement and Provincial Plans**

The PPS contains policies related to managing and directing land use to achieve efficient development and land use patterns. The PPS indicates that the Official Plan is the most important vehicle for implementing the PPS requirements.

Planning authorities are required to manage and direct land use to achieve efficient development and land use patterns which create healthy, liveable and safe communities which promote efficient development and land use patterns which sustain the financial well-being of the Province and municipalities over the long term and, to identify and promote opportunities for intensification and redevelopment where this can be accommodated taking into account existing building stock and areas. The PPS also ensures the wise use and management of cultural and archaeological resources for their economic, environmental and social benefits. Significant built heritage resources and significant cultural heritage landscapes shall be conserved.

The PPS indicates that the Official Plan is to direct intensification to suitable areas. The proposed development on the subject lands is not in an area targeted for or identified as an area of growth. The Official Plan also identifies potential heritage conservation districts such as Agincourt in which the subject lands are located. The proposal is not consistent with the PPS.

The Growth Plan contains policies for managing growth and development and includes directions for where and how to grow by directing appropriate growth to built-up areas where the capacity exists to best accommodate the expected population. The Growth Plan encourages intensification in built-up areas and is implemented through the Official Plan by providing a strategy and policies to achieve intensification and the intensification targets. The focus of intensification and intensification targets, as contemplated by the Growth Plan, are described in the Official Plan as being directed to the Centres, Avenues, Employment Districts and the Downtown as shown on Map 2, Urban Structure, in order to protect neighbourhoods, green spaces and natural heritage features and function from the effects of nearby development. The subject lands are not in a growth area shown on Map 2, Urban Structure. The subject lands are within a Neighbourhoods designation which provides for physically stable areas, with development that protects and reinforces the existing physical character of the neighbourhood which, in this case, is primarily of detached dwellings on larger lots. The proposal does not conform to and conflicts with the Growth Plan for the Greater Golden Horseshoe.

#### Land Use

The fundamental issue raised by the application to permit the proposed residential development is whether the Site and Area Specific Policy No. 262 applying to subject lands should be removed and whether in doing so, the proposal would comply and be consistent with the policies of the Official Plan and Council policies and guidelines.

The site is designated Neighbourhoods which is intended to protect and reinforce the existing physical character of the area and has not been identified as an area for growth. Physical changes to established Neighbourhood must be sensitive, gradual, and generally "fit" the existing physical character. A key objective to the Official Plan is to ensure that new development respects and reinforces the general physical patterns in a neighbourhood. The proposed development primarily consists of townhouses which are not the prevailing built form in the area. The proposed development does not reinforce the existing character of the area which primarily consists of detached dwellings on large treed lots with generous front and rear building setbacks. The resulting "lots" for the proposed townhouses and semi-detached dwelling within the proposed common elements condominium development would be substantially smaller than those existing in the area and would have smaller front and rear yards. The streetscape along the proposed private road would not be similar to that in the area containing larger lots and large trees.

Site and Area Specific Policy No. 262 reinforces the character of the area for properties along Midland Avenue to provide for only single and semi-detached dwellings with large front yards. It is a character that has historical significance being part of the original rural hamlet of Agincourt. The historical landscape, in part, has been recognized by City Council in authorizing a study of the area to determine its suitability for designation as a Heritage Conservation District.

The proposed development would change the character of the historic street landscape comprised of primarily detached dwellings on large treed lots. This particular historic character has continued with "newer" subdivisions built post-war (1950's). The proposal represents a land consolidation of 2 residential properties and could impact other properties containing detached dwellings along Midland Avenue. The resulting development pattern would result in a fundamental change in the physical character of the area from that which has been relatively stable.

The current proposal would not be in keeping with the Official Plan which reinforces the existing and historic character of the area. Rather, the proposal would create instability and uncertainty that is contrary to the Official Plan. The proposal could initiate long term structural changes to the area that is not appropriate, specifically given that Site and Area Specific Policy No. 262 applies to many properties along Midland Avenue, as well as properties along other streets such as Huntingwood Drive and Brimley Road within the broader Agincourt Community.

#### **Built Form**

The Official Plan's Built Form Policy 3.1.2 indicates that new development will be located and organized to fit within its existing or planned context and to be massed to

limit its impact on neighbouring properties. The prevailing built form in the area is of 1 and 2 storey detached dwellings. The proposed townhouse blocks are 3-storeys in height with 2 of the townhouse blocks having a different building orientation than the adjacent detached dwellings of 2-storeys. The rear elevations of these blocks would have views into the rear yards of adjacent rear yards of the adjacent detached dwellings to the north and south. As well, these adjacent properties would have views from the rear block of townhouses (Block 2) which are elevated above the adjacent lands as a result of higher grades proposed at the rear portion of the subject lands.

Based on the submitted plans for the Official Plan and rezoning application, the proposal would not be consistent with the Urban Design Guidelines for Infill Townhouses. The proposal does not provide for matters such as: townhouses with integral garages having minimum 6 metre widths; appropriate rear yard setbacks to ensure adequate privacy; a rear setback and angular plane to minimize overlook and shadows; grade-related townhouses with the first floor raised approximately 3 to 5 steps above grade; and, pedestrian comfort and safety by providing a walkway along the private road from Midland Avenue.

#### Access

The Official Plan policy of requiring public streets is to accommodate grade-related developments which enable the City to provide municipal services such as curbside garbage collection, snow removal, long term maintenance and repair of road, sewer and water infrastructure, and which also meet design objectives such as the provision and maintenance of boulevard trees. City Council adopted a set of harmonized public street design standards to meet the objectives of the Official Plan policy and identified where a private street or "mews" may be considered an appropriate exception to Council's policy. These City-wide design standards known as Development Infrastructure Policy and Standards (DIPS) provide a range of design standards that enable the City to service and maintain a network of new local residential streets. Developments which may be considered an exception to providing public streets are on small sites and which, among other matters, contain 10 or less residential units on a private street.

The proposal does not meet the Official Plan policy nor does it implement Council's adopted DIPS guidelines or criteria. The proposed development exceeds 10 residential units on a private road. The private road exceeds 45 metres in length and does provide a pavement width of 8 metres or a provision of a 1.7 metre sidewalk/walkway. The proposal does not meet the criteria to be considered an exception to providing a public street.

#### **Tree Protection and Preservation**

The submitted arborist report identifies a total of 30 trees affected by the proposed development that would be subject to the City's private and street tree by-laws. Of the 30 affected trees, 5 trees are proposed to be retained. The retained trees include a City tree (Norway maple) within the Midland Avenue road allowance, 3 private trees (black walnut) located in proximity to the rear and side lot lines of 2594 Midland Avenue, and a

private tree (white oak) located within the proposed private road. The remaining 25 trees are proposed for removal.

The affected trees exceed a diameter of 30 cm and include several healthy deciduous trees of significant sizes and of native specimens. Of the 4 private trees proposed to be retained, the white oak located within a landscape island within the private road is in good condition with a diameter of 112 cm. The 3 black walnut trees with diameters ranging between 60 to 78 cm would sustain significant impact from the proposed construction.

Based on a potential removal of 25 trees, a minimum of 75 large growing shade replacement trees would be required based on the 3:1 replacement ratio. The number of proposed replacement trees associated with the revised proposal is 28.

Urban Forestry has reviewed the revised proposal and has indicated that they do not support the removal of healthy trees nor do they support development that limits and restricts tree planting opportunities. Although there is a consultation process for tree removal and tree injury on private and City lands, Urban Forestry has indicted that they do not support the proposed rezoning at this time. Moreover, a detailed tree preservation plan would be required as part of the application process to obtain permission to work within the tree protection zones of the trees proposed to be protected. Urban Forestry has also requested that a highly qualified Arborist be retained to complete the tree preservation plan for the white oak.

#### Conclusions

The applicant's revised development proposal does not provide for a development that is consistent with the Official Plan. The proposal does not meet a key objective for Neighbourhoods which is that new development is to respect and reinforce the general physical pattern in the neighbourhood. The proposal would create instability and uncertainty and would result in inappropriate intensification in an area that is not identified for growth. The subject lands are in an area affected by a site and area specific policy that affects a broad area within the Agincourt Community. Deleting this policy from the subject lands would not only affect the broader and structural context of the Community but also that of the historical landscape. The proposal does not implement City Council's adopted criteria for being an exception to being on a public street nor does the proposal conform to the Infill Townhouse Guidelines.

#### CONTACT

Sylvia Mullaste, Planner Tel. No. (416) 396-5244 Fax No. (416) 396-4265 E-mail: Mullaste@toronto.ca

#### SIGNATURE

Raymond David, Director Community Planning, Scarborough District

#### ATTACHMENTS

- Attachment 1: Original Site Plan
- Attachment 2: Revised Site Plan
- Attachment 3: Elevations Semi-Detached
- Attachment 4: Elevations Townhouses Block 1
- Attachment 5: Elevations Townhouses Block 2
- Attachment 6: Elevations Townhouses Block 3
- Attachment 7: Zoning
- Attachment 8: Official Plan
- Attachment 9: Site and Area Specific Policy No. 262
- Attachment 10: Site and Area Specific Policy No. 305
- Attachment 11: Application Data Sheet

Attachment 1: Site Plan



Site Plan Applicant's Submitted Drawing Not to Scale A13/12 2590-2594 Midland Avenue



#### **Attachment 2: Revised Site Plan**





**Attachment 3: Elevations Semi-Detached** 



**Attachment 4: Elevations – Townhouses Block 1** 





# Elevations - Townhouses (Block 1) Applicant's Submitted Drawing

# 2590-2594 Midland Avenue



**Attachment 5: Elevations – Townhouses Block 2** 





# Elevations - Townhouses (Block 2)

Applicant's Submitted Drawing

Not to Scale 9/3/13

# 2590-2594 Midland Avenue





Front

# Elevation - Townhouses (Block 3)

Applicant's Submitted Drawing Not to Scale 9/3/13

# 2590-2594 Midland Avenue

**Attachment 7: Zoning** 



**Attachment 8: Official Plan** 









# Attachment 11: Application Data Sheet

Application Type		Official Plan Amendment &		ndment &	Application Number:			12 211648 ESC 41 OZ		
		Rezoning OPA & Rezoning, Standard		Application Date:			July 16, 2012			
Municipal Address		2500 MI								
Municipal Addres Location Descript	2590 MIDLAND AVE CON 3 PT LOT 27 **GRID E4105									
Project Descriptio										
Floject Descriptio	11.	To construct 20 residential townhouses fronting onto a private driveway and 2 dwelling units (semi-detached) fronting Midland Avenue.								
Applicant: Agent		Agent:	gent:		Architect:			Owner:		
TESA SAN INC								DAH	IYA	LEI
PLANNING CO	NTROLS									
Official Plan Designation: Neigh			irhoods		Site Specific Provision:					
Zoning: S- Sing		S- Single	le Family Residential		Historical Status:					
Height Limit (m): 2 storey			or Semi-o	letached	Site Plan Control Area:			Y		
PROJECT INFORMATION										
Site Area (sq. m):			4078.2		Height:	Storeys:		3		
Frontage (m):			49.58			Metres:		12.2		
Depth (m):			82.1							
Total Ground Floor Area (sq. m):			0 Total						l	
Total Residential GFA (sq. m):			3474.39		Parking Spaces			: 26		
Total Non-Residential GFA (sq. m):			0 Load			Loading	Docks		0	
Total GFA (sq. m):			3474.39							
Lot Coverage Ratio (%):			0							
Floor Space Index:			0.85							
DWELLING UN	ITS			FLOOR ARI	EA BREAK	DOWN (1	ipon pr	oject c	omple	etion)
Tenure Type:		Freehold					Above Grade		de	Below Grade
Rooms:		0	I	Residential GFA (sq. m):			3474.39			0
Bachelor: 0		Retail GFA (sq. m):			0			0		
1 Bedroom:		0	(	Office GFA (sq. m):			0			0
2 Bedroom:		0		Industrial GFA (sq. m):			0			0
3 + Bedroom:		22	Ι	Institutional/Other GFA (sq. m):			0			0
Total Units:		22								
CONTACT:	PLANNER	NAME:	S	ylvia Mullaste	e, Planner					
	NE: (416) 396-5244									