1001 Ellesmere Road - Official Plan Amendment, Zoning Amendment and Draft Plan of Subdivision Applications – Request for Direction Report

Date: July 15, 2014
To: Planning and Growth Management Committee
From: Chief Planner and Executive Director, City Planning Division
Wards: Ward 37 – Scarborough Centre
Reference Number: P:\2014\Cluster B\PLN\PGMC\PG14121

SUMMARY

The owners of the property at 1001 Ellesmere Road have appealed their applications to amend the City of Toronto Official Plan and the former City of Scarborough Employment Districts Zoning By-law No. 24982, as well as their application for Draft Plan of Subdivision approval to the Ontario Municipal Board (OMB), due to City Council's failure to make a decision within the time allotted by the Planning Act.

These applications propose redevelopment of this former industrial site at 1001 Ellesmere Road with 95, three-storey townhouses on four blocks (the easterly block adjacent to the SRT /GO lines indicated to become a common elements condominium), a 4-storey 11 475 m² office/commercial building on the west portion of the site with predominantly underground parking, and 3 new public streets with 2 new rear public lanes.

This report requests direction from City Council to oppose the proposed development at the OMB in its current form.
1001 Ellesmere Road was also considered at the owners’ request as part of the recent Municipal Comprehensive Review. Through OPA 231 adopted in December 2013, City Council retained the west half of the subject lands as Employment Areas and designated them as General Employment Areas, while redesignating the east half of the site to Mixed Use Areas. The extent of the proposed townhouse component of the development currently exceeds the Mixed Use Areas designation approved by Council. OPA 231 was approved by the Minister of Municipal Affairs and Housing on July 9, 2014.

RECOMMENDATIONS

The City Planning Division recommends that:

1. The applicant be requested to submit revised applications consistent with Council’s decision of December 16, 17 and 18, 2013 as embodied in Official Plan Amendment No. 231.

2. City Council authorize the City Solicitor, together with City Planning staff and any other appropriate staff, to attend the Ontario Municipal Board hearing to oppose the Official Plan Amendment, Zoning By-law Amendment and Plan of Subdivision applications at 1001 Ellesmere Road in their current form and to achieve consistency with Official Plan Amendment No. 231.

3. In the event that the Ontario Municipal Board allows the appeals in whole or in part, City Council direct the City Solicitor to request that the Board withhold any Order to approve the Zoning By-law Amendment application for the subject lands until such time as the City and the owner have presented to the Board a Draft Zoning By-law and an executed Section 37 Agreement to the satisfaction of the City.

4. In the event that the Ontario Municipal Board allows the appeals in whole or in part, City Council direct the City Solicitor to request that the Board withhold any Order to approve the Plan of Subdivision application for the subject lands until such time as the City and the owner have presented to the Board with conditions of approval to the satisfaction of the City.

5. City Council authorize the City Solicitor and necessary City staff to take such necessary steps as required to implement the foregoing.

Financial Impact
The recommendations in this report have no financial impact.
DECISION HISTORY

Municipal Comprehensive Review
On November 11, 2011, the applicant requested that 1001 Ellesmere Road be redesignated from Employment Areas to Mixed Use Areas as part of the City's Municipal Comprehensive Review (MCR).

At its meeting of December 16, 17 and 18, 2013, City Council considered the request to convert these employment lands for non-employment purposes as part of the MCR. Under Section 2.2.6.5 of the Provincial Growth Plan for the Greater Golden Horseshoe, the City may convert employment lands for non-employment purposes only through such a Municipal Comprehensive Review. City Council adopted the recommendations of Planning and Growth Management Committee to redesignate just the east half of the subject lands to Mixed Use Areas and to retain the balance of the site for employment purposes.

Official Plan Amendment (OPA) 231
At the meeting of December 16, 17 and 18, 2013, City Council also adopted OPA 231, with amendments. In addition to adopting revised city-wide employment land policies and land use designations, OPA 231 redesignated the west half of the subject lands to General Employment Areas and the east half to Mixed Use Areas, and also applied Site Specific Policy No. 457 to the property under Chapter 7 of the Official Plan.

In January 2014, the City submitted OPA 231 to the Minister of Municipal Affairs and Housing for approval. The decision of City Council and OPA 231 can be found at the following links:

On July 9, 2014, the Minister of Municipal Affairs and Housing issued a decision on OPA 231. The Minister’s Decision confirms Council's action of redesignating just the east half of the lands to Mixed Use Areas. The owner has 20 days to appeal this decision.

Pre-Application Consultation
A pre-application consultation meeting was held with the applicant to discuss complete application submission requirements on October 9, 2013.

ISSUE BACKGROUND

Proposal
The applications propose removal of the existing vacant industrial building and mixed redevelopment of the subject site with 95, three-storey townhouses on four blocks (the easterly block adjacent to the SRT /GO lines indicated to become a common elements condominium), a 4-storey 11 475 m² office/commercial building having 352 parking spaces (predominantly underground) on the west portion of the site, and 3 new public
streets with 2 new rear public lanes. (Refer to Attachment 1: Subdivision Plan and Attachment 5: Application Data Sheet for additional information.)

Site and Surrounding Area
The subject 2.76 ha (6.8 ac.) site currently contains a vacant 17 744 m² (191,000 sq.ft.) building previously occupied by a metal-stamping assembly plant which ceased operations in 2008. The property has 274 m (900 ft.) of frontage and a lot depth of 105 m (345 ft.). Vehicular access to the site from Ellesmere Road (both directions) is provided via the West Service Road under the Ellesmere Road overpass above the adjacent Scarborough RT and GO Transit rail lines and which provides access directly to the Ellesmere RT Station immediately north-east of the site.

North: On the north side of Ellesmere Road are the Leisureworld Nursing Home, with the Roadsport Honda car dealership to the west.

East: Beyond the SRT and GO Transit line to the east is a 162-unit townhouse subdivision recently constructed by the same owner, with industrial uses on Midwest Road to the south.

South: Immediately south of the site is a large, multi-tenanted industrial building at 1399 Kennedy. Kingsmill Foods occupies the rear portion of this building, close to the subject property.

West: To the west of the site are commercial uses including Green+Ross Auto Tires on Ellesmere Road, a used car lot at the south-east corner of Kennedy and Ellesmere with an RBC bank to south. The property at 1415/1417 Kennedy Road has recently been redeveloped with a 26-unit commercial condominium.

Provincial Policy Statement and Provincial Plans
The Provincial Policy Statement (PPS), 2014 provides policy direction on matters of provincial interest related to land use planning and development. These policies support the goal of enhancing the quality of life for all Ontarians. Key policy objectives include: building strong healthy communities; wise use and management of resources; and protecting public health and safety.

There is specific policy guidance on land use compatibility, requiring that major facilities (defined to include all facilities requiring separation from sensitive land uses) and sensitive land uses be planned, designed, buffered and/or separated from each other to prevent or mitigate adverse effects from odour, noise and other contaminants, minimize risk to public health and safety, and ensure long-term viability of major facilities. The PPS recognizes that local context and character is important. Policies are outcome-oriented, and some policies provide flexibility in their implementation provided that provincial interests are upheld. 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.

The Growth Plan allows municipalities to permit conversion of lands within employment areas to non-employment uses only through a 'municipal comprehensive review' where key criteria have been met. A Municipal Comprehensive Review is an Official Plan review initiated by a municipality that comprehensively applies provincial policies.

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 entire site is identified as *Employment Districts* on Map 2, Urban Structure of the Official Plan. *Employment Districts* shown on Map 2 will be protected and promoted exclusively for economic activity in order to:

- a) maintain and grow the City’s tax base;
- b) attract new and expand existing employment clusters that are key to Toronto’s competitive advantage;
- c) develop quality *Employment Districts* that are globally competitive locations for national and international business and offer a wide choice of sites for new business;
- d) nurture Toronto’s diverse economic base;
- e) provide a good overall balance between population and employment growth by creating job opportunities for Toronto residents;
- f) provide a range of employment opportunities for Toronto residents that can be reached by means other than the private automobile; and
- g) create and sustain well-paid, stable, safe and fulfilling employment opportunities for all Torontonians.

The subject site is also designated *Employment Areas* on the Land Use Plan maps of the Official Plan (see Attachment 3: Official Plan). *Employment Areas* are places of business and economic activity. Uses that support this function consist of: offices, manufacturing, warehousing, distribution, research and development facilities, utilities, media facilities, parks, hotels, retail outlets ancillary to the preceding uses, and restaurants and small scale stores and services that serve area businesses and workers. Places of worship, recreation and entertainment facilities, business and trade schools and branches of community colleges or universities are also permitted on major streets as shown on Map 3 of the Plan only, or where already legally existing.

Pursuant to OPA 231, the west half of the site is now indicated as *Employment Areas* on Map 2.
Employment Areas are areas designated for clusters of business and economic activities including, but not limited to, manufacturing, warehousing, offices, and associated retail and ancillary facilities. Employment Areas will be used exclusively for business and economic activities to (in part):

a) retain sufficient availability of lands for industrial functions such as manufacturing and warehousing;
b) protect and preserve for current and future business and economic activities;
c) provide for and contribute to a broad range of stable full-time employment opportunities;
d) provide opportunities for new office buildings within walking distance to higher order transit;
e) provide a stable and productive operating environment for existing and new businesses by preventing the establishment of sensitive land uses in Employment Areas.
f) maintain and grow the City's business tax base;
i) provide prominent, accessible and visible locations and a wide choice of appropriate sites for potential new businesses;
j) contribute to a balance between jobs and housing to reduce the need for long-distance commuting and encourage travel by transit, walking and cycling; and
l) provide work opportunities for residents of nearby neighbourhoods.

New residential and other sensitive land uses where permitted outside of, but adjacent or near to, Employment Areas will be appropriately designed, buffered and/or separated from impactful industries as necessary to prevent or mitigate adverse effects from noise, vibration, traffic, odour and other emissions and contaminants upon the occupants of the new development, and lessen complaints and their potential costs to businesses. The costs of studies and mitigation measures shall be borne by the developer of the new residential or other sensitive land uses outside of, but adjacent or near to, the Employment Area.

Pursuant to OPA 231 as well, the west half of the site has now been redesignated on the Land Use Maps of the Official Plan to General Employment Areas, which are places for business and economic activities generally located on the peripheries of Employment Areas. Retail and service uses, restaurants, fitness centres and ice arenas may be established in General Employment Areas in addition to all uses permitted in a Core Employment Area (i.e. manufacturing, warehousing, wholesaling, transportation facilities, offices, research and development facilities, utilities, industrial trade schools, media facilities, and vertical agriculture).

OPA 231 has also redesignated the east half of the subject site to Mixed Use Areas. Mixed Use Areas are made up of a broad range of commercial, residential and institutional uses, in single use or mixed use buildings, as well as parks, open space and utilities. Development within Mixed Use Areas will:
a) create a balance of high quality commercial, residential, institutional and open space uses that reduce automobile dependency and meets the needs of the local community;

b) provide for new jobs and homes;

c) locate and mass new buildings to provide a transition between areas of different development intensity and scale through appropriate setbacks and/or stepping down of heights,

d) locate and mass new buildings so as to adequately limit shadow impacts on and frame the edges of streets and parks with good proportion and maintain sunlight and comfortable wind conditions for pedestrians, on adjacent streets, parks and open spaces;

e) provide an attractive, comfortable and safe pedestrian environment;

f) have access to schools, parks, community centres, libraries and childcare;

g) take advantage of nearby transit services;

h) provide good site access and circulation and an adequate supply of parking for residents and visitors;

i) locate and screen service areas, ramps and garbage storage to minimize the impact on adjacent streets and residences; and

j) provide indoor and outdoor recreation space for building residents in every significant multi-unit residential development.

The above new land use designations are indicated on Attachment 4: Official Plan Amendment No. 231 – Excerpt.

Site Specific Policy No. 457 under Chapter 7 of the Official Plan, also applied to the subject lands through OPA 231, further states that:

a) Employment uses on the portion of the site designated General Employment Areas will be compatible with adjacent residential and other sensitive uses;

b) Residential uses on the portion of the site designated Mixed Use Areas will be compatible with the new residential development east of GO/ LRT corridor, in terms of height, massing and the provision of landscaped space;

c) Residential uses will be appropriately set back and buffered from the GO/ SRT corridor to the satisfaction of the City;

d) A feasibility analysis and impact assessment as per Section 4.10.3 of the province's D-6 Guidelines for Compatibility Between Industrial Facilities and Sensitive Land Uses is to be completed and necessary mitigation measures will be incorporated into the development design for residential and other sensitive uses, to the satisfaction of the City; and

e) Development of the site will create an attractive and comfortable public realm along the Ellesmere Road (service road) and enhance accessibility to public transit.
Zoning
The subject site is zoned Industrial (M) under the former City of Scarborough Employment Districts Zoning By-law No. 24982, permitting industrial uses, offices (excluding medical and dental offices) educational and training facilities, recreational uses, places of worship and day nurseries, all to be conducted wholly within enclosed buildings and to a maximum density of 0.5 times the site area.

The subject site is also now zoned Employment Industrial (E) under the new Toronto Zoning By-law No. 569-2013 (see Attachment 2: Zoning) which permits a maximum density of 0.8 times the site area. The by-law permits a much broader range of specific industrial, service and conditionally permitted uses, and no longer provides permission for recreational uses or places of worship.

Site Plan Control
This site is subject to Site Plan Control. An application in this regard has not yet been submitted to the City.

Reasons for the Applications
The proposed development requires an Official Plan Amendment to permit residential uses. The proposed development also requires a Zoning By-law Amendment to permit the proposed residential uses, and to introduce appropriate performance standards. A plan of subdivision is required to establish the network of public roads and blocks to serve the proposed development.

COMMENTS
Application Submission
The following reports/studies were submitted with the application:

- Planning Rationale;
- Employment Area Impact Analysis;
- Urban Transportation Considerations;
- Environmental Noise Feasibility Study;
- Railway Vibration Analysis;
- Stage 1 Archaeological Assessment;
- Phase 1 Environmental Site Assessment; and
- Functional Servicing & Stage 1 Stormwater Management.

The Notification of Complete Application was issued on March 3, 2014.
Issues to be Resolved

Pursuant to Planning and Growth Management Committee recommendations approved by City Council for this site as discussed above, OPA 231 has now redesignated just the 'east half' (i.e. 50%) of the property to Mixed Use Areas. The current proposal, however, as illustrated on Attachment No. 1, suggests that the proposed residential uses will actually comprise approximately three-quarters (75%) of the site. The current applications as submitted are therefore still not consistent with the Official Plan.

Subsequent to Council's adoption of OPA 231, Planning staff requested that the owner provide revised plans that conform to the amendment. Such revised plans have not been submitted to date. The owner by letter dated February 4, 2014, however, formally requested a modification to OPA 231 by the Minister of Municipal Affairs and Housing to expand the Mixed Use Areas designation on the site. In view of the Minister's decision on OPA 231, that request was not accepted.

The owners' solicitor appealed the rezoning application on May 1, 2014 to the Ontario Municipal Board on the basis of 'non-decision' thereon by the City of Toronto, pursuant to Section 34 (11) of the Planning Act. The owners' solicitor subsequently appealed the Official Plan amendment and Draft Plan of Subdivision applications on June 30, 2014 to the Ontario Municipal Board, also on the basis of 'non-decision' thereon by the City of Toronto, pursuant to Sections 22 (7) and 51 (34) of the Planning Act respectively.

Quite unrelated to the subject applications, the owner on May 5, 2014 also filed a separate application to the Committee of Adjustment for consent to sever the subject property into two parts to accommodate two new industrial tenants. The existing vacant industrial building which straddles the proposed new lot line would be partially demolished to create two separate buildings to accommodate the proposed lot division, a new drive aisle and parking as indicated on Attachment 6. The larger remnant building to be retained on Part 1, the western 80% of the subject property, would be enclosed and reclad on its east side. The smaller remnant building on Part 2 to be conveyed, the eastern 20% of the site, would similarly be refaced on its west side. The extent of building demolition and new exterior walls will be subject to the minimum side yard building setback requirements of the Zoning By-law.

Planning staff recommended conditions of consent approval, applied by the Committee of Adjustment in its approval of the application on June 12, 2014, that require the owner to formally withdraw:

- The subject Official Plan Amendment, Zoning By-law Amendment and Draft Plan of Subdivision applications;
- The letter dated November 16, 2011 originally seeking redesignation of the subject property to Mixed Use Areas as part of the City's Five-Year Official Plan Review/Municipal Comprehensive Review;
The letter dated May 1, 2014 appealing the Zoning Amendment application under file no. 13 268032 ESC 37 OZ; and,

The letter dated February 4, 2014 to the Ministry of Municipal Affairs and Housing requesting that the Minister modify OPA 231 as set out therein, and replace this with a written request that the Minister instead modify OPA 231 to redesignate all of the subject property as General Employment Areas consistent with the City Planning report dated November 5, 2013 to Planning and Growth Management Committee.

A further condition also required the owner to agree in writing to consent to the City Solicitor, in the event the Minister approves OPA 231 with or without modification pertaining to the subject property, to request that on appeal, the OMB modify OPA 231 to redesignate the entire property as General Employment Areas.

While the owner has previously indicated to Planning staff an intent to withdraw the subject applications should the more recent consent application be approved, Planning staff are not aware that any of the above consent approval conditions have yet been addressed by the owner.

**Additional Issues**

Staff believe that the fundamental issue with this proposal is the failure to be consistent/compliant with provincial policy, and the ensuing lack of conformity with Official Plan policies, including OPA 231.

Additional issues to be resolved should a portion of the lands be redesignated to residential include:

- Conformity with Site and Area Specific Policy No. 457.
- Appropriate orientation and design of proposed Blocks, and how these serve to frame and support public streets.
- Adequate streetscaping and landscaping, including street trees.
- Compliance with the City's Infill Townhouse Guidelines.
- Parkland dedication.
- Compliance with the Toronto Green Standard's Tier 1 requirements for both the residential and commercial portions of the proposal.
- The applicability of Section 37 of the Planning Act to secure appropriate community benefits under Section 37 of the Planning Act should residential units be permitted on these lands.
- Appropriate Noise and Vibration mitigation measures.
- Appropriate resulting lot frontage and lot areas for the proposed townhouse lots.
- Appropriateness of the proposed public road and lane configurations and ROW widths including adherence with the City's DIPS policy.
- Appropriate supporting infrastructure as a result of servicing and transportation impacts.
Conclusions
Staff have reviewed the proposal for compliance with Official Plan policies. As concluded through the Municipal Comprehensive Review and articulated through OPA 231, one-half of this site should be retained as Employment Areas and be specifically designated as General Employment Areas. Therefore, staff recommend that City Council direct staff, the City Solicitor and necessary staff to attend the Ontario Municipal Board in opposition to the proposed applications at 1001 Ellesmere Road in their current form and to achieve consistency with OPA 231.

CONTACT
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E-mail: hines@toronto.ca

SIGNATURE

_______________________________
Jennifer Keesmaat, MES, MCIP, RPP
Chief Planner and Executive Director
City Planning Division

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ATTACHMENTS
Attachment 1: Subdivision Plan
Attachment 2: Zoning
Attachment 3: Official Plan
Attachment 4: Official Plan Amendment No. 231 - Excerpt
Attachment 5: Application Data Shee
Attachment 6: Proposed Lot Division (Consent B018/14SC)
Proposed Draft Plan of Subdivision

1001 Ellesmere Road

File #: 13 268032 ESC 37 OZ and 13 268033 ESC 37 SB
Attachment 2: Zoning
Attachment 3: Official Plan
Attachment 4: Official Plan Amendment No. 231 - Excerpt

Redesignate from 'Employment Areas' to Official Plan Designations Shown on Maps 1 to 48 inclusive

Map17

Staff report for action – Request for Direction Report - 1001 Ellesmere Rd

V.03/13
**Attachment 5: Application Data Sheet**

**Application Type:** Official Plan Amendment & Rezoning, Draft Plan of Subdivision  
**Application Number:** 13 268032 ESC 37 OZ  
**Details:** OPA & Rezoning, Standard  
**Application Date:** November 20, 2013  
**Municipal Address:** 1001 ELLESMERE RD  
**Location Description:** RCP 9846 LOT 5 **GRID E3704  
**Project Description:** Official Plan and Zoning By-law amendment applications to provide for a residential townhouse development in addition to currently permitted offices on a network of proposed public streets.

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**PLANNING CONTROLS**

- **Official Plan Designation:** Employment Areas  
- **Zoning:** E - Employment Industrial  
- **Height Limit (m):** Site Plan Control Area: Yes

**PROJECT INFORMATION**

- **Site Area (sq. m):** 27559  
- **Frontage (m):** 263  
- **Depth (m):** 104.45  
- **Total Ground Floor Area (sq. m):** 11086  
- **Total Residential GFA (sq. m):** 16577  
- **Total Non-Residential GFA (sq. m):** 11475  
- **Total GFA (sq. m):** 28052  
- **Lot Coverage Ratio (%):** 40.2  
- **Floor Space Index:** 1.02

**FLOOR AREA BREAKDOWN** (upon project completion)

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**CONTACT:**

- **PLANNER NAME:** Rod Hines, Principal Planner  
- **TELEPHONE:** (416) 396-7020
ATTACHMENT 6: Proposed Lot Division (Consent B018/14SC)