



**STAFF REPORT  
ACTION REQUIRED  
with Confidential Attachment**

**1001 Ellesmere Road – Official Plan Amendment, Zoning By-law Amendment and Draft Plan of Subdivision Applications – OMB Hearing – Request for Directions**

<b>Date:</b>	March 25, 2015
<b>To:</b>	City Council
<b>From:</b>	City Solicitor
<b>Wards:</b>	Ward 37 – Scarborough Centre
<b>Reason for Confidential Information:</b>	This report is about litigation or potential litigation that affects the City and contains advice or communications that are subject to solicitor-client privilege.
<b>Reference Number:</b>	

**SUMMARY**

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The owner of the property located at 1001 Ellesmere Road proposes to redevelop a former industrial site with 95 townhouses and a 4-storey commercial building. They have appealed their Official Plan Amendment, Zoning By-law Amendment and Draft Plan of Subdivision applications to the Ontario Municipal Board due to the City's lack of decision within the statutory timeframe. A pre-hearing for the matter has been set for April 8, 2015.

**RECOMMENDATIONS**

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The City Solicitor recommends that:

1. Council adopt the confidential instructions to staff in Attachment 1.
2. Council authorize the public release of the recommendations in Attachment 1 and Appendices 1, 2, 3 and 4 if adopted, and the remainder of Attachment 1 remain confidential.

## Financial Impact

The recommendations in this report will have no financial impact.

## Site and Surrounding Area

The subject 2.76 ha (6.8 ac.) site currently contains a vacant 17 744 m<sup>2</sup> (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 public and bus 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.

## DECISION HISTORY

At its meeting of November 27, 28 and 29, 2012, City Council considered a City Planning staff report dated October 23, 2012, entitled 'Planning for a Strong and Diverse Economy: Official Plan/Municipal Comprehensive Reviews - Draft Policies and Designations for Employment'. The report set out draft Official Plan policies for economic health and the employment lands and draft designations and mapping for *Employment Areas*. The report also provided preliminary assessments of 65 requests/applications received, which included the subject site, to convert employment lands to non-employment uses. Council directed that the draft policies, designations, mapping and preliminary assessments of conversion requests/applications be the basis of further consultations, including open houses in each Community Council district and meetings with key stakeholders, to obtain comments and feedback. This report can be found at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.PG19.5>

## **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.

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 Municipal Comprehensive Review. 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 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 same meeting of December 16, 17 and 18, 2013, City Council 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:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.PG28.2>

<http://www.toronto.ca/legdocs/bylaws/2013/law1714.pdf>

On July 9, 2014, the Minister of Municipal Affairs and Housing issued a decision on OPA 231. The Minister's Decision, in part, confirms Council's action of redesignating the east half of the lands to *Mixed Use Areas*. The owner has appealed this decision to the OMB.

## **ISSUE BACKGROUND**

The applications propose removal of the existing vacant industrial building and mixed redevelopment of the subject site with 95 3-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 m<sup>2</sup> 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.

## **Official Plan**

The existing designation on the site is Employment Areas. Pursuant to OPA 231, the west half of the site designated on the Land Use as *General Employment Areas*, which provides 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).

The east half of the site redesignated to *Mixed Use Areas* through OPA 231 provides for 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.

OPA 231 also applied Site and Area Specific Policy No. 457 under Chapter 7 of the Official Plan to the site, which states:

- a) Employment uses on the western 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 eastern 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, and is therefore not a concern under the current appeals.

## **COMMENTS**

The applicant has appealed their Official Plan Amendment, Zoning By-law Amendment and Draft Plan of Subdivision applications to the Ontario Municipal Board (OMB) due to Council's failure to make a decision on the applications within the time prescribed by the *Planning Act*. A pre-hearing has been scheduled for April 8, 2015.

## **CONTACT**

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## **SIGNATURE**

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Anna Kinastowski, City Solicitor

## **ATTACHMENTS**

Attachment No. 1: Confidential Information