



**STAFF REPORT  
ACTION REQUIRED  
With Confidential Attachment**

**743 Warden Avenue – OMB Hearing – Request for Directions**

<b>Date:</b>	July 8, 2015
<b>To:</b>	City Council
<b>From:</b>	City Solicitor
<b>Wards:</b>	Ward 35 – Scarborough Southwest
<b>Reason for Confidential Information:</b>	This report is about litigation or potential litigation that affects the City or one of its agencies, boards and commissions and this report contains advice or communications that are subject to solicitor-client privilege.
<b>Reference Number:</b>	

**SUMMARY**

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This report has been prepared in consultation with City Planning and Economic Development & Culture.

The owners of 743 Warden Avenue have appealed their Official Plan Amendment and Zoning By-law Amendment, Draft Plan of Subdivision and Site Plan applications to the Ontario Municipal Board due to a lack of decision by the City within the statutory timeframe. A hearing is scheduled to commence on September 1, 2015. This report seeks instructions for the City Solicitor.

**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 if adopted, with the remainder of Attachment 1 to be kept confidential at the discretion of the City Solicitor.

3. Council authorize the public release of Attachments 2, 3, 4, 5, 6 and 7 at the discretion of the City Solicitor.

### **Financial Impact**

The recommendations in this report will have no financial impact.

### **DECISION HISTORY**

At its meeting of August 5, 2009, City Council amended the former City of Scarborough Employment Districts Zoning By-law 24982 to rezone the subject site from Industrial (M) and Special Industrial (MS) to Community Commercial (CC) along the Warden Avenue frontage and Industrial (M) in the interior, with site-specific provisions. This was intended to permit development of the Warden-fronting portion of 743 Warden Avenue for retail/commercial uses, with the proposed development including a 4,645 m<sup>2</sup> supermarket, and the interior portion to retain employment uses. The staff report and Council's decision can be found at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2009.SC27.26>

### **Municipal Comprehensive Review and Official Plan Amendment 231**

On April 13, 2011, the applicant requested that 743 Warden Avenue 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. City Council adopted staff's recommendations pertaining to the conversion request that the lands be maintained for employment purposes. At the same meeting City Council adopted OPA 231. In addition to adopting revised city-wide employment land policies and land use designations, OPA 231 retains the lands at 743 Warden Avenue as *Employment Areas*, and designates them as *General Employment Areas*.

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>

In January 2014, the City submitted OPA 231 to the Minister of Municipal Affairs and Housing for approval. 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 in not redesignating the subject lands for non-employment purposes. The owner has appealed this decision to the Ontario Municipal Board (OMB), which is the subject of a separate hearing process that has not been consolidated with the appeals of the current subject applications.

## **Site Specific Applications and Appeal**

In November and December, 2013, the owner submitted Official Plan Amendment, Zoning By-law Amendment, Draft Plan of Subdivision and Site Plan Control applications. The applications would permit 202 residential townhouse units, three commercial buildings, a network of public roads and lanes, and a storm water management pond.

On June 17, 2014 the applicant appealed the applications to the OMB due to the City's lack of decision within the statutory timeframe.

At its meeting of August 25, 26, 27 and 28, 2014, City Council direct the City Solicitor, together with other staff, to attend at the OMB in opposition to the proposed application. That decision and background information can be found at

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.PG35.10>

## **OMB Prehearings**

A prehearing conference was held at the OMB on November 24, 2014 and March 31, 2015. At the last prehearing, a one week hearing on the subject applications was scheduled to commence on Tuesday, September 1, 2015.

Rexton Developments Ltd. (Rexton), the owner of the lands immediately to the east of the subject property, sought and received party status to the hearing at the first prehearing conference. They are seeking to have the scope of the hearing expanded to include a redesignation of their lands to also be considered by the Board. The Rexton lands are currently vacant and designated utility corridor. They will ask the OMB to amend the City's Official Plan to permit residential development on their site as well as the 743 Warden Avenue lands.

Rexton filed an Official Plan amendment, Zoning By-law amendment and draft plan of subdivision applications with the City for their lands on June 30, 2015. Rexton is proposing to develop 26 street townhouses on the proposed northerly extension of Pidgeon Street (the road allowance for which is largely within the Goldman Group subdivision). The proposal is similar to Rexton's townhouse development immediately to the south on Pidgeon Street

## **CONTACT**

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## **SIGNATURE**

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Anna Kinastowski, City Solicitor

## **ATTACHMENTS**

Attachment No. 1: Confidential Information  
Attachment No. 2: Confidential Information  
Attachment No. 3: Confidential Information  
Attachment No. 4: Confidential Information  
Attachment No. 5: Confidential Information  
Attachment No. 6: Confidential Information  
Attachment No. 7: Confidential Information