

50 York Gate Boulevard, 25 Norfinch Drive and 2050 Finch Avenue West – Deeming By-law – Final Report

Date: April 24, 2019
To: Etobicoke York Community Council
From: Director, Transportation Planning
Ward: 7 Humber River-Black Creek

Planning File Number: 19 120155 WET 07 TM

SUMMARY

This City-initiated action recommends that City Council pass a by-law to deem certain lots within a registered subdivision to no longer be lots within that subdivision. The outcome of the by-law would allow the affected properties to be merged into a single parcel of land. This will facilitate the properties at 50 York Gate Boulevard, 25 Norfinch Drive and 2050 Finch Avenue West, which will jointly contain the maintenance and storage facility to support the Finch West LRT, to legally become a single parcel of land. All the affected lands are currently owned by Metrolinx.

At a later stage of the LRT project, a new parcel fronting Finch Avenue West will be subdivided from the consolidated subject lands. These reserve lands will be developed with a community hub following construction of the LRT project. Prior to this, the reserve lands will be used for staging of the LRT construction.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council pass a by-law to deem the following lots within Registered Plan of Subdivision 66M-1994 not to be a plan of subdivision substantially in accordance with the Draft Deeming By-law attached as Attachment 2; namely Part of Blocks 2, 3 and 5 of Registered Plan 66M-1994 and all of Block 4 of Registered Plan 66M-1994.
2. City Council authorizes the City Solicitor to make such stylistic and technical changes to the Draft Deeming By-law as may be required.
3. City Council authorize the City Clerk to give notice of the passing of the By-law to the owner of the lands to which the By-law applies pursuant to the *Planning Act*.
4. City Council authorize the Etobicoke York Community Council to hear any person to whom a notice was sent who gives notice to the City Clerk within the required time that

the person desires to make representation respecting the passing of the Draft Deeming By-law at the next meeting following the last day for receiving notice.

5. If no requests to be heard are received, City Council authorize and direct the City Solicitor to register the Deeming By-law on title of the affected properties.

FINANCIAL IMPACT

The recommendations in this report have no financial impact.

PROPOSAL

The Finch West LRT project is presently in detailed design and delivery, with construction expected to begin later in 2019. An important element of the project is the maintenance and storage facility, which will occupy a portion of the subject lands. A site plan application has been filed to review to facility design, with building permits and other approvals pending. The site plan area includes the reserve lands fronting Finch Avenue West, for which an interim landscape and drainage condition will be provided by the LRT project in advance of their disposition by Metrolinx for the future community hub.

Reasons for the Deeming By-law

Through the preliminary review of the site plan application, it has been determined that the maintenance and storage facility would straddle property lines if the subject lands were to remain as separate parcels. This may raise issues through the review and approval process for the facility. Since the subject lands are contained in a plan of subdivision, the most appropriate way to resolve this matter is for City Council to deem the lots to no longer be lots within the subdivision. This will enable the lots to be merged.

DEEMING BY-LAWS

Section 50(4) of the *Planning Act* allows City Council to pass a by-law to designate or "deem" any plan of subdivision or part thereof that has been registered for eight years or more not to be a plan of subdivision. One of the purposes of a deeming by-law is to enable a municipality to reconcile the arrangement, size and configuration of lots on a registered plan of subdivision with plans and project approvals that were not contemplated when the subdivision was registered. The reconciliation of the lot configuration provides for the appropriate and orderly review and approval of project elements that are consistent with the needs of the LRT project while respecting applicable zoning and planning policies.

Unlike most planning approvals authorized by the *Planning Act*, a deeming by-law does not require prior public notice or a public meeting to assist City Council in making its

decision. Rather, notice is provided once the by-law has been passed, with such notice only required to be provided to the owner(s) of the affected lands. The Act provides for a period following the passing of the deeming by-law in which affected landowners may request to make representation at the next meeting of Community Council.

If such requests are received, Community Council must consider the representations made and report to City Council with a recommendation whether to proceed with the deeming by-law, repeal or amend it. If City Council proceeds with the by-law, it must be registered on title to the affected properties in the proper land registry office before the by-law becomes effective. A letter will be sent by the City Clerk to the Minister of Housing advising that the by-law is in effect.

If no such requests are received, the necessary administrative steps will be taken by City staff to have the by-law registered on title and a letter is sent to the Minister of Housing without further consideration by City Council.

POLICY CONSIDERATIONS

Provincial Land-Use Policies: Provincial Policy Statement and Provincial Plans

Provincial Policy Statements and geographically specific Provincial Plans, along with municipal Official Plans, provide a policy framework for planning and development in the Province. This framework is implemented through a range of land use controls such as zoning by-laws, plans of subdivision and site plans.

The Provincial Policy Statement (2014)

The Provincial Policy Statement (2014) (the "PPS") provides policy direction province-wide on land use planning and development to promote strong communities, a strong economy, and a clean and healthy environment. It includes policies on key issues that affect communities, such as:

- The efficient and wise use and management of land and infrastructure over the long term in order to minimize impacts on air, water and other resources;
- Protection of the natural and built environment;
- Building strong, sustainable and resilient communities that enhance health and social well-being by ensuring opportunities exist locally for employment;
- Residential development promoting a mix of housing; recreation, parks and open space; and transportation choices that increase the use of active transportation and transit; and
- Encouraging a sense of place in communities, by promoting well-designed built form and by conserving features that help define local character.

The provincial policy-led planning system recognizes and addresses the complex inter-relationships among environmental, economic and social factors in land use planning. The PPS supports a comprehensive, integrated and long-term approach to planning, and recognizes linkages among policy areas.

The PPS is issued under Section 3 of the *Planning Act* and all decisions of City Council in respect of the exercise of any authority that affects a planning matter shall be consistent with the PPS. Comments, submissions or advice affecting a planning matter that are provided by City Council shall also be consistent with the PPS.

The PPS recognizes and acknowledges the Official Plan as an important document for implementing the policies within the PPS. Policy 4.7 of the PPS states that, "The official plan is the most important vehicle for implementation of this Provincial Policy Statement. Comprehensive, integrated and long-term planning is best achieved through official plans."

Provincial Plans

Provincial Plans are intended to be read in their entirety and relevant policies are to be applied to each situation. The policies of the Plans represent minimum standards. City Council may go beyond these minimum standards to address matters of local importance, unless doing so would conflict with any policies of the Plans.

All decisions of City Council in respect of the exercise of any authority that affects a planning matter shall be consistent with the PPS and shall conform with Provincial Plans. All comments, submissions or advice affecting a planning matter that are provided by City Council shall also be consistent with the PPS and conform with Provincial Plans.

The Growth Plan for the Greater Golden Horseshoe (2017)

The Growth Plan for the Greater Golden Horseshoe (2017) (the "Growth Plan") provides a strategic framework for managing growth and environmental protection in the Greater Golden Horseshoe region, of which the City forms an integral part, including:

- Establishing minimum density targets within strategic growth areas and related policies directing municipalities to make more efficient use of land, resources and infrastructure to reduce sprawl, cultivate a culture of conservation and promote compact built form and better-designed communities with high quality built form and an attractive and vibrant public realm established through site design and urban design standards;
- Directing municipalities to engage in an integrated approach to infrastructure planning and investment optimization as part of the land use planning process; and
- Building complete communities with a diverse range of housing options, public service facilities, recreation and green space that better connect transit to where people live and work.

The Growth Plan builds upon the policy foundation provided by the PPS and provides more specific land use planning policies to address issues facing the GGH region. The policies of the Growth Plan take precedence over the policies of the PPS to the extent of any conflict, except where the relevant legislation provides otherwise.

In accordance with Section 3 of the *Planning Act* all decisions of City Council in respect of the exercise of any authority that affects a planning matter shall conform with the Growth Plan. Comments, submissions or advice affecting a planning matter that are provided by City Council shall also conform with the Growth Plan.

Toronto Official Plan

This application has been reviewed against the policies of the City of Toronto Official Plan as follows:

Section 2.2 Structuring Growth in the City: Integrating Land Use and Transportation outlines policies intended to align development with the City's transportation system, including making investments in transit. The following policies are pertinent to the proposed deeming by-law:

Policy 2.2.1

This Plan will create a better urban environment, a competitive local economy and a more socially cohesive and equitable city through the integration and coordination of transportation planning and land use planning by:

b) developing and expanding components of the City's transit and other transportation infrastructure to support the growth objectives of this Plan.

Policy 2.2.3

The City's transportation network will be maintained and developed to support the growth management objectives of this Plan by:

b) acquiring lands beyond the right-of-way widths shown on Map 3 and Schedule 1 to accommodate necessary features such as embankments, grade separations, additional pavement or sidewalk widths at intersections, transit facilities or to provide for necessary improvements in safety, universal accessibility or visibility in certain locations.

j) implementing transit services in exclusive rights-of-way in the corridors identified on Map 4 as priorities are established, funding becomes available and the Environmental Assessment review processes are completed.

The City of Toronto Official Plan can be found here: <https://www.toronto.ca/city-government/planning-development/official-plan-guidelines/official-plan/>.

Zoning

The subject properties are regulated under City of Toronto Zoning By-law No. 569-2013 as well as By-law 1099-2006 (OMB) which amended former City of North York Zoning By-law No. 7625. In 2018 further amendments were made through By-law 1115-2018 which permitted a transportation use and provided relief from certain requirements to support the use of the site for the Finch West LRT maintenance and storage facility.

Site Plan Control

An application has been filed under 18 270419 NNY 07 SA for the maintenance and storage facility. The application is currently under review.

COMMENTS

Provincial Policy Statement and Provincial Plans

The proposed deeming by-law has been reviewed and evaluated against the PPS (2014) and the Growth Plan (2017). The deeming by-law has also been reviewed and evaluated against policies of the Growth Plan as described in the Policy Considerations section of this report.

Staff have determined that the proposed by-law is consistent with the PPS and conforms with the Growth Plan as follows:

The Growth Plan requires in Policy 3.2.1.1 that "infrastructure planning, land use planning and infrastructure investment will be coordinated to implement this Plan." Policy 3.2.2.1 mirrors 3.2.1.1 with respect to transportation, stating that "transportation system planning, land use planning, and transportation investment will be coordinated to implement this Plan." The deeming by-law will assist in implementing the land use planning, which in this case is planning related to the delivery of a major transit infrastructure investment. The by-law thus forms part of the coordination as outlined in the policies.

Land Use

The properties that would be affected by the proposed deeming by-law are all owned by Metrolinx, who has requested that City Council pass this by-law (see Attachment 1). The effect of the by-law will be to enable the properties to be legally merged. This would simplify the review of the proposed development of the site for a maintenance and storage facility to support the Finch West LRT project.

As part of the planning for the LRT project, a development reserve was identified at the subject site. The reserve encompasses the entirety of the Finch Avenue West frontage of the site to a depth of 32 m from the north edge of the Finch Avenue right-of-way, as adjusted by the LRT project. These reserve lands will be conveyed for a future community hub.

The reserve lands will require severance in order for them to be conveyed by Metrolinx. This process is simplified if the lands from which the severance will be made are a single parcel. The proposed deeming by-law prepares the land for the future severance and creation of the community hub parcel. In the interim, prior to their conveyance, the reserve lands will be available for use as a construction staging area for the LRT project. Once construction is complete, the reserve lands will be restored to an interim landscaped condition as secured through the site plan process.

Conclusion

The proposal has been reviewed against the policies of the PPS (2014), the Growth Plan (2017) and the Toronto Official Plan. Staff are of the opinion that the proposed deeming by-law is consistent with the PPS (2014) and does not conflict with the Growth Plan (2017). Furthermore, the proposal is in keeping with the policies of the Toronto Official Plan, particularly as it relates to Policies 2.2.1 and 2.2.3. Staff recommend that City Council pass the proposed deeming by-law and direct staff to notify affected property owners as required under the *Planning Act*.

CONTACT

Tom Schwerdtfeger, Senior Planner, Tel. No.416 396-7006, Fax No.416 396-4265,
E-mail:Thomas.Schwerdtfeger@toronto.ca

SIGNATURE

James Perttula, Director
Transportation Planning, City Planning

ATTACHMENTS

Attachment 1: Letter Requesting a Deeming By-law
Attachment 2: Draft Deeming By-law

Attachment 1: Letter Requesting a Deeming By-law



City of Toronto, City Planning Division
Transit Design and Development Unit
100 Queens Street West
Toronto, ON
M5H 2N2

Attention: Thomas Schwerdtfeger, Senior Planner

2/22/2019

RE: FWLRT - MSF DEEMING BY-LAW

Dear Mr. Schwerdtfeger;

As per your recent meeting with Metrolinx, I am providing you with this letter as confirmation to proceed with the initiation of a Deeming By-Law for the properties referred to as Part of Blocks 2, 3 and 5 on Plan 66M 1994 and all of Block 4 on Plan 66M 1994 as illustrated on the attached plan. The By-Law is necessary to dissolve the existing property boundaries thereby creating a consolidated parcel to facilitate site plan review by Toronto Building for the future MSF site in support of the Finch West LRT project.

If you have any questions, please contact the undersigned by phone at 416.202.4862 or by email at david.ballantyne@metrolinx.com.

Yours very truly,

A handwritten signature in blue ink, appearing to read 'D. Ballantyne', is written over a light blue horizontal line.

David Ballantyne, P.Eng.
Director, Design and Construction (A) - Finch West LRT
Capital Projects Group - Metrolinx

cc: Vincente Gurrea, Mosaic Transit Partners
Ignacio Velasco, Mosaic Transit Partners
Kathy Yeung, Infrastructure Ontario
Gabriel Florez Lopez, Metrolinx
Jamie Bennett, Metrolinx
David Veights, AECOM

Attachment 2: Draft Deeming By-law

Authority: Etobicoke York Community Council Item ~ as adopted by City of Toronto Council on ~, 2019
Enacted by Council: ~, 2019

CITY OF TORONTO
Bill No. ~
BY-LAW No. ~-2019

To deem certain lots to no longer be registered lots on a plan of subdivision.

WHEREAS authority is given to Council by Section 50(4) of the Planning Act, R.S.O. 1990, c.P. 13, as amended, to pass this By-law to designate any plan of subdivision or part thereof that has been registered for eight years or more, which shall be deemed not to be a registered plan of subdivision for the purpose of subdivision control; and

WHEREAS Plan 66M 1994 was registered more than eight years ago;

The Council of the City of Toronto HEREBY ENACTS as follows:

1. The following lots are deemed not to be a registered plan of subdivision for the purpose of subsection 50(3) of the Planning Act, R.S.O. 1990, c.P., 13, as amended:

Part of Blocks 2, 3 and 5 on Plan 66M 1994

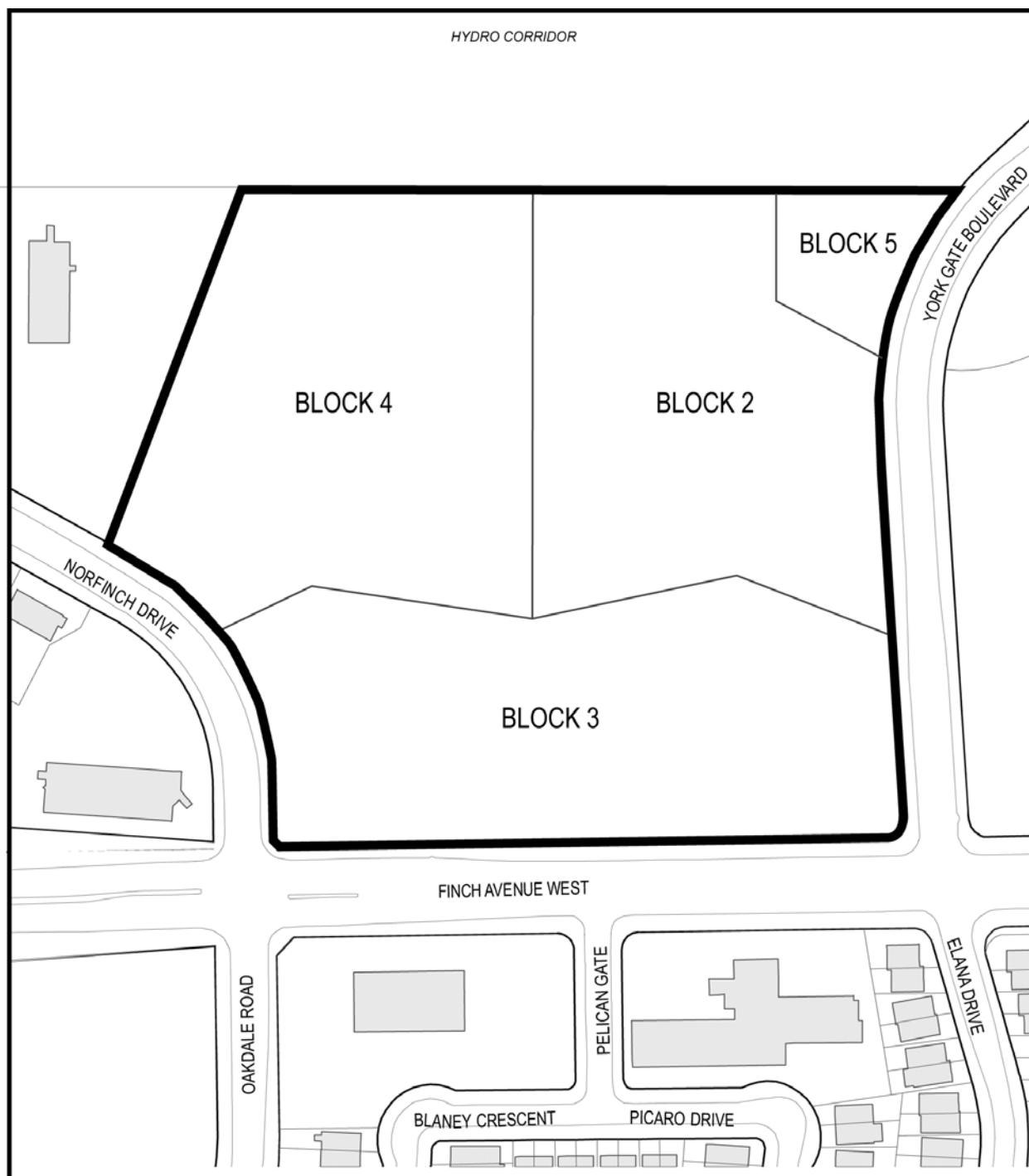
All of Block 4 on Plan 66M 1994

As illustrated on the attached plan.

ENACTED AND PASSED this ~ day of ~, A.D. 2019.

JOHN TORY, ULLI S. WATKISS,
Mayor City Clerk

(Corporate Seal)



Properties Subject to Deeming By-law

**50 York Gate Boulevard, 25 Norfinch Drive
& 2050 Finch Avenue West**

03/21/2019



File # 19 120155 WET 07 TM