



REPORT FOR ACTION

Zoning By-law Amendments to Implement the Line 2 East Subway Extension

Date: April 3, 2019

To: Scarborough Community Council

From: Director, Transportation Planning

Wards: 20, 21 and 24

SUMMARY

This report proposes zoning by-law amendments to facilitate the delivery of the Line 2 East Subway Extension (L2EE) project. The purpose of these amendments is to provide relief from zoning by-law provisions related to transportation uses for lands to be acquired by the project and to address zoning compliance issues at properties where lands are required to be conveyed to accommodate L2EE project elements.

The zoning by-law amendments in this report affect lands which will accommodate the L2EE project, including emergency exit buildings, traction power substations, the future Scarborough Centre subway station and bus terminal, and new installations at the existing Kennedy Station. The amendments apply to transportation uses only and are consistent with the City's zoning policies, and none of the proposed amendments reduce zoning permissions on abutting lands; nor will the amendments impact other uses permitted on properties affected by the amendments.

RECOMMENDATIONS

The Director, Transportation Planning, recommends that:

1. City Council amend the City of Toronto Zoning By-law 569-2013, the former City of Scarborough Kennedy Park Community Zoning By-law 9276, the former City of Scarborough Eglinton Community Zoning By-law 10048, the former City of Scarborough Bendale Community Zoning By-law 9350, the former City of Scarborough Woburn Community Zoning By-law 9510, and the former City of Scarborough Employment Districts Zoning By-law 24982 for the lands at 2439, 2453, 2455, 2457, 2461, 2583, and 2742 Eglinton Avenue East; 155 Transway Crescent; 1269, 1360 and 1515 Danforth Road; 3050 Lawrence Avenue East; 25 Durrington Crescent; 1072 McCowan Road; 50 and 60 Brian Harrison Way; 200 and 230 Town Centre Court; 300 and 350x Borough Drive; 530 and 580 Progress Avenue; and certain lands within the Gataineau

Hydro corridor, substantially in accordance with the draft Zoning By-law Amendments attached as Attachments 1-6 to this report; and

2. City Council authorize the City Solicitor to make such stylistic and technical changes to the draft Zoning By-law Amendments as may be required.

FINANCIAL IMPACT

There are no financial implications to this report.

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 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 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. 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 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 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 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 Council shall also conform with the Growth Plan.

Toronto Official Plan

The proposed amendments have 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 amendments and the L2EE project in general:

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 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.

Policy 2.2.4

Require new development on lands adjacent to existing or planned transportation corridors and facilities to be compatible with, and supportive of, the long-term purposes of the corridors and facilities and be designed to avoid, mitigate or minimize negative impacts on and from the transportation corridors and facilities.

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

Zoning

Project elements comprising the L2EE and their locations are itemized in the table below. The Zoning By-laws that regulate each element are likewise outlined in the table.

L2EE Project Element	Address	Location	Regulated under By-law 569-2013	Regulated under former City of Scarborough By-law
Kennedy Station TPSS expansion	2439, 2453, 2455, 2457, 2461 Eglinton Ave. E	Kennedy Subway Station	Yes	Kennedy Park Community Zoning By-law 9276
Kennedy Station fan plant	155 Transway Cres.	Kennedy Subway Station	Yes	Kennedy Park Community Zoning By-law 9276
EEB #1	2583 Eglinton Ave. E	SW corner of Eglinton Ave. and Winter Ave.	Yes	Eglinton Community Zoning By-law 10048
EEB #2	2742 Eglinton Ave. E	rear of No Frills store at Eglinton Ave. and Danforth Rd.	Yes	Eglinton Community Zoning By-law 10048
TPSS #1	1269 Danforth Rd.	Commercial Plaza Location	Yes	Eglinton Community Zoning By-law 10048
EEB #3 and fan plant	1360 Danforth Rd.	Parkvue Apartments	No	Eglinton Community Zoning By-law 10048
EEB #4	1515 Danforth Rd.	Bendale Public Library	Yes	Bendale Community Zoning By-law 9350
EEB #5 and fan plant	3050 Lawrence Ave. E	Scarborough Hospital Parking Lot	Yes	Bendale Community Zoning By-law 9350

L2EE Project Element	Address	Location	Regulated under By-law 569-2013	Regulated under former City of Scarborough By-law
EEB #6	25 Durrington Cres.	Private Home	Yes	Bendale Community Zoning By-law 9350
TPSS #2	No municipal address	Within the Hydro Corridor	Yes	Woburn Community Zoning By-law 9510
EEB #7	1072 McCowan Rd.	Private Home	Yes	Bendale Community Zoning By-law
Scarborough Centre subway station	300 & 350x Borough Dr. 580 Progress Ave.	East of present SRT station	No	Employment Districts Zoning By-law 24982
Scarborough Centre bus terminal	300 Borough Dr. 50 & 60 Brian Harrison Way	Will replace present SRT station and bus terminal	No	Employment Districts Zoning By-law 24982
EEB #8	530 Progress Ave.	at Lazy Boy parking lot	No	Employment Districts Zoning By-law 24982

Public transit uses, identified under the defined term "Transportation Uses" in the City-wide Zoning By-law 569-2013, are permitted in all zones subject to complying with the standards for a building or structure in that zone. However, at 1269 Danforth Road a transportation use is not permitted because of a restrictive site-specific amendment.

Transportation uses, and public transit in general, are typically not permitted in the former City of Scarborough zoning by-laws, although the Scarborough Employment Districts Zoning By-law 24982, as amended, permits "Public Transportation Uses" on all lands within the Progress Employment District.

DECISION HISTORY

City Council considered report EX4.1 at its meeting of April 16 and 17, 2019. This report provided an updated design, initial business case and cost estimate for the Line 2

East Subway Extension and sought Council direction to proceed with procurement and construction of the project. Zoning compliance is a necessary component of the delivery of the project. Report EX4.1 can be accessed at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.EX4.1>

At its meeting of March 28 and 29, 2017 City Council considered report EX23.1. The report provided an update to the initial business case and outlined next steps for the Scarborough Subway Extension (now referred to as the Line 2 East Extension). Among the decisions made by Council was a confirmation of the Eglinton Avenue East, Danforth Road, McCowan Road and Borough Drive alignment for the subway extension. This decision allowed the project to move forward with determining the specific locations of necessary emergency exit buildings and traction power substations that are required as part of the project.

Also confirmed by Council at this time was the Triton Road bus terminal configuration at the future Scarborough Centre subway station. This direction provided clarity to the project to determine land requirements for the station and bus terminal. Report EX23.1 can be accessed at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.EX23.1>

COMMENTS

Planning for major transit expansion projects follows an extensive design and consultation process beginning with the Environmental Assessment (EA) process. An EA is typically undertaken well in advance of the filing of formal planning applications. City staff actively participate in, and in some cases lead, these EAs. The appropriate location, arrangement and design of buildings for major transit projects is examined in considerable detail and is publicly reviewed and documented through the EA process in advance of the issuance of tender documents for construction of the project.

The design process for major transit projects has regard for the applicable zoning, but generally does not include a detailed zoning review. As a result, while it is well understood through the EA process how transit buildings will be located, arranged on the land, and designed when a project is approved, areas of noncompliance with existing zoning may only be identified later in the project delivery stage. Zoning compliance is addressed through the detailed design stage of a transit project, at the time of site plan approval and building permit applications. However, at this late stage in the process achieving zoning compliance may introduce significant risk, delay and cost to the project delivery. To reduce these risks zoning compliance should be secured prior to project tender in a Design Bid Build procurement model.

The L2EE project is expected to reach the project tender stage later in 2019. As per the above, the required zoning amendments should be considered by Council as early as possible following its direction to proceed with procurement and construction of the L2EE project, in order to allow time for potential appeals.

Provincial Policy Statement and Provincial Plans

The proposal has been reviewed and evaluated against the PPS (2014) and the Growth Plan (2017). The proposal has also been reviewed and evaluated against policies of the Growth Plan as described in the Policy Considerations section of the Report.

Staff have determined that the proposed amendments are 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." Zoning implements land use planning, which in this case is planning related to the delivery of a major transit infrastructure investment. The proposed amendments thus form part of the coordination as outlined in the policies, in particular as they function to remedy potential zoning compliance issues arising from land acquisition required by the L2EE project.

Policy 3.2.2.2 requires "the transportation system within the GGH [to] be planned and managed to: f) provide for the safety of system users". The proposed zoning by-law amendments support the provision of emergency exit buildings required to support the L2EE project, as well as electrical substations to ensure reliable power supply for the subway expansion. These are key elements of the project, whose location is driven in large part by safety standards.

Official Plan

The proposed zoning by-law amendments comply with the intent and policies of the Official Plan. They facilitate implementation of a major transit expansion project in accordance with Policy 2.2.1 b). As contemplated by Policy 2.2.3 b), most of the affected lands are located beyond the right-of-way and will house transit facilities to support the L2EE, which will run primarily within the right-of-way.

Policy 2.2.3 j) refers to Map 4 of the Official Plan, which identifies higher order transit corridors. On April 4, 2019 draft amendments to the Official Plan transportation policies were introduced to the Planning and Housing Committee as part of the City's Municipal Comprehensive Review. An update to Map 4 is included in the draft amendments that identifies the L2EE alignment. The proposed Zoning By-law amendments are consistent with the draft amended Map 4.

While Policy 2.2.4 deals mostly with how new private development responds to the transportation system, it also requires mitigation and minimization of negative impacts from transportation facilities to private development. The amendments proposed in this report minimize the amount of land required for the L2EE project while providing remedies to the affected properties to mitigate zoning compliance issues arising from the conveyance of the land.

Land Use

The proposed zoning by-law amendments amend the city-wide Zoning By-law 569-2013, and a number of former City of Scarborough zoning by-laws. The proposed amendments to By-law 569-2013, and attached as Attachment 1, provide limited site and area-specific exemptions for transportation uses in the areas of building setbacks, gross floor area, floor space index, lot coverage, minimum lot area, and minimum lot frontage.

The proposed exemptions to the former City of Scarborough by-laws are more general and propose to add provisions that replicate existing regulations found in By-law 569-2013, that remedy compliance matters arising from conveyance of land to the L2EE project. All applicable zoning by-law standards for uses other than transportation uses will remain unaffected.

The proposed zoning by-law amendments have been reviewed against the official plan policies described in the Policy Considerations Section of the Report as well as the policies of the Toronto Official Plan as a whole. The locations and land requirements of project elements including the proposed emergency exit buildings, traction power substations, and subway station and bus terminal are consistent with the L2EE project as approved through the Scarborough Subway Extension EA.

Final configuration of land parcels required to be conveyed for the L2EE project is dependent in part on requirements of applicable zoning. By relaxing certain provisions the proposed amendments function to minimize the amount of land required to accommodate these project elements. This also minimizes the impact of the project on affected properties.

Nevertheless, the conveyance of land from private property to the L2EE project may result in non-compliance of those properties with the zoning provisions that apply to those lands. The conveyance of land reduces the lot area of the property from which the land is acquired. This may create issues as the conveyed lands may have been used, for example, to satisfy the minimum parking requirement. As well, the maximum permitted gross floor area or lot coverage may be affected by the reduction of the lot area, thereby reducing the development potential of the site. Finally, the conveyance of land may reduce the lot frontage, lot area, or building setbacks so that the affected property no longer complies with the requirements of the by-law.

To remedy these issues, Zoning By-law 569-2013 contains provisions in regulation 2.1.1(4) that address and resolve zoning compliance when land is conveyed to a public authority. These provisions apply to all land that is regulated through the by-law, but similar provisions are not included in the former City of Scarborough Zoning By-laws. The proposed amendments apply these provisions to the affected properties by way of a site specific exception in the by-laws where these provisions are absent.

Community Consultation

A community meeting was held on February 21, 2019 to provide an opportunity for affected landowners, their representatives and members of the public to review the

proposed amendments and ask questions. Notice of the meeting was mailed to all directly affected landowners and was advertised in the Scarborough Mirror. As well, staff reached out via phone call to the affected landowners.

No major concerns were raised by the five meeting attendees. Questions were asked about the proposed measures to remedy potential zoning issues arising from property acquisition for some of the required emergency exit buildings. Those measures are outlined in the amending by-laws to the former City of Scarborough zoning by-laws, contained in Attachments 2-6. The same measures are already present in By-law 569-2013, as amended, through regulation 2.1.1(4) Reduction of Lot Area - Conveyance to a Public Authority.

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 proposal is consistent with the PPS (2014) and does not conflict with the Growth Plan (2017). Furthermore, the proposal conforms to the Toronto Official Plan, particularly as it relates to policies 2.2.1 b) and 2.2.4. Staff worked with the community to address and resolve the following key concerns: ensuring zoning compliance of remnant land parcels where the L2EE will need to acquire land to accommodate project elements. The proposed amendments achieve zoning compliance for the L2EE project while minimizing the amount of land to be acquired, and also mitigate the impact of land acquisition to affected properties. Staff recommend that Council support approval of the proposed amendments.

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SIGNATURE

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ATTACHMENTS

- Attachment 1: Draft Amendments to City of Toronto Zoning By-law 569-2013
- Attachment 2: Draft Amendments to former City of Scarborough Kennedy Park Community Zoning By-law 9276
- Attachment 3: Draft Amendments to former City of Scarborough Eglinton Community Zoning By-law 10048
- Attachment 4: Draft Amendments to former City of Scarborough Bendale Community Zoning By-law 9350
- Attachment 5: Draft Amendments to former City of Scarborough Woburn Community Zoning By-law 9510
- Attachment 6: Draft Amendments to former City of Scarborough Employment Districts Zoning By-law 24982