

# 2915 St. Clair Avenue East – Zoning Amendment Application – Preliminary Report

**Date:** May 3, 2019

**To:** Toronto and East York Community Council

**From:** Director, Community Planning, Toronto and East York District

**Ward:** 19, Beaches-East York

**Planning Application Number:** 19 132195 STE 19 OZ

**Notice of Complete Application Issued:** This application is not yet complete. A notice of incomplete application was issued on April 25, 2019.

**Anticipated City Council Meeting Date:** To be confirmed upon complete application

**Current Use(s) on Site:** Service station with ancillary retail use

## SUMMARY

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This report provides information and identifies a preliminary set of issues regarding the rezoning application in respect of 2915 St. Clair Avenue East. Staff are currently reviewing the application. It has been circulated to all appropriate agencies and City divisions for comment. Staff will proceed to schedule a community consultation meeting for the application with the Ward Councillor.

## RECOMMENDATIONS

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The City Planning Division recommends that:

1. Staff schedule a community consultation meeting for the application in respect of 2915 St. Clair Avenue East together with the Ward Councillor.
2. Notice for the community consultation meeting be given to landowners and residents within 120 metres of the application site, and to additional residents, institutions and owners to be determined in consultation with the Ward Councillor, with any additional mailing costs to be borne by the applicant.

## FINANCIAL IMPACT

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The recommendations in this report have no financial impact.

## DECISION HISTORY

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This application is the first rezoning application submitted in respect of the subject property. However, the property has previously been the subject of numerous Committee of Adjustment ("**CofA**") decisions and subsequent Ontario Municipal Board ("**OMB**") and Toronto Local Appeal Body ("**TLAB**") appeals, as described below.

### *CofA Application #1 (A552/01TO)*

Application No. A552/01TO was heard on February 6, 2002. The purpose of the application was to enable interior alterations to the existing building for use as a donut shop (i.e. a take-out eating establishment) and to maintain the existing service station on the property. The application was refused and subsequently appealed to the OMB as File No. PL020201. OMB Decision No. 1055 dated July 29, 2002 dismissed the appeal.

### *CofA Application #2 (A0694/12TEY)*

Application No. A0694/12TEY was heard on November 14, 2012. The purpose of this application was to construct a partial vertical addition and a one-storey rear addition to the existing building, as well as new gas pumps fronting St. Clair Avenue East. This application did not propose a retail use.

The application was approved, subject to certain conditions related to trees and landscaping requirements. The decision was not appealed to the OMB.

### *CofA Application #3 (A0030/14TEY)*

Application No. A0030/14TEY was heard on August 20, 2014. The purpose of this application was to install two additional gas pumps with an overhead fuel dispenser canopy fronting Squires Avenue, and to introduce a retail store use within the existing building. The application had been deferred from its original March 5, 2014 hearing to allow for more time to consult with the community.

Planning staff submitted a report recommending certain conditions be imposed, should the application be approved. However, the application was refused and subsequently appealed to the OMB as File No. PL140962. The OMB decision issued on June 2, 2015 allowed the appeal, imposing the conditions that had been recommended in the Planning report. These conditions included removing the canopy, changes to landscaping and access/egress, limits on the area and function of the retail store as well as the total number of gas pumps, and a 0.4 metre widening conveyance along St. Clair Avenue East.

## CofA Application #4 (A0167/17TEY)

Application No. A0167/17TEY was heard on June 30, 2017. The purpose of the application was to install a fuel dispenser canopy over the two previously-approved gas pumps fronting Squires Avenue, to expand the existing ancillary retail use by converting an interior service bay into a take-out eating establishment and retail store, and to legalize a number of existing parking spaces.

Planning staff submitted a report recommending refusal of the application. The application was refused and subsequently appealed to the TLAB as File No. 17 188179 S45 31 TLAB. In Decision and Order dated February 12, 2018, the TLAB allowed a motion on the grounds of *res judicata* as they related to the fuel dispenser canopy permission and the use variances, holding that those matters had already been finally determined in earlier CofA and appeals processes. Accordingly, the TLAB limited its final analysis to the matters of the parking space variances and the increase in area (but not change in use) of the ancillary retail store. Final Decision and Order dated July 3, 2018 reflected the terms of a settlement between the applicant and the City and allowed the parking space variances, as well as an expansion of the ancillary retail store area to 124 square metres, subject to conditions similar to those imposed in CofA Application #3.

## ISSUE BACKGROUND

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### Application Description

This application proposes to amend Zoning By-law 569-2013 of the City of Toronto and Zoning By-law 6752 of the former Borough of East York at 2915 St. Clair Avenue East to enable (1) an expansion of the existing retail store use by converting an interior service bay into a combined take-out eating establishment and retail store, and (2) the construction of a canopy above the existing two gas pumps located on the west side of the property, as had been requested in previous CofA applications.

Currently, a service station with an ancillary retail use is located at the property, which has legal non-conforming status under the *Planning Act* (Ontario) (the "**Planning Act**"), as the service station existed prior to the passing of the applicable zoning by-laws. The ancillary retail use was conditionally approved pursuant to the CofA, OMB and TLAB decisions described above. It is not yet clear at this stage of review whether this application seeks to override some or all of these conditions.

No drive-throughs or changes to overall gross floor area are proposed.

Detailed project information is found on the City's Application Information Centre at: <https://www.toronto.ca/city-government/planning-development/application-information-centre/>. See Attachment 1 of this report for a three-dimensional representation of the project in context.

## Planning Act, Provincial Policy Statement and Provincial Plans

Land use planning in the Province of Ontario is a policy-led system. Any decision of Council related to this application is required to be consistent with the Provincial Policy Statement (2014) (the "**PPS**"), and to conform with applicable provincial plans which, in the case of the City of Toronto, include: the Growth Plan for the Greater Golden Horseshoe (2017) (the "**Growth Plan**") and, where applicable, the Greenbelt Plan (2017). The PPS and all provincial plans may be found on the Ministry of Municipal Affairs and Housing website.

The PPS supports a comprehensive, integrated and long-term approach to planning. Its vision for Ontario promotes long-term prosperity, environmental health and social well-being, recognizing the need for efficient development patterns that optimize the use of land, resources and public investment. Its policies state that healthy, liveable and safe communities are sustained by, among other directives, accommodating an appropriate range and mix of residential, employment, and other uses to meet long-term needs (Policy 1.1.1(b)), avoiding development that may cause environmental or public health and safety concerns (Policy 1.1.1(c)), ensuring that necessary infrastructure and public service facilities are or will be available to meet current and projected needs (Policy 1.1.1(g)), and promoting development that considers the impacts of a changing climate (Policy 1.1.1(h)). Policy 1.3.1 promotes economic development and competitiveness by, among other strategies, providing opportunities for a diversified economic base, taking into account the needs of existing and future businesses, and ensuring that necessary infrastructure is provided to support current and projected needs.

The subject property is in a *settlement area*. Policy 1.1.3.3 of the PPS provides that appropriate redevelopment (which includes the creation of new uses) in *settlement areas* shall be directed in accordance with the policies of Section 2 (Wise Use and Management of Resources) and Section 3 (Protecting Public Health and Safety) of the PPS.

The Growth Plan provides a framework for building stronger, prosperous communities by managing growth in the Greater Golden Horseshoe. The Growth Plan promotes the creation of complete communities and establishes minimum density targets within strategic growth areas. Related policies direct municipalities to make more efficient use of land, resources, and infrastructure to reduce sprawl, cultivate a culture of conservation, and promote compact and high-quality built form and an attractive and vibrant public realm, established through site design and urban design standards.

Section 2 of the Planning Act also requires municipalities to have regard for matters of provincial interest, which include, among others, the orderly development of safe and healthy communities, the adequate provision of employment opportunities, the appropriate location of growth and development, and the promotion of built form that is well-designed, encourages a sense of place, and provides for public spaces that are high quality, safe, accessible, attractive and vibrant.

## Toronto Official Plan Policies and Planning Studies

The City of Toronto Official Plan (the "**Official Plan**") is a comprehensive policy document that guides development in the City, providing direction for managing the size, location, and built form compatibility of different land uses and the provision of municipal services and facilities. Authority for the Official Plan derives from the Planning Act. The PPS recognizes the Official Plan as the most important document for its implementation. Official Plan policies related to building complete communities, including heritage preservation and environmental stewardship, may be applicable to any application. The Official Plan may be found here: <https://www.toronto.ca/city-government/planning-development/official-plan-guidelines/official-plan/>.

The property is designated *Mixed Use Areas* on Map 20 (Land Use Plan) of the Official Plan, as shown in Attachment 4. The lands to the immediate west are also designated *Mixed Use Areas*, and are comprised of a combination of low-rise apartment buildings and small-scale mixed-use buildings with at-grade retail. Neighbouring lands to the north, south and east are designated *Neighbourhoods*, and are generally comprised of a combination of low-rise apartment buildings and single-family dwellings.

Chapter 4 of the Official Plan identifies *Mixed Use Areas* as one of the primary land use designations anticipated for growth. These areas are intended to absorb most of the anticipated increase in retail, office and service employment in Toronto, as well as much of the new housing. Policy 4.5.1 provides that *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 and open spaces and utilities.

The Official Plan sets out development criteria for assessing new development in *Mixed Use Areas*. In particular, Policy 4.5.2 requires development in *Mixed Use Areas* to:

- Create a balance of high-quality commercial, residential, institutional and open space uses that reduces automobile dependency and meets the needs of the local community;
- Provide for new jobs and homes for Toronto's growing population on underutilized lands in [...] *Mixed Use Areas*, creating and sustaining well-paid, stable, safe and fulfilling employment opportunities for all Torontonians;
- Locate and mass new buildings to provide a transition between areas of different development intensity and scale through a range of means and as necessary to achieve the objectives of the Official Plan [...] particularly towards lower scale *Neighbourhoods*;
- Locate and mass new buildings so as to adequately limit shadow impacts on adjacent *Neighbourhoods*, particularly during the spring and fall equinoxes;
- Provide an attractive, comfortable and safe pedestrian environment;

- Provide good site access and circulation and an adequate supply of parking for residents and visitors; and
- Locate and screen service areas, ramps and garbage storage to minimize the impact on adjacent streets and residences.

Policy 2.3.1.2 of the Official Plan similarly provides that development in *Mixed Use Areas* must transition to *Neighbourhoods* in a way that is compatible with those *Neighbourhoods*, which includes considerations of transition in scale and density, light and privacy, and traffic and parking impacts on neighbouring streets.

The policies at Section 3.1.2 of the Official Plan provide direction related to built form. New development will be located and organized to fit with its existing and/or planned context. It will also locate and organize vehicular parking, access, service areas and utilities to minimize their impact on the property and surrounding properties, incorporate exterior design elements so as to influence the character, scale and appearance of the development, and provide amenity for adjacent streets.

Section 3.5 of the Official Plan addresses the importance of maintaining economic health in the City, and identifies providing appropriate locations and opportunities for new retail and service establishments as part of a multi-faceted approach to economic development in Toronto (Policy 3.5.1.2(c)).

## **Zoning By-laws**

The subject property is subject to two zoning-bylaws. It is zoned RD (f12.0; a370; d0.6) under Zoning By-law 569-2013 of the City of Toronto and R1B Residential under Zoning By-law 6752 of the former Borough of East York. The zoning by-laws permit a range of primarily residential uses (and a limited number of non-residential uses) in these zones. Retail stores, eating establishments and take-out eating establishments are not among them.

As noted above, the service station and ancillary retail uses currently at the property have legal non-conforming status under the Planning Act, as the service station (as expanded from time to time) existed prior to the passing of the applicable zoning by-laws and the ancillary retail use was approved as a legal change of use, subject to certain conditions.

The City's Zoning By-law 569-2013 may be found here: <https://www.toronto.ca/city-government/planning-development/zoning-by-law-preliminary-zoning-reviews/zoning-by-law-569-2013-2/>. The former Borough of East York Zoning By-law No. 6752 is not available online, but may be requested through the City of Toronto Archives department at [archives@toronto.ca](mailto:archives@toronto.ca) or 416-397-0778.

## **Design Guidelines**

The following design guideline(s) will be used in the evaluation of this application:

- Best Practices for Effective Lighting
- 'Greening' Surface Parking Lots

The City's Design Guidelines may be found here: <https://www.toronto.ca/city-government/planning-development/official-plan-guidelines/design-guidelines/>.

## **Site Plan Control**

The application is not subject to Site Plan Control.

## **COMMENTS**

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### **Reasons for the Application**

Amendments to the applicable zoning by-laws are required to permit the take-out eating establishment and (non-ancillary) retail store uses and to further expand the service station use. Furthermore, given the extensive decision history at the CofA in respect of the subject property and the resulting determinations made by the CofA, OMB and TLAB, a rezoning application is the sole available process for requesting these permissions.

### **ISSUES TO BE RESOLVED**

The application has been circulated to City divisions and public agencies for comment. At this stage in the review, the following preliminary issues have been identified. Further issues may be identified once the application is deemed complete.

### **CofA Decision History**

The application seeks the same relief as was requested in previous CofA applications, and in particular, CofA Application #4. Staff note that throughout the subject property's decision history, numerous issues and considerations were raised in connection with introducing eating establishment uses and expanding the service station use. They included the following:

- Increased traffic on Squires Avenue
- Lighting emitted by the proposed gas canopy fronting Squires Avenue and its impact on adjacent residential properties
- Noise, fumes and refuse generated by increased traffic at the subject property throughout construction and regular operation, and its impact on adjacent residential properties

- Stormwater/grading issues

Most of these issues were addressed through various conditions imposed by the CofA, OMB and TLAB. A second gas canopy and the take-out eating establishment use were consistently refused throughout the decision history.

As noted above, it is not yet clear as to whether this application would have the effect of overriding some or all of these conditions. This is a matter that Planning and Legal staff will examine through their review.

### **Provincial Policies and Plans Consistency/Conformity**

The application is being reviewed against the PPS and Growth Plan to confirm, among other matters, that it represents an appropriate opportunity for redevelopment, an efficient use of land, resources and infrastructure, and minimal risk to public health and safety.

### **Official Plan Conformity**

Staff are reviewing the application to ensure minimal impact on adjacent streets and neighbouring land uses, good site access and circulation, and a safe pedestrian environment, among other matters.

### **Built Form, Planned and Built Context**

The existing service station consists of a single-storey building and a canopy facing St. Clair Avenue East. While the application does not propose any new structures on the subject property other than the proposed gas canopy, staff are reviewing the application to ensure that parking, access, service areas, utilities and exterior design elements are located in such a manner so as to minimize their impact on the property and surrounding properties.

While the applicant has submitted a Lighting Plan, the applicant did not submitted a Landscaping Plan, and will be required to submit one as a part of a complete application.

### **Infrastructure/Servicing Capacity**

The proposal has been deemed incomplete from a municipal servicing perspective. The applicant will be required to provide a Servicing Report that identifies the change in population/use of the building and speaks to the impact of the redevelopment on the existing sanitary/combined sewer, storm sewer and watermain infrastructure.

With respect to traffic and transportation matters, given the extensive review undertaken in the CofA and appeal processes and the conditions imposed throughout, neither a Transportation Impact Study nor Traffic Operations Assessment have been requested of the applicant. However, it is unclear to staff at this stage of review whether these



conditions have been fulfilled, and whether additional analysis is warranted. Additional materials may be requested from the applicant.

### **Toronto Green Standard**

As no changes to built form have been proposed, the Toronto Green Standard does not apply to this application.

### **Other Matters**

Staff note that the application proposes to retain the residential zoning at the subject property and introducing site-specific exceptions that would permit the new uses. Staff will also review an alternative approach of changing the applicable zoning at the property from a residential category to a commercial-residential category, so as to bring the subject property into closer conformity with the *Mixed Use Areas* designation under the Official Plan.

Additional issues may be identified through the review of the application, agency comments and the community consultation process.

## **CONTACT**

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## **SIGNATURE**

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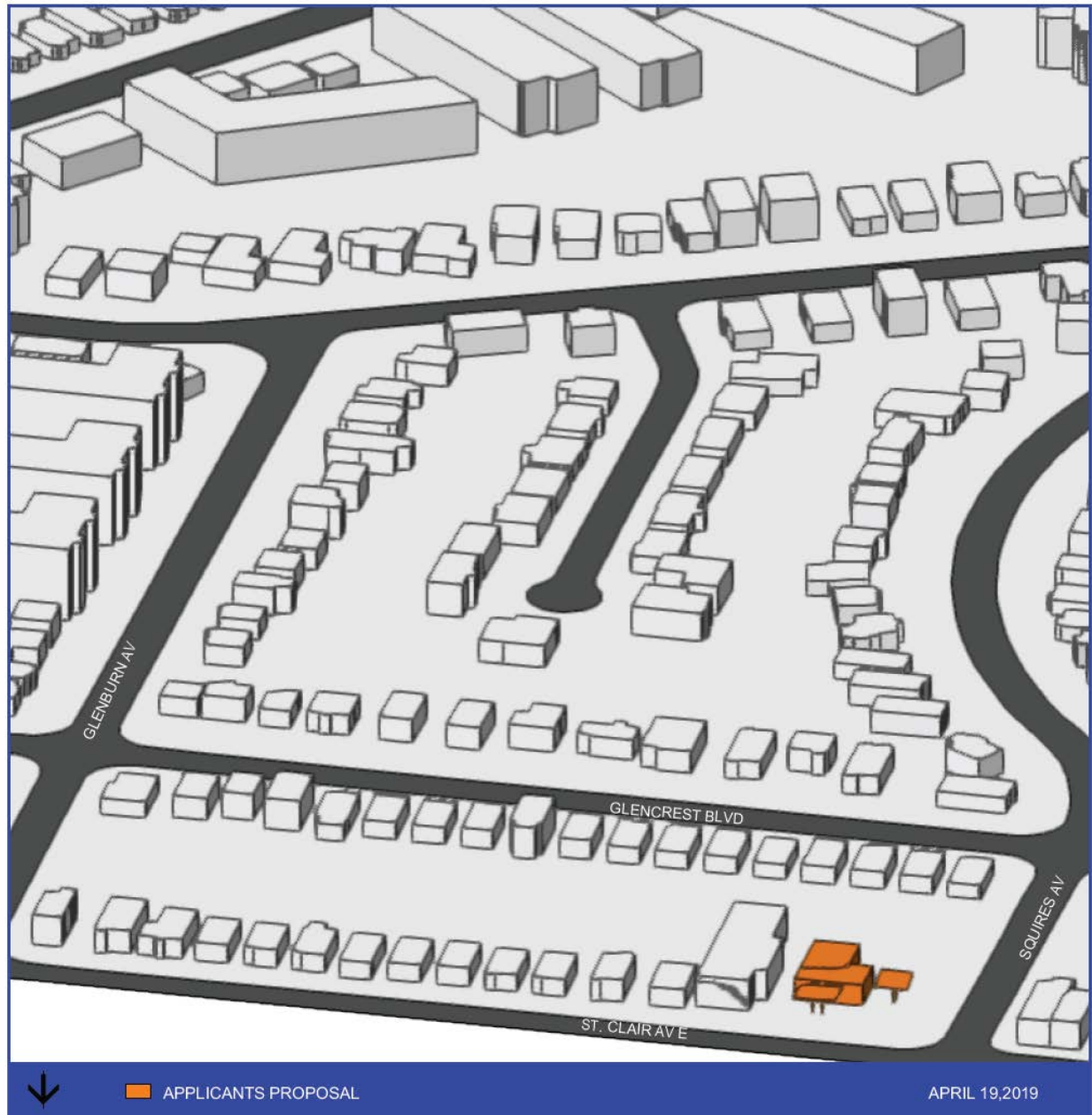
Lynda H. Macdonald, MCIP, RPP, OALA  
Director, Community Planning, Toronto and East York District

## **ATTACHMENTS**

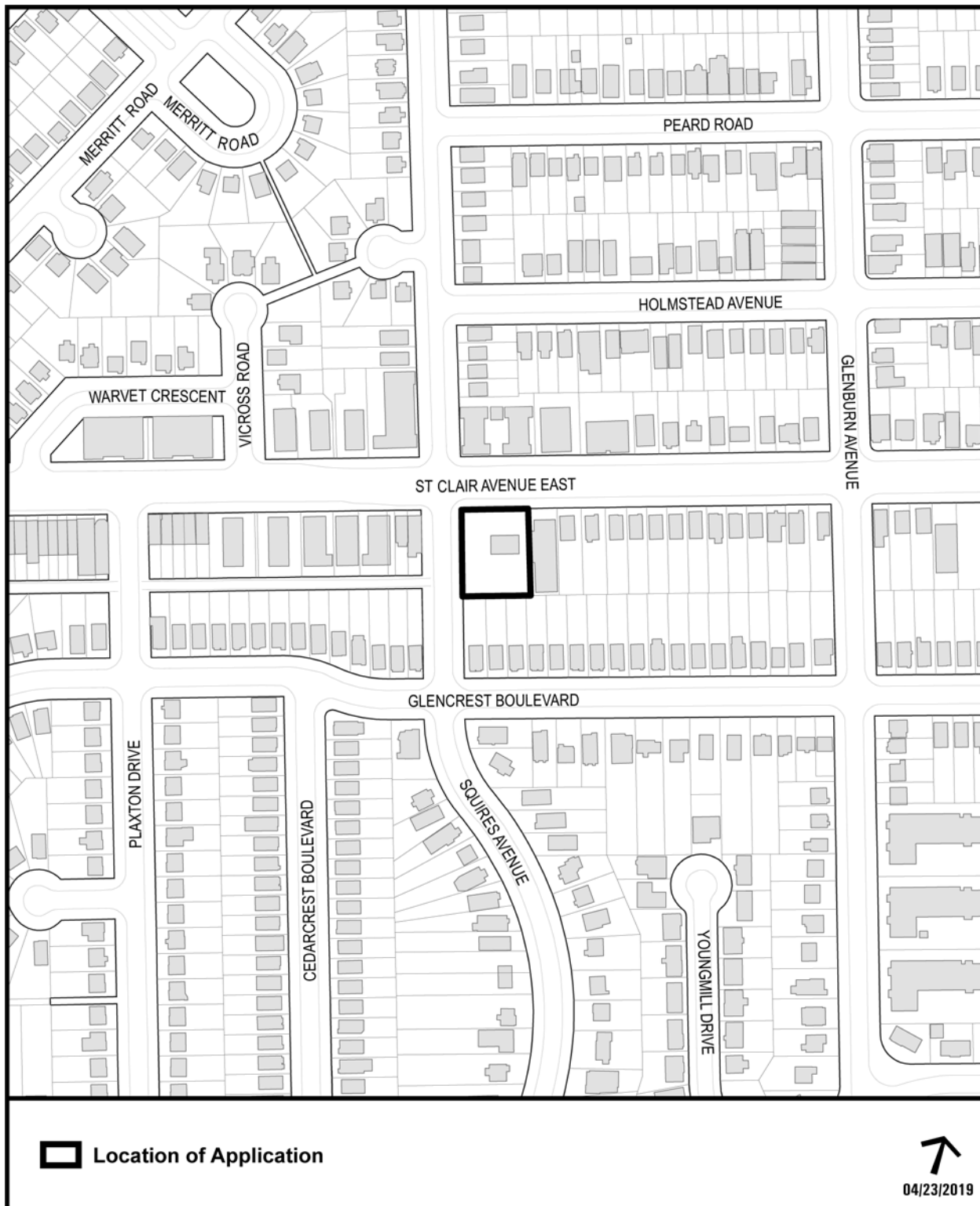
Attachment 1: 3D Model of Proposal in Context **[NTD: In progress. To be appended.]**  
Attachment 2: Location Map  
Attachment 3: Site Plan **[NTD: In progress. To be appended.]**  
Attachment 4: Official Plan Map  
Attachment 5: Application Data Sheet **[NTD: In progress. To be appended.]**

## Attachment 1: 3D Model of Proposal in Context

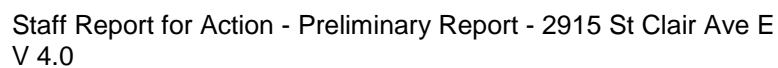
[NTD: Updated 3D model forthcoming from applicant. Below drawing included for context only.]



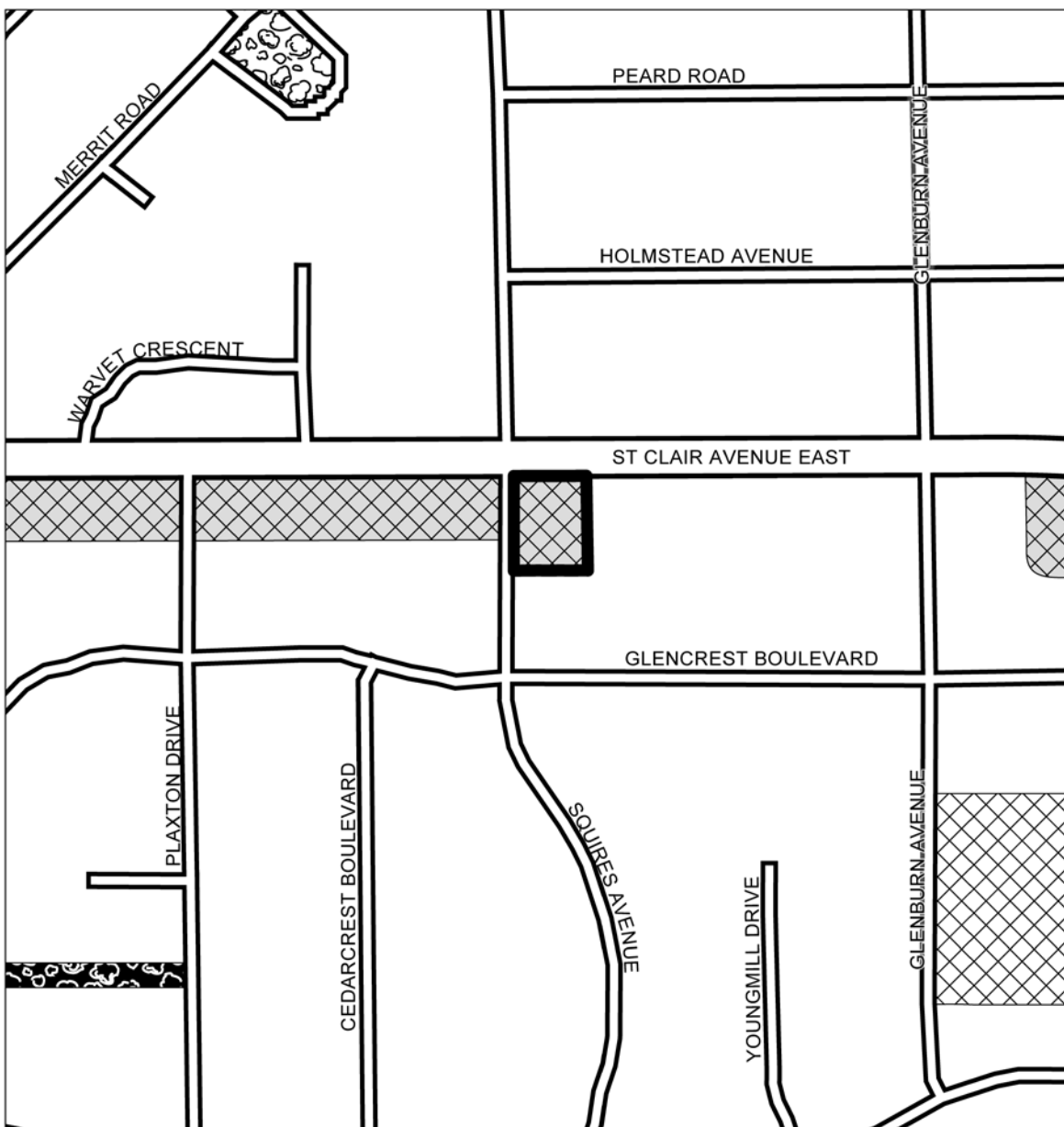
## Attachment 2: Location Map



**[NTD: Updated site plan forthcoming from applicant. Below drawing included for context only.]**



## Attachment 4: Official Plan Map



### Official Plan Land Use Map #20

2915 St. Clair Avenue East

File # 19 132195 STE 19 02

	Location of Application		Parks & Open Space Areas
	Neighbourhoods		Natural Areas
	Apartment Neighbourhoods		Parks
	Mixed Use Areas		

Not to Scale  
 04/25/2019

## Attachment 5: Application Data Sheet

[NTD: In progress. Application Data Sheet being generated by IBMS team and R&I. Below is included as a placeholder only.]

### APPLICATION DATA SHEET

**Municipal Address:** 2915 ST CLAIR AVE E **Date Received:** March 28, 2018

**Application Number:** 19 132195 STE 19 OZ

**Application Type:** Rezoning

**Project Description:** Zoning By-law Amendment Application to permit an expansion of the existing retail store use by converting an interior service bay into a combined take-out eating establishment and retail store, and the construction of a canopy above the existing two gas pumps located on the west side of the property.

<b>Applicant</b>	<b>Agent</b>	<b>Architect</b>	<b>Owner</b>
JONATHAN BENCZKOWSKI (SOL-ARCH)	SAME AS APPLICANT		CHOUDHRY HOLDINGS INC.

### EXISTING PLANNING CONTROLS

<b>Official Plan Designation:</b>	Mixed Use Areas	<b>Site Specific Provision:</b>	N/A
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<b>Zoning:</b>	RD (f12.0;a370;d0.6) under 569-2013	<b>Heritage Designation:</b>	N/A
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<b>Height Limit (m):</b>	R1B under 6752 8.5 metres	<b>Site Plan Control Area:</b>	N/A
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### PROJECT INFORMATION

<b>Site Area (sq m):</b>	1,494.39	<b>Frontage (m):</b>	34.14	<b>Depth (m):</b>	43.80
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<b>Building Data</b>	<b>Existing</b>	<b>Retained</b>	<b>Proposed</b>	<b>Total</b>
Ground Floor Area (sq m):	201.43	201.43	0	201.43
Residential GFA (sq m):	0	0	0	0
Non-Residential GFA (sq m):	201.42	201.42	0	201.42
Total GFA (sq m):	201.43	201.43	0	201.43

Height - Storeys:	1	1	0	1
<b>Height - Metres:</b>	6.91	6.91	0	6.91

Lot Coverage Ratio (%)	44.7	Floor Space Index:	3.99
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Floor Area Breakdown	Above Grade (sq m)	Below Grade (sq m)
Residential GFA:	1,240	
Retail GFA:	120	23
Office GFA:		
Industrial GFA:		
Institutional/Other GFA:		

Residential Units by Tenure	Existing	Retained	Proposed	Total
Rental:			16	16
Freehold:				
Condominium:				
Other:				
Total Units:			16	16

#### Total Residential Units by Size

	Rooms	Bachelor	1 Bedroom	2 Bedroom	3+ Bedroom
Retained:					
Proposed:			13	3	
Total Units:			13	3	

#### Parking and Loading

Parking Spaces:	8	Bicycle Parking Spaces:	Loading Docks:
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#### CONTACT:

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