

1-70 Eglinton Square, 1431 and 1437 Victoria Park Avenue, 14, 18, 19, 22, 23 and 26 Engelhart Crescent and 64 and 68 Harris Park Drive - Official Plan Amendment - Request for Directions - Supplementary Report

Date: April 6, 2021

To: City Council

From: City Solicitor

Wards: Ward 20 - Scarborough Southwest

REASON FOR CONFIDENTIAL INFORMATION

This report contains advice or communications that are subject to solicitor-client privilege. This report contains information regarding potential litigation.

SUMMARY

On October 4, 2016, the applicant submitted an Official Plan Amendment ("**OPA**") to amend the Toronto Official Plan to add a Site and Area Specific Policy (SASP) for the lands known as the Eglinton Square lands (1-70 Eglinton Square, 1431 and 1437 Victoria Park Avenue, 14-26 and 19-23 Engelhart Crescent, and 64-68 Harris Park Drive) Application 16 230579 ESC 35 OZ to permit a mixed use development (the "**Originally Proposed SASP**"). The Originally Proposed SASP maintained the existing *Mixed Use Areas* and *Neighbourhoods* designations.

The Originally Proposed SASP provided for a mixed-use community to develop over time on the lands. The proposed mixed-use development would include multiple tall buildings with a range of building heights and stacked townhouses with a total of 1,630 residential units and 26,004 square metres of new retail uses proposed to be developed in five (5) blocks.

A related Rental Housing Demolition and Conversion application (File 16 230698 ESC 35 RH) under Section 111 of the City of Toronto Act, 2006 (Chapter 667 of the

Municipal Code) was also submitted on October 4, 2016 to allow for the removal of 91 rental units in eight (8) existing apartment buildings, to be replaced elsewhere in the future redevelopment of the site. Review of this application is underway and a decision on this application will be deferred until such time as a decision has been made by the Local Planning Appeal Tribunal (the "**LPAT**") on the OPA application, and a decision has been made on the Zoning By-law Amendment (17 242390 ESC 35 OZ) application for these lands.

On November 10, 2017, the applicant appealed their proposed Official Plan Amendment to the LPAT due to Council's failure to make a decision within the statutory timeframe.

On December 16, 2019, the City received a letter from the applicant's solicitor, being a "with prejudice" settlement offer and formal revision to the application ("**Resubmission Letter**"). The Resubmission Letter advised that the applicant has amended its application to include all of its lands, inclusive of the existing shopping mall, and excluding the lands south of Engelhart Crescent (Block E in the Originally Proposed SASP, which contains the four existing rental apartment buildings at 19-23 Engelhart Crescent and 64-68 Harris Park Drive) with a proposed density of 4.9 times the area of the lands. The Resubmission Letter was not accompanied by any supporting reports or update letters from the original application, as acknowledged in the Resubmission Letter. City Staff are not in a position to adequately review, circulate and comment on the revised proposal given the lack of a complete submission package. City staff require a complete submission package, including supporting reports, in order to adequately review and comment on the revised proposal

On January 8, 2020, Scarborough Community Council directed that the City Solicitor, the Chief Planner and Executive Director, City Planning and appropriate City staff attend a meeting to discuss a possible resolution of the matter in advance of the January 29, 2020 City Council meeting. The matter was deferred at the January 29, 2020 City Council meeting and due to COVID-19 it was subsequently deferred to the July 28 and 29 City Council meeting and then the November 25 and 26, 2020 City Council meeting.

The purpose of this report is to request further instructions in this matter which is the subject of an appeal to the LPAT.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the recommendations contained in the Confidential Attachment 1 to the supplementary report (April 6, 2021) from the City Solicitor.
2. City Council direct that all information contained in Confidential Attachment 1 including Confidential Appendix "A", "B" and "C" to the supplementary report (April 6,

2021) from the City Solicitor is to remain confidential at the discretion of the City Solicitor, as it contains advice which is subject to solicitor-client privilege.

FINANCIAL IMPACT

Adopting this report will have no financial impact beyond what has already been approved in the current year's budget.

DECISION HISTORY

Eglinton Connects

In May 2014, City Council directed City Planning staff to undertake further study of the six focus areas that were identified in the Eglinton Connects Planning Study, including the Golden Mile. Further information regarding the Eglinton Connects Planning Study can be found at: <https://www.toronto.ca/legdocs/mmis/2014/pg/bgrd/backgroundfile-68062.pdf>

Toronto Public Library Lease

On September 30, and October 1, 2, 2015, City Council authorized the new lease between the Toronto Public Library and the owner of 1 Eglinton Square for approximately 10,000 square metres of leased premises for an additional 20 years. City Council Decision item may be found here: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.EX8.31>

On February 3 and 4, 2016, City Council designated a portion of the premises at 1 Eglinton Square as a municipal capital facility for the Toronto Public Library for the new lease premises of approximately 10,000 square metres. City Council Decision item may be found here: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.GM9.1>

Golden Mile Market Analysis and Economic Study

The Golden Mile Market Analysis and Economic Strategy Study was completed in December 2016. The Study analyzed the existing economic and employment conditions in the Golden Mile. Further information regarding the Golden Mile Market Analysis and Economic Strategy Study can be found at: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.SC21.12>

Pre-application Consultation – Official Plan Amendment

A pre-application consultation meeting was held with the applicant on July 12, 2016 to discuss complete application submission requirements. The applicant was advised that the Eglinton Square Mall lands would form part of the area subject to the City's proposed Golden Mile Secondary Plan ("GMSP") Study to be initiated in 2016, and that the lands to the south encompassing 1431 and 1437 Victoria Park Avenue, 14-26 and 19-23 Engelhart Crescent and 64-68 Harris Park Drive were outside of the GMSP Study area (these lands have since been added to the GMSP Study area).

Staff also identified a number of issues including the need for a comprehensive study of the entire GMSP area, the need for an analysis of transportation, servicing requirements, community service facilities needs, park land dedication and open space requirements, provision for "complete and walkable communities", and the enhancement of employment and residential uses. At the meeting staff expressed a strong desire that the applicant withhold their Official Plan Amendment application until the GMSP Study was complete.

Official Plan Amendment Application 16 230597 ESC 35 OZ and Rental Housing Demolition Control Application 16 230698 ESC 35 RH Preliminary Report

At its meeting of January 31, 2017, Scarborough Community Council considered a Preliminary Report from the Director, Community Planning, Scarborough District, dated December 13, 2016, respecting an application to amend the Official Plan for the lands at 1-70 Eglinton Square, 1431 & 1437 Victoria Park Avenue, 14-26 and 19-23 Engelhart Crescent and 64-68 Harris Park Drive. The Originally Proposed SASP proposed to add new policies to guide future mixed-use development on the lands. A related Rental Housing Demolition application was also submitted, which proposed to remove 91 existing rental units in the eight apartment buildings at 14 - 26 and 19-23 Engelhart Crescent and 64-68 Harris Park Drive, to be replaced in the future redevelopment on the subject lands.

Scarborough Community Council adopted the recommendations of the report, which included in particular that staff will process the applications concurrently with, and within the context of, the GMSP Study, and that the applications would be considered by Council concurrently or following Council's consideration of the GMSP. The Preliminary Report and decision of Scarborough Community Council can be found at the following link: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.SC19.19>.

Appeal to LPAT

On November 10, 2017, the applicant appealed their proposed Official Plan Amendment to the LPAT due to Council's failure to make a decision within the statutory timeframe. On April 5, 2018, a pre-hearing conference was held by the LPAT and the City advised the LPAT that the GMSP Study Area includes all the subject properties, is underway

and both parties acknowledged the value of allowing the Study to advance before dealing any further with the appeal of the OPA application.

On October 18, 2018 and July 9, 2019, further pre-hearing conferences were held at the LPAT with status updates on the GMSP Study and the applications.

Rezoning Application 17 242390 ESC 35 OZ (same lands as for subject OPA application)

On October 3, 2017, the applicant submitted a Zoning By-law Amendment application for the subject lands. The Zoning By-law Amendment application was deemed complete on February 7, 2018.

On January 16, 2018, Scarborough Community Council adopted a Preliminary Report on the zoning by-law amendment application. The Preliminary Report and the decision of Scarborough Community Council can be found at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.SC27.7>

The Zoning By-law Amendment application has not been appealed to the LPAT.

Official Plan Amendment - Request for Directions

On January 8, 2020, Scarborough Community Council adopted the item, without recommendations and directed the City Solicitor report to City Council on the outcome of discussions with the applicant. The decision of Scarborough Community Council may be found here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.SC12.4>

Golden Mile Secondary Plan Study and Proposed Secondary Plan

In May 2016, City Planning staff initiated the GMSP Study to develop a vision and comprehensive planning framework for the Golden Mile area that would include Secondary Plan policies and guidelines/strategies that direct:

- Built form, public realm, community infrastructure, and public art strategies;
- A transportation master plan and master servicing plan;
- Urban design guidelines; and
- Implementation/financial strategies.

In consultation with staff from other City divisions and agencies, City Planning staff worked with a team of land use planning, urban design, transportation, servicing, and community services and public engagement consultants led by SvN Architects + Planners Inc. ("SvN"). The GMSP Study concluded its three phase study approach, including several public consultations and discussions with landowners, key stakeholders and interested persons and a Secondary Plan and proposed policies were prepared for consideration at a Statutory Public Meeting Scheduled for July 17, 2020.

On July 17, 2020, Scarborough Community Council commenced a Statutory Public Meeting on Official Plan Amendment No. 499 ("**OPA 499**"), including the Golden Mile Secondary Plan ("**Secondary Plan**") and associated Urban Design Guidelines. Scarborough Community Council adjourned the Public Meeting and deferred consideration on OPA 499 to the Scarborough Community Council meeting on October 16, 2020. The decision of Scarborough Community Council, the proposed OPA 499 and reports from City Planning may be found here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.SC16.3>

On October 27 and 28, 2020, City Council adopted, as amended, Official Plan Amendment 499, including the Secondary Plan. The decision of City Council OPA No 499 and reports from City Planning may be found here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.SC18.1>

OPA 499 was appealed by 21 appellants, including the applicant on November 25, 2020.

COMMENTS

The City Solicitor requires further instructions. This report is about litigation before the LPAT and contains advice or communications that are subject to solicitor-client privilege. Attachment 1 to this report contains confidential advice and should be considered by City Council in camera.

This is a supplementary report to the report submitted by the City Solicitor under item number CC31.11 at the April 7 and 8, 2021 City Council meeting.

CONTACT

Daniel Elmadany, Solicitor, Planning & Administrative Tribunal Law; Tel: (416) 397-5709; Fax: (416) 397-5624; Email: Daniel.Elmadany@toronto.ca

Amanda S. Hill, Solicitor, Planning & Administrative Tribunal Law; Tel: (416) 338-5790; Fax: (416) 397-5624; Email: Amanda.Hill@toronto.ca

SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

Confidential Attachment 1 - Confidential Recommendations and Confidential Information

Confidential Appendix "A" - Confidential Information.

Confidential Appendix "B" - Confidential Information.

Confidential Appendix "C" - Confidential Information.