

### The Future of Yonge and Eglinton's Canada Square: Supporting Midtown Existing and Future Residents' Quality of Life - Special Study Area Report - Supplementary Report

**Date:** July 13, 2021

**To:** City Council

**From:** Steven Trumper, Interim CEO

**Wards:** 8 - Eglinton Lawrence, 12 - Toronto-St. Paul's, 15 - Don Valley West

#### SUMMARY

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This report responds to the request of the Planning and Housing Committee on Item PH 25.7, on June 28, 2021 for City staff to report to the July 14, 2021 meeting of City Council, describing the potential outcomes if City Council does not make a decision on the Zoning By-law Amendment application for the site at 2180-2210 Yonge Street, 15 Eglinton Avenue West, and 20 and 46 Berwick Avenue, within the timelines specified in the signed lease agreement between the City of Toronto and Oxford Properties or, if Oxford Properties does not waive the remaining conditions and abandons the agreement.

#### FINANCIAL IMPACT

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There are no financial implications to CreateTO from this report in the current budget year or future years.

#### DECISION HISTORY

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On April 24, 2018 City Council authorized the City and the Toronto Transit Commission Board to approve the key terms of the new consolidated ground lease for the Canada Square Lands, which terms were to be the basis for negotiation with the Tenant and enter into a ground lease and other agreements for the Canada Square lands.

The City Council decision and associated reports can be found here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.EX33.7>

In April 2019, a consolidated ground lease and other agreements were executed with the Canada Square Consortium Ownership based upon the terms and conditions approved by Council in 2018.

In December 2020, Oxford Properties (as representative of the Consortium Ownership- Oxford and Canadian Tire (CT REIT)) submitted a Zoning By-law Amendment application for the redevelopment of the lands.

City Planning staff prepared a Preliminary Report, dated February 3, 2021 from the Director, Community Planning, Toronto and East York District. The report was deferred at the February 24, 2021 Toronto and East York Community Council meeting.

The Preliminary Report can be found here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.TE23.51>

City Planning staff prepared a Supplementary Report, dated March 30, 2021 to the April 21, 2021 Toronto and East York Community Council meeting regarding the comprehensive study called for in the Yonge-Eglinton Secondary Plan. Both the Preliminary Report and the Supplementary Report were deferred, at the time, to the June 24, 2021, Toronto and East York Community Council meeting.

The Supplementary Report can be found here:

<https://www.toronto.ca/legdocs/mmis/2021/te/bgrd/backgroundfile-165478.pdf>

On April 7, 2021, City Council passed Members Motion 31.27, as amended. The motion requested City Planning in consultation with an established Working Group and with the support of an Inter-Divisional Team, to comprehensively evaluate the redevelopment of the Canada Square site together with the impacts from future development occurring north of Eglinton along the Yonge Street Corridor in Ward 8 and Ward 12 and provide a Special Study Area Report with Guiding Principles for the redevelopment of the site, consistent with the intent of the applicable policy.

The Special Study Area Report and decision can be found here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.MM31.27>

On April 21, 2021, Toronto and East York Community Council requested the Chief Planner and Executive Director, City Planning, to report to the May 5, 2021 meeting of City Council with a brief summary detailing how the Yonge-Eglinton Centre Focused Review, approved by Council at its meeting of February 23, 2009 through PG23.1, informs City Planning's assessment of the current proposal by Oxford Properties on the Canada Square site.

The Staff Report, dated May 4, 2021 can be found here:

<https://www.toronto.ca/legdocs/mmis/2021/cc/bgrd/backgroundfile-166620.pdf>

On May 5, 2021, City Council requested the City Manager, in consultation with the appropriate City Officials, to make the signed agreement with Oxford Properties regarding the Canada Square lands, located at 2200 Yonge Street, and all related documents available to the public immediately, to support a full and transparent process of disclosure of the future development of this vital public asset, and City Council refer the development application at this site to the Planning and Housing Committee for review.

The motion and the signed agreements with Oxford Properties can be found here:  
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.MM32.5>

On June 28, 2021, the Planning and Housing Committee adopted the Preliminary Report dated February 3, 2021 from the Director, Community Planning, Toronto and East York District, and directed staff to schedule a community consultation meeting for the application located at 2180-2210 Yonge Street, 15 Eglinton Avenue West and 20 and 46 Berwick Avenue together with the Ward Councillor.

The Preliminary Report and decision of the Planning and Housing Committee can be found here:  
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.PH25.6>

On June 28, 2021, the Planning and Housing Committee submitted to City Council without recommendation The Future of Yonge and Eglinton's Canada Square: Supporting Midtown Existing and Future Residents' Quality of Life - Special Study Area Report, dated June 10, 2021.

The Planning and Housing Committee also requested the appropriate City staff, including City Legal, and in consultation with CreateTO, report to the July 14, 2021 meeting of City Council, describing the potential outcomes if City Council does not make a decision on the Zoning By-law Amendment application for the site at 2180-2210 Yonge Street, 15 Eglinton Avenue West, and 20 and 46 Berwick Avenue, within the timelines specified in the signed lease agreement between the City of Toronto and Oxford Properties or, if Oxford Properties does not waive the remaining conditions and abandons the agreement.

The Special Study Area Report and decision of the Planning and Housing Committee can be found here:  
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.PH25.7>

## **COMMENTS**

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The Canada Square Complex is located on lands owned by the TTC, as agent for the City. The majority of the lands are encumbered with three long-term ground leases (See Attachment 2). The existing ground leases have terms to 2051 for one of the leases and to 2070 for the other two ground leases when options for renewal, in favour of the

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Tenant, are included. Oxford Properties and CT REIT (the "Tenant") control the lands encumbered by the existing ground leases. An approximately two-acre parcel of land fronting at Duplex and Eglinton owned by the TTC (the "Bus Barn Lands") is not encumbered by the existing ground leases. It is currently licenced by Metrolinx as a staging area for the Eglinton Crosstown project.

## **The 2019 Lease**

After lengthy negotiations between the City/TTC and the Tenant, a consolidated ground lease and other agreements (the "2019 Lease") were executed in April, 2019 between the City/TTC and the Tenant, substantially upon the terms and conditions approved by Council in 2018. However, the 2019 Lease is not yet in effect - it has three remaining conditions precedent in favour of the Tenant with specific expiration dates. If the conditions are not waived by the Tenant or satisfied, the 2019 Lease falls away (or does not commence) and the existing three (3) ground leases remain in force.

The three conditions and associated deadlines are outlined below. (Note: The dates were agreed to by the Tenant based on the normal planning approvals process):

- **Environmental Condition:** (Date: January 1, 2022) - the Tenant is to be satisfied with the environmental condition of the lands based upon environmental due diligence investigations to be performed;
- **Municipal Approvals Condition:** (Date: July 1, 2022) - the initial date by which the Tenant is to have received all final planning approvals for its proposed redevelopment of the lands, and all related appeal periods have expired; and
- **Metrolinx Surrender Condition:** (Date: July 24, 2022) - the date by which Metrolinx must surrender the Bus Barn Lands.

If the Tenant chooses not to waive or note satisfaction with one of the conditions, the 2019 Lease would not commence and the original leases would continue, status quo, until their end dates in 2051 and 2070.

To permit some flexibility in the timing, each condition is subject to automatic successive extensions of 60 days in the event that the Tenant either does not waive the condition, or provide notice of satisfaction prior to the initial deadlines.

The TTC, in turn, has the right to bring finality to the Environmental or the Municipal Approvals conditions, in the event that the condition is neither waived nor noted in satisfaction by the Tenant, to issue a Final Extension Notice of no less than 60 days past a condition date (as may be extended).

In the case of the Metrolinx Surrender Condition, which also successively extends automatically for 60-day periods, there are additional requirements in place prior to TTC being able to issue a Final Condition Date in the event that Metrolinx does not surrender use of the licenced lands. These additional requirements are intended to (i) ensure the completion of the Metrolinx work; and (ii) permit the Tenant additional time to reimagine The Future of Yonge and Eglinton's Canada Square: Supporting Midtown Existing and Future Residents' Quality of Life - Special Study Area Report - Supplementary Report

and submit its development application should it not be in a position to negotiate and finalize a lease with its anchor tenant.

In the event that the conditions precedent are not ultimately fulfilled, the lands would remain in their current state of development until the end of the current lease terms. There is no requirement in the existing leases for the Tenant to redevelop or improve the ground leased lands, or to provide any public amenities. The City/TTC would however be free to deal with the Bus Barn Lands once Metrolinx releases this property from its current licence.

## **Planning Considerations**

It is to be noted that the 2019 Lease does not impose planning requirements on the Tenant, nor does it obligate the City to approve any particular planning matters. The planning process for the new Canada Square project is a totally separate work stream under the jurisdiction of the City through the normal planning regulatory framework. The Tenant's planning application is subject to approval (or not) by City Council in the normal course. The 2019 Lease also in no way prevents the City from (i) achieving additional public benefits through the planning process, or (ii) negotiating a development that differs from the Tenant's current proposal as part of the review of the Zoning By-law Amendment application.

Following the submission of the Zoning By-law Amendment application by the Tenant in December 2020, a number of staff reports have been written as listed in the Decision History Section and while Oxford has held a number of community meetings over the last three years on what the public desired in the proposed development, no community consultation has been held to date on the rezoning application. City Planning is of the view that it is critical to the development review process that community consultation meetings occur as soon as possible in order to consider the proposal as currently submitted.

As with the other conditions in the 2019 Lease, in the event that the planning approvals are not in place by July 1, 2022, the Municipal Approval Condition will automatically extend until at least August 31, 2022 (and so on for successive periods of 60 days) until either the Tenant chooses to waive or provide notice of satisfaction with the condition or the TTC issues a Final Extension Notice setting a Final Condition Date of no earlier than August 31, 2022. As noted above, there are different Final Extension Notice provisions for the Metrolinx Surrender Condition.

## **Responding to the Planning and Housing Committee**

The Planning and Housing Committee requested a report from City Staff describing the potential outcomes if City Council does not make a decision on the Zoning By-law Amendment application for the Canada Square site within the timelines specified in the 2019 Lease or, if the Tenant does not waive the remaining conditions and abandons the agreement.

## **Public Benefits Secured in the 2019 Lease**

In the event that the planning approvals are not secured for the site, the City and TTC will not secure the following public benefits contemplated by the 2019 Lease:

- new TTC facilities – rebuilding of two entrances, a new TTC bus terminal with direct access to subway and ECLRT plus subway concourse renovations;
- a new Public Park fronting onto Duplex Avenue;
- new Publicly-Accessible Open Spaces (POPS), including a plaza at the corner of Yonge Street and Eglinton Avenue, an open space over the new bus terminal, a midblock open space connecting Yonge Street to Duplex Avenue and a new open space on Berwick Avenue;
- a new public street;
- a new community facility;
- affordable housing; and
- any additional community benefits which may be secured as part of the current approvals process.

CreateTO also notes the significant economic and fiscal benefits over the initial term of the 2019 Lease which will result from the intensification and concentration of a mix of uses at this important transit node, most of which will accrue to the City (all financial figures are approximate):

- \$161 million of lease revenue on a Net Present Value basis;
- \$20 million of annual property taxes (compared to existing \$11.4 million);
- \$500 million in tax revenue;
- \$900 million in labour income; and
- \$2 billion investment in the economy.

## **Potential Implications if the 2019 Lease does not proceed**

In the event that the Tenant were to terminate the 2019 Lease by refusing to waive or extend the Municipal Approvals condition, the following potential outcomes are noted:

- 1) The existing Canada Square complex will remain "as is". The two existing office buildings are considered technologically and functionally obsolete, but the Tenant may be reluctant to invest in significant capital improvements given that the existing lease terms will expire before any new improvements could be amortized.
- 2) The existing TTC bus terminal under the Canada Square building will need to be renovated at TTC's expense in order to upgrade the facility to modern standards and to properly integrate with the new Eglinton Crosstown project.
- 3) The existing TTC subway entrances are obsolete and lack modern functionality. They will need to be upgraded at TTC expense to support the increase in passenger volume anticipated as a result of the completion of the Eglinton Crosstown project.

4) Loss of New Public space – The 2019 Lease contemplates major new public spaces at Canada Square: a public park; a civic space south of the new commercial tower; a midblock open space and throughways; and a new plaza at the south west corner of the intersection of Yonge and Eglinton. Much of this will be lost if the 2019 Lease does not proceed, although the City will still control the Bus Barn Lands and could devote some or all of this property to public uses.

5) The possibility that Canadian Tire Corporation will move its Head Office out of midtown or the City due to the uncertainty as to when a new head office will be constructed, resulting in a major loss of employment at this node; and

6) The City will not have the opportunity to secure additional public benefits through the planning approval process for the project, as informed by local community consultation. Examples of enhanced benefits could include a new school to service the community, allocation of retail/office space to cultural/non-profit and community groups, and revised open space and park concepts.

## **CONTACT**

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## **SIGNATURE**

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Steven Trumper  
Interim CEO, CreateTO

## **ATTACHMENTS**

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Attachment 1 - Aerial Plan Canada Square Complex  
Attachment 2 - Yonge Eglinton Lands

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Attachment 3 - Public Summary of Consolidated Ground Lease