



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

1880 - 1890 Eglinton Avenue East and 1523 - 1545 Victoria Park Avenue - Zoning By-law Amendment and Draft Plan of Subdivision - Request for Directions - Supplementary Report

Date: July 13, 2021

To: City Council

From: City Solicitor

Wards: Ward 21 - Scarborough Centre

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 December 22, 2016, the applicant ("Choice Properties") submitted an Official Plan Amendment to amend the Toronto Official Plan to add a Site and Area Specific Policy ("**SASP**") for the lands municipally known as 1880-1890 Eglinton Avenue East and 1523-1545 Victoria Park Avenue (the "**Subject Lands**") to permit a mixed use development. The Subject Lands are located within the Golden Mile Secondary Plan study area.

The proposed SASP included building heights ranging from one-storey to 39-storeys, 2,614 residential units (242,799 square metres of residential uses) and 30,629 square metres of non-residential uses, with a proposed gross Floor Space Index ("**FSI**") of 3.5 times the area of the site, for a total gross floor area of 273,428 square metres. 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.

On March 5, 2018, Choice Properties appealed their proposed SASP to the Local Planning Appeal Tribunal (the "**LPAT**") now continued as the Ontario Land Tribunal ("**OLT**") due to Council's failure to make a decision within the statutory timeframe.

On November 8, 2019, the City received a letter from Choice Properties' solicitor, being a "with prejudice" settlement offer and formal revision to the application ("**Resubmission Letter**"). The Resubmission Letter advised that Choice Properties has amended its application, including an increase in proposed density to 4.28 times the area of the lands, comprising of approximately 3,291 residential units (303,215 square metres of residential uses) and 31,173 square metres of non-residential uses, for a proposed total gross floor area of 334,928 square metres. The Resubmission Letter also provided an updated OPA by-law, which provides for upwards of 340,000 square metres of gross floor area, which is a significant increase of approximately 61,500 to 66,572 square metres of gross floor area. The Resubmission Letter was not accompanied by any supporting reports or update letters, however, on September 22, 2020, Choice Properties filed updated materials and studies in support of its Resubmission Letter.

The Director of City Planning, Scarborough District brought forward a report to Scarborough Community Council, which was intended to obtain directions from City Council, on the original Official Plan Application to provide directions to the City Solicitor on the appealed application. 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 closures was next on the agenda for the July 28 and 29, 2020 meeting of City Council. The matter was considered by Council in July and was before Council for further consideration in February 2021 and April 2021.

On October 21, 2020, Choice Properties filed zoning by-law amendment and draft plan of subdivision applications for the Subject Lands. A notice of incomplete application letter was issued in November. After further required materials were received by Choice Properties, a notice of complete application was issued on December 14, 2020.

On May 5, 2021, Choice Properties appealed their proposed Zoning By-law and draft plan of subdivision to the OLT due to Council's failure to make a decision within the statutory timeframe.

The purpose of this report is to request further instructions regarding matters appealed to the OLT.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the recommendations contained in the Confidential Attachment 1 to the supplementary report (July 13, 2021) from the City Solicitor.

2. City Council authorize the public release of the confidential recommendations contained in Confidential Attachment 1, Confidential Appendix "A", Confidential Appendix "B", Confidential Appendix "C", Confidential Appendix "D", Confidential Appendix "E" and Confidential Appendix "F" to the supplementary report (July 13, 2021) from the City Solicitor, if adopted by City Council, at the discretion of the City Solicitor.
3. City Council direct that all information contained in Confidential Attachment 1 to the supplementary report (July 13, 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

The financial implications are set out in Confidential Attachment 1.

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>

Pre-application Consultation – Official Plan Amendment

On May 12, 2016 and October 19, 2016, a pre-application consultation meeting was held with Choice Properties to discuss complete application submission requirements. Choice Properties was advised that the Subject Lands would form part of the area subject to the City's proposed Golden Mile Secondary Plan Study. Staff also identified a number of issues including the need for a comprehensive study of the entire Golden Mile area, the need for an analysis of transportation, servicing requirements, community services and facilities needs, parkland dedication and open space requirements, provision for complete and walkable communities, and the enhancement of employment and residential uses.

Official Plan Amendment Application (16 269853 ESC 37 OZ) - Preliminary Report

On December 22, 2016, the Official Plan Amendment application was submitted. The Official Plan Amendment proposes to add a SASP for the Subject Lands to permit a mixed-use development, new streets and parkland. On April 4, 2017, Scarborough Community Council adopted the Preliminary Report regarding the Official Plan Amendment application. The Preliminary Report and Scarborough Community Council

decision can be found at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.SC21.14>

Appeal of SASP to LPAT (now OLT)

On March 5, 2018, Choice Properties appealed their SASP to the OLT due to Council's failure to make a decision within the statutory timeframe. On January 11, 2019, a pre-hearing conference was held by the OLT and the City advised the OLT that a Secondary Plan Study for the Golden Mile Focus Area, including the properties, was underway and both parties acknowledged the value of allowing the Study to advance before dealing any further with the appeal of Choice Properties' SASP application. On July 10, 2019, a second pre-hearing conference was held at the OLT with status updates on the Golden Mile Secondary Plan Study and the applications.

On September 15, 2020, the OLT held a Case Management Conference ("CMC") and directed that a further CMC be scheduled for December 1, 2020. The December 1, 2020 CMC was adjourned on consent. A further CMC has been scheduled for October 8, 2021 on the SASP matter.

A hearing of the appeal of the SASP has been scheduled by the OLT for 15 days commencing on September 6, 2022.

On May 5, 2021, Choice Properties appealed the zoning by-law amendment and draft plan of subdivision for the Subject Lands to the OLT. No case management conference has been set for the appeals of the Zoning By-law amendment or draft plan of subdivision applications.

Official Plan Amendment - Request for Directions

The Director of City Planning, Scarborough District brought forward a report to Scarborough Community Council, which was intended to obtain directions from City Council, on the original Official Plan Application to provide directions to the City Solicitor on the appealed application. On January 8, 2020, Scarborough Community Council adopted the item, without recommendations and directed the City Solicitor to report to City Council on the outcome of discussions with Choice Properties. City Council subsequently deferred the matter until a subsequent City Council meeting. On July 28 and 29, 2020, City Council considered a matter relating to this item.

The decisions of City Council may be found here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.SC12.6>

Golden Mile Secondary Plan Study and Proposed Secondary Plan

In May 2016, City Planning staff initiated the Golden Mile Secondary Plan ("**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 499, including the Golden Mile 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, 28 and 30, 2020, City Council adopted, as amended, Official Plan Amendment 499, including the Golden Mile Secondary Plan. The decision of City Council, Official Plan Amendment 499 and reports from City Planning may be found here:

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

Official Plan Amendment 499 has been appealed to the OLT by 20 confirmed appellants, including the owner of the Subject Lands. A CMC was held on May 19, 2021. A further CMC is scheduled on October 12, 2021 before the OLT.

City Council Consideration of applications on Subject Lands

City Council has considered the following reports from the City Solicitor on this matter. All of the reports and recommendations remain confidential as of the date of this Report.

SC12.6, July 28 and 29, 2020 City Council decision may be found here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.SC12.6>

CC28.1, February 2, 3 and 5, 2021 City Council decision may be found here:
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.CC28.1>

CC31.13, April 7 and 8, 2021 City Council decision may be found here:
<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.CC31.13>

COMMENTS

The City Solicitor requires further instructions on this matter. This report is about litigation before the Ontario Land Tribunal 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**.

CONTACT

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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

Confidential Appendix "D" - Confidential Information

Confidential Appendix "E" - Confidential Information

Confidential Appendix "F" - Confidential Information