



## REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

### 1001 Ellesmere Road - Zoning Amendment Application - Further Request for Direction

**Date:** December 7, 2021

**To:** City Council

**From:** City Solicitor

**Wards:** Ward 20 - Scarborough Southwest

#### REASON FOR CONFIDENTIAL INFORMATION

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

#### SUMMARY

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Goldman Ellesmere 2 Developments Inc. and the Goldman Group (the "**Owner**") applied to redevelop a former industrial site with townhouses and a 4-storey commercial building at 1001 Ellesmere Road (the "**Site**") in 2014. The Official Plan Amendment, Zoning By-law Amendment and Draft Plan of Subdivision applications were appealed to the Ontario Land Tribunal (the "**Tribunal**") due to the City's lack of decision within the statutory timeframe.

On March 31, 2015, City Council supported a settlement with the Owner, which was ultimately approved by the Tribunal. The Tribunal's approval re-designated a portion of the Site Mixed Use Area (Blocks 1, 2, 3), while maintaining the Employment Area designation for another portion of the Site (Block 4). As a result of the settlement, townhouses are permitted on Blocks 1, 2 and 3, whereas Block 4 is only permitted to have certain commercial uses. The settlement contemplated specific phasing of the development, and required that Block 4 be developed for commercial uses prior to residential townhouse development on Block 3. The Zoning By-law Amendments (By-law 1109-2015 (OMB), and By-law 892-2016 (OMB)), require phasing, which is secured and set out in greater detail in in both the Section 37 Agreement (Public Attachment A) and the Subdivision Agreement (Public Attachment B).

Townhouses have been developed on Blocks 1 and 2, and the Owner has provided the City with a proposed revision to the settlement offer (Public Attachment C). The purpose of this report is to request further instructions on this revision.

## **RECOMMENDATIONS**

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The City Solicitor recommends that:

1. City Council adopt the recommendations contained in Confidential Attachment 1 to this report.
2. City Council authorize the public release of the confidential recommendations contained in the Confidential Attachment 1 to this report, if adopted by City Council.
3. City Council direct that all other information contained in Confidential Attachment 1 and Confidential Attachment 2 is to remain confidential at the discretion of the City Solicitor, as it contains advice which is subject to solicitor-client privilege.

## **FINANCIAL IMPACT**

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

## **DECISION HISTORY**

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On August 25, 26, 27 and 28, 2014, City Council directed the City Solicitor to attend the Tribunal in opposition to the Official Plan Amendment, Zoning By-law Amendment and Plan of Subdivision applications at 1001 Ellesmere Road in their original form and to achieve consistency with Official Plan Amendment No. 231. The Council Item can be found at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.PG35.11>

On March 31, April 1 and 2, 2015, City Council adopted recommendations from the City Solicitor with respect to the development proposal for 1001 Ellesmere Road. The Council Item can be found at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.CC5.14>

## **COMMENTS**

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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. Confidential Attachment 1 to this report contains confidential advice and should be considered by Council *in camera*.

## **CONTACT**

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## **SIGNATURE**

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Wendy Walberg  
City Solicitor

## **ATTACHMENTS**

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1. Public Attachment A - Registered Section 37 Agreement respecting 1001 Ellesmere Road
2. Public Attachment B - Registered Subdivision Agreement respecting 1001 Ellesmere Road
3. Public Attachment C - Revised Settlement Offer from Devine Park LLP dated July 13, 2021
4. Public Attachment D - Zoning By-law No. 1109-2015 (OMB)
5. Public Attachment E - Zoning By-law No. 892-2016 (OMB)
6. Confidential Attachment 1 - Confidential Recommendations and Confidential Information
7. Confidential Attachment 2 - Confidential Information