

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 and Zoning By-law Amendment - Request for Directions - Supplementary Report

Date: December 15, 2021

To: City Council

From: City Solicitor

Wards: Ward 20 - Scarborough Southwest

REASON FOR CONFIDENTIAL INFORMATION

This supplementary report contains advice or communications that are subject to solicitor-client privilege. This supplementary 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 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 Ontario Land Tribunal (the "OLT") on the OPA application, and a decision has been made on the Zoning By-law Amendment application for these lands.

On November 10, 2017, the applicant appealed their proposed Official Plan Amendment to the OLT 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. City Staff were not in a position to adequately review, circulate and comment on the revised proposal given the lack of a complete submission package. The matter was subject to a number of reports and deferrals in 2020.

At its April 7 and 8, 2021 meeting, City Council considered a Request for Directions Report from the City Solicitor on the Official Plan Amendment.

In May 2021, the Applicant revised their existing Zoning By-law Amendment application and expanded the boundaries to include the entire site. The Applicant has subsequently appealed their Zoning By-law Amendment to the OLT.

The purpose of this supplementary report is to request further instructions in this matter which is the subject of an appeal 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 (December 14, 2021) from the City Solicitor.
2. City Council authorize the public release of the confidential recommendations contained in the Confidential Attachment 1, Confidential Appendix "A", Confidential Appendix "B", Confidential Appendix "C", and Confidential Appendix "D" to the supplementary report (December 14, 2021) from the City Solicitor, if adopted by City Council, including any part thereof, at the discretion of the City Solicitor.

3. City Council direct that all other information contained in Confidential Attachment 1 to the supplementary report (December 14, 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 and Rental Housing Demolition Control Application 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 OLT

On November 10, 2017, the applicant appealed their proposed Official Plan Amendment to the LPAT (now the Ontario Land Tribunal) 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 OLT and the City advised the OLT 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. No further CMCs are currently scheduled before the OLT at this time.

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

Rezoning Application (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 been appealed to the OLT.

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>

On April 7 and 8, 2021, City Council considered a Request for Directions report from the City Solicitor on the Official Plan Amendment. The decision of City Council may be found at the following link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.CC31.11>

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 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 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 20 appellants, including the applicant on November 25, 2020. A CMC was held on May 19, 2021 and a second CMC was scheduled for December 8, 2021, which has been adjourned to a date to be determined in February 2022.

COMMENTS

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

CONTACT

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SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

1. Confidential Attachment 1 - Confidential Recommendations and Confidential Information
2. Confidential Appendix "A" - Confidential Information
3. Confidential Appendix "B" - Confidential Information
4. Confidential Appendix "C" - Confidential Information
5. Confidential Appendix "D" - Confidential Information