

2200 to 2206 Eglinton Avenue East, 1020 to 1030 Birchmount Road and 75 Thermos Road - Official Plan Amendment - Request for Directions

Date: December 14, 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 August 9, 2018, the applicant submitted an Official Plan Amendment Application to amend the Toronto Official Plan to add a Site and Area-Specific Policy ("**SASP**") for the property at 2200 to 2206 Eglinton Avenue East, 1020 to 1030 Birchmount Road and 75 Thermos Road (the "**Subject Lands**") to permit a mixed-use development including new public streets and parkland. The Subject Lands are located within the Golden Mile Secondary Plan (the "GMSP") area.

On April 23, 2020, the applicant appealed their proposed SASP to the Ontario Land Tribunal (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 a matter appealed to the OLT. A hearing is scheduled to commence on April 18, 2022.

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 direct that all information contained in Confidential Attachment 1 including Confidential Appendix "A" and "B" 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>

Official Plan Amendment Application - Preliminary Report

On January 15, 2019, Scarborough Community Council adopted the Preliminary Report dated December 19, 2018 from the Director, Community Planning, Scarborough District regarding the application. The Preliminary Report and Scarborough Community Council decision can be found at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.SC2.6>

Appeal to OLT

On April 23, 2020, the applicant filed an appeal to the OLT citing the City's failure to make a decision on the requested Official Plan Amendment within the statutory timeframe set out in the *Planning Act*.

On October 26, 2020, the OLT conducted a Case Management Conference on the appeal, having regard to the GMSP Study still before Council. Cosmetica Investments Inc. was added as a party to the proceedings, with Marsan Foods Ltd. also granted

participant status. A second Case Management Conference was held on February 24, 2021.

Official Plan Amendment - Request for Directions

On March 10, 2021, City Council adopted the recommendations of City Planning and directed City Staff to attend the OLT to oppose the applicant's appeal of the Official Plan Amendment application. City Council also authorized the City Solicitor to continue discussions with the applicant to resolve outstanding matters and directed the City Solicitor to address preliminary issues related to infrastructure required to support anticipated growth in the overall context of the Golden Mile Secondary Plan area.

The decisions of City Council may be found here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.SC22.8>

Related Applications

On June 10, 2020, the owner submitted a rezoning application with respect to 2206 Eglinton Avenue East at the southeast corner of the subject lands (referred to as Block 2), as well as a Draft Plan of Subdivision application applying to the entire subject lands.

The owner also recently submitted a second zoning by-law amendment for the remainder of the subject lands which has been appealed to the OLT.

On October 16, 2020, Scarborough Community Council adopted the Preliminary Report dated September 17, 2020 from the Director, Community Planning, Scarborough District regarding the Phase 1 Zoning by-law Amendment Application. Planning staff were directed to proceed with public consultation and process the applications concurrently with, and within the context of the GMSP. The Preliminary Report and Scarborough Community Council decision can be found at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.SC18.3>

Golden Mile 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, Supplementary Report for Action with Confidential Attachment on 2200 to 2206 Eglinton Avenue East, 1020 to 1030 Birchmount Road and 75 Thermos Road - Official Plan Amendment - Request for Directions

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 for the GMSP ("OPA 499") 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, OPA 499, including the Golden Mile 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 February 18, 2022.

COMMENTS

The City Solicitor requires further instructions on this matter. This report is about litigation before the OLT 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 City Council *in camera*.

CONTACT

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SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

1. Confidential Attachment 1 - Confidential Recommendations and Confidential Information