



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

20 and 50 Ashtonbee Road, 1920 and 1940 Eglinton Avenue East and 880, 890 and 900 Warden Avenue - Official Plan Amendment - Request for Directions - Supplementary Report

Date: December 15, 2021

To: City Council

From: City Solicitor

Wards: Ward 21 - Scarborough Centre

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 February 15, 2019, 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 1920 to 1940 Eglinton Avenue East, 880 to 900 Warden Avenue and 20 to 50 Ashtonbee Road (the "**Subject Lands**") to permit a mixed-use development including new public streets. The Subject Lands are located within the Golden Mile Secondary Plan study 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 supplementary report is to request further instructions regarding a matter 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 (December 15, 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" and Confidential Appendix "C" to the supplementary report (December 15, 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 (December 15, 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 supplementary 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>

Pre-application Consultation – Official Plan Amendment

On May 12, 2016 and October 19, 2016, a pre-application consultation meeting was held with the applicant to discuss complete application submission requirements. The applicant 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.

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Official Plan Amendment Application - Preliminary Report

A pre-application meeting was held on November 19, 2018. The current application was submitted on February 15, 2019 and deemed complete as of that date. On May 22, 2019, Scarborough Community Council adopted the Preliminary Report dated April 30, 2019 from the Director, Community Planning, Scarborough District regarding the application. City staff were authorized to process the application concurrently with, and within the context of, the Golden Mile Secondary Plan Study. The application was only to be considered by City Council concurrently with or following Council's consideration of the Golden Mile Secondary Plan. Council also determined that an Avenue Segment Study was not required given the Secondary Plan Study was underway. Planning staff were also authorized to schedule a community consultation meeting for the subject lands either as a separate meeting (with no expanded notice required beyond 120 metres of the site) or in conjunction with community consultation meetings for the Golden Mile Secondary Plan Study. The Preliminary Report and Scarborough Community Council decision can be found at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.SC6.2>

Appeal to OLT

On April 23, 2020, the applicant filed an appeal to LPAT (now 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 21, 2020, the OLT conducted a Case Management Conference on the appeal, having regard to the GMSP Study and OPA 499 still before Council. Cosmetica and the Toronto District School Board were added as parties to the proceedings.

A second Case Management Conference was held on January 29, 2021. A hearing has been scheduled to commence on February 21, 2022.

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.SC22.7>

Golden Mile 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 appellants, including the owner of the Subject Lands. 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 supplementary report is about litigation before the Ontario Land Tribunal and contains advice or communications that are subject to solicitor-client privilege. Confidential Attachment 1

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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