

1966 - 2050 Eglinton Avenue East and 50 Thermos Road - Official Plan Amendment and Zoning By-law Amendment - Request for Directions - Supplementary Report

Date: June 13, 2022

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 April 5, 2016, the applicant submitted an Official Plan Amendment for the lands municipally known as 1966-2050 Eglinton Avenue East and 50 Thermos Road (the "**Subject Lands**") to permit a mixed-use development including new public streets and parkland. On September 7, 2021, the applicant submitted a Zoning By-law Amendment for the western portion of the lands at 1966-1980 Eglinton Avenue East. The Subject Lands are located within the Golden Mile Secondary Plan area.

On November 24, 2017, the applicant appealed their proposed Official Plan Amendment to the Ontario Land Tribunal (the "**OLT**") due to Council's failure to make a decision within the statutory timeframe.

The applicant appealed their proposed Zoning By-law Amendment 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 the matters appealed to the OLT. A hearing is scheduled to commence on October 18, 2022 for 15 days.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the recommendations contained in the Confidential Attachment 1 to the Supplementary Report (June 13, 2022) from the City Solicitor.
2. City Council authorize the public release of the confidential recommendations in Confidential Attachment 1, Confidential Appendix "A", Confidential Appendix "B", and Confidential Appendix "C" to the Supplementary Report (June 13, 2022) from the City Solicitor, if adopted by City Council, at the discretion of the City Solicitor.
3. City Council direct that all other information contained in Confidential Attachment 1 to the Supplementary Report (June 13, 2022) from the City Solicitor is to remain confidential at the discretion of the City Solicitor, as it contains advice and information, which is subject to solicitor-client privilege.

FINANCIAL IMPACT

The financial implications are set out in the Confidential Attachment to the Report from the City Solicitor.

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

On April 5, 2016, Scarborough Community Council adopted the Preliminary Report dated March 15, 2016 from the Director, Community Planning, Scarborough District regarding the Official Plan Amendment application for the lands at 1966 to 2050

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Eglinton Avenue East and 50 Thermos Road. The original application proposed to add a Site and Area-Specific Policy ("SASP") to permit a mixed-use development with new streets and parkland. The SASP would provide for a mixed-use community that would include a range of building heights, approximately 3,000 residential units (242,000 square metres of residential uses) and 58,000 square metres of non-residential uses, with a gross Floor Space Index ("FSI") of up to 2.8 times the area of the site, for a total of 300,000 square metres of gross floor area.

The Preliminary Report and Scarborough Community Council decision can be found at: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.SC13.18>

On January 29, 2020, City Council adopted a Request for Directions Report dated December 20, 2019, from the Director, Community Planning, Scarborough District regarding the Official Plan Amendment application. The report was based on the original application, which was submitted in November 30, 2015, at a proposed FSI of 2.8 times the area of the RioCan lands. City Council directed the City Solicitor, together with appropriate staff and/or external consultants as may be appropriate, to attend the OLT hearing to support the applicant's appeal respecting the Official Plan Amendment application up to a maximum gross FSI of 3.0 times the area of the site, subject to the resolution of the matters contained in the report. City Council also advised the City Solicitor and appropriate City Staff to continue discussions with the applicant and resolve the above-noted outstanding issues, and report back to City Council on the outcome of discussions, if necessary.

The Request for Directions Report dated December 20, 2019, and the related City Council decision can be found at: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.SC12.5>

On November 25, 2020, the applicant submitted a revised proposal related to the Official Plan Amendment application. On April 28, 2021, the applicant submitted a revised draft Official Plan Amendment (SASP) in support of the November 2020 submission. The revised application proposes to permit a mixed-use development that would include multiple mid-rise and tall buildings with building heights that range from 11 to 48 storeys; a total gross floor area of 396,797 square metres, of which 390,168 square metres (98 percent) are for residential uses, and 6,629 square metres (2 percent) are for retail uses; 4,915 residential units; and a gross FSI of 3.7 times the site area. The existing buildings would be demolished.

The Request for Directions Report dated June 3, 2021, and the related City Council decision can be found at: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.SC25.3>

Zoning By-law Amendment Application

On September 7, 2021, the owner submitted a rezoning application (21 195478 ESC 21 OZ) with respect to 1966 to 1980 Eglinton Avenue East which consists of three (3) development blocks, including (one) 1 block for public parkland, and new streets. A total of six buildings are proposed (five residential towers and one mid-rise building) with heights that range from 12 to 48 storeys. The four (4) existing one-storey commercial buildings located on the western portion of the RioCan lands would be demolished.

On October 15, 2021, Scarborough Community Council adopted the Preliminary Report dated September 20, 2021 from the Director, Community Planning, Scarborough District regarding the Zoning by-law Amendment Application. Planning staff were directed to proceed with public consultation and process the applications. The Preliminary Report and Scarborough Community Council decision can be found at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.SC27.5>

Appeal to OLT

On November 24, 2017, 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.

Case Management Conferences were held on October 23, 2018, July 10, 2019, February 25, 2020, October 9, 2020, January 22, 2021, and May 28, 2021. A hearing has been scheduled on the Official Plan Amendment application from October 18 to November 4, 2022.

The applicant filed an appeal with the OLT citing the City's failure to make a decision on the requested Zoning By-law Amendment within the statutory timeframe set out in the Planning Act. The first Case Management Conference for the Zoning By-law Amendment is scheduled for June 10, 2022

Related Applications

On September 7, 2021, the applicant also submitted a draft plan of subdivision application (21 195467 ESC 21 SB) on the lands subject of the zoning by-law amendment.

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;

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- 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 April 1, 2022.

On March 9, 2022, City Council considered a report from the City Solicitor on proposed modifications to Official Plan Amendment 499. The decision of City Council may be found here: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2022.CC41.9>

The City Solicitor submitted a request for directions report dated June 7, 2022 to City Council for June 15 and 16, 2022. The report may be found here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2022.CC45.17>

COMMENTS

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

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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