

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

Date: July 11, 2022

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 a Zoning By-law Amendment to amend the City-wide Zoning By-law 569-2013 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 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 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 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 Report (July 11, 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", Confidential Appendix "C" and Confidential Appendix "D" to the Report (July 11, 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 Report (July 11, 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

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

On August 9, 2018, an Official Plan Amendment (18 206702 ESC 37 OZ) was submitted for the subject site. The application proposed to add a SASP for the subject lands to permit mixed-use site redevelopment with new public streets and parkland. 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>

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>

On December 15, 16 and 17, 2022, City Council considered a report from the City Solicitor on proposed Official Plan Amendment for the Subject Lands. The decision of City Council may be found here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.CC38.4>

Zoning By-law Amendment Applications

On June 10, 2020, the owner submitted rezoning application 20 154599 ESC 21 OZ with respect to 2206 Eglinton Avenue East at the southeast corner of the subject lands (referred to as Block 2). The owner also submitted a second zoning by-law amendment for the remainder of the subject lands as application 21 166739 ESC 21 OZ.

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, Official Plan Amendment 499. The Preliminary Report and Scarborough Community Council decision can be found at:

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

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 and OPA 499 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 and April 20, 2022. The hearing previously scheduled during April 2022 was adjourned.

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*.

Related Application

On June 10, 2020, the owner submitted a Draft Plan of Subdivision application 20 154640 ESC 21 SB applying to the entire subject lands.

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 April 1, 2022.

On March 9, 2022, City Council considered a report from the City Solicitor on proposed modifications to Official Plan Amendment No. 499. The decision of City Council may be found here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2022.CC41.9>

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
2. Confidential Appendix "A" - Confidential Information
3. Confidential Appendix "B" - Confidential Information
4. Confidential Appendix "C" - Confidential Information
5. Confidential Appendix "D" - Confidential Information