

## **537, 539, 541 and 543 Eglinton Avenue East – Official Plan Amendment Application – Refusal Report**

Date: December 9, 2021

To: North York Community Council

From: Director, Community Planning, North York District

Ward 15 - Don Valley West

**Planning Application Number: 21 232259 NNY 15 OZ**

### **SUMMARY**

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A stand-alone Official Plan Amendment (OPA) application has been submitted as part of the development proposal for 537, 539, 541 and 543 Eglinton Avenue East. This application relates to Zoning By-law Amendment application No. 21 191659 NNY 15 OZ which was refused by City Council in November 2021 and has since been appealed to the Ontario Land Tribunal (OLT).

This application proposes to amend the Yonge-Eglinton Secondary Plan (Policy 5.4.3) to exempt the subject site from the anticipated height range of 8 to 12 storeys, with the exception of the lands within approximately 250 metres of the Mount Pleasant LRT Station, within which heights of generally 15 to 20 storeys are anticipated in the Eglinton East Character Area (Attachment 4). The proposed OPA states:

*"The lands subject to Site and Area Specific Policy N. XX are exempt from Policy 5.4.3(c) of the Yonge-Eglinton Secondary Plan, which permits 8 to 12 storeys in the Eglinton East Character Area, with the exception of lands within approximately 250 metres of the Mount Pleasant LRT Station, within which heights of generally 15 to 20 storeys are anticipated."*

It is of note that per the same policy (Policy 5.4.3), explicitly states that an Official Plan Amendment will not be required in order to achieve a greater or lesser height. The proposed height was only one issue in staff's basis for recommending refusal to City Council. Staff also noted that, due to the size of the subject site, that it was not an appropriate location for the development of a tall building.

The proposed OPA is unnecessary and inappropriate with respect to the interpretation of Policy 5.4.3 of the Yonge-Eglinton Secondary Plan. Therefore, for the reasons outlined in this report, it is recommended that the OPA application be refused.

## **RECOMMENDATIONS**

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The City Planning Division recommends that:

1. City Council refuse the application for Official Plan Amendment for the lands at 537, 539, 541 and 543 Eglinton Avenue East for the reasons outlined in the report dated December 9, 2021 from the Director, Community Planning, North York District.
2. City Council authorize the City Solicitor, together with appropriate staff, to appear before the Ontario Land Tribunal (OLT) in support of City Council's decision to refuse the application, in the event that the OPA application is appealed to the Ontario Land Tribunal.
3. In the event that the Ontario Land Tribunal allows the appeals in whole or in part, City Council direct the City Solicitor to request that the Tribunal withhold its Order until such time as the Tribunal has been advised by the City Solicitor that the proposed Official Plan Amendment is in a form satisfactory to the Chief Planner and Executive Director, City Planning and the City Solicitor.

## **FINANCIAL IMPACT**

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City Planning confirms that there are no financial implications resulting from the recommendations included in the report in the current budget year or in future years.

## **DECISION HISTORY**

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Midtown in Focus was an inter-divisional response to the rapid intensification and change underway in parts of the Yonge-Eglinton area. City Council adopted Official Plan Amendment 405 and a series of infrastructure strategies and plans in July 2018. OPA 405 included a new Secondary Plan for the area. The Final Report for Midtown in Focus can be found here:

<https://www.toronto.ca/legdocs/mmis/2018/pg/bgrd/backgroundfile-116456.pdf>

Council adopted OPA 405 was submitted to the Province for approval in August 2018. It was approved with modifications by the Minister of Municipal Affairs and Housing on June 5, 2019. The Minister approved Secondary Plan can be found here:

[https://www.toronto.ca/wp-content/uploads/2019/07/96a5-CityPlanning\\_OPA405.pdf](https://www.toronto.ca/wp-content/uploads/2019/07/96a5-CityPlanning_OPA405.pdf)

A Zoning By-law Amendment Application for the proposed 23-storey (72.6 metre) high residential building (File No. 20 165466 NNY 08 OZ) was submitted to City Planning on July 29, 2021 and was deemed complete as of August 27, 2021.

On October 13, 2021, North York Community Council received a Refusal Report on the application dated September 23, 2021, which was adopted by City Council on November 9, 2021.

A Supplementary Report providing City Council with further information regarding the virtual community consultation meeting held on October 18, 2021 was also adopted by City Council on November 9, 2021.

City Council's decision and Staff's Refusal and Supplementary reports are available at: <https://www.toronto.ca/legdocs/mmis/2021/cc/bgrd/backgroundfile-172756.pdf>

The applicant (Eglinton Hoyle Reality Inc.) appealed Zoning By-law Amendment application No. 21 191659 NNY 15 OZ to the OLT on October 29, 2021. The subject OPA application was submitted to the City on November 3, 2021. A Case Management Conference (CMC) for the Zoning By-law Amendment application has not been scheduled.

## **ISSUE BACKGROUND**

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### **Proposal**

The proposed OPA application seeks to introduce a Site and Area Specific Policy (SASP) which would exempt the subject site from the anticipated height range in the Eglinton East Character Area of 8 to 12 storeys. The site is located in the *Apartment Neighbourhoods* designation of the Yonge-Eglinton Secondary Plan. The proposed SASP would have the effect of exempting the site from Policy 5.4.3(c) of the Secondary Plan.

Detailed project information is found on the City's Application Information Centre at: <https://www.toronto.ca/city-government/planning-development/application-information-centre/>

### **Subject Site**

The site is located at the southeast corner of Eglinton Avenue East and Hoyle Avenue and represents an assembly of 4 properties. Eglinton Avenue East has a right-of-way width of 27 metres and Hoyle Avenue has a right-of-way width of 20 metres. The site has an area of approximately 666 square metres with a frontage of approximately 30 metres on Eglinton Avenue East and 25 metres along Hoyle Avenue. The subject site is generally rectangular in shape and features a downward slope of approximately 1 metre from west to east along Eglinton Avenue East (Attachment 1).

The site is currently occupied by a 2-storey semi-detached dwelling (537 and 539 Eglinton Avenue East) and two, single-storey detached dwellings (541 and 543 Eglinton Avenue East) that are both currently operating as medical clinics. The existing buildings are proposed to be demolished.

### **Provincial Land-Use Policies: Provincial Policy Statement and Provincial Plans**

Provincial Policy Statements and geographically specific Provincial Plans, along with municipal Official Plans, provide a policy framework for planning and development in the

Province. This framework is implemented through a range of land use controls such as zoning by-laws, plans of subdivision and site plans.

The Provincial Policy Statement (2020) (the "PPS") provides policy direction province-wide on land use planning and development to promote strong communities, a strong economy, and a clean and healthy environment. It includes policies on key issues that affect communities, such as:

- the efficient use and management of land and infrastructure;
- ensuring the sufficient provision of housing to meet changing needs including affordable housing;
- ensuring opportunities for job creation;
- ensuring the appropriate transportation, water, sewer and other infrastructure is available to accommodate current and future needs; and
- Protecting people, property and community resources by directing development away from natural or human-made hazards.

The provincial policy-led planning system recognizes and addresses the complex inter-relationships among environmental, economic and social factors in land use planning. The PPS supports a comprehensive, integrated and long-term approach to planning, and recognizes linkages among policy areas.

The PPS is issued under Section 3 of the *Planning Act* and all decisions of Council in respect of the exercise of any authority that affects a planning matter shall be consistent with the PPS. Comments, submissions or advice affecting a planning matter that are provided by Council shall also be consistent with the PPS.

The PPS is more than a set of individual policies. It is to be read in its entirety and the relevant policies are to be applied to each situation.

The PPS recognizes and acknowledges the Official Plan as an important document for implementing the policies within the PPS. Policy 4.6 of the PPS states that, "The official plan is the most important vehicle for implementation of this Provincial Policy Statement. Comprehensive, integrated and long-term planning is best achieved through official plans."

### **A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2020)**

A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2020) came into effect on May 16, 2019. This new plan replaced the previous Growth Plan for the Greater Golden Horseshoe, 2017. On August 28, 2020, the Province brought into force Amendment 1 (2020) to the A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2020) (the "Growth Plan (2020)"). The Growth Plan (2020) continues to provide a strategic framework for managing growth and environmental protection in the Greater Golden Horseshoe region, of which the City forms an integral part.

The Growth Plan (2020) establishes policies that require implementation through a Municipal Comprehensive Review (MCR), which is a requirement pursuant to Section 26 of the *Planning Act* that comprehensively applies the policies and schedules of the

Growth Plan (2020), including the establishment of minimum density targets for and the delineation of strategic growth areas, the conversion of employment areas, and others.

Policies not expressly linked to a MCR can be applied as part of the review process for development applications, in advance of the next MCR. These policies include:

- Directing municipalities to make more efficient use of land, resources and infrastructure to reduce sprawl, contribute to environmental sustainability and provide for a more compact built form and vibrant public realm;
- Directing municipalities to engage in an integrated approach to infrastructure planning and investment optimization as part of the land use planning process;
- Achieving complete communities with access to a diverse range of housing options, protected employment zones, public service facilities, recreation and green space that better connect transit to where people live and work;
- Retaining viable lands designated as employment areas and ensuring redevelopment of lands outside of employment areas retain space for jobs to be accommodated on site;
- Minimizing the negative impacts of climate change by undertaking stormwater management planning that assesses the impacts of extreme weather events and incorporates green infrastructure; and
- Recognizing the importance of watershed planning for the protection of the quality and quantity of water and hydrologic features and areas.

The Growth Plan (2020) builds upon the policy foundation provided by the PPS and provides more specific land use planning policies to address issues facing the GGH region. The policies of the Growth Plan take precedence over the policies of the PPS to the extent of any conflict, except where the relevant legislation provides otherwise.

In accordance with Section 3 of the *Planning Act* all decisions of Council in respect of the exercise of any authority that affects a planning matter shall conform with the Growth Plan. Comments, submissions or advice affecting a planning matter that are provided by Council shall also conform with the Growth Plan.

The Growth Plan (2020) contains policies pertaining to population and employment densities that should be planned for in major transit station areas (MTSAs) along priority transit corridors or subway lines. MTSAs are generally defined as the area within an approximately 500 to 800 metre radius of a transit station, representing about a 10 minute walk. The Growth Plan (2020) requires that, at the time of the next municipal comprehensive review (MCR), the City will update its Official Plan to delineate MTSA boundaries and demonstrate how the MTSAs will achieve appropriate densities and built form at that time.

Staff has reviewed the proposed development for consistency with the PPS (2020) and for conformity with the Growth Plan (2020). The outcome of staff analysis and review are summarized in the Comments section of the Report.

## City of Toronto Official Plan

The subject lands are designated *Apartment Neighbourhoods* on Map 17 of the Official Plan (see Attachment 2). *Apartment Neighbourhoods* are distinguished from low-rise *Neighbourhoods* because a greater scale of buildings is permitted and different scale-related criteria are needed to guide development. Built up *Apartment Neighbourhoods* are stable areas of the City where significant growth is generally not anticipated.

*Apartment Neighbourhoods* are made up of apartment buildings and parks, local institutions, cultural and recreational facilities, and small-scale retail, service and office uses that serve the needs of area residents. All land uses provided for in the *Neighbourhoods* designation are also permitted in *Apartment Neighbourhoods*.

Development in *Apartment Neighbourhoods* should contribute to the quality of life by:

- locating and massing new buildings to provide a transition between areas of different development intensity and scale, through means such as providing setbacks from, and/or stepping down of heights towards lower scale *Neighbourhoods*;
- locating and massing new buildings so as to adequately limit shadow impacts on properties in adjacent lower-scale *Neighbourhoods*; and
- locating and massing new buildings to front onto and provide pedestrian entrances on an adjacent public street, to frame the edge of streets and parks with good proportion and maintain sunlight and comfortable wind conditions for pedestrians on adjacent streets, parks and open spaces; and providing ground floor uses that enhance the safety, amenity and animation of adjacent streets and open spaces.

New development is also to include sufficient off-street vehicle and bicycle parking for both residents and visitors; locate and screen service areas, ramps and garbage storage to minimize impact on adjacent streets and residences; and provide indoor and outdoor recreation space for residents.

## Yonge-Eglinton Secondary Plan

The Site is designated *Apartment Neighbourhoods* on Map 21-4 and is adjacent to *Neighbourhoods* to the south of the site on Map 17 of the Official Plan (Attachment 3). The site is located in the Eglinton East Character Area and is west of the Bayview Focus Area on Map 21-2 of the Yonge-Eglinton Secondary Plan. The site is located in the Secondary Zone on Map 21-3 (Midtown Transit Station Areas) of the Yonge-Eglinton Secondary Plan. This site along Eglinton Avenue East is located along a Secondary Retail Street on Map 21-5.

The Yonge-Eglinton Secondary Plan sets out a long-term vision for Midtown that emphasizes the importance of complete communities and the diversity of Midtown's character areas. The Eglinton East Character Area is an Apartment High Street which is characterized by distinct, mid-century mid-rise pavilion buildings and apartment towers, generously set back from streets and other buildings and surrounded by open space with an anticipated height range of 8 to 12 storeys.

The Secondary Plan is intended to be read and interpreted as a comprehensive document. City Planning staff have reviewed the application against the policies of the Yonge-Eglinton Secondary Plan.

The Yonge-Eglinton Secondary Plan is available on the City's website at:  
[https://www.toronto.ca/wp-content/uploads/2019/07/96a5-CityPlanning\\_OPA405.pdf](https://www.toronto.ca/wp-content/uploads/2019/07/96a5-CityPlanning_OPA405.pdf)

## **Reasons for Application**

An OPA has been applied for to exempt the subject site from the anticipated height range of 8 to 12 storeys, anticipated in the Eglinton East Character Area as detailed in Policy 5.4.3(c) of the Secondary Plan. The policy exempts lands within approximately 250 metres of the Mount Pleasant LRT Station, within which heights of generally 15 to 20 storeys are anticipated. The subject site is not within 250 metres of the Mount Pleasant LRT Station.

## **Application Submission**

The following reports, studies and plans were submitted in support of the application:

- Arborist Report
- Architectural Plans
- Block Context Plan
- Civil and Utilities Plans
- Coloured Concept Plan
- Community Services and Facilities Study
- Cover Letter
- Draft Official Plan Amendment
- Geotechnical Study
- Groundwater Review Form
- Hydrogeological Report
- Hydrogeological Review Summary
- Landscape and Lighting Plans
- Noise and Vibration Study
- Pedestrian Level Wind Study
- Planning Rationale
- Project Data Sheet
- Public Consultation Strategy Report
- Servicing Report
- Sun/Shadow Study
- Survey Plans
- Toronto Green Standards Checklist
- Transportation Impact Study
- Tree Preservation Plan
- Urban Design Brief.

The OPA application was deemed complete as of November 3, 2021. Supporting documentation can be viewed at the City's Application Information Centre: <http://app.toronto.ca/AIC/index.do>

### **Agency Circulation**

The application, together with the applicable reports noted above, have been circulated to all appropriate agencies and City divisions. Responses received have been used to assist in evaluating the application.

### **Community Consultation**

As the overall development application remains unchanged from the previous Zoning By-law Amendment, no further community consultation meetings were held on the current OPA application to avoid confusing the public.

A previous virtual community consultation meeting was held by City Planning on October 18, 2021 and approximately 75 members of the public attended along with the applicant and their team and the Ward Councillor. At the meeting, concerns with the height and density of the proposed building relative to the surrounding area and existing context were raised.

## **COMMENTS**

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### **Provincial Policy Statement and Provincial Plans**

Staff have determined that the proposed OPA is not consistent with the PPS (2020) and conflicts with the Growth Plan (2020). These policies read as a whole encourage municipalities to plan for complete communities. More specifically, the Growth Plan directs that municipalities develop a strategy to achieve the minimum intensification target and intensification throughout delineated built-up areas, which will: identify the appropriate type and scale of development in strategic growth areas and transition of built form to adjacent areas.

Implementation of these policy objectives are mainly achieved through the Official Plan and other planning tools, in this case, the City's Official Plan and locally-specific Secondary Plans such as the Yonge-Eglinton Secondary Plan which was approved by the Minister in June 2019.

The proposed OPA is unnecessary and would directly circumvent Policy 5.4.3(c) in the Secondary Plan, as it would have the effect of exempting the subject site from the anticipated height range of 8 to 12 storeys. The policy explicitly states that an OPA is not required to achieve a greater or lesser height, and as such, an OPA is not required. By removing the height guidance on a site-specific basis, the proposed OPA would not be achieving the policy objectives of the PPS and Growth Plan which require municipalities to identify the appropriate type and scale of development in strategic growth areas and transition of built form to adjacent areas. Additionally, by creating such an exemption, it would create confusion in the future when interpreting that policy.



The policies that are in effect continue to provide that height guidance within each Character Area, and while an OPA is not specifically required, it also does not imply that these policies are not applicable, and can continue to inform and provide guidance for development on this specific property.

### **City of Toronto Official Plan and Yonge-Eglinton Secondary Plan**

This OPA application has been reviewed against the relevant policies of the Official Plan and Yonge-Eglinton Secondary Plan described in the Issue Background Section of the Report.

### **Land Use and Secondary Plan Vision for Eglinton East Character Area**

Section 1.1 of the Yonge-Eglinton Secondary Plan provides a vision statement for the Yonge-Eglinton Area. This vision builds on the qualities that define Midtown's identity and its liveability, including the importance of a complete community and the complementary relationship between mixed-use nodes, historic main streets, low-rise and high-rise communities, parks and open spaces. New buildings are to be compatible with the character and varied scale of Midtown's different Character Areas.

Section 1.3.4 of the Secondary Plan provides policy direction for the Apartment High Streets and the Eglinton East Character Area and states that new buildings will reinforce distinguishing features and bolster the setting of each High Street.

Policy 1.3.4(c) describes the Eglinton East Character Area as follows:

*"The Eglinton East Character Area is characterized by distinct, mid-century mid-rise pavilion buildings and apartment towers, generously set back from streets and other buildings and surrounded by open space. New buildings and infill development, sympathetic in form and setting with improved transition to surrounding low-rise areas, will contribute to enhancing the character of the area as a green spine linking two transit stations."*

The anticipated height ranges as set out in Policy 5.4.3 of the Secondary Plan provide guidance regarding the intended built form character for each Character Area and are intended to implement the planned context for each Character Area. As stated above, the Eglinton East Character Area is characterized by mid-rise buildings and the anticipated height range of 8 to 12 storeys is reflective of the existing and planned context of the area.

The proposal far exceeds what is anticipated for the Eglinton East Character Area, as discussed in the following sections.

### **Proposed OPA**

The proposed OPA would be to enact a new Site and Area Specific Policy (SASP) to exempt the lands at 537, 539, 541 and 543 Eglinton Avenue East from the anticipated height range of 8 to 12 storeys, with the exception of the lands within approximately 250

metres of the Mount Pleasant LRT Station, within which heights of generally 15 to 20 storeys are anticipated in the Eglinton East Character Area (Policy 5.4.3). The applicant's cover letter states:

*"The OPA application is being submitted out of an abundance of caution in response to staff's interpretation that the proposal does not meet Policy 5.4.3 c) of the Yonge-Eglinton Secondary Plan with respect to the permitted height in the Eglinton East Character Area, in particular, within 250 metres of the Leaside LRT Station."*

*"It is our opinion, that Policy 5.4.3 c) would not be triggered by an application to amend the zoning bylaw to permit greater height or residential density, as is being proposed in this case. An application to amend the in-force zoning to permit greater height or residential density should not result in amendment to the Yonge-Eglinton Secondary Plan, in accordance with Policy 5.4.3, which states that the height of buildings for sites and/or areas will be specifically determined through rezoning applications and that an Official Plan Amendment will not be required in order to achieve a greater or lesser height."*

An OPA is not required in order to achieve a greater or lesser height.

While there is flexibility provided in the Secondary Plan in order to achieve a greater or lesser height in each Character Area, exempting the site from the Policy 5.4.3 is both unnecessary and inappropriate. The existing policy can continue to provide guidance by establishing and reinforcing the expected heights within each Character Area, and should the Zoning By-law Amendment application address all the other applicable policies in the Secondary Plan dealing with development standards, then Policy 5.4.3 would have no material affect on the development application. The policy indicates that no Official Plan Amendment is required to achieve a greater or lesser height in each Character Area identified.

## **Conclusion**

Staff are of the opinion that the proposed OPA is not consistent with the policy directions in the PPS (2020) and conflicts with the Growth Plan (2020) because it does not support the overall policies of the Official Plan and the Yonge-Eglinton Secondary Plan. Staff are of the opinion that the proposed OPA is unnecessary, unclear, and would set a dangerous precedent for exempting height guidance for each of the Secondary Plan's Character Areas. These provincial and municipal policies direct the City to identify the appropriate type and scale of development in strategic growth areas and transition of built form to adjacent areas.

Therefore, for the reasons outlined in this report, it is recommended that the OPA application be refused. Should the application be appealed to the OLT, it is recommended that staff be directed to attend the OLT hearing in opposition to the proposed OPA for the property at 537, 539, 541 and 543 Eglinton Avenue East.

## CONTACT

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## SIGNATURE

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David Sit, MCIP, RPP  
Director.  
Community Planning, North York District

## ATTACHMENTS

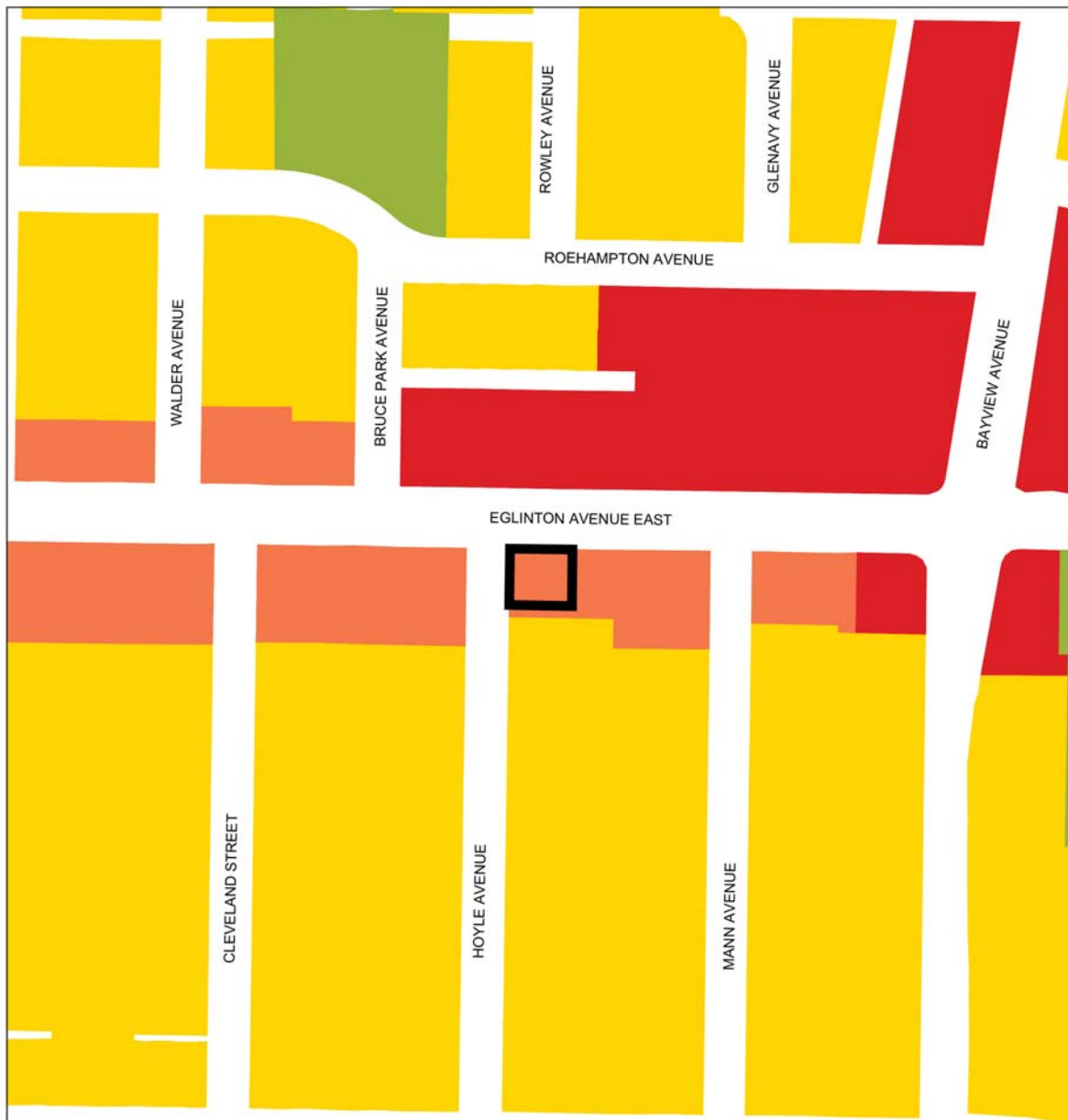
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Attachment 1: Location Map  
Attachment 2: Official Plan Land Use Map  
Attachment 3: Yonge-Eglinton Secondary Plan Land Use Map  
Attachment 4: Applicant's Draft Official Plan Amendment

## Attachment 1: Location Map



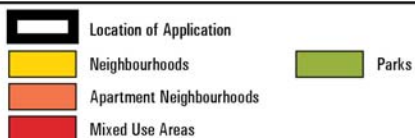
## Attachment 2: Official Plan Land Use Map



Official Plan Land Use Map #17

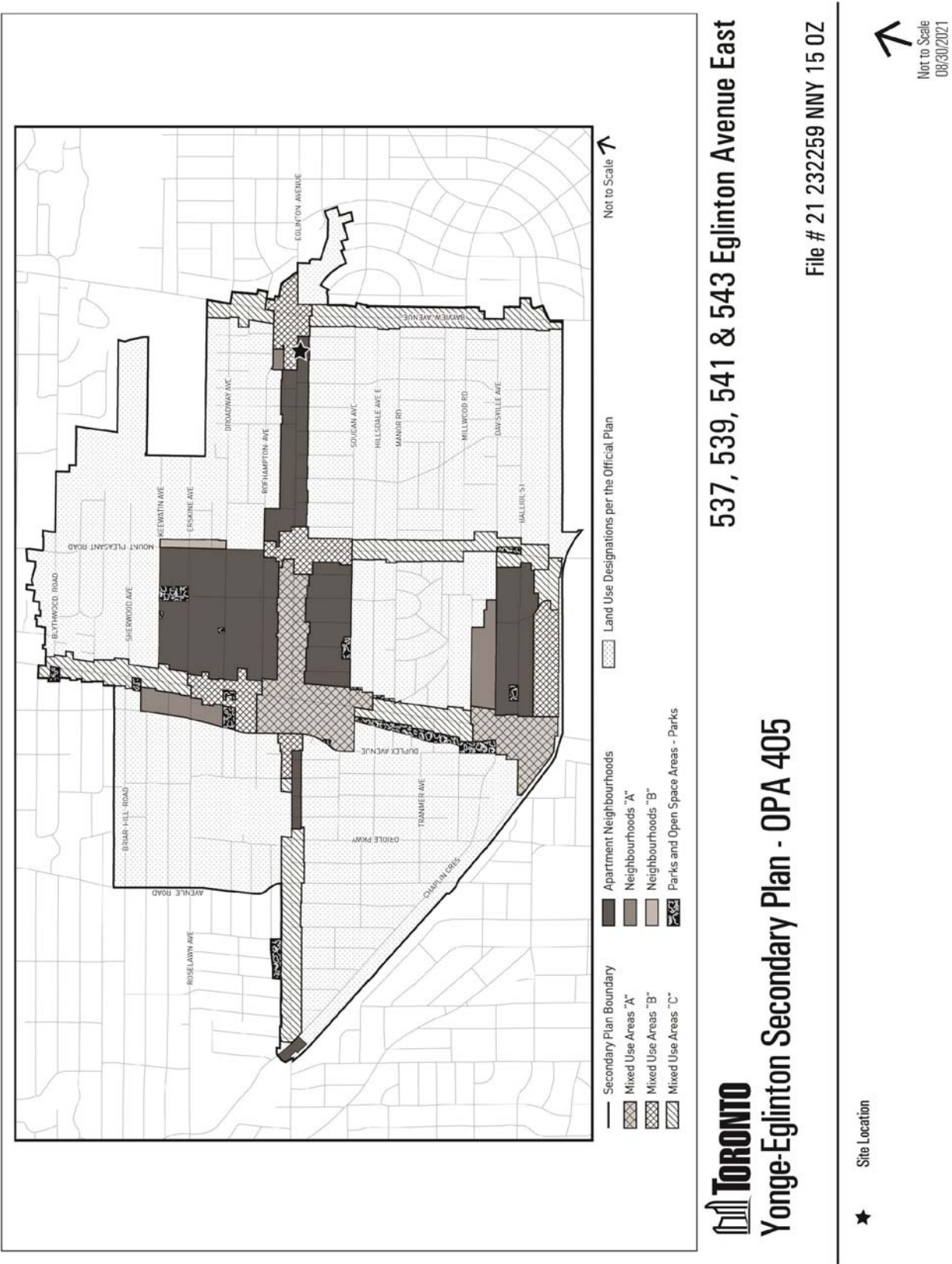
537, 539, 541 & 543 Eglinton Avenue East

File # 21 232259 NNY 15 02



Not to Scale  
Extracted: 08/30/2021

Attachment 3: Yonge-Eglinton Secondary Plan Land Use Map



## Attachment 4: Applicant's Draft Official Plan Amendment

*Draft Official Plan Amendment (October 27, 2021)*

Authority: North York Community Council Item ##, as adopted by City of Toronto Council on ~, 20~

### **CITY OF TORONTO**

#### **BY-LAW No. XXXX-2021**

**To adopt an amendment to the Official Plan for the City of Toronto respecting the lands known municipally in the year 2021 as 537-543 Eglinton Avenue East.**

Whereas authority is given to the Council of the City of Toronto under the Planning Act, R.S.O. 1990, c. P.13, as amended, to pass this By-law; and

Whereas Council of the City of Toronto has provided adequate information to the public and has held at least one public meeting in accordance with the Planning Act;

The Council of the City of Toronto enacts:

1. The attached Amendment XX to the Official Plan is hereby adopted pursuant to the Planning Act, as amended.
2. This is Official Plan Amendment No. XX.

Enacted and passed on \_\_\_\_\_.

Frances Nunziata,  
Speaker

John Elvidge  
City Clerk

(Seal of the City)

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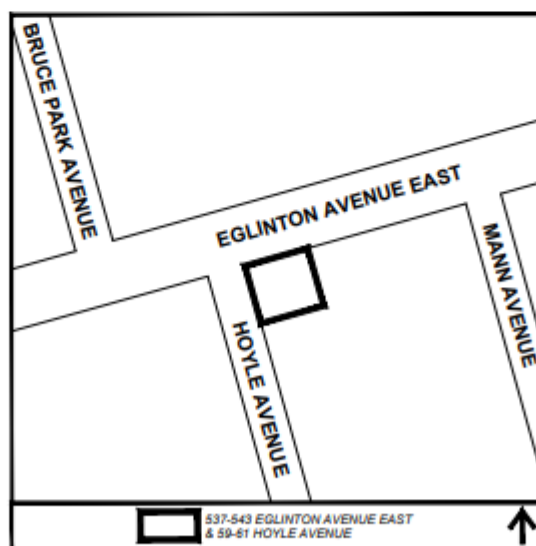
**AMENDMENT NO. XXX TO THE OFFICIAL PLAN**  
**LANDS MUNICIPALLY KNOWN IN THE YEAR 2021**  
**AS 537-543 EGLINTON AVENUE EAST**

The Official Plan of the City of Toronto is amended as follows:

1. Chapter 7, Site and Area Specific Policies, is amended by adding Site and Area Specific Policy No. XX for the lands municipally known in 2021 as 537-543 Eglinton Avenue East as follows:

**Policy No: XX: 537-543 Eglinton Avenue East**

- a) The lands subject to Site and Area Specific Policy N. XX are exempt from Policy 5.4.3(c) of the Yonge-Eglinton Secondary Plan, which permits 8 to 12 storeys in the Eglinton East Character Area, with the exception of lands within approximately 250 metres of the Mount Pleasant LRT Station, within which heights of generally 15 to 20 storeys are anticipated.



2. Chapter 7, Map X, Site Area Specific Policies, is amended to add the lands known municipally in 2021 as 537-543 Eglinton Avenue East shown on the map above as Site and Area Specific Policy No. XX.



