

City-Initiated Zoning By-law Amendments to Implement Scarborough Subway Extension – Final Report

Date: April 4, 2022

To: Scarborough Community Council

From: Director, Transit and Transportation Planning

Wards: Scarborough Centre (Ward 21), Scarborough-Guildwood (Ward 24), Scarborough Southwest (Ward 20), and Scarborough North (Ward 23)

SUMMARY

This report proposes city-initiated zoning by-law amendments to facilitate the delivery of the Scarborough Subway Extension (SSE) project. The purpose of these amendments is to provide relief from certain zoning by-law provisions related to transportation uses for lands to be acquired by Metrolinx to accommodate SSE project elements.

The zoning by-law amendments affect lands which will accommodate such structures as emergency exit buildings, traction power substations, stations including Lawrence East, Scarborough Centre and Sheppard East, as well as lands accommodating the tunnel extraction shaft at Eglinton Avenue East and Midland Avenue. The amendments also include permissions for construction offices and trailers and a request to lift a Holding Provision (H) applying to the lands with municipal addresses 110, 120 and 140 Grangeway Ave (site of the future Scarborough Centre Station.)

The amendments would apply to transportation uses only and are consistent with the City's zoning policies, and none of the proposed amendments reduce zoning permissions on abutting lands. Nor will the amendments impact other uses permitted on properties affected by the amendments.

In 2019, the City undertook transit enabling zoning for the Line 2 East Subway Extension project. However, since that time, Metrolinx has made changes to scope of the project that now includes three proposed stations (Lawrence East, Scarborough Centre and Sheppard East) and additional project elements. This expanded scope is now known as SSE. The previous zoning by-law amendments are relevant and carried forward into the current SSE project. This report covers the newly identified project elements of the SSE.

City Planning recommends that Council adopt the proposed zoning by-law amendments.

RECOMMENDATIONS

The Director, Transit and Transportation Planning, recommends that:

1. City Council amend the City of Toronto Zoning By-law 569-2013 and the former City of Scarborough Employment Districts Zoning By-law 24982 for the lands at 642, 685-697, 960, 1871, 1901, 1455/1457 McCowan Road; 20 Nugget Avenue; 2500, 2507 2510 and 2516-2532 Eglinton Avenue East; 3050, 3051, 3060 and 3091 Lawrence Avenue East; 23 Valparaiso Avenue; 110, 120 and 140 Grangeway Avenue; and 4700 Sheppard Avenue East substantially in accordance with the draft Zoning By-law Amendments in Attachments 1 & 2 to this report; and
2. City Council authorize the City Solicitor to make such stylistic and technical changes to the draft Zoning By-law Amendments as may be required.

FINANCIAL IMPACT

There are no financial implications to this report.

DECISION HISTORY

Zoning by-law amendments were approved by City Council in 2019 (By-laws 1113-2018, 1114-2018, 1115-2018, 1117-2018, 1118-2018 and 1119-2018) which provided relief from certain performance standards in various Zoning By-laws to facilitate the construction of the Line 2 East Subway Extension (L2EE) project. Projects elements from the previous Line 2 East Subway Extension project are carried forward into the expanded scope for the Scarborough Subway Extension. The report can be accessed at:

<https://www.toronto.ca/legdocs/mmis/2019/sc/bgrd/backgroundfile-131584.pdf>

COMMENTS

Planning for major transit expansion projects follows an extensive design and consultation process beginning with the Environmental Assessment (EA) process. An EA is typically undertaken well in advance of the filing of formal planning applications. City staff actively participate in, and in some cases lead, these EAs. The appropriate location, arrangement and design of buildings for major transit projects is examined in considerable detail and is publicly reviewed and documented through the EA process in advance of the issuance of tender documents for construction of the project.

The design process for major transit projects has regard for the applicable zoning, but generally does not include a detailed zoning review. As a result, while it is well understood through the EA process where transit buildings will be located, arranged on the land, and designed when a project is approved, areas of non-compliance with existing zoning may only be identified later in the project delivery stage.

Zoning compliance is addressed through the detailed design stage of a transit project, at the time of Site Plan approval and building permit applications. However, at this late stage in the process achieving zoning compliance may introduce significant risk, delay and cost to the project delivery. To reduce these risks zoning compliance is to be secured prior to project tender.

The SSE project is comprised of two contracts: the advanced tunnel contract (ATC) and the stations, rail and systems (SRS) contract. The ATC is already under construction with the tunnel boring machine having arrived at the launch shaft in winter 2022 and is currently being assembled for launch in spring 2022. The SRS contract is expected to reach the project tender stage in 2023.

The requirements associated with planning for major transit expansion projects is the overall reason for initiating the zoning amendments. However, the zoning by-law amendment work also targeted zoning compliance issues including removal of the holding provision at Scarborough Centre Station and adding exceptions for construction offices and trailers.

An important part of this city-initiated zoning by-law amendment to enable the Scarborough Subway Extension is the requirement to lift the holding provision (H) at the future Scarborough Centre Station. As stipulated in the current zoning exception, the primary requirement for lifting the (H) is the submission of a satisfactory site plan which adequately addresses the specified considerations.

Metrolinx has submitted for City review materials in the course of the preparation of their reference concept design for Scarborough Centre Station, including a preliminary site plan review and supporting plans and studies. City divisions engaged in the review of these materials are satisfied that the provisions of exception 548 have been met, or will be met at the time of detailed planning and design.

In some instances, Toronto Buildings Division has identified zoning compliance issues with temporary construction offices and trailers. The basis for these issues is the length of time that these trailers will be required to be on site. Beyond a certain period of time such installations may no longer be considered temporary. This often affects major infrastructure projects that involve multi-year construction periods.

The temporary construction offices and trailers proposed to support the SSE may not, depending on their location, meet the zoning by-law requirements for use, setbacks, size etc. and thus cannot obtain a building permit. A building permit is required for all trailers greater than 10m² in area, except trailers as defined under the Highway Traffic Act and construction site trailers, which are fully portable (i.e. are not fixed to ground or permanent in nature).

To address risks to the SSE project raised by construction trailers, a new provision was added to Zoning By-law 569-2013 and Former City of Scarborough By-law No. 24982 for the sites that will be used for construction staging and are expected to contain construction offices and trailers. The new provision would apply to the following properties: 3091 Lawrence Avenue and 685 to 697 McCowan Road, 2516 to 2532 Eglinton Avenue East, 2500 Eglinton Avenue East, 2510 Eglinton Avenue East, 4700

Sheppard Ave East, 1871 and 1901 McCowan Road, 110 Grangeway Avenue, 120 Grangeway Avenue, 140 Grangeway Avenue, 1455 and 1457 McCowan Road and 20 Nugget Avenue.

POLICY CONSIDERATIONS

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 Provincial Policy Statement (2020) (the "PPS") provides province-wide policy direction on land use planning and development matters. The PPS's overall goals are 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 and wise use and management of land and infrastructure over the long term in order to minimize impacts on air, water and other resources;
- Protection of the natural and built environment;
- Building strong, sustainable and resilient communities that enhance health and social well-being by ensuring opportunities exist locally for employment;
- Residential development promoting a mix of housing; recreation, parks and open space; and transportation choices that increase the use of active transportation and transit; and
- Encouraging a sense of place in communities, by promoting well-designed built form and by conserving features that help define local character.

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 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."

Provincial Plans

Provincial Plans are intended to be read in their entirety and relevant policies are to be applied to each situation. The policies of the Plans represent minimum standards. Council may go beyond these minimum standards to address matters of local importance, unless doing so would conflict with any policies of the Plans.

All decisions of Council in respect of the exercise of any authority that affects a planning matter shall be consistent with the PPS and shall conform with Provincial Plans. All comments, submissions or advice affecting a planning matter that are provided by Council shall also be consistent with the PPS and conform with Provincial 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) (the "Growth Plan (2020)") came into effect on May 16, 2019, with Amendment 1 to the Growth Plan coming into effect on August 28, 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 provincially significant employment zones, 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;

- Recognizing the importance of watershed planning for the protection of the quality and quantity of water and hydrologic features and areas; and
- Conserving and promoting cultural heritage resources to support the social, economic, and cultural well-being of all communities.

The Growth Plan (2020) builds upon the policy foundation provided by the PPS (2020) and provides more specific land use planning policies to address issues facing the GGH region. The policies of the Growth Plan (2020) 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.

Toronto Official Plan

The proposed amendments have been reviewed against the policies of the City of Toronto Official Plan as follows:

Section 2.2 Structuring Growth in the City: Integrating Land Use and Transportation outlines policies intended to align development with the City's transportation system, including making investments in transit. The following policies are pertinent to the proposed amendments:

Policy 2.2.1

This Plan will create a better urban environment, a competitive local economy and a more socially cohesive and equitable city through the integration and coordination of transportation planning and land use planning by:

b) developing and expanding components of the City's transit and other transportation infrastructure to support the growth objectives of this Plan.

Policy 2.2.3

The City's transportation network will be maintained and developed to support growth management objectives of this Plan by:

b) acquiring lands beyond the right-of-way widths shown on Map 3 and Schedule 1 to accommodate necessary features such as embankments, grade separations, additional pavement or sidewalk widths at intersections, transit facilities or to provide for necessary improvements in safety, universal accessibility or visibility in certain locations; and

j) implementing transit services in exclusive rights-of-way in the corridors identified on Map 4 as priorities are established, funding becomes available and the Environmental Assessment review processes are completed.

Policy 2.2.4

Require new development on lands adjacent to existing or planned transportation corridors and facilities to be compatible with, and supportive of, the long-term purposes of the corridors and facilities and be designed to avoid, mitigate or minimize negative impacts on and from the transportation corridors and facilities.

The City of Toronto Official Plan can be found here: <https://www.toronto.ca/city-government/planning-development/official-plan-guidelines/official-plan/>.

Proposed Zoning Changes

Project elements comprising the SSE and their locations are itemized in the table below. The Zoning By-laws that regulate each element are likewise outlined in the table.

Project Infrastructure	Address	Location Description	Regulated under By-law 569-2013	Regulated under Former By-laws
Emergency Exit Building #5	960 McCowan Road	Private Home	Yes	No
Emergency Exit Building #7	1455 and 1457 McCowan Road	Southwest area of parking lot, adjacent to Highway 401 off ramp	No	City of Scarborough Employment District By-law 24982 (Malvern)
Emergency Exit Building #8	20 Nugget Avenue	Commercial Plaza	No	Former City of Scarborough Employment District By-law 24982 (Marshalling Yard)
Emergency Egress from Pocket Track	2507 Eglinton Avenue East	Hertz car Rental	Yes	No
Laydown area for Tunnel Extraction Shaft	2500 Eglinton Avenue East	Vacant	Yes	No
Laydown area for Tunnel Extraction Shaft	2510 Eglinton Avenue East	Vacant	Yes	No

Project Infrastructure	Address	Location Description	Regulated under By-law 569-2013	Regulated under Former By-laws
Laydown area for Tunnel Extraction Shaft	2516 to 2532 Eglinton Avenue East	Vacant	Yes	No
Lawrence East Station	3050 and 3060 Lawrence Avenue East	Scarborough Hospital Parking Lot	Yes	No
Lawrence East Station	23 Valparaiso Avenue	Private Home	Yes	No
Lawrence East Station	642 McCowan Road	Private Home	Yes	No
Lawrence East Station	3051 Lawrence Avenue East	Shell Gas Station	No	Former City of Scarborough Bendale Community By-law 9350
Lawrence East Station	3091 Lawrence Ave East	Commercial Plaza	Yes	No
Lawrence East Station	685 to 697 McCowan Road	Commercial Plaza	Yes	No
Scarborough Centre Station	120 Grangeway Avenue	Vacant	No	Former City of Scarborough Employment District By-law 24982 (Progress) (Holding Provision)

Project Infrastructure	Address	Location Description	Regulated under By-law 569-2013	Regulated under Former By-laws
Scarborough Centre Station	110 Grangeway Avenue	Vacant	No	Former City of Scarborough Employment District By-law 24982 (Progress) (Holding Provision)
Scarborough Centre Station	140 Grangeway Avenue	Vacant	No	Former City of Scarborough Employment District By-law 24982 (Progress) (Holding Provision)
Sheppard East Station	1901 McCowan Road	Vacant	No	Former City of Scarborough Employment District By-law 24982 (Marshalling Yard)
Sheppard East Station	1871 McCowan Road	Vacant	No	Former City of Scarborough Employment District By-law 24982 (Marshalling Yard)
Sheppard East Station	4700 Sheppard Avenue East	Vacant	No	Former City of Scarborough Employment District By-law 24982 (Marshalling Yard)

Public transit uses, identified under the defined term "Transportation Uses" in the City-wide Zoning By-law 569-2013, are permitted in all zones on condition that they comply with the standards for a building or structure in that zone.

Transportation uses, and public transit in general, are typically not permitted in the former City of Scarborough Zoning By-laws, although the former City of Scarborough Employment Districts Zoning By-law 24982, as amended, permits "Public Transportation Uses" on all lands within the Progress Employment District.

The development of the future Scarborough Centre Station necessitates the lifting of a holding provision (H) currently applied to the land to enable the transit project to proceed. The future Scarborough Centre Station (municipally known as 110, 120, and 140 Grangeway Avenue) falls within the former City of Scarborough Employment Districts Zoning By-law No. 24982 (Progress Employment District) and the lands have dual City Centre Residential (CCR) Holding Provision (H) and City Centre Office (CCO) Holding Provision (H) zoning. The terms of the Holding Provision (H) are described in exception 548, which restricts development until certain conditions and criteria are met. The transportation use cannot be built until the (H) is lifted.

In order to lift the (H) Council must be satisfied as to:

- (i) the availability or provision of all transportation improvements, infrastructure and servicing, including public transit, stormwater management, the provision of community facilities and accommodations for pedestrians and cyclists, necessary to accommodate and support any proposed development; and
- (ii) all appropriate requirements or clearances for the proposed development pertaining to site environmental conditions including compatibility with existing and permitted nearby uses.

As per the above, the required zoning amendments should be considered by Council as early as possible in order to allow time for potential appeals.

Provincial Policy Statement and Provincial Plans

The proposal has been reviewed and evaluated against the Provincial Policy Statement (PPS) (2020) and the Growth Plan (2020). Staff have determined that the proposal is consistent with the overall policies of the PPS and conforms with the Growth Plan (2020). Some specific policies include:

Policy 3.2.1.1 requires that "infrastructure planning, land use planning and infrastructure investment will be coordinated to implement this Plan." Policy 3.2.2.1 mirrors 3.2.1.1 with respect to transportation, stating that "transportation system planning, land use planning, and transportation investment will be coordinated to implement this Plan." Zoning implements land use planning which, in this case, is land use planning related to the delivery of a major transit infrastructure investment. The proposed amendments, therefore, form part of the coordination as outlined in the policies because they function to remedy known zoning compliance issues arising from land acquired to facilitate the SSE project.

Policy 3.2.2.2 requires "the transportation system within the GGH [to] be planned and managed to: f) provide for the safety of system users". The proposed zoning by-law amendments support the provision of emergency exit buildings required to support the SSE project, as well as electrical substations to ensure reliable power supply for the

subway vehicles. These are key elements of the project, and their location is driven in large part by safety standards.

Official Plan

The proposed Zoning By-law amendments comply with the intent and policies of the Official Plan. They facilitate implementation of a major transit expansion project in accordance with Policy 2.2.1 b). As contemplated by Policy 2.2.3 b), the affected land is located beyond the right-of-way and will house transit facilities to support SSE, which will be located within the right-of-way.

Policy 2.2.3 j) refers to Map 4 of the Official Plan, which identifies higher order transit corridors. On February 26, 2020 Council adopted Official Plan Amendment 456, as amended, as part of the City's Municipal Comprehensive Review. An update to Map 4 was included in the OPA that identifies the SSE alignment. The proposed Zoning By-law amendments are consistent with the amended Map 4.

While Policy 2.2.4 deals mostly with how new private development responds to the transportation system, it also requires mitigation and minimization of negative impacts from transportation facilities to private development. The amendments proposed in this report minimize the amount of land required for the SSE project and mitigate zoning compliance issues for all affected properties.

Land Use

The proposed zoning by-law amendments amend the City-wide Zoning By-law 569-2013, and the former City of Scarborough Employment Districts Zoning By-law. The proposed amendments to By-law 569-2013, outlined in Attachment 1, provide limited site and area-specific exemptions for transportation uses in the areas of building setbacks, gross floor area, floor space index, lot coverage, minimum lot area, and minimum lot frontage.

The proposed amendments to the former City of Scarborough Employment Districts Zoning By-law No. 24982 are more general and apply an exception for public transit uses at Sheppard East and Scarborough Centre station (SCS) locations, as well as at EEBs 7 and 8. All applicable zoning by-law standards for uses other than transportation uses will remain unaffected.

The proposed Zoning By-law amendments have been reviewed against the Official Plan policies described in the Policy Considerations Section of the report, as well as, the policies of the Toronto Official Plan as a whole. The locations and land requirements of project elements including the proposed emergency exit buildings, traction power substations, and subway station and bus terminal are consistent with the SSE project as approved through the Scarborough Subway Extension EA.

Final configuration of land parcels required to be conveyed for the SSE project is dependent in part on requirements of applicable zoning by-laws. By amending certain provisions of the applicable zoning by-law functions to minimize the amount of land required to accommodate these project elements, while at the same time minimizing the impact of the project on affected properties.

Community Consultation

A virtual community consultation meeting was held on January 25, 2022 to present information about the project and to seek public input. A project webpage is available and can be accessed by visiting - <https://www.toronto.ca/community-people/get-involved/public-consultations/city-planning-consultations/transit-enabling-zoning-by-law-amendments/>. The Zoning By-law Amendments contained in this report were included in the material presented at the community consultation meeting. Notice of the meeting was advertised on the [City Planning Consultations webpage - https://www.toronto.ca/community-people/get-involved/public-consultations/city-planning-consultations/](https://www.toronto.ca/community-people/get-involved/public-consultations/city-planning-consultations/) and meeting notices were mailed out to affected property owners.

No major concerns were raised by the meeting attendees. Questions were asked about the proposed measures to remedy potential zoning compliance issues arising from property acquisition, more clarification and simplification of the process, as well as, general questions about future transit expansion plans in the City.

The proposed Zoning By-law Amendments reflect feedback that was received from the community and internal City divisions.

Conclusion

The amendments have been reviewed against the policies of the PPS (2020), the Growth Plan (2020), and the Official Plan. Staff are of the opinion that the recommended Zoning By-law Amendments are consistent with the PPS (2020), and conform to and do not conflict with the Growth Plan (2020). Furthermore, the zoning amendments are in keeping with the intent of the Official Plan, particularly as it relates to focusing urban growth into a pattern of compact centres and mobility hubs connected by a high order public transit system.

The recommendations in this report will enable the construction of the SSE project in a manner that is consistent with Official Plan policies, particularly 2.1.1 a) and 2.2. The proposed amendments and lifting the holding provision at Scarborough Center Station achieve zoning compliance for the SSE project, while minimizing the amount of land to be acquired, and mitigating the impacts to affected properties. Staff recommend that Council support approval of these zoning by-law amendments.

CONTACT

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SIGNATURE

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ATTACHMENTS

Attachment 1: Draft Amendments to City of Toronto Zoning By-law 569-2013

Attachment 2: Draft Amendments to former City of Scarborough Employment Districts
By-law No. 24982 (Progress East, Marshalling Yard, and Malvern Employment Districts)