

# **1891 Eglinton Avenue East - Official Plan Amendment and Zoning By-law Amendment - Ontario Land Tribunal Hearing - Request for Directions**

**Date:** March 14, 2023

**To:** City Council

**From:** City Solicitor

**Wards:** Ward 20 - Scarborough Southwest

## **REASON FOR CONFIDENTIAL INFORMATION**

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This report contains advice or communications that are subject to solicitor-client privilege. This report contains information regarding potential litigation.

## **SUMMARY**

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On January 20, 2023, the applicant resubmitted to the City revised Official Plan Amendment and Zoning By-law Amendment applications which, in general terms, propose six new buildings: one at 12 storeys and the remainder ranging from 41 to 52 storeys (the "Revised Applications"). As compared to the original applications, the Revised Applications include a draft Official Plan Amendment (the "Revised Draft OPA") that proposes an overall density of 5.98 FSI based on the site area of 29,613 square metres and the requested maximum gross floor area of 177,000 square metres in the Revised Draft OPA.

The Revised Applications also propose approximately 2,709 residential units, increased from 1,850 units, an increase in vehicular parking and bicycle parking and decrease in amenity space. A private open space concept is proposed between the buildings on the site. There are inconsistencies between the architectural plans, the various reports and studies, the policies contained in the Revised Draft OPA and the draft provisions of the Zoning By-law Amendment. Accurately ascertaining the proposed overall gross floor area for the site based is not possible in the circumstances, therefore, the proposed overall density may be higher on the lands subject of the Revised Applications than proposed based on the Revised Draft OPA. It is clear, however, that the amount of non-residential gross floor area has been reduced to 6,230 square metres from 8,877 square metres despite the significant increase in residential gross floor area and a reduction of amenity space within the development.

The purpose of this report is to request further instructions in this matter, which is the subject of appeals to the Ontario Land Tribunal (the "OLT").

## **RECOMMENDATIONS**

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The City Solicitor recommends that:

1. City Council adopt the recommendations contained in the Confidential Attachment 1 to this report from the City Solicitor.
2. City Council authorize the public release of the confidential recommendations contained in the Confidential Attachment 1 to this report from the City Solicitor, if adopted by City Council.
3. City Council direct that all other information contained in Confidential Attachment 1 to this report from the City Solicitor is to remain confidential, as it contains advice which is subject to solicitor-client privilege.

## **FINANCIAL IMPACT**

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There is no financial impact arising from the adoption of the Confidential Recommendations beyond what has already been approved in the current year's budget.

## **DECISION HISTORY**

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### **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>

### **Golden Mile Market Analysis and Economic Study**

The Golden Mile Market Analysis and Economic Strategy Study was completed in December 2016. The Study analyzed the existing economic and employment conditions in the Golden Mile. Further information regarding the Golden Mile Market Analysis and Economic Strategy Study can be found at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.SC21.12>

## Golden Mile Secondary Plan Study and Proposed 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, 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 ("OPA 499"), including the Golden Mile Secondary Plan ("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 Official Plan Amendment 499, which contains the GMSP. City Council also adopted the Golden Mile Urban Design Guidelines. City Council's decision may be found here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.SC18.1>

By-law 911-2020 adopting OPA 499 may be found here:

<https://www.toronto.ca/legdocs/bylaws/2020/law0911.pdf>

On March 9, 2022, City Council adopted a report from the City Solicitor regarding modifications to OPA 499, which contains the Golden Mile Secondary Plan. City Council's decision may be found here:

<https://secure.toronto.ca/council/agenda-item.do?item=2022.CC41.9>

## **City Staff Reports on Official Plan Amendment Application (20 158264 ESC 20 OZ) and Zoning By-law Amendment Applications (20 224755 ESC 20 OZ)**

Through Scarborough Community Council Decision items SC19.3 and SC23.6, City staff were authorized to review the Official Plan Amendment application and Zoning By-law Amendment applications concurrently with and in the context of OPA 499.

The Preliminary Report and Scarborough Community Council decision on the Official Plan Amendment can be found at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.SC19.3>

The Preliminary Report and Scarborough Community Council decision on the Zoning By-law Amendment can be found at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.SC23.6>

On December 15, 2021, City Council adopted a Request for Directions report from the Director, Community Planning, Scarborough District (dated November 3, 2021) regarding the Official Plan Amendment application (Application 20 158264 ESC 20 OZ) and Zoning By-law Amendment application (Application 20 224755 ESC 20 OZ) and directed the City Solicitor and appropriate staff to oppose the appeals before the OLT and continue discussions with the applicant in an attempt to resolve outstanding matters through Item SC28.3. The City Council decision may be found here:

<https://secure.toronto.ca/council/agenda-item.do?item=2021.SC28.3>

### **Draft Plan of Subdivision Application**

Concurrent with the submission of the Zoning By-law Amendment application, a Draft Plan of Subdivision application was submitted which applied to the northerly (2.9-hectare) portion of the lands at 1891 Eglinton Avenue East and consisted of three development blocks, right-of-way widenings on Eglinton Avenue East and Pharmacy Avenue, three new public streets (Street A, Street B and Street C), and a park block of 0.281 hectares.

A revised Draft Plan of Subdivision application was filed which contains three development blocks, right-of-way widenings on Eglinton Avenue East and Pharmacy Avenue, two new public streets (Street A and Street B), and a park block.

### **Consent to Sever Application**

On October 6, 2022, the owner submitted a consent application pursuant to section 53 of the Planning Act under File 22 214112 ESC 20 CO, with additional documentation submitted subsequent to that application. The consent application proposes to sever Mixed Use Areas and General Employment Areas portions of the lands municipally known as 1891 Eglinton Avenue. The Committee of Adjustment has not considered the consent application at this time. Information can be found at the Application Information Centre here:

<http://app.toronto.ca/AIC/index.do?folderRsn=q%2BB9dmTZXsAoPd9OoOykNw%3D%3D>

## Appeal to OLT

On April 14, 2021, the applicant filed appeals to the OLT citing the City's failure to make a decision on the requested Official Plan Amendment and Zoning By-law Amendment within the statutory timeframes set out in the *Planning Act*. On September 23, 2021, the OLT conducted a Case Management Conference on the appeals. Metro Ontario Real Estate Limited (40 Eglinton Square), IPEX Management Incorporated (807 Pharmacy Avenue) and Canadian Tire Corporation Limited (1901 Eglinton Avenue East) were added as parties to the proceedings. A three-week OLT hearing is currently scheduled to commence on June 24, 2023.

## COMMENTS

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### Original Applications

The Official Plan Amendment application (Application 20 158264 ESC 20 OZ) proposes to amend the Official Plan to add a Site and Area-Specific Policy ("SASP") to the northerly (2.9-hectare) portion of the lands at 1891 Eglinton Avenue East. The Zoning By-law Amendment application (Application 20 224755 ESC 20 OZ) proposes to amend the former City of Scarborough Employment Districts Zoning By-law 24982 to permit the redevelopment of the northerly portion of the lands, which is designated *Mixed Use Areas* in the Official Plan. The southerly portion of the lands are designated *General Employment Areas* in the Official Plan, are not included in these applications, and is outside of the boundaries of the GMSP. The proposal consists of four development blocks, including one block for public parkland and three new public streets. Five buildings are proposed with heights that range from 10 to 48 storeys. The existing one-storey industrial building would be demolished to accommodate the proposal. The subject lands are located within the GMSP area, and are also subject to new Golden Mile Urban Design Guidelines, adopted by City Council on October 30, 2020. The Official Plan Amendment application was submitted and deemed complete on June 19, 2020. The Zoning By-law Amendment application was submitted and deemed complete on December 3, 2020. Both applications have been appealed to the OLT, citing City Council's failure to make a decision within the prescribed time frames set out in the *Planning Act*. The appeals were filed on April 14, 2021.

### Revised Applications

The revised Official Plan Amendment application continues to propose to amend the Official Plan to add a SASP. The revised Zoning By-law Amendment application proposes to amend the City-wide Zoning By-law 569-2013 to permit the redevelopment of the northerly portion of the lands to permit a mixed-use development. In addition to the Draft Plan of Subdivision application, the owner has filed a Consent application to sever the southern portion of the lands designated *General Employment Areas* from the lands designated *Mixed Use Areas*, and which are subject to the applications.

The revised proposal consists of six development blocks, including one block for public parkland and two new public streets, at 27.0 metres (Street A) and 16.5 metres (Street B). Six buildings are proposed, one at 12 storeys (37.5 metres) and 5 buildings with

heights that range from 41 to 52-storeys (130.5 to 167.5 metres). The existing one-storey industrial building would be demolished to accommodate the proposal.

Based on a site area of 29,613 square metres and the maximum of 177,000 square metres of the total gross floor area set out in the Revised Draft OPA, the Revised Applications propose an overall density of 5.98 FSI. The Revised Applications also propose approximately 2,709 residential units increasing from 1,850 units, an increase in vehicular parking and bicycle parking and decrease in amenity space. A private open space concept is proposed between the buildings on the site. Accurately ascertaining the proposed overall gross floor area for the site based is not possible in the circumstances, therefore, the proposed overall density may be higher on the site subject of the Revised Applications than proposed based on the Revised Draft OPA. It is clear, however, that the amount of non-residential gross floor area has been reduced to 6,230 square metres from 8,877 square metres despite the significant increase in residential gross floor area and a reduction of amenity space within the development. The applicant has described these Revised Applications as a "new vision" for the site.

The City Solicitor requires further instructions. This report is about litigation before the OLT and contains advice or communications that are subject to solicitor-client privilege.

## **CONTACT**

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## **SIGNATURE**

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Wendy Walberg  
City Solicitor

## **ATTACHMENTS**

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1. Confidential Attachment 1 - Confidential Recommendations and Confidential Information