



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

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

Date: December 1, 2023

To: City Council

From: City Solicitor

Wards: Ward 20 – Scarborough Southwest

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

This report is about ongoing litigation of an Ontario Land Tribunal ("**OLT**") appeal for a matter within the Golden Mile Secondary Plan ("**GMSP**") area.

On October 10, 2023, the Applicant filed further revisions to their Revised Applications before the OLT, (the "**October 2023 Applications**"). The October 2023 Applications in general terms, propose seven new buildings: one at 12 storeys on Eglinton Avenue East, one at 8 storeys along the proposed east-west Street adjacent to the Public Park and the remainder ranging from 38 to 48 storeys. The October 2023 Applications include a draft Official Plan Amendment (the "**October Revised Draft OPA**") that proposes an overall density of 5.73 FSI based on the site area of 29,613 square metres and the requested maximum gross floor area of 169,615 square metres.

At a Case Management Conference on October 18, 2023, the OLT adjourned the January 15, 2024 hearing dates to March 11, 2024 given the Appellants late filing of the October 2023 Applications and the Tribunal directed the Parties to prepare a revised issues list related to the October 2023 Applications. This report seeks direction from Council respecting re-development of the property.

RECOMMENDATIONS

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 instructions to staff contained in the Confidential Attachment 1, Confidential Appendix "A", Confidential Appendix "B", Confidential Appendix "C" and Confidential Appendix "D" to this report 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 this report from the City Solicitor is to remain confidential at the discretion of the City Solicitor, as it is about litigation before the Ontario Land Tribunal and contains advice or communications that are subject to solicitor-client privilege.

FINANCIAL IMPACT

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

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 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 Application (20 224755 ESC 20 OZ)

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

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>

On March 29-31, 2023, City Council adopted a Request for Directions report from the City Solicitor on the Revised Applications and directed the City Solicitor and appropriate staff to oppose the appeals before the OLT and engage in mediation with the applicant should the hearing be adjourned. The City Council decision may be found here: <https://secure.toronto.ca/council/agenda-item.do?item=2023.CC5.33>

On July 19-20, 2023, City Council adopted a Status Update report from the City Solicitor on the Revised Applications and provided directions to the City Solicitor. The City Council decision may be found here: <https://secure.toronto.ca/council/agenda-item.do?item=2023.CC5.33>

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 to sever application pursuant to section 53 of the *Planning Act* under, with additional documentation submitted subsequent to that application. The consent application proposes to sever the 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 Ontario Land Tribunal

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 was scheduled to commence on January 15, 2024 and was adjourned to March 11, 2024.

COMMENTS

Previous Applications

The Official Plan Amendment application proposed to amend the Official Plan to add a Site and Area-Specific Policy to the northerly (2.9-hectare) portion of the lands at 1891 Eglinton Avenue East to permit a mixed-use development with new streets and public parkland. 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.

The Zoning By-law Amendment application for the same lands was deemed complete on December 3, 2020 and proposed 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, were not included in these applications, and is outside of the boundaries of the GMSP. The proposal consisted of four development blocks, including one block for public parkland and three new public streets. Five buildings were proposed with heights ranging 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. 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.

On January 20, 2023, the owner of 1891 Eglinton Avenue East, submitted 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"). 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.

On March 29-31, 2023, City Council provided directions to the City Solicitor to:

- continue opposing the Revised Applications and Revised Draft OPA;
- only attend mediation if the hearing commencing on June 24, 2023 was adjourned; and
- report back to City Council at its meeting of July 19, 2023 on mediation.

On July 19-20, 2023, City Council received a Status Update from the City Solicitor with respect to the applications and provided directions to the City Solicitor.

October 2023 Applications

The October 2023 Applications and October Revised Draft OPA continue to propose to amend the Official Plan to add a Site and Area Specific Policy. 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). Seven buildings are proposed, one at approximately 12 storeys (39.15 metres), one at approximately 8 storeys (28.74 metres) and 5 buildings with heights that range from 38 to 48-storeys (119.30 to 152.08 metres). The existing one-storey industrial building on the site (operated by Flexible Packaging) had an area of 19,640 square metres and was recently demolished.

The October 2023 Applications propose an overall density of 5.73 FSI. The Revised Applications also propose approximately 2,692 residential units. A private centralized open space concept is proposed between the buildings on the site. The amount of non-residential gross floor area is 6,011 square metres. The Revised Applications also propose 2, 226 square metres of public parkland on the site.

This report seeks further direction from City Council on this matter in advance of the OLT hearing set to commence on March 11, 2024, with procedural order deadlines commencing in advance of the next Council meeting.

CONTACT

Amanda S. Hill, Solicitor, Planning & Administrative Tribunal Law; Tel: (416) 338-5790;
Email: Amanda.Hill@toronto.ca

Daniel Elmadany, Solicitor, Planning & Administrative Tribunal Law; Tel: (416) 397-5709; Email: Daniel.Elmadany@toronto.ca

SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

1. Confidential Attachment 1 – 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