

3070 Ellesmere Road - Application to Lift Holding Provision – Decision Report - Approval

Date: May 2, 2023

To: Scarborough Community Council

From: Acting Director, Community Planning, Scarborough District

Wards: 24 - Scarborough-Guildwood

Planning Application Number: 21 110357 ESC 24 OZ

SUMMARY

This application proposes to lift the Holding ("H") symbol for the lands municipally known as 3070 Ellesmere Road.

A Holding Provision was added to the lands through the enactment of site specific Zoning By-law 1421-2007 to ensure that development of the lands did not occur until the Ministry of Environment Conservation and Parks (formerly the Ministry of Environment) (the "MECP"), issued a Certificate of Approval associated with the methane venting system on site. The Chief Planner and Executive Director, City Planning in consultation with the General Manager of Solid Waste Services are now satisfied that the by-law holding provision has been met, the relevant MECP requirements and regulations have been addressed and that it is appropriate to lift the 'H' symbol.

Lifting the Holding ("H") Symbol will permit the development of the subject lands with a 26 storey, 246 unit, mixed use building comprised of 400 square metres of ground floor non-residential space. The approved development includes a total of 185 parking spaces and 268 bike parking spaces on site.

The proposed amendment is consistent with the Provincial Policy Statement (2020) and conforms with A Place to Grow: Growth Plan for the Greater Golden Horseshoe (2020) and the City's Official Plan. This report reviews and recommends approval of the application to lift the holding ("H") provision for the lands at 3070 Ellesmere Road.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council amend former City of Scarborough Zoning By-law 11883, as amended, and Site Specific Zoning By-law 1421-2007 to remove the Holding ("H") symbol for the lands at 3070 Ellesmere Road in accordance with the draft Zoning By-law Amendment attached as Attachment 4 to this report.
2. City Council authorizes the City Solicitor to make such stylistic and technical changes to the draft Zoning By-law Amendment as may be required.

FINANCIAL IMPACT

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

DECISION HISTORY

At its meeting of July 16-19, 2007, City Council adopted Item SC7.31 authorizing the development of the subject lands with a 24 storey, 23,100 square metre, building comprised of 265 dwelling units and ground floor commercial space and required the Owner to enter into a Section 37 Agreement securing \$400,000 towards a new washroom and change facility at Ellesmere Sports Fields Park. Site specific Zoning By-law Amendment 1421-2007 was enacted in December 2017 and included a holding provision which does not allow the development to proceed until a 'Certificate of Approval' is obtained by the MOE, (now MECP), for the installation of a methane venting system on site. City Council's Decision may be found here: <https://secure.toronto.ca/council/agenda-item.do?item=2007.SC7.31>

Two separate Committee of Adjustment approvals issued in 2014 and 2022 approved variances related to increases in gross floor area, permitted height, reductions in minimum setbacks and required parking, updated methane control obligations as well as other matters including the securing of additional community benefits pursuant to Section 45(9) of the *Planning Act*.

PROPOSAL

On December 13, 2007, City Council enacted By-law 1421-2007 which zoned the lands to permit a high density development while also imposing a holding provision due to the presence of environmental contamination on the lands and associated methane emission concerns stemming from onsite and nearby uses. The By-law indicates that the holding provision shall be removed when Council is satisfied that a certificate of Approval for the installation of the methane venting system has been obtained.

This application proposed an amendment to Zoning By-law 1421-2007 to lift the holding provision and allow the permitted redevelopment of the lands to take place.

APPLICATION BACKGROUND

Application Submission Requirements

The following reports/studies were submitted in support of the application:

- (MECP) Environmental Activity Sector Registry - Confirmation of Registration dated Apr 13, 2023 -registration No. R-010-5115039698 and associated peer reviewed engineering material
- Architectural Plans
- Arborist Report
- Groundwater and Stormwater Management Report

Agency Circulation Outcomes

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 and to determine the appropriateness of the subject Zoning By-law amendment.

Community Consultation

Community consultation is not required for an application to lift the Holding symbol (H) and, as such, a community meeting was not held for this application.

Statutory Public Meeting Comments

In making their decision with regard to this application, Council members have been given had an opportunity to view the oral submissions made at the statutory public meeting held by the Scarborough Community Council for this application, as these submissions are broadcast live over the internet and recorded for review.

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 policy direction province-wide on land use planning and development to promote strong communities, a strong economy, and a clean and healthy environment.

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) came into effect on August 28, 2020. This was an amendment to the Growth Plan for the Greater Golden Horseshoe, 2019. 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), 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 (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 (2020). Comments, submissions or advice affecting a planning matter that are provided by Council shall also conform with the Growth Plan (2020).

Toronto Official Plan

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

This application has been reviewed against the policies of the City of Toronto Official Plan and as follows:

Chapter 4 – Land Use Designations

The subject lands are designated *Mixed Use Areas* on Map 23 of the Official Plan. Please see Attachment 3 for an excerpt from the Official Plan Land Use Map. *Mixed Use Areas* are intended to provide a broad range of commercial, residential and institutional uses in single-use or mixed-use buildings.

Chapter 5 - Making things Happen

Section 5.1.2 - Holding By-laws

Under the *Planning Act*, City Council may pass a Holding by-law and Policy 5.1.2.1 indicates that a Holding "H" provision may be placed lands where the ultimate desired use is appropriate but where development cannot occur until conditions set out in the Plan or by-law are satisfied. In this circumstance, the Holding ("H") provision was applied to the subject lands related to environmental protection measures.

Section 5.6.12 Interpretation

Policy 5.6.12 indicates that "all planning decisions and city-building activities will recognize the requirements of the federal and provincial governments and their agencies, including but not limited to: federal and provincial legislation".

The outcome of staff analysis and review are summarized in the Comments section of the Report.

Zoning

The subject lands are zoned A (H) and CC(H) -37-119-151-172-184-185-186-187-188-189-201-202-214-215-216, by site specific Zoning By-law 1421-2007. The Apartment Zone permits Apartment Buildings, Day Nurseries and Group Homes as well as ancillary uses whereas the Community Commercial Zone permits Community Commercial Uses such as Banks, Retail Stores and Business and Professional Offices as well as Day Nurseries and Neighbourhood Commercial Uses. The site specific Zoning By-law No 1421-2007 indicates that an amending by-law to remove the "H" can be enacted by City Council when the following condition has been met.

" A Certificate of Approval has been obtained from the Ministry of Environment for the installation of the methane venting system on the site."

Prior to the lifting of the (H) symbol, the only uses permitted shall be Business and Professional Offices; Banks; Pharmacy; and Marketplace signs.

Site Plan Control

The lands are subject to site plan control. A site plan application has been filed (21 110349 ESC 24 SA) and is currently under review.

COMMENTS

Provincial Policy Statement and Provincial Plans

The proposal has been reviewed and evaluated against the PPS (2020) and the Growth Plan (2020) and staff have determined that the proposed amendment is consistent with the PPS, conforms with the Growth Plan (2020).

Official Plan

This application has been reviewed against the Official Plan policies described in the Policy Considerations section of this report as well as the policies of the Toronto Official Plan as a whole. The application is consistent with the Official Plan direction as the lifting of the (H) allows for intensification of appropriately designated *Mixed Use Areas*.

Environment - Legislative Change

Beginning on October 31, 2011, the Ministry of Environment, Conservation and Parks (formerly the Ministry of Environment and Climate Change) (the "**Ministry**"), had replaced the "Certificate of Approval" process with two process streams:

1. An Environmental Compliance Approval (the "**ECA**") which is triggered for complex or higher-risk activities; and
2. Environmental Activity and Sector Registry (the "**EASR**") registration process for standardized or lower-risk activities.

As part of the Ministry's risk-based approach for processing requests for environmental approvals, the current approvals system focuses on the potential risk that the activity in question poses to the environment and to human health. The provincial legislation and associated regulations were amended to reflect these processes.

In this circumstance, while the Holding "H" Provision had specifically named a "Certificate of Approval", the legislative changes provide two process streams which accomplish the same intent as the formerly named Certificate of Approval process. Staff reviewed the two process streams to determine the appropriate approval required by the applicant to satisfy the Holding Provision requirements.

As part of this process, the 'activity', (i.e. methane venting) fell within the EASR as the appropriate process stream. The Ministry had advised that it is up to the applicants environmental consultant, to meet required regulations under the *Environmental Protection Act* and be satisfied that the methane venting being pursued is a 'prescribed activity' that qualifies for registration on the EASR in accordance with the regulations. If the EASR is not satisfied, then an ECA would otherwise be required.

Lifting the Holding Provision

The Holding Provision was placed on the lands due to City Council's intention to have the Ministry issue a 'Certificate of Approval' associated with the installation of the methane venting system prior to permitting the land uses.

As the Ministry has replaced that system with two process streams, as it relates to the installation of the methane venting system, and in consultation with the Ministry, the EASR registration process has been followed and completed. The registration of the methane venting activity on the public "EASR" has also been confirmed by the Ministry.

As the Holding "H" Provision requirements are met, City Planning staff in consultation with Solid Waste staff raise no objections to lifting the holding (H) provision.

Conclusion

The proposed amendment has been reviewed against the policies of the PPS (2020), the Growth Plan (2020), the Toronto Official Plan. Staff are of the opinion that the proposed amendment is consistent with the PPS (2020) and conforms to the Growth Plan (2020) and the City's Official Plan.

The applicant has addressed Council's intent to have the Ministry authorize the methane venting activity to ensure that environmental protection measures are implemented in a manner consistent with provincial requirements and legislation. Staff recommend that Council support approval of the application.

CONTACT

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SIGNATURE

Christian Ventresca, MSc PI, MCIP RPP
Acting Director, Community Planning, Scarborough District

ATTACHMENTS

City of Toronto Data/Drawings

Attachment 1: Application Data Sheet

Attachment 2: Location Map

Attachment 3: Official Plan Land Use Map

Attachment 4: Draft Zoning By-law Amendment

Applicant Submitted Drawings

Attachment 5: Site Plan

Attachment 1: Application Data Sheet

APPLICATION DATA SHEET

Municipal Address: 3070 ELLESMERE RD Date Received: January 29, 2021

Application Number: 21 110357 ESC 24 OZ

Application Type: OPA / Rezoning, Rezoning

Project Description: Zoning By-law Amendment application to lift the "H". Development comprising of a 26-storey mixed-use building with commercial at grade and residential above. Concurrent Site Plan Control application 21 100349 ESC 24 SA.

Applicant Agent Architect Owner

BOUSFIELDS INC

3070 ELLESMERE FACILITY INC

EXISTING PLANNING CONTROLS

Official Plan Designation: Mixed Use Areas Site Specific Provision:

Zoning: A(H) and CC(H) Heritage Designation:

Height Limit (m): Site Plan Control Area: Y

PROJECT INFORMATION

Site Area (sq m): 5,258 Frontage (m): 58 Depth (m): 92

Building Data	Existing	Retained	Proposed	Total
Ground Floor Area (sq m):			1,568	1,568
Residential GFA (sq m):			23,946	23,946
Non-Residential GFA (sq m):			400	400
Total GFA (sq m):		24,346	24,346	
Height - Storeys:		26	26	
Height - Metres:		84	84	
Lot Coverage Ratio (%):	29.82			
Floor Space Index:	4.63			

Floor Area Breakdown	Above Grade (sq m)	Below Grade (sq m)
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Residential GFA: 23,946

Retail GFA: 400

Office GFA:

Industrial GFA:

Institutional/Other GFA:

Residential Units

by Tenure	Existing	Retained	Proposed	Total
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Rental:		246	246	
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Freehold:

Condominium:

Other:

Total Units:		246	246	
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Total Residential Units by Size

Rooms	Bachelor	1 Bedroom	2 Bedroom	3+ Bedroom
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Retained:

Proposed:	61	40	145	
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Total Units:	61	40	145	
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Parking and Loading

Parking Spaces:	185	Bicycle Parking Spaces:	268	Loading Docks:	1
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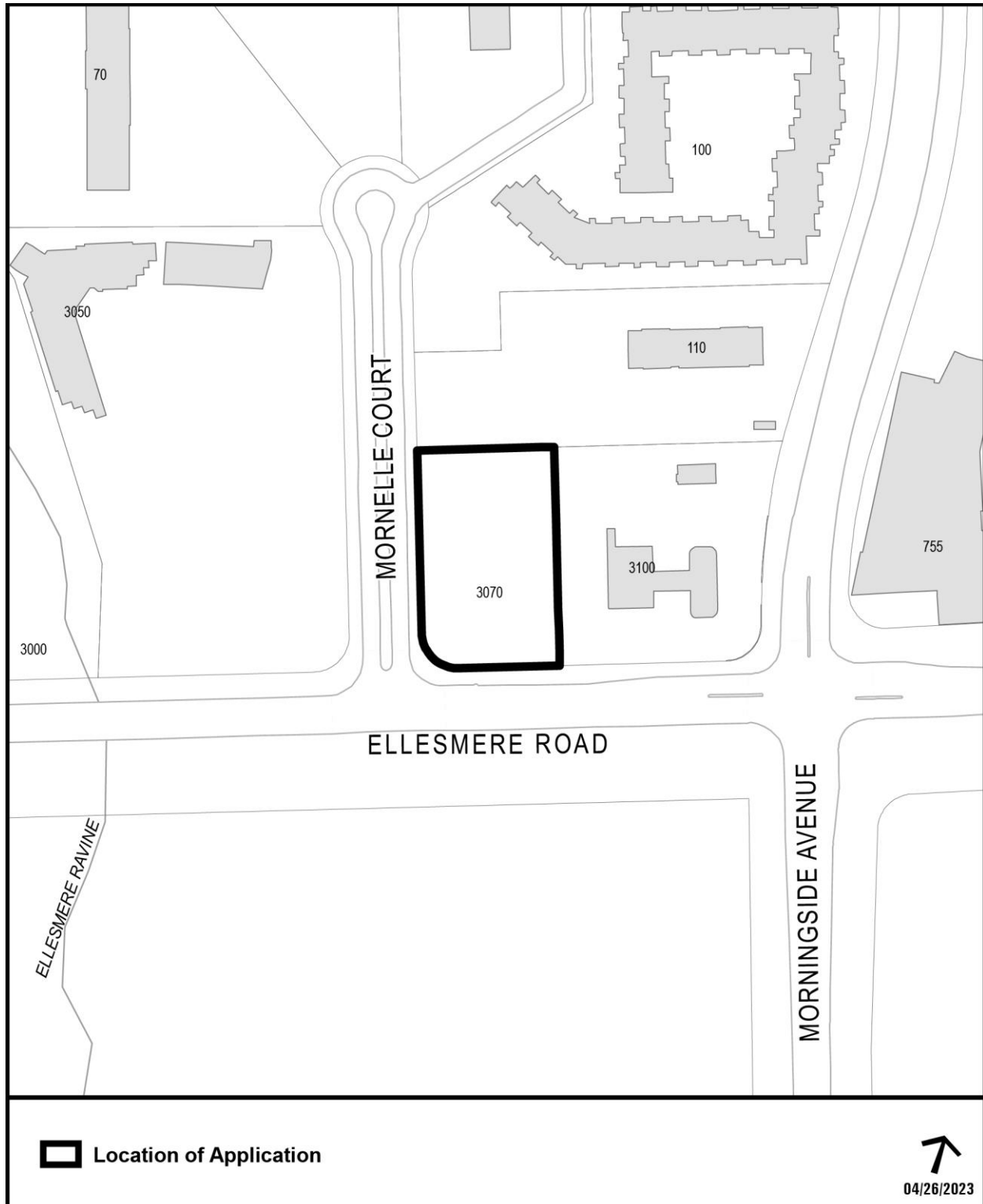
CONTACT:

Jeffery Sinclair, Senior Planner

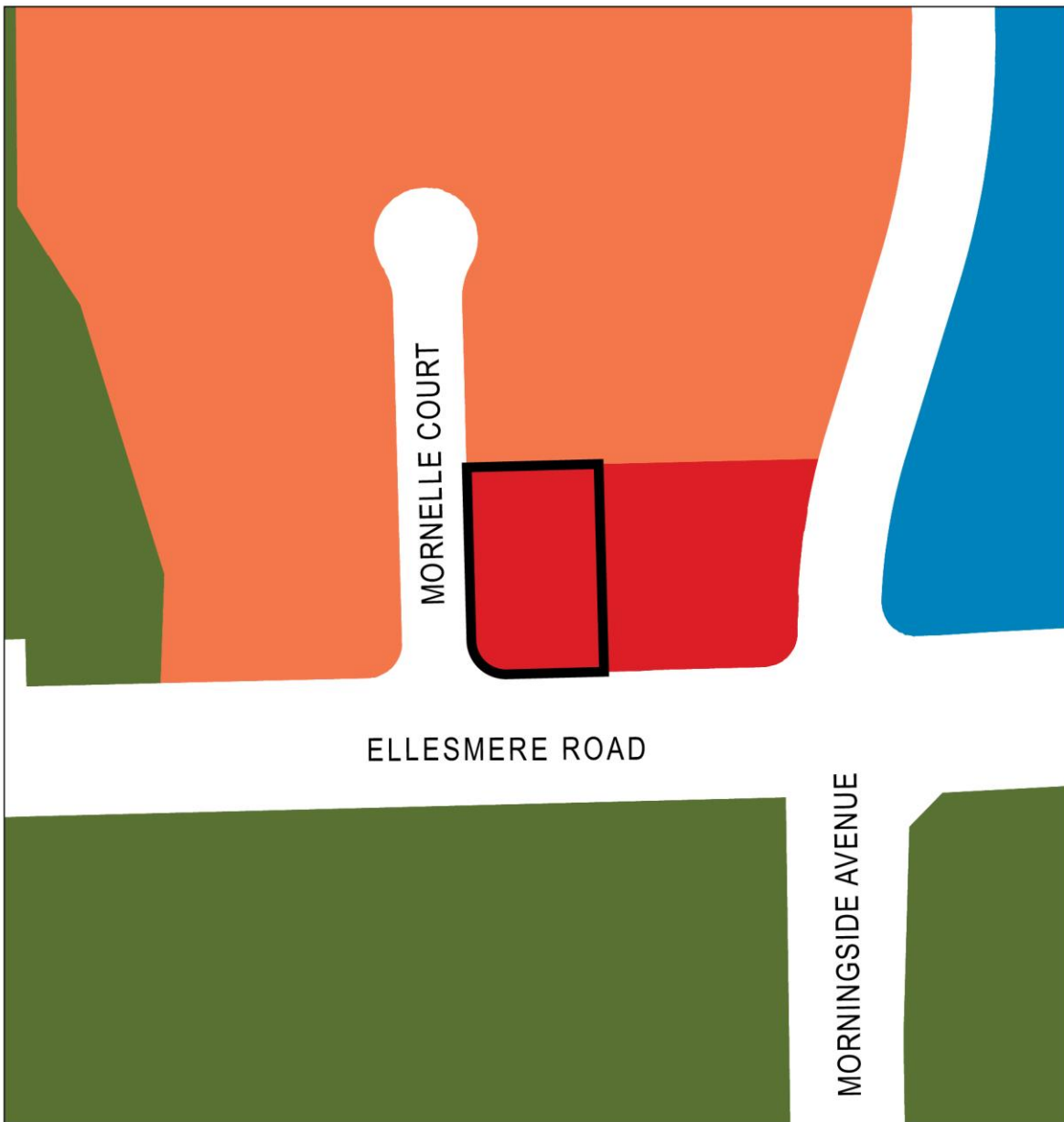
416-396-7685

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Attachment 2: Location Map



Attachment 3: Official Plan Land Use Map



Official Plan Land Use Map #22

3070 Ellesmere Road

File # 21 110357 ESC 24 02

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|--------------------------|---------------------|
| Location of Application | Natural Areas |
| Apartment Neighbourhoods | Institutional Areas |
| Mixed Use Areas | |



Not to Scale
Extracted: 04/26/2023

Attachment 4: Draft Zoning By-law Amendment

Authority: Scarborough Community Council Item SC##, as adopted by City of Toronto Council on [DATE]
CITY OF TORONTO
Bill ~
BY-LAW XXX-2023

To amend former City of Scarborough Zoning By-law 11883, as amended and Site Specific Zoning By-law 1421-2007 to remove the holding (H) symbol with respect to the lands known municipally in the year 2022 as 3070 Ellesmere Road.

Whereas authority is given to Council by Section 34 and Section 36 of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, to impose the holding symbol (H) and to remove the holding symbol (H) when Council is satisfied that the conditions relating to the holding symbol have been satisfied; and

Whereas Council is satisfied that the conditions relating to the holding symbol have been satisfied in order to lift the holding symbol in relation to the lands to which this bylaw applies; and

The Council of the City of Toronto enacts:

1. Schedule 'A' of By-law 11883, as amended, and Schedule '1' of By-law 1421-2007 are amended by removing the holding (H) symbol from the lands outlined on Schedule 1 attached to this By-law so that the amended zoning shall read as follows:

"A and CC-37-119-151-172-184-185-186-187-188-189-201-202-214-215-216"

2. Schedule "C" EXCEPTIONS MAP, as amended, of By-law 11883 and Schedule '2' of By-law 1421-2007, is amended by deleting Exception No. 16 from the lands outlined in heavy black lines shown on Schedule 2 attached to this By-law.

Enacted and passed on [DATE] , 2023.

Frances Nunziata,
Speaker

John D. Elvidge,
City Clerk

(Seal of the City)



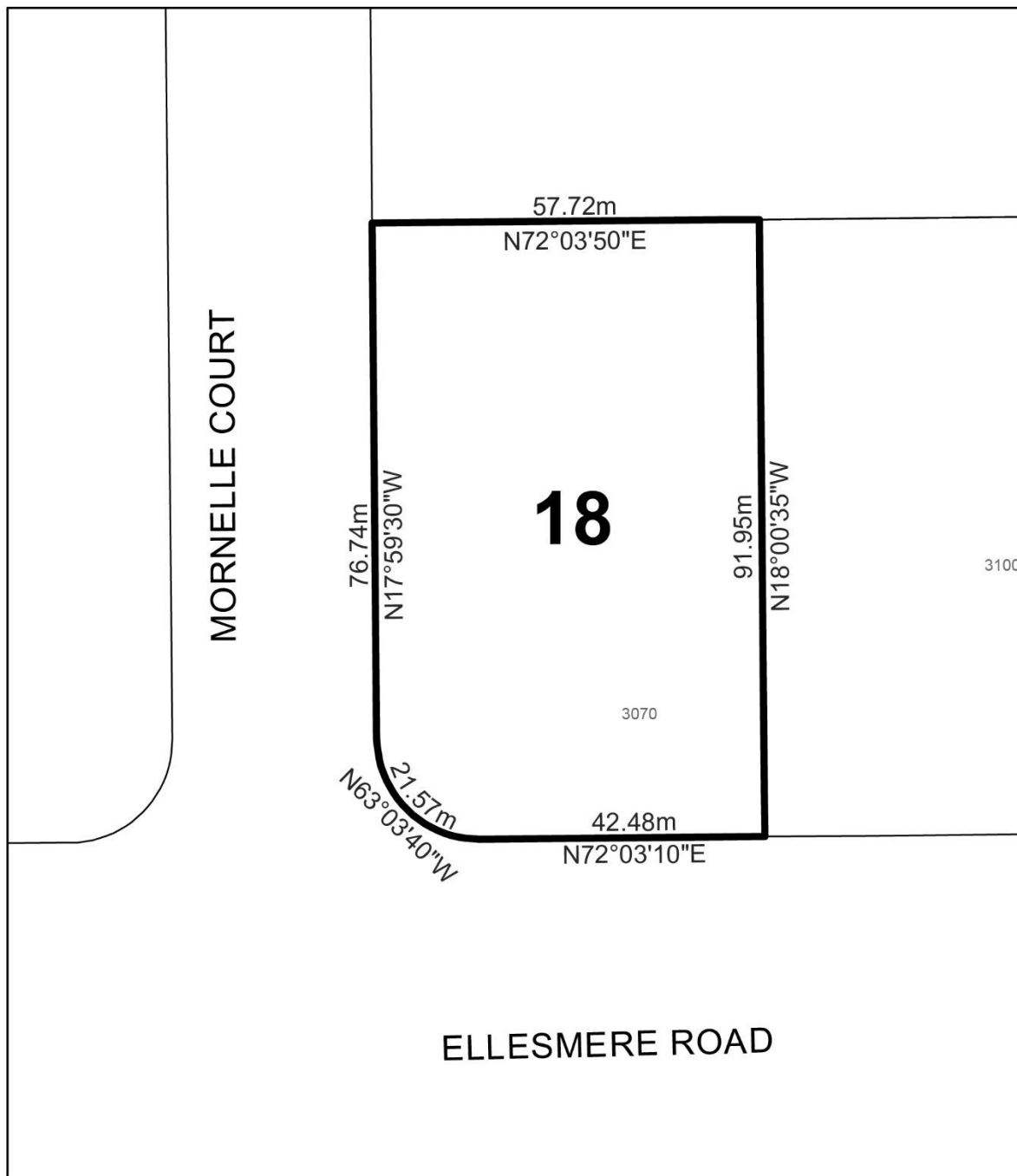
Toronto
Schedule 1

3070 Ellesmere Road

File # 21 110357 ESC 24 0Z



Morningside Community by-law No.11883
Not to Scale
04/26/2023



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