



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

2939 - 2941 Eglinton Avenue East - Zoning By-law Amendment - Ontario Land Tribunal Hearing - Request for Directions

Date: May 7, 2024

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

The purpose of this report is to request further instructions in respect of the hearing before the Ontario Land Tribunal ("OLT") currently scheduled to commence on August 12, 2024, for a period of 3 weeks. The applicant appealed the proposed Zoning By-law Amendment Application for 2939 - 2941 Eglinton Avenue East to the OLT due to Council's failure to make a decision on the application within the time prescribed by the *Planning Act*.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the confidential instructions to staff 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 Confidential Attachment 1, Confidential Appendix "A" and Confidential Appendix "B" 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 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

On October 11 and 12, 2023, City Council directed the City Solicitor and appropriate staff to oppose the Zoning By-law Amendment application in its current form and continue working with the applicant to resolve issues outlined in the report from the Acting Director, Community Planning, Scarborough District. City Council's decision can be found here:

<https://secure.toronto.ca/council/agenda-item.do?item=2023.SC7.3>

Planning Study

The Preliminary Report for the Zoning By-law Amendment and Draft Plan of Subdivision applications at 2956-2990 Eglinton Avenue East included a recommendation that staff be authorized to initiate a Planning Study. That recommendation was adopted by City Council on February 2, 2022.

On May 22-24, 2024, on recommendation from Scarborough Community Council, City Council will consider adoption of the Eglinton GO Urban Design Guidelines which are the outcome of the Planning Study. Scarborough Community Council's decision can be found here:

<https://secure.toronto.ca/council/agenda-item.do?item=2024.SC13.5>

Appeal to Ontario Land Tribunal

On March 24, 2023, the applicant filed an appeal to the OLT citing the City's failure to make a decision on the requested Zoning By-law Amendment within the statutory timeframes set out in the *Planning Act*. The OLT conducted two Case Management Conferences on the appeal on July 10, 2023 and the second was on November 8, 2023. Metrolinx was added as a party to the proceedings. A three-week OLT hearing is scheduled to commence on August 12, 2024.

COMMENTS

On September 16, 2022, a Zoning By-law Amendment application was submitted to permit a 44-storey mixed-use building with 37,419 square metres of residential gross floor area for a total of 555 units and 288 square metres of ground floor retail space at 2941 Eglinton Avenue East. The proposal would have a net Floor Space Index of 8.79 times the area of the lot.

In February 2023, the applicants made a revised submission for a 46-storey mixed-use building with 37,669 square metres of residential gross floor area for a total of 598 units and 312 square metres of ground floor retail space, resulting in a net Floor Space Index of 8.85 times the area of the lot.

This report seeks further direction from City Council on this matter in advance of the OLT hearing set to commence on August 12, 2024, with procedural order deadlines commencing in advance of the next Council meeting. On the basis of these deadlines, this matter is urgent.

CONTACT

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