



## REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

### **300 Borough Drive, 1755 Brimley Road, 400 to 580 Progress Avenue and 350 Town Centre Court – Ontario Land Tribunal Hearing – Request for Directions**

**Date:** June 13, 2024

**To:** City Council

**From:** City Solicitor

**Wards:** Ward 21 - Scarborough Centre

#### **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 September 2, 2021, the City received an Official Plan Amendment application for 300 Borough Drive, 1755 Brimley Road, 400 to 580 Progress Avenue and 350 Town Centre Court (the "Site") to permit a long-term mixed use development plan for portions of the lands surrounding the Scarborough Town Centre (STC) Shopping Centre.

The applicant appealed City Council's neglect or failure to make a decision on its application for the Official Plan Amendment (the "Appeal") to the Ontario Land Tribunal (the "OLT") on October 17, 2022.

The City Solicitor requires further directions in order to prepare for an upcoming OLT hearing scheduled to commence on October 15, 2024.

#### **RECOMMENDATIONS**

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The City Solicitor recommends that:

1. City Council adopt the recommendations contained in Confidential Attachment 1 to this report from the City Solicitor.

2. City Council authorize the public release of the confidential recommendations contained in Confidential Attachment 1 and the information contained in Confidential Appendix "A" 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 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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On September 2, 2021, the City received an Official Plan Amendment application to permit a long-term mixed use development plan for the lands surrounding the Scarborough Town Centre (STC) Shopping Centre. The proposed master plan introduces an internal private above and below grade street network, the extension and realignment of three public streets, parks and opens spaces, cycling infrastructure, internal pedestrian connections, new residential uses in the form of mid-rise and tall buildings, and additional commercial and office uses. It consists of 21 new development blocks, seven new park blocks and 10 private parks and/or Privately-Owned Publicly Accessible Spaces (POPS) blocks. Over 15,500 residential units, 32,400 square metres of retail, 32,500 square metres of office for an overall proposed Floor Space Index of 3.9 (including the STC Shopping Centre). Proposed building heights range from eight to 65 storeys.

On October 17, 2022, the applicant appealed City Council's neglect or failure to make a decision on the Official Plan Amendment to the OLT. The OLT held the first Case Management Conference on April 27, 2023. A second Case Management Conference was held on August 22, 2023. A hearing is scheduled to commence on October 15, 2024.

A Request for Direction Report on the application was adopted by City Council on July 19, 2023 directing the City Solicitor and appropriate City staff to attend the OLT hearing to oppose the Official Plan Amendment application, and to continue discussions with the applicant in an attempt to resolve outstanding issues. City Council's decision in respect of the Request for Direction Report can be found at:

<https://secure.toronto.ca/council/agenda-item.do?item=2023.SC6.12#>

## COMMENTS

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On May 16, 2024, the applicant/appellant filed a revision of its draft Official Plan Amendment ("Revised OPA") with the City Solicitor pursuant to the requirements of an OLT procedural order dated September 12, 2023. The procedural order permits the applicant/appellant to file the Revised OPA to the Tribunal and the parties to the proceedings at its election, so long as the filing is made no later than May 16, 2024. The applicant/appellant intends to seek the Tribunal's approval of the Revised OPA at the time of the contested hearing beginning in October of 2024.

The Revised OPA, attached hereto as Public Attachment 1, is a significant revision to the draft Official Plan Amendment originally filed with the subject application in September of 2021. The Revised OPA now includes policies in an attempt to address many of the issues raised by the Director, Community Planning for the Scarborough District in its Request for Direction Report (May 31, 2023) which was considered by City Council at its meeting of July 19 and 20, 2023.

In comparison to the originally filed Official Plan Amendment, the Revised OPA provides further policy direction and policy detail in respect of a number of matters including:

- Reductions to the number of private streets within the site;
- New locations of future public streets within the site;
- Minimum requirements for the widths of existing and future public streets within the site;
- Changes to the phasing approach for the delivery of municipal infrastructure;
- Policies directing the use of Section 51 of the *Planning Act* (subdivision) to implement the provision of municipal infrastructure in order to promote the orderly development of the site;
- The location of park blocks within the site and the timing for their delivery;
- The provision of minimum building setbacks from public realm elements within the site;
- New built form policies regarding the locations of height peak and height valley areas, tower separation, massing, transition, shadow impacts, and the height of mid-rise buildings;
- New policies with respect to heritage conservation of the designated property at 520 Progress Avenue (former Scott House);

- New policies with respect to land use compatibility and mitigation regarding sensitive land uses in proximity to existing industrial lands near the Site and Area Specific Policy area; and
- New policies with respect to planning for future Toronto District School Board schools in the Site and Area Specific Policy area.

The City Solicitor requires further instructions on this matter. This report is about ongoing 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. Public Attachment 1 - Revised Official Plan Amendment, filed by Oxford Properties Group and the owner and operators of Scarborough Town Centre, including OMERS Realty Holdings (STC One) Inc., OMERS Realty Holdings (STC Two) Inc., OMERS Realty Holdings (STC Three) Inc. and ARI STC GP Inc./ARI STC Investments LP on May 16, 2024 with the City Solicitor
2. Confidential Attachment 1 - Confidential Information
3. Confidential Appendix "A" - Confidential Information