TORONTO

STAFF REPORT
ACTION REQUIRED

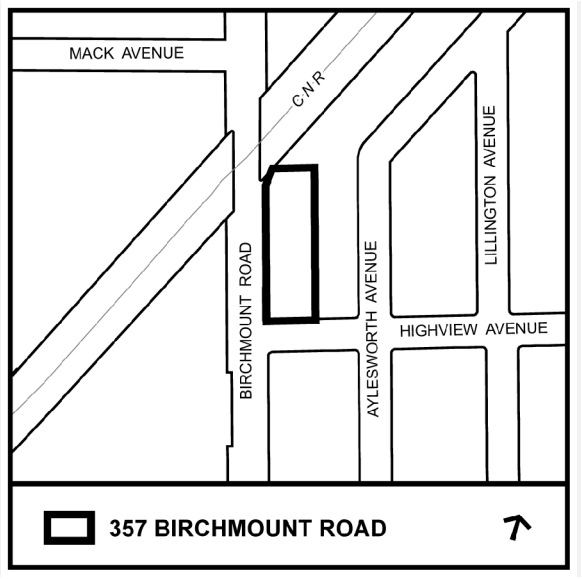
357 Birchmount Road – Zoning Application – Request for Direction Report and Information Report

Date:	July 14, 2014
To:	Scarborough Community Council
From:	Director, Community Planning, Scarborough District
Wards:	Ward No. 36– Scarborough Southwest
Reference Number:	13 203636 ESC 36 OZ

SUMMARY

Habitat for Humanity Toronto Inc. has appealed its Zoning By-law Amendment application to the Ontario Municipal Board (OMB) citing Council's failure to make a decision on the application within the time prescribed by the *Planning Act*. The application seeks to amend the zoning by-law to permit the development of eight (8) semi-detached dwellings and one single detached dwelling on the lands located at the north-east corner of Birchmount Road and Highview Avenue, known as 357 Birchmount Road.

The purpose of this report is twofold, first to seek City Council's direction with respect to the position of the City at the Municipal Board hearing, for which a hearing date has not yet been scheduled; and secondly, to respond to Scarborough Community Council's May 13, 2014 referral motion on the Final Report for Zoning By-law Amendment application 13 203636 ESC 36 OZ which directed that the Director of Community Planning, Scarborough District consider all potential options related to the best use of this site including, but not limited to, a possible land exchange. Refer to the separate but related confidential report from Legal Services on the August 12, 2014



Scarborough Community Council agenda.

It is staff's position that the proposed Zoning By-law Amendment is appropriate. Staff are recommending that the application be supported, subject to the conditions in the Recommendations Section of this report.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council authorize the City Solicitor, and appropriate City staff to attend the Ontario Municipal Board hearing in support of the staff recommendations for the property at the north-east corner of Birchmount Road and Highview Avenue (known as 357 Birchmount Road) as further detailed in the report dated July 14, 2014 from the Director, Community Planning, Scarborough District.

2. City Council support the draft Zoning By-law Amendment contained in Attachments 7 and 8 to the report dated July 14, 2014 from the Director, Community Planning, Scarborough District.

3. City Council authorize the City Solicitor and the Chief Planner and Executive Director, City Planning to continue to work with the applicant on the final form of the draft Zoning By-law Amendments to be presented at the Ontario Municipal Board.

Financial Impact

There are no direct financial implications arising from the recommendations of this report. However, should City Council wish to consider a land exchange or expropriation, there will be associated costs. If so, these would be reported on at the time.

DECISION HISTORY

Zoning By-law Amendment Application

On May 13, 2014 Scarborough Community Council held a Public Meeting to consider a Final Report dated April 14, 2014 for a Zoning By-law Amendment application by Habitat for Humanity Toronto Inc. (HFHT). The Final Report can be found at: http://www.toronto.ca/legdocs/mmis/2014/sc/bgrd/backgroundfile-68694.pdf. The application seeks to amend the zoning by-law to permit the development of eight (8) semi-detached dwellings and one single detached dwelling on the lands located at the north-east corner of Birchmount Road and Highview Avenue, known as 357 Birchmount Road. The report recommends approval of the application and amendments to both the Cliffside Community Zoning By-law and City-wide Zoning By-law No. 569-2013. However, at its May 13, 2014 meeting, Scarborough Community Council referred Planning staff's Final Report back to staff for further review and consideration to be

given to all potential options related to the best use of this site, including, but not limited to, a possible land exchange.

Ontario Municipal Board Appeal

The Zoning By-law Amendment application to permit the development as described in this report, was submitted to the City on July 15, 2013. On June 19, 2014 the City Clerk's office received notification that the applicant filed an appeal to the OMB citing Council's failure to make a decision on the application within the time prescribed by the *Planning Act*.

City's Disposal of Land

In accordance with the City's Real Estate Disposal By-law, No. 814-2007, the lands located at the north-east corner of Birchmount Road and Highview Avenue (357 Birchmount Road) were declared surplus by the City on April 30, 2008. Under the City's Housing First Policy, which enables surplus lands to be provided to non-profit groups for affordable housing, the lands were sold to HFHT for the development of affordable home ownership housing in 2010. The City's Affordable Housing Office consulted with Habitat for Humanity on the suitability of the site for Habitat homes and families, and worked with Real Estate Services to bring forward the staff report pertaining to the sale of the lands. The manner of disposal was by inviting an offer to purchase the property from Habitat for Humanity. At their February 23, 24 and 25, 2009 meeting City Council adopted the sale report and instructed the appropriate City staff to complete the transaction on behalf of the City. City Council's decision can be found at the following address: http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2009.EX29.21

Home Ownership Assistance Program (HOAP)

At its meeting of July 16, 17, 18 and 19, 2013, City Council adopted EX33.36 Assisting New Home Owners - Affordable Home Ownership Assistance Program Allocations 2013. One of the recipients of the Home Ownership Assistance Program (HOAP) funding addressed by this report was 357 Birchmount Road, owned by HFHT. HOAP funds help offset City fees and charges for non-profit groups, and the savings are then passed onto eligible home purchasers in the form of forgivable down payment assistance loans to make the homes more affordable. City Council's decision can be found at the following address:
http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.EX33.36

HFHT's development at 357 Birchmount Road was approved for additional funding by City Council at their June 10, 2014 meeting with the adoption of EX42.18, Home Ownership Assistance Program Adjustments. This report increased HOAP funding for a number of non-profit affordable home ownership developments to keep up with rising City fees and charges. The decision can be found at the following addresss:
http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.EX42.18.

ISSUE BACKGROUND

Proposal

This application proposes to amend the Cliffside Community Zoning By-law, as amended, and the new City-wide Zoning By-law, as amended, to permit the development of 9 dwelling units, comprised of 8-semi detached dwellings and one single-detached dwelling on the subject lands. Specific development standards related to the development are also proposed. The development is intended to become a future standard condominium.

The overall number of units has not changed since the Preliminary Report, however, there have been some alterations to the proposed site design. The key changes include:

- an increase in the total number of on-site visitor parking spaces, from two spaces to four spaces;
- a slightly altered driveway design which removes the proposed offset hammerhead;
- the addition of a 16 square metre (4 m x 4 m) garbage enclosure just north of the single-detached dwelling. This modification means that City Waste Services vehicles will not have to enter the site to collect solid waste material, instead garbage will be picked up at the curb from Highview Avenue;
- the proposed building setback of the building closest to Highview Avenue has increased from1.2 metres to 2.4 metres;
- the setbacks between buildings has increased from 2.5 metres to 3 metres;
- the building setback of the single-detached dwelling from the rail line has decreased from just under 30 metres to 25 metres;
- a reduction in size of the proposed building footprint of the detached dwelling and increase in its height from one-storey to two-storeys; and,
- the shared outdoor amenity space at the north end of the site has been reduced to approximately 570 square metres.

Refer to Attachment 1: Site Plan, Attachment 2: Elevations, Attachment 3: Landscape Plan and Attachment 6: Application Data Sheet.

Site and Surrounding Area

The subject lands are located at the north-east corner of Birchmount Road and Highview Avenue. The site is 0.346 hectares (0.86 acres) in size, and has 33.39 metres (109 feet) of frontage on Highview Avenue, and approximately 92.7 metres (304 feet) along Birchmount Road. Birchmount Road extends over the GO/Metrolinx rail line immediately north of the site, and consequently the site slopes downward from (west) Birchmount Road to east. The grade is lowest at the south end of the site, and rises approximately 4 metres (13 feet) close to the north end of the site. The remainder of the site is relatively flat, and slopes gently at the south-east corner of the site towards Highview Avenue.

The site is currently vacant, and is vegetated with sod, along with several trees of various size located close to the east property line, the largest of which is a 91 cm (36 inch) calliper Sugar Maple. The site has been vacant since approximately 1959 when 5 existing dwellings were demolished to make way for a widened Birchmount Road and four lane bridge over the railway tracks immediately to the north. The lands were used as a staging area during bridge construction which also included a temporary pedestrian bridge across the railway.

Abutting land uses include:

North:	GO/Metrolinx rail line, and employment uses north of the rail line.
East:	One and two-storey detached residential dwellings.
West:	Employment uses, several detached residential dwellings, and an automotive repair operation.
South:	Fire Hall No. 1, which is a designated heritage property, and one and two-storey detached residential dwellings.

Provincial Policy Statement and Provincial Plans

The Provincial Policy Statement (PPS), 2014 provides policy direction on matters of provincial interest related to land use planning and development. These policies support the goal of enhancing the quality of life for all Ontarians. Key policy objectives include: building strong healthy communities; wise use and management of resources and protecting public health and safety. The PPS recognizes that local context and character is important. Policies are outcome-oriented, and some policies provide flexibility in their implementation provided that provincial interests are upheld. City Council's planning decisions are required to be consistent with the PPS.

The Growth Plan for the Greater Golden Horseshoe provides a framework for managing growth in the Greater Golden Horseshoe including: directions for where and how to grow; the provision of infrastructure to support growth; and protecting natural systems and cultivating a culture of conservation.

City Council’s planning decisions are required by the *Planning Act*, to conform, or not conflict, with the Growth Plan for the Greater Golden Horseshoe.

Official Plan

The subject lands are designated as *Neighbourhoods* in the Official Plan. *Neighbourhoods* consist of generally low-scale residential buildings, as well as community uses, parks, schools and small-scale stores to serve the needs of area residents. These areas are physically stable areas providing for a variety of lower-scale residential uses. Policies and development criteria aim to ensure that physical changes to established neighbourhoods be sensitive, gradual and generally “fit” the existing physical character.

Section 4.1.9 relates to policies for infill development for properties that vary from the local pattern in terms of lot size, configuration and/or orientation and requires that development will:

- have heights, massing and scale appropriate for the site and compatible with that permitted by the zoning for adjacent and nearby residential properties;
- provide adequate privacy, sunlight and sky views for residents of new and existing buildings by ensuring adequate distance and separation between building walls and using landscaping, planting and fencing to enhance privacy where needed;
- front onto existing or newly created public streets wherever possible, with no gates limiting public access; and,
- locate and screen service areas and garbage storage to minimize the impact on existing and new streets and residences.

Housing policies are contained in Section 3.2.1. Adequate and affordable housing is a basic requirement for everyone. This requirement is necessary for the City's quality of life, economic competitiveness, social cohesion, and it balance and diversity. These policies state that:

- A full range of housing, in terms of form, tenure and affordability, across the City and within neighbourhoods, will be provided and maintained to meet the current and future needs of residents. This includes affordable and mid-range rental and ownership housing;
- The existing stock of housing will be maintained and replenished. New housing supply will be encouraged through intensification and infill that is consistent with this plan; and,
- Where appropriate, assistance will be provide to encourage the production of affordable housing either by the City itself or in combination with senior government programs and initiatives, or by senior governments alone. Municipal assistance may include…in the case of affordable ownership housing provided on a long term basis by non-profit groups, especially affordable low rise family housing, measures such as land at or below market rate, fees exemption and other appropriate forms of assistance.

The Healthy Neighbourhoods policies of the Official Plan, contained in Section 2.3.1, state that *Neighbourhoods* are considered to be physically stable areas. Development within *Neighbourhoods* will be consistent with this objective and will respect and reinforce the existing physical character of buildings, streetscapes and open space patterns in these areas.

The Built Form policies of the Official Plan, contained in Section 3.1.2, provide a number of policies related to the form of new development, recognizing that for the most part future development will be built on infill and redevelopment sites and will need to fit in, respecting and improving the character of the surrounding area. Among other things, these policies require that new development will:

- be located and organized to fit with its existing and/or planned context. It will frame and support adjacent streets, parks and open spaces to improve the safety, pedestrian interest and casual views to these spaces;
- locate and organize vehicle parking, vehicular access, service areas and utilities to minimize their impact on the property and on surrounding properties and to improve the safety and attractiveness of adjacent streets, parks and open spaces; and,
- be massed and its exterior face will be designed to fit harmoniously into its existing and/or planned context, and will limit its impact on neighbouring streets, parks, open spaces and properties.

The Official Plan is available on the City's web site at:
http://www.toronto.ca/planning/official_plan/introduction.htm

Zoning

The site is subject to both the Cliffside Community Zoning By-law No. 9364 , as amended, and the new City-wide Zoning By-law No. 569-2013, as amended.

The Cliffside Community Zoning By-law zones the lands both Single Family Residential (S) and Two-Family Residential (T).

Permitted uses within the Single Family Residential Zone include Single-Family Dwellings, Group Homes and Correctional Group Homes. Ancillary uses permitted include Domestic or Household Arts and Private Home Day Care.

Permitted uses within the Two-Family Residential Zone are the same as those for the (S) zone, with the addition of Two-Family Dwellings.

The City-wide Zoning By-law No. 569-2013 zones the lands Residential Semi-Detached (RS). Permitted building types include both detached homes and semi-detached homes. Permitted uses include dwelling units and parks, along with a variety of other uses that may be permitted if the use complies with specific conditions as set out in the zoning by-law. City-wide Zoning By-law No. 569-2013 may be viewed on line at the following address: http://www.toronto.ca/zoning/

Site Plan Control

The proposed form of development is not subject to site plan control. A site plan control application is not required for the development of the proposed semi-detached and single detached dwellings. Site landscaping features will be secured by way of a draft plan of condominium, to be submitted subsequent to approval of the subject zoning amendment application.

Reasons for Application

The purpose of the application is to permit nine (9) dwelling units on one lot or parcel whereas the Cliffside Community Zoning By-law permits only one dwelling per parcel, and Zoning By-law No. 569-2013 permits a maximum of one residential building on a lot in an RS (Residential Semi-Detached) Zone. The amendment also seeks to establish performance standards to enable the proposed use.

Community Consultation

Two community consultation meetings have taken place with respect to this proposal. The first was organized by Councillor Crawford and took place on April 22, 2013, prior to the submission of the Zoning By-law Amendment application. The meeting was attended by approximately 20 people.

The issues that were raised at that meeting included:

- concerns regarding use of the lands for any form of development, as this represents a loss of green space for the area;
- the intensity and form of development;
- the worsening of parking and traffic safety issues which exist in the area;
- provision of appropriate landscaping and buffering of the development from adjacent detached residential homes;
- servicing; and,
- the impact on the community during construction.

The second community consultation meeting, which was arranged by Planning staff, was held on November 7, 2013 and was attended by approximately 30 members of the public. City Planning, Transportation Services and Engineering and Construction Services staff along with the applicant, the Ward Councillor and his staff were in attendance.

There were a number of issues raised at the meeting, and by individuals who have sent in comments about this application. The key issues include:

- The City's sale of the lands to Habitat for Humanity, residents did not have an opportunity to purchase the lands;
- The loss of green space, which is considered a community feature and asset;
- Intensity of development;
- Development does not fit with the community;
- Obtrusiveness of the proposed development to existing homes backing onto the site;
- Site Design – impact of trucks and noise from driveway;
- Traffic and parking problems in the area, and the additional traffic and parking needs generated by this proposal; and,
- Existing sewage back-up problems in the area and the potential that additional development will worsen the problem.

The community has provided two separate signed petitions, the first of which was provided to staff shortly after the November 7, 2013 community consultation meeting, and the second of which was provided to staff in early April 2014. Collectively these two petitions include approximately 275 signatures. Community members have also used social media to organize and identify their opposition to the proposal, including a facebook page, and on-line petition which has received over 100 signatures, including individuals that live outside of the community. The petitions identify the following issues:

- Loss of green space, green vista and trees – in particular the large, healthy Sugar Maple;
- Decrease in property values and increases in property taxes;
- Construction impacts including noise, vibration, structural damage to existing homes, disruption of services, tearing up of roads, dust and mud on road;
- Parking;
- Privacy impacts on adjacent residential dwellings, including loss of natural light, and peaceful quiet enjoyment;
- Concerns regarding potential expansion of the proposal; and,
- Inappropriate size of site to accommodate proposed development, overcrowding, health and safety, increased pollution, noise and traffic issues, and unwanted burdens upon the community at large.

This report addresses planning related issues raised by the community and have been used to assist in the formulation of appropriate By-law standards.

Agency Circulation

The application was circulated to all appropriate agencies and City divisions. Responses received have been used to assist in evaluating the application and to formulate appropriate By-law standards.

COMMENTS

Provincial Policy Statement and Provincial Plans

The proposal is consistent with the 2014 PPS. Among other matters, the PPS encourages healthy, liveable and safe communities that are sustained by efficient development and land use patterns, accommodating an appropriate range and mix of residential uses which includes affordable housing, promoting cost-effective land use patterns and standards to minimize land consumption and servicing costs, as well as those which conserve biodiversity and consider the impacts of a changing climate.

The proposal conforms and does not conflict with the Growth Plan for the Greater Golden Horseshoe. The guiding principles of the Growth Plan, include among others, to build compact, vibrant and complete communities; to protect, conserve, enhance and

wisely use the valuable natural resources of land, air and water for current and future generations; and to optimize the use of existing and new infrastructure to support growth in a compact, efficient form. The Growth Plan's General Intensification Policies also require municipalities to develop and implement through their official plans and other supporting documentation, a strategy and policies to phase in and achieve intensification and intensification targets including a plan for a range and mix of housing, taking into account affordable housing needs.

Affordable Housing

Affordable housing policies exist in Provincial Policy legislation and in the Official Plan. Provision of affordable housing is considered to be an objective for the creation of healthy, liveable and safe communities. The 2014 Provincial Policy Statement contains newly expanded policy statements relating to "accommodating an appropriate range and mix of residential (including second units, affordable housing and housing for older persons).." The City of Toronto has, since adopting the *Final Report of the Mayor's Homelessness Action Task Force* in 1999, taken action to encourage the production of new rental housing, including more affordable rental housing, including a "housing first" policy for surplus municipal lands.

The City of Toronto's Affordable Housing Action Plan 2010 - 2020, Housing Opportunities Toronto, has eight strategic themes including supporting affordable rental and ownership housing and non-profit community groups such as Habitat for Humanity.

The Official Plan recognizes that current and future residents must be able to access and maintain adequate, affordable and appropriate housing. In that regard policies exist, in Section 3.2.1, to enable a full range of housing, to maintain and replenish the existing housing stock through intensification and infill. Appropriate assistance will be provided to encourage the production of affordable housing either by the City itself or in combination with senior government programs and initiatives. In the case of affordable ownership housing measures such as the sale of land at or below market rate, fee exemptions and other appropriate forms of assistance can be considered.

This proposal is for the creation of nine such affordable housing units, by Habitat for Humanity, which on an international basis has built, rehabilitated, repaired or improved more than 600,000 dwelling units for more than 3 million people.

This proposal addresses the City's objective to create more affordable ownership housing.

Land Use

The subject lands are designated as *Neighbourhoods* in the Official Plan. Given the site's orientation and configuration it is not possible to provide the same site standards and pattern of development as exists in the neighbourhood. The Official Plan, however, contains specific policies for infill development on lots such as this.

Policy 4.1.9 of the Official Plan, requires that infill development on properties that vary from the local pattern in terms of lot size, configuration and/or orientation in established *Neighbourhoods* will: have heights, massing and scale appropriate for the site and compatible with that permitted by the zoning for adjacent and nearby residential properties; will provide adequate privacy, sunlight and sky views for residents of new and existing buildings by ensuring adequate distance and separation between building walls and using landscaping, planting and fencing to enhance privacy where needed; will front onto existing or newly created public streets whenever possible, with no gates limiting public access; and, will locate and screen service areas an garbage storage to minimize the impact on existing and new streets and residences.

Staff have evaluated this proposal against these policies and find that the proposed land use is consistent with these policies as well as with the Healthy Neighbourhood and Built Form policies of Sections 2.3.1 and 3.1.2 respectively.

Density, Height, Massing

The proposed development is for a total number of 9 dwelling units, comprised of 8 semi-detached dwelling units and 1 single detached dwelling unit on a site having a total lot area of 0.346 hectare (0.86 ha). This represents an overall density of 26 units per hectare. The proposed density is comparable to the existing density of the neighbourhood. The overall number of units is fewer than the number of dwelling units that directly abut the site on Aylesworth Avenue, when comparing the overall length of the site versus the same area on Aylesworth Avenue. Staff are satisfied that the number of dwelling units is appropriate for the site, and are recommending a maximum cap of 9 dwellings in the zoning by-law.

The proposed building heights, in accordance with the definition of height in both the Cliffside Community Zoning By-law and in City-wide Zoning By-law No. 569-2013, are 9 metres for all but the proposed single detached unit, which is proposed to have a height of 9.8 metres. Existing zoning permissions allow a maximum of 9 metres and two-storeys, excluding basements. The proposed 9.8 metre building height for the detached unit is supportable as the two-storey maximum will be maintained and all buildings, including the detached unit, will be setback 14 metres from the east property line, and a 1.7 metre landscape strip is being provided along the entire east property line.

The proposed dwelling units will front onto Birchmount Road and will maintain the existing building setback requirement from Birchmount Road, being a minimum of 22 metres from the centreline of the original road allowance.

A side yard building setback from Highview Avenue of 2.4 metres is proposed, which is consistent with existing zoning provisions for single detached dwellings in the "S" zone of the Cliffside Community Zoning By-law, and with the requirements of City-wide Zoning Bby-law No. 569-2013.

Staff recommends that a minimum 3 metre separation distance between buildings on the site be implemented as illustrated Attachment 1: Site Plan. This setback is greater than the existing requirement of 1.2 metres from a building wall to property line condition in City-wide Zoning By-law No. 569-2013.

A minimum 30 metre building setback is recommended to the north property line. Due to the alignment of the abutting GO/Metrolinx rail line, this will result in the single-detached dwelling having a building setback of 25 metres from the rail line. GO/Metrolinx staff have reviewed this proposed setback and are satisfied that it is acceptable in this condition.

A rear yard building setback (to the east property line) of 14 metres is proposed. This exceeds the rear yard building setback that is required by both the Cliffside Community Zoning By-law and City-wide Zoning By-law No. 569-2013, which require 7.5 metres and 8.4 metres, respectively, and together with the 1.7 metre landscape strip along the east property line, provides an appropriate transition to the neighbourhood to the east.

The cap on the overall number of dwelling units and building heights together with the proposed building setbacks results in restrictions on building massing that are considered to be appropriate for the site and compatible with the neighbourhood.

Tree Preservation and Plantings

The applicant has submitted a Tree Inventory and Preservation Plan and an arborist report, which indicates there are three private trees that are protected under the City of Toronto's Tree Protection By-law. These include a Sugar Maple having a caliper of 91 cm, a Norway Maple having a caliper of 39 cm, and a Manitoba Maple having a caliper of 28-59 cm. An application to injure or destroy trees has been made to the Urban Forestry – Tree Protection and Plan Review group, they are processing the application. A permit for removal or injury has not been issued.

Urban Forestry staff are recommending a total of 16 large growing shade trees to compensate for the proposed removal of the aforementioned three trees. Their standard replacement ratio is 3:1, which will be required to replace the Norway Maple and Manitoba Maple, however, a replacement ratio of 10:1 is suggested for the Sugar Maple.

The applicant has submitted a landscape plan (refer to Attachment 3: Landscape Plan), which illustrates proposed replacement tree plantings. Urban Forestry staff have no objection to the proposed Zoning By-law Amendment application on the understanding that prior to approval of any subsequent building applications, all tree issues are addressed. This includes, among other things, satisfactory review of any proposed landscape plan. Further review of any landscaping plan will also be required through the future condominium application, so that tree plantings along with other landscaping including shrubbery, walkways and fencing will be formally secured.

Open Space/Amenity Area

The Official Plan contains policies to ensure that Toronto's system of parks and open spaces are maintained, enhanced and expanded. Map 8B of the Toronto Official Plan shows the local parkland provisions across the City. The lands which are the subject of this application are in an area with 0.8 to 1.56 hectares of local parkland per 1,000 people. The site is in the third highest quintile of current provision of parkland. The site is not subject to the Alternative Parkland Dedication By-law, but is subject to a 5% residential parkland dedication rate through the City Wide Parkland Dedication By-law No. 1020-2010. At the parkland dedication rate of 5% as specified in By-law 1020-2010, the parkland dedication would be 0.017 hectares (170 m^2).

The applicant is required to satisfy the parkland dedication through a cash-in-lieu payment. The parkland dedication for the subject site is too small to be functional. The actual amount of cash-in-lieu to be paid will be determined at the time of issuance of the building permit. This parkland payment is required under Section 42 of the *Planning Act*, and is required as a condition of the building permit application.

As noted previously, the subject lands were formerly owned by the City of Toronto, were declared surplus by the City, and sold to Habitat for Humanity for the purpose of providing affordable housing. The fact that lands were not retained by the City and kept in their current green/open space form is one of the key concerns for the residents of the area. The lands are designated *Neighbourhoods* in the Official Plan, which permits both development of low scale residential uses as well as parkland, among other uses. The City's Official Plan contains policies which regulate disposal of City owned lands, these policies, however, do not apply to the subject lands as these lands are not designated *Parks and Open Space Areas*, nor part of the Green Space System on Map 2. Consequently, the proposed use does not conflict with the policies of the Official Plan with regard to disposal of parkland.

The closest existing park space in the surrounding area includes Birchcliff Woods, located approximately 260 metres south of the subject lands, Highview Park, located approximately 500 metres east of the subject lands, and Birchmount Park and Stadium, located approximately 530 metres south of the subject lands.

The proposed development includes an area of approximately 570 square metres at the north end of the site as common amenity area for future owners as well as small outdoor amenity areas at the back of each of the units, facing the common driveway. The draft Zoning By-law Amendment includes a performance standard to secure the northern common amenity area for the purpose of establishing a common landscaped area.

Traffic Impact, Access, Parking

Vehicular access for this development is proposed via a 6 metre wide private driveway that is accessed from Highview Avenue. One parking space is proposed at the rear of each dwelling unit, and four visitor parking spaces are proposed at the north end of the driveway. This design was proposed after consideration of the issues relating to traffic

that were raised by the community. It differs from the original proposal by removing the offset hammerhead at the northern terminus of the driveway, and by increasing the total number of proposed visitor parking spaces from 2 to 4. Refer to Attachment 1 – Site Plan.

To further reduce the impact of vehicular traffic on the proposed driveway, the applicant has proposed the addition of a 16 square metre (4 m x 4 m) garbage enclosure just north of the proposed dwellings. This modification means that City Waste Services vehicles will not have to enter the site to collect solid waste material. Instead garbage will be transported to the Highview Avenue curb by a designated person and be picked up at the curb by the City. City Solid Waste Services staff are satisfied with this proposal. A performance standard is recommended in the draft Zoning By-law Amendment that requires all waste and recyclable material to be stored in a wholly enclosed building.

The proposed driveway access point on Highview Avenue is satisfactory to Transportation Services staff, and allows buses using the existing TTC stop along Highview Avenue sufficient stopping distance without blocking the proposed driveway access.

Transportation Services staff are satisfied a traffic study was not required as the proposed number of dwelling units did not warrant a specific study. They are also satisfied with the number of parking spaces proposed for the development.

In response to traffic concerns raised at the November 7, 2013 community consultation meeting and at the request of Councillor Crawford, a Pedestrian Crossover Warrant Study and Traffic Control Warrant Study was undertaken by Transportation Services Operations staff. Their study was completed in January 2014 and concluded that technical warrants for the installation of traffic control signals or a pedestrian crossover are not met and therefore not required.

Noise and Vibration

The applicant has submitted a Noise and Vibration Study in support of the application. The study reviewed road traffic data and rail traffic data to predict future traffic sound levels at the locations of the proposed building facades. The study has concluded that sound level predictions indicate that the future road and rail traffic sound levels will exceed Ministry of the Environment noise guidelines at all the residential units within the development. The study recommends that central air conditioning units and upgraded building construction and glazing construction be required for all units. It also recommends warning clauses to inform future residents of the traffic noise impacts.

The study has determined that measured ground-borne vibration levels are below Ministry of the Environment and CN guidelines for train passbys at the location of the closest residential dwelling façade and that vibration mitigation is not required for this development.

Questions and concerns regarding the potential impact of construction noise and vibration impacts have been raised by the community. The City of Toronto Municipal Code regulates noise, and in regard to construction noise regulates the hours of construction in residential areas. City of Toronto By-law No. 514-2008 regulates vibration impacts, which among other things, includes requirements for a monitoring program to measure variances in the vibration levels before and during construction activities which must be verified by a professional engineer, and also requires notice to landowners within the zone of influence one week prior to construction, as well as a complaint process.

Servicing

The applicant has submitted a Functional Servicing Report and related Servicing Drawings in support of the proposal. The report and associated drawings have been reviewed by relevant divisions, including Engineering and Construction Services. The applicant will be required to construct the required municipal infrastructure improvements in accordance with the accepted drawings and to pay for the municipal infrastructure improvements and make necessary arrangements with Engineering and Construction Services to carry out the work.

Toronto Green Standard

On October 27, 2009 City Council adopted the two-tiered Toronto Green Standard (TGS). The TGS is a set of performance measures for green development. Tier 1 is required for new development. Tier 2 is a voluntary, higher level of performance with financial incentives. Achieving the Toronto Green Standard will improve air and water quality, reduce green house gas emissions and enhance the natural environment.

The applicant is required to meet Tier 1 of the TGS.

Tenure

The proposed tenure of the development is a standard condominium. An application for condominium approval has not yet been submitted. Staff will endeavour to secure landscape improvements for the development through the condominium application process, including tree and shrubbery plantings, walkways and privacy fencing among other things, as generally illustrated in Attachment 3: Landscape Plan.

Referral Motion

Scarborough Community Council, at its May 13, 2014 meeting, made the following decision in consideration of the Final Report dated April 14, 2014 for the Zoning By-law Amendment application at 357 Birchmount Road:

"Referred this item back to the Director, Community Planning, Scarborough District, for further review with consideration being given to all potential options related to the best use of this site, including, but not limited to, a possible land exchange."

In response to this motion, City Planning staff along with staff from Real Estate Services, Legal, Parks, Forestry and Recreation, and the City's Affordable Housing Office have worked together to consider all potential options related to the best use of the site.

Staff have considered two possible options:

1. Land Exchange; and,
2. Expropriation.

The findings of a possible land exchange are discussed below and issues of expropriation are discussed in a separate report from Legal Services to be considered on the August 12, 2014 Scarborough Community Council agenda.

Option 1: Land Exchange

Community Concerns

The subject application has met with concerns and opposition from the local community. Residents were in attendance at the May 13, 2014 Scarborough Community Council Public Hearing and spoke about their concerns, as well there were also a number of communications on the agenda in this respect.

In consideration of the concern to leave the lands as an undeveloped green space, and Scarborough Community Council's referral motion, staff have reviewed the list of currently permitted uses and have determined that the only use from the list of permitted uses that would achieve this objective is parkland.

Permitted Uses

As noted earlier in this report, the site is subject to both the Cliffside Community Zoning By-law No. 9364 , as amended, and the new City-wide Zoning By-law No. 569-2013, as amended, both of which permit the proposed residential use. The Zoning By-law Amendment application does not seek any changes to the existing use permissions, nor does staff recommend changes to the land use in the April 14, 2014 Final Report.

The Cliffside Community Zoning By-law zones the lands both Single Family Residential (S) and Two-Family Residential (T).

Permitted uses within these zones include:

- Single-Family Dwellings;
- Two-Family Dwellings (T zone only);
- Group Homes; and,
- Correctional Group Homes.

Ancillary uses permitted include:

- Domestic or Household Arts; and,

- Private Home Day Care.

Uses permitted in all zones include:

- public park;
- public street;
- public and separate schools within the meaning of the Public and Separate Schools Acts for the Province of Ontario; and,
- structures essential to the operation of Public Utilities.

The City-wide Zoning By-law No. 569-2013 zones the lands Residential Semi-Detached (RS). Permitted building types include:

- detached homes; and,
- semi-detached homes.

Permitted uses include:

- Dwelling Unit in a permitted residential building type; and,
- Park.

Permitted uses with conditions include:

- Ambulance Depot;
- Cogeneration Energy;
- Community Centre;
- Day Nursery;
- Fire Hall;
- Group Home;
- Home Occupation;
- Library;
- Municipal Shelter;
- Place of Worship;
- Police Station;
- Private Home Daycare;
- Public Utility;
- Renewable Energy;
- Secondary Suite;
- Seniors Community House; and,
- Transportation Use.

Provision of Parkland

The City Division responsible for provision of open space is the Parks, Forestry and Recreation Division. Parks staff were originally consulted as part of the review of the development application, and indicated that the applicant would be required to satisfy the parkland dedication requirements in accordance with Section 42 of the *Planning Act*, through a cash-in-lieu payment. The parkland dedication for the subject site is too small

to be functional. The actual amount of cash-in-lieu to be paid would be determined at the time of issuance of the building permit.

The Development Applications Unit of the Parks, Forestry and Recreation Division have again reviewed the option of acquiring the subject property as parkland and have advised that the subject land is not a flat programmable property and is heavily sloped making it an undesirable location for a park.

In addition, they note that there are two City owned parks within 500 metres of the subject site:

- Highview Park, located approximately 500m to the East, is a 5.1 hectare park which features a lit ball diamond, a lit multipurpose sports field, a splash pad and a children's playground.

- Birchcliff Woods, located approximately 260 metres to the south, is a 1.33 hectares (3.3 acres) passive use park, and consists of a treed ravine which is protected by the Ravine and Natural Feature By-law. At their meeting of July 8, 2014 City Council authorized the closure of these lands, which comprised the untraveled portions of Lillington Avenue and Danforth Road. The report recommended that the untraveled portions of these roads in the block bounded by Birchmount Road, Pinegrove Avenue, South Woodrow Boulevard and Danforth Avenue be permanently closed and transferred to Parks, Forestry and Recreation. The decision can be found at the following link: http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.SC33.2.

As noted previously, the development parcel is located in the third highest quintile of parkland per 1,000 people.

Land Exchange

An evaluation of City-owned land within the Scarborough District, including parkland, has been made by staff in the Real Estate Division and Parks, Forestry and Recreation Division in consideration of a possible land exchange. The purpose of this exchange would be to find an alternative site where the applicant can derive the same number and type of dwelling units currently proposed at 357 Birchmount Road, or a higher yield. The parameters of their consideration included:

- a site adjacent to or near a residential built form;
- a site of equivalent or greater size than 2,885.1 square metres;
- a review of the declare surplus list, eliminating any lands that have a municipal requirement, such as a need for operational purposes such as lands in Toronto Water's jurisdiction;
- identifying surplus lands in Real Estate Services' jurisdiction;

- identifying surplus lands in Ward 36, then surplus lands in other east-end Wards; and,
- identifying surplus lands in Parks, Forestry & Recreations' jurisdiction.

On this basis a list of five potential sites was developed.

This list was further evaluated on a preliminary basis by City Planning staff based on a review of the following criertion:

- Official Plan;
- Existing zoning;
- Archaeological potential;
- Ravine Protection By-law;
- TRCA regulation limit;
- Previous development applications or Planning Area Study;
- Adjacent uses including built form;
- Built form within the neighbourhood;
- Existing Trees; and,
- Site Constraints.

Each of the five sites identified by Real Estate Services and Parks, Forestry and Recreation Division staff, and reviewed in a preliminary fashion by City Planning staff, have some form of constraint. Either they do not permit residential development or the same form of residential development proposed by the subject Zoning By-law Amendment application, or they are constrained by environmental features, both natural or man-made (such as trees, topography or rail lines). Furthermore, Habitat for Humanity staff have advised that should a land exchange occur they would need to be compensated for their considerable staff and consultant services, among other costs. On the basis of these considerations, City Planning staff have determined that none of the five sites are appropriate candidates for a possible land exchange.

Option 2: Expropriation

Refer to the separate but related confidential report from Legal Services on the August 12, 2014 Scarborough Community Council agenda.

Conclusion

It is staff's position that the proposed Zoning By-law Amendment is appropriate. Staff are recommending that the zoning amendment application be supported, subject to the conditions in the Recommendations Section of this report.

City staff have undertaken a review of possible City-owned lands within the Scarborough District that may be suitable for exchange with the subject site with the objective of

retaining the subject lands as an undeveloped park space. City Planning staff have completed a preliminary review of these sites and have determined that in consideration of existing policy and site constraints, that none of the potential sites proposed by Real Estate Services and Parks, Forestry and Recreation staff are appropriate for consideration of a land exchange.

CONTACT

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Fax No. (416) 396-4265
E-mail: areaney@toronto.ca

SIGNATURE

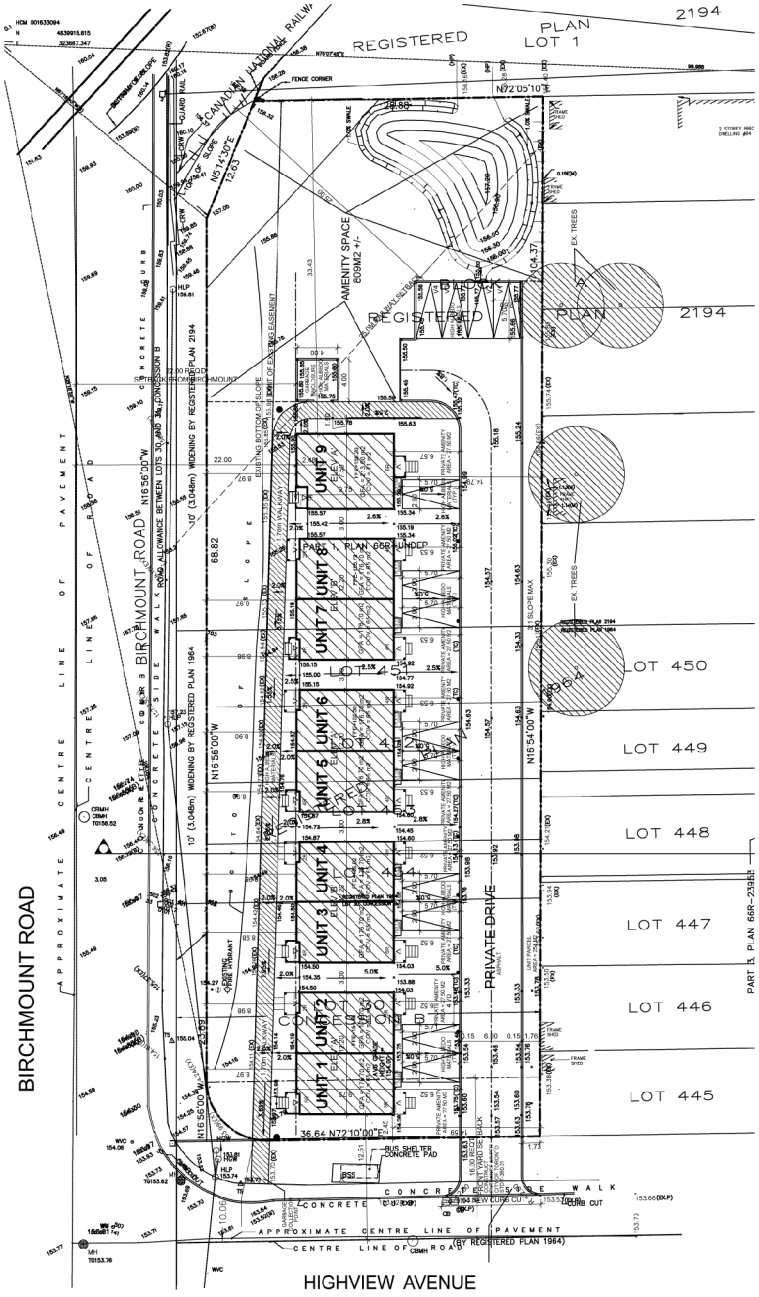
_____

Raymond David, Director
Community Planning, Scarborough District

ATTACHMENTS

Attachment 1: Site Plan
Attachment 2: Elevations
Attachment 3: Landscape Plan
Attachment 4: Zoning – Cliffside Community Zoning By-law
Attachment 5: Zoning – City wide Zoning By-law 569-2013
Attachment 6: Application Data Sheet
Attachment 7: Draft Zoning By-law Amendment - Cliffside Community Zoning By-law No. 9364)
Attachment 8: Draft Zoning By-law Amendment – Zoning By-law No. 569-2013

Attachment 1: Site Plan



Site Plan

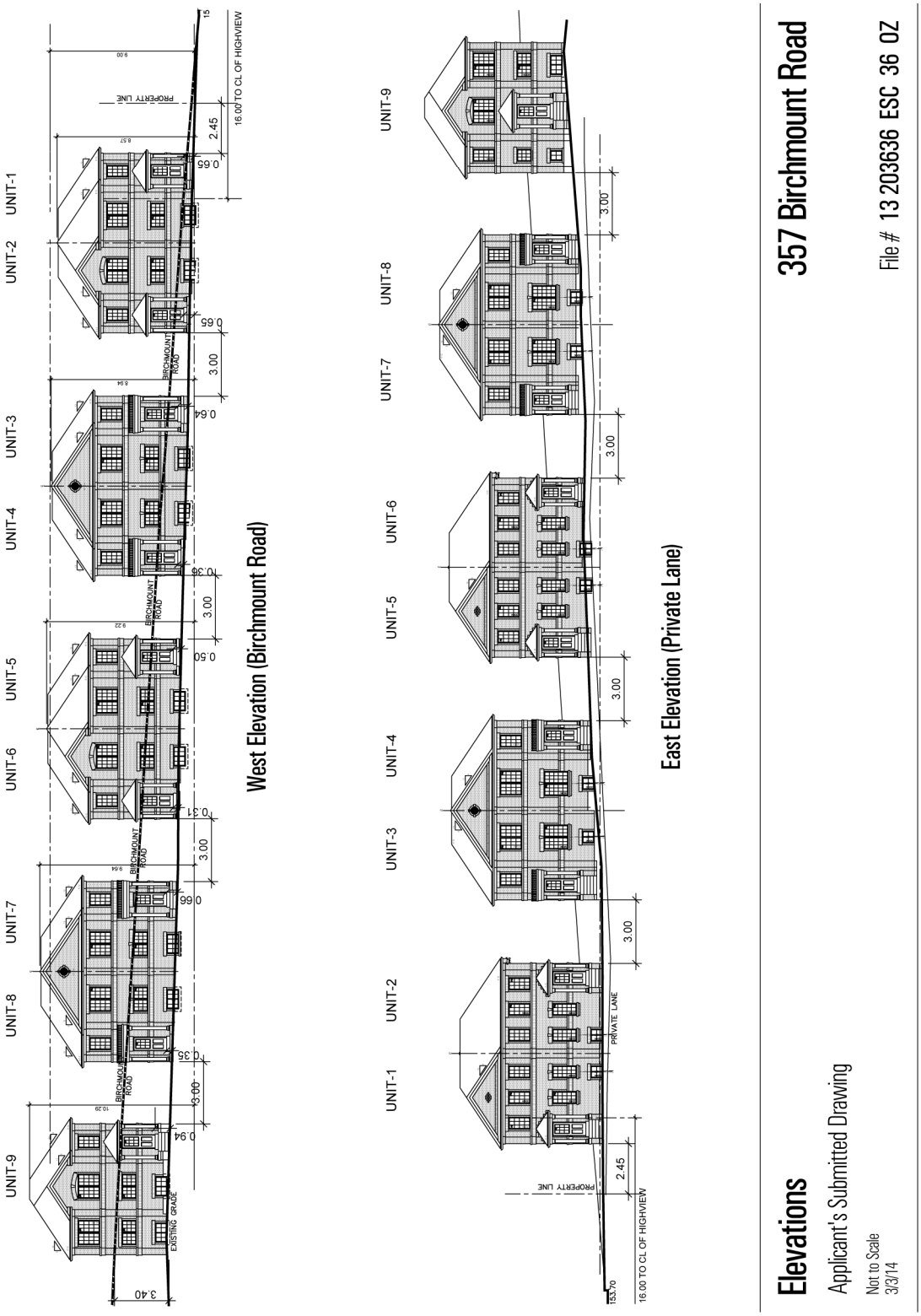
Applicant's Submitted Drawing

Not to Scale
3/3/14

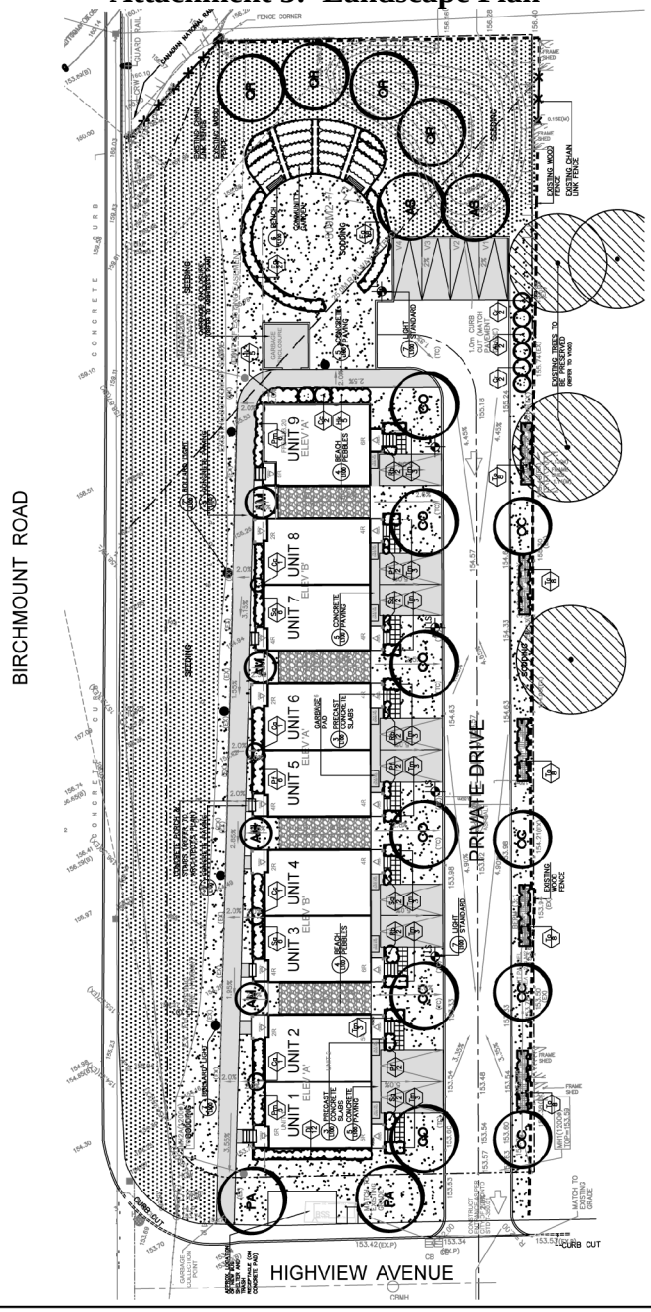
357 Birchmount Road

File # 13 203636 ESC 36 OZ

Attachment 2: Elevations



Attachment 3: Landscape Plan



Landscape Plan

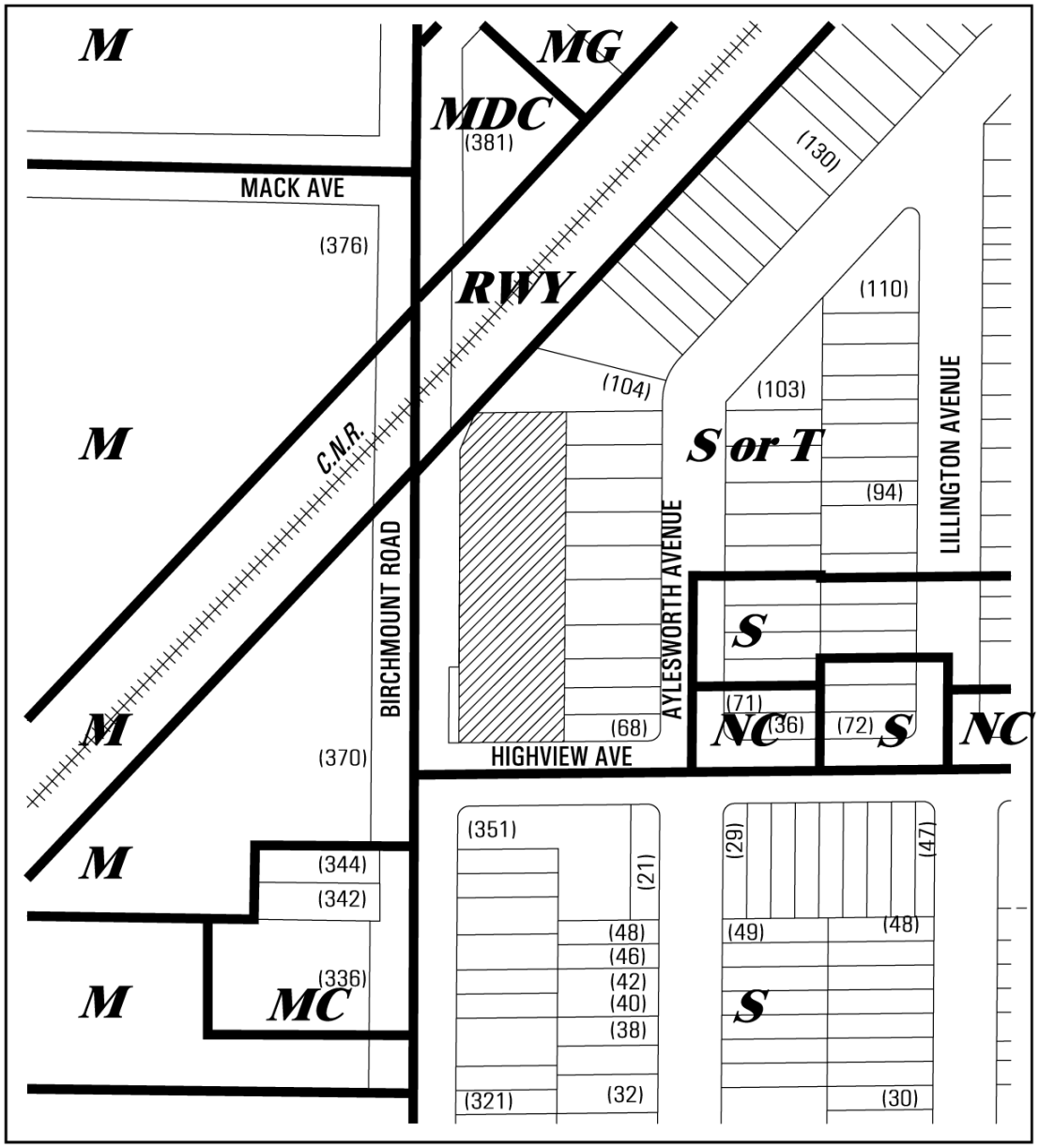
Applicant's Submitted Drawing

Not to Scale
4/15/14

357 Birchmount Road

File # 13 203636 ESC 36 OZ

Attachment 4: Zoning – Cliffside Community Zoning By-law



TORONTO City Planning
Zoning Cliffside Community and Birchmount Park & Oakridge Employment Districts

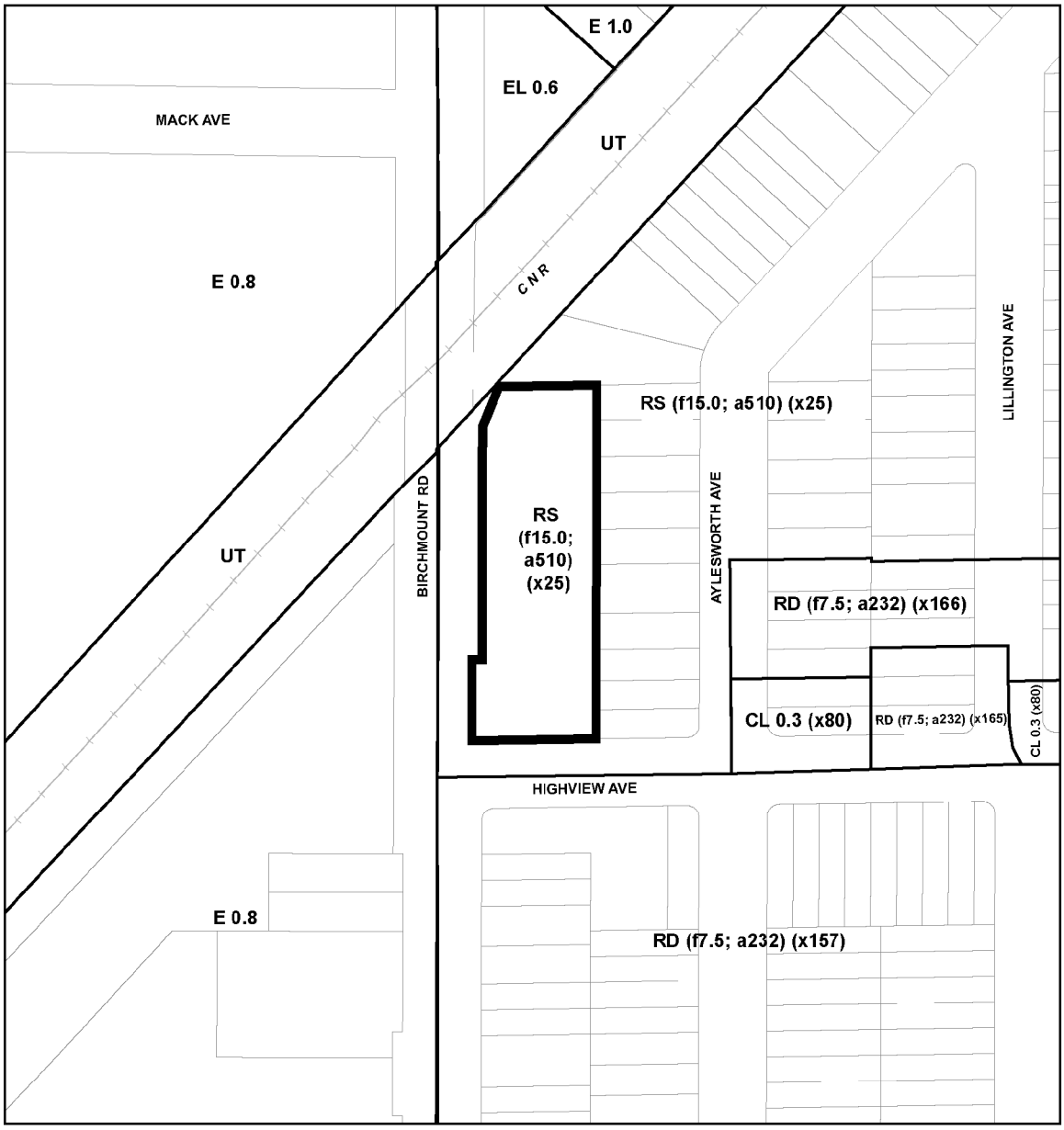
357 Birchmount Road
File # 13 203636 ESC 36 OZ

Location of Application

Not to Scale
07/23/13

S	Single-family Residential	M	Industrial Zone
T	Two-family Residential	MC	Industrial Commercial Zone
NC	Neighbourhood Commercial	MDC	Industrial District Commercial Zone
RWY	Railway Zone	MG	General Industrial Zone

Attachment 5: Zoning – City Wide Zoning By-law 569-2013



TORONTO City Planning

Zoning By-law 569-2013

357 Birchmount Road

File # 13 203636 ESC 36 OZ

Location of Application

RD	Residential Detached	EL	Employment Light Industrial
RS	Residential Semi-Detached	E	Employment Industrial
CL	Commercial Local	UT	Utility and Transportation

Not to Scale

Extracted 07/22/2013

Attachment 6: Application Data Sheet

Application Type	Rezoning	Application Number:	13 203636 ESC 36 OZ
Details	Rezoning, Standard	Application Date:	July 12, 2013

Municipal Address:	357 BIRCHMOUNT RD (N/E BIRCHMOUNT ROAD AND HIGHVIEW AVENUE)
Location Description:	CON B PT LOT 30 PLAN 1964 LOTS 451 TO 454 PLAN 2194 PT BLK A **GRID E3603
Project Description:	Zoning By-law amendment application to permit eight semi-detached dwellings and one detached dwelling on the subject lands, and to establish site specific performance standards for the development, which is intended to be a future standard condominium.

Applicant:	**Agent:**	**Architect:**	**Owner:**
HABITAT FOR HUMANITY TORONTO INC			HABITAT FOR HUMANITY TORONTO INC

PLANNING CONTROLS

Official Plan Designation:	Neighbourhoods	Site Specific Provision:	
Zoning:	S or T (Cliffside) and RS (City-wide)	Historical Status:	
Height Limit (m):		Site Plan Control Area:	Y

PROJECT INFORMATION

Site Area (sq. m):	3461	Height:	Storeys:	2
Frontage (m):	92.7		Metres:	9, 9.8
Depth (m):	33.39			
Total Ground Floor Area (sq. m):	614.5			**Total**
Total Residential GFA (sq. m):	1626.6		Parking Spaces:	13
Total Non-Residential GFA (sq. m):	0		Loading Docks	0
Total GFA (sq. m):	1626.6			
Lot Coverage Ratio (%):	17.75			
Floor Space Index:	0.47			

DWELLING UNITS **FLOOR AREA BREAKDOWN** (upon project completion)

Tenure Type:	Condo		**Above Grade**	**Below Grade**
Rooms:	0	Residential GFA (sq. m):	1626.6	0
Bachelor:	0	Retail GFA (sq. m):	0	0
1 Bedroom:	0	Office GFA (sq. m):	0	0
2 Bedroom:	0	Industrial GFA (sq. m):	0	0
3 + Bedroom:	9	Institutional/Other GFA (sq. m):	0	0
Total Units:	9			

CONTACT:	**PLANNER NAME:**	**Andrea Reaney, Senior Planner**
	TELEPHONE:	**(416) 396-7023**

Attachment 7: Zoning By-law Amendment –
Cliffside Community Zoning By-law No. 9364

Authority: Scarborough Community Council Item ~ as adopted by City of Toronto Council on ~, 20~
Enacted by Council: ~, 20~

CITY OF TORONTO

Bill No. ~

BY-LAW No. ~-20~

To amend Cliffside Community Zoning By-law No. 9364, as amended, With respect to the lands located at the north-east corner of Birchmount Road and Highview Avenue, at 357 Birchmount Road

WHEREAS authority is given to Council by Section 34 of the *Planning Act*, R.S.O. 1990, c.P. 13, as amended, to pass this By-law; and

WHEREAS Council of the City of Toronto has provided adequate information to the public and has held at least one public meeting in accordance with the *Planning Act*;

The Council of the City of Toronto HEREBY ENACTS as follows:

1. **Schedule "A"** is amended by deleting the current zoning and replacing it with the following zoning as shown on the attached Schedule "1":

T – 23 – 118 – 181 – 182 – 183 – 184 – 185 – 186 – 187 – 188 - 189 - 214 – 250 – 251 – 300 - 301

2. **Schedule "B", PERFORMANCE STANDARD CHART**, is amended by adding the following Performance Standards:

PARKING

118. Minimum number of visitor **parking spaces**: 4

MISCELLANEOUS

181. **CLAUSE VI – PROVISIONS FOR ALL ZONES, Sub-Clause 14, Regulations for Single-Family and Two-Family Dwellings**, shall not apply.

182. Minimum 1.7 m wide **landscaping** strip shall be provided along the **rear lot line**.

183. Minimum 14 m building **setback** from the **rear lot line**.

184. No person shall use any land or erect or use any building or structure unless the following municipal services are provided to the lot line and the following provisions are complied with:

(a) all new public roads have been constructed to a minimum of base curb and base asphalt and are connected to an existing public highway; and

(b) all water mains and sanitary sewers, and appropriate appurtenances, have been installed and are operational.

185. The provisions of this By-law shall apply collectively to this land, notwithstanding its future division into two or more parcels.

186. Maximum building **height** for **single-family dwellings**: 9.8 metres and two-**storeys** excluding **basements**.

187. Maximum building **height** for **two-family dwellings**: 9.0 metres and two-**storeys** excluding **basements**.

188. Minimum separation between the side walls of adjacent buildings shall be 3.0 metres.

189. Birchmount Road lot line shall be deemed to be the **front lot line**.

INTENSITY OF USE

214. Maximum number of **dwelling units**: 9

SIDE YARD

250. Minimum 30 m building **setback** for **dwelling units** from the north lot line.

251. Minimum 2.4 metres building **setback** from Highview Avenue.

MISCELLANEOUS

300. Minimum 570 m^2 of outdoor **amenity space** shall be provided, which may also include **landscaping**.

301. All waste and recyclable material must be stored in a wholly enclosed building.

ROB FORD, Mayor

ULLI S. WATKISS, City Clerk

(Corporate Seal)

Schedule '1'



T-23-118-181-182-183-184-185-186-187-188-189-214-250-251-300-301

TORONTO City Planning Division

Zoning By-Law Amendment

357 Birchmount Road

File # 13 203636 ESC 36 OZ

Area Affected By This By-Law

Cliffside Community By-Law No. 9364

Not to Scale

4/25/14

Attachment 8: Zoning By-law Amendment – Zoning By-law No. 569-2013

CITY OF TORONTO

Bill No. ~

BY-LAW No. [xxxx- 20xx]

To amend the Zoning By-law for the City of Toronto, being By-law No. 569-2013, as amended, with respect to the lands at 357 Birchmount Road (north-east corner of Birchmount Road and Highview Avenue)

Whereas Council of the City of Toronto has the authority to pursuant to Section 34 of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, to pass this By-law;

Whereas Council of the City of Toronto has provided adequate information to the public and has held at least one public meeting in accordance with the *Planning Act;*

The Council of the City of Toronto HEREBY ENACTS as follows:

1. The lands subject to this By-law are outlined by heavy black lines on Diagram 1 attached to this By-law;

2. The words highlighted in bold type in this By-law have the same meaning as in Zoning By-law No. 569-2013, Chapter 800 Definitions;

3. Zoning By-law No. 569-2013, as amended, is further amended by amending the zone label on the Zoning By-law Map in Section 990.10 respecting the lands outlined by heavy black lines to RS (x33) as shown on Diagram 2 attached to this By-law;

4. Zoning By-law No. 569-2013, as amended, is further amended by adding Article 900.4.10 Exception Number 33 so that it reads:

Exception RS 33

The lands, or a portion thereof as noted below, are subject to the following Site Specific Provisions, Prevailing Bylaws and Prevailing Sections.

Site Specific Provisions:

(A) None of the regulations of Chapters 10.5.80.10 (7), 10.40.30.10 (1), 10.40.30.20 (1), 10.40.40.1 (2) or 10.40.40.70, prevent the erection or use of a building, structure, addition or enlargement if it complies with (B) below;

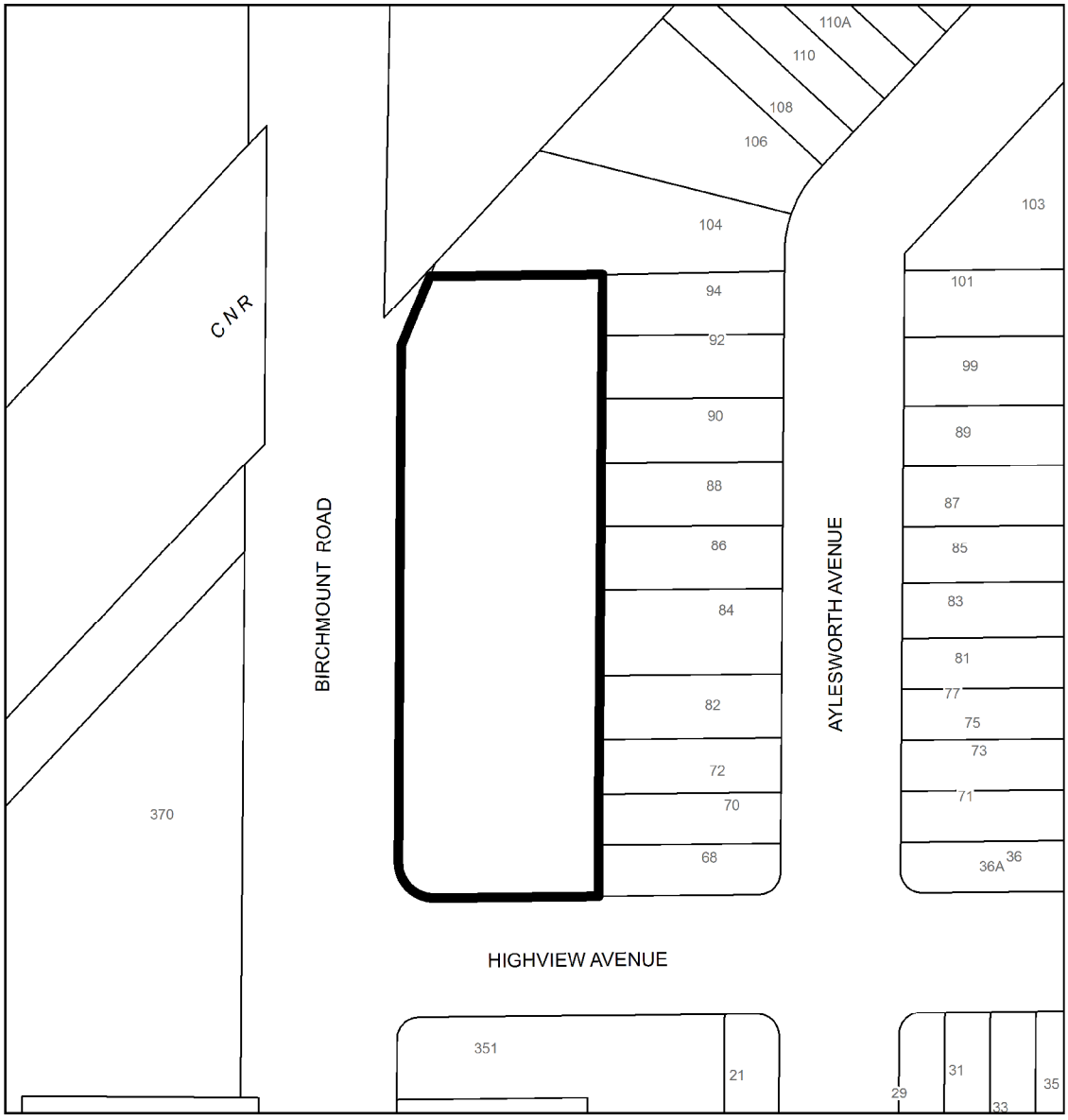
(B) These standards apply to the lands as a whole:

(i) The **lot line** abutting Birchmount Road is the **front lot line**;
(ii) the minimum **lot frontage** is 80 metres;
(iii) the minimum **lot area** is 3,360 square metres;
(iv) the minimum **building setback** from a **lot line** that abuts Birchmount Road is 22.0 metres measured from the original centerline of Birchmount Road;
(v) the minimum **building setback** from a **side lot line** that abuts a **street** is 2.4 metres;
(vi) the minimum **rear yard building setback** is 14.0 metres;
(vii) the minimum **building setback** for **dwelling units** from the north **lot line** is 30.0 metres;
(viii) a maximum of 4 **semi-detached houses** and 1 **detached house** are permitted on the **lot**;
(ix) the minimum separation distance between the side **main walls** of any adjacent **building** is 3.0 metres**;**
(x) despite what is shown on the Height overlay map, a **detached house** may have a maximum **building** height of 9.8 metres;
(xi) a minimum of 570 square metres of outdoor **amenity space** must be provided and may be in the form of **landscaping**;
(xii) a designated area with a minimum of 4 visitor **parking spaces** must be provided on the lot;
(xiii) a **landscaping** strip having a minimum width of 1.7 metres must be provided along the entire east property line; and
(xiv) all waste and **recyclable material** must be stored in a wholly enclosed **building**.

Prevailing By-laws and Prevailing Sections (none apply)

ENACTED AND PASSED this ~ day of ~, A.D. 20XX.

(Corporate Seal)



TORONTO City Planning

Diagram 1

357 Birchmount Road

File # 13 203636 ESC 36 OZ

City of Toronto By-Law 569-2013
Not to Scale
4/22/2014

Approved by: A. Reaney