

## **1380 Birchmount Road - Request for Directions Regarding OMB Hearing**

**Date:** April 19, 2017  
**To:** City Council  
**From:** City Solicitor  
**Wards:** Ward 37 - 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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The purpose of this report is to request direction from City Council regarding an appeal of a decision of the Scarborough Panel of the Committee of Adjustment (the "Committee") by the owner of 1380 Birchmount Road, Doverhold Investments Ltd. (the "Applicant"). The Ontario Municipal Board (the "OMB") hearing has been scheduled for May 9, 2017.

### **RECOMMENDATIONS**

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The City Solicitor recommends that:

1. Council adopt the recommendations contained in the Confidential Attachment 1 to this report.
2. The recommendations contained in the Confidential Attachment 1 to this report be made public at such time as Council adopts the recommendations. All other information contained in the Confidential Attachment 1 is to remain confidential at the discretion of the City Solicitor.

## **FINANCIAL IMPACT**

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Adopting this report will have no financial impact beyond what has already been approved in the current year's budget.

## **DECISION HISTORY**

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On November 3, 2016, the Committee refused a minor variance application for the lands municipally known as 1380 Birchmount Road (the "Committee Decision"). The Applicant had applied to seek relief from the provisions of the zoning by-laws to use the existing structure for a place of worship for a temporary period of three (3) years during the construction of a new temple located at 733 Birchmount Road.

The Applicant requested two variances to City-wide Zoning By-law 569-2013 ("569-2013"):

1. To permit a 518.4 square metre place of worship, whereas the zoning by-law does not permit places of worship in the E zone; and
2. To permit 94 parking spaces, whereas the zoning by-law requires a minimum total of 153 parking spaces (139 spaces for place of worship use, 9 spaces for warehouse use, and 5 spaces for office use).

The Applicant also requested one variance to the former Scarborough Employment District By-law 24982 ("24982") to permit a place of worship in part of the existing building on the lot, whereas the zoning by-law only permits places of worship as a sole use on a lot.

On November 18, 2016, the Applicant appealed the Committee Decision to the OMB.

At its meeting on December 13, 14 and 15, 2016, City Council adopted the recommendations in Item No. MM23.4, directing the City Solicitor to attempt to negotiate a settlement of the appeal, and, in the event a settlement could not be reached, directing the City Solicitor to attend the OMB to oppose the appeal. Item No. MM23.4 can be accessed at this link:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2016.MM23.4>

Further information has been received which has resulted in the need for directions from City Council prior to the May 9, 2017 OMB hearing.

## **COMMENTS**

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This report is about litigation before the OMB and contains advice or communications that are subject to solicitor-client privilege. Attachment 1 to this report contains confidential advice and should be considered by Council in camera.

## **CONTACT**

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## **SIGNATURE**

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Wendy Walberg  
City Solicitor

## **ATTACHMENTS**

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Confidential Attachment 1 - Confidential Recommendations and Confidential Information