



## REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

# 1615-1641 Kingston Road and 50-52 Birchcliff Avenue - Official Plan Amendment and Zoning By-law Amendment Application - Ontario Land Tribunal Hearing - Request for Directions

**Date:** July 6, 2022

**To:** City Council

**From:** City Solicitor

**Wards:** 20 - Scarborough Southwest

### 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 October 9, 2020, Official Plan Amendment, Zoning By-law Amendment, and Rental Housing Demolition applications were submitted by Birchcliff Developments Inc. (the "**Applicant**") to the City of Toronto (the "**City**") for the lands at 1615-1641 Kingston Road and 50-52 Birchcliff Avenue (the "**Site**"). The Zoning By-law Amendment Application proposed a 10 storey mixed-use building containing 264 residential units, including 5 live/works units at grade along Kingston Road, and 99 square metres of commercial use. The Rental Housing Demolition Application proposed to demolish the existing 33 rental dwelling units located at 1625-1641 Kingston Road and 52 Birchcliff Avenue, and replace them in a development proposed via a Zoning By-law Amendment application at 2151 Kingston Road.

On August 6, 2021, the Applicant submitted a revised Official Plan Amendment and Zoning By-law Amendment application to the City (the "**Revised Application**"). This Revised Application proposes a 9 storey mid-rise building located in the *Mixed-Use Areas* designation on the Site, and a 4 storey low-rise building located in the *Neighbourhoods* designation, fronting Birchcliff Avenue. A total of 279 residential units are proposed in the mid-rise building, including 7 live-work units along the Kingston Road frontage, and 33 residential rental replacement units and amenity space are proposed for the low-rise building.

The Applicant appealed City Council's neglect or failure to make a decision on its Revised Application to the Ontario Land Tribunal (the "**OLT**") on August 13, 2021 (the "**Appeal**").

The OLT conducted a Case Management Conference on January 24, 2022. A second Case Management Conference has been scheduled for July 13, 2022.

## **RECOMMENDATIONS**

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The City Solicitor recommends that:

1. City Council adopt the recommendations contained in the Confidential Attachment 1 to the report (July 6, 2022) from the City Solicitor.
2. City Council authorize the public release of the confidential recommendations contained in the Confidential Attachment 1 to the report (July 6, 2022) from the City Solicitor, and Confidential Appendix "A", if adopted by City Council.
3. City Council direct that all other information contained in Confidential Attachment 1 to the report (July 6, 2022) 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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In 2010, City Council approved amendments to the Official Plan, Zoning By-law and associated Urban Design Guidelines as part of the Kingston Road (Birch Cliff) Revitalization Study. The Kingston Road Revitalization Study was initiated in 2005 with the purpose of developing a revitalization strategy for Kingston Road that would result in a vibrant, mixed-use, pedestrian-oriented main street with beautiful streetscapes, high quality architecture, compatible development and economic prosperity. The study area for the Kingston Road (Birch Cliff) Revitalization Study includes the lands along Kingston Road and from Victoria Park Avenue to the west to the Kingston Road and Danforth Avenue intersection to the east.

The implementing Zoning By-law amendment of the Kingston Road Revitalization Study introduced a Commercial-Residential (CR) zone providing for a wide range of commercial and residential uses with provisions that will regulate height, density, building setbacks, Section 37 community benefit contributions and bicycle parking standards. In particular, allowable heights within the CR zone range from a minimum of 2-storeys to a maximum of 8-storeys depending on the location and surrounding context

of the properties. The height permissions for 1615-1641 Kingston Road range from a minimum of 2-storeys to a maximum of 6-storeys. A 45 degree angular plane measured from adjacent low density residential neighbourhoods is also to be applied in order to achieve an appropriate height transition from these areas. The Final Report on this Study can be found here:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2010.SC31.21>

On October 9, 2020, Official Plan Amendment, Zoning By-law Amendment and Rental Housing Demolition applications were submitted to the City for the Site. The Zoning By-law Amendment Application proposed a 10 storey mixed-use building containing 264 residential units, including 5 live/works units at grade along Kingston Road, and 99 square metres of commercial use. The Rental Housing Demolition Application proposed to demolish the existing 33 rental dwelling units located at 1625-1641 Kingston Road and 52 Birchcliff Avenue, and replace them in a development proposed via a Zoning By-law Amendment application at 2151 Kingston Road.

A Preliminary Report on these applications was adopted with amendments at Scarborough Community Council on January 6, 2021, authorizing staff to conduct a community consultation meeting. The Preliminary Report can be found at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.SC21.1>

On August 6, 2021, the Applicant submitted the Revised Application, which proposes a 9 storey mid-rise building located in the *Mixed-Use Areas* designation on the Site, and a 4 storey low-rise building located in the *Neighbourhoods* designation, fronting Birchcliff Avenue. A total of 279 residential units are proposed in the mid-rise building, including 7 live-work units along the Kingston Road frontage, and 33 residential rental replacement units and amenity space are proposed for the low-rise building.

The Applicant appealed City Council's neglect or failure to make a decision on the Revised Application to the OLT on August 13, 2021. The OLT conducted a Case Management Conference on January 24, 2022.

## **COMMENTS**

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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 and litigation privilege. Confidential Attachment 1 to this report contains confidential advice and should be considered by City Council *in camera*.

## **CONTACT**

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## **SIGNATURE**

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Wendy Walberg  
City Solicitor

## **ATTACHMENTS**

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1. Confidential Attachment 1 - Confidential Recommendations and Information
2. Confidential Appendix "A" to Confidential Attachment 1 - Confidential Information