

4121 Kingston Road - Zoning By-law Amendment - OLT Appeal - Request for Directions

Date: July 4, 2023

To: City Council

From: City Solicitor

Wards: Ward 24 - Scarborough-Guildwood

REASON FOR CONFIDENTIAL INFORMATION

This report contains advice or communications that are subject to solicitor-client privilege. This report contains information regarding litigation.

SUMMARY

On June 1, 2021, a Zoning By-law Amendment application was submitted to permit a development with 4 mixed-use buildings, consisting of 10 and 12-storey mid-rise buildings located along Kingston Road, and 25 and 35 storey towers located on the southern portion of the site adjacent to the Guildwood GO Station.

The applicant appealed City Council's neglect or failure to make a decision on its application for the Zoning By-law Amendment (the "Appeal"), to the Ontario Land Tribunal (the "OLT") on February 15, 2022, citing City Council's failure to make a decision within the time period prescribed under the *Planning Act*. Case Management Conferences were held on June 16, 2022 and March 30, 2023, and the OLT has scheduled a 10-day hearing commencing on February 5, 2023. On December 12 and 13, 2022, the parties to the appeal participated in mediation.

The City Solicitor requires further directions on this matter no later than the completion of the City Council meeting which starts on July 19, 2023. This matter is urgent and cannot be deferred.

RECOMMENDATIONS

The City Solicitor recommends that:

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

2. If the City Solicitor's confidential recommendations are adopted by City Council, then City Council authorize the public release of the confidential recommendations contained in Confidential Attachment 1, Confidential Appendix "A" and Confidential Appendix "B".
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 and information which is 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

In March 2016, City Council endorsed the Eglinton East LRT (EELRT) extension as part of the Scarborough rapid transit network. In April 2019 Council supported an EELRT alignment to Malvern Town Centre. The subject property abuts the EELRT corridor. Additional information about the Eglinton East LRT can be found at:
<https://www.toronto.ca/legdocs/mmis/2019/ex/bgrd/backgroundfile-131528.pdf>

A Preliminary Report on the application (August 19, 2022) from the Director, Community Planning, Scarborough District was considered by Scarborough Community Council on September 17, 2021. The Community Council decision and Preliminary Report can be found at:
<https://secure.toronto.ca/council/agenda-item.do?item=2021.SC26.8>

A Request for Direction Report (June 10, 2022) from the Director, Community Planning, Scarborough District on the application was adopted by City Council on July 22, 2022, directing the City Solicitor and appropriate City staff to attend at the OLT hearing to oppose the Zoning By-law Amendment application, and to continue discussions with the applicant in an attempt to resolve outstanding issues. The City Council decision and the Request for Direction Report can be found at:
<https://secure.toronto.ca/council/agenda-item.do?item=2022.SC33.13>

COMMENTS

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

Mark Crawford, Solicitor, Planning & Administrative Tribunal Law; Tel: (416) 392-8864;
Fax: (416) 397-5624; Email: mark.crawford@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