



REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT

3291 Kingston Road, 2 and 4 Windy Ridge Drive - Official Plan Amendment, Zoning By-law Amendment and Rental Housing Demolition Applications - Ontario Land Tribunal Hearing - Request for Directions Report

Date: July 4, 2023

To: City Council

From: City Solicitor

Wards: Ward 20 - Scarborough Southwest

REASON FOR CONFIDENTIAL INFORMATION

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

SUMMARY

The purpose of this report is to request further instructions for the Ontario Land Tribunal ("OLT") hearing into this matter. The applicant appealed the proposed Official Plan Amendment and Zoning By-law Amendment applications for 3291 Kingston Road, 2 and 4 Windy Ridge Drive (the "Development Site") to the OLT from Council's failure to make a decision on the applications within the prescribed time periods pursuant to the *Planning Act*.

The OLT scheduled a case management conference on September 14, 2023 in order to provide the City Solicitor an opportunity to obtain instructions respecting the matter that has been appealed. Given this timing, this item is urgent and cannot be deferred.

RECOMMENDATIONS

The City Solicitor recommends that:

1. City Council adopt the confidential instructions to staff contained in the Confidential Attachment 1 to this report from the City Solicitor.
2. City Council authorize the public release of the confidential instructions to staff contained in Confidential Attachment 1, Confidential Appendix "A", Confidential Appendix "B", and Confidential Appendix "C" 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

There is no financial impact arising from the adoption of the Confidential Instructions to Staff beyond what has already been approved in the current year's budget.

DECISION HISTORY

In 1997 and 1998, Official Plan Amendment and Zoning Amendment applications were filed for the lands at 3291 Kingston Road. The 1997 applications were for the addition of a day nursery in addition to the existing fourplex, and the 1998 applications were to recognize the existing multiple-family (sixplex), to provide for up to 15 residential units on the property and to permit the addition of a day nursery facility. The 1997 applications were withdrawn, and the 1998 applications were refused by City Council at their meeting of October 29, to 31, 2002. The report can be found at: <https://www.toronto.ca/legdocs/2002/agendas/council/cc021029/sc9rpt/cl012.pdf>

As part of the new 2002 Official Plan, the owner of the lands at that time appealed the 2002 Official Plan. In 2010, the appeals were resolved which resulted in the Mixed Use Areas policies being in force for these lands.

A Preliminary Report was received by Scarborough Community Council on January 6, 2021 directing a community consultation meeting be held by City staff. The decision of the Scarborough Community Council can be found here: <https://secure.toronto.ca/council/agenda-item.do?item=2021.SC21.3>

OLT Process

The OLT has held two case management conferences on this matter, on November 30, 2022 and March 8, 2023. The Tribunal granted party status to the Cliffcrest Scarborough Village SW Residents Association and, in their personal capacity, Antonio and Iwona Di Tullio. The Tribunal also granted 32 participant requests.

The Tribunal had originally scheduled a third case management conference on June 2, 2023, but it was later adjourned to September 14, 2023 to permit the City to seek instructions on the proposed development and allow further discussion with the parties and participants.

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

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SIGNATURE

Wendy Walberg
City Solicitor

ATTACHMENTS

1. Confidential Attachment 1 - Confidential Instructions to Staff and Confidential Information
2. Confidential Appendix "A" - Confidential Information
3. Confidential Appendix "B" - Confidential Information
4. Confidential Appendix "C" - Confidential Information