

**From:** [lindy@healthyhealingnetwork.org](mailto:lindy@healthyhealingnetwork.org)  
**To:** [councilmeeting](#); [Clerk](#); [Councillor Malik](#)  
**Cc:** [Councillor Bradford](#); [Mayor Chow](#); [Legal - Reception](#); [Minister.solgen@ontario.ca](mailto:Minister.solgen@ontario.ca)  
**Subject:** [External Sender] Re: city council meeting – Item DM35.1 (847–855 Kingston Road) – Charter, Duty to Consult, Reconciliation Concerns  
**Date:** December 16, 2025 4:29:21 AM

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To: City Clerk, City of Toronto  
Cc: Members of Toronto City Council; Mayor Olivia Chow; City Legal; City Planning; Gabrielle Homes Inc.

Please accept the following formal submission for the public record regarding Item DM35.1 – 847–855 Kingston Road, currently before Toronto City Council and subject to Ontario Land Tribunal proceedings.

This email consolidates:

- 1)A formal Council submission
- 2)A legal cover memorandum
- 3)A supplemental affidavit-style statement for Ontario Land Tribunal purposes

This submission raises Charter, Indigenous rights, planning law, and reconciliation issues requiring Council’s consideration prior to any approval or direction.

#### LEGAL COVER MEMORANDUM (FOR CITY CLERK RECORD)

From: Lindy Buzwah, Member, Birch Island First Nation

Re: Item DM35.1 – 847–855 Kingston Road

Purpose: Formal submission engaging Charter protections, duty to consult and accommodate, Official Plan compliance, and Action 15 of the City of Toronto Reconciliation Action Plan.

This memorandum accompanies a formal submission identifying potential infringements of:

- Section 2(a) of the Canadian Charter of Rights and Freedoms (freedom of conscience and religion)
- The Ontario Human Rights Code (creed)
- The Crown’s constitutional duty to consult and accommodate Indigenous peoples
- Toronto Official Plan ravine and cultural landscape protections
- City of Toronto Reconciliation Action Plan – Action 15

Council is required to consider these matters as part of its statutory obligation to act in the public interest under the Planning Act.

FORMAL SUBMISSION – ITEM DM35.1

My name is Lindy Buzwah, and I am a member of Birch Island First Nation. I am writing regarding the proposed Gabrielle Homes Inc. development adjacent to Glen Stewart Ravine and the significant planning, constitutional, Indigenous rights, and human-rights impacts associated with this application.

#### Indigenous Ceremonial Site and Charter Protections

Glen Stewart Ravine is an active Indigenous ceremonial site. Indigenous peoples from multiple First Nations regularly conduct ceremonies at this location, including Sunrise Ceremonies, which are place-specific, time-specific, and land-based spiritual practices. These ceremonies require unobstructed eastern sunlight reaching the ceremonial grounds at the opening of ceremony.

Any built form that blocks this sunlight constitutes a direct and material interference with Indigenous spiritual practice.

This ravine functions as a place of worship. Indigenous spiritual practice cannot be relocated indoors or to alternative locations without fundamentally altering or extinguishing the practice. The proposed development therefore engages freedom of conscience and religion protections under section 2(a) of the Canadian Charter of Rights and Freedoms, as well as protections against discrimination based on creed under the Ontario Human Rights Code.

#### Duty to Consult and Accommodate:

The City of Toronto, as a Crown decision-maker, has a constitutional obligation to consult and, where appropriate, accommodate Indigenous peoples when a contemplated decision may adversely affect the exercise of asserted or established Indigenous rights, including spiritual and ceremonial practices.

Where a proposed development would interrupt, obstruct, or materially impair an ongoing Indigenous ceremony, the duty to consult is triggered at a high level, regardless of whether the affected rights are tied to a reserve or a formal land claim. This duty applies to municipal planning decisions, including approvals related to height, massing, and siting.

Proceeding with approval absent meaningful engagement with affected ceremony holders would expose the City to legal risk before the Ontario Land Tribunal and the courts.

#### Planning Law and Official Plan Compliance

The Toronto Official Plan requires development to:

- Respect and reinforce existing physical, cultural, and environmental characteristics
- Protect ravine systems and natural heritage features

- Minimize impacts on microclimates, sunlight access, and sensitive landscapes

Glen Stewart Ravine is a designated and highly sensitive ravine system, where changes to built form can result in irreversible environmental and cultural harm. The proposed height and massing fail to meet the Official Plan test for appropriate and compatible development.

Under the Planning Act, Council must consider the public interest, which includes constitutional obligations, human-rights protections, and reconciliation commitments.

#### Reconciliation Action Plan – Action 15

The City of Toronto’s Reconciliation Action Plan, specifically Action 15, commits the City to supporting Indigenous spiritual and cultural practices and removing barriers to ceremony on Indigenous sites.

Approving a development that knowingly obstructs an active ceremonial site would be inconsistent with Action 15 and undermine the City’s reconciliation obligations as adopted policy of Council.

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#### Sacred and Memorial Nature of the Site

Glen Stewart Ravine is also a place of mourning and memorial. It includes the honouring of a young child who passed away and functions as a burial and remembrance site for Indigenous people unable to return to their home territories.

Under Indigenous legal orders, such sites are sacred and warrant the highest level of protection. Canadian courts have recognized that Indigenous legal perspectives and spiritual relationships to land are relevant considerations in Crown decision-making.

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#### Failure of Meaningful Engagement

Despite these known sensitivities, Gabrielle Homes Inc. has not undertaken meaningful engagement with Indigenous ceremony holders whose rights are directly affected.

Without such engagement, Council cannot reasonably conclude that:

- The duty to consult and accommodate has been fulfilled
- Charter-protected freedoms have been minimally impaired
- The public interest under the Planning Act has been met

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## MOTION-READY REQUESTS

### Option 1 – Amendment Motion

That City Council amend the proposed development application to require a maximum building height of three (3) storeys, being the highest built form that can be accommodated without obstructing sunlight required for Sunrise Ceremonies, and to ensure compliance with:

- The Toronto Official Plan
- The City of Toronto Reconciliation Action Plan (Action 15)
- Section 2(a) of the Canadian Charter of Rights and Freedoms
- The Ontario Human Rights Code
- The Crown's duty to consult and accommodate

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### Option 2 – Deferral Motion

That City Council defer consideration of the proposed development application for a minimum of one (1) month to allow for:

- Assessment of impacts on Indigenous rights and ceremonial practices
- Charter and human-rights analysis  
Fulfillment of the duty to consult and accommodate
- Meaningful engagement with affected Indigenous ceremony holders

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## SUPPLEMENTAL AFFIDAVIT-STYLE STATEMENT (OLT PURPOSES)

I, Lindy Buzwah, affirm that Glen Stewart Ravine is an active Indigenous ceremonial site used for Sunrise Ceremonies and other land-based spiritual practices.

I affirm that these ceremonies require unobstructed eastern sunlight and that obstruction of such sunlight constitutes direct interference with Indigenous spiritual practice and Charter-protected freedom of conscience and religion.

I affirm that certain ceremonial knowledge is sacred and confidential and cannot be disclosed publicly, and that appropriate accommodation requires direct engagement with ceremony holders.

I make this statement in good faith for use in municipal and Ontario Land Tribunal proceedings.

Some aspects of the ceremonies conducted at Glen Stewart Ravine are sensitive and cannot be disclosed in a public forum. I respectfully request the opportunity for appropriate, closed-setting dialogue with City Council, the Mayor's Office, and relevant City staff to fully inform decision-making.

This submission is grounded in good planning, constitutional law, reconciliation, and the long-term public interest. I respectfully ask that Council ensure development decisions do not cause irreversible harm to a living Indigenous ceremonial site.

Miigwech for your time and consideration.  
Respectfully,

Lindy Buzwah  
Member, Birch Island First Nation

#### LEGAL FOOTNOTES

1. R v Big M Drug Mart Ltd., [1985] 1 SCR 295.
2. Canadian Charter of Rights and Freedoms, s. 2(a).
3. Ontario Human Rights Code, RSO 1990, c H.19, ss. 1, 10.
4. Haida Nation v British Columbia (Minister of Forests), 2004 SCC 73.
5. Taku River Tlingit First Nation v British Columbia, 2004 SCC 74.
6. Clyde River (Hamlet) v Petroleum Geo-Services Inc., 2017 SCC 40.
7. Neskonlith Indian Band v Salmon Arm (City), 2012 BCCA 379.
8. Toronto Official Plan, Chapters 2 & 3 (Natural Environment; Built Form).
9. Planning Act, RSO 1990, c P.13, s. 2.
10. City of Toronto, Reconciliation Action Plan, Action 15.
11. Tsilhqot'in Nation v British Columbia, 2014 SCC 44.