



## Committee of the Whole Meeting Agenda

Meeting#-xx-xxxx

Monday, August 14, 2017, 4:30 p.m.

Council Chambers

225 East Beaver Creek Road

Richmond Hill, Ontario

*Chair, Karen Cilevitz, Ward 5 Councillor*

Pages

1. Call to Order
2. Council Announcements
3. Introduction of Emergency/Time Sensitive Matters
4. Adoption of Agenda
5. Disclosure of Pecuniary Interest and General Nature Thereof
6. Identification of Items Requiring Separate Discussion
7. Adoption of Remainder of Agenda Items
8. Public Hearing
  - 8.1 Tax Adjustments under Section 357 and 358 of the Municipal Act, 2001 – (Staff Report SRCFS.17.025)
9. Presentations
  - 9.1 Presentation by Ann Marie Farrugia, Manager of Natural Environment, regarding the Community Garden Policy - (Staff Report SREIS.17.012) – Agenda Item 5
  - 9.2 Presentation by Leigh McGrath, Urban Strategies Inc., regarding the Yonge Street and Bernard Avenue Key Development Area Recommendations Report
10. Delegations
  - 10.1 Ryan Guetter, Weston Consulting, regarding the Yonge Street and Bernard Avenue Key Development Area Recommendations Report - Agenda Item 11.1
  - 10.2 Leo Longo, Aird & Berlis LLP, regarding the Yonge Street and Bernard Avenue Key Development Area Recommendations Report - Agenda

## Item 11.1

- 10.3 Billy Tung, KLM Planning Partners Inc., regarding the Yonge Street and Bernard Avenue Key Development Area Recommendations Report - Agenda Item 11.1

## 11. Committee and Staff Reports

- 11.1 Request for Approval – Official Plan Amendment, Zoning By-law Amendment and Site Plan Applications – Elgin House Properties Limited - Town Files D01-15007, D02-15036 and D06-15079 (SRPRS.17.128)

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1. That the Official Plan Amendment application submitted by Elgin House Properties Limited for its lands known as Part of Lots 26 and 27, Concession 2, E.Y.S. (Municipal Address: 1000 Elgin Mills Road East), Town File D01-15007 be approved, subject to the following:

That the lands designated “Institutional” and “Low Density Residential” be redesignated to “Medium/High Density Residential” with site-specific provisions giving exceptions to Secondary Plan policies relating to apartment building location and terracing, as discussed in and generally illustrated on the maps in Staff Report SRPRS.17.128;

That the lands designated “Medium/High Density Residential” be designated as a “Class 4 Area” as defined by the Ontario Ministry of Environment and Climate Change in its “Environmental Noise Guideline: Stationary and Transportation Noise Sources – Approval and Planning (Publication NPC-300)”, and that the Class 4 Area noise designation, with appropriate policies, be included in the Official Plan Amendment; and,

That prior to forwarding the Official Plan Amendment to Council for enactment, the applicant pay the applicable processing fee in accordance with the Town’s Tariff of Fees By-law No. 95-16.

That prior to forwarding the amending Zoning By-law to Council for enactment, the applicant receive Site Plan approval from the Town with respect to the proposed development to be constructed on the subject lands and pay the applicable processing fee in accordance with the Town’s Tariff of Fees By-law No. 95-16;

That Council resolve to accept cash-in-lieu of parkland dedication for the subject development proposal; and,

That all comments pertaining to the applicant’s related Site Plan

application (Town File D06-15079) be referred back to Staff.

**11.2 Update on OMB Review and Draft Comments on Proposed Bill 139 – the Building Better Communities and Conserving Watersheds Act, 2017 (EBR Registry number 013-0590) (SRPRS.17.129) File No. D10-CO**

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That Staff Report SRPRS.17.129 be received;

That the recommendations contained in Staff Report SRPRS.17.129, in response to the Province EBR Posting # 013-0590, be endorsed;

That a copy of SRPRS.17.129, a copy of the Council resolution and all additional comments submitted to the Town Clerk by noon on July 4, 2017 be forwarded by the Town Clerk to the Province EBR Posting # 013-0590, and the Minister of Municipal Affairs and Housing and the Attorney General of Ontario for consideration; and

That the above documents also be forwarded to York Region for information and consideration.

**11.3 TEST - Request for Approval – Granting of Municipal servicing Allocation – Wycliffe King Bond Limited – Town File D06-15022 (SRPRS.17.132)**

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1. That the request for the granting of municipal servicing capacity for 316 persons, by WYCLIFFE KING BOND LIMITED for the lands known as Lots 4 to 9, Plan M31, and Lots 1 and 2, Plan M38 (Municipal Addresses: 115 and 119 Bond Crescent, 301 to 349 King Road), Town File Number D06-15022, be approved; and,
2. That the assigned servicing capacity be released by the Commissioner of Planning and Regulatory Services in accordance with By-law No. 109-11.

**12. Other Business**

**13. Emergency/Time Sensitive Matters**

**14. Closed Session**

**14.1 Resolution to Move into Closed Session and General Nature Thereof**

- 14.1.1 To consider matters related to a proposed or pending acquisition of land by the municipality in Ward 6 (Section 239(2)(c) of the Municipal Act, 2001)
- 14.1.2 To consider matters relating to labour relations or employee negotiations with respect to the Administrative Employee Group and Members of Council (Section 239(2)(d) of the Municipal Act, 2001)

14.2 Resolution to Reconvene in Open Session

14.3 Adoption of Recommendations Arising from Closed Session (if any)

15. Adjournment





## **Staff Report for Committee of the Whole Meeting**

**Date of Meeting:** August 14, 2017

**Report Number:** SRPRS.17.128

**Department:** Planning and Regulatory Services

**Division:** Development Planning

**Subject:** Request for Approval – Official Plan  
Amendment, Zoning By-law Amendment and Site Plan  
Applications – Elgin House Properties Limited - Town Files  
D01-15007, D02-15036 and D06-15079 (SRPRS.17.128)

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### **Owner:**

Elgin House Properties Limited  
8611 Weston Road, Unit 18  
Vaughan, ON L4L 9P1

### **Agent:**

KLM Planning Partners Inc.  
64 Jardin Drive, Unit 1B  
Vaughan, Ontario  
L4K 3P3

### **Location:**

Part of Lots 26 and 27, Concession 2, E.Y.S.  
(Municipal Address: 1000 Elgin Mills Road East)

### **Purpose:**

A request for approval concerning proposed Official Plan Amendment, Zoning By-law Amendment and Site Plan applications to facilitate the construction of a 598 unit medium/high density residential development on the subject lands.

### **Recommendation(s):**

Report recommendations...

- a) That the Official Plan Amendment application submitted by Elgin House Properties Limited for its lands known as Part of Lots 26 and 27, Concession 2, E.Y.S. (Municipal Address: 1000 Elgin Mills Road East), Town File D01-15007 be approved, subject to the following:

- i. That the lands designated “Institutional” and “Low Density Residential” be redesignated to “Medium/High Density Residential” with site-specific provisions giving exceptions to Secondary Plan policies relating to apartment building location and terracing, as discussed in and generally illustrated on the maps in Staff Report SRPRS.17.128;
  - ii. That the lands designated “Medium/High Density Residential” be designated as a “Class 4 Area” as defined by the Ontario Ministry of Environment and Climate Change in its “Environmental Noise Guideline: Stationary and Transportation Noise Sources – Approval and Planning (Publication NPC-300)”, and that the Class 4 Area noise designation, with appropriate policies, be included in the Official Plan Amendment; and,
  - iii. That prior to forwarding the Official Plan Amendment to Council for enactment, the applicant pay the applicable processing fee in accordance with the Town’s Tariff of Fees By-law No. 95-16.
- b) That prior to forwarding the amending Zoning By-law to Council for enactment, the applicant receive Site Plan approval from the Town with respect to the proposed development to be constructed on the subject lands and pay the applicable processing fee in accordance with the Town’s Tariff of Fees By-law No. 95-16;
  - c) That Council resolve to accept cash-in-lieu of parkland dedication for the subject development proposal; and,
  - d) That all comments pertaining to the applicant’s related Site Plan application (Town File D06-15079) be referred back to Staff.

### **Contact Person:**

Bruce Robb, Senior Planner, phone number 905-771-2459 and/or Salvatore Aiello, Manager of Development - Zoning, phone number 905-771-2471

### **Submitted by:**

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Kelvin Kwan  
Acting Commissioner of Planning and Regulatory Services

### **Approved by:**

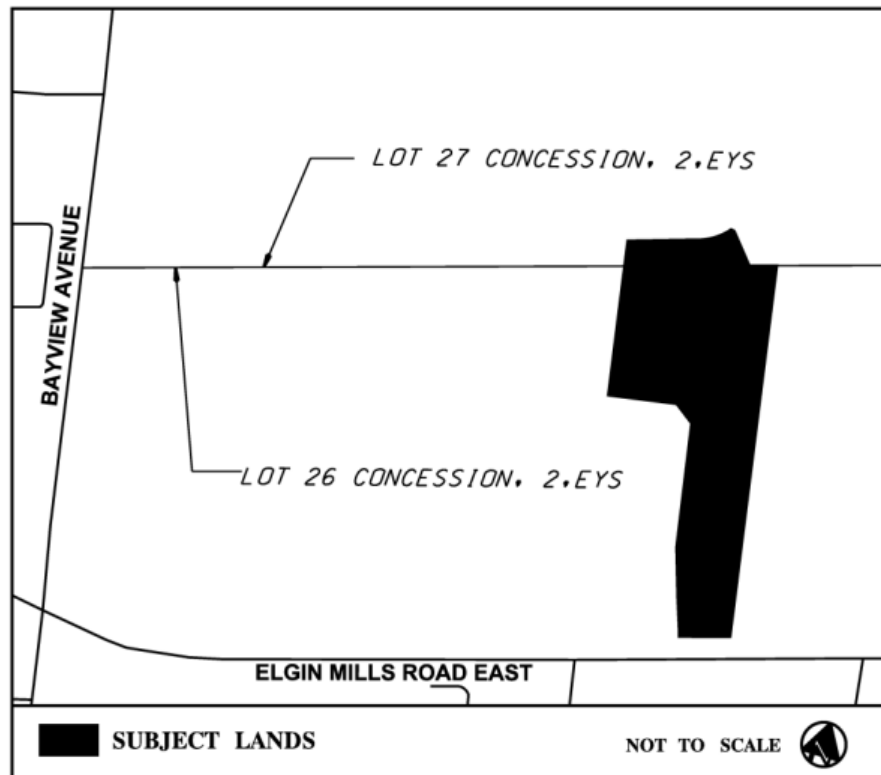
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Neil Garbe

Chief Administrative Officer

## Location Map

Below is a map displaying the property location. Should you require an alternative format call person listed under “Contact” above.



## Background Information

A statutory Council Public Meeting was held on March 30, 2016 to receive comments from members of Council and the public concerning the subject applications. At the Public Meeting, a representative of the landowner to the west of the subject lands expressed concerns regarding the proposed redesignation of the subject lands and the related land uses, building heights and building setbacks proposed by the applicant. An extract of the minutes from the Public Meeting is attached as Appendix “A” to this report. The purpose of this report is to seek Council's approval regarding the owner's applications for Official Plan and Zoning By-law Amendments.

## Summary Analysis

Further information in regards to site location is as follows:

## Site Location and Adjacent Uses

The subject lands are located on the north side of Elgin Mills Road East and have a total area of 4.361 hectares (10.8 acres). The lands are largely vacant, although the southern part of the property contains a heritage home with a related small outbuilding and a natural heritage system associated with a tributary of the Rouge River.

The surrounding land uses include the Brookside Court / Hilltop Place retirement homes and natural heritage lands to the west, existing agricultural lands to the east and north and Elgin Mills Road East to the south (refer to Maps 1 and 2).

## Revised Development Proposal

The applicant submitted a revised development proposal to the Town on February 16, 2017, in response to comments arising from the initial submission of October, 2015. The applicant is seeking Council's approval to construct a 598 unit residential development, in the form of stacked townhouses and mid-rise apartments, and the protection of the natural heritage system and heritage home on the subject lands (refer to Map 4). The applicant's initial proposal was for 592 similar units (refer to Map 5). The following is a summary table outlining the relevant statistics of the applicant's revised development proposal based on the plans and drawings submitted to the Town:

<b>Total Lot Area:</b>	<b>4.361 ha (10.8 ac.)</b>
<b>Total Number of Units:</b>	<b>598</b>
- <b>Stacked Townhouses:</b>	<b>304</b>
- <b>Mid-rise Apartments:</b>	<b>293</b>
- <b>Existing Heritage Home:</b>	<b>1</b>
<b>Natural Heritage System:</b>	<b>0.411 ha (1.0 ac.)</b>
<b>Future Collector Street:</b>	<b>0.111 ha (0.27 ac.)</b>
<b>Gross Floor Area:</b>	<b>58,511 sq. m (629,828 sq. ft.)</b>
<b>Floor Space Index:</b>	<b>1.52</b>
<b>Parking Spaces:</b>	<b>947</b>
- <b>Surface Visitor:</b>	<b>71</b>
- <b>Underground Visitor:</b>	<b>78</b>
- <b>Residents:</b>	<b>798</b>

## Planning Analysis

Other information, plans, studies and or comments are reported below:

## Official Plan Amendment Application

The majority of the subject lands are designated "**Institutional**" in the North Leslie Secondary Plan (the "Secondary Plan"), with the southwest corner designated "**Natural Heritage System**" and a strip of land at the northern limit designated "**Low Density Residential**" (refer to Map 3). Although the "**Institutional**" designation permits "**Residential Medium/High Density**" uses, it envisions such uses to be a component of a development serving the elderly. As the proposed development of the subject lands is for conventional townhouse and apartment residential units (not seniors' housing), an Official Plan Amendment redesignating the "**Institutional**" lands to

**“Medium/High Density Residential”** is required. Similarly, the northern portion of the site designated **“Low Density Residential”** is requested to be redesignated to **“Medium/High Density Residential”** to permit the proposed uses.

No change is proposed to the boundaries or applicable policies of the **“Natural Heritage System”** designation as these lands are to be protected and conveyed to the Town or other public agency to ensure their long term protection.

The applicable policies of the **“Medium/High Density Residential”** designation contained in the Secondary Plan are as follows:

#### **Policy 9.6.2.3 Medium/High Density Residential**

- a) The predominant use of lands within this designation shall be for townhouses, stacked townhouses, back to back townhouses, low rise to mid-rise apartment buildings and other housing forms that conform to the height and density requirements of this designation. Mixed use developments including retail, office, personal services and residential uses in one building may be permitted subject to locational criteria and compatibility. A maximum building height of 10 storeys, a minimum density of 1.0 F.A.R and a maximum density of 2.0 F.A.R is permitted.
- g) Buildings in excess of 4 storeys in height shall be stepped at minimum intervals of 2 storeys where they abut a Low or Medium Density Residential designation or existing development.
- h) Where adjacent lands are designated Low or Medium Density Residential, the height of all new buildings, within 25 metres of the property line of these designations, shall not be greater than 2 storeys above the existing buildings, or, if vacant, 2 storeys above the maximum permitted height in the adjacent designation.

The applicant has requested that it be exempted from policies g) and h) above on the basis that there is sufficient separation between the proposed apartment buildings and future low density development to the east and north, through compliance with the Town’s 45 degree “angular plane” height provision, which is a requirement of the Town’s **Town-wide Urban Design Guidelines**. The guidelines are comprehensive and represent current urban design criteria, on a Town-wide basis.

Compliance with a 45 degree angular plane means that a building cannot project above a 45 degree angular plane, starting at the property line or, where the property abuts a street, on the opposite side of the street. It applies to development on properties where the land use designation of abutting lands is for lower density and height.

On the basis of compliance with the Town-wide guidelines, exemption from policies g) and h) is supported with respect to proposed Buildings “A” and “B” along the eastern and northern sides of the site (refer to Map 4). However, on the western side of Building “B”, there is an encroachment into the 45 degree angular plane. The property to the west is designated **“Low Density Residential”** by the Secondary Plan and a

development application by Elbay Developments Inc. for street townhouses is currently under review by the Town. Although that owner has recently applied for an Official Plan Amendment to permit stacked townhouses on its lands, the site remains designated “**Low Density Residential**” until such time as Council approves its redesignation.

Through the continuing Site Plan approval process for the subject development, there will be the opportunity to adjust the placement and architectural details of Buildings “A” and “B” to achieve compliance with the Town’s 45 degree angular plane requirement.

In summary, the requested Official Plan Amendment redesignating the “**Institutional**” and “**Low Density Residential**” portions of the subject lands to “**Medium/High Density Residential**” is supported, as is the request for an exemption to Policies 9.6.2.3 g) and h) of the North Leslie Secondary Plan. The implementing Official Plan Amendment will be brought forward to Council for adoption in the fall session of Council, subject to the applicant paying the applicable processing fee.

### **Proposed Zoning By-Law Amendment**

The subject lands are zoned “**Institutional (I) Zone**” and “**Agricultural (A1) Zone**” under zoning by-law 2325-68, as amended. The “**I**” zone permits places of worship, nursing homes, public and semi-public institutions, hospitals and cemeteries. The “**A1**” zone permits agricultural and related uses, kennels or veterinarian establishments, one single family detached dwelling, a school, a clinic, a place of worship and conservation projects. The current zone categories do not permit the uses proposed by the subject applications and accordingly an amendment to the zoning by-law is required to facilitate the proposed development.

The applicants are proposing to expand the boundaries of By-law No. 55-15 to include the subject lands and to zone the lands “**Multiple Residential Ten (RM10) Zone**” and “**Environmental Protection Two (EPA 2) Zone**” with site-specific development standards to facilitate the proposed development. The applicant’s Zoning By-law amendment application is only being recommended for approval in principle at this time. At such time as the applicant submits a revised Site Plan application responding to the various comments arising from circulation of its February, 2017 submission and the applicant receives Site Plan approval from the Town, the implementing Zoning By-law Amendment will be forwarded to Council for enactment, subject to the applicant paying the applicable processing fee.

### **Site Plan Application**

The proposed residential development is pedestrian oriented and designed with limited vehicular movements at grade (refer to Map 4). Access to the site will be from two future streets within planned development to the north and east. All resident parking is to be provided within one level of underground parking, with vehicular access to the garage provided from two points within the property. Pedestrian access to the underground parking structure is to be from a number of stairways located throughout the

development. Approximately half of the visitor parking is proposed to be at grade, with the remainder in the underground parking garage.

Approximately half of the proposed residential units (293 units) are within Buildings “A” and “B”, the two 10-storey apartment buildings located at the northern limit of the site. The remaining 305 units are in the following configurations:

- Directly to the south of the apartment buildings, are 8 blocks of units containing 216 back-to-back stacked townhouses, 4 storeys in height. These blocks are coloured orange on Map 4.
- To the south of the orange coloured blocks are 6 blocks of units containing 88 through-unit stacked townhouses, 5 storeys in height. Through-unit stacked townhouses have greenspace / yards at the front and rear of each block of townhouses. These blocks are coloured gold on Map 4.
- To the south of the above proposed development, there is an existing home and accessory building which are designated under the *Ontario Heritage Act* (the Stekley-Eyer House and Milk House). Access to these structures is now provided from an existing driveway to the west, on the lands containing the Brookside Court / Hilltop Place retirement homes. At such time as the subject development is constructed, access to the heritage structures is intended to be provided through a driveway connection to the internal laneway system of the development. Both structures are intended to be restored by the applicant, with the home to continue use as a dwelling unit within a future condominium corporation to be established for the proposed development.

Revisions to the overall site design, made by the applicant in its February 2017 submission, now provide vehicular and pedestrian connections to future development to the east and west of the subject lands. This will enhance overall connectivity in this future neighbourhood, including the provision of improved access from individual developments to the collector road system. Service related facilities, including garbage and recycling storage, are to be accommodated within the underground parking structure.

At present, Staff is awaiting the applicant’s submission of a revised Site Plan application, responding to the various comments arising from circulation of the applicant’s February 2017 submission. It should be noted that revisions to the design of the development proposal, as currently depicted, may be required to satisfy the circulation comments noted below.

#### **Class 4 Noise Designation**

In October 2013, the Ontario Ministry of Environment and Climate Change (“MOECC”) released a new noise criteria guideline known as “**Environmental Noise Guideline: Stationary and Transportation Noise Sources – Approval and Planning (NPC-300)**”. The new guideline replaces four different noise guidelines and was created for

the approval of stationary noise sources by the MOECC and for land use approvals by municipalities.

One of the goals of the new guidelines is to resolve conflicts between stationary noise sources, such as industrial or commercial activity, and noise sensitive land uses, such as residential. One of the changes is the introduction of a “Class 4 Area”, which is meant to be a tool to allow municipalities to promote intensification in areas of existing stationary noise sources, through the approval of Class 4 Areas, which have higher sound level limits than Class 1, 2 and 3 Areas. In the case of the subject lands (and adjacent lands in the Secondary Plan), the main stationary noise sources affecting the proposed development are certain operations at the Town’s Operations Centre, Richmond Green Community Park and the Region of York’s Community Environmental Centre, to the east of the subject lands.

Guideline NPC-300 defines a Class 4 Area as an area or specific site that would otherwise be defined as Class 1 or 2 and which:

- is an area intended for development with new noise sensitive land use(s) that are not yet built;
- is in proximity to existing, lawfully established stationary source(s); and,
- has formal confirmation of the Class 4 Area designation from the land use planning authority, which is determined during the land use planning process.

Areas with existing noise sensitive land use(s) cannot be classified as Class 4 areas.

The Class 4 Area designation increases the sound level limits, therefore requiring less noise mitigation. For outdoor points of reception, the difference between Class 1 (which would apply to the subject proposal) and Class 4 is 5 dBA from 7:00 am to 11:00 pm. There are no sound level limits for outdoor points of reception during the night. For indoor points of reception (the inside of windows in noise sensitive spaces), the difference between Class 1 and Class 4 is 10 dBA at all times of the day.

Guideline NPC-300 identifies a number of considerations to apply to a proposed Class 4 Area designation and associated new noise sensitive land uses, including the following:

- Submission of a satisfactory noise impact assessment which includes noise measures as required by NPC-300;
- Appropriate notification to prospective purchasers that the dwelling is located in a Class 4 Area, which may include, but is not limited to, agreements for noise mitigation (registered on title) and appropriate warning clauses in future agreements of purchase and sale;
- Providing a copy of the approved noise impact assessment and Class 4 Area designation confirmation to the surrounding owners of the stationary noise sources; and,



- Once a site is designated Class 4 Area, it would remain as such, subject to the continuing presence of the stationary noise sources.

The applicant has submitted an Environmental Noise Impact Study by Valcoustics Canada Ltd. which assesses the impact of transportation and stationary noise sources on the subject proposed development. This study recommends that the subject lands be designated a Class 4 Area based on the following:

- The excess noise levels predicted at the site, over the normally applied Class 1 sound level limits, are considered minor (up to 2 dBA);
- In keeping with the design constraints of the site, Building A cannot be set back farther from the stationary noise sources and there are no practical measures that could be used to mitigate the minor excesses;
- Once the adjacent developments to the east are constructed, the minor excesses would only occur at the top floors of Building A; and,
- The Class 4 status was specifically designed for situations such as this where there is an existing stationary noise source and a new site, in proximity, is wanted to be developed for residential use and there are no practicable/feasible ways to mitigate the noise.

Staff has reviewed the applicant's request for re-classification of the site from Class 1 to Class 4 Area and supports the request based on the following:

- If the site were to remain as a Class 1 Area, the upper floors of most of the eastern stacked townhouse blocks and Building A would exceed the MOECC noise criteria. The affected buildings would require significant redesign, so that noise sensitive spaces are not located along the east and south facing walls. Noise sensitive spaces include bedrooms, living/dining rooms, kitchens and dens while non-noise sensitive spaces include corridors and washrooms. The alternative to such a building redesign would be a very large acoustic barrier (6.9 metres (22.6 feet) high and 245 metres (804 feet) long) adjacent to the Town's snow storage facility, which is considered to be an impractical solution.
- Under the Class 4 Area noise criteria, the design of this development will not require special mitigation measures to protect against stationary noise sources, as the predicted stationary sound levels would be below the Class 4 Area limits. As for transportation noise sources, indoor noise mitigation measures, including window glazing and building materials, will continue to be designed to Class 1 standards. The Class 4 Area designation applies to stationary noise sources only.
- The reclassification also allow for the potential to expand operations within the Town's and Region's facilities, within the sound level limits of the Class 4 Area. If Council approves the Class 4 designation, the Official Plan Amendment should include policies to implement the designation and a future Site Plan Agreement should include appropriate clauses to ensure that the development complies with Guideline NPC-300 and to require appropriate warning clauses in future agreements of purchase and sale.

## **Department and External Agency Comments**

The subject Official Plan Amendment, Zoning By-law Amendment and Site Plan applications and the associated background studies and reports submitted in support of same have been circulated to various Town departments and external agencies for their review and comment. The following is a summary of the comments received as of the writing of this report.

### **Development Planning Section**

Planning staff provides the following main comments:

- The land uses proposed on the table-land portion of the site are consistent with those permitted by the Medium/High Density Residential designation of the North Leslie Secondary Plan. The proposed development is also in compliance with the minimum and maximum density provisions of this designation;
- The limits of the environmental features and associated buffers shown on the applicant's Site Plan drawings have not yet been confirmed by the TRCA; and,
- Revisions to the Site Plan drawings and technical reports submitted by the applicant will be required to address the circulation comments. Revisions to the design of the development proposal as currently depicted, may be required to satisfy the requirements of the Town and the external commenting agencies.

### **Urban Design and Heritage Section**

The Town's Urban Design and Heritage Section provides the following main comments:

- The Town's Urban Design Guidelines should be used as a guide for the site design, including building separation, priority building elevations, walkways, amenity space and angular plane requirements;
- As there is a surplus of 51 parking spaces, some of the at-grade parking can be eliminated to allow for greater spatial distance between the townhouse blocks and to allow for more landscaping and tree planting in the lanes;
- The length of Block 12 (the most westerly 4-storey townhouse block) should be reduced to 8 modules, similar to the length of Blocks 9, 10, and 11 (to the east). The reduced length of Block 12 will increase greenspace fronting onto the west lane, will accommodate the underground parking ramp directly from the lane and will provide a greater amenity area for Building A;
- Extensive landscaping should be provided to screen the loading and garbage area from the adjacent residential units;
- Cross-sections of the courtyards framed by the 4-storey townhouse blocks should be submitted, demonstrating how sunlight and privacy will be achieved for below-grade units;

- The building design of the stacked townhouse blocks should be revised to achieve a maximum of 5 exterior steps;
- The subject lands include designated heritage structures: the Steckley-Eyer House and Milk House (Designation By-law No. 290-98). Staff has concerns with a number of recommendations of the applicant's Cultural Heritage Impact Assessment. A revised document is required; and,
- The designated structures are to remain in situ; as such, the owner must provide a plan for the adaptive reuse of these structures.

#### Parks Planning and Natural Heritage Section

The Town's Parks Planning & Natural Heritage Section provides the following main comments:

- The proposed development generates a parkland dedication requirement of over 500m<sup>2</sup>. Town policy requires the conveyance of land to fulfill this requirement in circumstances where the development generates greater than 500 m<sup>2</sup> of parkland dedication. Council may, by resolution, require that cash, equal to the value of the land otherwise required to be conveyed, be paid to the municipality to fulfill parkland dedication requirements for this subdivision. As the MESP shows a proposed park within 400 metres of the subject land, it is recommended that parkland be fulfilled through cash-in-lieu;
- The applicant's Environmental Impact Statement (EIS) does not fully address the North Leslie Terms of Reference for such studies. The EIS must provide more detail on the protection of the natural heritage system within the site and include information about Brook Trout and other salmonids;
- The diversion of groundwater under the underground parking garage needs to be better understood and mitigation measures proposed;
- The proposed development will result in a 44% reduction to groundwater infiltration. The use of additional topsoil in landscaped areas will have no effect on infiltration due to the diversion of water through the underground parking garage into a storage tank. Provide a development scenario where impacts can be mitigated;
- A 2 to 4 metre high retaining wall is proposed between the Hilltop Place seniors residence to the west and the subject property. Provide landscaping to visually screen the wall and adequate soil between the wall and Hilltop Place;
- The natural heritage system lands should be conveyed to a public agency. As the heritage structures located within the system are to remain in situ, the portion of land they occupy should remain in private ownership and the remaining lands conveyed; and,
- The landscape submission should implement the pending recommendations of the EIS and provide landscape plans that restore and enhance the natural heritage system lands and naturalize the proposed stormwater outlet.

## Development Engineering Division

The Town's Development Engineering Division provides the following main comments:

- Options to reduce the elevation of the parking structure and grading transitions should be investigated in consultation with the Town and TRCA; temporary or permanent dewatering systems will require an appropriate Hydrogeological/Geotechnical impact assessment. Additional boreholes will be required to support the final hydrogeological /geotechnical investigations;
- Bicycle parking is required at the rate of 1.0 bicycle space / unit and be shown on the site plan and underground parking plan;
- The proposed site access locations and provision for future interconnections to adjacent sites are acceptable. Cross boundary/reciprocal easements to the adjacent lands to the east and west are required;
- An update to the Transportation Impact Study is required;
- The next Site Plan submission shall ensure that design matters such as turnaround areas, driveways, parking spaces, loading bays and sidewalks are designed to Town standards;
- The applicant's noise study is acceptable. Details of noise mitigation measures shall be confirmed when floor plans and grading plans are finalized at the Site Plan stage;
- Based on the Guideline NPC-300 Class 1 limits, minor stationary noise excess (up to 2 dBA) at Building A and Blocks 5 to 9 (the most eastern stacked townhouse blocks) are identified. If the site were to remain as a Class 1 Area, the upper floors of these buildings would exceed the MOECC noise criteria. The affected buildings would require significant redesign, so that noise sensitive spaces are not located along the east and south facing walls. Noise sensitive spaces include bedrooms, living/dining rooms, kitchens and dens while non-noise sensitive spaces include corridors and washrooms. The alternative to such a building redesign would be a very large acoustic barrier (6.9 metres (22.6 feet) high and 245 metres (804 feet) long) adjacent to the Town's snow storage facility, which is considered to be an impractical solution;
- The site is recommended to be re-classified to Class 4 Area under Guideline NPC-300. A Class 4 Area is intended for development with new noise sensitive land uses that are not yet built, in proximity to existing, lawfully established stationary noise sources;
- Under the Class 4 Area noise criteria, the design of this development will not require special mitigation measures to protect against stationary noise sources, as the predicted stationary sound levels would be below the Class 4 Area limits. As for transportation noise sources, indoor noise mitigation measures, including window glazing and building materials, will continue to be designed to Class 1 standards;
- This reclassification also provides some opportunity to expand operations at the Elgin Mills CEC and the Town's Operations Centre where stationary sound level

limits are 10 dBA higher for the plane of window receptors and 5 dBA higher for the outdoor points of receptor than those of a Class 1 Area; and,

- Additional information is required to support the applicant's MESP Servicing Compliance Letter and Water Resource Management Report.

#### Toronto and Region Conservation Authority

The Toronto and Region Conservation Authority provides the following main comments:

- TRCA has no objection to approval of the proposed Official Plan Amendment at this time.
- The overall proposal and the EIS do not demonstrate how the development complies with the approved MESP;
- The proposed development indicates the need to permanently suppress the existing groundwater levels; sufficient information with respect to the impacts of permanent dewatering on adjacent natural features has not been provided. The proposed suppression of the groundwater system would result in an overall net reduction in the required contributions to ensure feature based water balance for the adjacent natural features;
- Site-specific feature-based water balance analysis is required to be undertaken for each feature, building upon the information provided in the MESP to identify detailed water balance components and the design of mitigation measures;
- An updated Geotechnical Report must be submitted. The updated report must address the potential consequences of lowering of the groundwater table. An updated Hydrogeological Report must address the aspects of both potential chemical and biological clogging. The Safe Excavation Depth must be determined; and,
- The applicant's stormwater management documents require numerous revisions to demonstrate satisfactory water balance, stormwater management and erosion control.

#### Region of York

The Region of York provides the following main comments:

- A widening across the Elgin Mills Road East frontage of the site is required to provide a minimum of 18.0 of metres right-of-way from the centerline of construction of Elgin Mills Road East and shall be conveyed to York Region for public highway purposes, free of all costs and encumbrances;
- Revisions to the Transportation Impact Study are required; and,
- The Region has no objection to the proposed Official Plan Amendment, subject to the applicant demonstrating that the development can proceed with the planned road network as depicted in the Secondary Plan and the approved MESP.

## Other Town Departments and External Agency Comments

Comments have also been received from the Town's Financial Services Development Section, Enbridge Gas, York Region District School Board, York Catholic District School Board, Hydro One, Rogers Cable, Powerstream, Canada Post, and Bell Canada. These Town departments and external agencies have no objections to the applications and/or have provided comments to be considered by the applicant during the more detailed implementation stage of the approval process. All of these comments have been forwarded to the applicant for consideration but have not been appended to this report.

## Richmond Hill Sustainability Metrics

In collaboration with the City of Brampton and the City of Vaughan, Richmond Hill developed a set of sustainability metrics to ensure new development helps create healthier, sustainable communities through the project "Measuring the Sustainability Performance of New Developments." The sustainability metrics were created as a performance tool to quantify the sustainability of new development projects consistently across the three municipalities. With more than 50 potential criteria listed, the sustainability metrics tool is used by applicants to calculate the score of each proposed application, ensuring it meets Richmond Hill's sustainability standards. Each draft plan or site plan application must include sustainable elements in their plans, such as producing their own energy, conserving water, using environmentally-friendly materials in construction, reducing greenhouse gas emissions by encouraging use of sustainable transportation like public transit, and more.

The applicant has submitted a completed Sustainability Metrics submission which is currently being reviewed by Staff. Future recommendations concerning the allocation of servicing capacity will be based, in part, on the applicant's Sustainability Metrics submission in conjunction with the applicant's revised Site Plan application for its proposed residential development.

## Financial/Staffing/Other Implications

The recommendation does not have any financial, staffing or other implications.

## Relationship to Strategic Plan

The applicant's development proposal would align with **Goal Two of the Town's Strategic Plan - Better Choice in Richmond Hill** by providing a range of housing that provides options for people at all stages of life. The proposal would also align with **Goal Four of the Strategic Plan - Wise Management of Resources in Richmond Hill** by using land responsibly.

## Conclusions

The applicant is seeking Council's approval of its Official Plan Amendment, Zoning By-law Amendment and Site Plan applications, submitted in support of its proposal for a residential development consisting of 598 dwelling units on private lanes which will be

accessed from future public streets. The applicant's proposal also provides for the preservation of the natural heritage system within the property.

As the applicant has addressed the primary design issues raised during the circulation of the applications, the Official Plan Amendment application is recommended for approval. Also recommended for approval is the designation of the subject lands as a "Class 4 Area" as defined by the Ontario Ministry of Environment and Climate Change in its "**Environmental Noise Guideline: Stationary and Transportation Noise Sources – Approval and Planning (NPC-300)**". The Official Plan Amendment should include policies to implement the noise designation and a future Site Plan Agreement should include appropriate clauses to ensure that the development complies with Guideline NPC-300 and to require appropriate warning clauses in future agreements of purchase and sale. The implementing Official Plan Amendment will be brought forward to Council for adoption in the fall session of Council, subject to the applicant paying the applicable processing fee.

The proposed Zoning By-law amendment is also recommended for approval in principle at this time. At such time as the applicant receives Site Plan approval from the Town, the implementing Zoning By-law Amendment will be forwarded to Council for enactment, subject to the applicant paying the applicable processing fee. It is also recommended that all comments pertaining to the applicant's related Site Plan application be referred back to Staff.

## **Appendix Contents and Maps:**

The following attached documents may include scanned images of appendixes, maps and photographs. If you require an alternative format please call contact person listed in this document.

- Appendix A, Extract from Council Public Meeting C#10-16 held on March 30, 2016
- Map 1, Aerial Photograph
- Map 2, North Leslie Secondary Plan Designations
- Map 3, North Leslie West Block Plan
- Map 4, Revised Site Plan
- Map 5, Original Site Plan







## **Staff Report for Committee of the Whole Meeting**

**Date of Meeting:** July 4, 2017

**Report Number:** SRPRS.17.128

**Department:** Planning and Regulatory Services

**Division:** Development Planning

**Subject:** Request for Approval – Official Plan Amendment, Zoning By-law Amendment and Site Plan Applications – Elgin House Properties Limited - Town Files D01-15007, D02-15036 and D06-15079 (SRPRS.17.128)

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### **Owner:**

Elgin House Properties Limited  
8611 Weston Road, Unit 18  
Vaughan, ON L4L 9P1

### **Agent:**

KLM Planning Partners Inc.  
64 Jardin Drive, Unit 1B  
Vaughan, Ontario  
L4K 3P3

### **Location:**

Part of Lots 26 and 27, Concession 2, E.Y.S.  
(Municipal Address: 1000 Elgin Mills Road East)

### **Purpose:**

A request for approval concerning proposed Official Plan Amendment, Zoning By-law Amendment and Site Plan applications to facilitate the construction of a 598 unit medium/high density residential development on the subject lands.

### **Recommendations:**

- a) That the Official Plan Amendment application submitted by Elgin House Properties Limited for its lands known as Part of Lots 26 and 27, Concession 2, E.Y.S. (Municipal Address: 1000 Elgin Mills Road East), Town File D01-15007 be approved, subject to the following:
  - i. That the lands designated “Institutional” and “Low Density Residential” be redesignated to “Medium/High Density Residential” with site-specific provisions giving exceptions to Secondary Plan policies relating to apartment

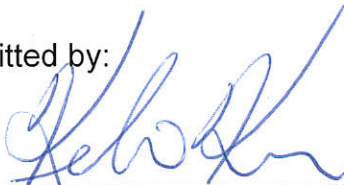
**building location and terracing, as discussed in and generally illustrated on the maps in Staff Report SRPRS.17.128;**

- ii. **That the lands designated “Medium/High Density Residential” be designated as a “Class 4 Area” as defined by the Ontario Ministry of Environment and Climate Change in its “Environmental Noise Guideline: Stationary and Transportation Noise Sources – Approval and Planning (Publication NPC-300)”, and that the Class 4 Area noise designation, with appropriate policies, be included in the Official Plan Amendment; and,**
- iii. **That prior to forwarding the Official Plan Amendment to Council for enactment, the applicant pay the applicable processing fee in accordance with the Town’s Tariff of Fees By-law No. 95-16.**
- b) **That prior to forwarding the amending Zoning By-law to Council for enactment, the applicant receive Site Plan approval from the Town with respect to the proposed development to be constructed on the subject lands and pay the applicable processing fee in accordance with the Town’s Tariff of Fees By-law No. 95-16;**
- c) **That Council resolve to accept cash-in-lieu of parkland dedication for the subject development proposal; and,**
- d) **That all comments pertaining to the applicant’s related Site Plan application (Town File D06-15079) be referred back to Staff.**

Contact Person:

Bruce Robb, Senior Planner, phone number 905-771-2459 and/or  
Salvatore Aiello, Manager of Development - Zoning, phone number 905-771-2471

Submitted by:



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Kelvin Kwan  
Acting Commissioner of Planning and Regulatory Services

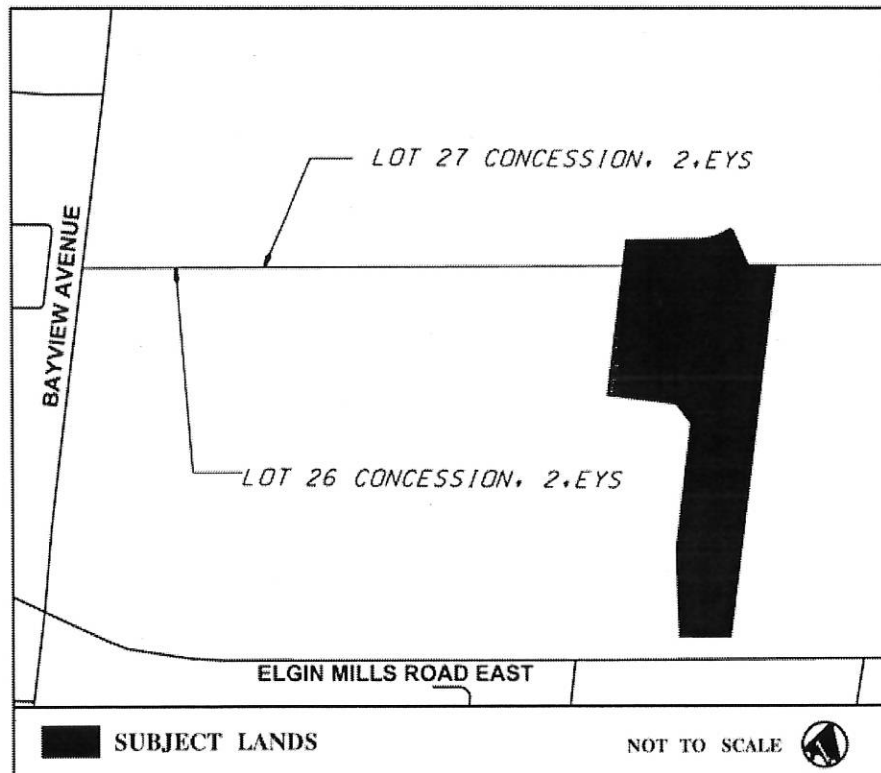
**Approved by:**

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Neil Garbe  
Chief Administrative Officer

## Location Map

Below is a map displaying the property location. Should you require an alternative format call person listed under “Contact” above.



## Background Information

A statutory Council Public Meeting was held on March 30, 2016 to receive comments from members of Council and the public concerning the subject applications. At the Public Meeting, a representative of the landowner to the west of the subject lands expressed concerns regarding the proposed redesignation of the subject lands and the related land uses, building heights and building setbacks proposed by the applicant. An extract of the minutes from the Public Meeting is attached as Appendix "A" to this report. The purpose of this report is to seek Council's approval regarding the owner's applications for Official Plan and Zoning By-law Amendments.

## Summary Analysis

Further information in regards to site location is as follows:

### Site Location and Adjacent Uses

The subject lands are located on the north side of Elgin Mills Road East and have a total area of 4.361 hectares (10.8 acres). The lands are largely vacant, although the southern part of the property contains a heritage home with a related small outbuilding and a natural heritage system associated with a tributary of the Rouge River.

The surrounding land uses include the Brookside Court / Hilltop Place retirement homes and natural heritage lands to the west, existing agricultural lands to the east and north and Elgin Mills Road East to the south (refer to Maps 1 and 2).

### Revised Development Proposal

The applicant submitted a revised development proposal to the Town on February 16, 2017, in response to comments arising from the initial submission of October, 2015. The applicant is seeking Council's approval to construct a 598 unit residential development, in the form of stacked townhouses and mid-rise apartments, and the protection of the natural heritage system and heritage home on the subject lands (refer to Map 4). The applicant's initial proposal was for 592 similar units (refer to Map 5). The following is a summary table outlining the relevant statistics of the applicant's revised development proposal based on the plans and drawings submitted to the Town:

<b>Total Lot Area:</b>	<b>4.361 ha (10.8 ac.)</b>
<b>Total Number of Units:</b>	<b>598</b>
- Stacked Townhouses:	304
- Mid-rise Apartments:	293
- Existing Heritage Home:	1
<b>Natural Heritage System:</b>	<b>0.411 ha (1.0 ac.)</b>
<b>Future Collector Street:</b>	<b>0.111 ha (0.27 ac.)</b>
<b>Gross Floor Area:</b>	<b>58,511 sq. m (629,828 sq. ft.)</b>
<b>Floor Space Index:</b>	<b>1.52</b>
<b>Parking Spaces:</b>	<b>947</b>
- Surface Visitor:	71
- Underground Visitor:	78
- Residents:	798

## Planning Analysis

Other information, plans, studies and or comments are reported below:

### Official Plan Amendment Application

The majority of the subject lands are designated “**Institutional**” in the North Leslie Secondary Plan (the “Secondary Plan”), with the southwest corner designated “**Natural Heritage System**” and a strip of land at the northern limit designated “**Low Density Residential**” (refer to Map 3). Although the “**Institutional**” designation permits “**Residential Medium/High Density**” uses, it envisions such uses to be a component of a development serving the elderly. As the proposed development of the subject lands is for conventional townhouse and apartment residential units (not seniors’ housing), an Official Plan Amendment redesignating the “**Institutional**” lands to “**Medium/High Density Residential**” is required. Similarly, the northern portion of the site designated “**Low Density Residential**” is requested to be redesignated to “**Medium/High Density Residential**” to permit the proposed uses.

No change is proposed to the boundaries or applicable policies of the “**Natural Heritage System**” designation as these lands are to be protected and conveyed to the Town or other public agency to ensure their long term protection.

The applicable policies of the “**Medium/High Density Residential**” designation contained in the Secondary Plan are as follows:

#### Policy 9.6.2.3 Medium/High Density Residential

- a) The predominant use of lands within this designation shall be for townhouses, stacked townhouses, back to back townhouses, low rise to mid-rise apartment buildings and other housing forms that conform to the height and density requirements of this designation. Mixed use developments including retail, office, personal services and residential uses in one building may be permitted subject to locational criteria and compatibility. A maximum building height of 10 storeys, a minimum density of 1.0 F.A.R and a maximum density of 2.0 F.A.R is permitted.
- g) Buildings in excess of 4 storeys in height shall be stepped at minimum intervals of 2 storeys where they abut a Low or Medium Density Residential designation or existing development.
- h) Where adjacent lands are designated Low or Medium Density Residential, the height of all new buildings, within 25 metres of the property line of these designations, shall not be greater than 2 storeys above the existing buildings, or, if vacant, 2 storeys above the maximum permitted height in the adjacent designation.

The applicant has requested that it be exempted from policies g) and h) above on the basis that there is sufficient separation between the proposed apartment buildings and future low density development to the east and north, through compliance with the Town’s 45 degree “angular plane” height provision, which is a requirement of the Town’s **Town-wide Urban Design Guidelines**. The guidelines are comprehensive and represent current urban design criteria, on a Town-wide basis.



Compliance with a 45 degree angular plane means that a building cannot project above a 45 degree angular plane, starting at the property line or, where the property abuts a street, on the opposite side of the street. It applies to development on properties where the land use designation of abutting lands is for lower density and height.

On the basis of compliance with the Town-wide guidelines, exemption from policies g) and h) is supported with respect to proposed Buildings "A" and "B" along the eastern and northern sides of the site (refer to Map 4). However, on the western side of Building "B", there is an encroachment into the 45 degree angular plane. The property to the west is designated "**Low Density Residential**" by the Secondary Plan and a development application by Elbay Developments Inc. for street townhouses is currently under review by the Town. Although that owner has recently applied for an Official Plan Amendment to permit stacked townhouses on its lands, the site remains designated "**Low Density Residential**" until such time as Council approves its redesignation.

Through the continuing Site Plan approval process for the subject development, there will be the opportunity to adjust the placement and architectural details of Buildings "A" and "B" to achieve compliance with the Town's 45 degree angular plane requirement.

In summary, the requested Official Plan Amendment redesignating the "**Institutional**" and "**Low Density Residential**" portions of the subject lands to "**Medium/High Density Residential**" is supported, as is the request for an exemption to Policies 9.6.2.3 g) and h) of the North Leslie Secondary Plan. The implementing Official Plan Amendment will be brought forward to Council for adoption in the fall session of Council, subject to the applicant paying the applicable processing fee.

### **Proposed Zoning By-Law Amendment**

The subject lands are zoned "**Institutional (I) Zone**" and "**Agricultural (A1) Zone**" under zoning by-law 2325-68, as amended. The "**I**" zone permits places of worship, nursing homes, public and semi-public institutions, hospitals and cemeteries. The "**A1**" zone permits agricultural and related uses, kennels or veterinarian establishments, one single family detached dwelling, a school, a clinic, a place of worship and conservation projects. The current zone categories do not permit the uses proposed by the subject applications and accordingly an amendment to the zoning by-law is required to facilitate the proposed development.

The applicants are proposing to expand the boundaries of By-law No. 55-15 to include the subject lands and to zone the lands "**Multiple Residential Ten (RM10) Zone**" and "**Environmental Protection Two (EPA 2) Zone**" with site-specific development standards to facilitate the proposed development. The applicant's Zoning By-law amendment application is only being recommended for approval in principle at this time. At such time as the applicant submits a revised Site Plan application responding to the various comments arising from circulation of its February, 2017 submission and the applicant receives Site Plan approval from the Town, the implementing Zoning By-law Amendment will be forwarded to Council for enactment, subject to the applicant paying the applicable processing fee.

## Site Plan Application

The proposed residential development is pedestrian oriented and designed with limited vehicular movements at grade (refer to Map 4). Access to the site will be from two future streets within planned development to the north and east. All resident parking is to be provided within one level of underground parking, with vehicular access to the garage provided from two points within the property. Pedestrian access to the underground parking structure is to be from a number of stairways located throughout the development. Approximately half of the visitor parking is proposed to be at grade, with the remainder in the underground parking garage.

Approximately half of the proposed residential units (293 units) are within Buildings “A” and “B”, the two 10-storey apartment buildings located at the northern limit of the site. The remaining 305 units are in the following configurations:

- Directly to the south of the apartment buildings, are 8 blocks of units containing 216 back-to-back stacked townhouses, 4 storeys in height. These blocks are coloured orange on Map 4.
- To the south of the orange coloured blocks are 6 blocks of units containing 88 through-unit stacked townhouses, 5 storeys in height. Through-unit stacked townhouses have greenspace / yards at the front and rear of each block of townhouses. These blocks are coloured gold on Map 4.
- To the south of the above proposed development, there is an existing home and accessory building which are designated under the *Ontario Heritage Act* (the Stekley-Eyer House and Milk House). Access to these structures is now provided from an existing driveway to the west, on the lands containing the Brookside Court / Hilltop Place retirement homes. At such time as the subject development is constructed, access to the heritage structures is intended to be provided through a driveway connection to the internal laneway system of the development. Both structures are intended to be restored by the applicant, with the home to continue use as a dwelling unit within a future condominium corporation to be established for the proposed development.

Revisions to the overall site design, made by the applicant in its February 2017 submission, now provide vehicular and pedestrian connections to future development to the east and west of the subject lands. This will enhance overall connectivity in this future neighbourhood, including the provision of improved access from individual developments to the collector road system. Service related facilities, including garbage and recycling storage, are to be accommodated within the underground parking structure.

At present, Staff is awaiting the applicant's submission of a revised Site Plan application, responding to the various comments arising from circulation of the applicant's February 2017 submission. It should be noted that revisions to the design of the development proposal, as currently depicted, may be required to satisfy the circulation comments noted below.

## **Class 4 Noise Designation**

In October 2013, the Ontario Ministry of Environment and Climate Change (“MOECC”) released a new noise criteria guideline known as “**Environmental Noise Guideline: Stationary and Transportation Noise Sources – Approval and Planning (NPC-300)**”. The new guideline replaces four different noise guidelines and was created for the approval of stationary noise sources by the MOECC and for land use approvals by municipalities.

One of the goals of the new guidelines is to resolve conflicts between stationary noise sources, such as industrial or commercial activity, and noise sensitive land uses, such as residential. One of the changes is the introduction of a “Class 4 Area”, which is meant to be a tool to allow municipalities to promote intensification in areas of existing stationary noise sources, through the approval of Class 4 Areas, which have higher sound level limits than Class 1, 2 and 3 Areas. In the case of the subject lands (and adjacent lands in the Secondary Plan), the main stationary noise sources affecting the proposed development are certain operations at the Town’s Operations Centre, Richmond Green Community Park and the Region of York’s Community Environmental Centre, to the east of the subject lands.

Guideline NPC-300 defines a Class 4 Area as an area or specific site that would otherwise be defined as Class 1 or 2 and which:

- is an area intended for development with new noise sensitive land use(s) that are not yet built;
- is in proximity to existing, lawfully established stationary source(s); and,
- has formal confirmation of the Class 4 Area designation from the land use planning authority, which is determined during the land use planning process.

Areas with existing noise sensitive land use(s) cannot be classified as Class 4 areas.

The Class 4 Area designation increases the sound level limits, therefore requiring less noise mitigation. For outdoor points of reception, the difference between Class 1 (which would apply to the subject proposal) and Class 4 is 5 dBA from 7:00 am to 11:00 pm. There are no sound level limits for outdoor points of reception during the night. For indoor points of reception (the inside of windows in noise sensitive spaces), the difference between Class 1 and Class 4 is 10 dBA at all times of the day.

Guideline NPC-300 identifies a number of considerations to apply to a proposed Class 4 Area designation and associated new noise sensitive land uses, including the following:

- Submission of a satisfactory noise impact assessment which includes noise measures as required by NPC-300;
- Appropriate notification to prospective purchasers that the dwelling is located in a Class 4 Area, which may include, but is not limited to, agreements for noise mitigation (registered on title) and appropriate warning clauses in future agreements of purchase and sale;
- Providing a copy of the approved noise impact assessment and Class 4 Area designation confirmation to the surrounding owners of the stationary noise sources; and,



- Once a site is designated Class 4 Area, it would remain as such, subject to the continuing presence of the stationary noise sources.

The applicant has submitted an Environmental Noise Impact Study by Valcoustics Canada Ltd. which assesses the impact of transportation and stationary noise sources on the subject proposed development. This study recommends that the subject lands be designated a Class 4 Area based on the following:

- The excess noise levels predicted at the site, over the normally applied Class 1 sound level limits, are considered minor (up to 2 dBA);
- In keeping with the design constraints of the site, Building A cannot be set back farther from the stationary noise sources and there are no practical measures that could be used to mitigate the minor excesses;
- Once the adjacent developments to the east are constructed, the minor excesses would only occur at the top floors of Building A; and,
- The Class 4 status was specifically designed for situations such as this where there is an existing stationary noise source and a new site, in proximity, is wanted to be developed for residential use and there are no practicable/feasible ways to mitigate the noise.

Staff has reviewed the applicant's request for re-classification of the site from Class 1 to Class 4 Area and supports the request based on the following:

- If the site were to remain as a Class 1 Area, the upper floors of most of the eastern stacked townhouse blocks and Building A would exceed the MOECC noise criteria. The affected buildings would require significant redesign, so that noise sensitive spaces are not located along the east and south facing walls. Noise sensitive spaces include bedrooms, living/dining rooms, kitchens and dens while non-noise sensitive spaces include corridors and washrooms. The alternative to such a building redesign would be a very large acoustic barrier (6.9 metres (22.6 feet) high and 245 metres (804 feet) long) adjacent to the Town's snow storage facility, which is considered to be an impractical solution.
- Under the Class 4 Area noise criteria, the design of this development will not require special mitigation measures to protect against stationary noise sources, as the predicted stationary sound levels would be below the Class 4 Area limits. As for transportation noise sources, indoor noise mitigation measures, including window glazing and building materials, will continue to be designed to Class 1 standards. The Class 4 Area designation applies to stationary noise sources only.
- The reclassification also allow for the potential to expand operations within the Town's and Region's facilities, within the sound level limits of the Class 4 Area.

If Council approves the Class 4 designation, the Official Plan Amendment should include policies to implement the designation and a future Site Plan Agreement should include appropriate clauses to ensure that the development complies with Guideline NPC-300 and to require appropriate warning clauses in future agreements of purchase and sale.

## **Department and External Agency Comments**

The subject Official Plan Amendment, Zoning By-law Amendment and Site Plan applications and the associated background studies and reports submitted in support of same have been circulated to various Town departments and external agencies for their review and comment. The following is a summary of the comments received as of the writing of this report.

### **Development Planning Section**

Planning staff provides the following main comments:

- The land uses proposed on the table-land portion of the site are consistent with those permitted by the Medium/High Density Residential designation of the North Leslie Secondary Plan. The proposed development is also in compliance with the minimum and maximum density provisions of this designation;
- The limits of the environmental features and associated buffers shown on the applicant's Site Plan drawings have not yet been confirmed by the TRCA; and,
- Revisions to the Site Plan drawings and technical reports submitted by the applicant will be required to address the circulation comments. Revisions to the design of the development proposal as currently depicted, may be required to satisfy the requirements of the Town and the external commenting agencies.

### **Urban Design and Heritage Section**

The Town's Urban Design and Heritage Section provides the following main comments:

- The Town's Urban Design Guidelines should be used as a guide for the site design, including building separation, priority building elevations, walkways, amenity space and angular plane requirements;
- As there is a surplus of 51 parking spaces, some of the at-grade parking can be eliminated to allow for greater spatial distance between the townhouse blocks and to allow for more landscaping and tree planting in the lanes;
- The length of Block 12 (the most westerly 4-storey townhouse block) should be reduced to 8 modules, similar to the length of Blocks 9, 10, and 11 (to the east). The reduced length of Block 12 will increase greenspace fronting onto the west lane, will accommodate the underground parking ramp directly from the lane and will provide a greater amenity area for Building A;
- Extensive landscaping should be provided to screen the loading and garbage area from the adjacent residential units;
- Cross-sections of the courtyards framed by the 4-storey townhouse blocks should be submitted, demonstrating how sunlight and privacy will be achieved for below-grade units;
- The building design of the stacked townhouse blocks should be revised to achieve a maximum of 5 exterior steps;
- The subject lands include designated heritage structures: the Steckley-Eyer House and Milk House (Designation By-law No. 290-98). Staff has concerns with a number of

recommendations of the applicant's Cultural Heritage Impact Assessment. A revised document is required; and,

- The designated structures are to remain in situ; as such, the owner must provide a plan for the adaptive reuse of these structures.

#### Parks Planning and Natural Heritage Section

The Town's Parks Planning & Natural Heritage Section provides the following main comments:

- The proposed development generates a parkland dedication requirement of over 500m<sup>2</sup>. Town policy requires the conveyance of land to fulfill this requirement in circumstances where the development generates greater than 500 m<sup>2</sup> of parkland dedication. Council may, by resolution, require that cash, equal to the value of the land otherwise required to be conveyed, be paid to the municipality to fulfill parkland dedication requirements for this subdivision. As the MESP shows a proposed park within 400 metres of the subject land, it is recommended that parkland be fulfilled through cash-in-lieu;
- The applicant's Environmental Impact Statement (EIS) does not fully address the North Leslie Terms of Reference for such studies. The EIS must provide more detail on the protection of the natural heritage system within the site and include information about Brook Trout and other salmonids;
- The diversion of groundwater under the underground parking garage needs to be better understood and mitigation measures proposed;
- The proposed development will result in a 44% reduction to groundwater infiltration. The use of additional topsoil in landscaped areas will have no effect on infiltration due to the diversion of water through the underground parking garage into a storage tank. Provide a development scenario where impacts can be mitigated;
- A 2 to 4 metre high retaining wall is proposed between the Hilltop Place seniors residence to the west and the subject property. Provide landscaping to visually screen the wall and adequate soil between the wall and Hilltop Place;
- The natural heritage system lands should be conveyed to a public agency. As the heritage structures located within the system are to remain in situ, the portion of land they occupy should remain in private ownership and the remaining lands conveyed; and,
- The landscape submission should implement the pending recommendations of the EIS and provide landscape plans that restore and enhance the natural heritage system lands and naturalize the proposed stormwater outlet.

#### Development Engineering Division

The Town's Development Engineering Division provides the following main comments:

- Options to reduce the elevation of the parking structure and grading transitions should be investigated in consultation with the Town and TRCA; temporary or permanent dewatering systems will require an appropriate Hydrogeological/Geotechnical impact assessment.

Additional boreholes will be required to support the final hydrogeological /geotechnical investigations;

- Bicycle parking is required at the rate of 1.0 bicycle space / unit and be shown on the site plan and underground parking plan;
- The proposed site access locations and provision for future interconnections to adjacent sites are acceptable. Cross boundary/reciprocal easements to the adjacent lands to the east and west are required;
- An update to the Transportation Impact Study is required;
- The next Site Plan submission shall ensure that design matters such as turnaround areas, driveways, parking spaces, loading bays and sidewalks are designed to Town standards;
- The applicant's noise study is acceptable. Details of noise mitigation measures shall be confirmed when floor plans and grading plans are finalized at the Site Plan stage;
- Based on the Guideline NPC-300 Class 1 limits, minor stationary noise excess (up to 2 dBA) at Building A and Blocks 5 to 9 (the most eastern stacked townhouse blocks) are identified. If the site were to remain as a Class 1 Area, the upper floors of these buildings would exceed the MOECC noise criteria. The affected buildings would require significant redesign, so that noise sensitive spaces are not located along the east and south facing walls. Noise sensitive spaces include bedrooms, living/dining rooms, kitchens and dens while non-noise sensitive spaces include corridors and washrooms. The alternative to such a building redesign would be a very large acoustic barrier (6.9 metres (22.6 feet) high and 245 metres (804 feet) long) adjacent to the Town's snow storage facility, which is considered to be an impractical solution;
- The site is recommended to be re-classified to Class 4 Area under Guideline NPC-300. A Class 4 Area is intended for development with new noise sensitive land uses that are not yet built, in proximity to existing, lawfully established stationary noise sources;
- Under the Class 4 Area noise criteria, the design of this development will not require special mitigation measures to protect against stationary noise sources, as the predicted stationary sound levels would be below the Class 4 Area limits. As for transportation noise sources, indoor noise mitigation measures, including window glazing and building materials, will continue to be designed to Class 1 standards;
- This reclassification also provides some opportunity to expand operations at the Elgin Mills CEC and the Town's Operations Centre where stationary sound level limits are 10 dBA higher for the plane of window receptors and 5 dBA higher for the outdoor points of receptor than those of a Class 1 Area; and,
- Additional information is required to support the applicant's MESP Servicing Compliance Letter and Water Resource Management Report.

#### Toronto and Region Conservation Authority

The Toronto and Region Conservation Authority provides the following main comments:

- TRCA has no objection to approval of the proposed Official Plan Amendment at this time.
- The overall proposal and the EIS do not demonstrate how the development complies with the approved MESP;



- The proposed development indicates the need to permanently suppress the existing groundwater levels; sufficient information with respect to the impacts of permanent dewatering on adjacent natural features has not been provided. The proposed suppression of the groundwater system would result in an overall net reduction in the required contributions to ensure feature based water balance for the adjacent natural features;
- Site-specific feature-based water balance analysis is required to be undertaken for each feature, building upon the information provided in the MESP to identify detailed water balance components and the design of mitigation measures;
- An updated Geotechnical Report must be submitted. The updated report must address the potential consequences of lowering of the groundwater table. An updated Hydrogeological Report must address the aspects of both potential chemical and biological clogging. The Safe Excavation Depth must be determined; and,
- The applicant's stormwater management documents require numerous revisions to demonstrate satisfactory water balance, stormwater management and erosion control.

#### Region of York

The Region of York provides the following main comments:

- A widening across the Elgin Mills Road East frontage of the site is required to provide a minimum of 18.0 of metres right-of-way from the centerline of construction of Elgin Mills Road East and shall be conveyed to York Region for public highway purposes, free of all costs and encumbrances;
- Revisions to the Transportation Impact Study are required; and,
- The Region has no objection to the proposed Official Plan Amendment, subject to the applicant demonstrating that the development can proceed with the planned road network as depicted in the Secondary Plan and the approved MESP.

#### Other Town Departments and External Agency Comments

Comments have also been received from the Town's Financial Services Development Section, Enbridge Gas, York Region District School Board, York Catholic District School Board, Hydro One, Rogers Cable, Powerstream, Canada Post, and Bell Canada. These Town departments and external agencies have no objections to the applications and/or have provided comments to be considered by the applicant during the more detailed implementation stage of the approval process. All of these comments have been forwarded to the applicant for consideration but have not been appended to this report.

#### **Richmond Hill Sustainability Metrics**

In collaboration with the City of Brampton and the City of Vaughan, Richmond Hill developed a set of sustainability metrics to ensure new development helps create healthier, sustainable communities through the project "Measuring the Sustainability Performance of New Developments." The sustainability metrics were created as a performance tool to quantify the sustainability of new development projects consistently across the three municipalities. With more than 50 potential criteria listed, the sustainability metrics tool is used by applicants to

calculate the score of each proposed application, ensuring it meets Richmond Hill's sustainability standards. Each draft plan or site plan application must include sustainable elements in their plans, such as producing their own energy, conserving water, using environmentally-friendly materials in construction, reducing greenhouse gas emissions by encouraging use of sustainable transportation like public transit, and more.

The applicant has submitted a completed Sustainability Metrics submission which is currently being reviewed by Staff. Future recommendations concerning the allocation of servicing capacity will be based, in part, on the applicant's Sustainability Metrics submission in conjunction with the applicant's revised Site Plan application for its proposed residential development.

### **Financial/Staffing/Other Implications**

The recommendation does not have any financial, staffing or other implications.

### **Relationship to Strategic Plan**

The applicant's development proposal would align with **Goal Two of the Town's Strategic Plan - Better Choice in Richmond Hill** by providing a range of housing that provides options for people at all stages of life. The proposal would also align with **Goal Four of the Strategic Plan - Wise Management of Resources in Richmond Hill** by using land responsibly.

### **Conclusions**

The applicant is seeking Council's approval of its Official Plan Amendment, Zoning By-law Amendment and Site Plan applications, submitted in support of its proposal for a residential development consisting of 598 dwelling units on private lanes which will be accessed from future public streets. The applicant's proposal also provides for the preservation of the natural heritage system within the property.

As the applicant has addressed the primary design issues raised during the circulation of the applications, the Official Plan Amendment application is recommended for approval. Also recommended for approval is the designation of the subject lands as a "Class 4 Area" as defined by the Ontario Ministry of Environment and Climate Change in its "**Environmental Noise Guideline: Stationary and Transportation Noise Sources – Approval and Planning (NPC-300)**". The Official Plan Amendment should include policies to implement the noise designation and a future Site Plan Agreement should include appropriate clauses to ensure that the development complies with Guideline NPC-300 and to require appropriate warning clauses in future agreements of purchase and sale. The implementing Official Plan Amendment will be brought forward to Council for adoption in the fall session of Council, subject to the applicant paying the applicable processing fee.

The proposed Zoning By-law amendment is also recommended for approval in principle at this time. At such time as the applicant receives Site Plan approval from the Town, the implementing Zoning By-law Amendment will be forwarded to Council for enactment, subject to the applicant paying the applicable processing fee. It is also recommended that all comments pertaining to the applicant's related Site Plan application be referred back to Staff.

## **Appendix Contents and Maps:**

The following attached documents may include scanned images of appendixes, maps and photographs. If you require an alternative format please call contact person listed in this document.

- Appendix A, Extract from Council Public Meeting C#10-16 held on March 30, 2016
- Map 1, Aerial Photograph
- Map 2, North Leslie Secondary Plan Designations
- Map 3, North Leslie West Block Plan
- Map 4, Revised Site Plan
- Map 5, Original Site Plan







## **Staff Report for Committee of the Whole Meeting**

**Date of Meeting:** August 14, 2017

**Report Number:** SRPRS.17.129

**Department:** Planning and Regulatory Services

**Division:** Planning Policy Division

**Subject:** Update on OMB Review and Draft Comments on Proposed Bill 139 – the Building Better Communities and Conserving Watersheds Act, 2017 (EBR Registry number 013-0590) (SRPRS.17.129) File No. D10-CO

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### **Purpose:**

The purpose of this staff report is to update Council on the OMB Review initiated by the Province of Ontario in June 2016 and to provide comments and recommendations in response to proposed Bill 139 – the *Building Better Communities and Conserving Watersheds Act, 2017* as it relates to proposed changes to the *Planning Act*.

### **Recommendation(s):**

- a) That Staff Report SRPRS.17.129 be received;
- b) That the recommendations contained in Staff Report SRPRS.17.129, in response to the Province EBR Posting # 013-0590, be endorsed;
- c) That a copy of SRPRS.17.129, a copy of the Council resolution and all additional comments submitted to the Town Clerk by noon on July 4, 2017 be forwarded by the Town Clerk to the Province EBR Posting # 013-0590, and the Minister of Municipal Affairs and Housing and the Attorney General of Ontario for consideration; and
- d) That the above documents also be forwarded to York Region for information and consideration.

### **Contact Person:**

Michelle Dobbie, Senior Planner (Policy), phone number 905-771-2467.

### **Submitted by:**

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Kelvin Kwan  
Acting Commissioner of Planning and Regulatory Services

**Approved by:**

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Neil Garbe  
Chief Administrative Officer

**Background:**

The Ontario government launched a review of the scope and effectiveness of the Ontario Municipal Board (OMB) in June 2016. On October 5, 2016, the Province commenced its formal consultation regarding the OMB Review by releasing a public consultation document. The document discussed the need to improve Ontario's land use planning appeal system by making it more transparent and inclusive, and by exploring improvements to the OMB's role within the broader system. The Province organized the consultation around five key themes which frame the structure of the OMB Review as follows:

- Theme 1 – OMB's Jurisdiction and Powers;
- Theme 2 – Citizen Participation and Local Perspective;
- Theme 3 – Clear and Predictable Decision-Making;
- Theme 4 – Modern Procedures and Faster Decisions; and,
- Theme 5 – Alternative Dispute Resolution and Fewer Hearings.

Town Council provided comments in response to these five themes in December 2016 (refer to Staff Report SRPRS.16.190), and urged the Province to give priority to the following key recommendations:

1. Remove all appeal rights as they relate to Official Plans (OPs), Secondary Plans and OP amendments, while providing the right for the Minister or approval authority to modify such a document to ensure conformity/consistency with provincial or regional policies;
2. Limit the role of the OMB so that it focuses on the validity of decisions made by Councils and Approval Authorities, and not be a forum for substituting those decisions. Where the OMB finds an "error" in a Council decision, it should render a decision which explains the error, and direct Council to correct it thereby leaving the remedy in Council's hands – as a court would do;
3. Limit the OMB's overarching authority over all planning matters to only approve, modify or refuse planning matters for the purpose of ensuring conformity and/or consistency with provincial policies and plans and local OP's, as appropriate; and
4. The Province should consider amending Section 2 of the *Planning Act* to ensure that Council decisions are given due weight in an OMB hearing even if the Council decision occurs after an appeal is filed.

On May 30, 2017, the Province introduced the proposed *Building Better Communities and Conserving Watersheds Act, 2017* (Bill 139), which proposes to overhaul Ontario's land use planning appeals system, currently administered by the OMB. Bill 139 proposes the following "transformative changes":

- Replacing the OMB with the "Local Planning Appeal Tribunal" - a new Tribunal which would be mandated to give greater weight to the decisions of local communities, while ensuring that development and growth occurs in a way that is good for Ontario and its future;
- Making planning appeals more accessible to the public by creating the "Local Planning Appeal Support Centre", a new agency that would provide free legal and planning advice, as well as representation to eligible citizens who may want to participate in local planning appeals;
- Limiting the authority of the OMB by:
  - i. Giving more weight to local and provincial decisions by changing the standard of review – the grounds for appeal on major matters would be limited to their failure to conform or be consistent with provincial and local policies; and
  - ii. Giving municipal elected officials greater control over local planning by exempting a broader range of municipal land use decisions from appeal;
- Supporting clearer and more timely decision making; and
- Supporting government priorities on climate change.

Bill 139 includes 5 components, namely:

1. Enactment of the *Local Planning Appeal Tribunal Act, 2017*;
2. Enactment of the *Local Planning Appeal Support Centre Act, 2017*;
3. Amendments to the *Planning Act*, the *City of Toronto Act*, and the *Ontario Planning and Development Act*;
4. Amendments to the *Conservation Authorities Act*;
5. Amendments to various Acts consequential to the enactment of the *Local Planning Appeal Tribunal Act, 2017*

A summary of the proposed legislative changes as it relates to the new Tribunal and Support Centre, and proposed changes to the *Planning Act* (i.e. Item #1, 2 and 3 above) is outlined below. The recommendations provided in this staff report focus on responding to EBR Posting # 013-0590 (Appendix A), which deals only with the proposed changes to the *Planning Act*.

## **Key Changes to the OMB Proposed through Bill 139:**

The key changes outlined below are organized by themes related to the "transformative changes" outlined above and provide commentary on how the changes address

Council's four key recommendations on the OMB Review from December 2016 (SRPRS.16.190).

## **Replacing the OMB with a new Local Planning Appeal Tribunal**

Of central importance to the proposed changes outlined in Bill 139 is the proposal to replace the OMB with a new body, the Local Planning Appeal Tribunal (the "Tribunal"), which is proposed to give greater weight to the decisions of local communities. The proposed enactment of a new *Local Planning Appeal Tribunal Act, 2017* continues the OMB's function under a new Tribunal, repealing the *Ontario Municipal Board Act*. Many provisions in the new *Act* and the old *Act* are substantively the same. Changes relate primarily to the practices and procedures applicable to proceedings before the Tribunal.

The Tribunal is required to hold case management conferences to identify issues, parties and opportunities for settlement. This up-front disclosure is currently not required under the OMB's procedures (although it is often ordered by the OMB for longer or more complex hearings). While it may require more staff time and resources at the front-end of a hearing process, it may have the effect of limiting the amount of actual hearing time required by identifying issues and areas of agreement early in the process. The Tribunal is also given active powers to compel the production of evidence and examine any party or person making submissions to the Tribunal at any point in a proceeding.

Currently, appeals to the OMB are conducted in an "oral" hearing (unless otherwise requested by the parties) where parties may call witnesses to provide oral evidence which can be tested through cross-examination, as well as make submissions/arguments. Bill 139 provides that oral hearings are no longer as of right, but instead must be authorized by the Tribunal. Where an oral hearing is permitted, only the parties and persons permitted by the Tribunal may participate. For hearings in the first instance, only submissions are permitted—no witnesses are permitted to be called and no party or person may adduce evidence, and submissions must not exceed the time prescribed in the regulations. To this end, Bill 139 also authorizes the Minister to make regulations regarding the conduct and format of hearings, including new requirements applicable if an oral hearing is held (these regulations are still to come).

This is a significant procedural change from the current OMB hearing process. These changes may save a significant amount of time and resources when the Town participates in future hearings adjudicated by the Tribunal. At the time when this report was prepared, no EBR posting on this matter had been released.

## **Establishing the Local Planning Appeals Support Centre**

The Bill proposes to establish a Local Planning Appeals Support Centre (LPASC), a support centre operated independently from but accountable to the Ontario government. The LPASC would provide legal and planning support to eligible citizens. The LPASC is modelled after the Human Rights Legal Support Centre. Services would include legal

and planning representation in certain cases. At the time when this report was prepared, no EBR posting on this matter had been released.

## **Limiting the Authority of the OMB**

The Bill proposes to amend the *Planning Act* to eliminate “de novo” hearings for certain planning appeals related to Official Plan and Zoning By-law matters where a decision has been rendered by Council. A de-novo hearing is a hearing that starts as if there was no Council consideration of what was proposed. The proposed changes would significantly re-frame the nature of appeals before the Tribunal by proposing to only allow appeals to the Tribunal where the Council decision is inconsistent with or fails to conform with Provincial or upper-tier plans/policy statements. Where a local decision is found to be inconsistent with or not in conformity with Provincial or upper-tier plans/policy statement by the new Tribunal, such a decision would be returned to Council to make a new decision on the application.

The changes appear to limit the Tribunal to primarily consider conformity, which represents a significant change to the scope of the new Tribunal’s powers. Currently the OMB has considerable discretion to overturn a municipal decision where it finds that Council did not make an “optimal” planning decision. It appears that Bill 139 seeks to significantly reduce the Tribunal’s discretion to overturn an approval authority’s decisions, as the Tribunal’s power would be limited to determining whether the Council’s decision is or is not consistent with or in conformity with Provincial and upper-tier plans/policy statements, and in the case of OP amendment (OPA) or Zoning By-law amendment applications, conformity with the local OP (i.e. not whether, in the OMB’s discretion, the “optimal” planning decision was made).

Additionally, in the event the Tribunal determines that Council’s decision does not meet the conformity/consistency test, the Tribunal’s decision goes back to Council for Council to reconsider the proposal and rectify the error identified by the Tribunal, and the Council has a second opportunity to make a new decision within 90 days. If the subsequent Council decision is appealed and the Tribunal again determines that the proposal does not meet the new conformity/consistency test (that is, Council did not rectify the conformity/consistency error identified by the Tribunal in the first decision), the Tribunal is then given the authority to substitute its decision for Council’s to approve, refuse or modify the proposal.

The proposed changes outlined above that would establish a new Local Planning Appeal Tribunal to replace the OMB, a new Local Planning Appeals Support Centre, and a new conformity/consistency test to limit the authority of the new Tribunal generally address Council’s 2016 Recommendations #2 and #3 on the OMB Review consultation document for certain planning matters. Additional recommendations to further these proposed changes are outlined in the “Key Recommendations” section of this staff report.

## **Removing Appeal Rights for Certain *Planning Act* Applications**

Council's 2016 Recommendation #1 on the OMB Review consultation document urged the Province to remove appeal rights for OP, Secondary Plan, and OPAs. The proposed changes outlined in Bill 139 do not remove appeal rights for all OP, Secondary Plan and OPA applications. Rather, the Bill proposes a more surgical approach by removing appeal rights in certain instances for OPs, Secondary Plans, Zoning By-laws and Interim Control By-laws as follows:

- a) No appeal of an OP if the approval authority is the Minister (Section 17 and 21 of the *Planning Act*) - New subsections are added providing that there is no appeal in respect of an OP or an amendment to an OP adopted in accordance with Section 26, if the approval authority is the Minister. It is staff's understanding that this change would not apply to any of the Town's OP amendments as the approval authority is the Region of York.
- b) Certain OP/Zoning By-law appeals subject to new test (Section 17, 22 and 34 of the *Planning Act*) - Section 17 governs the adoption or approval of OPs. Currently, OPs can be appealed to the OMB. Bill 139 amends section 17 to limit the grounds on which appeals of the adoption or approval of an OP are made to issues of consistency or conformity with Provincial plans and policy statements and, as applicable, conformity with the upper-tier plan (the Regional Official Plan), as discussed previously in this report.

Similar amendments are made to Section 22 (OP amendments) with respect to appeals for requests to amend OPs and to Section 34 (Zoning By-laws) with respect to appeals related to Zoning By-laws. These matters are subject to an additional ground of appeal, being lack of conformity with the OP.

In all cases, the Tribunal may dismiss an appeal where the appellant has not provided an explanation of how the existing policy regime is not consistent with or not in conformity with Provincial and upper-tier plans/policy statements. Together, these changes add an additional "conformity" hurdle that must be met before an appeal to the Tribunal in the first instance may be made. Currently, the OMB may substitute its decision for that of Council's where it finds that the proposed OP, OP amendment or Zoning By-law is good planning and in the public interest, and otherwise conforms to the applicable policy regime. Under Bill 139, an appellant must demonstrate that the decision of Council to which the application relates does not conform to or is inconsistent with the higher-order policies and plans (Provincial, regional and local, as applicable).

- c) Two-year moratorium on amendments in new Secondary Plan areas at Council's discretion (Section 22 of the *Planning Act*) - A new subsection provides that during the two-year period following any part of a new Secondary Plan coming into effect, applications for amendment are permitted only with Council approval (i.e. through a formal Council resolution).

- d) Major Transit Station Areas – appeal limitations (Section 16, 17 and 34 of the *Planning Act*) - A new section is added to allow OPs to include policies relating to development around higher order transit stations and stops. A new definition is also added to the *Act* for the term “higher order transit”. These changes would allow York Region to establish policies identifying major transit station areas in the Regional Official Plan (ROP), including delineating the boundary and assigning a minimum people and jobs per hectare density target for the area, and to have these policies approved by the Minister and not be subject to appeal.

The Town would then have 1 year to amend its OP to identify the uses of land, buildings, and structures within the identified major transit station areas, and to establish minimum/maximum densities and heights for the area. Decisions on these policies cannot be appealed except by the Minister and requests to amend the policies can only be made with Council approval. When these policies are in place, Zoning By-laws that establish permitted uses, minimum and maximum densities and, except in certain circumstances, minimum and maximum heights cannot be appealed except by the Minister.

The Town’s OP currently includes a number of designations along the Centres and Corridors reflecting the major transit station areas along the existing/planned Yonge Street and Highway 7 Bus Rapid Transit (BRT) stations/stops. The BRT meets the definition of “higher order transit” as it operates “in whole or in part in a dedicated right of way”.

- e) No appeal of portions of a Zoning By-law applying to Major Transit Station Areas (Section 34 of the *Planning Act*) - New subsections are added prohibiting the appeal of the portions of a Zoning By-law that establish permitted uses or the minimum and maximum densities and heights with respect to buildings and structures in Major Transit Station Areas identified in an OP. The only exception (i.e. when an appeal may be allowed) is where the maximum height permitted would result in the building or structure not satisfying the minimum density required of that parcel.
- f) No appeal of refusal or lack of decision regarding a request to amend the Official Plan (Section 22) or to amend the Zoning By-law (Section 22 and 34 of the *Planning Act*), where the Official Plan and/or Zoning by-law are up to date

Bill 139 also prescribes that greater weight be given to OPs that are up to date with Provincial/upper-tier plan/policies and to Zoning By-laws that are updated to conform with OPs/Secondary Plans that implement current Provincial/upper-tier plans/policy statements. Where an OP or Zoning By-law is up to date, the ability to appeal an application to amend such an OP or Zoning By-law is no longer permitted in instances where Council decides to refuse the application or for a lack of decision within the statutory timeframe.

- g) Allowing only the Minister to appeal an Interim Control By-law (ICBL) when first passed (Section 38 of the *Planning Act*) - Currently, the *Planning Act* allows anyone who is given notice of the passing of an ICBL to appeal the By-law within 60 days after it is passed. Amendments are proposed to allow only the Minister to appeal an ICBL when it is first passed. Any person or public body who is given notice of the extension an ICBL can still appeal the extension.

## **Support Timely Decision Making**

The proposed changes to Bill 139 indirectly address Council's 2016 Recommendation #4 on the OMB Review consultation document regarding the need to give Council decisions more weight by providing additional time for Council to make a decision on OP and Zoning By-law amendment applications. Timelines for making decisions related to OP and Zoning By-law amendments are extended by 30 days (210 days and 180 days, respectively). For applications to amend Zoning By-laws submitted concurrently with requests to amend a local municipality's OP, the timeline is extended to 210 days.

## **Supporting Provincial Priorities on Climate Change**

To further the recently enacted changes to the Growth Plan for the Greater Golden Horseshoe, Oak Ridges Moraine Conservation Plan, and Greenbelt Plan related to climate change, a new subsection is added to the *Planning Act* requiring OPs to contain policies relating to climate change, specifically policies that identify goals, objectives and actions to mitigate greenhouse gas (GHG) emissions and to provide for adaptation to a changing climate, including through resiliency. The Town's OP currently includes an Environment section with specific direction related to Sustainable Design and the Town currently utilizes the award-winning Sustainability Metrics as a means to ensure development aids in mitigating GHG emissions and adapting to a changing climate.

## **Transition**

With respect to issues around transition, the Bill currently provides that the Minister is charged with preparing regulations at some future date to address how matters will be resolved that were commenced before the date that the new legislation takes effect. Staff will monitor this matter and report back on Transition Regulations when they are released by the Province.

## **Key Recommendations:**

The Province is commended for bringing forward the proposed changes outlined in Bill 139 to overhaul Ontario's land use planning appeals system. The proposed changes represent a bold step in the right direction, introducing a number of transformational changes that will make Ontario's land use planning appeals system more transparent and inclusive, along with providing more clear and predictable decisions for both citizens and developers and heightened municipal accountability in the planning process, as requested by Town Council. Below are 7 key recommendations that would help to further this direction:



### **Recommendation #1**

That the Province **considers tightening the basis of appeal for a non-decision on an OP under 17(40) of the *Planning Act*** to ensure that appeals for a non-decision do not begin to undermine the new “conformity/consistency” test that would otherwise apply where a Council decision has been rendered.

The proposed changes outlined in Bill 139 provide clear guidance with respect to the basis of appeal and new conformity/consistency test for appeals of OP and Zoning By-law amendments (ZBLAs) for which a Council decision has been rendered (i.e. applications under Section 22 or 34 of the *Planning Act*). In these instances, the reasons for an appeal are limited to matters of conformity to/consistency with Provincial/upper-tier plans/policies and the local OP. However, the proposed legislation appears to maintain a “business as usual” approach for appeals of an OP under Section 17(40) of the *Act* where the approval authority has not rendered a decision within the statutory timeframe (i.e. appeals for a “non-decision”). This is the situation that the Town has recently experienced with the appeals to the new OP. The powers of the Tribunal for appeals of a non-decision on an OP appear to continue as they currently exist before the OMB with the new Tribunal appearing to be able to approve, modify or refuse an application.

As noted in the Town’s December 2016 comments on the OMB Review, the Province should re-visit the concept of appeals of a non-decision by the approval authority on an OP to ensure that appeals for a non-decision do not begin to undermine the new conformity/consistency test otherwise applicable where a Council decision has been rendered.

While it appears that Bill 139 proposes that appeals of a decision on a privately-initiated OPA be held to the new conformity/consistency test, appeals for a non-decision on a municipally-initiated OP under Section 17 of the *Planning Act* do not seem to have the same treatment. The Province should consider limiting the basis of appeal for a non-decision on an OP under Section 17(40) by directing that, in such circumstances, the Tribunal must first determine whether there are good reasons why the approval authority has failed to render a decision on the OP within the statutory timeframe. If there is a good reason for no decision having been rendered yet, the Tribunal should be required to remit the matter back to the approval authority for a decision, stipulating a reasonable timeframe under the circumstances. In this manner, the matter could be returned to the Tribunal after Council has made a decision, and the appeal and review of the matter would be based on grounds related to whether or not Council’s decision conforms with and/or is consistent with provincial and local policy.

The above noted approach would ensure that OP amendments initiated under either Section 17 or Section 22 of the *Planning Act* are dealt with consistently by the new legislation.

Additionally, a further tightening of Section 17(40) appeals is required to ensure consistency with the direction in the proposed Bill for the Minister’s decision on upper-

tier or single-tier OP or OPAs to be unappealable, as it would close the Section 17(40) loophole that currently allows a third party to appeal these documents after the statutory timeframe has lapsed.

### **Recommendation #2**

That the Province considers **providing additional flexibility around the identification of density targets for Major Transit Station Areas** by simply requiring that density targets be established for the area (rather than prescribing a density target measured specifically in people and jobs per hectare, as proposed).

The proposed changes outlined in Bill 139 limit appeals with respect to height and density around Major Transit Station Areas provided certain matters are outlined in both the upper-tier ROP and the local OP. This is a bold overhaul to the appeals system as it may help to streamline the realization of transit-supportive intensification around areas where transit infrastructure investments are being made. These changes represent a positive step in the right direction for Secondary Plans the Town is undertaking along the OP's Centres and Corridors. However, it appears that the proposed legislation requires that in order for appeal limitations to apply, two matters need to be identified first in the ROP for Major Transit Station Areas:

- i. the boundary of the area; and
- ii. a density target for the area measured specifically in people and jobs per hectare (versus Floor Space Index (FSI), which is the manner the ROP currently uses to direct density around major transit areas along the centres and corridors).

The proposed legislation should be expanded to enable the density target required in the upper-tier plan to be based on either a "people and jobs per hectare" target and/or a minimum/maximum density target (i.e. an FSI or Urban and Peri-urban Horticulture (UPH) target). By providing greater flexibility in the legislation on how the density target is able to be articulated for Major Transit Station Areas, the Province may be able to further streamline the appeals process for ongoing Secondary Plan projects like the Town has initiated for its Centres and Corridors. For example, if the proposed legislation required that Major Transit Station Areas need to have a density target identified, the current ROP could be interpreted to already implement the new legislation.

This may enable the new Secondary Plans the Town has in process to benefit from the restrictive appeal rights for proposed height and density policies being proposed by Bill 139, aiding the Province in bringing housing and other development around Major Transit Station Areas to the market in a timely and cost efficient manner. If the appeal process around Major Transit Station Areas was able to be streamlined further through the forthcoming legislation or transition regulations, housing and other development around Major Transit Station Areas would be subject to less uncertainty, creating an opportunity for the timely provision of transit-supportive development.

### **Recommendation #3**

**Expand the proposed legislation to limit appeal rights for all municipally initiated OP/OPAs from appeal** (rather than only those Provincially approved OP/OPAs initiated by an upper-tier/single-tier municipality under Section 26 of the *Planning Act*, as proposed).

Under the current system, it is the experience of the Town that the OMB serves to bypass and displace local decision-making. Residents, elected officials and other members of the community have all expressed a sense of disenfranchisement with the OMB and the broader planning appeals system. There is a sense that the consequences of decisions on appeals are not fully understood by the people making the decisions, and that at any time local decision-making can be undone at the OMB. While the proposed changes outlined in Bill 139 address these trends and perceptions for Provincially approved OP/OPAs initiated by upper-tier/single-tier municipalities, it maintains a certain amount of authority for the new Tribunal over appeals to OP/OPAs undertaken by a lower-tier municipality (albeit limiting such authority to matters related to the new conformity/consistency test).

When a municipality initiates an OP/OPA, it is generally to either: 1) conform to Provincial or upper-tier plans/policy statements; 2) to implement local OP direction (i.e. preparing a Secondary Plan or Tertiary Plan for an area); or 3) to respond to an emerging planning issue or trend. If “planning” by its definition is to lay a course of action and set a series of expectations, enabling appeals of certain municipally-initiated OP/OPAs and not others has the potential to set up an unbalanced appeal system before the new Tribunal. Citizens as well as the development industry desire a reasonable level of predictability. Ontario planning legislation requires municipalities to undertake planning decisions that provide vision, direction and certainty. To support a consistent approach to local decision-making, whether it be that of an upper-tier, single-tier, or lower-tier municipality, the Province is urged to expand the proposed legislation to limit appeal rights for all municipally initiated OP/OPAs, ensuring a less complicated and lengthy process to bring new planning directions into full force and effect. At a minimum, the Province is urged to consider exempting any new OP/OPAs initiated to conform to Provincial or upper-tier plans/policies from appeal (as is proposed for OPs and OPAs initiated by upper-tier and single-tier municipalities approved by the Province).

### **Recommendation #4**

That the Province considers **clarifying that in the case of an appeal with multiple planning applications** (i.e. OPA/ZBLA/Site Plan or ZBLA/Draft Plan of Subdivision), **the appeal test is the same as that required for an OP or Zoning By-law Amendment** (e.g. does the decision conform to/is it consistent with Provincial/upper-tier and local policy?)

The majority of appeals to the OMB within the Town include an OP or Zoning By-law amendment application and either a Site Plan or Draft Plan of Subdivision application.

The proposed changes in Bill 139 are unclear as to what the test will be for Site Plan, Draft Plan or even Committee of Adjustment applications before the new Tribunal. The Province is urged to address this matter in the final legislation, including considering applying the same conformity/consistency test as is proposed for OPA and ZBLA appeals.

**Recommendation #5**

**Transition for appeals being reviewed against the new conformity/ consistency test before the Tribunal should be swift.** Applications that are in process and have not yet had a Hearing date scheduled before the OMB should be heard before the new Tribunal.

As noted above, the proposed Bill currently provides that the Minister is charged with preparing regulations at some future date to address how matters will be resolved that were commenced before the date that the new legislation takes effect. The Province is urged to undertake public consultation on the draft transition regulations expeditiously.

**Recommendation #6**

**Members of the new Tribunal should be required to have certain minimum qualifications and training to ensure decisions of the new Tribunal are well-reasoned and justified.**

The proposed legislation does not address many of the matters that were raised during the 2016 consultation on the OMB Review regarding Tribunal members' qualifications and training. The Province is urged to undertake public consultation on the proposed qualifications and training required for an individual to be selected as a member of the new Tribunal to ensure members have the appropriate skills and qualifications to properly manage and issue decisions for those matters brought before the new Tribunal.

**Recommendation #7**

**That the Province prepares and consults on guidance materials to help individuals participating in the new appeals process understand how the changes outlined in Bill 139 are intended to be operationalized.**

As noted above, the proposed Bill authorizes the Minister to make regulations regarding the conduct and format of hearings, including new requirements applicable if an oral hearing is held. Future regulations could also help to clarify how the new conformity/consistency test is to be operationalized for each of the different types of appeals before the new Tribunal. At the time when this report was prepared, no EBR posting on this matter had been released. Given that the changes outlined in the proposed Bill would create a significant procedural change from the current OMB hearing process, the Province is urged to prepare and consult on guidance materials to help individuals participating in the new appeals process understand how the changes outlined in Bill 139 are intended to be operationalized.

## **Next Steps:**

As noted above, Bill 139 proposes to enact new legislation and amend existing legislation to build better communities and conserve the Province's watersheds. Presently, the Province is consulting on proposed amendments to the *Planning Act*. Staff will continue to monitor the EBR should there be consultation regarding the proposed *Local Planning Appeals Tribunal Act*, which replaces the *Ontario Municipal Board Act*, or the proposed *Local Planning Appeals Support Centre Act*, which proposes a framework for the Centre but will require future regulations to fully establish its operations.

Through further review over the summer, should there be additional technical matters identified by staff for which clarification is required or for which modifications should be considered by the Province, a separate staff comment letter could be submitted to the Province in advance of the August 14, 2017 deadline. Should this be the case, staff will provide a memo advising Council of these additional comments at a later date. Following the consultation period(s), the Province will bring Bill 139 to second reading. Staff will continue to monitor this matter and should there be consultation on other aspects of the proposed legislation, staff will advise Council and report back accordingly.

## **Financial/Staffing/Other Implications:**

There are no financial/staffing/other implications.

## **Relationship to the Strategic Plan:**

Input into the OMB Review and providing a response to proposed Bill 139 – the *Building Better Communities and Conserving Watersheds Act, 2017* fulfills Goals 1 to 4 of the Strategic Plan by supporting the Province's proposed overhaul of Ontario's land use planning appeals system, specifically the OMB, including the transformative changes outlined in this report. By providing local decisions more weight and deference in the land use planning and appeals process, the Province will help the Town ensure stronger connections, better choice and better quality options, a more vibrant identity and place, and wise management of resources.

## **Conclusion:**

Bill 139 has been posted by the Province for a 75 day public review and comment period starting May 31, 2017. Comments received prior to August 14, 2017 will be considered as part of the decision-making process by the Ministry if they are submitted in writing or electronically referencing EBR Registry # 013-0590.

Overall, the proposed overhaul of Ontario's land use planning appeals system outlined in Bill 139 seeks to improve the current OMB appeal process and is generally supported. The proposed legislation would establish a new Local Planning Appeal Tribunal to replace the current OMB. The proposed legislation creates fundamental changes to the role and function of the Tribunal so that it operates as a true appeal

body, ensuring that planning decisions are made in a more open and transparent process by local councils. Municipal councils must give due regard for approved and in effect Provincial and upper-tier plans/policies as well as input received from the public when making decisions. The proposed changes represent a shift towards heightened municipal accountability in the planning process, as requested by Town Council in its December 2016 comments on the OMB Review.

As noted in this report, there are many proposed changes that are supported; however, there are matters that could be further improved. To better realize the goal of a clear and predictable appeals process, and a swift transition between the “old” appeals system and the proposed new system, the Province is urged to give priority to the following key recommendations:

**Recommendation #1**

That the Province **considers tightening the basis of appeal for a non-decision on an OP under 17(40) of the *Planning Act*** to ensure that appeals for a non-decision do not begin to undermine the new “conformity/consistency” test that would otherwise apply where a Council decision has been rendered.

**Recommendation #2**

That the Province considers **providing additional flexibility around the identification of density targets for Major Transit Station Areas** by simply requiring that density targets be established for the area (rather than prescribing a density target measured specifically in people and jobs per hectare, as proposed).

**Recommendation #3**

**Expand the proposed legislation to limit appeal rights for all municipally initiated OP/OPAs** (rather than only those Provincially approved OP/OPAs initiated by an upper-tier/single-tier municipality under Section 26 of the *Planning Act*, as proposed).

**Recommendation #4**

That the Province considers **clarifying that in the case of an appeal with multiple planning applications** (i.e. OPA/ZBLA/Site Plan or ZBLA/Draft Plan of Subdivision), **the appeal test is the same as that required for an OP or Zoning By-law Amendment** (e.g. does the decision conform to/is it consistent with Provincial/upper-tier and local policy?)

**Recommendation #5**

**Transition for appeals being reviewed against the new conformity/ consistency test before the Tribunal should be swift.** Applications that are in process and have not yet had a Hearing date scheduled before the OMB should be heard before the new Tribunal.

**Recommendation #6**

**Members of the new Tribunal should be required to have certain minimum qualifications and training to ensure decisions of the new Tribunal are well-reasoned and justified.**

**Recommendation #7**

**That the Province prepares and consults on guidance materials to help individuals participating in the new appeals process understand how the changes outlined in Bill 139 are intended to be operationalized.**

**Attachments:**

The following attached document may include scanned images of appendices, maps and photographs. If you require an alternative format please call the contact person listed in this document.

**Appendix A**      EBR Posting #013-0590 (Bill 139 – the *Building Better Communities and Conserving Watersheds Act, 2017*)







## Staff Report for Committee of the Whole

Date of Meeting: July 4, 2017

Report Number: SRPRS.17.129

Department: Planning and Regulatory Services

Division: Planning Policy Division

**Subject: Update on OMB Review and Draft Comments on Proposed Bill 139 – the *Building Better Communities and Conserving Watersheds Act, 2017* (EBR Registry number 013-0590) (SRPRS.17.129) File No. D10-CO**

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### Purpose:

The purpose of this staff report is to update Council on the OMB Review initiated by the Province of Ontario in June 2016 and to provide comments and recommendations in response to proposed Bill 139 – the *Building Better Communities and Conserving Watersheds Act, 2017* as it relates to proposed changes to the *Planning Act*.

### Recommendation(s):

- a) That Staff Report SRPRS.17.129 be received;
- b) That the recommendations contained in Staff Report SRPRS.17.129, in response to the Province EBR Posting # 013-0590, be endorsed;
- c) That a copy of SRPRS.17.129, a copy of the Council resolution and all additional comments submitted to the Town Clerk by noon on July 4, 2017 be forwarded by the Town Clerk to the Province EBR Posting # 013-0590, and the Minister of Municipal Affairs and Housing and the Attorney General of Ontario for consideration; and
- d) That the above documents also be forwarded to York Region for information and consideration.

### Contact Person:

Michelle Dobbie, Senior Planner (Policy), phone number 905-771-2467.

**Submitted by:**

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Kelvin Kwan  
Acting Commissioner of Planning and Regulatory Services

**Approved by:**

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Neil Garbe  
Chief Administrative Officer

**Background:**

The Ontario government launched a review of the scope and effectiveness of the Ontario Municipal Board (OMB) in June 2016. On October 5, 2016, the Province commenced its formal consultation regarding the OMB Review by releasing a public consultation document. The document discussed the need to improve Ontario's land use planning appeal system by making it more transparent and inclusive, and by exploring improvements to the OMB's role within the broader system. The Province organized the consultation around five key themes which frame the structure of the OMB Review as follows:

- Theme 1 – OMB's Jurisdiction and Powers;
- Theme 2 – Citizen Participation and Local Perspective;
- Theme 3 – Clear and Predictable Decision-Making;
- Theme 4 – Modern Procedures and Faster Decisions; and,
- Theme 5 – Alternative Dispute Resolution and Fewer Hearings.

Town Council provided comments in response to these five themes in December 2016 (refer to Staff Report SRPRS.16.190), and urged the Province to give priority to the following key recommendations:

1. Remove all appeal rights as they relate to Official Plans (OPs), Secondary Plans and OP amendments, while providing the right for the Minister or approval authority to modify such a document to ensure conformity/consistency with provincial or regional policies;
2. Limit the role of the OMB so that it focuses on the validity of decisions made by Councils and Approval Authorities, and not be a forum for substituting those decisions. Where the OMB finds an "error" in a Council decision, it should render

a decision which explains the error, and direct Council to correct it thereby leaving the remedy in Council's hands – as a court would do;

3. Limit the OMB's overarching authority over all planning matters to only approve, modify or refuse planning matters for the purpose of ensuring conformity and/or consistency with provincial policies and plans and local OP's, as appropriate; and
4. The Province should consider amending Section 2 of the *Planning Act* to ensure that Council decisions are given due weight in an OMB hearing even if the Council decision occurs after an appeal is filed.

On May 30, 2017, the Province introduced the proposed *Building Better Communities and Conserving Watersheds Act, 2017* (Bill 139), which proposes to overhaul Ontario's land use planning appeals system, currently administered by the OMB. Bill 139 proposes the following "transformative changes":

- Replacing the OMB with the "Local Planning Appeal Tribunal" - a new Tribunal which would be mandated to give greater weight to the decisions of local communities, while ensuring that development and growth occurs in a way that is good for Ontario and its future;
- Making planning appeals more accessible to the public by creating the "Local Planning Appeal Support Centre", a new agency that would provide free legal and planning advice, as well as representation to eligible citizens who may want to participate in local planning appeals;
- Limiting the authority of the OMB by:
  - i. Giving more weight to local and provincial decisions by changing the standard of review – the grounds for appeal on major matters would be limited to their failure to conform or be consistent with provincial and local policies; and
  - ii. Giving municipal elected officials greater control over local planning by exempting a broader range of municipal land use decisions from appeal;
- Supporting clearer and more timely decision making; and
- Supporting government priorities on climate change.

Bill 139 includes 5 components, namely:

1. Enactment of the *Local Planning Appeal Tribunal Act, 2017*;
2. Enactment of the *Local Planning Appeal Support Centre Act, 2017*;
3. Amendments to the *Planning Act*, the *City of Toronto Act*, and the *Ontario Planning and Development Act*;
4. Amendments to the *Conservation Authorities Act*;
5. Amendments to various Acts consequential to the enactment of the *Local Planning Appeal Tribunal Act, 2017*

A summary of the proposed legislative changes as it relates to the new Tribunal and Support Centre, and proposed changes to the *Planning Act* (i.e. Item #1, 2 and 3 above) is outlined below. The recommendations provided in this staff report focus on responding to EBR Posting # 013-0590 (Appendix A), which deals only with the proposed changes to the *Planning Act*.

## **Key Changes to the OMB Proposed through Bill 139:**

The key changes outlined below are organized by themes related to the “transformative changes” outlined above and provide commentary on how the changes address Council’s four key recommendations on the OMB Review from December 2016 (SRPRS.16.190).

### **Replacing the OMB with a new Local Planning Appeal Tribunal**

Of central importance to the proposed changes outlined in Bill 139 is the proposal to replace the OMB with a new body, the Local Planning Appeal Tribunal (the “Tribunal”), which is proposed to give greater weight to the decisions of local communities. The proposed enactment of a new *Local Planning Appeal Tribunal Act, 2017* continues the OMB’s function under a new Tribunal, repealing the *Ontario Municipal Board Act*. Many provisions in the new *Act* and the old *Act* are substantively the same. Changes relate primarily to the practices and procedures applicable to proceedings before the Tribunal.

The Tribunal is required to hold case management conferences to identify issues, parties and opportunities for settlement. This up-front disclosure is currently not required under the OMB’s procedures (although it is often ordered by the OMB for longer or more complex hearings). While it may require more staff time and resources at the front-end of a hearing process, it may have the effect of limiting the amount of actual hearing time required by identifying issues and areas of agreement early in the process. The Tribunal is also given active powers to compel the production of evidence and examine any party or person making submissions to the Tribunal at any point in a proceeding.

Currently, appeals to the OMB are conducted in an “oral” hearing (unless otherwise requested by the parties) where parties may call witnesses to provide oral evidence which can be tested through cross-examination, as well as make submissions/arguments. Bill 139 provides that oral hearings are no longer as of right, but instead must be authorized by the Tribunal. Where an oral hearing is permitted, only the parties and persons permitted by the Tribunal may participate. For hearings in the first instance, only submissions are permitted—no witnesses are permitted to be called and no party or person may adduce evidence, and submissions must not exceed the time prescribed in the regulations. To this end, Bill 139 also authorizes the Minister to make regulations regarding the conduct and format of hearings, including new requirements applicable if an oral hearing is held (these regulations are still to come).

This is a significant procedural change from the current OMB hearing process. These changes may save a significant amount of time and resources when the Town

participates in future hearings adjudicated by the Tribunal. At the time when this report was prepared, no EBR posting on this matter had been released.

### **Establishing the Local Planning Appeals Support Centre**

The Bill proposes to establish a Local Planning Appeals Support Centre (LPASC), a support centre operated independently from but accountable to the Ontario government. The LPASC would provide legal and planning support to eligible citizens. The LPASC is modelled after the Human Rights Legal Support Centre. Services would include legal and planning representation in certain cases. At the time when this report was prepared, no EBR posting on this matter had been released.

### **Limiting the Authority of the OMB**

The Bill proposes to amend the *Planning Act* to eliminate “de novo” hearings for certain planning appeals related to Official Plan and Zoning By-law matters where a decision has been rendered by Council. A de-novo hearing is a hearing that starts as if there was no Council consideration of what was proposed. The proposed changes would significantly re-frame the nature of appeals before the Tribunal by proposing to only allow appeals to the Tribunal where the Council decision is inconsistent with or fails to conform with Provincial or upper-tier plans/policy statements. Where a local decision is found to be inconsistent with or not in conformity with Provincial or upper-tier plans/policy statement by the new Tribunal, such a decision would be returned to Council to make a new decision on the application.

The changes appear to limit the Tribunal to primarily consider conformity, which represents a significant change to the scope of the new Tribunal’s powers. Currently the OMB has considerable discretion to overturn a municipal decision where it finds that Council did not make an “optimal” planning decision. It appears that Bill 139 seeks to significantly reduce the Tribunal’s discretion to overturn an approval authority’s decisions, as the Tribunal’s power would be limited to determining whether the Council’s decision is or is not consistent with or in conformity with Provincial and upper-tier plans/policy statements, and in the case of OP amendment (OPA) or Zoning By-law amendment applications, conformity with the local OP (i.e. not whether, in the OMB’s discretion, the “optimal” planning decision was made).

Additionally, in the event the Tribunal determines that Council’s decision does not meet the conformity/consistency test, the Tribunal’s decision goes back to Council for Council to reconsider the proposal and rectify the error identified by the Tribunal, and the Council has a second opportunity to make a new decision within 90 days. If the subsequent Council decision is appealed and the Tribunal again determines that the proposal does not meet the new conformity/consistency test (that is, Council did not rectify the conformity/consistency error identified by the Tribunal in the first decision), the Tribunal is then given the authority to substitute its decision for Council’s to approve, refuse or modify the proposal.

The proposed changes outlined above that would establish a new Local Planning Appeal Tribunal to replace the OMB, a new Local Planning Appeals Support Centre, and a new conformity/consistency test to limit the authority of the new Tribunal generally address Council's 2016 Recommendations #2 and #3 on the OMB Review consultation document for certain planning matters. Additional recommendations to further these proposed changes are outlined in the "Key Recommendations" section of this staff report.

### **Removing Appeal Rights for Certain *Planning Act* Applications**

Council's 2016 Recommendation #1 on the OMB Review consultation document urged the Province to remove appeal rights for OP, Secondary Plan, and OPAs. The proposed changes outlined in Bill 139 do not remove appeal rights for all OP, Secondary Plan and OPA applications. Rather, the Bill proposes a more surgical approach by removing appeal rights in certain instances for OPs, Secondary Plans, Zoning By-laws and Interim Control By-laws as follows:

- a) No appeal of an OP if the approval authority is the Minister (Section 17 and 21 of the *Planning Act*) - New subsections are added providing that there is no appeal in respect of an OP or an amendment to an OP adopted in accordance with Section 26, if the approval authority is the Minister. It is staff's understanding that this change would not apply to any of the Town's OP amendments as the approval authority is the Region of York.
- b) Certain OP/Zoning By-law appeals subject to new test (Section 17, 22 and 34 of the *Planning Act*) - Section 17 governs the adoption or approval of OPs. Currently, OPs can be appealed to the OMB. Bill 139 amends section 17 to limit the grounds on which appeals of the adoption or approval of an OP are made to issues of consistency or conformity with Provincial plans and policy statements and, as applicable, conformity with the upper-tier plan (the Regional Official Plan), as discussed previously in this report.

Similar amendments are made to Section 22 (OP amendments) with respect to appeals for requests to amend OPs and to Section 34 (Zoning By-laws) with respect to appeals related to Zoning By-laws. These matters are subject to an additional ground of appeal, being lack of conformity with the OP.

In all cases, the Tribunal may dismiss an appeal where the appellant has not provided an explanation of how the existing policy regime is not consistent with or not in conformity with Provincial and upper-tier plans/policy statements. Together, these changes add an additional "conformity" hurdle that must be met before an appeal to the Tribunal in the first instance may be made. Currently, the OMB may substitute its decision for that of Council's where it finds that the proposed OP, OP amendment or Zoning By-law is good planning and in the public interest, and otherwise conforms to the applicable policy regime. Under Bill 139, an appellant must demonstrate that the decision of Council to which the

application relates does not conform to or is inconsistent with the higher-order policies and plans (Provincial, regional and local, as applicable).

- c) Two-year moratorium on amendments in new Secondary Plan areas at Council's discretion (Section 22 of the *Planning Act*) - A new subsection provides that during the two-year period following any part of a new Secondary Plan coming into effect, applications for amendment are permitted only with Council approval (i.e. through a formal Council resolution).
- d) Major Transit Station Areas – appeal limitations (Section 16, 17 and 34 of the *Planning Act*) - A new section is added to allow OPs to include policies relating to development around higher order transit stations and stops. A new definition is also added to the *Act* for the term “higher order transit”. These changes would allow York Region to establish policies identifying major transit station areas in the Regional Official Plan (ROP), including delineating the boundary and assigning a minimum people and jobs per hectare density target for the area, and to have these policies approved by the Minister and not be subject to appeal.

The Town would then have 1 year to amend its OP to identify the uses of land, buildings, and structures within the identified major transit station areas, and to establish minimum/maximum densities and heights for the area. Decisions on these policies cannot be appealed except by the Minister and requests to amend the policies can only be made with Council approval. When these policies are in place, Zoning By-laws that establish permitted uses, minimum and maximum densities and, except in certain circumstances, minimum and maximum heights cannot be appealed except by the Minister.

The Town's OP currently includes a number of designations along the Centres and Corridors reflecting the major transit station areas along the existing/planned Yonge Street and Highway 7 Bus Rapid Transit (BRT) stations/stops. The BRT meets the definition of “higher order transit” as it operates “in whole or in part in a dedicated right of way”.

- e) No appeal of portions of a Zoning By-law applying to Major Transit Station Areas (Section 34 of the *Planning Act*) - New subsections are added prohibiting the appeal of the portions of a Zoning By-law that establish permitted uses or the minimum and maximum densities and heights with respect to buildings and structures in Major Transit Station Areas identified in an OP. The only exception (i.e. when an appeal may be allowed) is where the maximum height permitted would result in the building or structure not satisfying the minimum density required of that parcel.
- f) No appeal of refusal or lack of decision regarding a request to amend the Official Plan (Section 22) or to amend the Zoning By-law (Section 22 and 34 of the *Planning Act*), where the Official Plan and/or Zoning by-law are up to date

Bill 139 also prescribes that greater weight be given to OPs that are up to date with Provincial/upper-tier plan/policies and to Zoning By-laws that are updated to conform with OPs/Secondary Plans that implement current Provincial/upper-tier plans/policy statements. Where an OP or Zoning By-law is up to date, the ability to appeal an application to amend such an OP or Zoning By-law is no longer permitted in instances where Council decides to refuse the application or for a lack of decision within the statutory timeframe.

- g) Allowing only the Minister to appeal an Interim Control By-law (ICBL) when first passed (Section 38 of the *Planning Act*) - Currently, the *Planning Act* allows anyone who is given notice of the passing of an ICBL to appeal the By-law within 60 days after it is passed. Amendments are proposed to allow only the Minister to appeal an ICBL when it is first passed. Any person or public body who is given notice of the extension an ICBL can still appeal the extension.

### **Support Timely Decision Making**

The proposed changes to Bill 139 indirectly address Council's 2016 Recommendation #4 on the OMB Review consultation document regarding the need to give Council decisions more weight by providing additional time for Council to make a decision on OP and Zoning By-law amendment applications. Timelines for making decisions related to OP and Zoning By-law amendments are extended by 30 days (210 days and 180 days, respectively). For applications to amend Zoning By-laws submitted concurrently with requests to amend a local municipality's OP, the timeline is extended to 210 days.

### **Supporting Provincial Priorities on Climate Change**

To further the recently enacted changes to the Growth Plan for the Greater Golden Horseshoe, Oak Ridges Moraine Conservation Plan, and Greenbelt Plan related to climate change, a new subsection is added to the *Planning Act* requiring OPs to contain policies relating to climate change, specifically policies that identify goals, objectives and actions to mitigate greenhouse gas (GHG) emissions and to provide for adaptation to a changing climate, including through resiliency. The Town's OP currently includes an Environment section with specific direction related to Sustainable Design and the Town currently utilizes the award-winning Sustainability Metrics as a means to ensure development aids in mitigating GHG emissions and adapting to a changing climate.

### **Transition**

With respect to issues around transition, the Bill currently provides that the Minister is charged with preparing regulations at some future date to address how matters will be resolved that were commenced before the date that the new legislation takes effect. Staff will monitor this matter and report back on Transition Regulations when they are released by the Province.



## Key Recommendations:

The Province is commended for bringing forward the proposed changes outlined in Bill 139 to overhaul Ontario's land use planning appeals system. The proposed changes represent a bold step in the right direction, introducing a number of transformational changes that will make Ontario's land use planning appeals system more transparent and inclusive, along with providing more clear and predictable decisions for both citizens and developers and heightened municipal accountability in the planning process, as requested by Town Council. Below are 7 key recommendations that would help to further this direction:

### **Recommendation #1**

That the Province **considers tightening the basis of appeal for a non-decision on an OP under 17(40) of the *Planning Act*** to ensure that appeals for a non-decision do not begin to undermine the new "conformity/consistency" test that would otherwise apply where a Council decision has been rendered.

The proposed changes outlined in Bill 139 provide clear guidance with respect to the basis of appeal and new conformity/consistency test for appeals of OP and Zoning By-law amendments (ZBLAs) for which a Council decision has been rendered (i.e. applications under Section 22 or 34 of the *Planning Act*). In these instances, the reasons for an appeal are limited to matters of conformity to/consistency with Provincial/upper-tier plans/policies and the local OP. However, the proposed legislation appears to maintain a "business as usual" approach for appeals of an OP under Section 17(40) of the *Act* where the approval authority has not rendered a decision within the statutory timeframe (i.e. appeals for a "non-decision"). This is the situation that the Town has recently experienced with the appeals to the new OP. The powers of the Tribunal for appeals of a non-decision on an OP appear to continue as they currently exist before the OMB with the new Tribunal appearing to be able to approve, modify or refuse an application.

As noted in the Town's December 2016 comments on the OMB Review, the Province should re-visit the concept of appeals of a non-decision by the approval authority on an OP to ensure that appeals for a non-decision do not begin to undermine the new conformity/consistency test otherwise applicable where a Council decision has been rendered.

While it appears that Bill 139 proposes that appeals of a decision on a privately-initiated OPA be held to the new conformity/consistency test, appeals for a non-decision on a municipally-initiated OP under Section 17 of the *Planning Act* do not seem to have the same treatment. The Province should consider limiting the basis of appeal for a non-decision on an OP under Section 17(40) by directing that, in such circumstances, the Tribunal must first determine whether there are good reasons why the approval authority has failed to render a decision on the OP within the statutory timeframe. If there is a good reason for no decision having been rendered yet, the Tribunal should be required to remit the matter back to the approval authority for a decision, stipulating a

reasonable timeframe under the circumstances. In this manner, the matter could be returned to the Tribunal after Council has made a decision, and the appeal and review of the matter would be based on grounds related to whether or not Council's decision conforms with and/or is consistent with provincial and local policy.

The above noted approach would ensure that OP amendments initiated under either Section 17 or Section 22 of the *Planning Act* are dealt with consistently by the new legislation.

Additionally, a further tightening of Section 17(40) appeals is required to ensure consistency with the direction in the proposed Bill for the Minister's decision on upper-tier or single-tier OP or OPAs to be unappealable, as it would close the Section 17(40) loophole that currently allows a third party to appeal these documents after the statutory timeframe has lapsed.

### **Recommendation #2**

That the Province considers **providing additional flexibility around the identification of density targets for Major Transit Station Areas** by simply requiring that density targets be established for the area (rather than prescribing a density target measured specifically in people and jobs per hectare, as proposed).

The proposed changes outlined in Bill 139 limit appeals with respect to height and density around Major Transit Station Areas provided certain matters are outlined in both the upper-tier ROP and the local OP. This is a bold overhaul to the appeals system as it may help to streamline the realization of transit-supportive intensification around areas where transit infrastructure investments are being made. These changes represent a positive step in the right direction for Secondary Plans the Town is undertaking along the OP's Centres and Corridors. However, it appears that the proposed legislation requires that in order for appeal limitations to apply, two matters need to be identified first in the ROP for Major Transit Station Areas:

- i. the boundary of the area; and
- ii. a density target for the area measured specifically in people and jobs per hectare (versus Floor Space Index (FSI), which is the manner the ROP currently uses to direct density around major transit areas along the centres and corridors).

The proposed legislation should be expanded to enable the density target required in the upper-tier plan to be based on either a "people and jobs per hectare" target and/or a minimum/maximum density target (i.e. an FSI or Urban and Peri-urban Horticulture (UPH) target). By providing greater flexibility in the legislation on how the density target is able to be articulated for Major Transit Station Areas, the Province may be able to further streamline the appeals process for ongoing Secondary Plan projects like the Town has initiated for its Centres and Corridors. For example, if the proposed legislation required that Major Transit Station Areas need to have a density target identified, the current ROP could be interpreted to already implement the new legislation.

This may enable the new Secondary Plans the Town has in process to benefit from the restrictive appeal rights for proposed height and density policies being proposed by Bill 139, aiding the Province in bringing housing and other development around Major Transit Station Areas to the market in a timely and cost efficient manner. If the appeal process around Major Transit Station Areas was able to be streamlined further through the forthcoming legislation or transition regulations, housing and other development around Major Transit Station Areas would be subject to less uncertainty, creating an opportunity for the timely provision of transit-supportive development.

### **Recommendation #3**

**Expand the proposed legislation to limit appeal rights for all municipally initiated OP/OPAs from appeal** (rather than only those Provincially approved OP/OPAs initiated by an upper-tier/single-tier municipality under Section 26 of the *Planning Act*, as proposed).

Under the current system, it is the experience of the Town that the OMB serves to bypass and displace local decision-making. Residents, elected officials and other members of the community have all expressed a sense of disenfranchisement with the OMB and the broader planning appeals system. There is a sense that the consequences of decisions on appeals are not fully understood by the people making the decisions, and that at any time local decision-making can be undone at the OMB. While the proposed changes outlined in Bill 139 address these trends and perceptions for Provincially approved OP/OPAs initiated by upper-tier/single-tier municipalities, it maintains a certain amount of authority for the new Tribunal over appeals to OP/OPAs undertaken by a lower-tier municipality (albeit limiting such authority to matters related to the new conformity/consistency test).

When a municipality initiates an OP/OPA, it is generally to either: 1) conform to Provincial or upper-tier plans/policy statements; 2) to implement local OP direction (i.e. preparing a Secondary Plan or Tertiary Plan for an area); or 3) to respond to an emerging planning issue or trend. If “planning” by its definition is to lay a course of action and set a series of expectations, enabling appeals of certain municipally-initiated OP/OPAs and not others has the potential to set up an unbalanced appeal system before the new Tribunal. Citizens as well as the development industry desire a reasonable level of predictability. Ontario planning legislation requires municipalities to undertake planning decisions that provide vision, direction and certainty. To support a consistent approach to local decision-making, whether it be that of an upper-tier, single-tier, or lower-tier municipality, the Province is urged to expand the proposed legislation to limit appeal rights for all municipally initiated OP/OPAs, ensuring a less complicated and lengthy process to bring new planning directions into full force and effect. At a minimum, the Province is urged to consider exempting any new OP/OPAs initiated to conform to Provincial or upper-tier plans/policies from appeal (as is proposed for OPs and OPAs initiated by upper-tier and single-tier municipalities approved by the Province).

#### **Recommendation #4**

That the Province considers **clarifying that in the case of an appeal with multiple planning applications** (i.e. OPA/ZBLA/Site Plan or ZBLA/Draft Plan of Subdivision), **the appeal test is the same as that required for an OP or Zoning By-law Amendment** (e.g. does the decision conform to/is it consistent with Provincial/upper-tier and local policy?)

The majority of appeals to the OMB within the Town include an OP or Zoning By-law amendment application and either a Site Plan or Draft Plan of Subdivision application. The proposed changes in Bill 139 are unclear as to what the test will be for Site Plan, Draft Plan or even Committee of Adjustment applications before the new Tribunal. The Province is urged to address this matter in the final legislation, including considering applying the same conformity/consistency test as is proposed for OPA and ZBLA appeals.

#### **Recommendation #5**

**Transition for appeals being reviewed against the new conformity/ consistency test before the Tribunal should be swift.** Applications that are in process and have not yet had a Hearing date scheduled before the OMB should be heard before the new Tribunal.

As noted above, the proposed Bill currently provides that the Minister is charged with preparing regulations at some future date to address how matters will be resolved that were commenced before the date that the new legislation takes effect. The Province is urged to undertake public consultation on the draft transition regulations expeditiously.

#### **Recommendation #6**

**Members of the new Tribunal should be required to have certain minimum qualifications and training to ensure decisions of the new Tribunal are well-reasoned and justified.**

The proposed legislation does not address many of the matters that were raised during the 2016 consultation on the OMB Review regarding Tribunal members' qualifications and training. The Province is urged to undertake public consultation on the proposed qualifications and training required for an individual to be selected as a member of the new Tribunal to ensure members have the appropriate skills and qualifications to properly manage and issue decisions for those matters brought before the new Tribunal.

#### **Recommendation #7**

**That the Province prepares and consults on guidance materials to help individuals participating in the new appeals process understand how the changes outlined in Bill 139 are intended to be operationalized.**

As noted above, the proposed Bill authorizes the Minister to make regulations regarding the conduct and format of hearings, including new requirements applicable if an oral hearing is held. Future regulations could also help to clarify how the new conformity/consistency test is to be operationalized for each of the different types of appeals before the new Tribunal. At the time when this report was prepared, no EBR posting on this matter had been released. Given that the changes outlined in the proposed Bill would create a significant procedural change from the current OMB hearing process, the Province is urged to prepare and consult on guidance materials to help individuals participating in the new appeals process understand how the changes outlined in Bill 139 are intended to be operationalized.

### **Next Steps:**

As noted above, Bill 139 proposes to enact new legislation and amend existing legislation to build better communities and conserve the Province's watersheds. Presently, the Province is consulting on proposed amendments to the *Planning Act*. Staff will continue to monitor the EBR should there be consultation regarding the proposed *Local Planning Appeals Tribunal Act*, which replaces the *Ontario Municipal Board Act*, or the proposed *Local Planning Appeals Support Centre Act*, which proposes a framework for the Centre but will require future regulations to fully establish its operations.

Through further review over the summer, should there be additional technical matters identified by staff for which clarification is required or for which modifications should be considered by the Province, a separate staff comment letter could be submitted to the Province in advance of the August 14, 2017 deadline. Should this be the case, staff will provide a memo advising Council of these additional comments at a later date. Following the consultation period(s), the Province will bring Bill 139 to second reading. Staff will continue to monitor this matter and should there be consultation on other aspects of the proposed legislation, staff will advise Council and report back accordingly.

### **Financial/Staffing/Other Implications:**

There are no financial/staffing/other implications.

### **Relationship to the Strategic Plan:**

Input into the OMB Review and providing a response to proposed Bill 139 – the *Building Better Communities and Conserving Watersheds Act, 2017* fulfills Goals 1 to 4 of the Strategic Plan by supporting the Province's proposed overhaul of Ontario's land use planning appeals system, specifically the OMB, including the transformative changes outlined in this report. By providing local decisions more weight and deference in the land use planning and appeals process, the Province will help the Town ensure stronger connections, better choice and better quality options, a more vibrant identity and place, and wise management of resources.

## **Conclusion:**

Bill 139 has been posted by the Province for a 75 day public review and comment period starting May 31, 2017. Comments received prior to August 14, 2017 will be considered as part of the decision-making process by the Ministry if they are submitted in writing or electronically referencing EBR Registry # 013-0590.

Overall, the proposed overhaul of Ontario's land use planning appeals system outlined in Bill 139 seeks to improve the current OMB appeal process and is generally supported. The proposed legislation would establish a new Local Planning Appeal Tribunal to replace the current OMB. The proposed legislation creates fundamental changes to the role and function of the Tribunal so that it operates as a true appeal body, ensuring that planning decisions are made in a more open and transparent process by local councils. Municipal councils must give due regard for approved and in effect Provincial and upper-tier plans/policies as well as input received from the public when making decisions. The proposed changes represent a shift towards heightened municipal accountability in the planning process, as requested by Town Council in its December 2016 comments on the OMB Review.

As noted in this report, there are many proposed changes that are supported; however, there are matters that could be further improved. To better realize the goal of a clear and predictable appeals process, and a swift transition between the "old" appeals system and the proposed new system, the Province is urged to give priority to the following key recommendations:

### **Recommendation #1**

That the Province **considers tightening the basis of appeal for a non-decision on an OP under 17(40) of the *Planning Act*** to ensure that appeals for a non-decision do not begin to undermine the new "conformity/consistency" test that would otherwise apply where a Council decision has been rendered.

### **Recommendation #2**

That the Province considers **providing additional flexibility around the identification of density targets for Major Transit Station Areas** by simply requiring that density targets be established for the area (rather than prescribing a density target measured specifically in people and jobs per hectare, as proposed).

### **Recommendation #3**

**Expand the proposed legislation to limit appeal rights for all municipally initiated OP/OPAs** (rather than only those Provincially approved OP/OPAs initiated by an upper-tier/single-tier municipality under Section 26 of the *Planning Act*, as proposed).

### **Recommendation #4**

That the Province considers **clarifying that in the case of an appeal with multiple planning applications** (i.e. OPA/ZBLA/Site Plan or ZBLA/Draft Plan of Subdivision), **the appeal test is the same as that required for an OP or Zoning By-law Amendment** (e.g. does the decision conform to/is it consistent with Provincial/upper-tier and local policy?)

#### **Recommendation #5**

**Transition for appeals being reviewed against the new conformity/ consistency test before the Tribunal should be swift.** Applications that are in process and have not yet had a Hearing date scheduled before the OMB should be heard before the new Tribunal.

#### **Recommendation #6**

**Members of the new Tribunal should be required to have certain minimum qualifications and training to ensure decisions of the new Tribunal are well-reasoned and justified.**

#### **Recommendation #7**

**That the Province prepares and consults on guidance materials to help individuals participating in the new appeals process understand how the changes outlined in Bill 139 are intended to be operationalized.**

### **Attachments:**

The following attached document may include scanned images of appendices, maps and photographs. If you require an alternative format please call the contact person listed in this document.

- **Appendix A** EBR Posting #013-0590 (Bill 139 – the *Building Better Communities and Conserving Watersheds Act, 2017*)







## **Staff Report for Committee of the Whole Meeting**

**Date of Meeting:** August 14, 2017

**Report Number:** SRPRS.17.132

**Department:** Planning and Regulatory Services

**Division:** Development Planning

**Subject: TEST - Request for Approval – Granting of  
Municipal servicing Allocation – Wycliffe King Bond Limited  
– Town File D06-15022 (SRPRS.17.132)**

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### **Owner:**

Wycliffe King Bond Limited  
34 Doncaster Avenue, Suite 201  
Thornhill, Ontario  
L3T 4S1

### **Agent:**

Weston Consulting Group Inc.  
201 Millway Avenue, Unit 19  
Vaughan, Ontario  
L4K 5K8

### **Location:**

Legal Description: Lots 4 to 9, Plan M31, and Lots 1 and 2, Plan M38  
Municipal Addresses: 115 and 119 Bond Crescent, 301 to 349 King Road

### **Purpose:**

A request for approval for the granting of municipal servicing allocation to facilitate the construction of a proposed townhouse development comprised of four (4) semi-detached dwelling units and 111 townhouse dwelling units.

### **Recommendation(s):**

Report recommendations...

- a) That the request for the granting of municipal servicing capacity for 316 persons, by WYCLIFFE KING BOND LIMITED for the lands known as Lots 4 to 9, Plan M31, and Lots 1 and 2, Plan M38 (Municipal Addresses: 115 and 119 Bond Crescent, 301 to 349 King Road), Town File Number D06-15022, be approved; and,

- b) That the assigned servicing capacity be released by the Commissioner of Planning and Regulatory Services in accordance with By-law No. 109-11.

### Contact Person:

Shelly Cham, Senior Planner, phone number 905-747-6470 and/or Salvatore Aiello, Manager of Development, Zoning, phone number 905-771-2471

### Submitted by:

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Kelvin Kwan  
Acting Commissioner of Planning and Regulatory Services

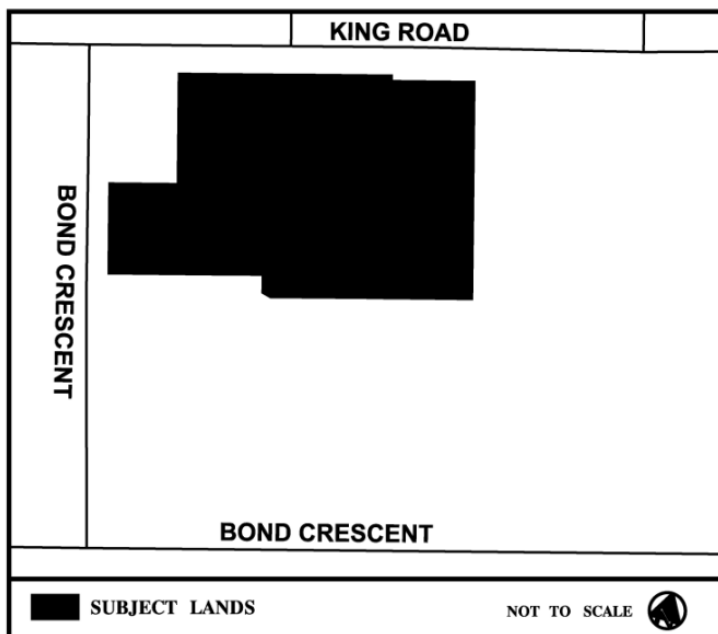
### Approved by:

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Neil Garbe  
Chief Administrative Officer

### Location Map

Below is a map displaying the property location. Should you require an alternative format call person listed under “Contact” above.



## **Background:**

The lands are subject to Zoning By-law Amendment, draft Plan of Subdivision, draft Plan of Condominium and Site Plan applications (Town File Numbers D02-15009, D03-15002, D05-15003 and D06-15022). The Zoning By-law Amendment, Draft Plan of Subdivision and Site Plan applications were appealed to the Ontario Municipal Board (OMB) by the applicant since decisions on the subject applications were not by made Council within the statutory timelines outlined in the *Planning Act*.

On February 13, 2017, Council directed staff to attend the OMB hearing in support of the proposed applications (refer to Appendix A). On February 27, 2017, the subject applications were approved by the OMB. The Board's Final Order with regard to the Zoning By-law Amendment and the Site Plan applications was withheld pending the finalization of the Site Plan application.

On May 31, 2017, the applicant submitted revised plans and reports in support of its Site Plan application. The submission has been circulated and is presently under review by staff. Staff notes the proposed development was approved in principle by the OMB and that the Site Plan submission is intended to address matters that are technical in nature. Staff has been working closely with the applicant and the proposed layout of the buildings and the driveway system is generally satisfactory to staff.

The purpose of this report is to seek Council's approval to allocate municipal servicing to the subject lands to facilitate the construction of the residential development comprised of four (4) semi-detached dwelling units and 111 townhouse dwelling units.

## **Summary Analysis**

Further information in regards to site location is as follows:

### **Site Location and Adjacent Uses**

The subject lands are located on the south side of King Road, east of Bond Crescent. The lands have direct frontage onto King Road and Bond Crescent, and have a total lot area of approximately 2.16 hectares (5.34 acres). The lands presently support five (5) single detached dwellings and accessory structures which are proposed to be demolished. The lands abut King Road to the north, vacant lands to the east, a draft approved Plan of Subdivision (D03-12009 (19T(R)-12009)) and existing residential uses to the south, and Bond Crescent to the west (refer to Map 1).

## **Development Proposal**

The OMB approval permits a residential development comprised of four (4) semi-detached dwelling units fronting onto Bond Crescent and the balance of the lands to be developed with a mix of traditional, stacked and back to back townhouse units forming a total of 111 dwelling units on a common element condominium driveway (refer to Map 2).

## **Interim Growth Management Strategy**

Council has approved a comprehensive strategy comprised of eight growth management eligibility criteria and the process for bringing forward development applications once they are supportable from a planning standpoint. The criteria focus on the means of assessing and prioritizing development applications for receipt of servicing allocation. The basis of the strategy is as follows:

The scarcity of servicing capacity creates a premium value for the allocation that is available. The potential allocation of servicing capacity is a very desirable outcome for applicants. Thus, allocation can be considered as an incentive to encourage applications to produce community benefits or innovative contributions to the community.

The eight growth management criteria for assessing applications are as follows:

- Providing community benefits and completion of required key infrastructure.
- Developments that have a mix of uses to provide for live-work relationships.
- Developments that enhance the vitality of the Downtown Core.
- Higher-order transit supportive development.
- Developments that represent sustainable and innovative community and building design.
- Completion of communities.
- Small scale infill development.
- Opportunities to provide affordable housing.

On February 24, 2014, Council adopted the recommendations of Staff Report SRPRS.14.004 with respect to threshold scores for the implementation of the Town's Sustainability Metrics. Council directed that staff use the threshold scores to ensure that a consistent performance level is met as part of the review of IGMS Criteria No. 5 (Sustainable and Innovative community and Building Design).

Staff has reviewed the Sustainability Metrics submitted by the applicant in support of the proposed development. The overall application score is 32 out of 106 points. A score of 32 to 45 points represents a good score.

The subject lands are comprised of eight (8) lots of record equivalent to 28 persons for the purposes of municipal servicing allocation. It should be noted that the municipal servicing allocation recommended for the subject lands would not include the existing lots of record from the proposed total unit count comprised of four (4) semi-detached dwelling units and 111 townhouse dwelling units. As such, staff would recommend that Council allocate municipal servicing for the equivalent of 316 persons, on the basis that the submitted metrics has demonstrated that the proposed development would achieve a “good” score.

Staff further notes that the metrics that the applicant has committed to in support of its allocation request are comprised of both site works and building design measures. Said commitments will be secured through the Site Plan approval process and reflected in the Site Plan Agreement, where applicable. The approved plans forming part of the Site Plan Agreement must denote the applicable metrics and depict the requisite information on said plans. A response letter directing staff to where the information are depicted or denoted would assist staff's review of the associated plans.

## **Financial/Staffing/Other Implications**

This recommendation does not have any financial, staffing or other implications.

## **Relationship to Strategic Plan**

The recommendations of this report do not have any direct implications with respect to the Town's Strategic Plan. The development proposal is generally aligned with **Goal One: Stronger Connections in Richmond Hill** by providing for physical connections in the community and improving connections in our environment. The proposal would also align with **Goal Two: Better Choice in Richmond Hill** by providing better options for where to live, and **Goal Four: Wise Management of Resources in Richmond Hill** by being responsible through committing to use land responsibly.

## **Conclusions**

The applicant is seeking Council's approval of its request to assign municipal servicing allocation for the residential development to be constructed on the subject lands. Staff has reviewed the applicant's Sustainability Metrics Submission which achieves a "good" score and can advise that the proposal will be consistent with the Town's servicing allocation policy. On this basis, staff recommends that Council assign municipal servicing allocation for four (4) semi-detached dwelling units and 111 townhouse dwelling units, the equivalent of 316 persons for the development to be constructed on the subject lands.

## **Appendix Contents and Maps:**

The following attached documents may include scanned images of appendixes, maps and photographs. If you require an alternative format please call contact person listed in this document.

- Appendix A, Extract from Council Meeting C#04-17 held February 13, 2017
- Map 1 Aerial Photograph
- Map 2 Revised Site Plan





## **Staff Report for Committee of the Whole Meeting**

**Date of Meeting:** July 4, 2017

**Report Number:** SRPRS.17.132

**Department:** Planning and Regulatory Services

**Division:** Development Planning

**Subject:** Request for Approval – Granting of Municipal servicing Allocation – Wycliffe King Bond Limited – Town File D06-15022 (SRPRS.17.132)

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### **Owner:**

Wycliffe King Bond Limited  
34 Doncaster Avenue, Suite 201  
Thornhill, Ontario  
L3T 4S1

### **Agent:**

Weston Consulting Group Inc.  
201 Millway Avenue, Unit 19  
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### **Location:**

Legal Description: Lots 4 to 9, Plan M31, and Lots 1 and 2, Plan M38  
Municipal Addresses: 115 and 119 Bond Crescent, 301 to 349 King Road

### **Purpose:**

A request for approval for the granting of municipal servicing allocation to facilitate the construction of a proposed townhouse development comprised of four (4) semi-detached dwelling units and 111 townhouse dwelling units.

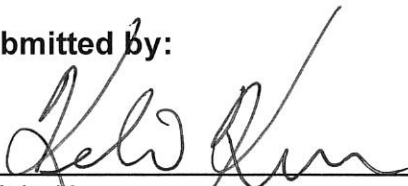
### **Recommendation:**

- a) That the request for the granting of municipal servicing capacity for 316 persons, by WYCLIFFE KING BOND LIMITED for the lands known as Lots 4 to 9, Plan M31, and Lots 1 and 2, Plan M38 (Municipal Addresses: 115 and 119 Bond Crescent, 301 to 349 King Road), Town File Number D06-15022, be approved; and,
- b) That the assigned servicing capacity be released by the Commissioner of Planning and Regulatory Services in accordance with By-law No. 109-11.

### Contact Person:

Shelly Cham, Senior Planner, phone number 905-747-6470 and/or  
Salvatore Aiello, Manager of Development, Zoning, phone number 905-771-2471

### Submitted by:



Kelvin Kwan  
Acting Commissioner of Planning and Regulatory Services

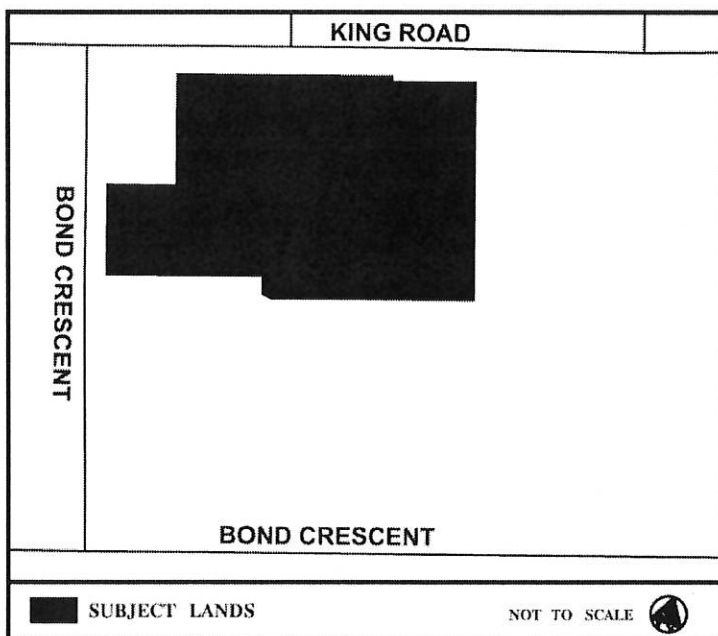
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### **Financial/Staffing/Other Implications**

This recommendation does not have any financial, staffing or other implications.

### **Relationship to Strategic Plan**

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### **Conclusions**

The applicant is seeking Council's approval of its request to assign municipal servicing allocation for the residential development to be constructed on the subject lands. Staff has reviewed the applicant's Sustainability Metrics Submission which achieves a "good" score and can advise that the proposal will be consistent with the Town's servicing allocation policy. On this basis, staff recommends that Council assign municipal servicing allocation for four (4) semi-detached dwelling units and 111 townhouse dwelling units, the equivalent of 316 persons for the development to be constructed on the subject lands.

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- Map 2 Revised Site Plan