



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

**Date of Meeting:** January 21, 2019

**Report Number:** SRPRS.19.023

**Department:** Planning and Regulatory Services

**Division:** Policy Planning

**Subject:** **SRPRS.19.023 Response to Member Motion regarding the Downtown Local Centre Secondary Plan**

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### **Purpose:**

To provide information related to the member motion regarding the “Downtown Local Centre Secondary Plan (DLCSP) Direction” on December 11, 2018 and respond to Council’s direction to provide alternative options.

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

- 1) That the report SRPRS.19.023 be received.

### **Contact Person:**

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### **Report Approval:**

**Submitted by:** Kelvin Kwan, Commissioner of Planning and Regulatory Services

**Approved by:** Neil Garbe, Chief Administrative Officer

All reports are electronically reviewed and/or approved by the Division Director, Treasurer (as required), Town Solicitor (as required), Commissioner, and Chief Administrative Officer. Details of the reports approval are attached.

### **Background:**

Council adopted the Downtown Local Centre Secondary Plan on February 17, 2017. Prior to adoption and since 2008, the Town engaged in extensive public consultation to develop a vision for the Downtown and a strategy to achieve that vision.

The Secondary Plan was forwarded to York Region for approval. Per the Town’s request, the Region made one modification to the Plan to address a concern raised by

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Bell Canada, and approved the Secondary Plan on April 26, 2017. The Region notified all persons who requested notification of its decision. During the appeal period, the Region received seven appeals to the Secondary Plan and consequently forwarded the appeal record to the Ontario Municipal Board (now the Local Planning Appeal Tribunal (LPAT)).

Presently, there are six appellants, and seven additional persons/bodies who have been granted party status (Attachment 1 provides a map identifying the areas under appeal). Additionally, the Tribunal has granted participant status to twenty-four (24) persons/businesses, who will have an opportunity to address the Tribunal during the hearing of this matter (Attachment 2 lists the participants and provides a map identifying their properties, where that information has been made available from the LPAT). It is noted that there are a total of 7 appellants/parties who have or recently had development applications before the Town (these are shown on Attachment 1).

As of April 17, 2018, the policies and schedules of the Secondary Plan related to the Uptown District (properties north of Dunlop and Wright Streets and south of Levendale Road) are in effect, owing to the scoping and partial withdrawal of appeals.

A four week hearing has been scheduled to commence October 28, 2019 to address the remaining issues that are still under appeal.

### Member Motion

On December 11, 2018 Councillor Muench proposed a motion as follows:

“... Now therefore, the Council of the Corporation of the Town of Richmond Hill hereby resolves as follows:

1. The height and density limits within the three districts of the DLCSP shall be revisited with a view to increasing them in order to promote quality development, and revitalization within the Downtown Local Centre.
2. The “linked system of courtyards” policies and schedules shall be deleted from the Official Plan and Secondary Plan for the DLCSP.
3. A zoning bylaw shall be brought forward concurrently with new DLCSP policies that reflect the matters set out in paragraphs 1 and 2 above, and shall include transit supportive parking requirements and other standards in order to reduce automobile use, promote active transportation options within the DLCSP and address housing affordability matters.
4. The LPAT proceeding involving the DLCSP should be stayed to allow the stakeholders and Town Staff to jointly prepare revised policies for the Secondary Plan as well as an implementing zoning bylaw.

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5. That Staff do all things necessary to give effect to the above.
6. That this resolution be provided to York Region and LPAT.”

In response to the motion, Regional and Local Councillor and Deputy Mayor Perrelli moved the following, which was carried:

“That consideration of the motion of Councillor Muench regarding the Downtown Local Centre Secondary Plan (DLSCP) Direction be referred to the Committee of the Whole meeting on January 21, 2019, and staff be directed to provide a report on alternative options for the motion.”

The member motion identifies three aspects of the Secondary Plan for Council’s reconsideration. These aspects are: height, density, and the linked system of courtyards. The Secondary Plan policies and schedules take their direction from the approved policies of the Official Plan and the Council endorsed Downtown Design and Land Use Study (DDLUS) that preceded it. The Official Plan policies specific to the downtown were subject to a contested hearing at the OMB as part of the appeals to the new Official Plan and also through a few site specific planning application appeals. In all cases, the OMB supported the Town’s position to uphold the height, density and linked system of courtyard policies.

The height policies of the Secondary Plan defer to in effect policies in preceding chapters of the Official Plan (i.e. chapters 4 and 6). These policies prescribe heights that are contextually appropriate given the heritage character of the downtown. (The Official Plan permits a maximum height of 5 storeys within the Village, and maximum height of 15 storeys at the northern and southern reaches of the Uptown and Civic Districts, respectively. The Civic and Uptown Districts abut lands designated Regional Mixed Use Corridor (RMUC) that also provide a maximum height of 15 storeys.) The Official Plan policies require transition of height to the flanking stable neighbourhoods, and preservation of views to the unique church spires along this stretch of the Yonge Street corridor.

Similarly, the density policies of the Secondary Plan elaborate on those provided in the Official Plan. The Secondary Plan allocates density to development blocks based on appropriate heights and land uses within the downtown. The Official Plan permits an overall density of 2.0 FSI within the Village District, and 2.5 FSI for both the Uptown and the Civic Districts. (Within the adjacent lands designated RMUC, the maximum FSI permitted is also 2.5.)

Both height and density prescribed in the Official Plan are informed by studies that have been endorsed by Council, including the DDLUS and the Transportation and Parking Study for the downtown. It is also noted that policies in both the Part 1 Official Plan and the Secondary Plan allow for site specific increases in height and/or density by way of an agreement between the land owner and the Town in accordance with section 37 of the *Planning Act*. This agreement is predicated on the understanding that the increase

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in height and/or density still represents good planning and that a community benefit is gained. As such, where appropriate, there is opportunity within the planning framework to permit greater height and density, albeit through a subsequent planning process rather than an “as of right” permission.

The concept of the linked system of courtyards has evolved over time as a means to support downtown intensification and redevelopment. Originally, the system was conceived in 2003 in a Master Plan of rear lanes and rear lane parking and pedestrian links for the downtown, which would be established through the expropriation of land. In 2007, Council directed staff to not proceed with the expropriation process and direct that the overall project be paused in anticipation of a comprehensive planning framework for the downtown. In 2009, Council approved the direction of the DDLUS wherein the linked system of courtyards would be a public-private initiative that would evolve through the redevelopment of land. Implementation of the linked system would provide an opportunity for a reduction in the number of direct driveway accesses and hence a potential for less traffic friction along Yonge Street. The linked system of courtyards also offer an opportunity to reduce driveway accesses from streets immediately east and west of Yonge Street, thus enabling a better transition between the Village Core mixed use areas and the adjacent neighbourhoods. The linked system was envisioned as an area where pedestrians and vehicles would share the right of way with development. As such, at grade there would be connectivity between properties to minimize the need for driveways along Yonge Street, and the laneway system would provide alternative pedestrian paths to access properties, away from the congested Yonge Street sidewalk. The system would link existing and new parking facilities, while creating interesting courtyards that could be used as a parkland dedication credit. In the meantime, development could be permitted above and/or below grade, so long as there are easements to permit public access to the linked system. This system was determined to be the most suitable option for supporting redevelopment and revitalization of the downtown while still preserving the “village” and historic character of this area.

Staff have identified concerns with the member motion as follows:

- Policies regarding height and density and the linked system of courtyards are in effect in the Part 1 Official Plan. Similarly, Secondary Plan policies and schedules concerning the Uptown District are in effect. Consequently, these in effect policies and schedules are not under the Tribunal’s jurisdiction in the current LPAT appeal;
- Therefore, to amend in effect policies and schedules requires a statutory public process in accordance with section 21 of the *Planning Act* (municipally-initiated official plan amendment (OPA)). This process, once adopted, may be subject to appeal to the LPAT;
- Similar to the OPA process, passing an implementing zoning by-law requires a statutory public process in accordance with section 34 of the *Planning Act*. Again, this process, once adopted, may be subject to appeal to the LPAT;
- The Secondary Plan appeals were filed in advance of the changes to the *Planning Act* resulting from Bill 139. These new instruments (OPA and ZBL), if appealed,

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would be occurring post Bill 139 coming into effect. Therefore, the new *Planning Act* tests for filing an appeal and conducting a hearing will apply to the by-law and the OPA. As a result, the matters may not be consolidated with the current Secondary Plan appeals, which may result in a confusing and protracted hearing process to resolve all planning matters related to the Downtown;

- Increasing density and height has impacts on servicing, transportation, cultural heritage, and neighbourhood character. As such, additional analysis will need to be undertaken to determine if there is tolerance for greater height and/or density;
- In lieu of the linked system, additional analysis is required to address pedestrian and vehicular movement to identify alternative approaches to addressing anticipated transportation needs resulting from increased density of development within this area;
- Staying a hearing requires requesting the Tribunal to adjourn the hearing, which is at the Tribunal's discretion. As such, an adjournment cannot be a unilateral decision of the Town; and
- Prior to resuming the Secondary Plan hearing (if the adjournment is granted), staff will need to consult (concurrently with the above noted OPA and ZBL processes, or separately) with the public as well as all parties and participants regarding any major changes to the parts of the Secondary Plan that are still under appeal. Should there be matters at issue with respect to the proposed changes to the Secondary Plan by stakeholders that are not already a party or participant in the hearing, they will need to request the Tribunal's approval to become involved in the hearing. As such, the motion does not provide for a full and transparent public process as it relates to making significant changes to the adopted Secondary Plan.

Based on the foregoing challenges with implementing the member motion, **staff do not recommend that Council adopt the member motion.**

### **Alternative Options:**

Pursuant to the Committee's direction on December 11, 2018, two alternative options are outlined below for Council's consideration:

- 1) **Continue to advance the Secondary Plan as adopted, and initiate an implementing zoning by-law** – Continue to seek approval of the Secondary Plan via the LPAT process (LPAT hearing October 2019), and initiate the process to adopt an implementing zoning by-law; or
- 2) **Initiate the repeal of the Secondary Plan (in the first quarter of 2019) and adopt a new Secondary Plan and implementing zoning by-law (at a future date)** – with Council's endorsement of a Terms of Reference, initiate the planning process to develop a new Downtown Local Centre Secondary Plan and implementing zoning by-law with public consultation, as required by the *Planning Act*.

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### **Option 1- Continue to advance the Secondary Plan as adopted, and initiate implementing zoning by-law**

The following are benefits for consideration:

- The issues raised in the motion are all matters that are presently before the LPAT. If after hearing the evidence of all appellants, parties and participants, the LPAT feels that some of the policies are inappropriate, the LPAT can change them.
- Through the LPAT process, staff can work with the appellants, parties, and participants to attempt to resolve outstanding issues that would not require a change to in effect Part 1 Official Plan or Secondary Plan policies and/or schedules (as discussed above). If resolution of outstanding issues do not, in Council's opinion, require public consultation, settlement of those issues can be brought to Council for its endorsement and reported to the LPAT.
- The defense of the Secondary Plan as adopted by Council would require the least amount of staff time and financial resources of any of the options.
- The LPAT hearing for this matter is scheduled for the fall of 2019. Upon the LPAT's deliberation, a final Secondary Plan will emerge providing detailed planning direction to all stakeholders and the public.
- Staff can initiate and seek Council adoption of the implementing zoning by-law that conforms with the policies of the Part 1 Official Plan as well as the Secondary Plan. This project will be prioritized in the preparation of the overall comprehensive zoning by-law. In the interim, any site specific applications that are in process, will implement the Official Plan through site specific zoning by-law amendment applications.
- Once the ZBL is adopted, should it be appealed, it will be evaluated under the post Bill 139 *Planning Act* tests and hearing process, with the benefit of the LPAT approved Secondary Plan in effect.

The following are challenges for consideration:

- This option is not viable if Council wishes to propose significant changes to height, density, or the linked system of courtyards policies and/or schedules through the existing Secondary Plan appeals process.

### **Option 2 – Initiate the repeal of the Secondary Plan and adopt a new Secondary Plan and implementing zoning by-law**

The following are benefits for consideration:

- The repeal of the Secondary Plan in the first quarter of 2019, if not appealed to the LPAT, would conclude the current LPAT hearing process and allow the Town to undertake a new planning process for the Downtown. This would allow for a comprehensive and cohesive process, and for full and transparent public consultation.

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- Initiating a new planning process, which may include amendments to the Part 1 Plan as well as a new Secondary Plan and implementing zoning by-law will provide Council, stakeholders and the public the opportunity to re-consider the comprehensive policy and regulatory direction for the Downtown.
- The new vision would also take into consideration Council's direction regarding the Civic Precinct (to be determined in 2019).
- Any new directions would be informed by new/updated background information and could consider issues raised by Council regarding development viability, transportation and parking, housing affordability, economic development, and Downtown revitalization.
- Staff could report back to Council with a detailed scope of work and work plan for its consideration and endorsement, if Council elects this option.
- This process could be incorporated with the Town's Official Plan review process, which is expected to be undertaken starting in 2020, when the Region has completed its Municipal Comprehensive Review process and updated its Official Plan accordingly.
- Until such time as the Town adopts the new OPA/Secondary Plan and implementing zoning by-law, the in effect policies of the Part 1 Official Plan continue to apply, providing direction with respect to the evaluation and approval of any development applications that are brought forward in the intervening period.
- Should the newly adopted Secondary Plan, amendments to Part 1 of the Official Plan, and implementing zoning by-law be appealed, then all three matters may be resolved in a consolidated hearing process.

The following are challenges for consideration:

- The repeal of the current Secondary Plan will require a public process, similar to that which is used for adopting an Official Plan Amendment. There is a risk that the repeal of the Secondary Plan could be appealed by members of the public that are in support of the Secondary Plan as adopted and who would like to see the Plan come into full force and effect.
- The re-initiation of a Downtown visioning exercise and development of a new Secondary Plan and zoning by-law will take time – at least a year and a half.
- The re-initiation of the Secondary Plan and an implementing zoning by-law will have to be prioritized amongst a number of other major planning initiatives including, but not limited to:
  - The comprehensive zoning by-law;
  - The Richmond Hill Centre Secondary Plan;
  - The Town's ongoing involvement in the Region's Official Plan Review;
  - The Town's overall Official Plan review;
  - The adoption of the Yonge and 16<sup>th</sup> Avenue KDA Secondary Plan; and
  - The defense of the Yonge and Bernard KDA Secondary Plan and Zoning By-law.

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- Depending upon the prioritization and timing of the foregoing projects, new staff resources and/or consultants will likely be required to undertake this project.

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

Should Council opt for Option 2, a Capital Budget Request will need to be submitted to acquire more staff and/or consultant resources. A report to Council regarding the Terms of Reference and budget ask will follow, if needed.

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

The Strategic Plan Goal One “Stronger Connections in Richmond Hill” includes a strategy to “develop a shared understanding of the issues, opportunities, vulnerabilities and barriers facing the people who live and work here.” This strategy also recommends engaging with residents, businesses, agencies, etc. to discuss issues and respond to changing needs of the community. Goal Two “Better Choice in Richmond Hill” seeks to provide better options for where to live by planning for a range of housing that accommodates people at all stages of life. Goal Three “A More Vibrant Richmond Hill” directs that we respect the past, have a sense of identity and place, and look to the future, which includes promoting awareness of the Town’s heritage, enhancing the uniqueness of the Downtown, and making it vibrant with civic places for people to gather. Goal Four “Wise Management of Resources in Richmond Hill” speaks to being financially responsible. Keeping in mind the goals of the Strategic Plan, consideration must be given to which option best implements it.

Option 1 – “*Continue to advance the Secondary Plan as adopted, and initiate an implementing zoning by-law*” implements the Strategic Plan, as was noted in the staff report, which led to the adoption of the Secondary Plan in February 2017 (SRPRS.17.021).

Option 2 – “*Initiate the repeal the Secondary Plan and adopt a new Secondary Plan and implementing zoning by-law*” also implements the Strategic Plan. This Option proposes to re-consult with the public, stakeholders and agencies to: confirm/re-establish a vision for the Downtown; ensure that appropriate policies are put into place to address matters such as housing, economic development, cultural heritage preservation, and civic spaces. If undertaken through the Town’s Official Plan review process, this option could be executed with minimal additional resource cost.

### **Conclusion:**

At the December 11, 2018 Committee of the Whole meeting, a member motion was tabled regarding the Downtown Local Centre Secondary Plan. The Committee requested a report from staff identifying alternative options with respect to the Secondary Plan. This report provides two options:

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(1) *Continue to advance the Secondary Plan, and initiate an implementing zoning by-law* - direct staff to uphold the Secondary Plan as adopted at the fall 2019 LPAT hearing, or

(2) *Initiate the repeal the Secondary Plan and adopt a new Secondary Plan and implementing zoning by-law* – re-vision the Downtown, undertake new analysis and public consultation, and develop a new Secondary Plan.

Regardless of the option that is chosen, it is noted that development is not frozen in the Downtown Local Centre. Site specific development applications that are filed will continue to be reviewed and approved in relation to existing planning policies, best practices and public input.

### **Attachments:**

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

- Attachment 1 – Appellants and Parties of the Downtown Local Centre Secondary Plan (map)
- Attachment 2 – Participants of the Downtown Local Centre Secondary Plan (map)

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### Report Approval Details

Document Title:	SRPRS.19.023 Response to Member Motion on the Downtown Local Centre Secondary Plan.docx
Attachments:	- SRPRS.19.023_Attachment_2_DLC_Participant_Status.pdf - SRPRS.19.023 - Attachment 1 - DLC_Appellants_Party_Status_Dec2018.pdf
Final Approval Date:	Jan 17, 2019

This report and all of its attachments were approved and signed as outlined below:

**Kelvin Kwan - Jan 17, 2019 - 3:11 PM**

**Neil Garbe - Jan 17, 2019 - 5:01 PM**