



## **Staff Report for Council Meeting**

**Date of Meeting:** March 25, 2019

**Report Number:** SRPRS.19.073

**Department:** Planning and Regulatory Services

**Division:** Development Planning

**Subject:** SRPRS.19.073 – Request for Direction – Official Plan and Zoning By-Law Amendment Applications – T-York 7 Holding Ltd. – Town Files D01-16004 and D02-16031 (related File D06-16068)

---

### **Owner:**

T-York 7 Holding Ltd.  
5255 Yonge Street, Suite 1100  
Toronto, Ontario  
M2N 6P4

### **Agent:**

Goldberg Group  
2098 Avenue Road  
Toronto, Ontario M5M 4A8

### **Location:**

Legal Description: Part of Block 2, Registered Plan 65M-2287  
Municipal Addresses: 157, 159, 161, 162, 163 and 165 York Boulevard.

### **Purpose:**

A request for direction regarding revised Official Plan and Zoning By-law Amendment applications to permit an additional stand-alone restaurant on the subject lands.

### **Recommendations:**

- a) That the Local Planning Appeal Tribunal (LPAT) be advised as follows:
  - i) that Council supports the revised development proposal as generally depicted on Map 3 hereto associated with the Official Plan and Zoning By-law Amendment applications submitted by T-York 7 Holding Ltd.

## **Page 2**

**for lands known as Part of Block 2, Registered Plan 65M-2287 (Municipal Addresses: 157, 159, 161, 162, 163 and 165 York Boulevard), Town Files D01-16004 and D02-16031 for the principle reasons outlined in SRPRS.19.073;**

- ii) that the LPAT be requested to approve the Official Plan Amendment substantially in accordance with the attached Appendix B to SRPRS.19.073; and,**
  - iii) that the LPAT be requested to approve Zoning By-law 27-19, substantially in accordance with the attached Appendix C to SRPRS.19.073.**
- b) That appropriate Town staff be directed to appear at the LPAT in support of Council's position concerning the subject applications; and,**
- c) That Council delegate authority to the Commissioner of Planning and Regulatory Services to provide all instructions to staff lawyers and for outside legal counsel retained by the Town with respect to any planning matter before the LPAT which has been considered by Council, save and except where Council has authorized the Town Solicitor to retain external land use planning experts in support of a position taken by Council at the LPAT.**

## **Report Approval:**

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

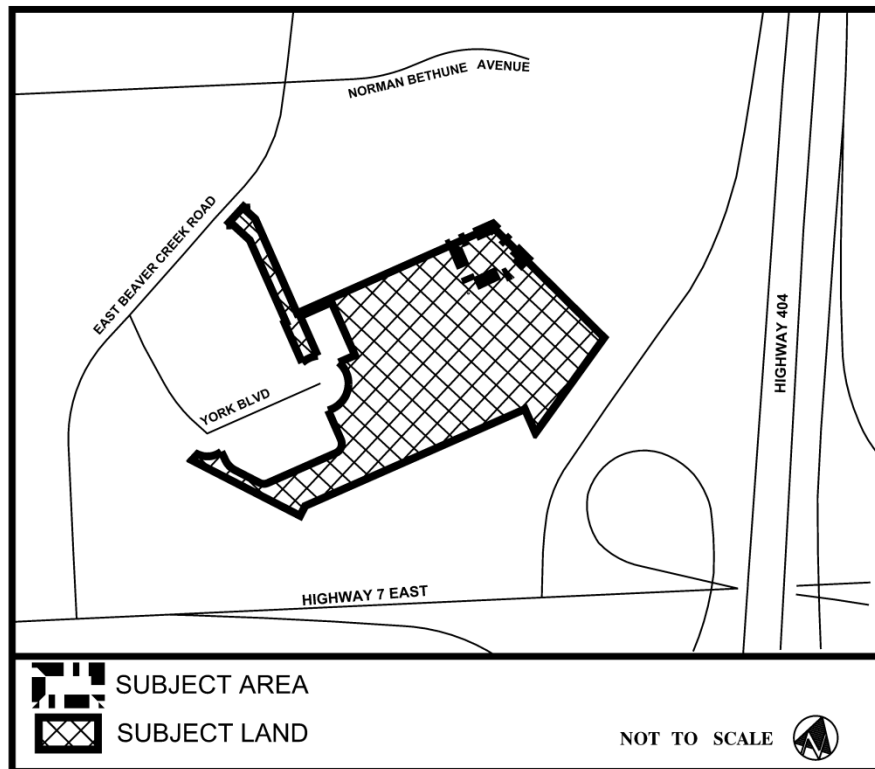
**Approved by:** Neil Garbe, Chief Administrative Officer

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.

## Page 3

### Location Map

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



## **Background Information**

At the Council Meeting of April 16, 2018 Council approved the recommendations of Staff Report SRPRS.18.094 which sought refusal of the applicant's proposal for to permit an additional stand alone restaurant on the subject lands based on the principle reasons outlined in that report, and directed staff to appear at the Ontario Municipal Board (now Local Planning Appeal Tribunal or LPAT) in support of that position (refer to Appendix A). The hearing for this matter is scheduled to commence on March 25, 2019.

Since that time, Town staff has been actively working with the applicant to resolve the issues/concerns identified with the applicant's proposal as outlined in Staff Report SRPRS.18.094 which related to the technical feasibility of the development proposal. Town staff and the applicant have come to an agreement in principle on the resolution of the outstanding matters which are discussed in detail in the Planning Analysis section of this report. Accordingly, the purpose of this report to seek Council's approval of the applicant's revised proposal and to advise the LPAT of this position.

Related to the Tribunal proceedings with respect to the subject applications, Town By-Law 93-10 delegates authority to the Commissioner of Planning and Regulatory Services (PRS) to ***“provide all instructions to staff lawyers and for outside legal counsel retained by the Town with respect to any planning matter before the Ontario Municipal Board (now the Local planning Appeal Tribunal “LPAT”) save and except where the Council position on the matter is contrary to the advice and recommendation(s) from the Planning and Regulatory Services Department”***.

Historically, the exception to the delegated authority of the Commissioner of PRS has only been interpreted as to apply where Council has not accepted the advice and recommendation(s) from the Commissioner of PRS on an appealed matter (i.e. where the Town Solicitor was required to retain external experts to provide evidence in support of Council's position).

Recently, a solicitor acting on behalf of an appellant related to the appeal of the subject applications advised that he intended to challenge the aforementioned interpretation. Since this matter has not previously been raised, in order to avoid protracted litigation on this issue, Town staff have brought the above noted matter directly to Council at the earliest opportunity after receiving notice of the challenge. In order to preclude any such challenges in the future, the Town Solicitor is requesting that Council delegate authority to the Commissioner of PRS to authorize him to instruct staff lawyers and outside lawyers to support a position taken by staff on matters that have been considered by Council (i.e. when previously identified planning issues are partially or wholly resolved). It is not realistic or practical that the Town's lawyers receive instructions directly from Council as each and every planning issue, which may have been previously identified, is collaboratively resolved leading up to a hearing or even during a hearing.

## **Summary Analysis:**

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

The subject property is located within the northeast quadrant of East Beaver Creek Road and Highway 7 East (see Maps 1 and 2). The lands form part of the Beaver Creek Business Park campus that has multiple ownerships and land uses, and are served by a private road and driveway system.

The lands total approximately 3.81 hectares (9.41 acres) in size and are occupied by six free standing restaurants that have a combined gross floor area of approximately 4,110 square metres (44,241 square feet). The portion of the site that is proposed for development is currently used as a surface parking area for the existing restaurants. The lands abut existing industrial uses to the west, existing office, theatre and restaurant uses to the south, an existing eight storey residential condominium and future residential and office uses to the north and Highway 404 to the east.

### **Development Proposal**

The applicant is seeking Council's approval of its revised proposal to construct an additional stand-alone restaurant with site specific development standards on the subject lands (see Maps 3 to 5). The proposed 695 square metre (7,481 square feet) restaurant with an associated 141 square metre (1,520 square feet) outdoor patio is to be located at the northeast portion of the site, immediately north of the existing Building D (Destiny Restaurant). Outlined below are the relevant statistics for the applicant's development proposal based on the plans and drawings submitted to the Town:

- |  |  |
|--|--|
| • <b>Total Lot Area:</b>               | <b>3.81 hectares (9.41 acres)</b>        |
| • <b>Proposed Number of Buildings:</b> | <b>1</b>                                 |
| • <b>Proposed Gross Floor Area:</b>    | <b>695 sq. metres (7,481square feet)</b> |
| • <b>Building Height:</b>              | <b>10.6 metres (35 feet)</b>             |
| • <b>Proposed Loading Spaces:</b>      | <b>1</b>                                 |

The site specific development standards required to facilitate the applicant's development proposal are as follows:

- reduced minimum building setbacks of 9 metres (29.5 feet) to the east yard and 6 metres (19.68 feet) to the north yard whereas the minimum building setback from the street lines of Highway 7 and Highway 404 shall not be less than 21 metres;
- reduced parking space dimensions of 2.7 metres by 5.8 metres whereas the by-law requires minimum dimensions of 2.75 metres by 5.8 metres; and,
- a reduced parking rate of 10.55 spaces per 100 square metres of gross floor area whereas the by-law requires a minimum of 12.9 spaces per 100 square metres of gross floor area.

It is important to note that the proposal itself has not principally changed from that included in Staff Report SRPRS.18.094 as previously considered by Council (some

## **Page 6**

statistics have been updated). The noteworthy changes are the reconfiguration/restriping on the existing parking area on the subject lands to include additional parking spaces and proposed Transportation Demand Management (TDM) measures in support of the subject proposal which are discussed later in this report.

### **Planning Analysis:**

As outlined in Staff Report SRPRS.18.094 with respect to the Town's Official Plan (the "Plan"), staff maintains its previous opinion that the subject proposal represents a minor addition/expansion of the existing restaurant uses on the subject lands and it is considered a transitional/interim continuation of the existing use of the lands until such time that the lands are redeveloped for the purposes as envisioned by the Plan. Accordingly, staff recommends approval of the implementing Official Plan Amendment as attached to this report as Appendix B to this report.

Notwithstanding the above, the appropriateness of expanding the restaurant uses on the subject lands to facilitate the applicant's development proposal was dependent on its feasibility from a zoning and technical standpoint. In this regard, and as outlined in Staff Report SRPRS.18.094, there were operational and functional parking concerns that formed the basis for staff's recommendation for refusal in conjunction with the appropriateness of the site specific zoning standards that were being proposed to facilitate the development. These matters have now been satisfactorily addressed and are discussed in detail below.

### **Parking**

The subject lands are governed by a shared parking formula established by By-law 295-85, as amended which also includes all of the lands that form part of the Beaver Creek Business Park campus. These lands are legally described as Block 2, Registered Plan 65M-2287. The shared parking formula pursuant to By-law 295-85, as amended treats all the lands as one lot for the purposes of calculating and providing parking. In this regard, parking is determined on the basis of time of day peak demand periods related to the permitted land uses on the lands, namely offices, theatres, restaurants, a daycare and a health club. The implementation of the shared parking formula was facilitated by the requirement for private access easements and private shared parking agreements between all land respective owners to ensure that parking was provided for and shared as intended by By-law 295-85, as amended.

On the basis of the preceding, staff undertook a comprehensive review of the previous approvals (i.e. Zoning By-law Amendment and Site Plan approvals, etc.) for the subject lands and the other land holdings that form part of Beaver Creek Business Park campus complex and determined that a parking supply of 1664 exists on the overall site. This represents a deficiency of 21 parking spaces based on the zoning by-law requirements applicable to the all of the lands. The addition of the stand alone restaurant proposed by the applicant would result in the need for an additional 90 parking spaces. The

## Page 7

proposed new restaurant will displace 36 existing parking spaces. The applicant is resulting in a deficiency of a 147 parking spaces on site.

In addition to clarification and the provision additional technical supporting information submitted to the Town by the applicant to justify its development proposal, the applicant also undertook and submitted to the Town the following:

- a proposed restriping/reconfiguration of the parking area on the subject lands that would produce an increase of 54 parking spaces (see Map 4); and,
- the proposal of a set of Transportation Demand Management (TDM) measures, that would reduce the parking demand on all lands that are subject to the shared parking formula contained within by-law 295-85, as amended, to be employed on on the applicant's property, including but not limited to the following:
  - i. the construction of a Pick-Up and Drop-Off area on the applicant's lands along with the erection of a shelter located and maintained wholly on the subject lands for the exclusive use of Transportation Network Companies (such as Uber and Lyft) and taxis;
  - ii. carpooling through ongoing participation in the SmartCommute Richmond Hill-Markham program including signposting, implementation of carpooling spaces and parking enforcement;
  - iii. installation of wayfinding signage to assist in directing pedestrians/transportation to pick-up/drop-off areas;
  - iv. free transit and/or ride-share incentives to all restaurant staff to encourage the use of transit during peak hour parking events on Friday and Saturday evenings (including but not limited to: Uber, Lyft and public transit);
  - v. the installation of bicycle parking racks for the reduction in peak parking demand in the non-winter months and non-peak periods on the applicant's lands; and,
  - vi. provision of a detailed TDM Plan including implementation, maintenance, monitoring and reassessment of effectiveness of implemented measures to be finalized and secured as a part of the required Site Plan Amending agreement required to facilitate the applicant's development proposal.

These TDM measures are to be secured through the remaining Site Plan approval process for the proposed development. In this regard, staff will be requesting that the LPAT withhold its final order on the Zoning By-law amendment required to implement the proposal, pending finalization of the Site Plan Amending agreement so as to ensure that the Town is satisfied that the TDM measures proposed addresses the identified parking concerns on site.

As a result, a parking space deficiency of 93 spaces is created. Based on the foregoing, the subject proposal can be supported with a parking rate of 10.95 spaces per 100 square metres of gross floor area (GFA) for all restaurant uses on the subject lands along with the continued application of the shared parking formula established by By-

## **Page 8**

law 295-85, as amended, and the implementation of the TDM measures as outlined above. It should be noted that the parking rate of 10.95 spaces per 100 square metres of GFA reconciles the existing parking deficiency as a whole on the Beaver Creek Business Park campus lands. The Town's Transportation Planning staff are now satisfied that the technical concerns previously identified with respect to the operation and functional aspects of parking on the subject lands and the Beaver Creek Business Park campus lands as a whole have been satisfactorily addressed.

### **Zoning**

In consideration of the Town's support of the measures that are to be implemented to address the parking concerns related to the applicant's development proposal, the technical feasibility of the subject proposal is no longer of concern and therefore, the requested Zoning By-law Amendment with respect to reduced setbacks and reduced parking space dimensions which are outlined in the attached draft by-law (refer to Appendix C) are considered appropriate. The proposed development standards represent minor variations to those in the current zoning provisions applicable to the lands and are not expected to result in adverse impacts to the remaining Beaver Creek Business Park campus lands as a whole.

It should be noted that staff also had a previous concern with the applicant's request to be excluded from the provisions of by-law 295-85, as amended. Staff found this request objectionable as noted previously, the intent of By-law 295-85, as amended, treats the subject lands and all of the surrounding Beaver Creek Business Park campus lands, as one lot for the purposes of determining parking to be provided for all of the permitted uses on the lands. To exclude the subject lands from the shared parking formula would adversely impact the other lands that are subject to the shared parking formula. It is in this context that the revised parking rate of 10.95 spaces per 100 square metres of GFA was determined and concluded appropriate. Further, the reduced parking space dimensions of 2.7 metres by 5.8 metres as recommended in the applicant's draft Zoning By-law attached as Appendix C to this report was simply to reinstate a comparable parking space dimension that was provided for in By-law 295-85, as amended.

Given all of the above, Town staff has carefully reviewed the applicant's revised development proposal and is of the opinion advises that it satisfactorily addresses the technical concerns previously identified and outlined in Staff Report SRPRS.18.094. On the basis of the preceding, staff supports the revised development proposal as it is considered to constitute good planning.

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

The proposed settlement of the subject appeals, as outlined in this report will eliminate the significant draw on staff and financial resources required to attend an LPAT hearing on these matters.



## **Relationship to Strategic Plan**

The recommendations of this report are aligned **Goal Four - Wise Management of Resources** in Richmond Hill by serving as a role model for municipal management.

## **Conclusions**

Staff are seeking Council's direction with respect to a revised development proposal to facilitate the construction of an additional stand- alone restaurant on the subject lands. An LPAT hearing on the appeal of the associated Official Plan and Zoning By-law Amendment applications is scheduled to commence on March 25, 2019. Following careful consideration and review of the applicant's revised development proposal, it is recommended that Council approve same on the basis that the proposal is considered appropriate and represents good planning. Accordingly, staff recommends approval of the associated planning instruments required to implement the proposal and that the LPAT be advised of Council's position in this regard.

Further, and in relation to the proceedings on the subject applications, the Town Solicitor is also seeking Council's delegation of authority to the Commissioner of PRS to authorize him/her to instruct staff lawyers and outside lawyers to support a position taken by staff on matters that have been considered by Council (i.e. when previously identified planning issues are partially or wholly resolved).

## **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, SRPRS.18.094

Appendix B, Proposed Official Plan Amendment 11

Appendix C, Proposed Zoning By-Law, 27-19

- Map 1 Aerial Photograph
- Map 2 Neighbourhood Context
- Map 3 Proposed Site Plan
- Map 4 Proposed Site Plan with Parking Modifications
- Map 5 Proposed Building Elevations
- Map 6 Official Plan (2010) Land Use
- Map 7 Existing Zoning

## Page 11

### Report Approval Details

Document Title:	SRPRS.19.073 – Request for Direction – Official Plan and Zoning By-Law Amendment Applications – T-York 7 Holding Ltd. –.docx
Attachments :	<ul style="list-style-type: none"><li>- Appendix A to SRPRS.19.073.pdf</li><li>- Appendix B to SRPRS.19.073.pdf</li><li>- Appendix C to SRPRS.19.073.pdf</li><li>- MAP_1_AERIAL_PHOTOGRAPH.pdf</li><li>- MAP_2_NEIGHBOURHOOD_CONTEXT_S216031A_SRPRS.19.073.pdf</li><li>- MAP_3_ORIGINAL_SITE_PLAN.doc</li><li>- MAP_4_REVISED_PROPOSED_SITE_PLAN.doc</li><li>- MAP_5_PROPOSED_BUILDING_ELEVATIONS.pdf</li><li>- MAP_6_OFFICIAL_PLAN_2010_LAND_USE.pdf</li><li>- MAP_7_EXISTING_ZONING_S216031A_srprs19.073.pdf</li></ul>
Final Approval Date:	Mar 25, 2019

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

**Gus Galanis - Mar 25, 2019 - 9:59 AM**

**Kelvin Kwan - Mar 25, 2019 - 11:13 AM**

**Neil Garbe - Mar 25, 2019 - 11:55 AM**