



Staff Report for Committee of the Whole Meeting

Date of Meeting: May 21, 2019

Report Number: SRPRS.19.098

Department: Planning and Regulatory Services

Division: Policy Planning

Subject: SRPRS.19.098 Request for Direction –
Settlement of Appeal of Yonge and Bernard
KDA Secondary Plan and Zoning By-law

Purpose:

The purpose of this report is to obtain Council approval of a settlement with one of the appellants (Richmond Hill Retirement Residence) to the Yonge and Bernard KDA Secondary Plan and implementing Zoning By-law, in advance of the hearing.

Recommendation(s):

- a) That Staff Report SRPRS.19.098 be received for information purposes;
- b) That the Local Planning Appeal Tribunal (LPAT) be requested to approve Zoning By-law 111-17 for the lands known as 70 Bernard Avenue, with the modifications provided in Attachment 1 to SRPRS.19.098;
- c) That appropriate City staff and legal counsel be directed to appear at the LPAT hearing in support of Council's position concerning the above noted modifications.

Contact Person:

Sybelle von Kursell, Manager, Policy, phone number 905-771-2472

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Report Approval:

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

Approved by: Neil Garbe, City Manager

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

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Background:

Adoption and Appeal of Yonge and Bernard KDA Secondary Plan and Zoning By-law

The Yonge and Bernard KDA became a significant planning concern in mid-2016 after three site-specific development applications were submitted, all of which were based on visions that were not consistent with the Richmond Hill 2010 Official Plan. As a result, in November 2016, Council adopted an Interim Control By-law (ICBL) to provide staff and Council with the necessary time to develop a Secondary Plan and implementing Zoning By-law for the area. On November 27, 2017, Council adopted Official Plan Amendment 8 (the Yonge and Bernard Key Development Area Secondary Plan) and Zoning By-law 111-17 to implement OPA 8.

Within the 20-day appeal period following adoption, the City received eight appeals for both OPA 8 and By-law 111-17. Since then, there have been three hearing events related to procedural matters, and the Local Planning Appeals Tribunal (LPAT) has scheduled a six-week hearing to commence on July 29, 2019. Because the by-law that removed the ICBL is under appeal, the ICBL remains in effect across the majority of the KDA until a final decision on the appeals has been made by LPAT.

At a Special Meeting of Council on April 16, 2019, Council resolved to request a number of modifications to the Secondary Plan and Zoning By-law relating to matters such as height, density, parking standards, proposed streets, and mix of land use. These proposed modifications will be presented to the LPAT as Council's position on the Secondary Plan and Zoning By-law. The Local Planning Appeal Tribunal will make a final decision on these and other matters raised by the appellants. At the conclusion of the hearing(s) on these matters, the LPAT may approve as adopted, approve with modifications, or refuse the Secondary Plan and/or Zoning By-law.

Richmond Hill Retirement Residence

Richmond Hill Retirement Inc. and Oakridge Gardens Retirement Partnership (known as "Richmond Hill Retirement Residence") currently owns and operates a five-storey retirement residence located at 70 Bernard Avenue, in the north-east quadrant of the KDA. They are one of the eight appellants to both OPA 8 and By-law 111-17.

Through discussions with the appellant, they have expressed an interest in expanding their existing retirement residence through a second building on their current property. This expansion would allow the facility to provide assisted living suites and memory care service, in addition to the independent living the current facility provides. An expansion of the facility would provide more jobs within the City, and would provide more options for senior citizens' housing in Richmond Hill.

The appellant has expressed a desire to resolve their appeal in advance of a hearing. To that end, City staff have met with the appellant and their representatives, and have been successful in resolving their issues. The modifications to Zoning By-law 111-17

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proposed as part of the settlement would resolve the remaining issues of the appeal, and would enable the appellant to withdraw the balance of their appeal in advance of the hearing which is scheduled to commence on July 29, 2019.

While the appellant is aware of the recent Council decision to increase height and density within the Yonge and Bernard KDA, they have advised staff that they are not looking to take advantage of these increases due to the physical limitations on their site and the existing building on it. Instead, the appellant has indicated their preference to make a settlement based on the previously adopted Zoning By-law, as they have indicated they would be able to design an expansion to their building that would conform to the majority of the permissions set out in the Zoning By-law.

Proposed Modifications:

The proposed settlement would involve the modification of three definitions in Zoning By-law 111-17. The text of the proposed modifications are listed in Attachment 1 attached to this Staff Report.

The first modification would be to exclude above-grade parking structures and elevator shafts from the calculation of Gross Floor Area (GFA), in addition to the existing exclusion of mechanical penthouses and loading areas. These exclusions would be consistent with the calculation of GFA in Zoning By-laws for other high-density developments within the City. It is also consistent with the resolution made by Council on April 16, 2019 that above-ground structured parking should not be counted towards GFA.

The second modification would be to modify the definition of Senior Citizen Dwelling, to include the operation of such facilities by private, for-profit companies. This would recognize the current operational model at the existing retirement residence.

The third modification seeks to resolve a typo in the definition of “Fence” in the By-law, where the word “structure” was bolded by mistake. This change would resolve a conflict with the definition of Structure, which expressly excludes fences as being a structure.

Staff recommend that all three modified definitions apply to all properties across the KDA and benefit all landowners equally. Staff believe that these changes are relatively minor in nature, and will continue to uphold the current and future overall vision of the Official Plan and Secondary Plan.

Next Steps:

Should Council support the proposed settlement with Richmond Hill Retirement Inc. and Oakridge Gardens Retirement Partnership, the City and the appellant would present the proposed changes at a Pre-Hearing Conference of the Tribunal, and request that the Tribunal approve these changes.

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By resolving the appeal, and on the consent of all appellants who had launched a “whole plan appeal”, it would also allow Zoning By-law 111-17 to be brought into effect on the subject lands, and remove the property from the Interim Control By-law, which remains in effect until the resolution of appeals to the Zoning By-law. This would allow the Richmond Hill Retirement Residence to pursue a Site Plan application to expand their facility.

Financial/Staffing/Other Implications:

There are no financial/staffing/other implications.

Relationship to the Strategic Plan:

Resolution of issues on the consent of all parties is responsive to Goal 4 of the Strategic Plan: “Wise Management of Resources”, as it would reduce staff time by reducing the number of issues at the upcoming LPAT hearing, and requiring fewer appellants to attend the hearing.

Conclusion:

The Richmond Hill Retirement Residence appealed the Yonge and Bernard KDA Secondary Plan and Zoning By-law in November 2017. Since that time, the appellant has engaged in several discussions with City staff and has determined that subject to three modifications to the adopted Zoning By-law, all of their issues regarding the planning for this area are resolved. The appellant has requested that staff present the aforementioned settlement to Council and ultimately to the Tribunal for approval. The proposed Zoning By-law changes are appropriate, the balance of the Zoning By-law that applies to this property conforms with the Official Plan and enables the Residence to bring forward a future application to expand their facility to provide memory care service and assisted living suites, thereby providing more jobs and more options for senior citizens’ housing in Richmond Hill.

Attachments:

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.

- Attachment 1 – Proposed modifications to By-law 111-17

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Report Approval Details

Document Title:	SRPRS.19.098 Request for Direction – Settlement of Appeal of Yonge and Bernard KDA Secondary Plan and Zoning By-law.docx
Attachments:	- SRPRS.19.098 - Attachment 1 - Proposed modifications to By-law 111-17.docx
Final Approval Date:	May 8, 2019

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

Patrick Lee - May 7, 2019 - 4:09 PM

Kelvin Kwan - May 8, 2019 - 1:34 PM

Neil Garbe - May 8, 2019 - 1:48 PM