



Staff Report for Committee of the Whole Meeting

Date of Meeting: December 4, 2019

Report Number: SRPRS.19.184

Department: Planning and Regulatory Services

Division: Development Planning

Subject: **SRPRS.19.184 – Request for Approval – Zoning By-law Amendment – City of Richmond Hill – City File D24-19002**

Purpose:

A request for approval concerning a City initiated Zoning By-law Amendment with respect to the commercial revitalization of the Downtown Area.

Recommendation:

- a) That the City initiated Omnibus Zoning By-law Amendment for certain lands in the Downtown area, City File D24-19002, be approved, subject to the proposed provisions as outlined in Staff Report SRPRS.19.184; and,
- b) That the amending Zoning By-law be brought forward to a regular meeting of Council for consideration and enactment.

Contact Person:

Salvatore Aiello, Manager of Development, Zoning, phone number 905-771-2471
Dan Terzievski, Director Development Engineering and Transportation, phone number 905-771-9996 extension 6358

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.

Page 2

Background:

On October 16, 2019, a statutory Council Public Meeting was held pursuant to Section 31(12) of the *Planning Act* for the purposes of considering a City initiated Zoning By-law Amendment (The “Omnibus Zoning By-law Amendment”). At that meeting, Council received Staff Report SRPRS.19.159 for information purposes and directed that all comments be referred back to Staff for further consideration (refer to Appendix “A”).

Staff Report SRPRS.19.159 provided Council and the public with information concerning the Omnibus Zoning By-law Amendment, the purpose of which is to expand commercial use permissions, amend parking requirements for existing commercial sites and to introduce new patio development standards in order to stimulate the continued commercial vitality of the Downtown Area.

The purpose of this report is to address the comments raised at the October 16, 2019 Council Public Meeting and the written comments received with respect to the proposed changes, which have been summarized in the Discussion Section of this report, and to recommend the provisions and standards to be included in the Omnibus Zoning By-law Amendment.

Executive Summary

The subject Omnibus Zoning By-law Amendment is being brought forward at this time as an interim measure to encourage the continued commercial revitalization of the City’s Downtown Area prior to the approval of a new Secondary Plan, which will establish a long-term vision for the redevelopment of the Downtown Local Centre.

The intent of the Omnibus ZBLA is to provide flexibility for existing commercial landowners to attract new businesses. In support of this flexibility, the Omnibus Zoning By-law Amendment proposes to:

- expand the current limited commercial use permissions by permitting any office, retail and service type use to locate within existing commercial floor space;
- amend the parking requirements for existing commercial sites to only require the number of parking spaces which presently exist on a property as of the adoption of the Omnibus Zoning By-law;
- amend the parking requirements to not require any additional parking spaces for uses that occupy existing Commercial Floor Space; and,
- allow Outdoor Patios to operate on commercially zoned lands.

Discussion

The following is a summary of and response to comments and concerns expressed by the public and Council members at the Council Public Meeting held on October 16, 2019.

Page 3

- **Correspondence from Lauren Capilongo, Malone Given Parsons, representing Zamani Homes (Richmond Hill) Ltd, dated October 16, 2019**

Malone Given Parsons Ltd. is the land use Planning Consultant for Zamani Homes (Richmond Hill) Ltd, the owner of 10423 Yonge Street, being a 1.14 hectare site located on the east side of Yonge Street, north of Crosby Avenue. The purpose of the correspondence is to request that the existing auto-related uses on the lands (auto dealership, auto body and auto repair shop) continue to be permitted by the new Zoning By-law.

It should be noted that an Official Plan Amendment (OPA 105) was approved for the subject lands, amending the City's former Official Plan (1981), to permit stand-alone auto related uses. However, these permissions were not carried forward to the current Official Plan (2010). Furthermore, the subject lands were part of a Settlement Agreement which afforded higher density development, but did not maintain the existing automotive related uses. The **Downtown Local Centre** (DLC) policies of the Official Plan ("The Plan") permit residential apartments, office, commercial, retail, and community uses. Pursuant to the policies of the Plan, automotive related uses, including stand alone auto body shops, auto service uses are only permitted in the Newkirk/Enford Employment Area. The auto dealership that previously operated on the lands would be permitted as it constitutes a commercial use. However, the stand-alone auto body and auto repair shop are not permitted uses under the Plan. Accordingly, the proposed Omnibus Zoning By-law Amendment will not include these uses as permitted uses.

Notwithstanding the comments above, it is noted that pursuant to Section 34(9) of the *Planning Act*, no Zoning By-law enacted can be applied to prevent the future continued use of a piece of land, building or structure if the land, building or structure was used lawfully for that purpose on the day the by-law was passed. This prevents new municipal Zoning By-laws from interfering with the continued legal use of land, buildings or structures, so long as it is used continuously for that purpose. It is the responsibility of the landowner to determine the legal non-conforming status of their use(s).

- **United Church**

A comment was made at the Council Public Meeting ("CPM"), regarding the application of the proposed Omnibus Zoning By-law Amendment as it relates to Places of Worship by a representative from the United Church located at 10201 Yonge Street. Subsequent to the CPM, staff contacted Reverend James Ravenscroft to clarify his comment. The Reverend advised that the Church is interested in operating a group home and associated commercial uses within the manse residence associated with the church, which is located at the northwest corner of Church Street and Centre Street East, immediately to the east of the church (municipally known as 21 Centre Street East).

Staff advised that the proposed uses would conform with the applicable Official Plan policies for the site given that the **Downtown Local Centre** designation permits

Page 4

commercial uses and low density residential uses, not fronting on Yonge Street. However, the existing dwelling is presently zoned **Residential Second Density (R2) Zone**, which would allow for this form of residential use but does not permit commercial uses. It is noted that the purpose of the Omnibus Zoning By-law Amendment is to address currently designated and zoned commercial lands within the Downtown Area. As such, the zoning designation for the 21 Centre Street East will be addressed in the City’s forthcoming Comprehensive Zoning By-law.

- **Patio By-law**

A comment was made at the CPM regarding the desire to encourage more Outdoor Patios in the Downtown Area. In this regard, staff has reviewed the City’s current in-force Patio By-law (By-law 83-97, as amended by 109-11) and has concluded that it limits the establishment of Outdoor Patios in the Downtown, contrary to the vision of the Downtown Area as a pedestrian animated mixed use centre that encourages residential buildings with at-grade commercial uses. Specifically, the by-law prohibits Outdoor Patios in any yard abutting a **Residential (R) Zone** or in the case of a rooftop or terrace Outdoor Patio, a **Residential (R)** or **Residential Multiple (RM) Zone**, except where separated by an arterial road. This provision effectively prohibits Outdoor Patios in many areas of the **Downtown Local Centre**, with Yonge Street zoned primarily for commercial and mixed commercial/residential purposes and **Residential (R) Zones** surrounding the existing commercial strip.

In order to promote the revitalization of the Downtown and support the vision of an animated mixed use centre, staff proposes to remove the subject lands from the provisions of By-law 83-97 and introduce more appropriate standards for Outdoor Patios. These recommended standards were derived through a survey of patio by-laws from surrounding area municipalities, as well as a review of existing building setbacks of the commercial buildings in the Downtown Area. The intent of these changes is to balance the need to protect existing residential uses from disruptive impacts, while supporting a thriving Downtown and the vision of a mixed use centre. The following table provides a summary of the proposed standards:

Standard	By-law 83-97, as amended by 109-11	Proposed Omnibus ZBLA	Comments
Definition	Outdoor Patio means an outdoor area where seating accommodation is provided and where meals or refreshments are served to the public for consumption on the premises. An Outdoor Patio shall be used only on a seasonal basis and	Define “ Outdoor Patio ” to mean an outdoor patron area that is accessory to a Commercial Use and used in conjunction with any establishment where seating accommodation is provided and meals or refreshments are served	The definition would be revised to eliminate the seasonal requirement. Any reference regarding <i>Liquor License Act</i> has been removed as this comes under Provincial regulation.

Page 5

	in conjunction with any type of restaurant or eating establishment howsoever defined, tavern, banquet hall or any other premises where food or refreshments are consumed by the public and includes all such facilities whether or not licensed under the <i>Liquor License Act</i> .	to the public for consumption on the premises.”	
Permission	Notwithstanding any provisions to the contrary in any other Zoning By-law, an Outdoor Patio is hereby permitted as an accessory use to a restaurant, tavern, banquet hall or any other similar premises where food or refreshments are consumed by the Public in all zones where such uses are permitted, subject to the provisions of this By-law.	Remove the existing provision. This would permit an Outdoor Patio on any property that is subject to the Omnibus Zoning By-law.	The provision of an Outdoor Patio would not be limited to a specific use.
Maximum Size	An Outdoor Patio shall not constitute more than twenty (20%) percent of the Gross Floor Area (GFA) of the restaurant, tavern, banquet hall or eating establishment it serves but in no case shall it constitute more than one hundred and fifteen (115.0) square metres (1238 square feet) in total Outdoor Patio area.	Carry forward in new by-law.	No change.
Parking	An Outdoor Patio shall be exempt from the parking requirements of any Zoning By-law. The Outdoor Patio area may	Partially carry forward in new by-law. In addition, there shall be no reduction in parking associated with an	Minor change only in that existing parking cannot be reduced. This is given that the existing on-site

Page 6

	<p>be permitted in a parking area, parking lot or upon a parking space only if the minimum parking requirements of the by-law are satisfied with respect to all other uses or buildings on the lot.</p>	<p>Outdoor Patio.</p>	<p>parking spaces were taken into staff's consideration, as part of its parking analysis, which concluded that no additional parking spaces are required for a change of commercial use.</p>
<p>Locational Criteria</p>	<p>Prohibited In Yards Abutting Residential Zones</p> <p>Outdoor Patios shall be prohibited in any yard which abuts any Residential (R) Zone or a Residential Multiple (RM) Zone except where such zones are separated by an Arterial Road as designated in the Town of Richmond Hill Official Plan. Outdoor Patios located on a deck, terrace or rooftop shall not be permitted on any site which abuts a Residential (R) Zone or a Residential Multiple (RM) Zone except where such zones are separated by an Arterial Road as designated in the Town of Richmond Hill Official Plan.</p>	<p>Permit an Outdoor Patio on any commercially used property that is subject to this by-law amendment. This would include locating an outdoor patio in a mixed use or commercial use building abutting existing residential properties that are located within the by-law amendment area.</p> <p>In addition, the Outdoor Patio must be set back a minimum of 15 metres (49.2 feet) from any residential properties that are located outside of the by-law amendment area. The purpose of this provision is to provide an appropriate buffer to the residential areas adjacent to the Yonge Street commercial corridor, such as the low-density residential areas along Church Street, which are not subject to this amendment.</p>	<p>An Outdoor Patio is permitted provided that it is located 15 metres from an abutting residential lot. It is recognized that through Site Plan approval, appropriate safeguards will be employed to ensure that noise (Noise By-law) and visual impact (adequate buffering) will be addressed.</p>
<p>Music and Performances</p>	<p>Within or in conjunction with an Outdoor Patio, the use of musical instruments, live performances or any electronic device or group</p>	<p>Remove this provision.</p>	<p>This issue can be addressed through the City's Noise By-law.</p>

Page 7

	<p>of connected electronic devices incorporating one or more loudspeakers or other electro-mechanical transducers intended for the production, reproduction or amplification of sound is prohibited unless the Outdoor Patio, whether at grade or on a deck or terrace or a rooftop, is located at least one hundred (100) metres (328 ft.) from a residential property located in any adjacent Residential (R) Zone or Residential Multiple (RM) Zone.</p>		
Barrier	<p>An Outdoor Patio shall be delineated and enclosed within a barrier having a minimum height of 0.90 metres (3 feet) above the surface of the Outdoor Patio. There shall be at least one (1) access from the Outdoor Patio to the adjacent established grade.</p>	Remove this provision.	<p>This issue will be addressed through the Site Plan approval process. Not all situations will require the installation of a barrier.</p>
Site Location and Internal Setbacks	<p>The Outdoor Patio area shall not interfere with any on-site parking required by the Zoning By-law, pedestrian, vehicular circulation or loading area. The barrier for the Outdoor Patio area shall be set back a minimum of 1.5 metres (4.92 feet) from any adjacent driveway, internal circulation area, parking aisle, parking space, loading area, curb, daylighting triangle, or any landscaping or</p>	Remove this provision.	<p>This issue will be addressed through the Site Plan approval process.</p>

Page 8

	screening strip and a minimum of 0.75 metres (2.46 feet) from any public sidewalk or public walkway on the property where the Outdoor Patio is located.		
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Staff has considered the comments received at the CPM and has incorporated changes to the draft Omnibus Zoning By-law Amendment where appropriate, in the context of good planning principles and having regard for the local, Regional and Provincial planning policy context currently in effect.

Proposed Provisions for Draft Omnibus Zoning By-law Amendment

As noted previously, the intent of the Omnibus Zoning By-law Amendment is to provide flexibility for existing commercial buildings in order to attract new businesses on an interim basis, while the long term redevelopment of the Downtown Area takes its course. In support of this flexibility, a parking review was undertaken by the City's Transportation staff. The review concluded that no additional on-site parking spaces are required for a business or landowner that seeks to change their current commercial use to any other commercial use within existing commercial buildings permitted by the Omnibus Zoning By-law Amendment. This recommendation recognizes the unique built form and physical limitations of the existing properties located within the Downtown Area given the historical development pattern that occurred in the 19th Century. In this regard, Staff recommends that the Omnibus Zoning By-law Amendment implement the following changes:

- be applied to properties that are located within a commercial zone or mixed commercial/residential zone category or a residential zone category that has site specific commercial use permissions. Given that the scope of the amendment only proposes to address commercial uses, it will not affect pre-existing designated institutional and residential use permissions on these lands;
- include the following definition of "commercial use" to replace the deleted lists of permitted commercial uses. The definition would allow for a variety of uses as follows:

"Commercial Use" means the use of land, buildings, or structures for the purpose of buying or selling commodities and supplying of services, including personal service uses provided to the public, or where entertainment is offered for gain or profit. However, Commercial Use shall exclude automobile service stations, gas bar convenience retail stores, gas

Page 9

bars, motor vehicle lubrication establishments, motor vehicle washing establishments, auto body repair shops, repair shops for internal combustion engines, motorized vehicles or similar uses, and public garages.”

- exclude automobile service station, gas bar convenience retail store, gas bar, motor vehicle/lubrication establishment, motor vehicle washing establishment, auto body repair shop, repair shops for internal combustion engines, motorized vehicles or similar uses, or public garage as these uses would not conform with the policies of the Official Plan;
- amend the parking standards to only require the number of parking spaces which presently exist on a property as of the adoption of the Omnibus Zoning By-law for any commercial use which proposes to locate within an existing commercial building. The intent of this exemption is to recognize that existing properties affected by the Omnibus Zoning By-law are constrained. However, if a change of use from institutional or residential to a commercial use, a building addition, or a new building or structure is proposed, the minimum parking standards required under the existing parent Zoning By-laws would continue to apply, including payment in lieu of parking;
- add the following definition of “Outdoor Patio” to replace the deleted definition from the Patio By-law:

“An Outdoor Patio means an outdoor patron area that is accessory to a Commercial Use and used in conjunction with any establishment where seating accommodation is provided and meals or refreshments are served to the public for consumption on the “Premises”.”

- add the following definition of “Premises” to By-law 66-71, as amended:

“Premises means the area of “Building(s)” or part thereof, occupied or used by a business or enterprise. In a multiple tenancy “Building”, occupied by more than one (1) business, each business area shall be considered a separate “Premises”.”

- permit Outdoor Patios on any property that is subject to the Omnibus Zoning By-law Amendment subject to maintaining a minimum separation of 15 metres (49.2 feet) from abutting residential properties not subject to the Omnibus Zoning By-law and used for residential purposes;
- permit Outdoor Patios with a maximum size of no more than twenty (20%) percent of the Gross Floor Area (GFA) of the restaurant, tavern, banquet hall or eating establishment it serves, to a maximum of not more than 115.0 square metres (1238 square feet) in total Outdoor Patio area; and,

Page 10

- prohibit the removal of the existing parking spaces to facilitate the establishment of an Outdoor Patio. This is to ensure that the existing parking spaces noted in the opening paragraph of this section are maintained to serve the commercial businesses.

Recommendation:

The purpose of the Omnibus Zoning By-law Amendment is to provide flexibility for existing commercial buildings to attract new businesses on an interim basis, while the long term redevelopment of the Downtown Area takes its course. In this regard, staff are recommending that the Omnibus Zoning By-law include the proposed provisions in this report, in order to provide flexibility in regards to permitted commercial uses, parking standards for existing commercial buildings, and Outdoor Patios. It is recommended that the City initiated Omnibus Zoning By-law Amendment for the Downtown Area be approved based on the proposed provisions noted above, and that the amending Zoning By-law be brought forward to a regular meeting of Council for consideration and enactment.

Financial/Staffing/Other Implications:

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

Relationship to the Strategic Plan:

The proposed Zoning By-law Amendment would align with **Goal Three of the City's Strategic Plan – A More Vibrant Richmond Hill** by promoting a vibrant Downtown and **Goal Four – Wise Management of Resources in Richmond Hill** by committing to use land responsibly and by servicing as a role model for municipal management.

Conclusion:

The City initiated Omnibus Zoning By-law Amendment will serve to implement the policies of the City's Official Plan and encourage the continued revitalization of the Downtown Area. The Omnibus Zoning By-law proposes to expand the commercial use permissions prescribed in Zoning By-laws 66-71, 76-91 and 312-96, as amended, amend the parking requirements for existing commercial sites and to introduce new patio development standards in order to stimulate the continued commercial vitality of the Downtown Area.

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.

- Appendix A, Council Public Meeting Extract

Page 11

- Appendix B, Letter received from Lauren Capilongo, Malone Given Parsons, dated October 16, 2019
- Map 1, Official Plan Land Use Designation
- Map 2, Schedule A9
- Map 3, Existing Zoning

Page 12

Report Approval Details

Document Title:	SRPRS.19.184.docx
Attachments:	- Appendix 1.pdf - Appendix 2.pdf - Map1_Official_Plan_Landuse_Designation.pdf - Map2_Schedule_A9_DLC_District.pdf - Map3_Existing_Zoning.pdf
Final Approval Date:	Nov 25, 2019

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

Gus Galanis - Nov 21, 2019 - 11:17 AM

Kelvin Kwan - Nov 25, 2019 - 8:31 AM

Neil Garbe - Nov 25, 2019 - 9:17 AM