



Staff Report for Council Meeting

Date of Meeting: October 23, 2024

Report Number: SRPBS.24.105

Department: Planning and Building Services

Division: Policy Planning

Subject: **SRPBS.24.105 – Request for Direction –
Settlement of Site-Specific Appeal to Official
Plan Amendments 18.3 and 18.4 (10533 Leslie
Street)**

Purpose:

The purpose of this report is to obtain Council's direction with respect to a proposed settlement of site-specific appeals made by 2402828 Ontario Inc. ("the Appellant") for lands at 10533 Leslie Street to Official Plan Amendments 18.3 and 18.4 currently before the Ontario Land Tribunal ("OLT" or "Tribunal").

Recommendation(s):

- a) That Staff Report SRPBS.24.105 be received;
- b) That the Ontario Land Tribunal be advised that Council supports the proposed settlement submitted by 2402828 Ontario Inc. for the lands municipally known as 10533 Leslie Street, and that modifications to the Richmond Hill Official Plan described in Appendix "1" are recommended for approval for reasons outlined in Staff Report SRPBS.24.105; and
- c) That appropriate City staff be directed to appear at the Ontario Land Tribunal in support of Council's position concerning the proposed settlement for the subject lands.

Contact Person(s):

- Brian DeFreitas, Senior Planner, Policy, extension 5431
- Phoebe Chow, Manager of Policy, extension 2472
- Maria Flores, Director of Policy, extension 5438
- Gus Galanis, Commissioner of Planning and Building Services, extension 2465

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Report Approval:

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 report's approval are attached.

Location Map:

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



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Key Messages:

- Official Plan Amendments 18.3 and 18.4 form part of the City's Official Plan Update and were approved by York Region on August 19, 2022;
- In September 2023, the City received Notices of Appeal from one appellant (2402828 Ontario Inc.) outlining appeals to both OPAs to the Ontario Land Tribunal, in respect of lands municipally known as 10533 Leslie Street;
- On May 15, 2023, the OLT issued a Decision ordering the appeals be scoped on a site-specific basis, thereby allowing the policies and mapping of the amendments to come into effect city-wide on all lands that are subject to OPA 18.3 and 18.4 except for 10533 Leslie Street;
- Over the last several months, City staff and the appellant have engaged in discussions and have reached a consensus on proposed modifications to the City's Official Plan to address the appellant's issues as part of a proposed settlement that is being recommended to Council;
- staff is of the opinion that the proposed settlement is consistent with the *Provincial Policy Statement, 2020*, conforms to *A Place to Grow: Growth Plan for the Greater Golden Horseshoe 2019*, conforms with the York Region Official Plan 2022, and is consistent with the *Provincial Planning Statement 2024*;
- To settle the appeals, staff are recommending that Council adopt the recommendations set out in Staff Report SRPBS.24.105, including the proposed modifications to the Richmond Hill Official Plan set out in Appendix "1", and that Council direct appropriate City staff to appear before the OLT in support of Council's position concerning the proposed settlement for the subject lands.

Background:

On June 27, 2022, City Council adopted Official Plan Amendment ("OPA") 18.3 which set out updated policy direction respecting the Vision and City Structure components of the City's Official Plan ("OP"). Shortly thereafter, on July 6, 2022, Council adopted OPA 18.4 which updated the Neighbourhood policies of the OP to expand permissions and facilitate the creation of 15-minute communities. Both OPAs form part of the 10-year update of the City's OP brought forward under Section 26 of the *Planning Act*.

At the time of adoption of the OPAs, York Region was the approval authority for the City's OP, including all amendments that formed part of the City's OP Update. Both OPAs 18.3 and 18.4 were submitted to York Region for approval following their adoption by City Council. On August 19, 2022, York Region issued two separate Notices of Decision to approve OPA 18.3 (Regional File No. LOPA.22.R.0027) and 18.4 (LOPA.22.R.0028) without modifications.

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On September 8, 2022, the appellant filed a Notice of Appeal with the York Region Clerk appealing York Region’s decision to approve OPA 18.3 and 18.4. The Notice of Appeal was subsequently forwarded to the Tribunal pursuant to Section 17(36) of the *Planning Act*, which sets out the legislative provisions regarding appeals to the OLT respecting Official Plans and Official Plan Amendments.

On May 15, 2023, the Tribunal issued a written decision confirming that the appellant had scoped its appeals on a site-specific basis. Since then, City staff and the appellant have agreed to settle the appeals without the need for a contested hearing. On September 9, 2024, Counsel for the appellant provided a letter to the City enclosing a settlement proposal to that effect (refer to Appendix “5”). Accordingly, this staff report summarizes the nature of the appellant’s site-specific appeals to the OP and recommends that modifications to the City’s OP be supported by Council before the Tribunal as part of a proposed settlement. Further, the report also requests that City Staff be directed to appear before the OLT in support of Council’s position.

Location and Site Context

The subject lands are located on the east side of Leslie Street between Toporowski Avenue and Via Renzo Drive, municipally known as 10533 Leslie Street. The site is surrounded on three sides by the Elgin Mills Cemetery and has a site size of approximately 0.3 hectares (refer to Maps 1 and 2). The site has frontage onto Leslie Street, a Regional road, with access and egress secured via a single vehicle access point off Leslie Street.

The lands are presently occupied by the York Montessori School, which notwithstanding its name is not a “school” with respect to the City’s OP but is classified as a licensed Day Nursery/Child Care Centre (“York Montessori”) that has been in operation since the late 2000’s. York Montessori offers Montessori programming for children aged 18 months to 6 years of age, and has an estimated capacity of 150 children.

Official Plan Designation and Zoning

Set out below is a summary of the Official Plan and Zoning By-law provisions that are applicable to the subject lands.

Richmond Hill Official Plan, 2010

The subject lands are designated “Major Urban Open Space” under the City’s OP (refer to Map 4). The urban open space system represents a network of parks, stormwater management ponds, cemeteries and urban linkages (i.e. trails, utility corridors), and includes large areas of the City that serve specialized recreational or cultural functions. Lands within this designation also provide key focal points within the City.

Permitted land uses under the Major Urban Open Space designation of the City’s OP include:

- Fish, wildlife and forest management;

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- Conservation projects and flood erosion control projects;
- Low-intensity recreational uses and cultural facilities;
- Public parks;
- Botanical and zoological gardens;
- Small-scale retail and commercial uses that are accessory to permitted uses; and
- Cemeteries and related facilities which are permitted site-specifically on the lands at 1591-1753 Elgin Mills Road East

A review of the property, including the applicable OP policies and development history pertaining to the site, reveals that the land use permissions for a Day Nursery predates the approval of the City's OP and were approved site-specifically under the City's former 1981 OP policy regime. The enabling policies for a Day Nursery under the former 1981 OP were repealed when Council adopted the City's OP in 2010.

The policies of the Major Urban Open Space designation under the City's OP do not include permission for a Day Nursery. However, in accordance with Policy 7.1(16) of the Plan, although a Day Nursery is not a permitted use on the subject lands, nothing in the City's OP prevents the existing Day Nursery use to continue because it was lawfully used for that purpose on the date of the City OP's adoption and continues to be used for that purpose. While the general intent of this policy is to acknowledge land uses which predate the OP's approval, the proposed modifications to the City's OP set out in this report will better address any circumstances where the appellant might seek to modify or expand the existing Day Nursery operation.

Zoning By-law

The lands at 10533 Leslie Street are zoned "RR1 (Rural Residential 1 Zone)" pursuant to Zoning By-law 2325-68, as amended (refer to Map 3). Permitted uses within the RR1 Zone generally include single-detached dwellings, home occupations, public utilities and commercial uses which, at the time, were in existence on the date of the passing of the By-law. A Day Nursery is not a permitted use within the RR1 Zone.

In April 2007, the City approved Zoning By-law 47-07 which amended By-law 2325-68 by adding a standalone Day Nursery as a permitted use, but expressly prohibiting a private school operation on the subject lands. The restriction on the private school was included at the time to curb future intensification on the subject lands due to its lot size, the singular site access and egress point off Leslie Street, and the ability to address traffic operations and safety off Leslie Street while accommodating parking, circulation and pick-up and drop-off for vehicles. In addition to the site-specific land use permission and restriction, the by-law also included other site-specific development standards related to parking, aisle width, setbacks, lot area and landscaping requirements applicable to the site.

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Discussion:

The broad scope of OPAs 18.3 and 18.4 resulted in changes to the City Structure, and addressed policies related to lands designated Neighbourhood. Despite OPAs 18.3 and 18.4 forming part of the City’s OP Update, these amendments were not specifically intended to address matters of a site-specific nature, including those applicable to a day nursery operation on the subject lands.

Following York Region’s approvals of OPAs 18.3 and 18.4, the appellant subsequently appealed York Region’s decisions on both OPAs to the OLT. Notwithstanding the foregoing, the appellant has scoped its appeals of OPAs 18.3 and 18.4 on a site-specific basis, such that the policies and mapping identified in its notices of appeal only remain under appeal in respect of the subject lands. The scoping of the appeals has allowed the policies and mapping of OPAs 18.3 and 18.4 to come into full force and effect city-wide on all remaining lands that are subject to the amendments.

Nature of Issues Subject to the Appeal

The nature of the appellant’s issues raised in its appeals of OPA 18.3 and OPA 18.4 as they apply to the subject lands generally relate to the following:

- the City Structure and land use designations in the City’s OP for the subject lands remain as “Greenway System” and “Major Urban Open Space” respectively, which do not enable or recognize the existing Day Nursery use, and are not in alignment with the in-force Zoning By-law permissions for the subject lands; and
- the OP requires private school sites to provide a minimum of two access points, among other applicable criteria.

Based on the foregoing, the appellant placed the following policies and mapping under OPAs 18.3 and 18.4 under appeal:

Official Plan Amendment 18.3 (Vision and City Structure)	Official Plan Amendment 18.4 (Neighbourhoods)
<ul style="list-style-type: none"> • Modification 2.2.2 (providing for the replacement of Schedule A1 – City Structure that identifies the subject lands as “Greenway System”) • Modification 2.2.9.xii (Greenway System land use permissions which do not accommodate intensification and do not permit a day nursery) • Modification 2.2.11.viii (Greenway System description that includes rural, agricultural, and environmental lands) • Schedule 1 (new Schedule A1 – City Structure) 	<ul style="list-style-type: none"> • Modification 2.2.3.2 (new policy 4.1.1(4) – private elementary and secondary schools shall provide minimum of two access points)

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Proposed Resolution of Appeal

City staff have met with the appellant and its representatives on several occasions and have been advised that the landowner anticipates expanding its Day Nursery operation over time. Moreover, it is understood that the Day Nursery use represents an existing condition and unique circumstance, wherein the in-force OP permissions would present challenges to the Day Nursery operation should the landowner seek to expand, and in consideration of when the City's Comprehensive Zoning By-law is updated to reflect the in-force OP.

Considering the foregoing, on September 9, 2024, Counsel for the appellant provided a letter to the City containing a settlement proposal (refer to Appendix "5"). If supported by Council, the settlement would enable the following permissions and criteria on the subject property by way of a site-specific exception in Chapter 6 of the City's OP:

- permission for a Day Nursery as a permitted use;
- permission for a standalone Private Elementary School, or a Private Elementary School combined with a Day Nursery, subject to an amendment to the Zoning By-law and the following additional criteria being satisfied:
 - approval of Transportation, Parking and Access studies which demonstrate that the proposed use(s) can be supported on the site, and that all transportation requirements set out in the policy are addressed to the satisfaction of the City and York Region.

Staff are generally in support of the modifications as proposed in Appendix "1" to this report and recommend that they be supported by Council for the following reasons:

- the proposed modifications maintain the Major Urban Open Space designation while recognizing the existing Day Nursery use on the subject lands, which was cited as the primary concern for the appellant. The exception also maintains the general intent of the policies set out in Section 4.10.9 of the City's OP, and indeed, the City's OP as a whole;
- the modifications respond to the appellant's request that the City expand permissions for the subject lands to allow for additional uses that are contextually compatible with the existing Day Nursery; this would include permission for a standalone Private Elementary School, or a Private Elementary School combined with a Day Nursery subject to an amendment to the Zoning By-law and subject to the applicant, at the time of a development application, demonstrating that all appropriate transportation, parking and access requirements are addressed to the satisfaction of the City and York Region in support of the proposed uses;
- the proposed modifications have been reviewed by York Region and City transportation staff and they have provided no further comments; and

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- the proposed modifications are appropriate and reflect a unique circumstance within which the existing Day Nursery use will be enabled by the City's OP, consistent with the site-specific zoning provisions that are in effect.

The Proposed Settlement is Consistent with the Provincial Planning Statement, 2020 and Conforms to *A Place to Grow: Growth Plan for the Greater Golden Horseshoe 2019*

The *Provincial Planning Statement, 2020* ("PPS 2020") came into effect May 1, 2020. It provides for appropriate development while protecting resources of Provincial interest, public health and safety, and the quality of the natural and built environment. As prescribed by the *Planning Act*, all decisions affecting a planning matter are required to be consistent with the policy statement.

A Place to Grow Growth Plan for the Greater Golden Horseshoe 2019 ("Growth Plan") took effect in May 2019 and provides a long-term policy framework to manage growth in the Greater Golden Horseshoe region. It builds upon the policies provided for in the PPS 2020 and provides more specific land use policies to address issues within the Greater Golden Horseshoe region. The policies of the Growth Plan are to be read together with PPS 2020, and all decisions respecting a planning matter are required to conform with it.

The proposed modifications to the City's OP, as set out in Appendix "1" to this report, are consistent with the PPS 2020 and contribute to the implementation of strong, healthy communities as follows:

- Section 1.0 directs for efficient land use and development patterns, which are said to support environmental health and social well-being. The efficient use of land and the wise management of resources is directed by the PPS 2020 to promote strong, liveable and resilient communities;
- Section 1.1 deals with "*Managing and Directing Land Use to Achieve Efficient and Resilient Development and Land Use Patterns*". Among other matters, Policy 1.1.1(b) of the PPS 2020 directs for healthy, liveable and safe communities and that they be sustained by accommodating appropriate affordable and market-based range of housing, employment, and institutional uses to meet long-term needs; and
- Policy 1.1.3.2 of the PPS 2020 deals with settlement areas, and directs for land use patterns within settlement areas to be based on a mix of land uses that efficiently use resources;

With respect to *A Place to Grow Growth Plan for the Greater Golden Horseshoe 2019*, the proposed modifications to the City's OP, as set out in Appendix "1" to this report, conform to the Growth Plan and support the achievement of complete communities as follows:

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- Section 2.2.1 deals with “*Managing Growth*”. The policies of this section direct development to settlement areas and away from hazardous lands, and recognize that applying the policies of the Growth Plan will support the achievement of complete communities; among other matters, the development of complete communities will improve social equity and overall quality of life, including human health for people of all ages, abilities and incomes;
- Section 3.1 deals with “*Infrastructure to Support Growth*”. The policies of this section direct, among other matters, that investment in public service facilities (e.g. hospitals, long-term care facilities, libraries, schools) be planned and located to keep pace with changing needs, maximize infrastructure and support the achievement of complete communities; and
- A definition of “*Complete Communities*” is provided for in the Growth Plan. The definition describes complete communities as mixed-use neighbourhoods or other areas within cities, towns and settlement areas that offer and support opportunities for people of all ages and abilities with convenient access to necessities for daily living; this includes access to an appropriate mix of jobs and services, and a full range of housing, transportation options and public service facilities.

Consistent with the foregoing, staff are of the opinion that the proposed modifications to the City’s OP are consistent with the PPS 2020. The existing Day Nursery use is located within a **Settlement Area**, promotes the efficient use of land, and supports the objective of creating healthy, liveable and safe communities by providing for an institutional use that is intended to meet long-term needs. Moreover, the proposed modifications conform to the 2019 Growth Plan whereby the Day Nursery is in keeping with the types of land uses identified in the definition of public service facilities outlined in the Plan (e.g. hospitals, long-term care facilities, libraries, schools). In addition, the modifications conform with the policies of the Growth Plan that direct for public service facilities to be planned and located to keep pace with changing needs, and that they maximize infrastructure to support the achievement of complete communities.

The Proposed Settlement is Consistent with Provincial Planning Statement, 2024

The *Provincial Planning Statement, 2024* (“2024 PPS”), which at the time of writing this report is anticipated to come into effect on October 20, 2024, provides Province-wide policy direction on matters of Provincial interest, as set out under Section 2 of the *Planning Act*. In doing so, the former *PPS 2020* and the *Growth Plan for the Greater Golden Horseshoe* documents will be repealed effective October 20, 2024.

At the time of writing, it is anticipated that the new 2024 PPS is the determinative Provincial policy direction that applies to the subject lands. However, if it is not, then the relevant policy documents to considered would be the PPS 2020 and the Growth Plan; as outlined above, the proposed amendments would also conform and/or be consistent

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with these policy documents. Moreover, the lands are not located on the Oak Ridges Moraine Conservation Plan Area or subject to the Greenbelt Plan Area.

The 2024 PPS is authorized and issued under Section 3 of the *Planning Act*. Accordingly, all decisions that affect a municipal planning matter are required to be consistent with the 2024 PPS. While the 2024 PPS is to be read as a whole, not all policies will be applicable to every site, feature or area. To that end, the 2024 PPS applies at a range of geographic scales and where matters addressed in the statement do not overlap with policies in provincial plans, the policies of the 2024 PPS are to be independently satisfied.

In general, the proposed modifications to the City's OP, as set out in Appendix "1" to this report, are consistent with the 2024 PPS and contribute to the implementation of complete communities as follows:

- Section 2.1 deals with "*Planning for People and Homes*". Among other matters, Policy 2.1(6) of the 2024 PPS directs planning authorities to support the achievement of *complete communities* by accommodating an appropriate range and mix of land uses and *public service facilities* and other institutional uses (including schools and associated childcare facilities) to meet long-term needs;
- The 2024 PPS includes a definition of the term "*Complete Communities*". Complete communities are defined as places (e.g. mixed-use neighborhoods or other areas within cities, towns, and settlement areas) that offer and support opportunities for equitable access to necessities for daily living; this includes, but is not limited to, access to *public service facilities*;
- The 2024 PPS includes a definition of the term "*Public Service Facilities*". Public service facilities are defined to include a range of institutional uses including but not limited to schools, hospitals, community recreation facilities, services provided or subsidized by a government, or childcare and education programs that include elementary, secondary and post-secondary services.

Consistent with the foregoing, staff are of the opinion that the proposed modifications to the City's OP are consistent with the 2024 PPS such that the proposed Day Nursery use supports the achievement of complete communities and is consistent with the type of land uses that are identified under the definition of "public service facilities". As directed, these uses are needed for daily living and are appropriately directed to locate within **Settlement Areas** to facilitate the creation of complete communities. The lands at 10533 Leslie Street are consistent with this policy direction and are situated within the City's **Settlement Area**.

The Proposed Settlement Conforms with the 2022 York Region Official Plan

The 2022 York Region Official Plan ("ROP") was approved by the Province of Ontario on November 4, 2022. Effective July 1, 2024, the ROP was deemed to constitute an in-

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force Official Plan for the City pursuant to Section 70.13 of the *Planning Act*. The downloading of the ROP to the City follows legislative changes that were brought into effect by the Province under Bill 185 (*Cutting Red Tape to Build More Homes Act, 2024*), which received Royal Assent on June 6, 2024.

The ROP identifies the subject lands as “Urban Area” under Map 1 (Regional Structure) and designates the lands “Community Area” under Map 1A (Land Use Designations) (refer to Appendix “2” and Appendix “3” of SRPBS.24.105 respectively). The Urban Area is a primary location for growth and development within the Regional Urban Structure, and the Community Area designation is where residential, population-related employment and community services are directed to accommodate concentrations of existing and future population and employment growth. In addition, the subject lands are also situated in the “Built Up Area” as identified on Map 1B (Urban System Overlays) to the ROP (refer to Appendix “4”). The “Built Up Area” encompasses lands within the limits of developed urban areas within settlement areas where development is concentrated and directed to have a mix of uses, as defined by the Province.

The ROP policies direct for Community Areas to be the location where the majority of residents, personal service, retail, arts, culture, recreation facilities and human services such as healthcare, education, recreation and children’s services should be located to enhance quality of life. The ROP also recognizes that the scale of development within Community Areas is diverse and will vary based on local context.

Based on staff’s assessment, the proposed modifications to the City’s OP as set out in Appendix “1” to this report and which form part of the proposed settlement recommended to Council conform to the 2022 York Region Official Plan. The modifications consist of land uses that fall within the definition of “human services” under the ROP and are contextually appropriate for lands within the Community Area designation.

Financial Implications:

There are no direct financial implications resulting from this staff report. However, if the settlement proposed in this staff report is not accepted by Council, it is likely that a contested hearing will proceed with respect to the site-specific appeals of OPA 18.3 and 18.4. Accordingly, there will be a draw on financial resources for City staff and external experts as necessary to attend future OLT proceedings.

Relationship to Strategic Plan 2024-2027:

The recommendations set out in this report relate to Pillar 1 of the City’s Strategic Plan: *Growing a Livable, Sustainable Community*. The modifications to the City’s Official Plan, as proposed, support this pillar specifically by enabling choice and connections for the City, its residents and businesses now and in the future, and by supporting the development of complete communities to build a vibrant and inclusive Richmond Hill.

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Attachments:

The following attached documents may include scanned images of appendices, maps and photographs. All attachments have been reviewed and made accessible. If you require an alternative format, please call the contact person listed in this document.

- Appendix 1 - Proposed Modifications to the Richmond Hill Official Plan respecting the Appeals to OPA 18.3 and 18.4 by 2402828 Ontario Inc. (10533 Leslie Street)
- Appendix 2 – ROP Map 1 (Regional Structure)
- Appendix 3 – ROP Map 1A (Land Use Designations)
- Appendix 4 – ROP Map 1B (Urban System Overlays)
- Appendix 5 – Goodmans Letter to City_Sept 09 24
- Map 1 - Aerial Photograph
- Map 2 - Neighbourhood Context
- Map 3 - Existing Zoning
- Map 4 - Official Plan Designation

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Report Approval Details

Document Title:	SRPBS.24.105 - Request for Direction - Settlement of Appeal to Official Plan Amendments 18.3 and 18.4 (10533 Leslie Street).docx
Attachments:	<ul style="list-style-type: none">- SRPBS.24.105 - Map 1 - Aerial Photograp_AODA.pdf- SRPBS.24.105 - Map 2 - Neighbourhood Context_AODA.pdf- SRPBS.24.105 - Map 3 - Existing Zoning_AODA.pdf- SRPBS.24.105 - Map 4 - Official Plan Designation_AODA.pdf- SRPBS.24.105_Appendix 1 - Proposed Modificatons to Richmond Hill Official Plan.pdf- SRPBS.24.105_Appendix 2 - ROP Map 1.pdf- SRPBS.24.105_Appendix 3 - ROP Map 1A.pdf- SRPBS.24.105_Appendix 4 - ROP Map 1B.pdf- SRPBS.24.105_ Appendix 5 - Goodmans Letter to City_Sept 09 24 - AODA.pdf
Final Approval Date:	Oct 7, 2024

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

Maria Flores - Oct 7, 2024 - 9:42 AM

Antonio Dimilta - Oct 7, 2024 - 9:50 AM

Gus Galanis - Oct 7, 2024 - 9:50 AM

Darlene Joslin - Oct 7, 2024 - 11:10 AM