



Staff Report for Committee of the Whole Meeting

Date of Meeting: March 19, 2018

Report Number: SRPRS.18.068

Department: Planning and Regulatory Services

Division: Policy Planning

Subject: SRPRS.18.068 – Request for Direction – Official Plan and Zoning By-law Amendment Applications – TSMJC Properties Inc. – Town Files D01-16003 and D02-16018

Owner/Agent:

TSMJC Properties Inc.
90 Tiverton Court, Suite 200
Markham, Ontario
L3R 0G4

Location:

Legal Description: Part of Block 29, Registered Plan 65M-2819
Municipal Address: 10909 Yonge Street

Purpose:

A request for direction concerning proposed Official Plan and Zoning By-law Amendment applications. The applications, if approved as proposed, would facilitate the construction of a high density residential development comprised of a 16-storey building with 315 dwelling units and 23 townhouse units on the southeast portion of the subject lands. The applications have been appealed to the Ontario Municipal Board for Council's failure to make a decision within the statutory timeframe stipulated by the *Planning Act*.

Recommendations:

- a) That the Ontario Municipal Board be advised that Council does not support the Official Plan Amendment and Zoning By-law Amendment applications submitted by TSMJC Properties Inc. for lands known as Part of Block 29, Registered Plan 65M-2819 (Municipal Address: 10909 Yonge Street), Town Files D01-16003 and D02-16018, for the principle reasons outlined in SRPRS.18.068;

- b) That appropriate Town staff be directed to appear at the Ontario Municipal Board hearing in support of Council's position concerning the subject applications.

Contact Person:

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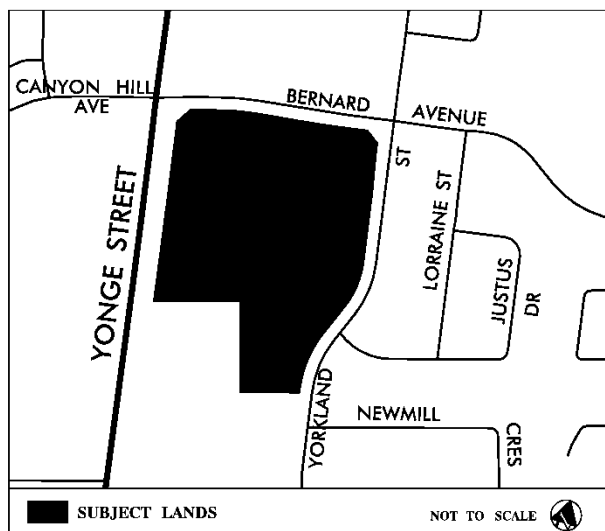
Report Approval:

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.

Location Map:



Background:

The subject Official Plan and Zoning By-law Amendment (ZBLA) applications were considered at the February 21, 2018 Council Public Meeting, wherein Council received Staff Report SRPRS.18.045 for information purposes, and directed that all comments be referred back to staff.

The subject applications were appealed by TSMJC Properties Inc. (TSMJC or applicant) to the Ontario Municipal Board (OMB or Board) on May 18, 2017 on the basis that Council had not issued a decision on the applications within the timeframe prescribed under the *Planning Act*. As a related matter, the applicant is also an appellant (Appellant #10) to the appeals to the Town's Part I Official Plan (OP or Part I OP). Its appeal to the Part I OP was filed in June 2011.

On December 11, 2017, a Pre-Hearing Conference was held regarding the appeal of the subject applications. At the Pre-Hearing Conference, the Board consolidated the applicant's Part I OP appeal with the appeal of the subject applications, and scheduled a second Pre-Hearing Conference to be held on March 29, 2018.

The purpose of this report is to seek Council's direction to advise the OMB at the March 29, 2018 Pre-Hearing Conference that the Town does not support the applicant's development proposal for the principle reasons outlined in this report, and that appropriate Town staff be directed to appear at the OMB hearing in support of Council's position concerning the subject development applications.

Site Location and Adjacent Uses

The subject lands are located at the southeast corner of Yonge Street and Bernard Avenue and presently support a multi-tenanted commercial development known as Upper Yonge Place. Upper Yonge Place encompasses the lands municipally known as 10909 Yonge Street and reflects the extent of the applicant's land holdings in the Bernard Key Development Area (KDA). The property as a whole operates as a commercial shopping centre which was generally established in the early to mid-1990's. The subject applications only apply to the southeast portion of the shopping centre lands (Subject Area) which is currently a parking area associated with the shopping centre. Immediately to the north of the Subject Area is the balance of the subject lands, to the east is Yorkland Street and residential uses, to the south is an existing senior's retirement building and to the west is a commercial retail building (refer to Map 1).

Related Planning Matters

In addition to its site-specific Official Plan Amendment and Zoning By-law Amendment appeals, TSMJC also has an outstanding appeal to the Town's Part I OP, and appeals to the Town's recently adopted Secondary Plan and Zoning By-law for the Yonge/Bernard Key Development Area (KDA Secondary Plan).

Notwithstanding TSMJC's appeals to the Part I OP and the KDA Secondary Plan as noted above, it is important to note that the KDA policies of the Part I OP have been

adopted by Council and represent the Town's consistency with and conformity to applicable Provincial and Regional policy direction including the Provincial Policy Statement, the Growth Plan for the Greater Golden Horseshoe and the York Region Official Plan. The KDA policies have been developed in a comprehensive manner to achieve an appropriate long-term vision for the KDA, recognizing its relationship to the Town's broader urban structure hierarchy as an intensification area. Accordingly, the KDA Secondary Plan further articulates the policy framework set out in the Part I OP which is intended to supplement and not replace the policies of the OP. Furthermore, the KDA Zoning By-law (111-17), as adopted by Council, sets out the regulatory framework that implements the policies of the adopted KDA Secondary Plan.

Development Proposal Overview:

The subject applications seek to permit a high-density residential development comprised of a 16-storey building with 315 dwelling units and 23 townhouse units to be located on the Subject Area (refer to Maps 2-6).

As noted in SRPRS.18.045, the applicant has submitted a draft Official Plan Amendment (OPA) and a chart detailing proposed amendments to certain policies of the Part I OP to facilitate its development proposal (refer to Appendices C and D in SRPRS.18.045). The OPA application proposes to introduce an exception policy in Chapter 6 of the Part I OP to permit a proposed 16 storey residential apartment building with a maximum floor plate of 1,600 square feet, block townhouses along Yorkland Street and to allow the residential apartment building to have frontage on and take access from an internal roadway. Additionally, there are proposed amendments denoted in a chart that appear to be general amendments to policies of the Plan. The proposed zoning by-law amends Zoning By-law 184-87 to facilitate the proposed development as outlined below.

The following is a summary of pertinent statistics of the subject applications based on the plans and drawings submitted to the Town:

- **Total Lot Area:** 7.15 hectares, 17.67 acres;
- **Lot Area of Subject Area:** 1.03 hectares, 2.54 acres;
- **At-Grade Landscaped Area:** 44.2%;
- **Paved Area:** 12.4%;
- **Covered Area:** 43.4%;
- **Terrace Landscaped Area:** 643.8 square metres, 6,929.81 square feet;
- **Gross Floor Area (GFA):** 28,244.1 square metres, 304,016.96 square feet;
- **Floor Space Index (FSI):** 2.75;
- **Total Dwelling Units:** 338;
- **Indoor Amenity Space:** 676 square metres, 7,276.40 square feet; and
- **Parking Spaces:** 389 spaces (338 resident spaces and 51 visitor spaces).

Access to the Subject Area is via an existing commercial driveway off of Yorkland Street and is contemplated to be a shared driveway between the existing commercial plaza and the proposed development.

Master Concept Plan for 10909 Yonge Street

In support of its development proposal, the applicant has submitted a planning justification report which highlights the specific details of its proposed development with respect to the applicable Provincial, Regional and Town planning policies. The report also includes a Concept Master Plan (Concept Plan) which has been provided by the applicant to illustrate how the balance of its land holdings can be developed in relation to the development proposed for the southeast portion of the shopping centre (refer to Appendix A1 and A2).

The following is a summary of the key elements of the applicant's Concept Plan:

- An overall total Floor Space Index (FSI) of 2.55-2.99 across the extent of its land holdings comprised of eight blocks including the subject applications in the southeast portion of the property;
- A total of 3 independent "Commercial Blocks", generally comprised of commercial uses with gross floor areas ranging from 38,000-56,700 square feet, building heights of 1-2 storeys, and site-specific FSI's ranging from 0.43-0.69; and
- A total of 4 independent "Mixed Use Blocks", generally comprised of high-density residential buildings ranging in building heights between 8 and 33 storeys and site-specific FSI's ranging from 2.82 to 7.29 FSI with ground-floor commercial uses.

It is important to note that the Concept Plan illustrates a full redevelopment scheme of the Upper Yonge Place shopping centre, which the subject applications at the southeast portion of the property form a part of. In describing the overall vision for its land holdings through the Concept Plan, the applicant's planning justification report states:

"... in preparing the Concept Plan, certain inherent conflicts within the OP requirements have been highlighted. The Concept Plan serves as a vehicle to address these conflicts through the process of the OP appeal." (pg.12) and,

"The Concept Master Plan shows how the site can be developed to meet the growth expectations anticipated in the Official Plan, as well as maintaining the site as a viable commercial destination. This more detailed master planning exercise shows that the height limitations proposed in the Official Plan are not conducive to achieving the densities required by broader planning policy." (pg.24)

Accordingly, the applicant's site-specific development application is premised on the basis that the Town's OP is not a determinative factor for assessing the appropriateness of the proposed development. Rather, the applicant relies on the Concept Plan, which departs from the Town's vision for this area, to justify the appropriateness of the proposed height and density.

Planning Analysis:

Outlined below is a detailed discussion of the Provincial, Regional and Town planning policy regime applicable to the proposed development.

Provincial and Regional Planning Policy Regime

The subject application proposes to amend the Town's Official Plan. As described below, the Town's Part I OP and recently adopted KDA Secondary Plan are consistent with the Provincial Policy Statement 2014 and conform with the Growth Plan 2017 and Regional Official Plan 2010. Accordingly, the applicant's proposed OPA is not required to address any deficiency in the Town's OP as it relates to these land use planning documents.

Provincial Policy Statement (2014)

The Provincial Policy Statement 2014 (PPS) provides policy direction on matters of provincial interest as it relates to land use planning and development in Ontario. The PPS is issued under the authority of Section 3 of the *Planning Act* which requires that decisions affecting planning matters across Ontario "shall be consistent with" policy statements issued under the *Act*.

Sections 1.1.3 and 1.2 of the PPS speak to, among other matters, settlement areas being the focus of growth and development and that planning authorities are required to identify appropriate locations for intensification and redevelopment where this can be accommodated. When considering how to accommodate projected land needs, planning authorities are directed to take into account existing areas or building stock, and the availability of suitable existing or planned infrastructure and public service facilities. The policies of the PPS direct that where new development is to take place in designated growth areas, it should be of a compact built-form, mix of uses and densities that allow for the efficient use of land, and where intensification is promoted, that planning authorities establish and implement minimum targets for intensifications based on local conditions. The policies of the PPS recognize that municipal OP's are the most important vehicle for its implementation, and together with provincial plans, provide a framework for a comprehensive, integrated, long-term and place-based approach to land use planning.

The above noted sections of the PPS are pertinent to the review of the subject applications. The Town's new OP, as adopted by Council, implements the policy direction set out in the PPS and contains appropriate policies that direct intensification to designated areas and built-form policies that define the appropriate scale of development in those areas based on local context.

Growth Plan for the Greater Golden Horseshoe (2017)

The Growth Plan for the Greater Golden Horseshoe, 2017 (Growth Plan) came into effect on July 1, 2017, and replaces the Growth Plan, 2006. Section 3(5) of the *Planning Act* and Section 14(1) of the *Places to Grow Act* require that all municipal land use

decisions affecting planning matters “shall conform with provincial plans”, including the Growth Plan.

The policies of the Growth Plan direct among other matters that growth and intensification be focused in strategic growth areas. Strategic growth areas are defined by the Growth Plan to include urban growth centres, major transit station areas and other major opportunities that may include infill, redevelopment, brownfield sites, the expansion or conversion of existing buildings or greyfields. To achieve these objectives, the Growth Plan requires that municipalities develop and implement, through their respective Official Plans, a strategy to achieve intensification and to identify the appropriate type and scale of development and transition of built-form to adjacent areas.

The Town’s OP, as adopted by Council, implements the requirements of the Growth Plan and sets out a comprehensive strategy to achieve intensification. This strategy is reflected and implemented through the Town’s Urban Structure hierarchy which identifies the areas where intensification is directed, while defining the type and scale of development in each area through appropriate height, density and built-form policies that are based on local context. Key Development Areas are intensification areas and form part of the Town’s Urban Structure hierarchy. The policies of Section 4.4 of the Part I OP provide policy direction for intensification within KDA’s and identify the appropriate type and scale of development in these areas in accordance with the policies of the Growth Plan.

Since the adoption and approval of the Town’s OP, the Growth Plan has been updated. The 2017 Growth Plan introduced density targets for Major Transit Station Areas (MTSAs). The lands proposed for development by the subject applications are located in the Yonge/Bernard KDA, which qualifies as an MTSA. In accordance with the KDA Secondary Plan, the planned density for the overall KDA ranges between 9,200-12,000 residents and jobs (365-476 residents and jobs per hectare), which is well beyond the minimum 160 residents and jobs per hectare density target for MTSA’s prescribed by the Growth Plan. Accordingly, the policy direction for the KDA continues to implement the Provincial Growth Plan as updated.

Oak Ridges Moraine Conservation Plan

The lands proposed for development by the subject applications is located south of the Oak Ridges Moraine and therefore the policies of the Oak Ridges Moraine Conservation Plan (ORMCP) are not applicable. However, staff note that the northwest portion of the applicant’s land holdings are located within the Settlement Area of the Moraine, as defined by the ORMCP.

York Region Official Plan, 2010

The York Region Official Plan, 2010 (ROP) represents York Region’s growth management and conformity exercise with Provincial policies and plans. Along with conformity to upper-tier provincial plans and policies, the ROP forms the basis upon which the Town prepared its comprehensive new OP. The policies of the OP conform to

and implement the policy direction set out in the ROP, including the KDA policies of the Plan as adopted by Council.

The subject area lands proposed for development are designated “Urban Area” in accordance with Map 1 - Regional Structure of the ROP (2010) and are located along Yonge Street which is designated in the ROP as a “Regional Corridor”. The “Urban Area” permits a full range and mix of urban uses, which would permit a high density, mixed use, residential, and commercial development. The “Regional Corridor” policies direct that regional corridors are planned to function as urban mainstreets with compact, mixed-use, pedestrian friendly and transit-oriented built-form and that the most intensive and widest range of uses within these corridors be directed to specific intensification areas, identified by local municipalities as key development areas.

The policies of the ROP provide detailed policy direction for the identification and planning of key development areas. KDA’s are directed to include segments of the Regional Corridor that encompass large underutilized properties that are appropriate for redevelopment and intensification, and which are served by public rapid transit including planned subway stations and major transit station areas adjacent to transit stations and terminals, including GO Transit. The ROP directs that where a KDA is identified by a local municipality, a secondary plan be prepared in accordance with Policy 5.4.6 of the ROP. Among other matters, the requirements include meeting the relevant minimum densities prescribed for KDA’s by the ROP. The following density target policy applies to the Yonge/Bernard KDA:

- “To require a comprehensive approach to *intensification* along Regional Corridors. Local municipalities will establish *key development areas* and other forms of intensification along Regional Corridors. *Key Development Areas*, once established, will support an overall long term density target of 2.5 *floor space index* for developable areas.” (ROP Policy 5.4.34)

Consistent with the above, the Town’s Part I OP identifies the area focused at the intersection of Yonge Street and Bernard Avenue as a key development area and sets out minimum and maximum densities for the KDA in consideration of the Town’s Urban Structure hierarchy and the local community context and character within and surrounding the KDA.

Town of Richmond Hill Official Plan (2010)

The Town of Richmond Hill Official Plan was adopted by Council in July 2010. The OP was appealed under section 17(40) of the *Planning Act* (the Region did not issue a decision on the OP within the statutory timeframe). The majority of the Official Plan is now in effect. The KDA policies of the Part I OP, save and except the outstanding appeals to the KDA policies maintained by the applicant on a site-specific basis, are in effect. In this regard, the KDA land use designation and most of the associated policies are in effect and are determinative for the subject lands.

It should be noted that the subject lands were previously designated “Community Commercial” (CC) under Official Plan Amendment 21 (OPA 21) to the Town’s Official Plan (1982), as amended. Staff note that there is no policy direction for residential development in the former CC designation which only contemplated commercial development on the subject lands. Moreover, OPA 21 was repealed when the Town’s new OP was approved in 2010 and insofar as the KDA designation is now in effect, it is no longer applicable to the subject lands.

The Yonge/Bernard KDA is identified in the Town’s Official Plan as an intensification area and forms part of the Town’s urban structure, which is located within the settlement area. The urban structure of the Town is defined in the Official Plan and depicts the physical makeup of the Town over the long-term. A large part of the Town’s urban structure is defined by a network of “centres and corridors”, which are the primary areas for intensification and include the Richmond Hill Centre, Key Development Areas, Local Development Areas, certain areas along the Yonge Street and Highway 7 Regional Corridors and the Major Mackenzie Drive Local Corridor. Key Development Areas are defined ‘centres’ within the urban structure which are situated along a Regional Corridor where public rapid transit services intersect with major nodes of retail and commercial development and where opportunities exist for redevelopment of large land parcels that can support new streets, a mix of land uses, and higher density built form than currently exists. It should be noted that all of the OP policies regarding height and density maximums and minimums across the Town’s network of Centres and Corridors are approved, but for the policies associated with the subject lands.

The policies of the Part I OP provide overarching policy direction for key development areas with respect to permitted uses, development blocks, mixed-use transit-oriented development, height and density and set out requirements for the development of secondary plans.

Yonge/Bernard KDA Secondary Plan

In November 2016, the Town initiated an interim control by-law in order to study the Bernard KDA area comprehensively and to prepare the Yonge/Bernard KDA Secondary Plan and Implementing Zoning By-law (Zoning By-law 111-17). The planning documents were adopted by Council on November 27, 2017 and subsequently appealed to the OMB. The Secondary Plan further articulates the policies set out in the Part I OP by defining the boundaries a development block, and establishing an associated height and density strategy for the KDA that is based on character areas and the surrounding local context. The Secondary Plan fulfills the requirements for secondary plans set out in the Town’s Part I OP and the York Region Official Plan.

Section 12.1.2 of the Secondary Plan provides a detailed vision for the KDA as follows:

“The Bernard KDA is envisioned to become the third most intensely developed area in Richmond Hill after the Richmond Hill Centre and the Yonge and 16th KDA. Over time, the Bernard KDA will be transformed into a cohesive community through redevelopment that builds on the

area's existing assets, and promotes a shift away from the focus on automobile use towards the creation of a transit, cycling, and pedestrian-oriented destination. As the lands within the Yonge Street and Bernard Avenue Key Development Area are designated "Settlement Area" in accordance with the Oak Ridges Moraine Conservation Plan, intensification will take place in a manner sensitive to the environment and natural heritage character of the surrounding area. An enhanced streetscape is planned in all quadrants of the Bernard KDA to enhance natural features and integrate low impact development practices into new infrastructure.

"The Bernard KDA is envisioned to have three distinct character areas: the Corridor, which reflects the Yonge Street corridor of taller and higher density *development*; the Interior, the transitional tier of interior *development*; and the Neighbourhood Edge, the area abutting established residential communities.

"Through the establishment of the three character areas, the Bernard KDA will evolve from an existing *retail/commercial* node to a more connected, mixed-use urban centre that will become a transit, cycling, and pedestrian-oriented destination. The Bernard KDA will build on its assets to evolve into a vibrant place where the community will live, shop, work, and be entertained.

"The Bernard KDA is envisioned to become a mixed-use area with a range of building types and forms, including various forms of townhouses, *mid-rise* and *high-rise* street related buildings. The highest and most dense buildings are directed along Yonge Street. Heights and densities will transition down from Yonge Street to respect the adjacent lower-rise Neighbourhood. The existing amount of *commercial* and *retail* floor space will be maintained and expanded through new development in a more urban format. The area will also provide opportunities for new *office* and *major office development* to increase employment opportunities. The planned heights and densities are supportive of a major transit station area as directed by the Growth Plan for the Greater Golden Horseshoe, 2017."

A key policy direction of the Secondary Plan is how it establishes development blocks in accordance with the Part I OP requirements. The whole of the Bernard KDA is identified in the Secondary Plan as one development block, which allows for an appropriate gradation of density to be deployed within the KDA to support the principle of transition of development to the immediate residential neighborhood and Regional Mixed Use Corridor areas that surround the KDA.

In keeping with the established minimum and maximum building heights for the KDA set out in the Part I OP, as adopted by Council, the Secondary Plan distributes height and

density within the Secondary Plan area based on three character areas as illustrated in Schedule 1 Height and Schedule 2 Density of the Secondary Plan (refer to Maps 7 and 8). The tallest and most dense development is directed to the “Corridor” Character Area with building heights ranging between 10 to 15 storeys and density of 4.0 FSI. The “Interior” and the “Neighbourhood Edge” character areas would have building heights of between 4 and 10 storeys, and three storeys, respectively. Both the “Interior” and “Neighbourhood Edge” Character Areas are to have a maximum density of 2.0 FSI.

The Secondary Plan’s distribution of height and density, together with the whole of the KDA defined as one development block, facilitates the achievement of a minimum of 2.5 FSI across the KDA as required by the Part I OP and ROP. The height provisions prescribed under the adopted Secondary Plan are consistent with the Part I OP and the policy objective of directing the tallest buildings towards the intersection of Yonge Street and Bernard Avenue. The height distribution is also mindful of the OP policy which permits a maximum building height of 15 storeys for development in the Regional Mixed Use Corridor that is north and south of the Bernard KDA and therefore permits this height maximum to occur along the length of Yonge Street that is within the KDA boundary.

Discussion and Analysis:

The preceding sections of this staff report in conjunction with the discussion provided in staff report SRPRS.18.045 provide an overview of relevant Provincial, Regional and Town policies that are pertinent to the evaluation of the subject applications. Set out below is an assessment of the broader areas of concern applicable to the proposed development. In summary, the most significant areas of concern pertain to the following matters:

1. Official Plan, Yonge/Bernard KDA Secondary Plan and Zoning By-law;
2. Master Concept Plan;
3. Height and Density; and
4. Public Streets.

Official Plan, Yonge and Bernard Key Development Area Secondary Plan and Zoning By-law

As noted in the earlier sections of this report, TSMJC has an outstanding appeal to the Town’s Part I OP wherein it has placed certain policies of the Plan under appeal site-specifically. Additionally, TSMJC has appealed the newly adopted Secondary Plan and Zoning By-law for the KDA. As noted above, however, these documents have been adopted by Council and represent the Town’s consistency with and conformity to applicable Provincial and Regional policy, and are therefore relevant to the analysis of the proposed development applications.

The subject applications are not consistent with the OP for the following principle reasons:

- Height: The 16-storey building height proposed by the subject applications exceeds the maximum height permissions set out in the OP and KDA Secondary plan for development in this area. The OP directs for a maximum building height of 15 storeys in the KDA and directs the tallest buildings to the intersection of Yonge Street and Bernard Avenue (OP Policy 4.4.1(9)). The adopted KDA Secondary Plan articulates the Part I OP policies in further detail and identifies the lands proposed for development as being within the Interior Character Area. Policy 12.2.2(1) and Schedule 1 of the Secondary Plan direct for a maximum building height of 10 storeys for development within the Interior Character Area. Consistent with the OP, the adopted Secondary Plan directs the tallest building heights of 15 storeys to be focused along Yonge Street and at the Yonge Street and Bernard Avenue intersection. Directing the greatest building heights in the KDA towards the Yonge Street frontage and the intersection of Yonge Street and Bernard Avenue at the location of the Bernard Avenue Bus Terminal provides gradual transition to the neighborhood and ensures land use compatibility;
- Density: The subject applications propose a site-specific density of 2.75 FSI on a portion of the applicant's land holdings. The KDA Secondary Plan establishes the whole of the KDA as one development block and deploys a gradation of density that is appropriate for the KDA based on local context. The Secondary Plan permits a maximum density of 2.0 FSI on the majority of the lands proposed for development. Consequently, the proposed density exceeds the density permissions set out in the OP and KDA Secondary Plan;
- Floor Plate Size: The proposed development has floor plates of 1,575.6 square metres above the 4-storey building base. The proposed floor plates exceed the floor plate provision of 750 square metres above the podium for high-rise development, as set out in Policy 3.4.1(59) of the Part I OP. Policy 3.4.1(59) is in effect and applicable to the subject applications for buildings that are greater than 10 storeys within the KDA as per policy 12.2.5.1(5) of the Secondary Plan;
- Street Network: The subject applications do not provide for new public streets or a fine-grain street network. KDA's are defined in the Part I OP as areas located on a Regional Corridor where public rapid transit services intersect with major nodes of retail and commercial activity, and where opportunities exist for redevelopment of large sites that can, among other matters, support new public streets. Policies 3.4.1(30), (48), (55) and 4.4.2(3) of the Part I OP are in effect as they apply to the subject applications and direct for the provision of new public streets and a fine-grain street network in order to, among other matters: (1) ensure built form compatibility and transition of building heights with adjacent low-density residential and medium density-residential areas; (2) provide grade-related entrances facing existing residential areas; (3) minimize conflicts between vehicles and pedestrians by ensuring that large land parcels incorporate a fine-grain public street network to promote pedestrian circulation and transit-oriented development; and (4) support connections within the KDA and to adjacent neighborhoods. Additionally, Schedule 4 of the Bernard KDA Secondary Plan identifies an east-west public collector street to be located generally along the

northern portion of the lands proposed for development to eventually connect Yonge Street to Yorkland Street and intersect with Justus Drive. The proposed public street network identified in the KDA Secondary Plan aims to balance pedestrian, cycling, transit, land use and civic functions in addition to the movement of vehicles.

Master Concept Plan

Staff have reviewed the applicant's planning justification report and the detailed master concept planning exercise that it has prepared for the balance of the property (refer to Appendix A1 and A2). It should be noted that this justification report was prepared prior to the initiation of the Bernard KDA study and, accordingly, the completion of the comprehensive Secondary Plan for the KDA. The provided Concept Plan, which includes the subject applications as proposed, portrays the landowner's vision of the long term development of the overall site.

The most significant flaw in the Concept Plan is the assumption that major retail on the site would continue in the form of a single-storey structure in perpetuity. It appears that the application of this assumption necessitates the development of buildings that significantly exceed the 15-storey height maximum in order to compensate for the lack of GFA that could otherwise be attributed to the major retail development sites and to ultimately achieve the minimum density target for the KDA overall. This assumption is in conflict with the policies of the Official Plan that direct for more compact, urban form, and with the vision for this KDA to be redeveloped as a mixed-use "new kind of urban" area; as stated in the OP and the newly adopted Secondary Plan.

Staff has identified a number of issues and concerns with the concept as follows:

a) The Concept Assumes the Upper Yonge Place Shopping Centre as one Development Block

The Concept Plan illustrates the whole of the Upper Yonge Place shopping centre property as one development block with an overall density of 2.50-2.99 FSI averaged across the property. The Concept Plan illustrates 8 sites, one of which is entitled "Residential Block 1" which represents the subject applications in the southeast portion of the property at a proposed site-specific density of 2.75 FSI, and site-specific densities varying between 0.43-7.29 FSI for the balance of the lands.

Staff note that the policies of the Part I OP direct that the boundaries of development blocks be identified in a Secondary Plan. The Bernard KDA Secondary Plan adopted by Council has addressed this requirement on a comprehensive basis taking into consideration the whole of the KDA so as to ensure that the land use vision set out in the Town's new OP is realized and integrated across all four quadrants of the KDA. Accordingly, the Secondary Plan did not identify individual development blocks wherein the 2.5-3.0 FSI must be achieved on a site-by-site basis. Rather, the Secondary Plan identifies blocks where the maximum density varies from 2.0 to 4.0 FSI and collectively they achieve the overall 2.5-3.0 FSI for the KDA. The site-specific densities proposed in the Concept Plan vary substantially from the

recommended minimum and maximum densities set out in the OP and KDA Secondary Plan.

b) Building Heights in the Concept Exceed 15 Storeys for the KDA

The Concept Plan illustrates varying building heights across the property ranging between 1 and 33 storeys, with the highest building heights generally focused at the existing Bernard Transit Terminal and along the Yonge Street frontage. In these areas, the Concept Plan illustrates building heights that are two times (2x) higher than the permitted 15 storeys set out in the Town's Part I OP and Secondary Plan, as adopted by Council.

Staff note that the Bernard KDA Secondary Plan sets out a vision for height and density that direct the tallest (15 storeys) and most dense buildings to be concentrated at the Yonge Street and Bernard Avenue intersection and along the Yonge Street corridor which then gradually decline away from these areas towards the edges of the KDA (3 storeys). Building heights of up to 33 storeys, as illustrated in the applicant's Concept Plan, greatly exceed the scale and intensity of development and intensification envisioned for the Bernard KDA set out in the Part I OP and would be more appropriately directed to the Richmond Hill Centre Urban Growth Centre (UGC) as identified by the OP's urban structure and hierarchy of intensification areas. The Richmond Hill Centre is planned to be the primary intensification area of the Town and will accommodate the highest level of intensification in height and density, whereas KDA's are planned to accommodate a level of intensification that is less than the Richmond Hill Centre (OP Policy 3.1.3(7),(9)).

The proposed heights and densities of the Commercial Sub-Blocks have an effect on the ability of the property to achieve the density set out in the Part I OP. When viewed in the context of the applicant's overall concept, the remaining areas of the property are required to accommodate a greater share of intensification at an increased scale and intensity to ensure that an average density of 2.5-3.0 FSI across the property is achieved. The Commercial sub-blocks are single-use format and are shown to have proposed building heights ranging from 1-2 storeys. The policies of the OP direct for a minimum building height of 3 storeys in the KDA and mixed use, transit-oriented development. A reconfiguration of the Commercial sub-blocks to include building heights greater than 1-2 storeys at those locations would serve to reduce the need for building heights of up to 33 storeys and increased densities of up to 7.29 FSI elsewhere on the site.

c) Large Format Commercial Buildings/Major Retail in the Concept Are Not Provided in a Compact Form and Are Served by Surface Parking

The existing Upper Yonge Place plaza is a large shopping centre which currently occupies large format retail spaces (Loblaws and Cinema) and grade-related retail in single storey buildings. Some upper level office space is provided above the existing Cinema building. At its current GFA of 17,100 square metres, the existing shopping centre meets the OP definition of major retail.

The redevelopment scheme provided in the applicant's Concept Plan assumes a redevelopment of the property while maintaining its broader function as a shopping centre through the provision of independent Commercial sub-blocks, one of which consists of the existing Loblaws grocery store that is shown to remain in situ. Collectively the commercial sub-blocks provide for a total floor space that meet and exceed the 10,000 square metres GFA threshold for a major retail shopping centre defined in the OP. At an average density of 2.5 FSI across the property, the commercial uses shown in the concept occupy an estimated 10.5% of the total proposed GFA and office uses occupy 1.1%. With respect to built-form, approximately 57.6% of the total commercial space is provided through large-format commercial buildings.

In reviewing the commercial space provided and the form in which it is proposed in the Concept Plan, staff note that the policies of the Part I OP direct that intensification of existing major retail uses occur through redevelopment in a compact form. Moreover, new major retail development within the KDA is to be permitted only where it can be demonstrated that the use is to be integrated into the base of buildings as part of mixed-use, transit-oriented development. When viewed collectively, the Commercial Blocks provided in the Concept Plan function as a major retail shopping centre. At the provided building heights of 1-2 storeys, the large-format commercial buildings are not consistent with the KDA policies of the OP and the objective of intensifying underutilized lands for mixed-use, transit-oriented development.

To support the commercial uses, the Concept Plan provides for surface and above-grade structured parking. A total of 512 commercial parking spaces are provided, of which 63.1% (323 spaces) are provided as surface parking. At this juncture, staff were not able to determine from the Concept Plan how much of the site's land area is occupied by surface parking, however the large format commercial buildings across the three Commercial sub-blocks are shown to occupy a substantial portion (approximately 33%) of the property's total land area.

With respect to parking, the policies of the Part I OP direct that parking within the centres and corridors be located below grade or in structure parking or through surface parking. Where surface parking is to be provided, the policies direct that it be minimized wherever possible and located at the rear or side of a development site and include substantial landscaping within and along perimeter areas (Policies 3.4.1(49) and (51)). Directing parking to locate below grade or in structured parking where it can be achieved helps to optimize the use of land and promote efficient development patterns consistent with provincial policy direction.

d) Only Private Streets are Contemplated in the Concept Plan

The 16-storey apartment building proposed by the subject applications are shown to have frontage on and take access from an internal roadway. Moreover, the balance of the applicant's land holdings shown on its Concept Plan is proposed to be developed with an internal private street network which is cited by the applicant as being similar to the redevelopment model for the Don Mills Centre in Toronto. Staff

note that Policies 3.4.1(30), (48), (55) and 4.4.2(3) of the Part I OP are in effect as they apply to the subject applications and the balance of the applicant's land holdings and provide the following policy direction for the provision of public streets and a fine-grain street network:

- Development shall promote a compact land use pattern by establishing walkable public street patterns and lot fabric to allow for future development and intensification, and by creating or continuing a fine-grained street network (OP Policy 3.4.1(30));
- Development shall be designed to minimize conflicts between vehicles and pedestrians by ensuring that large land parcels incorporate a fine-grain public street network to promote pedestrian circulation and transit-oriented development (Policy 3.4.1(48));
- To ensure built form compatibility and transition of building heights with adjacent low-density residential and medium density residential areas, development within the centres and corridors shall be designed so as to provide new public streets with grade-related residential entrances facing existing low-density residential and medium density residential areas, where appropriate (Policy 3.4.1(55)); and
- New local streets shall be provided where feasible to encourage a fine-grain street network to support connections within the KDA and to adjacent neighborhoods (Policy 4.4.2(3)).

The adopted Secondary Plan for the Bernard KDA builds on the policy direction set out in the Part I OP and identifies a new public street network to provide connectivity in and amongst the KDA and with the abutting neighbourhoods. Of the proposed new street network, two public street connections are identified over the applicant's landholdings as follows (refer to Map 9):

- a future east-west Collector Street linking Justus Drive to Yonge Street with the potential for an all-way stop control/signalized intersection at Justus Drive and Yorkland Street; and
- a future north-south Local Street linking the proposed east-west Collector Street to Bernard Avenue.

Accordingly, the applicant's Concept Plan does not facilitate the creation of a fine-grain public street network as directed by the policies of the OP and KDA Secondary Plan. Further, the applicant's proposal would preclude the development of a portion of the east/west collector street.

Based on the foregoing, it would appear that the applicant's site-specific development application has been developed based on a number of assumptions that are wholly inconsistent with the Town's vision for how this KDA is expected to be developed over the long term. The subject applications reflect a "corridor" approach, which does not consider the broader OP objectives for the KDA as a cohesive mixed-use "centre" as articulated in the recently adopted KDA Secondary Plan. The Concept Plan submitted in

support of the proposed development fails to demonstrate how the proposal would be appropriate in the context of the Part 1 OP and the KDA Secondary Plan.

Additional Technical Considerations

In addition to the comments set out in the preceding sections of this report, the following is a summary of additional technical comments and considerations with respect to the proposed subject applications from Town departments and external agencies. Detailed department and agency comments are set out in the Appendices to this report (refer to Appendices B1 to B5):

- the Functional Servicing Report has not satisfactorily demonstrated the feasibility of the proposed servicing design;
- the Hydrogeological Assessment has not satisfactorily demonstrated the feasibility of the construction of the proposed underground parking structure and that any temporary construction or permanent dewatering impacts to the ground water system and natural heritage system may be mitigated using conventional methods;
- the Noise Study has not satisfactorily demonstrated the feasibility of the proposed development from a stationary noise mitigation perspective;
- the Traffic Analysis has not satisfactorily demonstrated conformity to the Secondary Plan and the feasibility of the proposal from a traffic perspective;
- the applicant's draft Zoning By-law Amendment has proposed a parking rate of 0.9 spaces for a two-bedroom apartment dwelling unit whereas the KDA By-law provides for a minimum rate of 1.0 spaces per dwelling unit. Staff have reviewed the proposed rate and do not support the reduction;
- the existing built form context on the east side of Yorkland Avenue is comprised of established traditional two-storey single detached dwellings. To improve the transition from the existing Neighbourhood to the KDA, the proposed townhouses on the west side of Yorkland Avenue should have regard for the Neighbourhood character and, accordingly, the proposed massing should be revised from one block to two blocks, with no more than eight attached units; and
- the proposed Zoning By-law amends Zoning By-law 184-87. The Interim Control By-law (ICBL) adopted by Council in November 2016 continues to be in effect on these lands, and By-law 184- 87, as amended, will be repealed as it applies to the lands once the KDA By-law is in effect. As such, any site specific zoning by-law amendments that are required to facilitate this development will need to be prepared in relation to the KDA By-law.

Region of York Comments:

Regional staff reviewed the plans and reports submitted in support of the development proposal. As noted in their comments (refer to Appendix B5), Regional staff endorse the Council adopted KDA Secondary Plan, and they are of the opinion that the Secondary Plan sets out appropriate intensification levels while ensuring compatibility with the

surrounding neighbourhood built form. They support the proposed fine grid street network proposed in the Secondary Plan to improve pedestrian and vehicular connections and to accommodate for the ultimate build out of KDA. Consequently, Regional staff encourages the applicant to work with the Town to develop a revised plan that would better conform with the Council adopted Secondary Plan.

Public Comments:

A statutory Council Public Meeting was held on February 21, 2018 to consider the applicant's development proposal, wherein Council received Staff Report SRPRS.18.045 for information. The applicant's planning consultant and members of the public were in attendance. The main issues and concerns identified at the public meeting relate primarily to vehicular traffic and the increase in traffic that may result along Yorkland Street from the proposed development and from intensification in the Bernard KDA. In addition, concerns were raised regarding a potential loss of commercial space and access to the existing commercial uses in the Upper Yonge Place shopping centre resulting from the applicant's proposed development and concerns that the development, as proposed, is not in conformity with the height, density and built form policies set out in the Town's OP and recently adopted KDA Secondary Plan. Correspondence was also received from the existing Leon's store (10875 Yonge Street), which is located immediately south of the proposed development, and from a resident at 71 Yorkland Street. The correspondence from Leon's advised of an existing easement on the property and support for the future east-west public collector street linking Yonge Street to Justus Drive in order to obtain future access from this street to the Leon's property in light of the turning movement restrictions along Yonge Street from the Yonge Bus Rapid Transit project.

The correspondence from the resident at 71 Yorkland Street cited concerns with traffic, the findings and recommendations set out in the Traffic Study completed as part of the Bernard KDA study including modal split, and concerns with the storage and clearance of snow and how this is to be addressed in the future if the existing parking area proposed for development by the subject applications is redeveloped.

Issues

Staff have undertaken a comprehensive review of the applicant's development proposal in conjunction with the Concept Master Plan provided by the applicant for the balance of its land holdings, and advises that the proposal cannot be supported for the following principle reasons:

1. The 16-storey building height of the proposed residential apartment building exceeds the maximum building heights set out in the Part I OP and Bernard KDA Secondary Plan, as adopted by Council;
2. The subject applications propose a site-specific density of 2.75 FSI on a portion of the applicant's land holdings. The proposed density exceeds the maximum density of 2.0 FSI as directed by Policy 12.2.3(2) and Schedule 2 of the adopted KDA Secondary Plan;

3. The applicant has submitted a draft OPA and a chart detailing proposed amendments to certain policies of the Part I OP to facilitate its development proposal. The draft OPA proposes to introduce an exception policy in Chapter 6 while the associated chart proposes general amendments to different sections of the Plan. The proposed OP changes are not consistent with the Town's vision for the KDA as recently confirmed through the adoption of the Bernard KDA Secondary Plan and Implementing Zoning By-law. The OP changes proposed are not for the purposes of bringing the Town's OP into conformity with upper-tier Provincial or Regional policies given that the Town's OP and Secondary Plan are already in conformity with these documents;
4. Similarly, the applications are not in conformity with the Implementing Zoning By-law for the KDA, including the following matters:
 - a. the submitted draft ZBLA requests a site specific Floor Area Ratio of 3.0 whereas the submitted plans and reports denote a proposed 2.75 FSI. In either case, these densities exceed the density prescribed by the adopted KDA Zoning By-law;
 - b. the implementing Zoning By-law for the KDA proposes development standards to implement the policies of the Secondary Plan; the proposed building height of the subject applications exceed the maximum building height of 10 storeys set out in the KDA By-law;
 - c. the draft ZBLA proposes a parking rate standard that is not justified and not supported by staff; and,
 - d. the draft ZBLA is required to incorporate appropriate development standards for the implementation of transportation demand measures.

As noted above, the applicant's proposed Zoning By-law Amendment application proposes amendments to Zoning By-law 184-87, as amended. When the KDA By-law (111-17) comes into effect, Zoning By-law 184-87, will be repealed and the ICBL will cease to be in effect. Accordingly, the development should demonstrate compliance with the KDA Zoning By-law;

5. The subject applications do not provide for new public streets or a fine-grain street network as directed by Policies 3.4.1(30), (48), (55) and 4.4.2(3) of the Part I OP which are in effect as they apply to the subject applications. With respect to the adopted KDA Secondary Plan, the proposed development would preclude the provision of the east-west public Collector Street connection linking Yonge Street to Justus Drive as shown on Schedule 4 to the adopted Secondary Plan;
6. The subject applications propose floor plates of 1,575.6 square metres for the residential apartment building which exceed the floor plate provision of 750 square metres for high-rise development set out in Policy 3.4.1(59) of the Part I OP. The Part I OP defines "high-rise" as buildings or structures with a height of 9 storeys or greater. Policy 3.4.1(59) along with the OP definition of "high-rise" is in effect as it applies to the subject applications. The proposal does not provide for a slim tower design for a high rise building as directed in the Part 1 OP;

7. The applicant's Concept Plan illustrates varying building heights across the property with heights greater than 30 storeys focused at the existing Bernard Transit Terminal and along the Yonge Street frontage. Building heights of this scale are not warranted at this location and exceed the scale and intensity of development envisioned for the KDA over the long term, and are not consistent with the Town's urban structure which directs proposed tall building heights of this scale to the Richmond Hill Centre;
8. The applicant's master concept planning exercise assumes the full extent of its land holdings is one development block, which is not consistent with the adopted KDA Secondary Plan that establishes the whole of the KDA as one development block. The corresponding height and density strategy set out in the Secondary Plan demonstrates a comprehensive and integrated approach to the distribution of height and density across the four quadrants of the KDA which are in keeping with the height and density provisions set out in the Part I OP. The Concept Plan significantly departs from the Town's vision for this site; and
9. The applicant has yet to satisfactorily demonstrate the feasibility of the proposal with respect to matters regarding servicing, hydrogeology, traffic and noise impacts.

In light of the issues identified, it is recommended that Council not support the applicant's current development proposal and that appropriate staff be directed to appear at the upcoming OMB hearing in support of Council's position in this regard.

Financial/Staffing/Other Implications:

As these applications have been appealed to the Ontario Municipal Board, there will be a draw on staff and financial resources. These will be accommodated in existing budgets.

Relationship to the Strategic Plan:

The proposed development has not demonstrated full conformity with the policies of the Town Official Plan and is not in keeping with the adopted KDA Secondary Plan, and is therefore not aligned with the overall vision of the Town's Strategic Plan. The recommendations of this staff report is generally aligned with **Goal Four: Wise Management of Resources in Richmond Hill** by being responsible and committing to use land responsibly and serving as a role model for municipal management

Conclusion:

On May 18, 2017, the owner of the subject lands submitted appeals of its development applications to the Ontario Municipal Board. The appeals were submitted on the basis that the Town did not make a decision concerning the applications within the statutory time lines stipulated under the *Planning Act*. A second Pre-Hearing Conference will be held on March 29, 2018, wherein the Board will be advised of Council's position.

This report provides an analysis of the current development proposal for the subject lands in relation to the applicable regulatory regime governing the approval process, as

well as policy direction under the adopted Secondary Plan. Staff have undertaken a thorough review of the current development submission for the subject lands including the applicant's Concept Master Plan for the balance of its landholdings and cannot recommend support for the development proposal.

On the basis of the preceding, it is recommended that the Ontario Municipal Board be advised that Council does not support the subject development proposal and that Town staff be directed to appear at the Ontario Municipal Board hearing in support of Council's position concerning the subject applications.

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.

Appendix A, TSMJC Master Concept Plan for 10909 Yonge Street

1. Master Concept Site Plan
2. Master Concept Site Plan Statistics

Appendix B, Department/Agency Comments

1. Memo from P. Guerreiro, Development Engineering Division, dated February 14, 2018
2. Memo from L. Salem, Urban Design Section, dated January 17, 2018
3. Email from P. Young, Park and Natural Heritage Planning Section, dated February 7, 2018
4. Memo from S. Wat, Development Engineering Section, dated February 22, 2018
5. Letter from K. Whitney, Region of York, dated February 22, 2018

Map 1, Aerial Photograph

Map 2, Concept Plan

Map 3, Concept Cross Section

Map 4, Concept Elevation

Map 5, Concept Elevation

Map 6, Concept Elevation

Map 7, Schedule 1 Bernard KDA Secondary Plan, adopted November 27, 2017

Map 8, Schedule 2 Bernard KDA Secondary Plan, adopted November 27, 2017

Map 9, Schedule 4 Bernard KDA Secondary Plan, adopted November 27, 2017

Report Approval Details

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Attachments:	<ul style="list-style-type: none"> - SRPRS.18.068 - Appendix A.1 and A.2.pdf - SRPRS.18.068 - Appendix B1.pdf - SRPRS.18.068 - Appendix B2.pdf - SRPRS.18.068 - Appendix B3.pdf - SRPRS.18.068 - Appendix B4.pdf - SRPRS.18.068 - Appendix B5.pdf - SRPRS.18.068 - MAP_1_AERIAL_PHOTOGRAPH.pdf - SRPRS.18.068 - MAP_2_CONCEPT_PLAN.pdf - SRPRS.18.068 - MAP_3_CONCEPT_CROSS_SECTION.pdf - SRPRS.18.068 - MAP_4_CONCEPT_ELEVATION.pdf - SRPRS.18.068 - MAP_5_CONCEPT_ELEVATION.pdf - SRPRS.18.068 - MAP_6_CONCEPT_ELEVATION.pdf - SRPRS.18.068 - MAP_7_SCHEDULE_1_BERNARD_KDA_SECONDARY_PLAN_ADOPTED_NOVEMBER_27_2017.pdf - SRPRS.18.068 - MAP_8_SCHEDULE_2_BERNARD_KDA_SECONDARY_PLAN_ADOPTED_NOVEMBER_27_2017.pdf - SRPRS.18.068 - MAP_9_SCHEDULE_4_BERNARD_KDA_SECONDARY_PLAN_ADOPTED_NOVEMBER_27_2017.pdf
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This report and all of its attachments were approved and signed as outlined below:

Patrick Lee - Mar 1, 2018 - 10:08 AM

Kelvin Kwan - Mar 1, 2018 - 10:11 AM

Neil Garbe - Mar 2, 2018 - 10:48 AM