

**Local Planning Appeal Tribunal**  
Tribunal d'appel de l'aménagement  
local



**ISSUE DATE:** February 26, 2021

**CASE NO(S):** PL180073

The Ontario Municipal Board (the "OMB") is continued under the name Local Planning Appeal Tribunal (the "Tribunal"), and any reference to the Ontario Municipal Board or Board in any publication of the Tribunal is deemed to be a reference to the Tribunal.

**PROCEEDING COMMENCED UNDER** subsection 17(24) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant:	10870 Yonge Street Limited
Appellant:	Saad Askandar
Appellant:	Dogliola Developments Inc.
Appellant:	Richmond Hill Retirement Inc. et al; and others
Subject:	Proposed Official Plan Amendment No. OPA 8
Municipality:	Town of Richmond Hill
OMB Case No.:	PL180073
OMB File No.:	PL180073
OMB Case Name:	Askander v. Richmond Hill (Town)

**PROCEEDING COMMENCED UNDER** subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant:	10870 Yonge Street Limited
Appellant:	Saad Askandar
Appellant:	Dogliola Developments Inc.
Appellant:	Richmond Hill Retirement Inc. et al; and others
Subject:	By-law No. 1117-17
Municipality:	Town of Richmond Hill
OMB Case No.:	PL180073
OMB File No.:	PL180074

**PROCEEDING COMMENCED UNDER** subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:	Yonge MCD Inc.
Subject:	Request to amend the Official Plan - Failure of Town of Richmond Hill to adopt the requested amendment
Existing Designation:	"Key Development Area" and "Neighbourhood"

Proposed Designated: "Key Development Area" and "Neighbourhood" with amended policies

Purpose: To permit a mixed use commercial/residential high rise building, 3 high rise residential buildings, 22 street townhouse dwelling units, 160 condominium townhouse dwelling units, 8 single detached dwellings, and a public park

Property Address/Description: Various Addresses

Municipality: Town of Richmond Hill

Approval Authority File No.: D01-16002

OMB Case No.: PL180073

OMB File No.: PL170770

OMB Case Name: Yonge MCD Inc. v. Richmond Hill (Town)

**PROCEEDING COMMENCED UNDER** subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant: Yonge MCD Inc.

Subject: Application to amend Zoning By-law No. 2523 and By-law 190-87 - Refusal or neglect of Town of Richmond Hill to make a decision

Existing Zoning: Flood (F) Zone and Rural Residential (RR) Zone under By-law No. 2523 and Residential Single Family Six (R6) Zone under By-law No. 190-87

Proposed Zoning: *Multiple Family One (RM1) Zone, Multiple Family Two (RM2) Zone, Open Space (OS) Zone and Park (P) Zone with site-specific development standards*

Purpose: To permit a mixed use commercial/residential high rise building, 3 high rise residential buildings, 22 street townhouse dwelling units, 160 condominium townhouse dwelling units, 8 single detached dwellings, and a public park

Property Address/Description: Various Addresses

Municipality: Town of Richmond Hill

Municipality File No.: D-02-16012

OMB Case No.: PL180073

OMB File No.: PL170771

**PROCEEDING COMMENCED UNDER** subsection 51(34) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant: Yonge MCD Inc.

Subject: Proposed Plan of Subdivision - Failure of Town of Richmond Hill to make a decision

Purpose: To permit a mixed use commercial/residential high rise building, 3 high rise residential

Property Address/Description:  
 Municipality:  
 Municipality File No.:  
 OMB Case No.:  
 OMB File No.:

buildings, 22 street townhouse dwelling units,  
 160 condominium townhouse dwelling units, 8  
 single detached dwellings, and a public park  
 Various Addresses  
 Town of Richmond Hill  
 D-03-16006  
 PL180073  
 PL170772

**PROCEEDING COMMENCED UNDER** subsection 17(40) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellants:

Amir-Hessam Limited & 668152 Ontario Limited  
 583753 Ontario Limited  
 Yonge Bayview Holdings Inc.  
 K.J. Beamish Holdings Limited  
 Signature Developments Inc.  
 TSMJC Properties Inc.  
 Haulover Investments Limited  
 New Era Developments (2011) Inc.  
 Rice Commercial Group and Major Mac Realty Inc.  
 Loblaw Properties Limited  
 E. Manson Investments  
 North Leslie Residential Landowners Group Inc.  
 Montanaro Estates Limited and William & Yvonne Worden  
 Baif Developments Limited  
 Arten Developments Inc.  
 Stonecourt Construction Inc.  
 P. Campagna Investments Ltd., P.A. Campagna and 1480420 Ontario Ltd.  
 Ram Nischal, Rekha Nischal, Neelam Narula and Raj Kumar  
 Angelo, Louise and Josephine Cimetta and Shiplake Developments Ltd.  
 Great Land (Westwood) Inc.  
 775377 Ontario Ltd. (Belmont)  
 Robert Salna and Robert Salna Holdings Inc.  
 AME-SON Holdings Ltd.  
 Corsica Development Inc.  
 Elginbay Corporation  
 Sitzer Group Holdings No. 1 Limited, Grall Corporation Limited, Natweiss Investments Limited, 967933 Ontario Limited & Loblaws Inc.

(owners of the Richmond Heights Shopping Centre)  
 Dickson 48 Property Inc., Sedgewick Property Inc., Long Body Homes Inc., & 1419079 Ontario 1191621 Ontario Inc.  
 1835942 Ontario Inc.  
 1122270 Ontario Inc.

Subject: Failure of the Regional Municipality of York to announce a decision respecting the proposed new Official Plan for the Town of Richmond Hill  
 City of Richmond Hill

Municipality: City of Richmond Hill

OMB Case No.: PL110189

OMB File No.: PL110189

OMB Case Name: Cimetta v. Richmond Hill (City)

**PROCEEDING COMMENCED UNDER** subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Applicant and Appellant: TSMJC Properties Inc.

Subject: Request to amend the Official Plan - Failure of the Town of Richmond Hill to adopt the requested amendment

Existing Designation: Yonge-Bernard Key Development Area

Proposed Designation: To amend the public street access, height and built form policies to facilitate the proposed development

Purpose: To permit the development of a 16-storey residential building located mid-block and a row of 3-storey back-to-back townhouses with frontage on Yorkland Street for a total of 338 dwelling units

Property Address/Description: 10909 Yonge Street/ Block 29, Plan 65M-2819

Municipality: Town of Richmond Hill

Approval Authority File No.: D01-16003

OMB Case No.: PL110189

OMB File No.: PL170598

**PROCEEDING COMMENCED UNDER** subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Applicant and Appellant: TSMJC Properties Inc.

Subject: Application to amend Zoning By-law No. 184-87, as amended – Neglect of application by the Town of Richmond Hill

Existing Zoning: “CC – Community Commercial”

Proposed Zoning: “RM2 – Residential Multiple Family Two”

Purpose:	To permit the development of a 16-storey residential building located mid-block and a row of 3-storey back-to-back townhouses with frontage on Yorkland Street for a total of 338 dwelling units
Property Address/Description:	10909 Yonge Street/ Block 29, Plan 65M-2819
Municipality:	Town of Richmond Hill
Municipal File No.:	D02-16018
OMB Case No.:	PL110189
OMB File No.:	PL170599

**Heard:** July 02, 2020 via video conference

## **APPEARANCES:**

### **Parties**

### **Counsel**

City of Richmond Hill	Barnet H. Kussner Raj Kehar
Yonge-Bernard Residents' Association	Jason Cherniak
Dogliola Developments Inc.	Ira T. Kagan Kristie Jennings
10870 Yonge Street Limited	Sarah J. Turney
North Elgin Centre Inc.	Jeffrey Streisfield
Toronto and Region Conservation Authority	Barbara Montgomery
Richmond Hill Retirement Inc. and Oakridge Gardens Retirement Partnership	Mark Flowers
TSMJC Properties Inc.	Quinto M. Annibale Brendan Ruddick
Regional Municipality of York	Bola Ogunmefun
Yonge MCD Inc.	Patricia Foran Patrick Harrington

Frank DiPede

Amber Stewart

Saad Askandar

Self-represented

## **DECISION DELIVERED BY G. BURTON AND D.S. COLBOURNE AND ORDER OF THE TRIBUNAL**

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[1] This is a decision on Phase 1 of the Hearing of the many Appeals of the Yonge and Bernard Key Development Area (“KDA”) Secondary Plan (the “Plan”), of Zoning By-law No. 111-17 (“ZBL 111-17”), and of amendments to Part 1 of the City of Richmond Hill Official Plan (“OP” and “Part 1 OP”) by TSMJC Properties Inc (“TSMJC”). The Appellant Parties are listed above. The Yonge-Bernard Residents Association (“YRA”) was earlier granted Party status, and there are three individual Participants. There is a long history to these Appeals, and many Tribunal proceedings have taken place in order to narrow the issues and to prepare for the Hearing.

[2] It was determined earlier by the Tribunal that the Hearing on the Appeals would proceed in two Phases: Phase 1, the policies governing the entire area of the KDA in all applicable documents; then Phase 2, Parks and Open Space, Greenways, the so-called ring road and issues specific to development proposals in each quadrant. Any general determination by the Tribunal following Phase 1 would be with the clear understanding that it would be without prejudice to any party’s position taken on the quadrant-specific or other issues to be addressed in Phase 2 (Decision, Vice Chair R G M Makuch, June 29, 2020, paras 24 and 25).

[3] As counsel for the City stated in their final Summation:

By the time this hearing commenced in July 2020, the Tribunal had before it a comprehensive policy framework for a Secondary Plan and implementing ZBL; which went through a further extensive public review and stakeholder consultation process; which was recommended by City Staff and endorsed by City Council; which has the support of York Region as the upper-tier municipality, as well as the TRCA; and which – subject to agreed modifications - has the consent of all but one of the landowners within the KDA for the purposes of those matters to be adjudicated as part of this Phase 1 hearing. The remaining objectors at this hearing consisted of only one KDA landowner, North Elgin Properties Inc. (“NEC”) in the northeast quadrant of the KDA, as well as two groups of residents who reside in

the neighbourhood areas adjacent to the KDA: the Yonge-Bernard Residents' Association ("YRA"), an incorporated association and non-appellant party to these appeals, and Saad Askandar, a self-represented individual appellant.

[4] The issues for Phase 1 of this matter were determined by Vice Chair Makuch following several prehearing conferences in May of 2020. As stated in paragraph 18 of the decision of June 29, 2020, these were:

- policies respecting the proposed **densities** of development within each of the four Key Development Area ("KDA") quadrants and on a KDA-wide basis;
- proposed building **heights** within the KDA;
- policies respecting **traffic and transportation** and related infrastructure, such as the proposed public road network and ring road system;
- policies respecting the **holding by-law** regime; and
- policies respecting the proposed redevelopment/expansion of the existing **Bus Terminal** located in the southeast quadrant. Although the relevant policies apply to that quadrant only, the affected landowner, TSMJC Properties Inc., has raised issues that potentially affect landowners in the other three KDA quadrants, including the appropriate location for the Bus Terminal and issues respecting funding or cost-sharing arrangements. (*emphasis added*).

[5] He went on to outline other issues raised by individual parties, and then the procedure for this Phase 1 Hearing:

[20] The Tribunal is satisfied that the identification of issues generally as set out above is compatible with a phased hearing approach. The KDA-wide issues identified above will be considered in the first phase in July 2020 (along with uncontested settlement matters and, if time permits, contested settlement matters), with all quadrant-specific issues raised by one or more individual parties to be deferred and addressed in a subsequent hearing phase. It is noted that the Phase 1 hearing will include all traffic and transportation issues given that the Tribunal will need to hear that evidence in order to adjudicate on the modified policy framework proposed, both in terms of the consistent approach to density and height proposed within all four quadrants, and on an overall KDA-wide basis.

[6] As mentioned, a safeguard to protect the Parties' interests for the Phase 2 Hearing was included in the Decision:

[24] If the Tribunal approves a uniform policy regime for the KDA through the Phase 1 hearing, which includes the ring road system and public road network, it would not be treated as approved policy for the purposes of anyone seeking a different policy regime within their own specific quadrant in the Phase 2 hearing -

such that they would remain at liberty to make the case that the same densities can be achieved without having the ring road system and/or public road network within their own quadrant. The Tribunal agrees with the City that this *Clergy*-type approach is the most sensible, orderly and efficient way to proceed in respect of those issues and it appropriately balances the rights and interests of all parties, as well as both the broader public interest and private interests in a timely adjudication of the appropriate land use policies across the KDA.

[25] The Tribunal agrees that specific “without prejudice” language can be included in any Decision and Order issued by the Tribunal following the Phase 1 hearing to achieve the above.

[7] As stated by counsel for Richmond Hill, this leaves for Phase 2 of the Hearing additional considerations of: the road network (public or private), the parking rate, density in the northeast quadrant, traffic signal location and other site-specific issues.

### **Factual Background – Dana Anderson**

[8] The City’s case was presented first by the evidence of Ms. Anderson, a well-qualified professional planner tasked by the City to thoroughly review the history, the substance of the enactments, and the Appeals. She first addressed the factual background, then provided her professional opinion on the original enactments, proposed modifications and the settlement agreements reached with almost all the present Parties. The original Joint Document Books, Exhibit 1 at the Hearing, comprised 14 large volumes, paginated in sequence throughout. A reference to a page number is used, where possible, rather than a volume and tab number. The redacted documents presented to the Tribunal in the end are the result of a refinement process, which continued during the Hearing itself.

[9] Ms. Anderson outlined the authority for and the physical parameters of the KDA Plan, as the Plan is called. It is authorized by section 5 of the Richmond Hill “Part 1 OP”, as the Plan is called, and forms Chapter 12 to this Plan. The Secondary Plan must be read together with the policies in the older Part 1 Plan. Staff have said that the vision for this KDA is that it constitutes “a mixed-use urban node within the City’s urban structure” (Ex 1, May 13, 2020, p. 2430). KDAs are defined as areas of intensification on a Regional Corridor, where public rapid transit intersects with major nodes and



commercial and retail development. They provide an opportunity for transit-oriented development of larger parcels. By section 4.4 of the Part 1 Plan, this would be a subcentre for mixed-use, high density development due to the nearby rapid transit and the many underutilized parcels available for redevelopment.

[10] This KDA is one of two in Richmond Hill, here surrounding the intersection of Yonge Street and Bernard Avenue/Canyon Hill. It includes all four quadrants of the intersection, referred to as the southeast quadrant and so on. The approximate physical boundaries of the KDA are the Rouge River tributary to the north, German Mills Creek to the west (Canyon Hill Avenue and Abitibi Street form part of the northwest boundary), Yorkland Street to the east, and the southern limit is about 200 metres north of Elgin Mills Road West. The area covered by the Plan is about 26.8 hectares.

[11] The KDA now includes a mixture of service commercial and retail uses, mainly in low rise shopping plazas along Yonge Street built in the 1980s and 1990s. The Secondary Plan's goal is to enhance this retail and commercial character through the process of intensification, producing a mixed-use urban centre authorized as well by the Region of York Official Plan (section 5.4.31). The existing plazas are predominantly one-storey structures with large surface parking areas. The Upper Yonge Place plaza is in the southeast quadrant, on the corner of Yonge Street and Bernard Avenue. The North Elgin Centre is in the northeast quadrant, above Bernard. Also within the northeast quadrant is a retirement residence, at the northwest corner of Bernard Avenue and Yorkland Street. The northwest quadrant at the corner of Yonge and Canyon Hill Avenue (Bernard, as continued west of Yonge) also contains low rise commercial, with a storage area further north. In the southwest there is a large vacant parcel west of Yonge and south of Canyon Hill, and a small retail plaza to the south of it. Most of the lots in the KDA area are large, of single ownership and use, and are accessed from Yonge by private driveways.

[12] This Richmond Hill KDA is located within the Region of York Arterial Road network. Here this includes Bathurst Street to the west, Bayview Avenue to the east,

19th Avenue/Gamble Road to the north and Elgin Mills Road West to the south. Yonge Street is the central Arterial Road within the KDA. Bernard (Canyon Hill to the west) is a Collector. There are two signalized intersections on Yonge Street within the KDA area – at Yonge and Bernard, and to the south on Yonge Street close to private driveways there.

[13] Ms. Anderson outlined the many transit possibilities in the KDA area. The Bernard Bus Terminal (“BBT”) in the southeast quadrant of the KDA is a major transit hub, connecting Highway 7 Rapid Transit Route, other York Region Transit (“YRT”) services and seven local YRT bus routes. Buses access the BBT through a City-owned circular right of way on the northwest corner of Yonge and Bernard. Construction is proceeding for the VIVA Next Bus Rapid Transit (“BRT”) (York Region Rapid Transit Project) along the centre of Yonge, with dedicated bus lanes in the median, and centre-lane stations. The Region of York’s designation of the area surrounding the station at Yonge and Bernard as a Major Transit Station Area (“MTSA”) will be discussed later.

[14] Immediately surrounding the KDA are residential communities, natural areas, parks and schools. To the south along Yonge Street there is a continuing mix of service commercial and retail uses, with residential to the west and commercial and industrial uses to the east.

### **Brief History of the Yonge Bernard KDA**

[15] This KDA was originally referred to in section 4.4 of the Richmond Hill Part 1 Plan (Exhibit 1, p. 640). This Part I OP was adopted in 2010, and ultimately approved by the Ontario Municipal Board (“OMB”) [now the Local Planning Appeal Tribunal (“LPAT”)], via partial approval Orders, and settlement and contested Hearings. The majority of the Part I OP is now in full force and effect, with only a few Appeals remaining. One of these is the Appeal by TSMJC, an Appellant here, of certain policies, on either a site-specific or KDA-wide basis. The City has partially settled with TSMJC, which has withdrawn some policies from its Appeal. These now have come into force as adopted and approved previously by the OMB, without further modifications.

[16] Ms. Anderson testified that the Part I OP in 2010 had involved a fundamental shift in planning for the future growth of Richmond Hill, which is now almost completely built out. Even then, the Part I OP encouraged mixed-use intensification within identified centres and corridors, primarily along major arterial roads. The main arterial here is Yonge Street, the focus for transit-oriented development and improvement to the public realm. The Part 1 OP also created a hierarchy of “intensification areas”, including authorizing Key Developments Areas. The first intensification area was the City’s Urban Growth Centre (as designated under the provincial Growth Plan- see below), being Richmond Hill Centre at Yonge and Langstaff/Highway 7 (p. 638). Next came two KDAs – one at Yonge & 16<sup>th</sup> Ave., and this Yonge Bernard KDA, the third in the intensification hierarchy.

[17] However, this KDA was moved forward first because of development pressures and the many development applications submitted. These resulted in an interim control by-law (“ICBL”) in 2016, to facilitate a comprehensive planning study for this KDA. The ICBL was upheld on appeal to the (then) OMB. As provided in section 38(6.1) of the *Planning Act* (the “Act”), it is still in effect for most of the KDA lands. One exception is the Richmond Hill Retirement Residence parcel at 70 Bernard Avenue, since it was approved by LPAT on April 17, 2020.

[18] The required planning study for the ICBL, by consultant Urban Strategies, distinguished three areas of the KDA for planning purposes: the Corridor, the Interior and the Neighbourhood Edge. The Corridor should be a mixture of uses and forms, with the taller and denser buildings fronting Yonge Street. The Interior area was to transition down in scale from the Corridor. The Neighbourhood Edge was to be a buffer between established neighbourhoods and KDA development.

[19] The Urban Strategies study set out six core components for this KDA: an interconnected street network, reinforcement of Yonge Street, integrated bus transit, integrated commercial uses, open space, permitted land uses, and building heights and densities.

[20] This report recommended the highest density along the Yonge Street Corridor, with an FSI of 3.5 to 5, and a height of 10-15 storeys. Transitional areas beyond the Corridor would have an FSI from 1.5 to 2.0, with heights between 4-10 storeys. A lower height of 3 storeys was recommended along the edges of the KDA, next to neighbourhood areas. A number of new streets would be created, in a public and private network. An open space network of right-of-way loops, urban squares and mid-block linear parks was proposed.

[21] The KDA Secondary Plan and the implementing ZBL 111-17 were then adopted by Council in 2017, following extensive public consultation. York Region exempted the Secondary Plan from its approval, but continued to monitor with the City staff.

### **Area Development Applications**

[22] Ms. Anderson provided the following table outlining development applications, existing or proposed, within the KDA.

<b>Name</b>	<b>KDA</b>	<b>Description</b>	<b>Status</b>
Dogliola Developments Inc.	Southwest	residential townhouse buildings	Under construction
TSMJC Properties Inc.	Southeast 10909	residential buildings	Consolidated appeals of OPA
Richmond Hill Retirement Inc. and	Northeast 70 Bernard	Mid-rise building	Zoning approved; Site Plan
North Elgin Centre Inc.	Northeast	Mixed use buildings	Concept Plan

Yonge MCD Inc.	Northwest and outside	Combination of grade- related	Consolidated appeals of OPA
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### **Appeals to the KDA Secondary Plan and Zoning By-law**

[24] The 2017 KDA Secondary Plan and ZBL were appealed to the LPAT in January 2018 by several Appellants. Included are landowners within the KDA (10870 Yonge Street Limited, Richmond Hill Retirement Inc. and Retirement Partnership, Yonge MCD Inc., Dogliola Developments Inc., North Elgin Centre Inc., and TSMJC) as well as a homeowner just outside of the KDA (Mr. Askandar). Additional Parties include the Region of York, the Toronto and Region Conservation Authority (“TRCA”) (who did not appear in Phase 1), the YRA (granted Party status and sheltering under an original appeal by member John Li) and Frank Di Pede, owner of lands in the southwest quadrant.

[25] A hearing of the Appeals was originally scheduled for July 2019. The Tribunal held a number of pre-hearing conferences to consider their consolidation. The TSMJC Appeal of the 2010 Part I OP (mostly site- and area-specific) was consolidated with their Appeals to the Secondary Plan and ZBL. LPAT had determined previously that any modifications resulting from TSMJC’s appeals, including to the Part I OP, will apply more broadly to the entire KDA, as appropriate.

[26] The Hearing on the merits for most of the Appeals was scheduled for July 2019, but was adjourned at the City’s request until June 2020. This would permit consideration of new provincial and Regional growth initiatives, to assess whether increased heights and densities could and should be accommodated within the KDA.

### **Provincial Policy/ Legislative Changes during the KDA Secondary Plan and ZBL Planning Process**

[27] There were many changes to legislation and provincial policy documents both during the KDA Secondary Plan study by Urban Strategies in 2016, and also following

adoption of the Secondary Plan and passing of the KDA ZBL in 2017.

[28] Bill 139, the *Building Better Communities and Conserving Watersheds Act* (in force April 2018) made significant changes to the Act and the planning approvals process. Bill 139 introduced the following changes:

- A two-year moratorium on private applications to amend newly approved Secondary Plans; and
- private applications to amend PMTSA policies and zoning by-laws (see below) could not be appealed if Council refused or failed to make a decision.

[29] Bill 139 also added a definition of “higher order transit”. This allowed upper-tier municipalities like York Region to establish policies identifying and protecting MTSA in the Regional Official Plan (“ROP”). These are lands that surround existing and planned higher order transit stations and stops, generally within a 500-800-metre radius.

[30] OPs could also include policies for “*Protected Major Transit Station Areas*” (“PMTSA”). These and the implementing ZBLs could not be appealed except by the Minister. Boundaries could be set, and a **minimum** density of people and jobs per hectare chosen for the area. The Minister approves the policies at the ROP level. Then local municipalities could amend their OPs to identify the uses of land, buildings and structures within MTSA, and to establish **minimum/maximum densities and heights there**.

[31] The 2019 Growth Plan provided new directions and growth targets for MTSA, with **minimum** densities for residents and jobs.

[32] In June 2019, Bill 108 amended the Act’s Section 37 bonusing provisions, so that increases in height and/or density in return for “community benefits” could no longer be negotiated.

[33] On May 1, 2020 a new Provincial Policy Statement (“PPS”) took effect.

[34] All these changes affected the plans for this KDA in various ways. As mentioned, the Yonge and Bernard KDA is centred along the Yonge Street priority transit corridor. MTSA densities in priority transit corridors must meet the Growth Plan’s **minimum** densities, which are set by the Region. In the Region’s *Planning for Intensification Background Report* in April 2019, a Bernard BRT MTSA is identified within the general area of the Bernard BRT Station. (As mentioned, the VIVA BRT is being constructed mid-Yonge Street, with a station at Bernard. It is distinct from the BBT station on the northwest corner of Bernard and Yonge).

[35] This PMTSA’s area is approximately 63.64 hectares. However, only approximately 26.8 hectares of it within the KDA. The Region established a minimum density target of 200 residents and jobs per hectare, as well as a mix of 80% residents and 20% jobs. These ratios were considered by City staff during the recent review of the KDA Secondary Plan.

### **Other Policy Changes/Comments**

[36] In 2018 the South Brookside Tertiary Plan was adopted, applying to part to the northwest quadrant of the KDA. It was determined that a linear park would be created within the Tertiary Plan area, along the natural heritage system adjacent to the Rouge River tributary. This affects the portion of Yonge MCD’s land that is still before LPAT (called its “ Phase 2”), following earlier approval of its Phase 1 lands within the Tertiary Plan. As part of a 2017 development application, the City had also acquired lands along the western edge of the KDA close to Canyon Hill Avenue. This allowed the expansion of Toll Bar Park, in the southwest quadrant of the KDA.

### **Resulting Redirection for the KDA Secondary Plan and Zoning By-law**

[37] Many factors thus contributed to the growing perception that the 2017 KDA Secondary Plan and ZBL needed to be reconsidered. Many Council resolutions

followed. As mentioned, the City requested an adjournment of these Appeals in June 2019. This paused the approval process in order to engage in further consultation and review, and to consider modifications. Greater density and height would be considered within the KDA. Then an appropriate policy and zoning framework could be developed.

[38] Also required were lower parking standards, to accommodate Transportation Demand Management Measures (“TDMs”). Parking standards in intensification sites have a direct impact on both the use of transit, and housing affordability. To this end, new units should not necessarily be required to have parking spaces. This issue arose from concerns about climate change and CO2 emissions from vehicles. Similarly, some residents and landowners here opposed the introduction of new public streets, as these might encourage automobile use and traffic in and through residential neighborhoods. It was recommended that the Secondary Plan be revised to remove north/south and east/west public roads within the northeast and southeast quadrants.

[39] Increasing concerns about continually changing requirements, as well as the Region’s ongoing Municipal Comprehensive Review (“MCR”) - to update its 2010 Official Plan, caused Council to delay finalization of this KDA Secondary Plan and ZBL. The York Region MCR might well require further amendments to the City’s Plans. Staff then began a reevaluation of the Plan, which included:

- hiring a consultant (HDR) for a peer review of the transportation work;
- a reconsideration of the mix of land uses, based on the provincial and Regional MTSA targets;
- a reconsideration of the ultimate height and density for the KDA; and
- changes to parking, parks, streets and the active transportation network.

[40] Draft versions of these proposed changes were released in early 2020. These included modifications to increase the overall density in the KDR to a maximum of 4.0



FSI, and to permit increased maximum heights and densities on a site- and area-specific basis. A draft Transportation Study and analysis was also put forward.

[41] In the result, all parts of the KDA would now be expected to have tall buildings. The maximum height for properties at or close to the Yonge/Bernard intersection would be 37 storeys, and height would transition down from the intersection. Although the overall density would be 4.0 FSI, corner properties would be permitted at 5.5 maximum FSI.

### **Revisions to the Secondary Plan in the February 2020 version**

[42] The Region's MTSA targets called the KDA a "redevelopment area", where a greater mix of uses and more compact, transit-supportive urban form could take place, as part of a Protected MTSA. Thus some of the proposed revisions to the KDA Plan were:

- Community and urban design principles used to control height, rather than storeys (e.g. a 45-degree angular plane, from a Neighbourhood property line; tower separations; mid-rise separations; and floor plate sizes).
- Height limits generally from 10 to 30 storeys; taller permitted if density restrictions, built form and angular plane requirements are met. Schedule 2 of the Plan directs densities to specific areas.
- A system of linear parks, rather than the earlier urban squares.
- A policy for privately owned urban "plazas" (POPs).
- Modified street configurations.

[43] A Holding provision was included in the Zoning By-law, to ensure the provision of necessary infrastructure to support the KDA and surrounding growth, prior to

development approvals.

[44] On May 14, 2020, Council rescinded its May 13 decision to add additional provisions from recent legislative changes to those recommended in Staff Report SRPRS.20.058. Instead, Council supported this Staff Report without further modifications. This meant that modifications to the Secondary Plan, Zoning By-law and Part I Official Plan were adopted as of May 14, as recommended in that Staff Report. The Tribunal affirmed the legality of this procedure in its decision of June 29, 2020.

[45] Ms. Anderson then provided an overview and her assessment of the Proposed Modifications, and her responses to the Issues List prepared by the Parties.

#### **POLICY ASSESSMENT AND OPINION – Ms. Anderson**

[46] In Ms. Anderson's opinion, despite the many modifications respecting density and height since adoption of the Plan in 2017, the 2020 KDA Secondary Plan and ZBL maintain the intent of the earlier instruments. This KDA area, the third-most developed of the City, would alter from a predominantly low rise commercial, auto-oriented one into a compact, urban mixed-use, transit-supportive community. It would be well connected by new roads and linear parks.

#### **THE KDA SECONDARY PLAN as Modified**

[47] The KDA Secondary Plan adopted in 2017 had been based on the City's 2010 OP, as mentioned. In Ms. Anderson's opinion, Provincial and Regional changes – all of which followed the 2010 OP and the 2017 KDA Secondary Plan – provide a rationale for the "Proposed Modifications" as seen in the final versions presented to the Tribunal at the end of the Hearing. Those modifications at the beginning of the Hearing had been endorsed by City Council, following extensive consultation. The significant changes to the Part 1 Plan include greater transit-supportive densities within MTSAs and along higher-order transit corridors. Also considered were the Region's ongoing MCR, and the present Richmond Hill OP review.

[48] Many key elements of the framework and structure of the Secondary Plan and the ZBL have remained constant. The physical context of the original Part I OP has also remained relatively intact. The main exception is the ongoing construction of BRT lanes and stations along the Yonge Street corridor. The Region of York is transit-supportive and endorses the function of the existing BBT.

[49] The Secondary Plan also maintains the environmental sensitivity of this intensification area, as it is within the settlement designation of the Oak Ridges Moraine Conservation Plan, 2017 ("ORMCP"). However, in Ms. Anderson's view the large single-use and single-ownership parcels within the KDA still provide opportunities for appropriately sensitive intensification and redevelopment.

[50] As she testified, the essential nature of the KDA Plan and ZBL as well as the Modifications are substantially the same as the original 2017 instruments. The Tribunal confirmed this conclusion in its June 29, 2020 decision (para. 73). It reaffirmed the City's right to make alterations to instruments that have been appealed (para. 70). The changes are mainly intended to facilitate greater densities and heights, consistent with changes in policies at the Provincial and Regional levels. However, they would not significantly alter the planned role and function of the KDA within the City's Part I OP, nor of the KDA within its context, including interface with the adjacent neighbourhoods.

[51] Ms. Anderson then provided a summary of the KDA Plan and proposed modifications, as recommended by City Staff and endorsed by Council on May 14, 2020. Some of the provisions have been further modified during consultations and were presented in evidence in this Phase 1 Hearing. These are now before the LPAT for its consideration and approval.

[52] The recommended KDA Secondary Plan includes the following revisions:

- a) A revised Boundary to follow a more logical delineation based on roads - the northerly extension of Abitibi Street (western boundary) and a proposed new street running east-west through the Yonge MCD Property (north boundary)

are included;

- b) Density of 5.5 FSI along the Yonge corridor, and 3.0 FSI in the interior character areas;
- c) Holding provisions in the ZBL for increased density, based on a persons/jobs per hectare threshold;
- d) Requirement to demonstrate how the “mix of uses” policies are implemented, to ensure the establishment of jobs and residents, and to achieve the Region’s residents-to-jobs ratio of 80:20;
- e) A revised policy to allow flexibility for the appropriate buffer to existing hazard lands; and
- h) No maximum height for areas outside of the Neighbourhood Edge. Height to be controlled through urban design metrics (such as angular plane, floor plate size, separation between buildings) and density (e.g., maximum height cannot exceed allocated density).

### **Purpose and Vision (Section 12.1) of the Secondary Plan**

[53] The planned purpose of the Secondary Plan and Zoning By-law is to provide a policy and regulatory framework for intensification and redevelopment here. Permitted changes would over time result in a complete community, with a greater mix of uses. The City’s vision is set out in section 12.1.2 for what would be its third most intensely developed area. The transformation from an auto-oriented, low rise commercial area to a compact urban mixed-use, transit-supportive one, with improved connectivity via new roads and linear parks, is encouraged.

[54] The structure of the Plan continues to provide for the three distinct character areas, from earlier studies: the **Corridor** - the Yonge corridor where taller, more dense

development is directed; the **Interior** - where transitional development can take place; and, the **Neighbourhood Edge** - where transition to existing residential neighbourhoods is managed.

[55] The three principles intended to guide the transformation are found in Section 12.1.3 of the Plan: **Improve Connectivity** via a fine-grained, walkable street network and connections to the Greenway System, with linear parks, urban plazas and enhanced streetscapes; **Accommodate Transition** through built form policies, with non-residential focused at the intersection of Yonge and Bernard and along the Yonge Corridor; and **Create Local Identity**, encouraging vibrant mixed-use development, with at-grade active street frontages.

### **Boundaries of the KDA Secondary Plan**

[56] As noted, the boundaries for the KDA are generally comprised of the tributary to the Rouge River to the north, Yorkland Street to the east, German Mills Creek to the west, and about 250m north of Elgin Mills Road West at the south.

[57] When the Part I OP was adopted in 2010, the initial boundaries of this KDA were planned at a high level only. Its location and boundaries were based on the principle that intensification and redevelopment should occur inward from Yonge Street, rather than along a straight linear corridor. This is important, she stated, and sets this KDA apart from other planned intensification areas along Yonge Street.

[58] In the proposed modifications, the northwest quadrant is recommended to be more clearly defined in relation to planned and approved streets. The western boundary would now include the northerly extension of Abitibi Street. A new street running west to east through the Yonge MCD property in the northwest quadrant would be the northern boundary. This street was approved in an earlier decision by LPAT, when it accepted the planned road network as shown on the concept plan by Yonge MCD Inc. for its Phase 1 development. The proposed boundary then continues to follow existing roads, natural features and ownership parcels to the east.

[59] The adjusted boundary does not impact the forecasted growth of the KDA. This has not changed from the general assumptions for its build-out used in the updated transportation work by HDR and Transportation Staff (see Transportation below).

### **Population and Employment Forecasts (Section 12.1.1)**

[60] The forecasted build-out population and jobs was included in Section 12.1.1 of the Plan. This has been increased to 10,600 to 11,300 residents and 1,500 to 3,000 jobs, yielding a gross combined density of 510 residents and jobs per hectare. This projected forecast is well above the minimum target of 4,000 residents and 1,300 jobs required to meet the Regional MTSA density (see below).

### **Character Areas and Policies (Section 12.2)**

[61] As previously noted, the KDA is planned to have three distinct character areas. The Character Area boundaries on Schedule 1 to the Secondary Plan (Exhibit 1, p. 4957) allow for the transition of development in from Yonge Street, where the most intense form and scale of development would be, to the surrounding residential areas.

#### **Mix of Uses (Section 12.2.1)**

[62] Over time, a shift is planned from the present commercial uses toward a greater proportion of residential uses. This would facilitate the overall KDA objective of a better balance between residential and employment uses, as well as uses which serve them, in order to achieve a complete community, as the Provincial policies require. The updated policies include a schedule to illustrate where “Active at Grade” frontages are to be encouraged. A minimum of 15% of total gross floor area (“GFA”) for non-residential uses is planned, either within each new building or in one building that is part of a larger redevelopment.

[63] The proposed modifications also require that the existing non-residential floor area be maintained over time. Existing Employment floor space should be replaced by

an equivalent amount in new developments.

### **Height and Density (Sections 12.2.2 and 12.2.3)**

[64] These provisions would meet the goals of the three defined character areas. Height limits in the Neighbourhood Edge would be 3 storeys, with minimum height requirements in the Interior and Corridor areas. The tallest buildings would be concentrated at the Yonge and Bernard intersection. No building could penetrate a 45-degree angular plane as measured from the closest Neighbourhood-designated property line. Control of height via a specific number of storeys as in the 2017 KDA Secondary Plan is eliminated (other than in the Edge). A more flexible approach was reached in section 12.2.2.1. Thus, the modifications would permit taller buildings, subject to the density restrictions, in combination with urban design policies related to angular plane and built form.

[65] The Part I OP policies which remain under appeal already provide for these building height determinations. Thus no amendments are required or proposed to any in-force policies in the Part I OP. However, this Plan (as modified) would provide updated ratios of GFA for all buildings on a site, relative to the lot area.

[66] Densities are directed by Schedule 2 to specific areas within the KDA. This distribution of density is aligned with the character areas, for appropriate transition of uses and scale of development. The minimum overall density would be 2.5 FSI, with a maximum overall density of up to 4.0 FSI (section 12.2.3). A minimum density of 1.5 FSI is required in order to achieve the Region's minimum density requirement of 200 residents and jobs per hectare for the Bernard MTSA. In Ms. Anderson's opinion, the calculation of FSI is appropriate. It addresses the conveyance of land for parks and public streets by allowing the transfer of unused density from these areas to be counted in the amount of developable lands. That is, to calculate FSI, the lot area is considered to be the total developable site area, including lands dedicated to parkland or public streets. Otherwise, densities would be unnecessarily restrictive and not reach development targets for higher order transit corridors.

[67] Ms. Anderson stated that the updated transportation and urban design analyses by HDR and City Staff (see Transportation below) concluded that from a planning, urban design and transportation perspective, densities greater than 3.0 FSI for the KDA overall could be supported, together with heights greater than 15 storeys to accommodate those increased densities. These would be subject to appropriate phasing of development in relation to planned infrastructure. The holding provisions in section 36 of the Act would be utilized to ensure that transportation needs are adequately addressed. The implementation policies require that all development lands be pre-zoned, but a holding provision will ensure that the necessary mix of uses is achieved, and that planned infrastructure and transit modal splits are reached.

[68] Density of 5.0 FSI along the Yonge corridor and a lesser density of 3.0 FSI in the Interior character areas ensure an appropriate transition of height and density from Yonge to the surrounding Neighbourhood areas. In Ms. Anderson's opinion this, together with an angular plane requirement and built form policies, provide an appropriate framework for regulating height and minimizing impacts on surrounding neighbourhoods.

#### **Built Form (Section 12.2.4)**

[69] The built form policies address many urban design elements including: street orientation and street walls, angular planes and shadowing, views and gateway features. They favour a consistent and active street edge by requiring buildings to be oriented to it. They would maintain and enhance podiums and encourage amenities at grade. A 25 m tower separation distance is required for tall buildings, and one of approximately 15 m between the proposed and existing for mid-size buildings. Angular plane and shadowing policies minimize impacts on residential areas and parks. The view and gateway policies create a sense of place for the KDA by introducing visual focal points, public art, gateway buildings, features and amenity areas at the core intersection (12.2.4.2 and 12.2.4.3).



**Community Services (Section 12.2.5)**

[70] The community services policies provide for a full range of community uses in a compact urban form, co-located with other uses. These policies would support the KDA as a complete community.

**Housing (Section 12.2.6)**

[71] The provision of affordable housing within the KDA is an essential component of the City's ability to accommodate growth. A minimum of 35% of new dwelling units within the KDA would be required to be "affordable", in accordance with the definition in the City's Part I Official Plan. This target was established by York Region in its Official Plan in 2010, and its Housing and Homelessness Plan.

[72] The Region's annual monitoring indicates that affordable housing is still a key issue, both for the Region and the City. There must be a range and mix of types of affordable units. Thus a mix of types, unit sizes and tenures must be provided, including for seniors and people with special needs. High-density developments in the KDA must provide that a minimum of 5 per cent of all units have 3 or more bedrooms. The policies in section 12.2.6 also promote and support new rental housing.

**Enhanced Streetscapes (12.3.4)** [See Transportation Issues, below, for discussion of sections 12.3 and 12.4]

[73] Enhanced streetscapes are provided for on Schedule 3. These areas would provide streets that frame new development, have adequate widths to create a walkable community, pedestrian amenity zones, landscaping and other public realm elements.

**Connectivity and Mobility (Section 12.4)**

[74] A key principle of the Secondary Plan is improved mobility, via a more connected, multi-modal transportation system. This would serve smaller development blocks through a finer-grain system of new streets. There would be more opportunities

for movement within the KDA, targeted at increasing the modal split. It would shift away from single-occupant vehicle use toward more sustainable transportation measures, including transit. The proposed street network is seen in Schedule 4 to the Plan.

#### **Active Transportation (Section 12.4.1)**

[75] Active transportation is addressed in section 12.4.1. The policies include cycling and pedestrian routes in Schedule 4, and bicycle parking and end of trip facilities.

#### **Transit (Section 12.4.2)**

[76] Ms. Anderson stated that a key focus of the KDA Secondary Plan is transit and transit-supportive development, especially the existing and planned BRT system. A mix of uses, transit-supportive built forms and densities would support the BRT system. The BBT, currently located in the southeast quadrant of the KDA, could be redeveloped and/or moved. Any additional lands that are required to support this would be dedicated to the Region in accordance with the Act. The policies in section 12.4.2(3) respecting the BBT would protect future transit infrastructure and its integration with new development.

#### **Transportation Demand Management (TDM) (Section 12.4.3)**

[77] The policies in section 12.4.3 of the Plan provide for many TDM measures to reduce vehicle-dependent travel and increase transit and active transportation options. Development proposed within the KDA will require a TDM strategy to address how TDM measures are to be implemented. The Plan's TDM policies also address parking and ways to reduce it. These are appropriate and must be considered in the context of specific applications for redevelopment of sites within the KDA.

#### **Public Streets (Section 12.4.4), Private Streets (12.4.5) and Access (12.4.6)** (Proposed completion of "Ring Road").

[78] A hierarchy of public streets is to be provided in accordance with Schedule 4 of

the Plan. Changes to the planned street network could establish a public “ring road” or fine-grained road network in all four quadrants, to facilitate vehicular traffic while minimizing impacts to adjacent neighbourhoods. (This term does not appear in the Plan but all Parties used it as a shorthand reference). The ring road system would include existing public roads. Additional private streets and pedestrian paths are encouraged.

[79] The function of Yonge as the primary arterial will be further enhanced with the planned transit infrastructure: dedicated bus lanes in the centre median, two vehicle traffic lanes each way, and dedicated turning lanes. Additional collector and local roads are set out in Schedule 4 (as revised, Ex. 1, p. 4960), including the extension of Abitibi Road in the northwest quadrant. Policies in the Secondary Plan have also followed the Part I OP policies permitting narrower right-of-way widths (i.e. 15 metres) where appropriate.

[80] Section 12.4.5 of the Plan requires that private streets be designed and function as public streets. A stratification study is ongoing respecting underground parking under public streets and parks.

[81] Section 12.4.6 ensures that new development provides consolidated access points and public easements to minimize impacts.

#### **Encroachments (Section 12.4.7)**

[82] Possible encroachments in the public realm are dealt with in section 12.4.7. of the Plan. Awnings, cafes and temporary structures are allowed with approvals by the City or Region, with others to be addressed on a site-by-site basis through the City’s permitting process (to be considered in Phase 2).

#### **Parking (Section 12.4.8)**

[83] Parking is directed to underground facilities. Where not feasible, it is proposed to be in structured facilities, with limited surface parking at the rear and side of a site.

Specific parking ratios are provided in the implementing KDA ZBL.

### **Secondary Plan Implementation and Monitoring (Section 12.5)**

[84] The KDA lands may be identified as part of a Community Improvement Plan Area, permitting incentives and programs to facilitate the Plan's key objectives. The City will monitor development and growth, mix of uses, units, employment, travel behaviours and infrastructure, as well as the provision of affordable housing in the KDA.

#### **Implementing KDA Zoning By-law (Section 12.5.4)**

[85] As mentioned, provision for a holding (H) restriction in the Zoning By-law is included. Specific criteria guide the lifting of the hold to ensure the orderly and phased development of KDA lands. These include: compliance with Schedule E requirements for minimum total non-residential GFA; appropriate phasing; entering into of a development agreement and/or site plan agreement; completion of a transportation planning study and TDM Strategy; and the completion of a Functional Servicing Report. The modifications allow for higher densities than when the KDA was established under the Part I OP in 2010, and those in 2017 when the Secondary Plan was first adopted. The holding provision will ensure that the KDA can accommodate a higher level of density at full build-out, while also ensuring that the necessary infrastructure and transit-oriented development are available. The thresholds in the Plan for lifting of the holding provision are directly tied to the findings of the HDR Transportation Report (see below, Transportation Issues).

[86] Ms. Anderson analyzed the proposed holding provision in various scenarios. Any new development that would lead to exceeding 10,400 residents and jobs combined in the KDA would be "phased", with the timing of key transportation infrastructure and modal splits within and outside of the KDA.

[87] When this policy was first proposed, City staff had used FSI density as a preliminary threshold. However, the use of combined residents and jobs as the

threshold is more consistent with the assumptions used in the recent HDR study. If FSI was to be used and residential units were ultimately smaller, or floor space ratios for employees lower, the resultant number of residents or jobs could be greater than anticipated. By contrast, if actual persons and jobs are used as the threshold, there would then be much less potential for it to be exceeded.

[88] The holding provision would also ensure that a mix of uses is provided on the site, including the replacement of any existing non-residential GFA.

[89] The holding provision will provide for the orderly progression of development with the infrastructure and public service facilities required to meet current and projected needs. In Ms. Anderson's opinion the approach is appropriate, is consistent with Provincial policy and is utilized by many municipalities in the implementation of planned growth.

## **OVERVIEW OF THE KDA ZONING BYLAW 111-17**

[90] ZBL 111-17 is a comprehensive zoning by-law applicable to all lands within the KDA, to implement the policies of the KDA Secondary Plan. It contains standard administrative provisions, and includes five schedules: **Schedule A- Zones**, the area covered by the By-law and the zone categories; **Schedule B – Density**, the permitted maximum densities; **Schedule C – Height**, certain maximum and minimums; **Schedule D - Angular Plane**, the areas where the angular plane measurement is to apply; and **Schedule E – Existing Non-Residential Gross Floor Area**, where the minimum non-residential GFA must be provided or maintained.

[91] The By-law provides for two zones within the KDA: Key Development Area Mixed Use Zone [KDA(H)] and Open Space Zone (OS).

[92] The KDA Mixed Use zone permits a full range of residential uses (subject to special provisions). These uses include apartment dwellings, block, street and rear lane townhouses, stacked townhomes and quadruplexes. Non-residential uses include

commercial, day nurseries, public use, places of worship, long term care facilities, private utilities, schools, senior citizens dwellings, hospitals and health care facilities, social services and art and cultural facilities. Permitted uses are defined. The uses in Table B1 within this KDA Mixed Use Zone provide an appropriate mixture in her opinion, implementing the Secondary Plan.

[93] The OS zone permits conservation, forestry, public uses, stormwater facilities and Low Impact Development technology.

[94] Development standards include minimum lot frontages, and front, side and interior side yard and rear yard setbacks. A minimum FSI of 1.5 is required, as well as special provisions for specific built forms, including street townhomes. These standards are appropriate, as they provide for compact urban forms of development and varied housing forms.

[95] The ZBL also contains standard general provisions, including accessory structures, street walls, mechanical penthouses and equipment, amenity space, tower separations, loading and parking, landscaping, unit mix and interim development.

[96] Ms. Anderson supports the requirement to retain existing non-residential development in each quadrant, with redevelopment in accordance with Schedule E of the By-law.

[97] Also addressed are: appropriate phasing; development agreements and/or site plan agreements; transportation planning and TDM Strategies demonstrating compliance with section 12.5.4 of the Secondary Plan; and the completion of a Functional Servicing Report. The proposed holding regime would control the phasing of development, as discussed.

[98] The criteria to lift the holding provisions are appropriate in her view to implement the policies of the Secondary Plan, and to ensure that planned development meets both technical requirements and objectives for a mix of land uses within the KDA.

## **MODIFICATIONS TO THE PART I OFFICIAL PLAN**

[99] Ms. Anderson pointed out that under the *Act*, proposed changes to the KDA Secondary Plan and ZBL must satisfy the test of conformity with the City's Part I Official Plan. Therefore, corresponding modifications are required for policies in the City's Part I OP that are still under appeal. The proposed modifications address the recent changes to the density within the KDA. These would provide for a minimum overall FSI of 2.5 and a maximum overall FSI of 4.0, with allocation of densities within specific areas greater or lesser than the overall maximum.

[100] The proposed modifications to the Part I OP also remove a maximum building height limit of 15 storeys, with height to be determined instead through the built form policy framework of the Secondary Plan. The tallest buildings would be located at the intersection of Yonge and Bernard and along Yonge in general.

[101] The changes would ensure that the proposed amendments to the KDA Secondary Plan and ZBL maintain conformity with the Part I OP. Modifications to it would apply to the entire KDA, as appropriate (Staff Report, Ex. 1, p. 2430). No amendments are proposed to any in-force policies in the Part I OP and, in Ms. Anderson's opinion, no such amendments are required in order to ensure conformity with the Part I Plan. These changes to the Part 1 OP would also resolve the outstanding Appeal to this Plan by TSMJC (their other Appeals to the Secondary Plan and Zoning By-law were consolidated with these Appeals).

## **ASSESSMENT OF THE KDA SECONDARY PLAN AND ZONING BY-LAW IN THE BROADER POLICY CONTEXT**

### **Provincial Policy**

[102] Ms. Anderson addressed in detail the applicable policy and regulatory framework and provided her opinions on consistency and conformity with required provincial planning documents. Her testimony is set out in her redacted Report, Exhibit 36, pp 55-68. In her opinion, the KDA Secondary Plan and KDA Zoning By-law address all

matters of provincial interest as required in section 2 of the Act. Similarly, they are consistent with the Provincial Policy Statement (“PPS”) as required under subsection 3(5). The applicable Plan for the area is A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019 (“Growth Plan”), and the proposals conform with this version of the Growth Plan.

[103] The Growth Plan now contains new directions and associated growth targets for MTSAs, as identified and protected by Regional governments. Densities on priority transit corridors must meet the Growth Plan’s minimum densities of 200 residents and jobs per hectare for subway stations, 160 residents and jobs per hectare for BRT routes and 150 residents and jobs per hectare for Go Rail stations. A definition was also added for “higher order transit”. York Region thus can protect MTSAs by delineating the boundary and assigning a minimum “people and jobs per hectare” density target for the area.

[104] The KDA is within a settlement area and built-up urban area of the 2019 Growth Plan. As such it must conform with the policies related to intensification, and achieve the minimum intensification targets required under the Plan. In addition, the KDA is part of a priority transit corridor, and the Bernard BRT station is identified as a MTSA in the YROP. The proposed modifications provide for a land use plan and policies to implement the Growth Plan requirements for intensification, priority transit corridors and the MTSA, and in some detail.

[105] In Ms. Anderson’s opinion, the proposed modifications conform to and duly implement the applicable policies of the Growth Plan.

[106] The ORMCP is a Provincial Plan established under Section 3 of the *Oak Ridges Moraine Conservation Act, 2001*. As above, under section 3(5) of the Act all decisions made by approval authorities including LPAT “shall conform with” the ORMCP as it exists on the date of the decision. The majority of this KDA is located within the Oak Ridges Moraine, and the lands within the Secondary Plan are designated “settlement” under the ORMCP. Such settlement areas must accommodate growth and support



intensification. However, key natural heritage and hydrological feature and water balance policies must also be implemented within a settlement area.

[107] There are two prominent natural heritage features within the Bernard KDA, German Mills Creek and the Rouge River valley lands. Both frame the edges of the KDA and include lands that are located on the Moraine, designated Natural Core within the City's OP. Thus, minimum vegetation protection zones (buffers) have been applied to the meander belt of German Mills Creek, Rouge River and "significant" woodlands and wetlands adjacent to or within the study area, as per ORMCP guidelines. In Ms. Anderson's opinion, the proposed modifications to both documents are in conformity with the ORMCP. This will form part of the Phase 2 Hearing.

### **Region of York Official Plan 2010 ("RYOP")**

[108] The City of Richmond Hill OP must conform with the Region of York OP, as required by section 27 of the Act. This includes amendments like the KDA Secondary Plan. As mentioned, the Region is undertaking a municipal comprehensive review of its OP. This will provide an update including population and job growth forecasts to 2041, intensification targets for lower-tier municipalities and other policy directions for conformity with provincial requirements. Updates to MTSA boundaries and transit priority areas may result, as well as to the current 2041 planning horizon for the current Regional Transportation Plan.

[109] The proposed OP modifications address the policies in the RYOP relating to the greenway system, protecting the natural features around the German Mills Creek (southwestern quadrant) and the Rouge River watercourse (northeastern quadrant) by designating and zoning them as part of the Greenway System. This will be addressed in Phase 2.

[110] The proposed KDA modifications conform to the Regional housing policies by providing a mix and range of high-density apartment and medium-density residential housing types. The Plan also addresses affordable housing, housing for people with

special needs and seniors, and promotes both ownership and rental housing.

[111] The RYOP policies on employment and retail uses are met in the KDA Plan by ensuring a balance of jobs and residents by maintaining the present non-residential development. Policies that require active frontages at grade in mixed use buildings also promotes this goal. Similarly, required phasing of growth will meet the RYOP goals of orderly progression supported by water, wastewater, and transportation infrastructure and the provision of human services.

[112] This KDA deals with a Regional Corridor and conforms to the RYOP respecting secondary plans for such Corridors. In Ms. Anderson's opinion, the proposed modifications meet the test of conformity with the relevant and applicable policies of the RYOP.

#### **Richmond Hill Official Plan, 2010 (the "Part I OP")**

[113] The Richmond Hill Official Plan was adopted in 2010, and appealed to the OMB. Now most of this Part 1 Plan is force, as modified. A comprehensive review will follow soon, together with that for the RYOP. The focus of the Part 1 Plan is described above, to develop mixed use, complete communities via intensification. Schedule A2 of the Part I OP designates the Bernard KDA, and Schedule A10 identifies the Bernard KDA as a Secondary Plan area.

[114] The hierarchy of intensification within the Part 1 OP does not preclude future developments that meet provincial policies and transit investments. In Ms. Anderson's opinion, placing the Yonge and Bernard KDA on hold until the other areas are reviewed is not appropriate, given the extensive planning and technical work and consultation that has now taken place. This Secondary Plan would not contradict the Part 1 OP provisions, since the identified KDAs can co-exist and be independently studied and implemented through a Secondary Plan process.

[115] The modified Yonge Bernard KDA Secondary Plan and ZBL directly implement

this Part I OP policy, through a framework for uses, heights and densities that transition to the surrounding areas while supporting transit. By section 7.10.12 of the Part 1 OP, the Secondary Plan takes precedence over the Part 1 Plan in case of conflict.

## **CONCLUSIONS - Ms. Anderson**

[116] In summary, it is her opinion that the Yonge and Bernard KDA Secondary Plan and Zoning By-law, as altered by the proposed modifications recommended by City Staff and endorsed by City Council, should be approved, as they:

- Have due regard to relevant matters of Provincial interest in section 2 of the Act;
- Are consistent with and implement the PPS 2020;
- Are in conformity with and implement the Growth Plan 2019;
- Are in conformity with the ORMCP;
- Are in conformity with and implement the Region of York Official Plan;
- Address the functional policies of the Richmond Hill Part I OP and, subject to the proposed modifications to the Part I OP, implement the required Secondary Plan for the Yonge and Bernard KDA;
- Provide for a complete community with a mix of land uses and densities that are transit-supportive while respectful of surrounding residential areas;
- Provide for a parks and open space system and transportation system supportive of redevelopment of the area, and of connectivity and mobility;
- Are planned and phased to ensure adequate servicing and infrastructure;

and

- Constitute good planning and are in the broader public interest.

[117] Ms. Anderson also provided evidence on sections of the proposed documents that will be dealt with in Phase 2 of the Hearing. In her opinion, the transportation and park system will ensure improved and enhanced connectivity within the public realm, and also protect natural areas and open spaces. This will all contribute to complete communities. Open space provided for parkland and other outdoor amenity areas is appropriate, and buffers or other accessible features of the Greenway System is as well. The proposed removal of Urban Squares and their replacement with Urban Plazas would provide park space in an accessible form, sufficient for residential and employment uses. Additional public spaces in the form of urban squares can still be provided. Traffic and transit issues were addressed by the City and Region witnesses.

### **City of Richmond Hill – Urban Design**

[118] Further explanation of the rationale behind the recent changes to the Secondary Plan, the ZBL and the Part 1 OP was provided by Eldon Theodore, an expert in urban design, especially of infill and greenfield public projects. He gave a detailed outline of the present geographic surroundings and built form within the KDA. He emphasized the intent of the proposed modifications to the Plan and By-law as based on a series of manageable blocks within the three-character areas. There density has been assigned to ensure both equity for owners and transition of built form from Yonge to existing neighbourhoods. He approved of the informal framing of the KDA with streets and linear parks as sound urban design, as it would establish a fine urban grain even within the existing large lot patterns. He supported the proposed east-west open space in the southeast quadrant, as both outlining development blocks and constituting a place-making focus in the KDA. The Plan would reinforce active frontages for commercial uses. Proposals for new public roads would provide smaller, more walkable blocks, facilitating modal split goals.

[119] Building height would be managed for each character area by means of permitted density and urban design mechanisms such as an angular plane requirement. This is a 45-degree angular plane measured from the property boundary of existing low-rise dwellings. Heights could increase away from lands designated Neighbourhood, most of which here are outside the KDA. Setbacks, tower separation distances and tower step backs, tower floorplate sizes as well as separation between midrise structures are other factors limiting height and form. The goal of these policies is to balance the many objectives, and to spread out density within development blocks. The City prepared a Demonstration Plan (Ex. 1, Tab 81) to illustrate the heights achievable, based on the available density spread throughout the KDA. If buildings are not all built high, taller structures could then be built elsewhere, as more FSI would thus be available. All of these features of the Plan and By-law in Mr. Theodore's opinion constitute appropriate urban design principles and features. Regulation of height by built form criteria already exists in the Part 1 OP, affecting all of the KDA.

### **Region of York**

[120] The Region of York presented supporting evidence for the City's proposals. The Secondary Plan and the alterations to the Part 1 OP did not require the Region's approval, as this was waived under section 8.3.8 of the YROP (as being of local interest only and not impacting the Region's interests). Nevertheless the Regional staff were consulted during the preparation and adoption of the Secondary Plan. The Region presented evidence to the Tribunal on Transportation Planning (Ryan Wong) and Transit Service Planning (Adrian Kawun), essentially confirming support for the Plan and proposed modifications to it (see below).

[121] Mr. Kawun supported the amendments to the Bus Terminal policy 12.4.2 (3) respecting its present location and possible future relocation, as upholding the Region's and landowners' interests. He addressed the submissions of NEC that a traffic signal cannot be inserted at an intersection north of their lands because of the ongoing construction of the BRT. Ryan Wong noted that this jurisdiction is entirely the Region's, which could insert a signal there if and when warranted and has control over any signal

spacing issues by mitigation measures. The Secondary Plan provides notice a future intersection, and the Region supports this.

[122] The Region's witnesses also were in favour of the proposed road network in Schedule 4 of the Plan. This would confirm that the modal split assumptions in the HDR study are consistent with Policy 7.2.26 of the Region's OP.

### **Toronto and Region Conservation Authority**

[123] The TRCA did not appear at the hearing. The Tribunal understands that it is in support of the planning documents and the proposed modifications to them. TRCA may provide evidence in Phase 2 respecting the greenway issues.

## **THE APPELLANTS**

### **Dogliola Developments Inc. – Campo Ridge Home Corp.**

[124] The Dogliola lands are located south of Canyon Hill Avenue in the southwest quadrant. They are partly vacant still (5.53 acres, of a total of 2.28 H). The rest of the lands are now under construction with townhouses, previously approved. Development proposals for this remainder parcel were made years ago (Exhibit 60) but were held up by the imposition of ICBL100-16. The owner has now settled its issues with the City. Lincoln Lo was qualified as an expert land use planner, and provided evidence concerning the development proposal for these remaining lands (Exhibits 32 and 41). Appendixes B and C illustrate the proposal now before the Tribunal. It is within the "Corridor Character Area" of the Plan where there is to be a mix of uses and built forms, with taller and denser buildings along the Yonge corridor. Density of 5.0 is allowed along the corridor. There would be 4 high rise towers here, from 20 to 39 storeys, sitting on 2 separate 3-storey podiums, with the resulting density of 5.0. This proposed development would conform to the requirements of the Secondary Plan and Zoning By-law.

[125] The settlement with the City has resulted in compromises, such as the future

dedication to the City of the Leyburn extension to the west of the parcel as a new collector road, and also a linear park and a sewer easement under the Yonge Street portion of the parcel. Mr. Lo was in support of the City's evidence.

### **10870 Yonge Street Limited**

[126] This Appellant's land is located in the southwest quadrant, and is about 7.09 acres in size with frontage on Yonge of about 136.8 m. It is usually called Longo's from its major occupant. It consists of other retail outlets, a bank and pharmacy, and extensive surface parking. Access is at the north via a two-way driveway, with a signalized intersection at Yonge, and a secondary access between two of the buildings. To the west are German Mills Creek and Toll Bar Park, and low-rise residential developments.

[127] This Appellant also reached a settlement with the City, on June 23, 2020 (Ex. 9). Mr. David Falletta, an experienced land use planner, presented supporting evidence for the development and the settlement. It requires no further amendments to the Secondary Plan or ZBL. As counsel submitted, 10870 can expand existing buildings up to 15% of the total GFA of all buildings on site as of the date of the Plan. However, this will not trigger a requirement for transfer of any land or rights to the City. Mr. Falletta agreed with Ms. Anderson's professional opinion on the appropriateness and compliance of all planning instruments before the Tribunal on the Appeals.

### **Yonge MCD Inc.**

[128] Two settlements (with Yonge MCD, and the retirement residence at 70 Bernard) were addressed by the Tribunal in August 2019. One of these dealt with a portion of the Yonge MCD lands that is just outside the northwest quadrant of the KDA "(Phase 1", within the South Brookside Tertiary Plan area). A Tribunal decision of April 20, 2020 approved this Phase 1 of Yonge MCD's concept plan outside the KDA lands. It reserved on the "Phase 2" Appeals, which remain in the present Hearing. Yonge MCD and the City have now reached a settlement, so that it now supports the City in this

Phase 1 Hearing. Its evidence was provided by Ryan Guetter, a very experienced land use planner. He testified that in his professional opinion, all the proposed amendments to the Part 1 OP, the Secondary Plan and the ZBL constitute good planning.

[129] The Phase 2 lands are located on the southwest corner of Brookside Road and Yonge Street, in the northwest quadrant of the Secondary Plan. They are within the “Corridor Character Area” under Schedule 1 of the Secondary Plan (Appendix “A”), with permitted maximum density of 5.0 FSI. The Yonge MCD lands are also within the MTSA as determined by the Region, so that increased density is encouraged in order to promote transit use. The proposed development would provide two high rise residential towers on three podiums with residential and commercial uses within. Mr. Guetter testified that the Proposal will meet the requirements of the revised ZBL as well.

[130] His opinion is that this conforms with the minimum density targets and intensification objectives of the Corridor Character Area, as well as the Yonge Street Corridor. It will meet the transit-supportive goals, road dedication requirements, provision of below grade parking, and satisfy municipal servicing needs.

[131] Mr. Guetter’s opinions are summarized in para. 4.7.1 of his Witness Statement, Ex. 44. He finds conformity with both the Secondary Plan policies and the ZBL provisions that apply to the Phase 2 Yonge MCD land. He also finds that the proposed instruments as amended conform to provincial, Regional and municipal instruments (Ex. 44, paras 150-161).



**TSMJC Properties Inc.**

[132] TSMJC is located in the southeast quadrant, south of Bernard Avenue, with the address 10909 Yonge Street. The developable portion under consideration fronts on Yorkland Street. This is the southeast portion of the quadrant, to the east of the Leon's Furniture site, and is presently a paved parking lot. TSMJC proposes a 16-storey apartment building at the west of the development site, with 3-storey townhouses along Yorkland to the east. A partial settlement had been reached with the City prior to the Hearing, as reflected in Minutes of Settlement. TSMJC's main concern was the proposed relocation or expansion of the BBT possibly affecting its lands, and any requirement for an environmental assessment (meaning a delay), as well as compensation for any relocation.

[133] Its urban design evidence was presented by Peter Swinton, architect and planner, and its transportation concerns by transportation planner Sharon Sterling. Mr. Swinton provided a history of TSMJC's involvement in development of the policies. He supported the revised wording for the Part 1 OP as agreed to in the Minutes of Settlement (Exhibit 10). He stated that his client's Part 1 OP appeal was now resolved. He addressed the issue of modal split as derived from TTS data, transit ridership data and auto trips. Respecting the BBT, he stated that TSMJC desired flexibility in any redesign or relocation. He urged the Tribunal to approve the revised wording of section 12.4.2 (3) of the Plan.

[134] The proposed amendment to the Part 1 OP, Policy 3.1.3, Urban Policy Framework, would assist in acceptance of the proposed development and density on the TSMJC's lands on Yorkland (to be considered in Phase 2 of this hearing.) Mr. Swinton provided an outline of a development plan in cross examination. He also supported the proposed amendments to section 4.4.1 of the Part 1 Plan. Respecting the density of the MTSA at Yonge and Bernard, he was in favour of the modal split chart as set out in Exhibit 35, p. 7. Other issues his client has raised, such as lifting of the Hold, collector road on TSMJC lands, active uses at grade, and retention of existing commercial uses would be addressed in Phase 2.

[135] Ms. Sharon Sterling, an experienced Transportation Planner, testified for TSMJC respecting the classification of collector roads and their function. The proposed modification to section 12.4.4.2 respecting collector streets is acceptable, but in her opinion private streets are also desirable on occasion, provided appropriate sizing and public access is arranged. She agrees with Mr. Swinton that the requirement for widening of Bathurst Street as one condition for removal of the hold is inappropriate, as it is not within a developer's control. She was critical of both the collection of data and the methodology for determining the modal split, and the absence of alternatives if the modal split targets are not achieved. She was asked many questions concerning issues such as a "ring road" that will be addressed in Phase 2.

[136] Respecting the BBT concerns expressed by TSMJC, Ms. Anderson deferred to the evidence and opinions of the Region and City transportation witnesses on the need for any Environmental Assessment to confirm the size and location of the Terminal. Under section 12.4.2(3), the location of an expanded or redeveloped bus terminal will be considered through a process involving the Regional transit authority. It is an existing facility, so section 12.5.5 concerning it should remain. This is appropriate for the policy direction for the process for redevelopment, should the Region require a land conveyance.

[137] Sections of the Part 1 Official Plan remain under appeal. The land uses, height and density surrounding the actual bus station will be taken into consideration.

[138] The existing conditions and context for development are important. All policies of the Part 1 OP and the KDA Secondary Plan must be read and considered in their entirety, to ensure compatible development.

[139] These provisions are consistent with good planning, in her opinion, both for the TSMJC lands in the southeast quadrant, and on a KDA-wide basis.

#### **Yonge-Bernard Residents' Association ("YRA")**

[140] The Association of about 200 members is not an Appellant Party, but obtained Party status following the Appeal of its former president, John Li. The YRA summoned Mr. Patrick Lee, Director of Policy and Planning for Richmond Hill, and provided his outline of evidence at Exhibit 38(b), Tab C. His experience with Richmond Hill planning dates back to 2009, including oversight of the 2010 Official Plan and appeals from it. Provincial policy changes brought focus to increased height and density, he testified, and transportation infrastructure was increasing. The Secondary Plan adopted in 2017 had its roots back in the 2010 OP, so Council then wished to update this Plan based on changes in provincial direction.

[141] Richmond Hill then asked HDR Group to peer review the earlier BA transportation report, to see if additional capacity could be accommodated. They had not been directed to find or recommend density of 4.0. Mr. Lee explained that transportation consultants require parameters for testing – such as 3.5, 4.0, 4.5, etc.- what the area studied can accommodate. He was asked questions on the parks and open space policies, but these will be considered in Phase 2. Mr. Cherniak then asked about the size of residential units used in the studies, stating that the size used (1,100 sq. ft) was far greater than the average in the GTA (650 sq. ft). Mr. Lee explained that this measurement uncertainty was the reason that the limit on persons/jobs was used to determine density, leading to the figure of 4.0 FSI for the Plan. The height regime in the Plan based on built form was an attempt to measure height in a scientific rather than what he termed a “subjective” way, leading to higher but fewer buildings in the end (see p. 2453 of the May 13 Staff report, ultimately approved by Council). The densities are reflected on Schedule 2 to the proposed Plan (p. 2533). It will be a long time before this KDA will be fully developed, thus the maximums as desired by residents are not required. Future modal splits cannot be ascertained now. In his opinion, this Plan makes the best planning sense, considering the present Growth Plan horizon.

[142] As mentioned, one of the principle objections the Association has to the Secondary Plan and ZBL is the failure to impose a limitation on the number of residential units in the KDA. Evidence on proposed densities was provided by Mr. John

Li, who was not qualified as an expert for this purpose but who had done extensive research to assist the Association and the Tribunal. He primarily compared density permissions within other MTSAs in other municipalities such as Toronto, arguing that the provisions here for the residents to jobs ratio are too permissive and are not justified. The densities permitted would lead to great increases in population.

[143] Mr. Anil Seegobin, a professional Transportation Planner and Traffic Engineer, was retained by the YRA to review previous reports and to assess the proposed density and modal splits. In his opinion an average density of 4.0 is not justified on the modal splits nor intersection capacities. He provided holding provision scenarios (Ex. 62A, p. 5), concluding that the transportation infrastructure would not support the proposed population. He objected that trip generation rates for the PM timeframe were not included in assessing actual traffic volumes, as they are probably higher. The “return home” trips often include commercial stops. Nor could a 30% transit modal split be achieved with only one north-south rapid transit line (this from his review of Transportation Tomorrow Survey or TTS data). Multiple high service options are needed to reach higher modal splits. He explored many traffic scenarios, concluding overall that the ability of the local transportation network to accommodate traffic levels for the KDA was overestimated. Only if the road improvements and modal split targets are met can an average FSI of 4.0 be supported, and these targets are not realistic, in his opinion.

[144] Ms. Anderson’s response to this was that the overall maximum density in the KDA is appropriate at 4.0 FSI, both in the modified Plan and Section 4.4.1(6) of the Part I OP. Specific density would be determined individually on a site-by-site basis, from the Plan and the applicable zoning for the site. The maximums in Schedule 2 of the KDA Plan provide an appropriate basis for determining the built form for each site. An overall cap on the number of residential units, as advocated by the YRA, is not used in higher-order policy documents. It would not be appropriate at the Secondary Plan level. There would not be sufficient flexibility to respond to market conditions, and the demand for specific unit types and sizes. It is also not appropriate to show an averaging provision

for density on a property in the Zoning By-law, as this is not an acceptable application of zoning powers.

### **Saad Askander**

[145] Mr. Askander expressed his concern that the proposed enactments were not being assessed under the correct version of the Act. He objected to creation of a road Link D between Yonge and Bernard north of NEC, as bringing more traffic through to Yorkland, where he resides. He rejects a 4.0 density, as encouraging too much traffic in general in residential areas. He also asked questions of Mr. Patrick Lee about the contents of the ZBL dealing with density. He approved of increasing the transit modal splits, and of a proposed railway grade separation and increase in lanes, so that congestion is reduced. Other major intersections elsewhere were not good comparisons. It should not be a goal to “create” demand for transit, but the KDA can accommodate greater density if the transit is already there. Parking should be reduced as well, to encourage transit use.

### **Frank Di Pede – to be dealt with in Phase 2**

[146] Mr. Di Pede was as mentioned added as a Party by the Tribunal in its June 29, 2020 decision. He owns a parcel in the southwest portion of the KDA. His issues will be addressed in Phase 2.

### **Regional Municipality of York**

[147] The Region’s evidence centred on transportation issues (see below). In her summation of the evidence presented, Bola Ogunmefun stated that Regional senior land-use planner, Augustine Ko (called by counsel for Appellant NEC) confirmed that this Secondary Plan was exempt from Regional approval as no Regional interest is adversely affected. Mr. Ko testified that the Region deferred to local planning staff to review the Secondary Plan for consistency and conformity to the applicable Provincial Plans. The Region relies on the City’s land use planning evidence as provided by Ms.

Anderson. All Regional witnesses confirmed that the Region supports the proposed modifications to the 2020 Secondary Plan. The policies respecting the BBT are acceptable. Similarly, Region concludes that it is good planning to protect for the potential signalized intersection next to NEC lands and provide notice to landowners about this potential, in order to protect it as development applications come in. This is reflected in Policy 12.4.4.1 (4) which requires that development be designed to protect for the signal. In sum, the Region recommended that the Tribunal approve the Secondary Plan, with the proposed road network shown on Schedule 4 of the Plan, based on the transportation evidence of the City and Region transportation witnesses.

[148] In Ms. Anderson's opinion, the Secondary Plan policies appropriately address the future transportation infrastructure requirements to accommodate the development of this area. Ms. Anderson deferred to the traffic and transportation witnesses respecting whether the proposed road network on Schedule 4 is appropriate. She did provide her land use opinion that the road network is appropriate to support the projected growth in the KDA, subject to the holding by-law regime for appropriate phasing and orderly development. As well, the policies in section 12.2(3) are appropriate for any future redevelopment of the BBT, and would ensure proper integration with land uses for its location and function.

#### **North Elgin Centre Inc.**

[149] See **Decision** below for comments on NEC's case, and its conduct in this Hearing.

[150] The NEC site is at 11005 Yonge Street, and is a large part of the northeast quadrant mentioned in the KDA Secondary Plan. It is 1.84 ha and contains a shopping plaza of three one-storey retail buildings, two drive-through restaurants and surface parking. The 70 Bernard Avenue seniors' residence now approved for expansion is located to the southeast of NEC's lands, and shares a private access driveway with it. A concept plan for future redevelopment of the NEC lands has been drafted (Ex. 33, Tab 24, Fig. 1-2), including 1,044 apartments and 23,366 sq. ft retail GFA. A site-

specific proposal will be dealt with in Phase 2 of this Appeal, as determined by the Tribunal in its June 29, 2020 decision.

[151] NEC's planning evidence was provided by professional planner Michael Manett, who has had significant experience in all intensities of development, and in Richmond Hill itself. He stressed the need to resolve issues with the Secondary Plan and ZBL as expeditiously as possible, so as to transition to high density mixed use development to achieve a complete community. He supported certainty, and thus objected to the Holding provision's requirement of additional studies, which would only lead to delay. He preferred policies and development standards that would permit "as of right" development, requiring only site plan approval. He also expressed support for features he said are absent from the planning documents, such as affordable housing options (rental, car-free, live-work and units for aging in place) in transit-supportive sizes. He objects especially to the suggested "ring road" feature as an inefficient use of land, as are unjustified open space zones. The proposed ring road is dependent upon participation of all landowners, as well as the ability to cross the BRT north of NEC property. This is not possible, in his opinion, with the present design.

[152] Also undesirable is restricted underground parking, and parking standards that do not promote affordable housing. He was reminded that these are issues to be heard in the Phase 2 Hearing.

[153] Respecting the Secondary Plan, Mr. Manett sees no analysis of the existing character on which to permit future development. There is no basis now on which to require 15% non-residential GFA, or active at-grade frontages along Bernard Avenue. He does agree that regulation of height via built form criteria is appropriate. However, he foresees problems with enforcing the requirement that 35% of new dwelling units be "affordable". He also objected to the Holding provision in general, as unclear in its effect on all sites. The present triggers to remove it rely on achievement of modal splits for roads outside the KDA, which in his view is not realistic.

[154] Ms. Anderson reiterated that the Plan policies promote intensification and the

development of “complete communities” within the KDA, in spite of Mr. Manett’s opinions. They facilitate the efficient use of land and infrastructure with transit-supportive densities, and an appropriate level of housing options to promote housing affordability and attainability in the City. The Plan contains appropriate policies for non-residential uses as well, including density to be allocated to non-residential uses on any individual development site.

[155] As mentioned, Height will be regulated through built form criteria and other urban design policies. This is appropriate, based on the evidence provided by the urban design witness on behalf of the City, Eldon Theodore. Since no development proposal has been submitted by NEC, it is not possible to assess proposed height and density for the site, as mentioned in NEC’s issues. From a policy standpoint, she supported the equitable distribution of density across all four quadrants of the KDA. Any proposed increase to FSI above the maximum permitted in the Secondary Plan would require a further amendment, which is statutorily prohibited for two years following the approval of the Plan.

[156] Purpose-built rental housing is supported and encouraged by section 12.2.6 of the Plan, and is not precluded or limited by the maximum FSI proposed. However without a specific development application, there is no mechanism to ensure development will result in purpose-built rental housing (if that is put forward as the policy justification for permitting a higher FSI). The Region does have affordable housing targets (35% of new dwellings) for the KDAs (section 3.5.7 of the ROP). The Secondary Plan directs a minimum of 35 per cent of new dwelling units within the KDA “shall be *affordable* in order to realize the City and Region’s affordable housing targets and to provide housing that is responsive to the needs of the City’s residents”. That target implements section 3.1.5(2) of the Part I Official Plan. The provision for zero car household dwelling units or “non-automobile households” is addressed by the City’s transportation witness.

[157] NEC had many questions concerning public and private streets and potential



new signalization on Yonge Street, which are Phase 2 issues. Again Ms. Anderson deferred to the transportation witnesses. NEC and TSMJC would modify the Plan to delete the proposed public ring road network, and/or to explicitly allow for the use of private roads via a master plan process. Ms. Anderson does not agree. Based on the support for a public roads system, these policies should remain on the Schedules, as outlined by the traffic and transportation witnesses. The policies in the Plan would also not preclude stratification where appropriate.

[158] To questions about parking policies in the Plan, she opined that from a land use planning perspective, the City's proposed parking policies and parking ratios proposed for the KDA support parking supply, including its reduction and a shift towards active transportation and transit. No further modifications are required.

### **Richmond Hill Retirement Residence**

[159] One Appeal was also settled in August 2019 and confirmed in the Tribunal's April 2020 decision. 70 Bernard Avenue is being redeveloped by Richmond Hill Retirement Inc. and Oakridge Gardens Retirement Partnership. The Tribunal ordered then that the implementing ZBL for the KDA be approved as it applies to those lands on a site-specific basis, with modifications to definitions. Therefore the ZBL is now in full force and effect as it applies to 70 Bernard Avenue. This site is to the east of the NEC site, and shares a private driveway with it.

### **PARTICIPANTS**

[160] Mr. Matthew Piazza resides in the northwest quadrant. He stated that the current health crisis might alter the way that people live, as large gatherings and high density are discouraged. Thus he opposes the high density proposed in the Plans and By-law, as this might lead to future viral outbreaks.

[161] Tim Tucci has been an active participant in the evolution of this matter. He resides on Brookfield Road, at the north portion of the new KDA, and is a member of the

association, YRA. He had favoured the 2017 Plan as adopted, but opposes the 2020 revisions. He principally opposes increased densities, believing that this will only allow developers to provide maximum value to their shareholders. On traffic, he sees insufficient east-west connections in the KDA, fewer than elsewhere, so the new traffic volume cannot be handled. He prefers public roads, and not private, in the KDA to convey traffic from Yonge to the east to Yorkland. He supports a limit to the number of storeys in order to control height, thinking that angular planes will be insufficient. There would also be less parkland under the 2020 revisions.

## **TRANSPORTATION ISSUES**

[162] A panel composed of Dan Terzievski and Carl Wong provided evidence for the City with respect to transportation policy.

[163] Mr. Terzievski is a professional engineer with certification in Traffic Operations Engineering. Since 2014 he has been Director of Development Engineering and Transportation for the City, responsible for leading and guiding the Transportation Team in development of the City's Transportation Plan, Parking and Travel Demand Management Strategy. Prior to that he was with the Region of York with responsibilities in the same areas. His evidence related to the policy aspects of the proposed transportation planning for the KDA.

[164] Carl Wong is a professional engineer, Vice President of HDR Corporation (HDR) specializing in transportation planning, transportation engineering, traffic operations, demand forecasting, transit planning and transportation safety. He has conducted numerous transportation studies across Ontario including in York Region and the City of Richmond Hill. He provided the technical aspect of transportation planning.

## Background

[165] The City had retained the BA Group to prepare studies to support the enactment of the KDA Secondary Plan and ZBL in 2017. Their report was entitled Yonge Street and Bernard Avenue Key Development Area Secondary Plan Transportation Considerations. It documented findings to support densities for this KDA of 2.5-3.0 FSI, and evaluated different road network options to support that growth to the Growth Plan horizon year of 2031.

[166] HDR Corporation (HDR) was then retained in 2019 to undertake a 2020 Parking and Travel Demand Management Study, a review of the earlier BA study. This would update the City's 2010 Parking Strategy. The latter had been prepared by HDR then, but it remained in draft form since it was never implemented. Subsequently HDR was retained in connection with the public review and consultation process for this KDA Secondary Plan and the implementing Zoning By-law.

[167] For the HDR review of the 2017 BA Study, Mr. Wong oversaw the Transportation Study and Mr. Chai the Parking analysis. All of their recommendations are contained in the HDR update dated May 1, 2020 (Exhibit 2, page 312). The parking and traffic update was to determine how much additional intensification could be accommodated within the KDA, and to recommend appropriate standards for parking and traffic management. Their recommendations ultimately resulted in a holding by-law regime. This would ensure that the additional density contemplated by the Secondary Plan (which they supported) was appropriately phased, and contained the required traffic and transportation infrastructure.

[168] Transportation Demand Measures (TDM) were proposed in the BA report, which identified seven parameters and stakeholder responsibilities among York Region, Richmond Hill, and private developers.

[169] These are expressed broadly, but include coordination and communication programs, development guidance and infrastructure, transit supportive measures,

cycling and walkable community supports, vehicle ownership policies, and parking management.

[170] HDR's work built upon a comprehensive best practices review (Exhibit 2, Tab 6, subtab c) of Toronto Policy areas 2 and 3, Newmarket, Vaughan, and Markham Centre. Other Toronto areas served by TTC Subway are less comparable: the others are within York Region, and in areas intended to have a higher level of density than the KDA.

[171] The HDR report finds that the planned and proposed collector and local road network within and surrounding the Bernard KDA will have sufficient capacity for an average density greater than 3.0 FSI up to 4.0 FSI, for the 2031 and 2041 horizon years in the Growth Plan. However, the Regional arterial network will be impacted by a proposed density of 4.0 FSI, based in part on the impacts of longer delays and queues at certain intersections. Therefore the development levels for the KDA should be phased and monitored, based on implementation of planned transportation improvements.

[172] The proposed collector and local road network within the KDA would be the same road network proposed in the original BA study, with the exceptions set out on pages 291 and 291 of Exhibit 2. It would also have the transportation improvements and travel demand conditions by 2041, as set out on pages 293 and 294 of that exhibit. The impacts on Density set out in Table 9.1, with the four scenarios, is set out on page 294 of that exhibit. This charts the FSI, Populations, and Transit Modal Split, for the Yonge, Bathurst and Bayview corridor, together with the necessary infrastructure improvements.

## **PARKING**

[173] A second panel composed of Jason Dahl and Jonathan Chai gave evidence with respect to parking matters.

[174] Jonathan Chai is a Professional Engineer with HDR. He has fifteen years'

experience in transportation planning and engineering. He provided evidence on the technical aspects of parking issues.

[175] Jason Dahl is a Professional Engineer with Transportation expertise with the City of Richmond Hill. He has been with the City since 2019, and prior to that with the IBI Group in Toronto and with LEA Consulting, all in the area of Transportation Engineering. His evidence related the policy aspects of parking.

[176] Mr. Chai stated that the recommendations contained within the draft 2010 HDR report were relied upon subsequently to guide parking requirements for development applications. The more recent HDR report of 2019 identifies the potential for further parking reductions related to both shared parking and car-share parking. It further notes that the ongoing 2020 Parking and TDM Strategy Update (expected to be finalized in 2021) will be structured to allow TDM measures to be directly tied to parking in the development application process, supported by monitoring and follow-up protocols.

[177] As part of this 2020 Update, a comprehensive best practices review was undertaken to compare parking requirements from 11 municipalities in the GTA. The parking rate comparison compares proposed KDA rates to rates from these municipalities, which are considered comparable to the KDA in built form, transit accessibility and quality of service. The parking rates applied within this KDA are expected to already reflect a higher non-vehicle modal split.

[178] The approach to parking supply in Jason Dahl's witness statement is "to introduce parking rates within the zoning by-law, and require a TDM strategy inclusive of an extensive list of measures with the Secondary Plan to justify additional site-specific parking rate reductions. This approach allows for flexibility, enabling thoughtful site design and initiative through TDM." In his opinion the documents supported by Council are appropriate, and conform to Provincial, Regional and City policies from a parking and TDM perspective. On page 282 he states:

The parking and TDM goals within KDAs and other policy areas within the city will be further refined as part of the ongoing 2020 Parking and TDM Strategy for New Developments project, the ongoing Comprehensive Zoning By-law review and the ongoing Richmond Hill OP update.

[179] LEA Consulting traffic engineers on behalf of North Elgin Centre Inc. (NEC) made recommendations regarding minimum parking rates. HDR reviewed these and comments from other stakeholders and the public, addressed the comments, but made no changes to its parking recommendations. The BA report (2017) had recommended that both minimum and maximum parking standards be established for the KDA (as per the 2010 Parking strategy) and had supported bicycle parking within the KDA, but not specific rates.

[180] In Mr. Chai's opinion the HDR recommendations on Minimum Parking Rates should be seen as a base case, consistent with best practices as they apply to the Yonge-Bernard area. Further reductions may be considered on a site-specific basis, subject to appropriate TDM plans which align with Richmond Hill's forthcoming 2020 Parking and TDM study. With respect to Bicycle Parking, the rate should be as passed by Council. His opinion is that they are adequate and appropriate, based on a review of the rates used by peer municipalities in comparable transit-oriented intensification areas.

[181] Subject to certain minor and limited exceptions, the Secondary Plan provides that no development can occur within the KDA without the approval by Council of an application to lift the proposed holding (H) symbol in the ZBL. This would apply to all KDA lands, and at all stages of development of the KDA. Such an application would be subject to several requirements set out in the ZBL, including the following, which he supported:

The provision of a Transportation Planning Study and a Transportation Demand Management Strategy which demonstrates to the satisfaction of the approval authority that the proposed use of the lands building or structures complies with certain requirements described in the Secondary Plan.

## **ROADS**

[182] The BRT is as mentioned currently under construction on Yonge Street. It provides for a stop at Yonge /Bernard. As the north and south bound platforms are now being constructed, there is no vehicular access across the transitway north of Bernard to the west of the NEC lands. However, the Schedule 4 Streets Plan indicates the potential for a signalized intersection at that location. Future intersections along Yonge are entirely within the discretion of the Region. Having a policy and schedule within the Plan alerting landowners to the potential for a future intersection is entirely consistent with this proposition. Warrants for signalization are also entirely dependent upon the Region. Signals at this possible intersection were opposed, at length, by NEC. However, any design implications for NEC arising from the potential future signal are entirely site-specific and are a Phase 2 hearing issue.

### **Ring Road**

[183] The so-called “ring road” that certain parties were struggling with, does not even fully appear in the context of what one expects of a ring road, except as proposed in the southwest and southeast quadrants of the KDA. In the southwest quadrant, the land has been acquired for a north-south road as part of the subdivision of the Dogliola lands. A small part of the leg east to cross Yonge St. awaits the future redevelopment of the lands of 10870 Yonge Street to the south. There is an existing crossing of Yonge Street there, with a signalized intersection, as seen on Schedule 4 of the Plan as modified.

[184] On this Streets Plan - Schedule 4, in the southeast quadrant, this same road east of Yonge borders part of the TSMJC lands on the south. It then splits these lands and turns north. As it crosses Bernard northbound, it then becomes what is known as Link D. This street runs between the NEC lands and those of 70 Bernard Avenue, then it turns northeast along the north boundary of the NEC lands, to Yonge Street. It crosses Yonge Street at the “potential signalized intersection”, then passes through the lands of Yonge MCD to meet Abitibi Drive going south.

[185] This so-called “ring road” fulfills the City’s objective to achieve interconnectivity for this KDA intensification area.

[186] As directed by the Region, the City was required to identify the “establishment, implementation, and/or continuation of a fine-grained street grid that incorporates sidewalks and bicycle lanes”. (Ex. 2. p. 605).

[187] Mr. Terzievski’s opinion on this is:

The ring road system proposed in the KDA Secondary Plan adequately serves to provide a well-connected, fully integrated and cohesive KDA that supports all modes of transportation and helps to support the build-out of the KDA and manage growth related traffic in the area. From this perspective, it is my expert opinion that any deletion of the proposed ring road system, all or part, will adversely affect the connectivity, mobility and sustainability of the KDA Secondary Plan and would be contrary to Provincial, Regional and local planning policy objectives. (Ex. 2, p. 611)

### **Public vs. Private Roads/ Streets**

[188] On the issue of Public Streets vs. Private Roads, Mr. Terzievski believes that the ring road and sidewalk network identified in Schedule 4 of the Plan should be under public ownership in order to serve the KDA appropriately. His view is that this ensures access, egress and route options for the vehicular traffic generated. It allows a more orderly and balanced distribution of traffic throughout the KDA. It would provide safe, convenient and more direct connections throughout for pedestrians and cyclists. It ensures that the road system will remain publicly accessible and maintain its functions over the long term. The system would be designed, constructed and maintained in compliance with municipal standards. Public roads eliminate the need for and reliance on access agreements with landowners. If private, there would be no access points created to collectors such as Bernard Avenue and Yorkland Drive.

[189] Public ownership is in his view also needed to provide orderly access to and egress from the existing and proposed BBT for YRT. This will permit that entity to extend service throughout the KDA and surrounding neighbourhoods.



**Stratification**

[190] The City currently does not have any policies or guidelines permitting stratification of roadways. However, understanding the desire and importance of stratification related to development, Staff has initiated a Stratification Study to explore its feasibility and strategies, and when it would be applicable. Policy language that prevented such inclusion in future was eliminated from the Secondary Plan.

**Bernard Bus Terminal**

[191] As mentioned, the BBT is a Regional facility, currently located surrounded by the TSMJC lands at the southeast corner of the intersection of Yonge and Bernard. The Secondary Plan suggests that its location is subject to further study as transit demand changes within the KDA. Mr. Terzievski is satisfied that the expansion or redevelopment of the terminal will be appropriately decided in the future, dependent upon statutory and regulatory requirements of the time.

**FINDINGS AND DECISION**

[192] Issues remaining to be addressed in the Phase 2 Hearing are the following, expressed in general terms:

- Site-specific development proposals.
- Parking standards and rates.
- Public versus private roads, and their location.
- Link D, its intersection with Yonge, and its possible signalization.
- Linear park and POP policies.
- Open Space policies.

[193] Counsel for Yonge MCD summed up the proposed amendments in this way:

The key differences between the original KDA instruments and the revised KDA instruments are the increase in density, the creation of a Holding Regime, and a move away from strict restrictions on built form (particularly height) toward policies and regulations that allow for appropriately flexible deployment on individual development parcels within the KDA, while also addressing impacts.

[194] The Tribunal agrees with the City's witness Ms. Anderson that the final documents presented in the Hearing constitute an appropriate policy and regulatory framework to achieve growth and intensification, both within the Yonge Bernard KDA area and the City's overall urban structure. The Secondary Plan and ZBL will enable a complete community to develop here. There would be a mix of land uses to support new residents and jobs, while preserving present retail and service commercial uses and encouraging additional non-residential uses. Development is encouraged to be transit-supportive. The highest densities are along the Yonge priority transit corridor, with appropriate transitions of height and density to the surrounding neighbourhoods. The Tribunal is satisfied on the evidence that the planned densities and built form policies are appropriate, and respect existing conditions.

[195] As Ms. Anderson testified, the Secondary Plan for the Bernard KDA is also intended to ensure that the minimum density requirements for a designated MTSA are met, while balancing the growth objectives of the more general Part I OP. A maximum overall density of 4.0 FSI is appropriate, in the Tribunal's view, given the resulting population and employment forecasts in the City's evidence. Even if the unit sizes are wrong, as the YRA claims, the Region's conclusions are sound. Densities may vary for certain lands, including in key areas, encouraging an appropriate mix of built form and housing types. There is also transition in scale. Appropriate intensification here will support the transit uses, the BRT and the Bus Terminal.

[196] The Tribunal agrees with Yonge MCD that this KDA cannot be placed on hold until the other areas are reviewed, since planning and technical work and consultation, have been extensive here. The current OP policies for the KDAs can co-exist and be independently studied and implemented through the Secondary Plan process.

[197] In the Tribunal's view the use of urban design principles to control height and density within the KDA is supported by almost all the professional witnesses' opinions, with which it agrees. Mr. Guetter stated that the Plan and By-law use height (angular planes) and density limits to restrict floor area, and thus limit the built form of such units. No numerical height limit is needed. Even NEC's witnesses supported the proposal to measure heights in the KDA by urban design principles rather than the number of storeys. The Tribunal agrees with this approach, as a more flexible one should circumstances change, such as increased numbers of residents. If FSI is used as well as other urban design principles in order to regulate density, it is not necessary to limit the total number of units. Density control is achieved here via population and employment numbers, as well as by restricting building mass.

[198] The proposed phasing of development via a holding requirement (according to infrastructure availability) ensures that it is carefully considered in light of Regional capital projects, a continuing shift in modal split, active transportation and non-residential uses. The latter would create a balance of jobs and residents. Thus use of the holding policies in the OP and in the ZBL is appropriate, consistent and in conformity with provincial policy. The H will provide for orderly development, and ensure timely infrastructure and public service facilities, since traffic and transportation reports are required before developments are approved.

[199] Ms. Anderson emphasized again that the Secondary Plan and ZBL are consistent with the PPS 2020, and are clear, reasonable and attainable, as required by policy 4.7 of the PPS. Mr. Guetter put it that the proposed approval is consistent with multiple 2020 PPS policies, including managing and directing growth, housing, public spaces and open space, infrastructure and public service facilities, long term economic prosperity, energy conservation, management of resources for natural heritage features, water, cultural heritage and archaeology, and protecting public health and safety.

[200] The Plan and By-law also conform with the ORMCP and Growth Plan (2019). They meet the requirements for a Secondary Plan, KDA, and the Transportation and

Parking policies in the York Region OP, as well as the requirements for a Secondary Plan in section 5.1.5 of the Richmond Hill Part 1 OP (2010). The Secondary Plan also provides an appropriate policy basis for the implementing ZBL. This Secondary Plan takes precedence over the policies in the Part I OP to the extent of any conflict between the two (section 7.1.12 of the Part 1 OP).

[201] Respecting roads, the Tribunal finds that in general, public roads are more desirable than private for the KDA. It rejects NEC's reasons for desiring a private road for the northeast quadrant (that there would be less vehicular infiltration by the public if signed as private). If public, roads can be constructed to municipal standards, the installation of utilities managed, and all can be maintained. If private, access agreements are required, and condo boards can interfere.

[202] As for the transportation issues addressed by the Region, the Tribunal agrees with submissions made by Ms. Ogunmefun that the Secondary Plan with the proposed modifications:

- represents good transportation planning as it incorporates transportation infrastructure required to accommodate the development of the Secondary Plan area;
- facilitates the creation of a fine grain road network that provides mobility options for pedestrians, cyclists and vehicles balancing the local needs of the KDA and integrates with the Regional Transportation System;
- utilizes the opportunities of the BRT system to achieve the York Region's modal split targets; and
- has regard to maximizing the efficiency of the Regional Road network with the direction to minimize accesses to Yonge Street.

As mentioned, the Secondary Plan provides more detailed and prescriptive policies than the Part I Plan, and is applicable policy where there is a conflict with the Part I OP. The functional policies continue to apply to the Secondary Plan except when contradicted therein.

#### On Other Issues

[203] VC Makuch confirmed that the essential nature of the planning instruments has not changed, as the appellant ratepayers had argued (June 29 decision – para. 71). Therefore the Tribunal has the authority that Council would have to determine the final form of the planning instruments under appeal. Because the Tribunal ruled that Council's May 13 decision on the amendments was revoked and thus null and void, and the May 14 Council meeting was held in camera, there were no background documents to which it could have regard, as required by section 2.1 of the Act.

[204] Agreed wording for the LPAT Decision (Exhibit 10) was signed by TSMJC, the Regional Municipality of York, Dogliola Developments Ltd. and Yonge MCD Inc. :

The modifications to Policy 12.4.2 (3) transit and new policy 12.5.5. Subdivision of land are approved as found in Exhibit 10. The parties confirm that neither of these policies is intended to nor will they have the effect of preventing a landowner in the KDA from obtaining development approvals for their lands (including but not limited to, all Planning Act and Condominium Act approvals or building permit issuance) for development generally in accordance with the Secondary Plan and Zoning By-law in the event that an Environmental Assessment for the BBT has not been commenced and completed and/or a cost sharing agreement has not been executed by the landowner.

[205] The June 29, 2020 decision of the Tribunal found that the proposed modifications to the Secondary Plan do not have the effect of changing the essential nature and character of the Plan (para. 72-73). Having heard the evidence, the Tribunal agrees with this conclusion. It thus proceeds to approve the modifications to the Secondary Plan as proposed by the City's witnesses, as supported by the Region of York and amended by agreements with certain parties as described (Appendix A). Similarly, the revised amendments to ZBL 111-17 (Appendix B) and to the Part 1 Official Plan (Appendix C) are approved.

[206] All Parties with the exception of the YRA, Mr. Askander and NEC supported the revised Secondary Plan, Zoning By-law and amendments to Part 1 OP by the end of the Hearing. These include the public Parties, the Region of York and the TRCA, and almost all the other landowner Parties. Yonge MCD Inc., Dogliola Developments Inc. and 10870 Yonge Street Limited (referred to as Longo's) settled with the City and presented evidence for clarification and interpretation only. TSMJC settled some issues and deferred its issues of greater density and others to Phase 2.

[207] The Tribunal appreciated the Participants' statements, and encourages their future involvement. Respecting Mr. Tucci's comments on the political process, the Tribunal of course has no jurisdiction over a Council's adoption or rejection of municipal documents, nor over election financing. It has only its appellate consideration of the planning merits.

[208] The Tribunal notes the protective language for Phase 2, provided by VC Makuch in paragraph 25 of his decision of June 29, 2020. It is included here:

The Tribunal's Decision and Order arising from this Phase 1 hearing is strictly without prejudice to the position any party may take on any quadrant-specific issue agreed to be adjudicated during the Phase 2 hearing. For greater certainty, no party may take the position that because the Tribunal has resolved an issue and/or approved certain policies on a KDA-wide basis, that same issue cannot have a different resolution and/or different policies on a quadrant-specific basis, and the Tribunal's decision respecting those issues and/or policies will not be considered to be a disposition of the issue and/or policies for such purposes. In addition, no party is precluded from taking substantially the same position on a quadrant-specific issue during the Phase 2 hearing as it took on the same issue on a KDA-wide basis during the Phase 1 hearing, and a decision by any party to not challenge a particular issue and/or policies on KDA-wide basis does not preclude that party from challenging that same issue and/or policies on a quadrant-specific basis provided that the matter is agreed or directed by the Tribunal to be adjudicated during the Phase 2 hearing, **and the party has reserved the right to do so in writing prior to the commencement of the Phase 1 hearing.**

[209] TSMJC, the Tribunal notes, supported that Part 1 OP policies should go into effect KDA wide. However, it argued that the Secondary Plan and the ZBL should go into effect only on the west side of Yonge Street, as they have continuing concerns with the revised Secondary Plan (Exhibit 74, Schedule 2 to this Decision). However, TSMJC is satisfied these can be appropriately addressed on a quadrant or site-specific basis in

Phase 2. The Tribunal is satisfied that the “without prejudice” language above preserved its rights in this respect.

[210] The Tribunal has carefully assessed the settlements reached by the City and many of the Appellants. These Appellants provided expert evidence that such settlements constituted good planning, and complied with provincial, Regional and local planning instruments. Therefore the Tribunal will grant these Appeals and approve the recommended changes made by the City to the governing Part 1 Plan, the Secondary Plan and the Zoning By-law as they apply to these lands.

### **North Elgin Centre Inc.**

[211] NEC presented some evidence in this Phase 1 Hearing that the Tribunal considered to be inappropriate, as it did not adhere to the finding on the Phase 1 issues as determined in the June 29 Tribunal decision. Other counsel noted lack of cooperation from this Party. For example:

NEC should be admonished for its total lack of cooperation and compromise leading up to and within this proceeding. The Tribunal should keep track of precisely how much time in this Phase 1 proceeding has been used up by NEC's repeated refusal to follow the Tribunal's pre-hearing directions in the nature and manner of the case they called.

This is illustrated and supported by comments of the other Parties and their counsel. For example, Ms. Foran and Mr. Harrington said on behalf of Yonge MCD (Final Submissions, para. 38-45):

Despite the majority of the parties adjusting to address the Tribunal's phasing directions (as indicated by the multiple redacted versions of witness and reply statements provided by the parties), there was one party that repeatedly refused to accept the directed phasing and plowed ahead with its own issues and evidence – NEC.

As indicated to the Tribunal and to Mr. Streisfield on multiple occasions in this proceeding, YMCD does not support one landowner seeking to impose their site-specific standards across other quadrants as part of this Phase 1 hearing. NEC is free to seek its own development standards for a site-specific development of its

lands in Phase 2 or, subsequently, through the City's development approval process.<sup>1</sup>

By comparison, YMCD has had site-specific applications pending since 2016 and has worked very hard on multiple compromises with the City, the Region and the TRCA to be in a supportable position in these proceedings.

NEC appears to want to skip the filing of site-specific applications, skip any processing or compromising on its concept plan, and use this Phase 1 hearing to move directly to site plan and building permit. To achieve this, NEC sets up a straw man: they insist that if changes based entirely on their own site concept are not accepted on a KDA-wide basis, other lands may not redevelop.

The Panel is asked to reject NEC's approach to planning within the KDA writ large. NEC's issues opposite the other landowners in this proceeding are nothing more than NEC's failed attempts to leverage other parties against the City and hold back others from development until NEC catches up. While Mr. Manett's witness statement speaks repeatedly about the need to not hold up new approvals ("a negative planning outcome"), NEC's positions in Phase 1 appear to be strategically intended to have the opposite effect.

While Mr. Manett attempted to couch his planning issues as being systemic and appropriate for modification on a KDA-wide basis, it is submitted that NEC's issues were not this broad. The concerns expressed by NEC arise directly from the NEC concept plan – they were simply inflated in an effort to (a) draw the other appellants and landowners into the same fight and (b) have the Tribunal determine these issues upfront in Phase 1 as opposed to separately in Phase 2.

NEC should be admonished for its total lack of cooperation and compromise leading up to and within this proceeding. The Tribunal should keep track of precisely how much time in this Phase 1 proceeding has been used up by NEC's repeated refusal to follow the Tribunal's pre-hearing directions in the nature and manner of the case they called.

[212] And again, from the City's submissions (Messrs Kussner and Kehar):

As far as the KDA landowner parties are concerned, there was only one that took issue with various aspects of the proposed Secondary Plan in the Phase 1 hearing – namely, Mr. Streisfield's client NEC in the northeast quadrant. In the City's respectful submission, NEC's position amounted to "cherry-picking" those policies they like and rejecting the ones they do not like. NEC has no current development application at the City, and it will have free rein to seek modified or different policies for its lands the northeast quadrant on a strictly without prejudice basis as part of the Phase 2 hearing. Despite those facts – and despite the fact that the same opportunity was sufficient for TSMJC in the southeast quadrant to scope its similar issues and defer them to the Phase 2 hearing – NEC steadfastly refused to scope its issues, and persisted in seeking to challenge certain Secondary Plan policies and ZBL provisions on a KDA-wide basis - to the point where its attempts to do so often contravened rulings that had already been made by the Tribunal on multiple

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<sup>1</sup> The Tribunal can note that NEC will get more than one opportunity to seek different site-specific parking standards: Not only may they do so through Phase 2, but the Secondary Plan permits NEC to justify a different parking standard for its own site-specific development when and if it ever files development applications and proceeds to redevelop.



occasions. Remarkably, in all such instances where NEC purported to oppose policies on a KDA-wide basis, not one of the other KDA landowners to whom those policies apply had any concerns respecting those policies whatsoever.

The evidence before the Tribunal established that there have been compromises made by virtually all other KDA landowners in an effort to reach a mutually acceptable settlement with the City – but for NEC, respectfully, it continued to be a case of “my way or the highway”. The limited exception was its willingness during the hiatus in the hearing from July to September to have a belated experts’ meeting between Ms. Anderson and Mr. Manett, which ultimately resulted in a handful of additional Part I OP and Secondary Plan policies being settled as between them. Beyond that, there was no indication of any willingness on the part of NEC to achieve consensus and middle ground, as this Tribunal actively encourages. This stands in sharp contrast with every other KDA landowner, and particularly Yonge MCD and Dogliola, both of whom (unlike NEC) have active development applications and both of whom were willing and able to make concessions or adjustments that rendered their proposed developments policy compliant with the City’s proposed modifications to the Secondary Plan and ZBL in all respect... (pp. 8- 9).

[213] The Tribunal has little to add to these comments and observations. They were put forward in stronger language at times by many counsel during the hearing as well. The Tribunal was required to make many rulings against NEC. Cooperation with all parties and the Tribunal is expected in all proceedings before it.

[214] The Tribunal expects appellants will attempt to scope their issues to focus on the relevant matters in dispute. This is the very purpose of case management to organize the disputed issues in a hearing. The NEC had every opportunity to scope their issues to their lands. Instead they persisted in maintaining KDA-wide appeals on a broad range of subjects, impacting landowners who had no interest in carrying forward this NEC dispute with the municipality. NEC’s attempts to frustrate the efforts of other landowners to settle with the City served to prolong this proceeding. The City points out in their written submissions how NEC approached this appeal in a very different manner from any other landowner impacted by the KDA-wide policies.

## ORDER

[215] **The Tribunal will approve**, with modifications, those portions of the KDA Secondary Plan without yellow highlights and/or not specifically noted as deferred to the Phase 2 Hearing as set out in Appendix “A”, those portions of the KDA Zoning By-law without yellow highlights and/or not specifically noted as deferred to the Phase 2

Hearing as set out in Appendix “B”, and certain policies in the Part 1 OP as set out in Appendix “C”.

[216] **THE TRIBUNAL ORDERS** that the appeals of the KDA Secondary Plan are allowed in part and those portions of the KDA Secondary Plan without yellow highlights and/or not specifically noted as deferred to the Phase 2 Hearing as set out in Appendix “A” shall come into effect only as it applies to those lands within the KDA Secondary Plan area on the west side of Yonge Street, save and except the lands municipally known as 16 Naughton Drive.

[217] **AND THE TRIBUNAL ORDERS** that the appeals of the KDA Zoning By-law are allowed in part and those portions of the KDA Zoning By-law without yellow highlights and/or not specifically noted as deferred to the Phase 2 Hearing as set out in Appendix “B” shall come into effect only as it applies to those lands within the KDA Secondary Plan area on the west side of Yonge Street, save and except the lands municipally known as 16 Naughton Drive.

[218] **AND THE TRIBUNAL FURTHER ORDERS** that the Part I OP appeal by TSMJC is allowed in part and the Part I OP policies that were at issue in the Phase 1 Hearing are hereby approved in the form set out on Appendix “C”, with the appeals of the remaining policies set out in Appendix “C” having been withdrawn by TSMJC and thereby in full force and effect. TSMJC’s remaining appeal of the Part I OP shall remain in place on a site-specific or KDA-specific basis, as the case may be, in respect of the following policies in the Part I OP to be adjudicated as part of the Phase 2 Hearing: Policies 3.2.1(8), 3.2.1(9), 3.2.1.2, 3.2.2.2, 3.3.3.2(5) and (6), 3.4.1(39a), 5.2.3 and 5.22(3e).

[219] **AND THE TRIBUNAL FURTHER ORDERS** that the Tribunal’s Decision and Order arising from the Phase 1 Hearing is strictly without prejudice to the position any party may take in respect of any issue or matter which remains to be adjudicated during the Phase 2 Hearing. For greater certainty and without limiting the foregoing:

- 1) No party may take the position that because the Tribunal has resolved an issue and/or approved certain KDA Secondary Plan policies and Schedules or KDA Zoning By-law provisions and Schedules on a KDA-wide basis pursuant to the Phase 1 Hearing, that same issue cannot have a different resolution and/or different policies, provisions or Schedules approved on a site-specific or quadrant-specific basis as they apply to those lands that remain at issue in the Phase 2 Hearing;
- 2) The Tribunal's decision respecting those issues, policies, provisions and Schedules that were approved pursuant to the Phase 1 Hearing shall not be considered in any way to be a disposition of same for purposes of those matters remaining at issue in the Phase 2 Hearing;
- 3) No party shall be precluded from taking substantially the same position in respect of a given issue, policy, provision or Schedule remaining at issue on a site-specific or quadrant-specific basis in the Phase 2 Hearing as that party took in respect of the same issue, policy, provision or Schedule on a KDA-wide basis as part of the Phase 1 Hearing; and
- 4) A decision by any party to not raise a particular issue or not oppose a particular policy, provision or Schedule on a KDA-wide basis in the Phase 1 Hearing shall not in any way preclude that party from raising the same issue or opposing the same policy, provision or Schedule on a site-specific or quadrant-specific basis in the Phase 2 Hearing, provided that the matter has been determined to be a matter for adjudication in the Phase 2 Hearing and the party has expressly reserved the right to do so prior to or during the Phase 1 Hearing.

[220] **AND THE TRIBUNAL FURTHER ORDERS** that in the event there are issues arising from the implementation of this Order, the Tribunal may be spoken to.

[221] The Tribunal notes the Agreement of certain Parties, as follows, and endorses it

as part of this Order:

Policy 12.4.2 (3) transit, and new Policy 12.5.5, Subdivision of land, in OPA 8, the Yonge Bernard Secondary Plan, are approved as found in Exhibit 10. The parties confirm that neither of these policies is intended to nor will they have the effect of preventing a landowner in the KDA from obtaining development approvals for their lands (including but not limited to, all Planning Act and Condominium Act approvals or building permit issuance) for development generally in accordance with the Secondary Plan and Zoning By-law in the event that an Environmental Assessment for the Bernard Bus Terminal has not been commenced and completed and/or a cost sharing agreement has not been executed by the landowner.

*"G. Burton"*

G. BURTON  
MEMBER

*"D.S. Colbourne"*

D.S. COLBOURNE  
MEMBER

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**Local Planning Appeal Tribunal**

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## Yonge and Bernard Key Development Area Secondary Plan – September 22, 2020

### **Defer to Phase 2** – Yellow Highlighting

## **12.0 Yonge and Bernard Key Development Area Secondary Plan**

### **12.1 Introduction**

#### **12.1.1 Purpose**

The purpose of this Secondary Plan is to further articulate policies to guide the evolution of development in the Yonge and Bernard KDA Secondary Plan area as shown on **Schedule A10** (Secondary Plan Areas) to the Official Plan. The policies in this Secondary Plan are intended to supplement, not replace, the policies of the Part 1 Plan. To accurately understand and interpret all of the policies in this Secondary Plan, they must be read in conjunction with the Part 1 Plan.

This Secondary Plan further articulates the policy framework for enhancing the retail and commercial character of the Bernard KDA through the process of intensification. The policies guide and direct intensification of the Bernard KDA in a manner that will maintain and enhance the existing commercial and retail focus of the area by establishing a greater mix of uses through new development.

Furthermore, this Secondary Plan provides direction to support the continuation of the Bernard KDA's bus terminal function for the City and Region. Additionally, this Secondary Plan acknowledges that the Bernard KDA is an intensification area located within the Settlement Area designation in the Oak Ridges Moraine Conservation Plan and as such, it provides policy direction to ensure that future development is appropriate for this sensitive environment. In order to meet Regional Major Transit Station Area minimum density targets and targeted mix of land use in this area, at build-out this KDA should accommodate a minimum of approximately 4000 residents and 1300 jobs. Based on the planned density in this area, should new development reach the maximum density this Secondary Plan permits, it is estimated that at build-out, the Secondary Plan area may accommodate a population in the range of 10,600 - 11,300 people and employment of approximately 1,500 – 3,000 jobs. These estimates are approximate as assumptions on the average density of people and jobs anticipated were used.

#### **12.1.2 Vision**

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 complete 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

**Defer to Phase 2 – Yellow Highlighting**

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, 2019.

### **12.1.3 Principles**

Three principles reflect the values of the community, the inherent characteristics and qualities of the area, and the policy direction of the Part 1 Plan for the Bernard KDA. These principles set the framework that will guide the transformation of the Bernard KDA.

#### **1. Improve Connectivity**

- a. Provide a fine-grained, walkable street network to improve pedestrian and cycling infrastructure and access to public transit.
- b. Strengthen connections to the existing Greenway System and establish new linear parks and urban plazas to accompany redevelopment.
- c. Create an enhanced streetscape to frame new *development* by providing an improved streetscape environment for pedestrian activity and low impact development practices into new infrastructure.

#### **2. Accommodate Transition**

- a. Maintain and reinforce the stable *low density residential* neighbourhoods through built form policies to ensure intensification takes place in a way that protects and appropriately transitions to established residential neighbourhoods.
- b. Direct the majority of non-residential *development* to the intersection of Yonge Street and Bernard Avenue and along the Yonge Street Corridor to create a central node of commercial activity and public life at the heart of the Bernard KDA.

#### **3. Create Local Identity**

- a. Permit and encourage *development* that will create a vibrant, mixed-use destination that ensures compatibility with surrounding residential areas and that contributes to the animation of Yonge Street.
- b. Encourages the establishment of vibrant, active at-grade street frontages through the provision of *commercial, retail, or community* uses at grade in a mixed-use building format.

**Defer to Phase 2 – Yellow Highlighting**

## **12.2 Character Areas**

The vision for the Bernard KDA is to create a more cohesive mixed-use centre with a strong identity, a range of land uses, and new public open spaces, while maintaining and enhancing existing retail uses. To establish this vision, the Bernard KDA is envisioned to have three distinct character areas, each with its own built form and function.

### **Corridor Character Area**

The Corridor Character Area is planned along Yonge Street as shown on **Schedule 1** to this Secondary Plan. This area is envisioned to be comprised of a mix of uses and built forms, with the tallest and most dense buildings encouraged to front Yonge Street to reinforce the creation of a strong Yonge Street Corridor. This area will also provide pedestrian-oriented active at-grade street frontages that provide retail, commercial and other community services to strengthen Yonge Street's main street character.

### **Interior Character Area**

The Interior Character Area is generally planned between the Corridor Character Area and the Neighbourhood Edge Character Area as shown on **Schedule 1** to this Secondary Plan. This area is intended to provide a built form transition from the higher heights and densities along the Corridor to the Neighbourhood Edge Character Area, with a mix of uses such as at grade retail or live/work units to animate the streets and provide a range of housing forms such as townhouses, mid-rise and high-rise buildings.

### **Neighbourhood Edge Character Area**

The Neighbourhood Edge Character Area is generally planned along the existing lower rise residential areas as shown on **Schedule 1** to this Secondary Plan. This area is intended to provide a built form transition between the lower rise established neighbourhoods adjacent to the Bernard KDA and the higher intensity form in the centre of the KDA and along the Corridor.

#### **12.2.1 Mix of Uses**

This Secondary Plan provides policy direction to maintain and enhance the area's retail and commercial functions while enhancing the mix of uses to strengthen residential *development*, *office* and *major office* uses, as well as major retail development over the long-term.

1. *Development* shall be subject to the land use permissions of the Part 1 Plan.
2. In order to achieve complete community goals of this Plan, and the Region's mix of use target for the Major Transit Station Area in which this KDA is located, new *development* which includes one or more "Active At Grade Frontages" as shown on **Schedule 4** is encouraged to allocate a minimum of 15% of its total gross floor area to non-residential uses, such as commercial, retail, office or community uses. In the case of sites with multiple existing and/or planned buildings, the recommended minimum 15% gross floor area can be satisfied within each building or within one single building, or any combination thereof, provided that the overall non-residential gross floor area of the site is at least 15% of the total gross floor area.
3. In addition to the requirements for non-residential uses at grade in a mixed use building format on Yonge Street and Bernard Avenue as described in Policy 4.4.1(5) of the Part 1 Plan, *development* shall provide active at-grade street frontages through *commercial*, *retail*, or community uses at grade in a mixed-use building format along Yonge Street, Bernard Avenue, and along planned local and collector streets as

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shown on **Schedule 4**. *Live-work units* shall also be permitted on active at-grade street frontages along planned local streets.

4. *Development* on lands with existing non-residential uses such as *retail*, office, community, or *commercial* uses, including drive-thru facilities, shall increase or maintain the amount of gross leasable floor area that has been devoted to *those* uses as of November 2017, in order to enhance and support the mixed-use focus of the area.
5. *Development* shall be encouraged to include *office* or *major office* space located above the ground floor of buildings especially along Yonge Street and Bernard Avenue.
6. *Retail*, *commercial* or community uses shall also be encouraged to front onto linear parks and be in a more compact format.
7. Redevelopment within each of the quadrants within the KDA for a mix of uses will consider the variations of the existing conditions in its respective quadrant and the need to phase development accordingly.

### **12.2.2 Height**

As reflected by the three character areas, height and density will decline gradually towards the edges of the Bernard KDA boundaries, as distance increases away from the Yonge Street. The lowest and least dense buildings will be located in areas that about the Neighbourhood designation.

The height, density and angular plane policies of the Part 1 Plan and this Secondary Plan work together to prescribe an appropriate upper limit for the height of a building, to guide the scale of *development* envisioned in the Bernard KDA.

1. The height of buildings within the Neighbourhood Edge Character area shall be 3 storeys. The height of new buildings within the Interior Character and Corridor Character Area shall be a minimum of 4 storeys.
2. The tallest buildings will generally be concentrated at the Yonge Street and Bernard Avenue intersection and along the Yonge Street corridor.
3. A building may not penetrate the 45 degree angular plane measured from the closest adjacent Neighbourhood designation property line.
4. The maximum height of a building is dependent on not exceeding the allocated density of *development* within the density category of the site, and the application of the height and built form policies of this Secondary Plan and the Official Plan.

### **12.2.3 Density**

The Official Plan directs that the KDA achieve a minimum density of 2.5 FSI and a maximum density of 4.0 FSI overall. . In order to achieve the purpose, vision and principles for development of the Bernard KDA as set out in Sections 12.1.1, 12.1.2 and 12.1.3 of this Secondary Plan, density will be accommodated on specific

#### **How is Floor Space Index (FSI) determined?**

As defined in the Part 1 Plan, FSI is the ratio of gross floor area for all buildings on a site to its respective lot area. When calculating FSI, the City considers the total developable site area including any lands that may be dedicated for parkland or public streets.



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development sites and on a Secondary Plan-wide basis in accordance with **Schedule 2** to this Secondary Plan, and subject to compliance with all other policies of this Secondary Plan. Similar to the height strategy and as reflected by the three character areas, the highest densities are directed along the Yonge Street corridor, transitioning down to lower densities adjacent to the Neighbourhood.

1. The deployment of density within the Key Development Area is shown in categories on **Schedule 2** to this Secondary Plan.
2. The maximum site density for *development* within the Key Development Area is shown on **Schedule 2** to this Secondary Plan.
3. In the event a property boundary spans more than one density category, corresponding density permissions will be calculated based on the land area present within each category on a pro-rated basis in accordance with the overall land area of the property, recognizing that a property may have a density less than and/or greater than the density applicable to each land area.
4. Minor adjustments to the location of density boundaries shown on **Schedule 2** to this Secondary Plan shall not require an amendment to this Secondary Plan provided that the intent of this Secondary Plan is maintained.
5. In order to ensure that all development within the KDA is transit supportive, new *development* shall demonstrate that it can support a minimum of 200 residents and jobs per hectare for the development site. This generally translates to a minimum FSI of 1.5 for the site. This policy shall not preclude the redevelopment and expansion of existing uses within the KDA as permitted through the implementing Zoning By-law.

## **12.2.4 Built Form**

### **12.2.4.1 Street Orientation and Streetwall**

The location and orientation of buildings in relation to the street is important because of the impact on the street at the pedestrian level. A consistent and active street edge is desired.

1. *Development* shall generally orient and place buildings at or near the street edge to animate and enhance the pedestrian realm.
2. Where a continuous streetwall exists within or nearby the Bernard KDA, such as the podiums of buildings along the Regional Mixed Use Corridor, *development* shall generally be sited to maintain and enhance the streetwall.
3. To encourage pedestrian amenities at grade, partial recessing of buildings may be permitted.
4. In accordance with Policy 3.4.1(58) of the Part 1 Plan, *development* shall site towers of high-rise buildings to provide a minimum of half of the required tower separation distance from the adjacent developable lots as shown in Figure 1.

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5. Notwithstanding Policy 3.4.1(59) of the Part 1 Plan, residential buildings 10 storeys or less shall not be required to have a slender floorplate above the podium and policy 12.2.5.1 (6) regarding distance separation between mid-rise buildings shall apply.
6. *Mid-rise* buildings with windows facing a sideyard shall be designed to provide a sufficient separation distance of approximately 15 metres between both proposed and existing buildings and be sited to provide a minimum of half of the required separation distance from the adjacent developable lots to maintain light, view and privacy conditions.

**12.2.4.2 Angular Plane and Shadowing**

To ensure appropriate transition to the adjacent Neighbourhood designation and parks, angular plane and shadow analysis requirements have been established.

1. *Development* shall be subject to the angular plane requirements of Policy 3.4.1(55) and 4.4.1(10) of the Part 1 Plan.
2. In the event that the Neighbourhood designation immediately abuts the lot line of lands within the KDA, such as a side-lot or back-lot condition, the angular plane may be measured from 10 metres above grade at the lot line.
3. *Development* adjacent to an existing or planned park shown on **Schedule 3** to this Secondary Plan shall be required to demonstrate that any shadowing of parks is limited, so as to ensure adequate sunlight for plant growth and comfortable public recreational use in the park during the spring and summer seasons (March to September).

**12.2.4.3 Views and Gateway Features**

To create a unique sense of place, establishing an attractive urban appearance is key to transforming the Bernard KDA and creating a distinct destination. Establishing new focal points on buildings and properties will help to create a sense of place in the area.

1. *Development* shall provide visual focal points that contribute to a unified theme that may include coordinated building materials, streetscape elements, landscaped spaces, and/or public art.
2. The City's Public Art Policy shall be utilized to determine the provision of public art.
3. *Development* shall be encouraged to provide new public art within linear parks as shown on **Schedule 3** to this Secondary Plan.
4. Distinctive gateway buildings, features and amenity spaces shall be oriented towards the intersection of Yonge Street and Bernard Avenue, and *development* at this intersection shall be designed to include architectural features or materials that contribute to the sense of arrival such as distinct and prominent store fronts with awnings, stand-alone markers, public art, or landscape treatments.

**12.2.5 Community Services**

In accordance with Policy 4.1.1(2) of the Part 1 Plan, community services and facilities are encouraged throughout and adjacent to the Bernard KDA to support the needs of the growing centre. To support the

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residents of this area, community services such as schools, recreation centres, libraries, day nurseries, and emergency facilities shall be planned to keep pace with the growing population.

1. Community uses shall be accommodated in a more compact, urban form in accordance with Policy 3.1.7(4) of the Part 1 Plan; accordingly, Policy 4.1.1(4 - 7) do not apply to lands within the Bernard KDA.
2. Community uses shall be encouraged to co-locate on a site or within a building.

**12.2.6 Housing**

1. A minimum of 35 per cent of new dwelling units within the Bernard KDA shall be *affordable* in order to realize the City and Region's affordable housing targets, and to provide housing that is responsive to the needs of the City's residents.
2. *Affordable* housing shall comprise a mix and range of types, lot sizes, unit sizes, functions, and tenures to provide opportunity for all household types including larger families, seniors and residents with special needs.
3. *Medium density residential* or *high density residential development* on a site shall demonstrate how the minimum 35 per cent *affordable* housing target is met or exceeded over the long term on the site.
4. *High density residential development* on a site shall provide a minimum of 5 per cent of units that contain 3 or more bedrooms.
5. New purpose-built rental housing ~~accommodation~~ will be encouraged and promoted to address rental housing needs.

**12.3 Parks and Urban Open Space System**

The Bernard KDA parks and urban open space system is shown on **Schedule 3** to this Secondary Plan and is envisioned as a series of linear parks and urban plazas connecting to the larger Greenway System. The linear parks envisioned east and west of Yonge Street will strengthen connectivity and improve passive recreation. Urban plazas will contribute to the character of the Bernard KDA, and are encouraged in areas to complement and support places of greater activity.

This system of parks and urban open space is intended to support mobility and connectivity while improving the public realm and enhancing a sense of place within the Bernard KDA. Additionally, this system is designed to connect the urban environment of the Bernard KDA to the abutting Greenway System and its associated natural heritage features, which include watercourses and *significant woodlands*.

1. The parks and urban open space system shown on **Schedule 3** to this Secondary Plan identifies:
  - a. Greenway System lands along German Mills Creek and the tributary to the Rouge River;
  - b. Linear Parks
  - c. Enhanced Streetscape.
2. In addition to Schedule 3 parks and open spaces, *development* shall be encouraged to provide private urban plazas that are publicly accessible often referred to as POPS.

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3. The City may further articulate design elements that will be used to unify and create an identity for the parks and urban open space system.
4. Minor adjustments to the location of parks shown on **Schedule 3** to this Secondary Plan shall not require an amendment to this Secondary Plan provided that the intent of this Secondary Plan is maintained.

**12.3.1 Greenway System**

The German Mills Creek is located along the western edge of the KDA, and a tributary to the Rouge River is located along the northern edge of the KDA. These lands are designated Natural Core in the Part 1 Plan and contain key natural heritage and key hydrological features as defined by the Oak Ridges Moraine Conservation Plan (ORMCP), as well as hazard lands. Buffers from Natural Core areas are required to be more specifically defined through a Natural Heritage Evaluation at the time of *development*.

Section 3.2.1 of the Part 1 Plan directs that lands within the Greenway System shall be protected, enhanced, and actively maintained over the long term. These lands are envisioned to become a key connection point between the Bernard KDA and the larger Greenway System to the west and north of the KDA.

1. *Development* and *site alteration* shall be subject to section 3.2.1(1)(18) and section 4.10.5 (Natural Core) of the Part 1 Plan.
2. *Development* and *site alteration* adjacent to natural heritage or hydrological features shall be subject to the natural heritage evaluation requirements of section 3.2.1(1)(27) of the Part 1 Plan and appropriate buffers shall be established in accordance with the Part 1 Plan policies.
3. Notwithstanding Policy 3.2.2.3(7) of the Part 1 Plan, reductions may be permitted to the minimum protection zone (buffer) from the outer limits of *hazardous lands* and *hazardous sites* to the satisfaction of the City and the Conservation Authority to facilitate *development* or *site alteration*. However, no such reduction shall be permitted unless it is demonstrated through a Geotechnical Study, Natural Heritage Evaluation and/or Floodplain Assessment, prepared to the satisfaction of the City and the Conservation Authority, that the *development* or *site alteration* will not pose a risk to human health and safety or property, will not adversely impact upon adjacent properties or infrastructure, and will not have a negative impact on the adjacent *key natural heritage features* or *key hydrological features* and/or their functions.

**12.3.2 Parks**

A series of public gathering spaces will be created to enhance and complement existing public spaces. These spaces will serve as focal points and will enhance the sense of place within the KDA and over time, will contribute to creating a continuous network of public spaces for the pedestrian and cyclist.

**Linear Parks**

Linear Parks are shown on Schedule 3 to this Secondary Plan. Linear parks are public parks intended to provide connections between parks and other community destinations. Linear parks can also be sited to act as a physical, green separation between abutting land uses.

1. Linear parks are planned in the southeast, and southwest quadrants to improve block permeability and strengthen multi-modal connectivity while enhancing the open space within the KDA.

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2. The following criteria shall apply to the location and siting of linear parks:
  - a. Linear parks shall be sited to facilitate pedestrian and cycling connections between destinations such as *commercial* and *retail* areas and transit stations.
  - b. The location of linear parks shall be used to create a visual impression, where applicable, or add to the connectivity of the broader parks and urban open space system.
  - c. To provide for appropriate active transportation and recreation opportunities and to support the scale of *development* permitted:
    - i. The minimum width of the linear park within the south-east quadrant shall be 23 metres, and
    - ii. The minimum width of the linear park within the south-west quadrant shall be 15 metres.

**12.3.3 Urban Plazas**

Urban plazas are privately-owned, publicly accessible spaces that are intended to support areas with a high level of pedestrian activity. Urban plazas are a key component to enhancing the identity and connectivity of the Bernard KDA. Over time, these spaces are intended to function as landmarks that people meet in or use for wayfinding or active transportation purposes.

1. The following criteria shall apply to the location and siting of new urban plazas:
  - a. Urban plazas shall be sited to reinforce a high quality, formalized relationship with adjacent built form, uses and the streetscape.
  - b. Large sites may include a single, large scale urban plaza or a series of smaller urban plazas.
  - c. The location of urban plazas shall be used to create a visual impression or add to the connectivity of other parks or urban open spaces.

**12.3.4 Enhanced Streetscape**

The enhanced streetscape is shown on Schedule 3 to this Secondary Plan. The Enhanced Streetscape is intended to frame new *development* and provide an important and welcoming streetscape environment to allow for cycling infrastructure, wider sidewalks, green stormwater infrastructure, permeable paving and the provision of flexible seating. The enhanced streetscape also presents the opportunity to integrate low impact development practices into new infrastructure.

1. An enhanced streetscape is planned in all quadrants of the Bernard KDA to strengthen the appearance and health of the current street network to support the plan's vision for a walkable and environmentally sustainable community.
2. The enhanced streetscape shall be comprised of the following zones, as shown on Appendix 1 to this Secondary Plan:
  - a. An amenity zone, including enhanced tree plantings, street furniture, enhanced lighting, bio-swales, and/or enhanced landscape plantings, as appropriate.
  - b. A pedestrian travel zone, including a continuous 2 metre minimum and 3 metre desired pedestrian space and enhanced paving patterns and/or permeable paving, as appropriate.

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- c. A spill out zone, including building entries and displays, awnings, public art, landscaping or plazas, as appropriate. Front yard setback requirements will provide for wider sidewalks and contribute to the streetscape enhancements.
3. *Development* shall provide enhanced streetscape components where identified on **Schedule 3**. Enhanced streetscape components may be provided within and/or adjacent to the public right of way.
4. Streetscape design within the enhanced streetscape shall reflect the mixed use character of the KDA, and shall complement adjacent land use and built form.
5. Examples of enhanced streetscape components are provided in **Appendix 2**. The City may consider alternative enhancements where it is demonstrated that the proposed enhancement improves walkability and/or provides suitable environmental benefits.

## **12.4 Connectivity and Mobility**

The vision for the Bernard KDA is to provide for a more connected and multi-modal transportation system. By creating smaller development blocks with the introduction of new streets, more opportunities for movement are provided with less reliance on the arterial streets for site access within the Bernard KDA. Creating a more walkable block structure and introducing a finer grain street network is fundamental to the vision for the Bernard KDA. In accordance with Policy 3.5.1(15) of the Part 1 Plan, which identifies the long-term target transit modal split of 50% in the Regional Centres and Regional Corridors during peak periods, the policies in this section are designed to encourage modal shifts away from single occupant vehicles in favour of more sustainable transportation measures to ensure maximum benefits from transit and active transportation investments. Development levels beyond those projected by this Plan are likely to jeopardize reasonable operations of the existing and planned street network.

1. A fine-grain grid of streets and blocks is fundamental to the vision for the Bernard KDA. The street network and block structure shown on **Schedule 4** to this Secondary Plan has been planned to:
  - a. Introduce more options for moving around the area with less reliance upon Yonge Street;
  - b. Create shorter, more pedestrian-oriented blocks that provide logical and direct connections within the Bernard KDA and between the area and the surrounding Neighbourhood through the provision of pedestrian and cycling connections and new public streets to support active transportation and transit use;
  - c. Support access to the bus rapid transit stations;
  - d. Ensure connectivity and permeability within the Bernard KDA and to the adjacent Neighbourhood;
  - e. Minimize walking distances between the *retail, commercial, office, major office* and community uses within the Bernard KDA and the surrounding Neighbourhood;
  - f. Minimize vehicular access onto arterial streets to maximize their efficiency; and

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- g. Ensure vehicular interconnections between blocks to connect to public roadways to maximize their efficiency, where appropriate.
2. Transportation demand management (TDM) will be critical to achieve a balanced transportation system in the Bernard KDA that provides and promotes attractive modes of travel other than the automobile. Section 12.4.3 of this Secondary Plan outlines the approaches the City shall utilize to implement TDM, in cooperation with York Region and landowners.
3. The street network shown on **Schedule 4** to this Secondary Plan has been evaluated as it relates to the projected population and employment outlined in Section 12.1.1 of this Secondary Plan. While the planned Regional road improvements and proposed street network, coupled with TDM strategies and other transit initiatives, is sufficient to keep pace with the projected population and employment growth, a *development* proponent may be required to monitor traffic conditions and modal splits, to prepare detailed studies to address area-specific or site specific transportation issues.

**12.4.1 Active Transportation**

The Bernard KDA is envisioned as a cycling and pedestrian-oriented, compact and mixed-use environment. A key component of realizing this vision is to promote active transportation as a desirable way to travel within the Bernard KDA. Fostering active transportation connections adds to the identity of the Bernard KDA as a unique place within the City that people will want to visit. This Secondary Plan outlines the active transportation framework envisioned for the area.

**Pedestrian and Cycling Connections**

Pedestrian and cycling connections provide an opportunity for a finer-grained active transportation network. Portions of the Bernard KDA provide opportunities to create pedestrian-scaled blocks, while other portions have larger blocks where opportunities exist to improve connections. Where feasible, cycling facilities shall have their own dedicated right-of-way to increase the level of safety and comfort for cyclists.

1. The Bernard KDA shall be planned to establish a well-connected system of pedestrian and cycling routes and streets as shown on **Schedule 4** to this Secondary Plan.
2. *Development* in the Bernard KDA shall provide for a 2 metre minimum pedestrian space on both sides of the streets as shown on **Schedule 4**, and 3 metre pedestrian space is desired along Yonge Street.
3. *Development* shall incorporate or enhance the planned pedestrian and cycling connections shown on **Schedule 4** to this Secondary Plan.
4. Cycling facilities are proposed along Bernard Avenue, Canyon Hill Avenue, Leyburn Avenue, and Yorkland Street. Cycling facilities are planned to be accommodated on streets and linear parks shown on **Schedule 4** to this Secondary Plan.
5. Pedestrian connections within and between sites and cycling connections shown on **Schedule 4** shall be designed to incorporate:
  - a. Appropriate pedestrian-scaled lighting;



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- b. Landscaping, where possible, that is consistent with Crime Prevention Through Environmental Design (CPTED) principles of design and Accessibility for Ontarians with Disabilities Act (AODA) requirements;
  - c. Appropriate signage with clear and legible directions;
  - d. Sufficient width to provide sky-view within the connection, and
  - e. Connections to destinations such as public trails, parks, urban plazas, transit stations, community uses and the adjacent Neighbourhood. These connections include but are not limited to those identified as “Potential Trails” on Schedule 3.
6. The York Region Transportation Master Plan, the City’s Pedestrian and Cycling Master Plan and the City’s Urban MESP shall be utilized to plan for pedestrian and bicycle connections.

**Bicycle Parking and Other End-of-Trip Facilities**

7. *Development* shall provide street furniture or end-of-trip cycling facilities, including but not limited to secure, indoor bicycle parking, shower and change facilities, long-term bicycle parking at grade, and other amenities in accordance with the City’s Zoning By-law and approved Sustainability Metrics.
8. Adequate and sheltered public bicycle parking shall be provided, where feasible, in accordance with the City’s Zoning By-law and approved Sustainability Metrics.
9. Short-term (visitor) bicycle parking facilities shall be located near the entrance of the building, where feasible, and to the satisfaction of the City.

**12.4.2 Transit**

The Bernard KDA is well served by local and regional transit. A supportive transit system encourages ridership. Transit riders often walk or bike to or from transit stops, providing physical activity. Bus Rapidway Transit (BRT) featuring dedicated bus lanes will run along Yonge Street through the Bernard KDA. As Yonge Street forms the spine of Richmond Hill, the planned BRT service will provide an important rapid transit connection for the City. Local York Region Transit (YRT) services will continue to evolve with growing transit demands and the Bernard Bus Terminal will maintain its function as a transit hub for several YRT routes.

**Bus Rapidway Transit (BRT)**

BRT stations are planned at the intersection of Yonge Street and Bernard Avenue in the Bernard KDA as identified on **Schedule 4** to this Secondary Plan.

1. *Development* shall support transit by:
- a. Ensuring a mix of uses consistent with the Part 1 Plan, including employment uses to draw peak ridership in the morning and afternoon and destination uses such as *retail, commercial*, and arts and cultural facilities to draw ridership during off-peak hours.
  - b. Siting entrances close to the edge of the right-of-way and providing landscaping that animates the pedestrian realm, where appropriate.



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- c. Ensuring a transit-supportive built form and site density in accordance with Schedule 2 to this Secondary Plan.
  - d. Implementing the finer-grained street network as identified in this Secondary Plan.
  - e. Implementing appropriate on site connections to the pedestrian/cycling network.
2. The City will work with York Region to ensure that *development* is well connected and integrated into the planned pedestrian and cycling network along Yonge Street.

**Bernard Bus Terminal**

3. *Development* within the KDA shall support the potential redevelopment of the Bernard Bus Terminal as an integrated use serving the Bernard KDA including the potential configuration of bus facilities integrated into the development of the future street network and/or integrated into a mixed-use building within the KDA. The ultimate size and location of the Bus Terminal shall be determined in consultation with the transit authority and all other stakeholders, ensuring maximum utility and efficiency of service over the long term in compliance with this Secondary Plan and through an environmental assessment, if one is required. Any additional land that is required to support the transit terminal shall be acquired by the Region, as permitted by the *Planning Act*. For greater clarity, the owner providing the land to the Region for the Bernard Bus Terminal shall be reasonably compensated for the fair market value of the land provided using all funding mechanisms available, including but not limited to cost sharing agreements amongst all owners of land within the KDA.

**12.4.3 Transportation Demand Management (TDM)**

The goal of Transportation Demand Management (TDM) is to reduce the amount of travel by decreasing the need to travel, shifting travel away from the single occupant vehicle, and peak period travel. This Secondary Plan facilitates TDM by planning for appropriate *intensification* and a mix of uses that supports increased transit use. An improved pedestrian environment, pedestrian and cycling connections, and a system of parks and urban open spaces will provide more travel options and encourage more people to walk or cycle to shops, services and transit stops. Municipal TDM opportunities within the Bernard KDA will be explored to provide further support for end of trip mobility options.

1. The City shall encourage and support implementing car-share facilities in the Bernard KDA.
2. The City shall encourage and support implementing bike-share or other micro-mobility facilities to offer opportunities for short distance trips to be made by employees or residents.
3. The City may introduce public bicycle parking within the enhanced streetscape.
4. The City may establish a system of thematic wayfinding signage for the Bernard KDA to emphasize the proximity of destinations within each quadrant and serve as a branding opportunity.
5. *Development* shall be required to prepare and implement a TDM Strategy to the City's satisfaction, which must incorporate, but shall not be limited to, any or all of the following:

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- a. Cycling infrastructure and end-of-trip infrastructure such as secure bicycle storage and shower and change room facilities;
- b. Secure public bicycle parking;
- c. Bicycle maintenance facilities;
- d. Dedicated cycling routes internal to the site to and from key destinations;
- e. Connections to existing municipal bicycle network;
- f. Pedestrian amenities, such as treed sidewalks, benches and marked crossings;
- g. Continuous pedestrian linkages to minimize pedestrian walking distances;
- h. Functional building entrances oriented to locations where pedestrians, cyclists, and transit users arrive such as a street, park, or urban plaza;
- i. Subsidized transit passes or pre-loaded transit cards for new residents and/or employees;
- j. Pick-up/drop-off spaces;
- k. Preferential carpool parking;
- l. Varying hours of work to reduce peak hour loads;
- m. Commitment to participate in residential or workplace TDM program;
- n. Commute trip reduction programs;
- o. Maximum parking rates;
- p. Dedicate spaces to priority uses;
- q. Unbundle parking spaces from lease agreement;
- r. Transportation marketing services;
- s. The TDM Strategy may also include, but shall not be limited to, any of all of the following:
  - i. Additional long-term bicycle parking (beyond minimum requirements);
  - ii. Improved access to long-term bicycle parking;
  - iii. Enhanced short-term bicycle parking;
  - iv. Public bicycle share spaces;
  - v. Shared bicycle fleet and subsidization of the service provider to encourage expansion to new areas;

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- vi. Weather protection along street frontages adjacent to transit stops;
  - vii. Shuttle bus service, provided and operated by the development;
  - viii. Employer shuttles or vanpools supported by preferential parking;
  - ix. Electric vehicle charging stations or rough-ins;
  - x. Paid parking for non-residential uses;
  - xi. Other innovative strategies (i.e. valet, off-site parking, agreements, rented parking);
  - xii. Location of off-street parking / overflow parking plan;
  - xiii. Technology that displays general transit information (e.g. information to resident, employees and visitors about transit, rideshare and taxi services, bicycling facilities, and overflow parking options);
  - xiv. Technology that displays real-time transit information (e.g. next vehicle arrivals, current schedules, detours, etc.);
  - xv. Multimodal wayfinding signage;
  - xvi. Other measures that may be identified.
6. In addition to the Transportation Demand Measurements outlined above, reductions in parking supply may be permitted through:
- a. The provision of publicly accessible car-share parking spaces with implemented car-sharing programs, to the satisfaction of the City of Richmond Hill.
  - b. The consideration of shared parking supply between office and residential visitor uses situated in the same parking facility under one property owner.

Such reductions shall be permitted at the sole discretion of the City; upon the provision of a satisfactory Transportation Planning Study and Transportation Demand Management Strategy; and in accordance with rates and formulas prescribed in the City's most current Parking Strategy.

#### **12.4.4 Public Streets**

Streets represent important public spaces and aid in shaping the experience and identity of a place. More than a road to move vehicular traffic, a street defines and considers all of the elements that combine to create the quality and character of the "urban room" that contains the street: sidewalks, trees, lighting, furnishings, signage and the character and quality of the buildings that define the streetwall. Given that a culture of walking and cycling is fundamental to achieving a successful Bernard KDA, streets must be designed to balance pedestrian, cycling, transit, land use and civic functions, in addition to the movement of vehicles.

1. The intent of the hierarchy of streets shown on **Schedule 4** to this Secondary Plan is to identify the characteristics that will be fostered to create pedestrian and cycling oriented streets. Additional private streets and pedestrian paths are encouraged to be provided in order to supplement the planned network

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for this area. The cross-sections shown in **Appendix 1** to this Secondary Plan illustrate the intended character shall be utilized to inform detailed design.

2. Streetscapes shall be designed with high-quality design elements to improve the character of the Bernard KDA and enhance the appearance, health, and enjoyment of the urban landscape.
3. The streets shown on **Schedule 4** to this Secondary Plan include existing and planned arterial, collector and local streets that are required to support the long term development of this area.
4. In addition to streets, the Bernard KDA includes pedestrian and cyclist connections.

**12.4.4.1 Regional Arterial Street**

Yonge Street is an existing arterial street and will remain a primary street framed by buildings along the majority of its length through the Bernard KDA. Vehicular access to Yonge Street shall be limited and generally provided from collector or local streets where access consolidation is not feasible, to the satisfaction of York Region.

1. Yonge Street shall have a maximum right-of-way width of 45 metres.
2. Characteristics for Yonge Street in the Bernard KDA include:
  - a. Dedicated bus lanes in the centre median.
  - b. Two vehicle travel lanes in each direction.
  - c. Left turn lanes at signalized intersections.
  - d. 2 metre minimum and 3 metre desired pedestrian space.
  - e. The pavement is marked at all signalized intersections to define pedestrian cross walks.
3. Pursuant to a comprehensive area-wide parking strategy, the City will work cooperatively with York Region to investigate the provision of on-street parking in off-peak hours.
4. *Development* shall be designed to protect for a potential new signalized intersection on Yonge Street, north of Bernard Avenue, subject to the review of York Region.

**12.4.4.2 Collector and Local Streets**

Collector and local streets provide linkages within the Bernard KDA or to the adjacent Neighbourhoods as described in the Part 1 Plan. ~~Collector and local streets are shown on **Schedule 4** to this Secondary Plan.~~

1. Characteristics for collector and local streets include:
  - a. Sidewalks on both sides;
  - b. Cycling facilities.
  - c. On-street parking on one side, and on two sides where feasible. Permeable paving may be included, as appropriate.

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- d. Enhanced streetscape components as per section 12.3.3~~3~~<sup>4</sup>.
2. Collector and local streets for the Bernard KDA are conceptually shown on Schedule 4 to this Secondary Plan.
3. The location, alignment, layout and width of the streets may differ from what is shown conceptually on Schedule 4, and may be adjusted to address existing uses, access and easement agreements.
4. Minor adjustments to the location of streets shown on **Schedule 4** to this Secondary Plan shall not require an amendment to this Secondary Plan provided that the intent of this Secondary Plan is maintained.
5. Collector streets and local streets shall be designed in accordance with section 3.5.5 and 3.5.6 of the Part 1 Plan.
6. New collector and local streets shall be acquired through the development process to provide for a finer grained street network in accordance with the Part 1 Plan.
7. The use of a stratified public street or private street with public access easement for vehicles, pedestrians, and cyclists may be considered in lieu of conventional public street provide that:
  - a. There is a Council approved policy permitting the use of a stratified public street or private street for such purpose;
  - b. It can be demonstrated that the provision of a conventional public street would adversely affect the developability of a site;
  - c. It protects, and does not impede, the City's ability to operate, service, maintain, and replace infrastructure, services and utilities in the stratified public or private street; and,
  - d. It maintains the functionality and characteristics listed in section 12.4.4.2.1 and is designed in accordance with section 12.4.4.2.5.
8. The appropriateness of a stratified public street or private street with public access easement for vehicles, pedestrians, and cyclists shall be determined during the detailed planning phases subject to the requirements outlined in 12.4.4.2.7
9. Naughton Drive currently has restricted access to Yonge Street. As *development* occurs along the northwest quadrant of the KDA, and the new Abitibi Road extension is secured, the portion of Naughton Drive from Abitibi road to Yonge Street may be removed and become developable land.

**12.4.5 Private Streets**

1. Private streets shall be designed to function and appear the same as public streets, including being designed in accordance with the City's design standards and providing connectivity between sites.

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**12.4.6 Access**

1. Where feasible, *development* shall consolidate accesses between properties to minimize the impact of servicing and loading. The need for interconnection between properties shall be determined by the City and/or Region, including public easements to allow cross property access.

**12.4.7 Encroachments**

1. The following temporary or semi-permanent encroachments into the public realm, including onto or over public sidewalks, or parks, may be considered subject to appropriate approvals by the City or York Region:
  - a. Awnings;
  - b. Outdoor cafés and seating for restaurants; and
  - c. Semi-permanent structures, including entry features, arcades and perpendicular signage attached to the building.
2. Any permitted encroachment, whether temporary or semi-permanent, shall be established by the City on a site-by-site basis through the City's encroachment permit application process.

**12.4.8 Parking**

Parking infrastructure is a component of the overall transportation system and is used to support the vision for the Bernard KDA as a mixed-use, pedestrian-oriented area. Parking rates and related requirements shall be specified in the implementing zoning by-law and shall be informed by the City's Parking Strategy.

1. The City, in cooperation with York Region, shall investigate the opportunity and appropriateness of implementing on-street lay-by parking on Yonge Street and local and collector streets.
2. *Development* shall locate parking below grade or where it is not feasible, in structured or surface parking at the rear or side of a site in accordance with Policy 3.4.1(49) and (50) of the Part 1 Plan. Parking for new *major retail development* shall be required to locate below grade or where it is not feasible, in structured parking integrated at the rear or side of a building in accordance with Policy 4.4.2(2) of the Part 1 Plan.
3. Where permitted, above grade structured parking shall be integrated within the podium of the building, subject to Policy 12.4.8.4, and where feasible, the ground floor portion of the podium that faces a street or open space shall be occupied by *commercial, retail* or community uses, to provide at grade animation of these spaces.
4. The façade of an above-grade parking structure shall be well designed to appear as a fenestrated building, with well-articulated openings and high-quality materials, subject to review through the development process.
5. In order to reinforce streets as important public spaces, the locations of parking, driveways, service entrances and loading areas shall be carefully considered and coordinated with the locations for pedestrian entrances. Parking facilities, service access points, loading areas and any visible waste containers and/or mechanical equipment should be located in a manner that has a minimal physical impact on sidewalks and

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accessible open spaces. *Development* shall, where feasible, provide shared access at the side and/or rear of buildings to aid in providing for these functions.

## **12.5 Implementation**

### **12.5.1 Community Improvement Plan**

1. Lands within the Bernard KDA may be identified as part of a Community Improvement Plan Area.
2. The City shall consider the preparation of a Community Improvement Plan or a series of Community Improvement Plans, in order to identify public realm improvement priorities and establish programs to assist the private sector in improving their properties.
3. The following programs may be considered by the City as part of the Bernard KDA Community Improvement Plan:
  - a. A program to promote *office* or *major office* uses to locate within the Bernard KDA.
  - b. A program to promote enhanced landscape treatments to improve the image of the Bernard KDA.
  - c. A program to promote *affordable* housing.
  - d. Other programs as determined by Council.

### **12.5.2 Monitoring**

1. The City shall monitor key statistics on an ongoing basis to determine the following:
  - a. Population and employment growth within the area;
  - b. The uptake of the density distribution shown on **Schedule 2** of this Secondary Plan;
  - c. The mix of uses within the area;
  - d. The amount, range, and size (total gross floor area) of non-residential uses;
  - e. Travel characteristics, modal split, and implementation of transportation demand management measures;
  - f. The supply and demand of vehicular and bicycle parking;
  - g. The provision of municipal infrastructure to support growth within the KDA; and
  - h. The percentage of new *affordable* housing units across the Bernard KDA.

Key statistics may include gross floor area, *dwelling units*, and number of people and jobs added within the Secondary Plan Area.

2. Over time, the City shall monitor if and how *development* contributes to the achievement of the vision, principles, and policies of this Secondary Plan, and identify emerging priorities and initiatives to ensure the policies of this Secondary Plan remain relevant.

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**12.5.3 Land Acquisition**

1. The City may acquire lands for public uses, such as: parks and environment protection, parking or access, (whether for streets or parking facilities), through one or more of the following mechanisms:
  - a. Acquisition in accordance with Provincial legislation;
  - b. Working with the Provincial Government, York Region, and Toronto and Region Conservation Authority to acquire land;
  - c. Encouraging landowners to dedicate or bequeath lands;
  - d. As a condition of *development* approval;
  - e. Land exchanges with the City and/or other landowners;
  - f. Easements registered on title;
  - g. Public purchase; and
  - h. Any other available means.

**12.5.4 Zoning By-laws**

**12.5.4.1 General**

1. An Implementing Zoning By-law for the Bernard KDA shall provide the appropriate zoning provisions and *development* standards to implement the policies of the Bernard KDA Secondary Plan.
2. Any reference to the Zoning By-law within this Secondary Plan should also be interpreted to apply to a Development Permit By-law in accordance with Section 5.16 of the Part 1 Plan, should the City adopt such a by-law for this area.

**12.5.4.2 Holding By-law**

The density allocations in Schedule 2 of this Secondary Plan are premised on the provision of an appropriate mix of uses and the servicing required to support the cumulative growth forecasted for this KDA. From a transportation perspective, in order to accommodate a combined population in excess of 10,400 residents and jobs, the analysis assumes that certain modal splits within the KDA and outside of the KDA will be achieved, and that the following Region of York Capital projects are completed to support the full buildout of the KDA:

- a) Highway 404 HOV expansion (Highway 7 to Stouffville Road)
- b) Yonge Street Rapidway (Highway 7 to 19<sup>th</sup> Avenue)
- c) Leslie Street road widening (19<sup>th</sup> Avenue to William F. Bell Parkway)
- d) Elgin Mills Road East grade separation over the CN Rail Corridor
- e) Elgin Mills Road West road widening (Bathurst Street to Yonge Street)
- f) 19th Avenue road widening (Bayview Avenue to Leslie Street)
- g) Bathurst Street road widening (Major MacKenzie to Gamble Road)

While at the time of approval of this Secondary Plan most of these projects are under construction, the City will need to monitor the status of the remaining projects to ensure that future growth within the KDA is supported



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by the identified transportation infrastructure. Similarly, the City will need to monitor the achievement of modal splits through the development approval process.

From a mix of use perspective, the analysis assumes that there is an increase in non-residential GFA to support achievement of transportation modal splits, and at a minimum, there is no net loss of non-residential GFA.

Accordingly, *development* shall be subject to a holding by-law to ensure orderly development within the KDA.

1. The lifting of the “H” will be subject to a requirement that a *development* proponent prepare and submit, in addition to all other studies and reports required for a complete application, a transportation planning study which demonstrates to the satisfaction of Council or other approval authority that the proposed *development* meets all of the required conditions prescribed for the applicable development scenario contained in the following table:

Scenario	The overall KDA combined population and jobs (existing and approved development <sup>1</sup> ) along with the proposed <i>development</i> is:	And, the Regional Projects (a-f) listed above are constructed	And, the KDA & Yonge Corridor minimum modal split <sup>2</sup> is...	And the minimum modal splits <sup>2</sup> along Bayview and Bathurst corridors are...	And, Regional Project (g) <sup>3</sup> listed above is included in the Region of York Capital Plan:
A	Under 10,400 residents and jobs combined.	n/a	n/a	n/a	n/a
B	Between 10,400 and 12,650 residents and jobs combined.	✓	30% min.	20% min.	n/a
C	Between 10,400 and 12,650 residents and jobs combined.	✓	17% min.	11% min.	✓
D	Greater than 12,650 residents and jobs combined.	✓	30% min.	20% min.	✓

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<sup>1</sup> “Approved development means development for which a building permit has been issued by the City to allow construction to proceed.

**<sup>2</sup>Clarification on Modal Split**

Modal split can be calculated using TTS data, transit ridership data and auto trips and applied on a screenline approach, individual corridor and or traffic zones. If identified modal split targets have not been achieved other suitable measures can be used to demonstrate increase in non-auto travel or increase in road capacity.

**<sup>3</sup>Regional Project (g)**

Should a future Regional Municipal Comprehensive Review or Transportation Master Plan update indicate this is improvement is no longer required this item will be removed from the Holding Provision.

2. The lifting of the “H” will be subject to a requirement that prior to the approval of any proposed new development, the proponent demonstrate to the satisfaction of Council that a mix of land uses is provided on the site, including plans that will ensure the replacement of any existing non-residential gross floor area which would be displaced as part of the proposed development, in accordance with policies provided in Section 12.2.1.

**12.5.5 Subdivision of Land**

1. Subject to Policy 12.4.2, where a *development* application is proposed on lands within the Secondary Plan that include a planned street, linear park, and/or the Bernard Bus Terminal (shown in its current location on Schedules 3 and/or 4), the City may require that the proponent submit an application for Plan of Subdivision, or where deemed appropriate, an application for consent to sever, where permitted by the Planning Act. Where an application for a Plan of Subdivision or consent to sever is required, the City or other approval authority may require that lands be conveyed to the City and/or Region for such purposes as authorized by Section 51(25) of the Planning Act, so as to ensure that the planned infrastructure required to support growth within the KDA is achieved.

**12.5.6 Site Plan Control**

1. As part of the Site Plan Control process, the City may include conditions of approval requiring reciprocal easements in perpetuity between properties or public access easements to ensure connectivity is maintained between *development* that fronts onto private streets.

**12.5.7 Servicing**

The City's Urban MESP completed in 2014 determined that the City's existing water distribution system is generally sufficiently sized to accommodate the planned intensification within the Bernard KDA. This analysis was confirmed through the background work conducted prior to the adoption of this Secondary Plan. Further refinements to the system will be required at the time of development when additional site plan information is available.

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The City's 2014 Urban MESP did not identify any issues regarding the capacity of the existing storm sewer network within the area of the Bernard KDA. With the development of new streets, additional storm sewers will be required to safely convey the runoff from the roadways to an appropriate outlet and to provide safe access of the roadways. The proposed storm sewers will be designed as per the City's standards.

The sanitary servicing analysis indicates that there is sufficient existing and future reserve capacity in the current sanitary collection system to service the northeast, northwest and southeast quadrants of the KDA. The existing sanitary sewer (Reach C) servicing the southwest quadrant of the KDA will need to be upgraded to accommodate growth within this portion of the KDA. The capacity analysis will be refined at the time of development, based on additional site plan information and based on the recommendations of the Urban MESP Update Study.

1. *Development* shall be required to submit a Functional Servicing Report in accordance with the requirements of Policy 5.3(7)(d) of the Part 1 Plan to demonstrate conformity with the recommendations of the City's Urban MESP. The Functional Servicing Report shall, without limitation, address adequacy of the storm, sanitary and water systems, stormwater management including *development* impacts to groundwater and surface water resources. The Functional Servicing Report shall include supporting Geotechnical, Hydrogeological and Water Balance studies in accordance with the recommendations of the City's Urban MESP. The Geotechnical and Hydrogeological Report may be subject to peer review to strengthen the level of oversight of the development process.
2. *Development* shall incorporate sustainable water conservation technologies and low impact development measures for stormwater volume control in accordance with the City's approved Sustainability Metrics and the City's Urban MESP.
3. Should Council approve a Community Energy Plan for District Energy in the Bernard KDA, *development* shall design new buildings for district-energy readiness in accordance with the City's Community Energy and Emissions Plan.

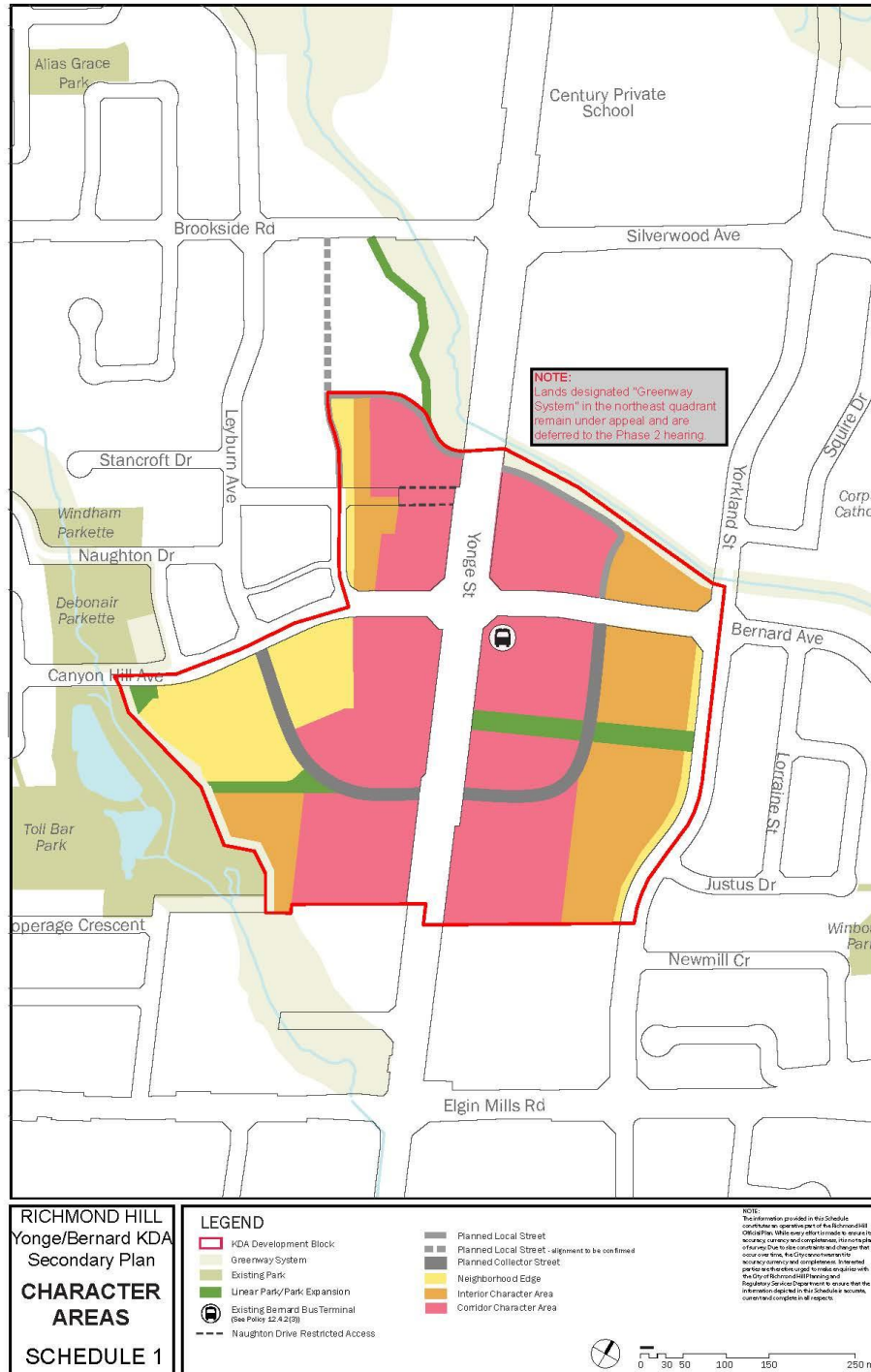
**12.5.8 Bonusing (Bonusing By-laws)**

1. Notwithstanding Section 5.5, Bonusing By-laws are not permitted for *development* within the KDA.

NOTE: This policy implements Bill 108 changes to the Planning Act. On a date to be prescribed by the Planning Act or once the City's Community Benefits Charge By-law is in effect (whichever is sooner) section 5.5 of the Part 1 Plan will no longer be in effect. The density and height permissions represent the maximum growth for this KDA, and have been developed and approved with the understanding that the Planning Act as amended by Bill 108 is in full force and effect.

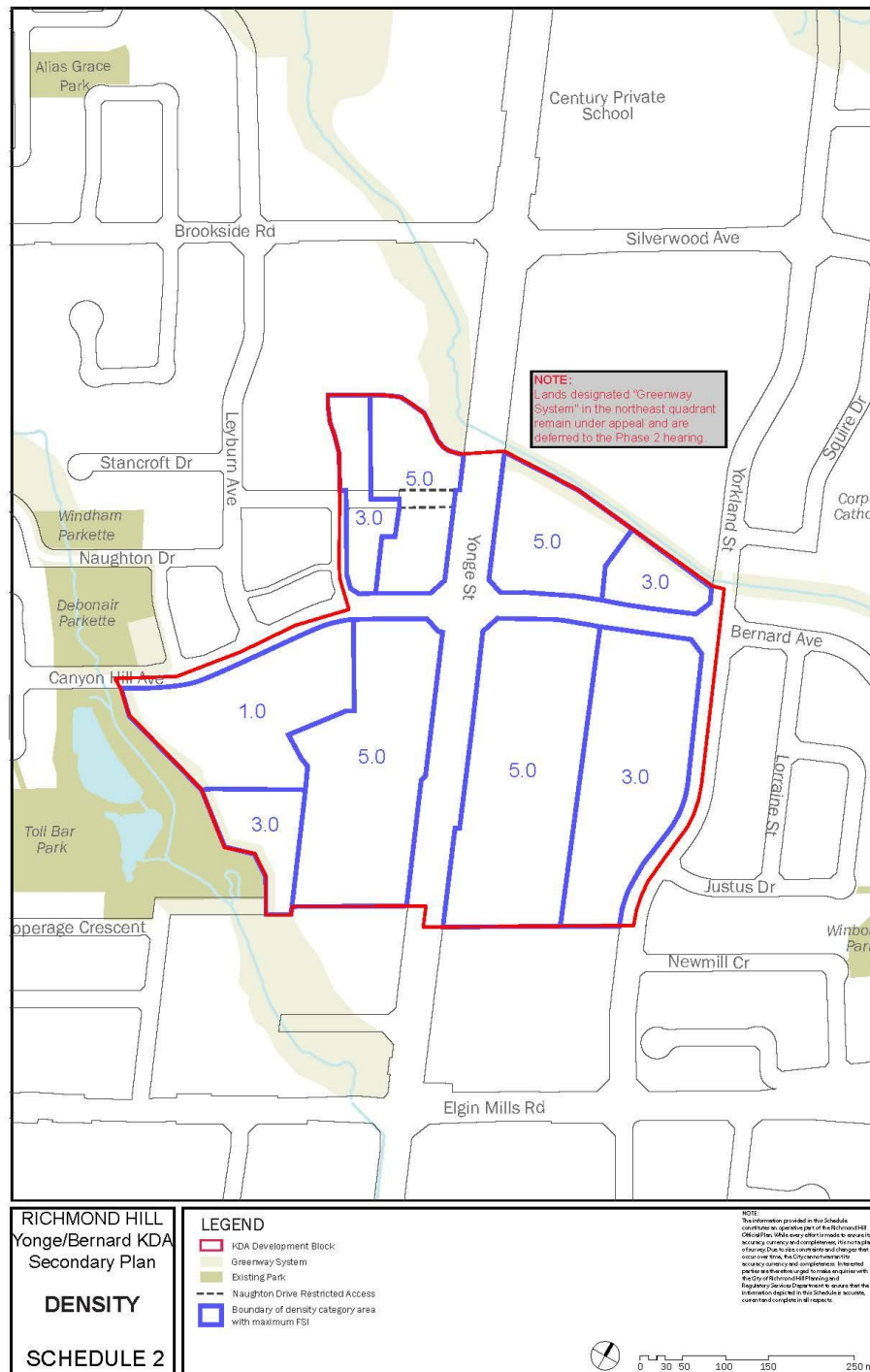
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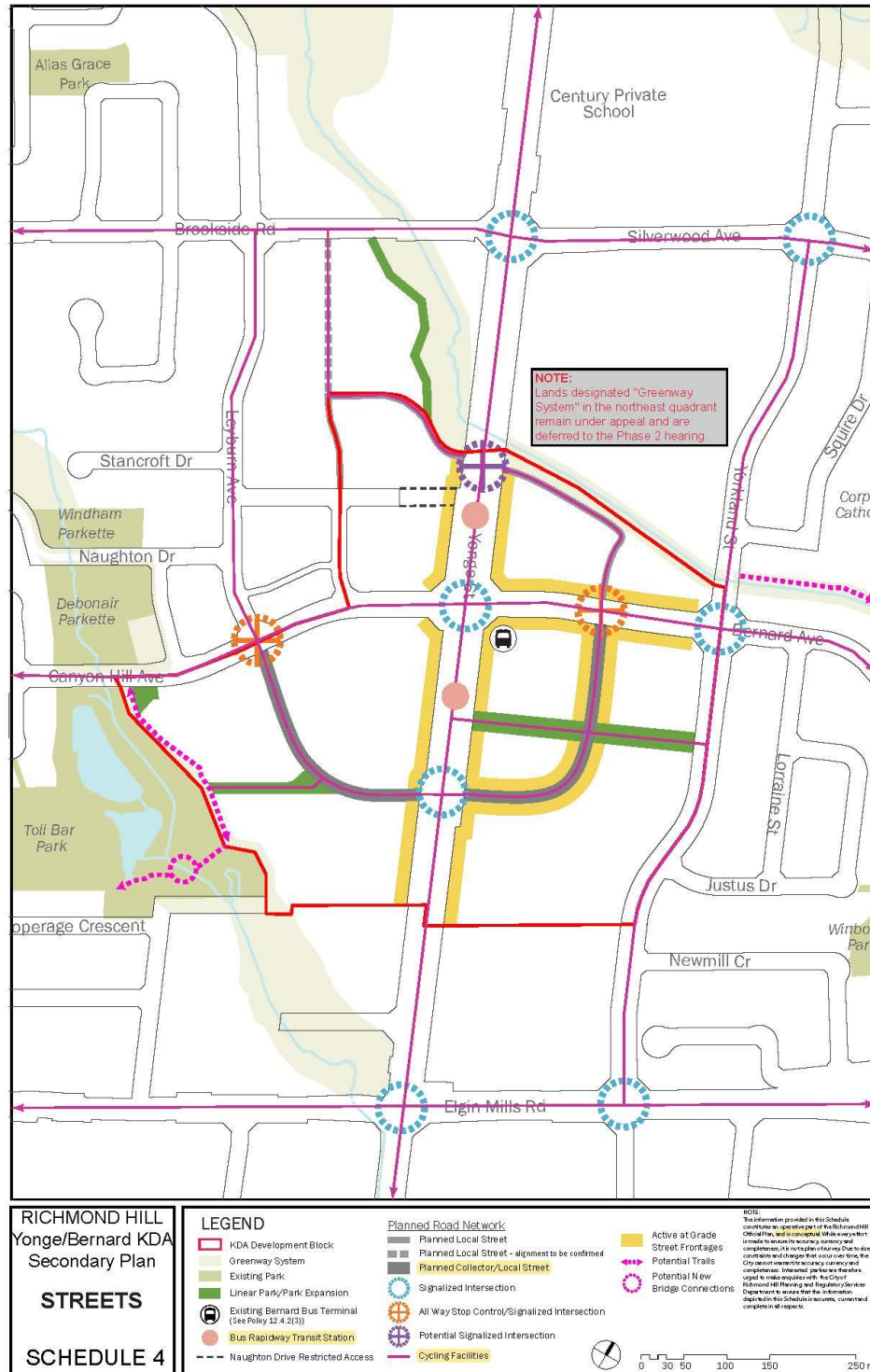
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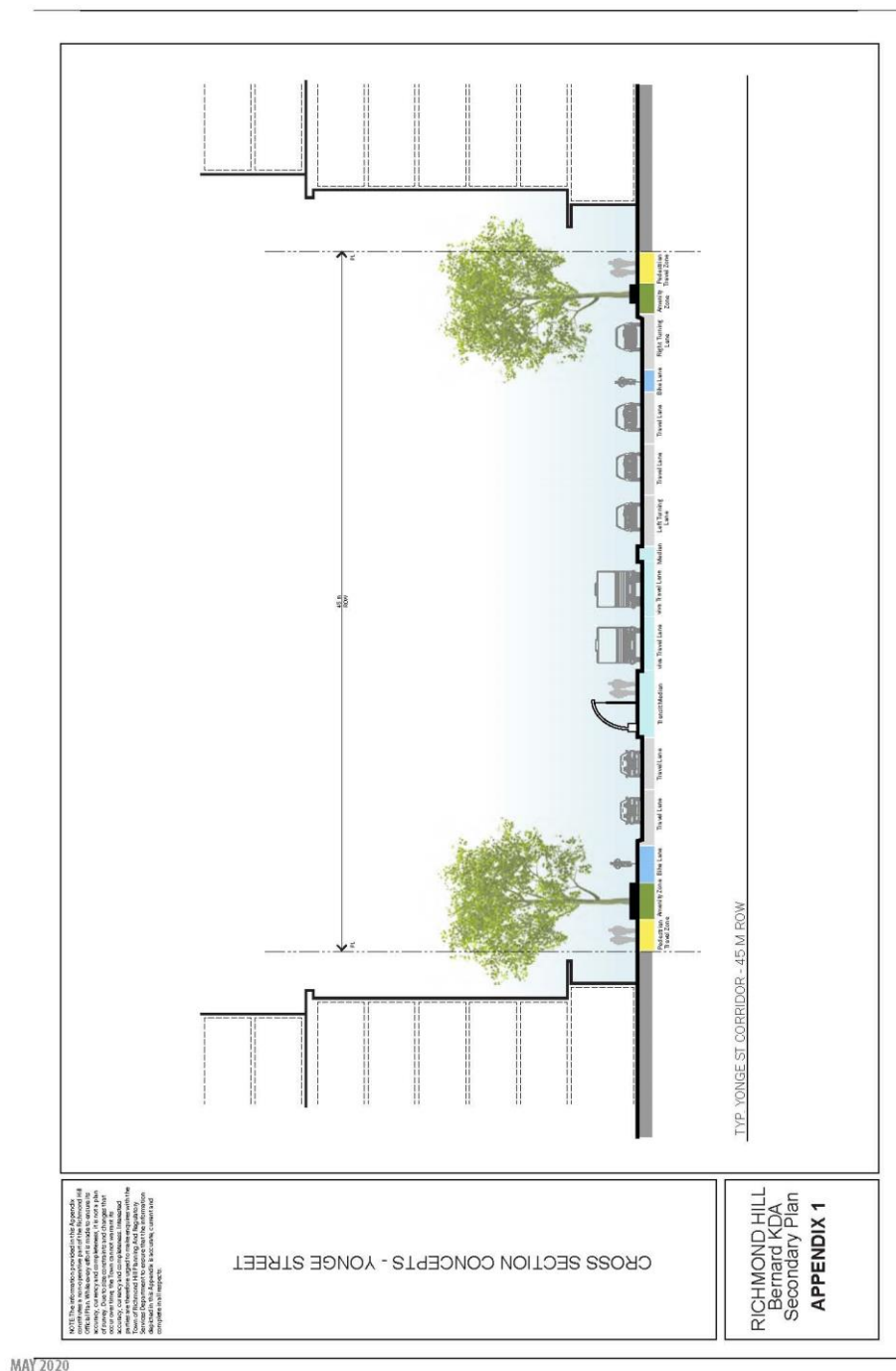
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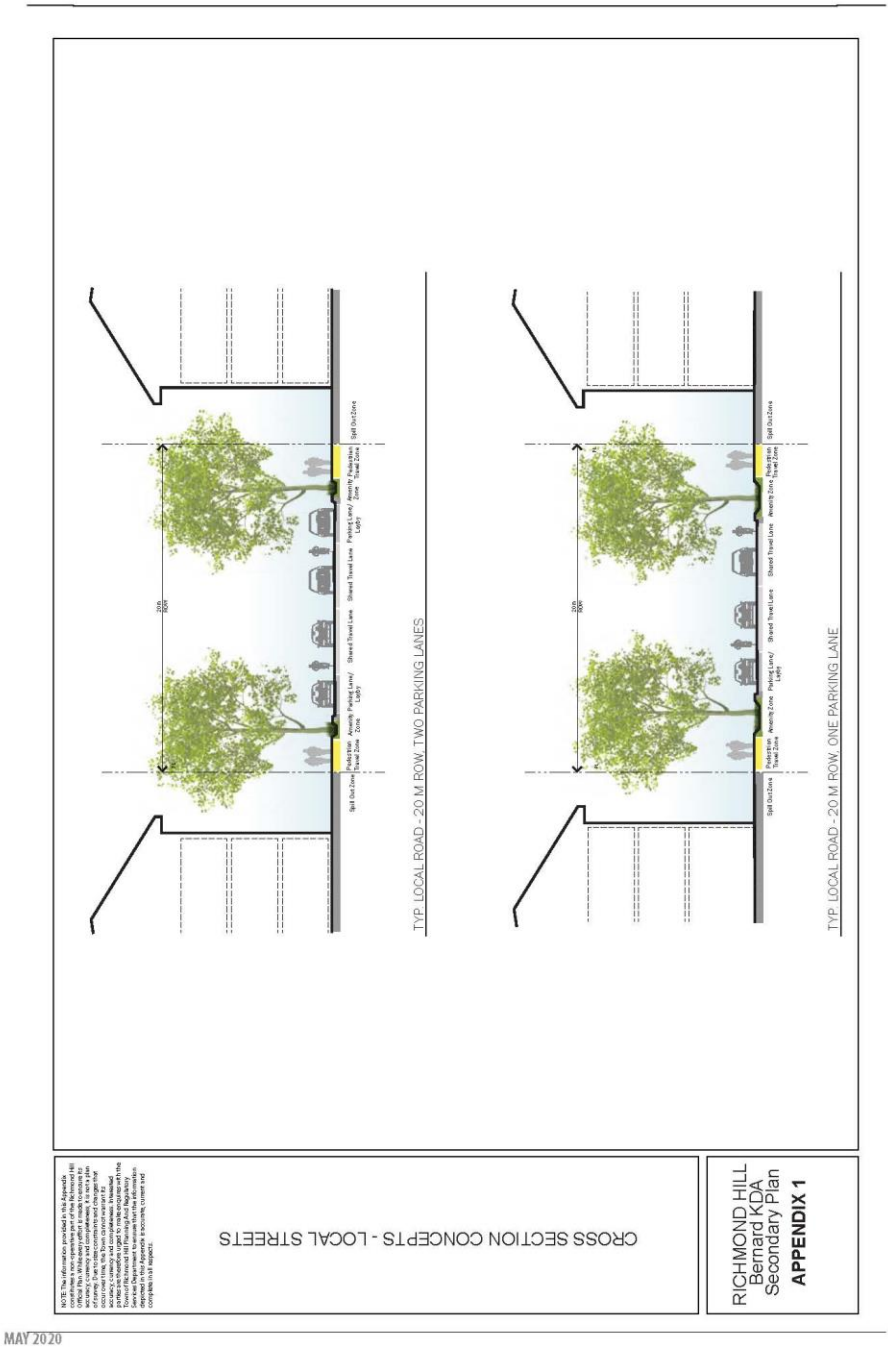




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MAY 2020

## APPENDIX B

1

Modifications and **Deferred Sections** –September 18, 2020

Note: Entire Zoning By-law for Eastern Quadrants of the KDA (except Richmond Hill Retirement Lands at 70 Bernard Avenue) deferred to Phase 2

### **The Corporation of the City of Richmond Hill**

#### **By-law 111-17**

#### **Yonge and Bernard Key Development Area Secondary Plan Zoning By-law**

##### Notes:

By-law 117-17 was adopted on November 28, 2017 and was appealed to the Ontario Municipal Board (now the Local Planning Appeal Tribunal) in its entirety (adopted version).

Section 5.24 came into effect by an Ontario Municipal Board Order issued on March 8, 2018.

A revised draft By-law 117-17 was released in February 2020 for public consultation in relation to the Appeals. The sections of the by-law were renumbered as a result of modifications, insertions, and deletions. Further, provisions in this by-law have been modified, deleted or new wording added with the following intent:

- address changes to the secondary plan;
- address issues raised by the appellants; and,
- provide greater clarity to the original provisions.

By Local Planning Appeal Tribunal Order issued on April 17, 2020, By-law 117-17 as adopted and modified by the Tribunal has come into effect for the lands municipally known as 70 Bernard Avenue. Site specific modifications relate to following definitions 6.33, 6.41 and 6.45.

As a result of consultation following the February 2020 release and the April Order, this by-law has been further revised with the following intent:

- address further changes to the secondary plan;
- address further issues raised by the appellants;
- provide consistency and greater clarity to the provisions; and,
- as a housekeeping matter, to be consistent in the section and special provision numbering scheme with the adopted version, where appropriate (see red text annotations).

The tracked changes reflect the proposed changes to the provisions.

For reference, please refer to the adopted version.

Modifications and **Deferred Sections** –September 18, 2020

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## Explanatory Note to By-law 111-17

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### Lands Affected

By-law 111-17 is a Comprehensive Zoning By-law that applies to the lands located within the Yonge Street and Bernard Avenue Key Development Area (“Bernard KDA”), as shown on Schedule "A" to this By-law.

### Existing Zoning

The lands subject to this By-law were zoned in accordance with By-law 111-17, as amended of the City of Richmond Hill. The existing zoning for these lands is generally for residential, commercial and institutional uses.

### Purpose

The purpose of By-law 111-17 is to prohibit the use of land and the erection of **buildings** and **structures** except for such purposes as set out in this By-law and to regulate the type of construction, height, bulk, location, size, floor area, spacing, character and use of buildings or structures on the lands covered by this By-law. It is intended that this By-law implement the policies contained within the Yonge and Bernard Key Development Area Secondary Plan.

The new zoning categories are intended to be consistent with the newer residential, commercial, and mixed use zones used elsewhere in the Town.

### Effect of By-law

The effect of By-law 111-17 is to place all lands within zones that will lead to the development of a mixed use community consistent with the policies of the Yonge and Bernard Key Development Area Secondary Plan. This by-law will be implemented through development applications providing for a range of residential units and provides for development standards for residential, commercial, mixed use, institutional and open space uses.

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6.132 Swimming Pool .....	60
6.133 Tower .....	60
6.134 Trailer.....	60
6.135 Vehicle .....	60
6.136 Veterinary Clinic.....	60
6.137 Yard .....	60

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Note: Entire Zoning By-law for Eastern Quadrants of the KDA (except Richmond Hill  
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## Section 1 Administration

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### 1.1 Title

This By-law shall be known as the “Yonge and Bernard Key Development Area Secondary Plan Zoning By-law” of the City of Richmond Hill.

### 1.2 Zoning Schedules

Schedule A (Zones) shows the area of all lands covered by this By-law and the **zone** categories applicable to the lands covered by this By-law.

Schedule B (Density) shows the permitted density distribution of all lands covered by this By-law.

Schedule C (Height in Storeys) shows the permitted absolute or minimum height distribution of all lands covered by this By-law.

Schedule D (Angular Plane) shows the areas where the angular plane applies for all lands covered by this By-law.

Schedule E (Existing Non-Residential Gross Floor Area (GFA)) shows the areas where a minimum non-residential **gross floor area** shall be provided for all lands covered by this By-law.

### 1.3 Compliance with Zoning By-law

No land, **building** or **structure** shall be used and no **building** or **structure** shall be erected, altered or enlarged after the date of the passage of this By-law except in compliance with the provisions of this By-law.

### 1.4 Calculating Required Minimum Yards

In calculating **minimum required yards**, the minimum horizontal distance from the respective **lot lines** shall be used. Except as may be established elsewhere in this by-law, the **minimum required yard** from the hypotenuse of the **daylighting triangle** shall be the lesser of the **minimum required yards** along the **flankage lot lines** of the **lot**.

### 1.5 Building Permits, Certificates of Occupancy and Municipal Licences

No permit for the use of land or for the erection or use of any **building** or **structure** and no Certificate of Occupancy or approval of application for municipal licence within the jurisdiction of **Council** shall be issued or given, where the proposed **building**, **structure** or use is in violation of any provision contained in this By-law.

### 1.6 Enforcement

Any person convicted of a violation of this By-law is liable, at the discretion of the convicting Justice, on first conviction to a fine of not more than \$25,000.00 and on a subsequent conviction to a fine of not more than \$10,000.00 for each day or part thereof upon which the contravention has continued after the day on which the person was first convicted.

Any corporation convicted of a violation of this By-law is liable, at the discretion of the convicting Justice, on first conviction to a fine of not more than \$50,000.00 and on a subsequent conviction to a fine of not more than \$25,000.00 for each day or part thereof upon which the contravention has continued after the day on which the corporation was first convicted.

### 1.7 Severability

A decision of a Court that one or more of the provisions of this By-law are invalid in whole or in part does not affect the validity, effectiveness, or enforceability of the other provisions or parts of the provisions of this By-law.

Modifications and **Deferred Sections** –September 18, 2020

Note: Entire Zoning By-law for Eastern Quadrants of the KDA (except Richmond Hill  
Retirements Lands at 70 Bernard Avenue) deferred to Phase 2

**1.8 Effective Date**

This By-law shall come into force upon approval by the Local Planning Appeal  
Tribunal.

**1.9 Repeal of Former By-laws**

The provisions of Zoning By-laws 184-87, 190-87 and 2523, as amended, are  
hereby repealed insofar as it affect the lands covered by this By-law.

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## Section 2 Establishment of Zones

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### 2.1 Zones

For the purposes of this By-law, the following **zones** are established and they may be referred to by the name or by the symbol set opposite the name of the **zone** below:

#### Mixed Use Zone

**KDA      Key Development Area Mixed Use Zone**

#### Open Space Zone

**O          Open Space Zone**

### 2.2 Location of Zones

The **zones** and **zone** boundaries are shown on the schedule A which are attached to and form part of this By-law.

### 2.3 Determining Zone Boundaries

Where the boundary of any **zone** is shown on the schedules forming part of this By-law, the following provisions shall apply:

- a) Where a **zone** boundary is indicated as approximately following **lot lines** shown on a registered **Plan of Subdivision** or **lots** registered in a registry office or land titles office, the boundary shall follow such **lot lines**.
- b) Where a **street**, **lane** or railway right-of-way, electrical transmission line right-of-way, or watercourse is included on the schedules to this By-law and serves as a boundary between two or more different **zones**, a line midway on such **street**, **lane**, right-of-way or watercourse shall be considered the boundary between **zones** unless specifically indicated otherwise.
- c) Where a **zone** boundary is indicated as following the limits of the City of Richmond Hill, the limits of the City of Richmond Hill shall be the boundary.
- d) If the **zone** boundary separates a **lot** into portions, each portion of the **lot** shall be used in accordance with the provisions and standards of this By-law for the applicable **zone**.
- e) If a **lot** is subject to the Open Space **Zone** overlay as shown on Schedule A, the **zone** boundary may be redefined through an Environmental Impact Statement or equivalent comprehensive evaluation approved by the City through a development application pursuant to the applicable sections of the *Planning Act*, R.S.O. Where the Open Space **Zone** boundary is reduced or removed, the portion of the land formerly subject to the Open Space **Zone** shall be deemed to be in accordance with the underlying **zone** as shown on Schedule A. Where the Open Space **Zone** boundary is increased, the portion of the land formerly within the underlying **zone** as shown on Schedule A shall be deemed to be in accordance with the Open Space **Zone**.
- f) Where none of the above provisions apply, the **zone** boundary shall be scaled from the attached schedules.

### 2.4 Exception Zones

Where a **zone** symbol on the attached schedule(s) is followed by one or more bracketed numbers, e.g. (KDA)(1) or KDA(1)(8), the bracketed numbers refer to Subsection 7 – Exceptions of this by-law.



Section 3 Permitted Uses

3.1 Zones

- a) Uses which are permitted in the **zones** are identified in Tables A1 and B1.

Zone	Table
Key Development Area Mixed Use Zone Permitted Uses	Table A1
Key Development Area Mixed Use Zone Special Provisions	Table A2
Open Space Zone Permitted Uses	Table B1
Open Space Zone Special Provisions	Table B2

- b) Permitted uses in a **zone** are noted by the letter 'X' in the column for that **zone** corresponding with the row for a specific permitted use. A number or numbers following the symbol 'X', or following the **zone** heading, or following the name of a permitted use, indicates that one or more special provisions apply to the noted use or **zone** and subject to the following:
  - i. the special provisions in Table A2 shall specially apply where referred to in Table A1; and,
  - ii. the special provisions in Table B2 shall specially apply where referred to in Table B1.
- c) One or more residential uses and non-residential uses prescribed in Table A1 may be permitted on one **lot**.

Note: Entire Zoning By-law for Eastern Quadrants of the KDA (except Richmond Hill Retirements Lands at 70 Bernard Avenue) deferred to Phase 2

Table A1 – Key Development Area Mixed Use Zones Permitted Uses

Zone	KDA
Use	
Residential Uses (6)(7)	
Apartment Dwelling	X (2)(3)(8)
Block Townhouse Dwelling	X (1)(5)(8)
Street Townhouse Dwelling	X (1)(5)
Rear Lane Townhouse Dwelling	X (1)((5)
Stacked Townhouse Dwelling	X (1)((5)(8)
Back to Back Dwelling	X (1)((5)(8)
Quadruplex Dwelling	X (1)((5)
Non-Residential Uses (2)(4)(9)	
Commercial	X
Day Nursery	X
Public Authority	X (11)
Place of Worship	X
Long Term Care Facility	X
Private Utility	X
Post Secondary School	X
Secondary School	X
Primary School	X
Private School	X
Senior Citizen’s Dwelling	X
Hospitals and healthcare centres and ancillary commercial uses	X
Arts and Cultural Facilities	X
Social Services	X

Table A2 – Key Development Area Mixed Use Zones Special Provisions

All numbers are in metric, unless otherwise shown

Special Provision Number	Description of Special Provision
1	Use prohibited to abut an <b>Active At Grade Frontage</b> .
2	Apartment Dwelling and non-residential uses shall only be permitted in a <b>building</b> that is a <b>high rise, mid rise</b> or <b>low rise building</b> .
3	No <b>apartment dwelling</b> in the form of a <b>high rise</b> or <b>mid-rise building</b> shall be permitted to abut an <b>Active At Grade Frontage</b> , unless subject to Section 5.4.
4	Subject to Section 5.34, Schedule E prescribes the minimum non-residential <b>gross floor area</b> that is required on the lands and

Note: Entire Zoning By-law for Eastern Quadrants of the KDA (except Richmond Hill Retirements Lands at 70 Bernard Avenue) deferred to Phase 2

Special Provision Number	Description of Special Provision
	<p>subject to the following:</p> <ul style="list-style-type: none"> <li>a) The minimum non-residential <b>gross floor area</b> required under Schedule “E” to this By-law will not be deemed to be contravened if one or more existing <b>buildings</b> are demolished to facilitate new development approved pursuant to one or more <b>Site Plan Agreements</b>; and,</li> <li>b) Notwithstanding the further division of any <b>lot</b> shown on Schedule E: <ul style="list-style-type: none"> <li>i. the minimum non-residential <b>gross floor area</b> requirement for a <b>lot</b> as shown on Schedule E shall continue to apply to that <b>lot</b> as a whole as it existed on the date of the passing of this By-law; and,</li> <li>ii. where there is a <b>Site Plan Agreement</b> resulting from Section 5.34 which allocates the minimum non-residential <b>gross floor area</b> requirement under this By-law to a portion of the lot, the minimum non-residential <b>gross floor area</b> for that portion of the <b>lot</b> shall be provided and maintained in accordance with the <b>Site Plan Agreement</b>.</li> </ul> </li> </ul>
5	<p>A <b>live-work unit</b> shall be subject to the following:</p> <ul style="list-style-type: none"> <li>a) shall not be permitted to abut the Yonge Street and Bernard Avenue <b>Active At Grade Frontages</b>;</li> <li>b) must be the primary <b>dwelling unit</b> of the occupant; and</li> <li>c) a <b>live-work unit</b> with a <b>retail</b> use shall only be permitted on the <b>first storey</b> and shall have direct access to a <b>street</b>; and,</li> <li>d) <b>outdoor storage</b> and outdoor display shall be prohibited.</li> </ul>
6	A <b>home occupation</b> shall be subject to Section 5.1.2
7	A <b>private home daycare</b> shall be permitted.
8	<p>Where a <b>Block Townhouse Dwelling, back to back dwelling</b> or <b>stacked townhouse dwelling</b> is integrated to form part of a <b>high rise</b> or <b>mid-rise building</b>, the following shall apply:</p> <ul style="list-style-type: none"> <li>a) a <b>Block Townhouse Dwelling, back to back dwelling</b> or <b>stacked townhouse dwelling</b> shall not be permitted to abut an <b>Active At Grade Frontage</b>; and,</li> <li>b) a <b>Block Townhouse Dwelling, back to back dwelling</b> or <b>stacked townhouse dwelling</b> shall share a common <b>wall</b> with a <b>high rise</b> or <b>mid-rise building</b>.</li> </ul>
9	The <b>outdoor storage</b> of goods, materials, machinery or equipment is prohibited.
11	<b>Public Authority</b> shall be subject to Section 5.23.

Note: Entire Zoning By-law for Eastern Quadrants of the KDA (except Richmond Hill Retirements Lands at 70 Bernard Avenue) deferred to Phase 2

**Table B1 – Open Space Zone Permitted Uses**

<b>Zone</b>	O
Use	
Conservation	X
Forestry	X
<b>Public Authority</b> (1)	X
Stormwater Management Facilities	X
Low Impact Development Technology	X

**Table B2 – Open Space Zone Special Provisions**

All numbers are in metric, unless otherwise shown

Special Provision Number	Description of Special Provision
1	Refer to Section 5.23.

Note: Entire Zoning By-law for Eastern Quadrants of the KDA (except Richmond Hill Retirement Lands at 70 Bernard Avenue) deferred to Phase 2

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**Section 4 Use Standards**

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**4.1 Zones**

- a) Standards for the Key Development Area **Zone** are shown in the following standards table A3:

<b>Zone</b>	<b>Table</b>
Key Development Area Mixed Use <b>Zone</b> Standards	Table A3.1
Key Development Area Mixed Use <b>Zone</b> Standards Special Provisions	Table A3.2
Key Development Area Mixed Use <b>Zone</b> – Street Townhouse Standards	Table A4.1
Key Development Area Mixed Use <b>Zone</b> – Street Townhouse Standards Special Provisions	Table A4.2

- b) All uses prescribed in Table A1, save and except for **Street Townhouse Dwelling**, shall be subject to Tables A3.1 and A3.2. All special provisions in Table A3.2 apply to Table A3.1. Other standards are provided in Section 5: General Provisions.
- c) **Street Townhouse Dwelling** shall be subject to Tables A4.1 and A4.2. All special provisions in Table A4.2 apply to Table A4.1. Other standards are provided in Section 5: General Provisions.

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Note: Entire Zoning By-law for Eastern Quadrants of the KDA (except Richmond Hill Retirements Lands at 70 Bernard Avenue) deferred to Phase 2

**Table A3.1 – Key Development Area Mixed Use Zone Standards**

All numbers are in metric, unless otherwise noted

Minimum Lot Frontage		Minimum Required Front Yard (Metres)	Minimum Required Side Yard (Metres)	Minimum Required Flankage Yard (Metres)	Minimum Required Rear Yard (Metres)	Minimum Floor Space Index (FSI)	Maximum Floor Space Index (FSI)	Minimum Building Heights (Storeys)
Interior Lot (Metres)	Corner Lot (Metres)							
30	30	3.0	0	3.0	0	1.5	Pursuant to Schedule “B”	Pursuant to Schedule “C”

**Table A3.2 – Key Development Area Mixed Use Zone Standards Special Provisions**

All numbers are in metric, unless otherwise shown

Special Provision Number	Description of Special Provision
1	No portion of any <b>building</b> shall be permitted to be located above the <b>angular plane</b> .
2	For a <b>high rise</b> or <b>mid rise building</b> , any <b>storey</b> above the <b>street wall</b> shall be step back a minimum of 3.0 metres.
3	No <b>Block townhouse Dwelling, Back To Back Dwelling, Rear Lane Townhouse Dwelling, Stacked Townhouse Dwelling, Quadruplex Dwelling</b> shall be permitted unless subject to the following: a) shall have a maximum <b>building</b> length of 48 metres unless integrated to form part of a <b>high rise</b> or <b>mid rise building</b> and attached by a

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Special Provision Number	Description of Special Provision
	<p>common wall above <b>grade</b>;</p> <p>b) shall have a minimum 15 metre separation distance between <b>building</b> blocks where the longer sides of the <b>main walls</b> of the <b>building</b> blocks have living space and abut one another; and,</p> <p>c) a <b>block townhouse dwelling, back to back dwelling</b> and <b>rear lane townhouse dwelling</b> shall have a minimum <b>dwelling unit</b> width of 6 metres.</p>
4	<p>A <b>tower</b> shall be subject to the following <b>minimum required yards</b>:</p> <p>a) 12.5 metres <b>side yard</b> and <b>rear yard</b> that does not abut a <b>street</b>, a <b>lane</b> or a public park; and,</p> <p>b) in addition to (a), a <b>tower</b> shall have a minimum separation distance of 25.0 metres from another <b>tower</b>.</p>
5	Where the <b>rear lot line</b> abuts a <b>street</b> or a <b>lane</b> , a <b>building main wall</b> shall be <b>setback</b> a minimum of 3.0 metres from a <b>street</b> and 1.5 metres from a <b>lane</b> .
6	A minimum <b>setback</b> of 7.5 metres from the <b>building main wall</b> with windows or openings to a <b>side lot line</b> or <b>rear lot line</b> , that does not abut a <b>street</b> or a <b>lane</b> , shall be required for a <b>low rise, mid rise</b> or <b>high rise building</b> , save and except for the <b>tower</b> which shall be subject to special provision 4 in Table A3.2.
7	For the purposes of calculating <b>Floor Space Index</b> , the <b>lot area</b> shall be deemed to be the total <b>lot area</b> prior to any conveyance of land to a <b>public authority</b> .
8	The permitted minimum <b>building height</b> is the numerical value in storeys on Schedule C.
9	The permitted maximum <b>density</b> is the numerical value in Schedule B.
10	The <b>minimum required yards</b> shall not apply to any portion of a <b>building</b> or <b>structure</b> below <b>grade</b> .

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<b>Special Provision Number</b>	<b>Description of Special Provision</b>
<b>11</b>	<p>The minimum required <b>height</b> of the <b>first storey</b> of a <b>building</b> abutting any <b>Active At Grade Frontage</b>, measured between the floor of the <b>first storey</b> and the ceiling of the <b>first storey</b>, shall be a minimum of 4.5 metres.</p> <p>For the purposes of this special provision, the portion of the first <b>storey</b> exceeding 4.5 metres, as defined in <b>storey</b>, shall not be deemed to be an additional <b>storey</b>.</p>
<b>12</b>	Where a <b>side yard</b> or <b>rear yard</b> abuts a public park, the minimum <b>setback</b> shall be 3.0 metres.
<b>13</b>	Section 5.21 shall not apply to a <b>structure</b> .
<b>14</b>	For the purposes of this By-law, where a new development is situated on lands which are subject to more than one maximum FSI, the overall maximum FSI for the development shall be calculated by applying the maximum FSI for each area on a pro-rata basis in accordance with its proportion of the overall land area associated with the development parcel.



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**Table A4.1 – Key Development Area Mixed Use Zone – Street Townhouse Dwelling Standards**

All numbers are in metric, unless otherwise noted

Dwelling Unit Type	Minimum <b>Lot Frontage</b>		Minimum <b>Lot Area Interior Lot</b> (Square Metres)	<b>Corner Lot</b> (Square Metres)	Maximum <b>Lot Coverage</b> (Percentage)	<b>Minimum Required Front Yard</b> (Metres)	<b>Minimum Required Side Yard</b> (Metres)	<b>Minimum Required Flankage Yard</b> (Metres)	<b>Minimum Required Rear Yard</b> (Metres)	Minimum <b>Building Height</b> (Storeys)	Maximum <b>Building Height</b> (Storeys)
	<b>Interior Lot</b> (Metres)	<b>Corner Lot</b> (Metres)									
STH	6.0	7.2	150	170	60	3.0	1.2	2.4	7.0	3	4

**Table A4.2 – Key Development Area Mixed Use Zone Standards Special Provisions**

All numbers are in metric, unless otherwise shown

<b>Special Provision Number</b>	<b>Description of Special Provision</b>
<b>1</b>	For the purposes of calculating <b>Floor Space Index</b> , the <b>lot area</b> shall be deemed to be the total <b>lot area</b> prior to any conveyance of land to a <b>public authority</b> .
<b>2</b>	The permitted minimum density shall not be less than 1.5 FSI and the maximum density is the numerical value in Schedule B.
<b>3</b>	No <b>street townhouse</b> shall be permitted to abut any <b>Active At-Grade Frontage</b> .

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<b>Special Provision Number</b>	<b>Description of Special Provision</b>
<b>4</b>	Where a <b>side yard</b> abuts a public park, the minimum <b>side yard</b> shall be 3.0 metres.
<b>5</b>	Section 5.21 shall not apply to a <b>structure</b> .
<b>6</b>	A <b>street townhouse dwelling</b> : a) shall have a maximum <b>building</b> length of 48 metres; and, b) shall have a minimum <b>dwelling unit</b> width of 6 metres.

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## Section 5 General Provisions

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### 5.1 Accessory Buildings, Structures, and Uses

Where this By-law provides that land may be used or a **building** or **structure** may be **erected** or used for a purpose, that purpose may include any **accessory building**, **accessory structure** or **accessory** use.

#### 5.1.1 Uses Prohibited in Accessory Buildings and Structures

- a) Unless specifically permitted by this By-law, no **accessory building** or **accessory structure** shall be used for an occupation for gain or profit or for human habitation.
- b) An **accessory** use to a **major retail** use shall be permitted for outdoor display and sales of seasonal items, provided that all other provisions of the by-law are met.

#### 5.1.2 Regulations for Accessory Home Occupations

**Home occupation** is permitted in an apartment dwelling unit, **street townhouse dwelling**, **block townhouse dwelling**, **stacked townhouse dwelling**, **rear lane townhouse dwelling**, **back to back dwelling** or a **quadruplex dwelling** subject to the following provisions:

- a) shall be conducted entirely within an enclosed **building**;
- b) shall not detract from the residential character of the **dwelling unit** or the **lot** on which the **home occupation** is located;
- c) shall not involve the **outdoor storage** or an outdoor display and sales area for materials or finished products associated with the **home occupation** use;
- d) shall not occupy more than 25 percent of the **gross floor area** of the **dwelling unit**;
- e) shall not result in the discharge or emission of odorous, noxious or toxic matter or vapours, heat, glare, noise or radiation, or recurrently generated ground vibrations;
- f) shall only be for an **office**;
- g) shall not consist of an occupation that involves the salvage, repair, maintenance or sales of **motor vehicles** or **motor vehicles'** engines or parts; and,
- h) shall not consist of an occupation that involves the sale of a commodity not produced on the **premises**, except that telephone or mail order sales of goods may be permitted provided that customers do not enter the **premises** to inspect, purchase or take possession of the goods.

#### 5.1.3 Regulations for Detached Accessory Buildings and Structures

A **detached accessory building** or **structure**, shall be permitted in the **rear yard** and/or **side yard** only, provided that:

- a) it is **setback** from any **rear lot line** and **side lot line** by a minimum of 0.6 metres;

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- b) it is not located closer to a **flankage lot line** than the minimum distance between the nearest point of the **main wall** of the **main building** on the **lot** and the **flankage lot line**; and,
- c) the height of a **detached accessory structure** with a peaked roof (having a slope equal to or greater than 1:6 ratio) shall not exceed 3.6 metres to the peak of the roof with a maximum wall height of 2.44 metres, or the height of a **detached accessory structure** with a flat roof (having a slope of less than 1:6 ratio) shall not exceed 2.75 metres.

#### 5.1.4 Regulations for Attached Garages if the Garage is Located in the Rear Yard

An **attached garage** to a **street townhouse dwelling**, **block townhouse dwelling**, **stacked townhouse dwelling**, **rear lane townhouse dwelling**, **back to back dwelling** or a **quadruplex dwelling** is permitted in a required **rear yard** provided that:

- a) no more than 50 percent of the area of the required **rear yard** is covered by the **attached garage**;
- b) the **attached garage** is not located closer to the **flankage lot line** and **side lot line** than the **main building** on the **lot**; and,
- c) the **attached garage** shall be **setback** a minimum of 0.6 metres from the **rear lot line**.
- d) Notwithstanding the above, there is no minimum **setback** from the **side lot line** for an **attached garage** if the **attached garage** is to be **attached** to another **attached** or **detached garage** on an **abutting** lot.

#### 5.1.5 Regulations for Detached Garages

A **detached garage** to a **street townhouse dwelling**, **block townhouse dwelling** or **rear lane townhouse dwelling** is permitted on a **lot** provided that:

- a) if the wall of the **detached garage** closest to and adjacent to the **side lot line** has no openings, the **detached garage** shall be **setback** from the **side lot line** by 0.6 metres;
- b) if the wall of the **detached garage** closest to and adjacent to the **side lot line** has openings, the **detached garage** shall be **setback** from the **side lot line** by the required **side yard setback**;
- c) if the **detached garage** is to be **attached** to another **detached garage** on an **abutting lot**, no minimum **setback** shall be required for the **detached garage** from the **side** and/or **rear lot line**;
- d) if a **detached garage** is accessed from a **lane** at the rear of a **lot**, the **detached garage** shall be **setback** a minimum of 0.5 metres from the **rear lot line**;
- e) if a **detached garage** is not accessed from a **lane** at the rear of a **lot**, the **detached garage** shall be **setback** a minimum of 0.6 metres from the **rear lot line**;
- f) the maximum **floor area** of any **detached garage** shall be 40 square metres;

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- g) the maximum height of any **detached garage** shall be 4.2 metres to the peak of the roof. In the case of a **detached garage** having a **secondary suite**, the maximum height shall be 7.5 metres to the peak of the roof;
- h) in no case shall a **detached garage** extend closer to the **front lot line** or **flankage lot line** than the **main building** on the **lot**;
- i) the **detached garage** is **setback** from the **rear lot line** a minimum of 0.6 metres; and,
- j) the minimum interior width for a single car **detached garage** shall be 3.0 metres and the minimum interior width of a double car **detached garage** shall be 5.5 metres.

#### 5.1.6 Interior Garage Width

An **attached garage** to a **street townhouse dwelling**, **block townhouse dwelling**, **stacked townhouse dwelling**, **rear lane townhouse dwelling**, **back to back dwelling** or a **quadruplex dwelling** shall have a minimum interior width for a single-car **attached garage** shall be 3.0 metres and the minimum interior width of a double-car **attached garage** shall be 5.5 metres.

#### 5.1.7 Regulations for Decks and Porches

**Decks** and **porches** are permitted on any **lot** comprised of **street townhouse dwelling**, **block townhouse dwelling**, **stacked townhouse dwelling**, **rear lane townhouse dwelling**, **back to back dwelling** or a **quadruplex dwelling** in accordance with the following regulations:

- a) **Porches** not exceeding 4.5 metres in height, with the height being measured from the **established grade** to the underside of the rafters or ceiling of the **porch** and with or without **basements**, may encroach into:
  - i. a **minimum required front yard** to a distance of 2.0 metres, provided the **porch** is not closer to a **side lot line** than the **main building** on the **lot**,
  - ii. a **minimum required flankage yard** a distance of 1.5 metres; and,
  - iii. a **minimum required rear yard** a distance of 2.5 metres, provided the **porch** is not closer to a **side lot line** than the **main building** on the **lot**.
- b) **Decks** which are 0.6 metres in height or greater are permitted to encroach into the **minimum required rear yard** to a distance of 2.5 metres, 0.6 metres from the **side lot line**, but in no case shall the **deck** extend beyond a side **main wall** of the **dwelling**; and, 2.40 metres from the **flankage lot line**; and,
- c) **Decks** less than 0.6 metres in height are permitted to encroach into the **minimum required rear yard** provided the **deck** is located a minimum of 2.0 metres from the **rear lot line**, 0.6 metres from the **side lot line**, but in no case shall the **deck** extend beyond a side **main wall** of the **dwelling**; and, 3.0 metres from the **flankage lot line**.
- d) No **deck** or **porch** shall be enclosed to a height of more than 1.07 metres above floor level, exclusive of roof supports, but this shall not prohibit the enclosure of a **deck** or **porch** by latticing or screening or any other form of

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enclosure to the extent that 50% of the vertical plane of the wall is open to the movement of air.

- e) Notwithstanding the above provisions, stairs used to access a **deck** or a **porch** or an **entry element** shall be **setback** at least 0.45 metres from any **lot line**.

#### 5.1.8 Outdoor Patios

- a) Notwithstanding any provisions to the contrary in any other Section of this 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.
- b) An **outdoor patio** shall not constitute more than twenty percent (20%) of the **Gross Floor Area (G.F.A.)** of the **restaurant**, tavern, banquet hall or eating establishment it serves, but in no case shall constitute more than one hundred and fifteen (115) square metres in total **outdoor patio** area.
- c) The **outdoor patio** area may be permitted to displace existing **parking spaces** only if the total remaining **parking spaces** satisfy the minimum parking requirements for the main **building**.
- d) **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 City 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 **Active At Grade Frontage**.
- e) The **outdoor patio** ground surface shall consist of appropriate hard surface materials and may also include perimeter **landscaping** and plantings.
- f) The **outdoor patio** area shall be delineated and enclosed with an appropriate barrier with a minimum of one emergency access available to outside of the **outdoor patio**.
- g) The **outdoor patio** area shall not interfere with any on-site **parking space**, pedestrian, vehicular circulation or **loading space**. The barrier for the **outdoor patio** area shall be **setback** a minimum of 1.5 metres from any adjacent **driveway**, internal circulation area, parking aisle, or **loading space**.

#### 5.2 Multiple Uses on One Lot

Where any **building**, **structure** or **land** is used for more than one purpose as provided in Section 3 of this By-law, the said **building**, **structure** or **land** shall comply with the provisions and standards of this By-law relating to each use. In the case of a conflict, the more stringent provision shall apply.

#### 5.3 Frontage on a Public Street

No person shall **erect** any **building** or **structure** and no person shall use any **building** or **structure**, **lot** or parcel unless the **lot** or parcel to be so used, or upon which the **building** is situated or **erected** or proposed to be **erected**, abuts or fronts onto a **street** which is assumed by the **Corporation** for maintenance

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#### 5.4 Street Wall

The following provisions shall apply to a **high rise** and **mid rise building**:

- a) A **street wall** shall be a minimum of 60% of the length of a **lot line** abutting a **street** or a **lane**.
- b) A minimum of 60% of the **first storey street wall** abutting any **Active At Grade Frontage** shall be comprised of windows and openings.
- c) A minimum 60% of the **first storey street wall** abutting the Yonge Street and Bernard Avenue **Active At Grade Frontages** shall contain **commercial** or **community** uses.
- d) **Dwelling units** shall be prohibited on the **first storey street wall** abutting the Yonge Street and Bernard **Active At Grade Frontages**.
- e) Indoor amenity space for an **apartment dwelling** is prohibited to locate in the **first storey** of a **building** within the first 10.0 metres of the depth of the **building** measured in from the **building main wall** along a **street line** abutting any **Active At Grade Frontages**.
- f) A minimum 40% of the **first storey street wall** abutting any other **Active At Grade Frontage** shall contain **commercial** or **community** uses.

#### 5.5 Mechanical Equipment and Penthouses

- a) Parapets, **mechanical penthouses**, and other decorative roof **structures** including screening of mechanical equipment up to a maximum height of 5.5 metres shall be deemed not to be a **storey** and shall be excluded from the calculation of maximum **building height**.
- b) Rooftop mechanical equipment that is less than a height of 2 metres shall be fully screened by an architectural feature of equivalent height.
- c) Rooftop mechanical equipment that exceeds a maximum height of 2.0 metres shall be fully enclosed within a **mechanical penthouse** or screened by an architectural feature of equivalent height.
- d) A **mechanical penthouse** shall not occupy more than 40 percent of the area of the roof upon which it is located.
- e) Rooftop mechanical equipment shall be step back a minimum of 5.0 metres from all edges of a roof.
- f) Notwithstanding (d) above, no step back is required if rooftop mechanical equipment is fully enclosed within a **mechanical penthouse** or screened by an architectural feature of equivalent height.

#### 5.6 Amenity Space



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A **high rise, mid rise** or **low rise building** with 20 or more **dwelling units** must provide **amenity space** for each **dwelling unit** at a rate of 2.0 square metres per **dwelling unit**.

5.7 Projections

- a) The following are permitted to project over the maximum height or **minimum required yards** defined in this by-law as listed below:

Table 5.7.1

Structure	Yards In Which Projections are Permitted	Maximum Projections into a <b>Minimum Required Yard</b>
Sills, belt courses cornices, eaves or canopies or gutters	any <b>yard</b>	70 centimetres
Chimneys, fireplaces, or pilasters	any <b>yard</b>	40 centimetres
Window bays	<b>Front yard, rear yard, and flankage yard</b>	1.0 metre over a maximum width of 3.0 metres
Balconies	1. <b>Front yard, flankage yard and rear yard for street townhouse dwelling, block townhouse dwelling, stacked townhouse dwelling, rear lane townhouse dwelling, back to back dwelling or a quadruplex dwelling; or</b>  2. any <b>yard</b> for other <b>building</b> types.	2.0 metres
Roof overhangs	any <b>yard</b>	90 centimetres
A canopy or portico to a <b>high rise, mid rise</b> or <b>low rise building</b>	any <b>yard</b>	One half (1/2) the <b>setback</b> of the <b>building</b> from the <b>street line</b>
Exterior steps including any associated landings (for frame construction only)	any <b>yard</b>	90 centimetres
Satellite Dishes	any <b>yard</b>	90 centimetres

- b) No balcony projecting into a **minimum required yard** as permitted by this Subsection shall be enclosed to a height of more than 1.07 metres above floor level exclusive of roof supports, but this shall not prohibit the enclosure of a balcony by latticing or screening or any other form of



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enclosure provided that 50 percent of the vertical plane of the wall is open to the movement of air.

- c) In no case shall the roof overhang of any **detached accessory structure** encroach any closer than 0.45 metres to any **lot line**.
- d) A balcony cannot project beyond the **main wall** of a **high rise, mid-rise or low rise building** abutting any **Active At Grade Frontages**, where the distance from the floor of the balcony to **established grade** is 10.5 metres or less.
- e) Any flagpoles, lights, signage, **mechanical penthouses**, unenclosed balconies and terraces, parapets, **fences** and **at-grade landscaping** shall be permitted to project into the **angular plane**.

## 5.8 Separation

The following provisions shall apply to the portion of a **high rise building** excluding a **tower**, or a **mid rise building** on a **lot**:

- a) Where a **main wall** of the **building** has windows and a line projected at a right angle from a **main wall** intercepts another **main wall** of a **building** or the same **building** with windows on the same **lot**, the minimum required above **grade** distance between the **main walls** shall be 15.0 meters.
- b) Where a **main wall** of the **building** has windows abuts another **main wall** of a **building** or the same **building** on the same **lot** which does not have windows and a line projected at a right angle from a **main wall** intercepts the other **main wall** of a **building** or the same **building**, the required minimum above-**grade** distance between the **main walls** is 7.5 metres.

## 5.10 Landscaping

- a) The following provisions shall apply to a **high rise, mid rise or low rise building** on a **lot**:
  - i. A minimum of 20% of the **lot area** must be **landscaping**, which may be located at **grade** or on top of a **building or structure**; and,
  - ii. Where a **high rise, mid rise or low rise building** abuts a **street townhouse dwelling, block townhouse dwelling** except as otherwise permitted under Section 3.1 special provision (8), **stacked townhouse dwelling, rear lane townhouse dwelling, back to back dwelling** or a **quadruplex dwelling**, a strip of land not less than 3.0 metres in depth shall be used for **landscaping**.
- b) The following provisions shall apply to a **street townhouse dwelling, block townhouse dwelling, stacked townhouse dwelling, rear lane townhouse dwelling, back to back dwelling** or a **quadruplex dwelling**:
  - i. A minimum 45% of the area of a **front yard** or a **flankage yard** shall be used for no other purpose than **landscaping**. Notwithstanding the foregoing, where a by-law permits **detached accessory structures** or **porches** to project into a **front yard** or **flankage yard**, the area of the **lot** covered by the **detached**

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**accessory structures** or **porches** shall be included in the calculation of the minimum **landscaping**; and,

- ii. The parking of motor **vehicles** in **landscaping** is prohibited.

5.11 Number of Loading Spaces Required

- a) No person shall use any **land, building** or **structure** in any **zone** for any purpose permitted by this By-law, unless **loading spaces** are provided on the same **lot** in accordance with the provisions of this Section. The number of **loading spaces** required shall be calculated in accordance with the standards set out below in Table 5.11.1:

Table 5.11.1

Use	Minimum Required <b>Loading Space</b>
<b>Building</b> contains <b>dwelling units</b>	
0 to 30 <b>dwelling units</b>	0
31 to 399 <b>dwelling units</b>	1
400 <b>dwelling units</b> or more (1)	2
<b>Buildings</b> having a non-residential <b>gross floor area</b> less than 465 square meters	0
<b>Buildings</b> having a non-residential <b>gross floor area</b> of equal to 465 square metres and less than 2323 square metres.	1
<b>Buildings</b> having a non-residential <b>gross floor area</b> equal to 2323 square metres and up to 9290 square metres	2
For every additional 9290 square metres of non-residential <b>gross floor area</b> thereof greater than 9290 square metres	1 additional

- b) Notwithstanding Section 5.12(a), of the two required loading spaces, one space may have a width of not less than 3.7 metres and a length of not less than 9.0 metres with a minimum of 4.3 metres overhead clearance. This space shall not be used for refuse loading.

5.12 Regulations for Loading Spaces

- a) A **loading space** shall be paved, free of any encroachments and have a width of not less than 3.5 metres and a length of not less than 13 metres with a minimum of 6.1 metres overhead clearance.
- b) A **loading space** shall not be located in any **yard** adjoining a **street** unless screened from view from the **street** by a **fence**, screen wall, or landscaped berm with a height of not less than 1.5 metres.
- c) Notwithstanding (b), a **loading space** shall not be permitted in a yard abutting an **Active At Grade Frontage**.

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- d) Aisles and **driveways** leading to a **loading space** shall not be used for the temporary parking or storage of 1 or more **motor vehicles**.

5.13 **Bicycle Spaces Standards**

No person shall use any **land, building or structure** or **structure** in any **zone** for any purpose permitted by this By-law, unless bicycle spaces are provided on the same **lot** where there is a **parking structure**, in accordance with the provisions of this Section.

- a) The following Table 5.13.1 shall apply:

**Table 5.13.1**

Use	Minimum Rate – Bicycle Spaces	Minimum Rate – Visitor Bicycle Spaces
<b>Residential Use</b>	0.6 bicycle space per <b>dwelling unit</b> or portion thereof	5% of the minimum required bicycle spaces for <b>residential use</b>
Non-residential Use	0.13 bicycle space per 100 square metres of <b>gross floor area</b> or portion thereof	0.15 bicycle space per 100 square metres of <b>gross floor area</b> or portion thereof

- b) Visitor bicycle parking spaces shall be located at **grade**.
- c) Shower and change facilities shall be provided for each gender at the rate of 1 per 30 bicycle spaces for the non-residential use in Table 5.13.1.
- d) The minimum dimension of a bicycle space shall be:
  - i. Minimum length of 1.8 meters; and,
  - ii. Minimum width of 0.6 metres.

5.14 **Vehicle Parking Standards**

No person shall use any **land, building or structure** in any **zone** for any purpose permitted by this By-law, unless **parking spaces** are provided on the same **lot** in accordance with the provisions of this Section. The number of **parking spaces** required shall be calculated in accordance with the standards set out below in Table 5.14.1.

**Table 5.14.1**

Use	Minimum <b>Parking Space</b> Standard	Maximum <b>Parking Space</b> Standard
<b>Residential</b> (parking space per <b>Dwelling Unit</b> or portion thereof)		
<b>a) Apartment Dwelling</b>		
i) Bachelor (1)	0.70	0.85
ii) 1 Bedroom (1)	0.80	1.00
iii) 2 bedroom (1)	0.90	1.10
iv) 3+ bedroom (1)	1.00	1.20
v) Visitor (1)	0.15	0.20
<b>b) Other Residential Uses</b>		

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Use	Minimum <b>Parking Space</b> Standard	Maximum <b>Parking Space</b> Standard
i) <b>Street Townhouse Dwelling, Rear Lane Townhouse Dwelling, Back to Back Dwelling and Quadruplex Dwelling with frontage on a street</b>	1.00	2.00
ii) <b>Block Townhouse Dwelling, Stacked Townhouse Dwelling, Rear Lane Townhouse Dwelling, Back To Back Dwelling or a Quadruplex Dwelling with an attached garage or detached garage accessed by a lane</b>	1.00	2.00
iii) <b>Stacked Townhouse with a parking structure</b>	1.00	1.25
iv) For b)ii) and b)iii) – Visitor <b>parking spaces</b>	0.15	0.20
v) <b>Senior Citizen Dwelling, Long Term Care Facility</b>	0.33	0.40
Non Residential ( <b>parking space</b> per 100 square metres of <b>Gross Floor Area</b> or portion thereof, unless otherwise specified)		
i) <b>Major Office, Office</b> ii) <b>Commercial</b> iii) <b>Medical Offices/Clinics</b> iv) <b>Day Nursery</b> v) <b>Financial Institution</b> vi) <b>Veterinary Clinics</b>	2.80	3.50
vii) <b>Place of Assembly</b> including <b>Assembly Hall</b> , and <b>Place of Worship</b> viii) Arts and Cultural Facilities ix) <b>Social Services</b>	4.25	5.40
x) <b>Hotel/Motel</b>	0.65 <b>parking spaces</b> per room plus an additional 4.25 <b>parking spaces</b> per 100 square metres <b>Gross Floor Area</b> for areas dedicated for banquet rooms and similar uses, but excluding lobbies, hallways and similar area	0.9 <b>parking spaces</b> per room plus an additional 5.40 <b>parking spaces</b> per 100 square metres of <b>Gross Floor Area</b> for areas dedicated for banquet rooms and similar uses, but excluding lobbies, hallways and similar area

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Use	Minimum <b>Parking Space</b> Standard	Maximum <b>Parking Space</b> Standard
xi) School, Primary xii) Private School, Primary	1.35 <b>parking spaces</b> per classroom	1.7 <b>parking spaces</b> per classroom
xiii) School, Secondary xiv) Private School, Secondary xv) School, Post Secondary	2.7 <b>parking spaces</b> per classroom	3.4 <b>parking spaces</b> per classroom

Supplementary Notes:

1. Where a **secondary suite** or **home occupation** is permitted, no additional **parking space** is required provided that the primary **dwelling unit** provides for the minimum required **parking spaces** in Table 5.14.1.
2. Where a **live-work unit** is permitted, no additional **parking space** is required provided that the primary **dwelling unit** provides for a minimum of two **parking spaces**.
3. Where there is one or more uses on a **lot**, the minimum required **parking spaces** and the portion thereof shall be applied to each of the uses in Table 5.14.1.

5.15 Vehicle Parking Area Requirements

- a) Each **parking space** perpendicular to a **driveway** shall have a minimum width of 2.75 metres and a minimum length of 5.8 metres.
- b) Each **parking space** parallel to a **driveway** shall have a minimum width of 2.4 metres and a minimum length of 6.7 metres.
- c) A **parking space** that is not perpendicular or parallel to a **driveway** shall have an area comprised of a rectangle with a minimum width of 2.75 metres and a minimum length of 5.8 metres.
- d) The width of an aisle shall comply with the following provisions:
  - i. Aisles perpendicular to the **parking space**: a minimum of 6 metres.
  - ii. **Parking spaces** at sixty (60) degrees to the aisle: a minimum of 5.5 metres.
  - iii. **Parking spaces** at forty-five (45) degrees to the aisle: a minimum of 3.7 metres.
- e) The required **parking spaces** for a **Major Retail** use shall be located in a below **grade parking structure** or an above **grade attached parking structure** and subject to the requirements of Section 5.17.
- f) No **setbacks** shall be required for any **parking structure** or any portion thereof if it is constructed completely below the **established grade**.
- g) For a **street townhouse, block townhouse, back to back dwelling, stacked or rear lane townhouse dwelling, or a quadruplex dwelling**;, where a 0.3 metre **reserve** abutting a **street** exists, no part of any **attached garage** or **detached garage**, other than one completely below the **established grade**, shall be permitted closer than 5.8 metres to such **reserve**.

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- h) Tandem **parking spaces** shall not be permitted in a **parking structure** or **parking area**.

#### 5.16 Vehicle Parking Area

For a **high rise, mid rise** or **low rise building**, the following shall apply:

- a) All **parking areas** shall be located in the **rear yard** or **side yards** of a **lot**.
- b) **Parking areas** shall not be permitted to locate in any **yard** abutting an **Active At Grade Frontage**.

#### 5.17 Vehicle Parking Structure

For any **high rise, mid rise** or **low rise building**, the following provisions shall apply:

- a) Any portion of an **attached parking structure** that is above **grade**, shall comply with the provisions for the **main building** on the **lot** in accordance with this By-law.
- b) An above **grade attached parking structure** is prohibited to locate in the **first storey** of a **building** within the first 10.0 metres of the depth of the **building** measured in from the **building main wall** along a **street line** abutting any **Active At Grade Frontages**.

#### 5.18 Parking and Storage of Commercial Vehicles

The following provisions shall apply to the parking and storage of **commercial motor vehicles, commercial machinery or equipment, school buses, semi-trailers** or **trailers** on a **lot** for a **street townhouse, block townhouse, rear lane townhouse, stacked townhouse, back to back dwelling, or quadruplex dwelling**:

- a) **commercial motor vehicles, commercial machinery or equipment, school bus, semi-trailer** or **trailer** shall be parked on any **lot** unless parked entirely within a wholly enclosed **building**; n
- b) notwithstanding subsection (a) above, any **commercial machinery or equipment** which is parked or stored on any **lot** for the purpose of **landscaping**, construction or excavation on that **lot** shall be permitted for no longer than ninety-six (96) hours prior to commencement and ninety-six (96) hours after the completion of said construction, **landscaping** or excavation on that **lot**; and, n
- c) notwithstanding subsection (a) above, the parking of a **commercial motor vehicle** on a **lot** for not more than twenty-four (24) hours for the purposes of maintenance or service of, or delivery for the principal **building** on that **lot**, is permitted. n

#### 5.19 Barrier Free Access Ramp on Any Lot

The following provisions shall apply to a **barrier free access ramp** on any **lot**:

- a) a **barrier free access ramp** is permitted within any **yard**; and
- b) a **barrier free access ramp** shall be:



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- i. **setback** a minimum of 0.45 metres from the **front** and **rear lot lines**;
- ii. **setback** a minimum of 0.90 metres from the **flankage lot line**; and
- iii. **setback** in accordance with the **minimum required side yard setbacks** for the main **building** or a minimum of 0.9 metres from the **side lot line**, whichever is the lesser.

5.20 Driveways

**Driveways** used for the parking of motor vehicles and/or used to access a **building** or **structure** shall:

- a) not be located within a **daylighting triangle**;
- b) Have a minimum **setback** of 0.3 metres from the **side lot line**;
  - i. A **driveway** may have a setback of 0 metres from the **side lot line** if the **driveway** is to be shared with a **driveway** on an abutting **lot** or if the **driveway** is located along the **side lot line** of an end unit of a **street townhouse, block townhouse, back to back townhouse, rear lane townhouse, stacked townhouse** or **quadruplex dwelling**.
  - ii. **Driveways** leading to a **parking area** for **high rise, mid rise** or **low rise buildings**, and **dwelling units** with frontage onto a **lane**, shall have a minimum width of 4.0 metres for one-way traffic and 6.0 metres for two-way traffic.

5.21 Secondary Suites

**Secondary suites** are permitted subject to the following provisions:

- a) A **secondary suite** shall be wholly contained within the same **street townhouse dwelling, block townhouse dwelling, rear lane townhouse dwelling**, or above an **attached** or **detached garage** located on a **lot** that has a **side lot line** or the **rear lot line** abuts a **lane** or an **attached garage**;
- b) No more than one secondary **dwelling unit** shall be permitted per primary **dwelling unit**;
- c) Table 5.21 outlines the minimum habitable floor area requirements for the following **secondary suites**:

Table 5.21

Unit type	Minimum Habitable Floor Area
Study (bachelor)	25 square metres
1 bedroom	32 square metres
2 or more bedrooms	32 square metres as required for a one bedroom unit plus 9 square metres for each additional bedroom.

- d) No more than one **dwelling suite** entrance is contained within any **main wall** facing a **street**;

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- e) Entrance to the **secondary suite** shall be located in the front or side wall of the **street townhouse, block townhouse, or rear lane townhouse dwelling** and shall not be contained within a garage. Where the **secondary suite** is located above a **detached** or **attached garage**, the entrance to the **secondary suite** is permitted in the front, side or rear walls of the **detached** or **attached garage**;
- f) Where a **secondary suite** is located below **grade**, all other applicable laws and standards such as the *Ontario Building Code* and *Fire Code* shall be complied with;
- g) No **secondary suite** shall be located in a floodplain; and,
- h) **Home occupation** shall be associated with the primary **dwelling unit** only.

## 5.22 Building Unit Mix

For a **high rise, mid rise** or **low rise building** with 20 or more **dwelling units**, a minimum 5% of the total number of **dwelling units** shall contain 3 or more bedrooms per **dwelling unit**.

## 5.23 Public Authority

The following provisions shall apply to the use of any **lot, building** or **structure** in all **zones**:

- a) A **public authority** is permitted the following uses including all new public transportation, infrastructure and utility uses listed below, and all upgrading or extension of existing transportation, infrastructure and utilities uses, including the opening of a **street** within an unopened road allowance:
  - i. public highways;
  - ii. transit lines, railways and related facilities;
  - iii. gas and oil pipelines;
  - iv. sewage and water service systems and lines and small-scale stormwater management facilities;
  - v. power transmission lines;
  - vi. telecommunications lines and facilities, including broadcasting towers;
  - vii. bridges, interchanges, stations, and other **structures**, above and below ground, that are required for the construction, operation or use of the facilities listed in provisions subsections (i) to (vi) above;
  - viii. rights of way required for the facilities listed in provisions subsections (i) to (vii) above;
  - ix. community centres;
  - x. emergency service facilities;
  - xi. library;



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- xii. works yard;
- xiii. conservation, and
- xiv. parkland.
- b) Utilities including **buildings, structures** and **accessory** facilities used for the distribution of gas, steam, electricity or other forms of energy, and telecommunication provided by entities other than a **Public Authority** shall be permitted.
- c) The uses permitted in provisions subsections (a) save and except for (vi), and (b) above shall only be permitted where:
  - i. such use, **building** or **structure** complies with all of the applicable development standards of the **zone** and all applicable general provisions related to the permitted use; and
  - ii. no **outdoor storage** shall be permitted.

## 5.24 Temporary Construction and Sales Uses

- a) Nothing in this By-law shall prevent, in any **zone** other than the O **zone**, uses incidental to construction, such as a construction camp or other such temporary work camp, tool shed, scaffold or other **building** or **structure** incidental to the construction only for so long as the same are necessary for work in progress which has neither been finished nor abandoned.
- b) Nothing in this By-law shall prevent, in any **zone** other than the O **zone**, the use of a **building** or **structure** for the sale or lease of **dwelling units**, units for **residential** use, units for non-residential use, or a combination thereof, subject to the following:
  - i. The **dwelling units**, units for **residential use**, units for non-residential use, or a combination thereof, to be sold or leased are within the limits of the City of Richmond Hill; and
  - ii. Any **building** or **structure** used for the purpose of the sale or lease of **dwelling units**, units for **residential use**, units for non-residential use, or a combination thereof, is to be removed within sixty (60) days after completion of the last **dwelling unit**, units for **residential use**, units for non-residential use, or a combination thereof as the case may be.

## 5.25 Non-Complying Lots

### 5.25.1 Vacant Non-Complying

A **building** or **structure** may be **erected** and used on a vacant **non-complying lot** that is a **lot** of record that legally existed prior to the passing of this By-law, provided that it complies to all other provisions of this By-law.

### 5.25.2 Non-Compliance as a Result of Expropriation

Notwithstanding any other provision of this By-law, where, as a result of the acquisition of part of a **lot** by the **Corporation** or other body having a power of expropriation and the **lot**, after the acquisition, is a **non-complying lot**, such **non-complying lot** may be used for any purpose permitted by this By-law within the **zone** in which it is located provided that the use is permitted by this By-law.

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## 5.26 Non-Complying Buildings, Structures and Lot Conditions

### 5.26.1 Enlargement, Repair or Renovation

- a) A **non-complying building or structure** shall be deemed to comply with the development standards of this by-law as of the date of the passage of this By-law.
- b) No **non-complying building or structure** may be enlarged, repair or renovated unless subject to Section 5.33.

### 5.26.2 Non-Compliance as a Result of Expropriation

Notwithstanding any other provision of this By-law, where, as a result of an acquisition of property by the **Corporation** or other body having a power of expropriation, such acquisition results in a contravention of this By-law relating to minimum **yards**, **lot coverage**, maximum **gross floor area** or minimum usable open space then the lands so acquired shall be deemed to continue to form part of the **lot** upon which the **building** or **buildings** are located in determining compliance with this By-law.

## 5.27 Non-Conforming Uses

- a) No lands shall be used and no **building** or **structure** shall be used except in conformity with the provisions of this By-law unless such use existed before the date of passing of this By-law and provided that it has continued and continues to be used for such purpose, and that such use, when established, was not contrary to any existing By-law in force at that time.
- b) Any **non-conforming use** of land, **building** or **structure** which is discontinued or unused for an interval of more than sixty (60) days shall not be resumed nor shall any **non-conforming use** be changed to any other **non-conforming use**.
- c) Any **building** or **structure** containing a **non-conforming use** which is damaged or destroyed to the extent of more than fifty percent (50%) of its replacement cost as at the date of damage or destruction shall not be restored or reconstructed except in conformity with the requirements of this By-law for the **zone** in which it is located.

## 5.28 Further Division of Lots or Blocks on a Registered Plan for Street Townhouses and Dwelling Units

- a) Where **dwelling units** in a **street townhouse** or multiple dwellings are constructed on separate **lots**, no **side yard** shall be required where a **dwelling unit** has a common wall with an adjacent **dwelling unit**.
- b) Where **dwelling units** in a **street townhouse dwelling** are first constructed on a **lot** or **block on a registered plan** in conformity with this By-law, the provisions of Table 'A4.1' for minimum **lot frontage** and minimum **lot area** shall not be deemed to be contravened by reason of a division of the **dwelling units** in the **street townhouse dwellings** onto separate **lots** in accordance with the *Planning Act*, R.S.O. 1990, provided that all other requirements of this By-law are met, including Section 5.3.1.

## 5.29 Common Element Condominiums

Where any form of **dwelling units** or **premises** is **erected** in conformity with a **Site Plan Agreement**,

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- a) part of the lands affected by the **Site Plan Agreement** are **parcels of tied land** with respect to that **common element condominium**; and
- b) the balance of the lands affected by the **Site Plan Agreement** are **parcels of tied land** with respect to that **common element condominium**.

No provision of this By-law shall be deemed to be contravened by reason of the conveyance of a **parcel of tied land** upon which a **dwelling unit** or **premises** is **erected**, provided that all of the standards of this By-law are met for the lands as a whole, as set out in the **Site Plan Agreement** and provided the **common element condominium** and the **parcels of tied lands** are contiguous.

### 5.30 Application for Approval for a Condominium Description

The following provision shall apply to **buildings**, **dwelling units** or **premises** designated in an application for approval of a condominium description pursuant to the *Condominium Act*, 1998, as amended or a successor thereto:

Where any form of **buildings**, **dwelling units** or **premises** is erected in conformity with a **site plan agreement** and where the **buildings**, **dwelling units** or **premises** is proposed for approval pursuant to the *Condominium Act*, no provisions of this By-law shall be deemed to be contravened by reason of either a consent for mortgage purposes or the registration of a condominium description provided that all of the standards of this By-law are met for the lands as a whole as set out in the **site plan agreement**.

### 5.31 Municipal Services

The following provisions shall apply to prohibit the use of land or the erection of **buildings** or **structures** unless such municipal services as set out below are available to service the land, **buildings** or **structures**:

- a) For the purposes of this Section, all municipal services provided for in this Section are deemed to include all required service connections to the **street line** of the land on which the **building** or **structure** is to be located.
- b) Notwithstanding the provisions of this or any other By-law hereinbefore or hereinafter enacted pursuant to Section 34 of the *Planning Act* or any predecessor thereof, by **Council**, or any predecessor thereof, no land shall be used and no **building** or **structure** shall be **erected** or used for any purpose unless:
  - i. water and sanity sewer capacity are both available and **Council** has allocated water and sanitary sewer capacity to service the said lands and **building** or **structure**, or **Council** has exempted the development or the class of development from the requirement for allocation capacity;
  - ii. the **Commissioner** has confirmed that municipal services are available in accordance with subsection (c) hereof or subsection (d) hereof as the case may be.
- c) For the purposes of this Section, municipal services are deemed to be available to the lands, **building** or **structure** within a **plan of subdivision** registered after the enactment of this By-law, when the **street**, water, storm sewer, sanitary sewer and stormwater management facilities required to service such lands, **building** or **structure** satisfy the following requirements:

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- i. the public highways and **lanes** in the **plan of subdivision** or external to the **plan of subdivision** necessary to service the lands, **building** or **structure** have been constructed to base course asphalt;
  - ii. the watermains, sanitary sewers, storm sewers, and stormwater management facilities necessary to service the lands, **building** or **structure** have been constructed and are operational;
  - iii. with respect to any required sanitary, storm and watermain trunks and stormwater management facilities external to the **plans of subdivision**:
    1. all property required for the service have been conveyed to the **Town** or other government having jurisdiction;
    2. all easements required for the service have been conveyed to the **Town** or other government having jurisdiction;
  - iv. the watermain and required service connections have been disinfected in accordance with any applicable Province of Ontario standards and/or requirements and the **City of Richmond Hill Standards and Specifications Manual**, and the water being provided to the lands, **building** or **structure** meets any applicable Province of Ontario standards and/or requirements and the quality standards set out in the **City of Richmond Hill Standards and Specifications Manual**;
  - v. the watermain and any required service connections have been hydrostatically tested in accordance with any applicable Province of Ontario standards and/or requirements and the **City of Richmond Hill Standards and Specifications Manual**;
  - vi. a water flow test has met any applicable Province of Ontario standards and/or requirements and the **City of Richmond Hill Standards and Specifications Manual**; and
  - vii. two separate vehicular accesses into any **plan of subdivision** have been provided and kept open for the purposes of ingress and egress, to the satisfaction of the **Commissioner**.
- d) For the purposes of this by-law, municipal services are deemed to be available to the lands, **building** or **structure** that is not within a **plan of subdivision** referred to in subsection (c), or that is within a **plan of subdivision** referred to in subsection (c) but that is to be located on a parcel of land that is not the whole of a **lot** within that **plan of subdivision**, but which is created pursuant to the enactment of a by-law under subsection 50(5) of the *Planning Act* or pursuant to a consent under section 53 of the *Planning Act*, when the roads, water, storm sewer and sanitary sewer and stormwater management facilities required to service the lands, **building** or **structure** satisfy the following requirements:
- i. where the lands do not front on an assumed public highway or highway established by the **Town** or **Region**, an access route for fire department use, in accordance with the provisions of the *Building Code*, O.Reg. 350/06, as amended, or any successor legislation or regulation, has been provided;

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- ii. where any of a watermain, sanitary sewer and storm drainage system are available within a public highway adjacent to the land on which the **building** or **structure** is to be located, those services are constructed and operational;
  - iii. where a new watermain extension is required to provide water service, the watermain and any required service connections have been disinfected in accordance with any applicable Province of Ontario standards and/or requirements and the **City of Richmond Hill Standards and Specifications Manual**, and the water being provided to the lands, **building** or **structure** meets any applicable Province of Ontario standards and/or requirements and the quality standards set out in the **City of Richmond Hill Standards and Specifications Manual**;
  - iv. where a new watermain extension is required to provide water service, the watermain and any required municipal service have been hydrostatically tested in accordance with any applicable Province of Ontario standards and/or requirements and the **City of Richmond Hill Standards and Specifications Manual**; and
  - v. where a new watermain extension is required to provide water service, a water flow test has been conducted in accordance with any applicable Province of Ontario standards and/or requirements and the **City of Richmond Hill Standards and Specifications Manual**.
- e) Notwithstanding the requirements of subsection (c) or subsection (d), for the purposes of this section, water and sanitary sewer capacity and municipal services otherwise required by this by-law may be deemed by the **Commissioner**, in his or her absolute discretion, to be available to service a **building** containing three (3) or more **dwelling units** and having four (4) or more stories, up to nine (9) months prior to the time that such municipal services are actually completed and operational.
  - f) Notwithstanding the requirements of subsection (c) or subsection (d), for the purposes of this section, municipal services otherwise required by this by-law may be deemed by the **Commissioner**, in his or her absolute discretion, to be available to service a **non-residential building** up to two (2) months prior to the time that such municipal services are actually completed and operational.
  - g) Nothing in this section shall prevent the erection of model home and sales offices, subject to such terms and conditions as established by the **Town** and provided that an access route for fire department use in accordance with the *Building Code*, O. Reg. 350/06, as amended, or any successor legislation or regulation, has been provided.

### 5.32 Private Utility

Private Utilities shall be permitted in all zone categories. The following provisions shall apply to a **Private Utility** use:

- a) Minimum **side yard setback**: 3.0 metres;
- b) Minimum **rear yard setback**: 8.0 metres;
- c) Maximum height: 1.85 metres; and,



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- d) Maximum size of pad: 50 square metres.

### 5.33 Interim Development

Notwithstanding any other provision of this By-law to the contrary, expansions of existing **building(s)** or **structure(s)** or new stand-alone **building(s)** or **structures(s)** shall be permitted provided:

- a) the expansion or new **building(s)** or **structure(s)** is for non-residential uses prescribed in Table A1 only;
- b) the expansion or new **building(s)** or **structure(s)** is no greater than 15% of the total **gross floor area** of the existing **building(s)** or **structure(s)** as of the date of the passage of this By-law;
- c) that the expansion or new **building(s)** or **structure(s)** have a maximum **building height** of 2 **storeys** and shall not include below **grade structures**; and,
- d) the expansion or new **building(s)** or **structure(s)** shall comply with all other provisions of this By-law, save and except for minimum **building height**, minimum density and maximum **parking spaces**.
- e) this section shall not apply to any expansions or new **building(s)** or **structure(s)** greater than 15% as prescribed in (b) or greater than 2 **storeys** as prescribed in (c). Such expansion or new **building** or **structure** shall be subject to the provisions of this by-law.

### 5.34 Holding Provision

Where a **zone** symbol on the attached Schedule “A” is followed by the bracketed letter (H), the bracketed letter indicates that the lands to which it applies have been placed in a Holding (H) provision pursuant to Section 36 of the Planning Act and the City of Richmond Hill Official Plan, as amended. Lands as shown on Schedule A zoned with the Holding (H) provision, shall be subject to the following:

- a) Legally existing uses, **buildings** or **structures** shall continue to be permitted.
- b) Non-residential uses permitted in Table A1 shall be permitted to locate within legally existing **buildings** or **structures**;
- c) Additions to existing **buildings** referred to in (a) in this section, pursuant to Section 5.33 Interim Development shall be permitted.
- d) A sales trailer pursuant to Section 5.24 shall be permitted.
- e) No **buildings** or **structures**, save and except for (a), (b), (c) and (d) in this section, shall be permitted on a **lot** until the Holding (H) provision has been removed from that **lot**, in whole or in part, pursuant to an application to amend this zoning by-law, and subject to the following requirements:
  - i. **Lots** identified on Schedule E shall provide and maintain the total non-residential **gross floor area** prescribed as the minimum requirement **for each lot**. The non-residential **gross floor area** may be located within one or more existing **buildings**, additions to existing **buildings** or new **buildings**, and may be provided within one or more phases of development.

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- ii. Where successive phases of development are proposed, the submission of a Concept Plan which demonstrates the proposed phasing of development to the satisfaction of the **City**;
- iii. the entering into one or more development agreements including but not limited to Subdivision Agreements with the **City** to implement the Concept Plan in (ii) in this section;
- iv. the entering into one or more Site Plan Agreements with the **City**;
- v. a Transportation Planning Study and a Transportation Demand Management Strategy which demonstrates to the satisfaction of **Council** or other approval authority that the proposed use of the lands, **buildings** or **structures** complies with the requirements prescribed in Section 12.5.4.2(1) of the Official Plan; and,
- vi. a Functional Servicing Report subject to the satisfaction of the **City**.

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## Section 6 Definitions

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**6.1 Accessory**

Means a use subordinate and naturally, customarily and normally incidental to and exclusively devoted to a main use of land or **building**, and located on the same **lot**.

**6.2 Accessory Structure, Detached**

Means a **building** or **structure** that is not used for human habitation, the use of which is customarily incidental, subordinate and exclusively devoted to a principal use or **building** located on the same **lot** and shall not include a detached garage and outdoor swimming pool.

**6.3 Active At Grade Frontage**

Means a **street line** that abuts:

- a) Yonge Street;
- b) Bernard Avenue; or,
- c) any **street(s)** located south of Bernard Avenue which connects Yonge Street to Bernard Avenue

**6.4 Alter**

Means any alteration to the structural component of a **building** which could result in a change of use, or any increase in the volume of a **building** or **structure**.

**6.5 Amenity Space**

Means outdoor space on a **lot** that is communal and available for use by the occupants of a **building** on the **lot** for recreational or social activities.

**6.6 Angular Plane**

Means an imaginary flat surface projecting over a **lot** at an inclined angle measure of 45 degrees from:

- a) **grade** along the Zoning By-law area boundary in accordance with Schedule D; or,
- b) **grade** along the opposite edge of an existing street-right-way in accordance with Schedule D.

**6.7 Assisted Living Residence**

Means a **building** or **structure** that provides living accommodations, hospitality services and personal assistance to persons who can live independently but require assistance with daily activities. Units within Assisted Living Residences may contain kitchenettes with cooktop stoves, as well as common facilities for the preparation and consumption of food. Common lounges, recreation facilities and medical care facilities may also be provided. It shall be considered an **apartment dwelling**.



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#### 6.8 Attached

Means a **building**, otherwise complete in itself, which depends for structural support or complete enclosure upon a division wall or walls which are above **grade**, shared in common with an adjacent **building** or **buildings**.

#### 6.9 Automobile Service Station

Means a **building** or **structure** or parts thereof, used for the sale of petroleum products and automobile accessories and for the maintenance essential to the actual operation of **motor vehicles** but excluding a **motor vehicle** sales establishment, an auto body repair shop or public garage. The following associated uses shall also be permitted:

- a) a **GAS BAR CONVENIENCE RETAIL STORE**;
- b) a **GAS BAR**;
- c) a **MOTOR VEHICLE/LUBRICATION ESTABLISHMENT**; and
- d) a **MOTOR VEHICLE WASHING ESTABLISHMENT**.

#### 6.10 Barrier Free Access Ramp

Means an unenclosed and inclined ramp providing access to the main floor and/or entry level of a **building** that provides a continuous unobstructed access route intended for use by people with physical disabilities.

#### 6.11 Basement

Means a **storey** or **storeys** of a **building** located below the **first storey**.

#### 6.12 Block on a Registered Plan

Means a parcel of land that is indicated by the word and letter 'A', 'B', 'C', or as the case may be.

#### 6.13 Building

Means a **structure** occupying an area greater than 10 square metres (107.64 square feet) consisting of a wall, roof and floor, or any one or more of them, or a structural system serving the function thereof, including all works, fixtures and service systems appurtenant thereto.

#### 6.14 City

Means The Corporation of the City of Richmond Hill.

#### 6.15 Clinic

Means a **medical office** which contains three or more medical practitioners.

#### 6.16 Commercial

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 (such as restaurants with or without drive-through, florists, dry cleaners, tailors, hair salons and financial institutions) or where entertainment is offered for gain or profit (such as motion picture or other theatre, public hall, billiard or pool rooms, an establishment offering three or more electronic games

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for public use, bowling alley, ice or rollerskating rink, miniature golf course and all other similar places of amusement.

**Commercial** use shall also include but are not limited to the following defined terms:

- a) Clinic
- b) Financial Institution
- c) Hotel
- d) Major Office
- e) Major Retail
- f) Motel
- g) Office
- h) Office, Medical
- i) Retail
- j) Veterinary Clinic

Commercial uses shall 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.

#### 6.17 Commercial Machinery or Equipment

Means machinery or equipment used for business, employment or **commercial** purposes, including, without limiting the generality of the foregoing, bulldozers, road building machines, backhoes, cranes, ploughs, graders, forklifts and earthmoving equipment, farm tractors, and other similar machinery or equipment.

#### 6.18 Commercial Motor Vehicle

Means any **motor vehicle** having permanently attached thereto a truck or delivery body, and/or including, without limiting the generality of the foregoing, tow trucks, ambulances, hearses, fire apparatus, motor buses used primarily for business, employment or commercial purposes, and similar converted commercial motor vehicles, and/or including all **motor vehicles** with **commercial motor vehicle** licenses exceeding 508 kilograms in capacity.

#### 6.19 Commissioner

Means the Commissioner of Planning and Regulatory Services for the **Town** or such successor office, as the case may be.

#### 6.20 Common Element Condominium

Means a common element condominium corporation as described in the *Condominium Act*, 1998, as amended or a successor thereto.

#### 6.21 Community Use

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Means any tract of land, or **structure**, or any part of any land, **building** or **structure**, used for community activities, including a use by a **public authority**, **primary school**, **secondary school**, **post-secondary school**, **private school**, hospital, **place of worship**, arts and cultural facilities, **day nurseries**, **long term care facilities** and **social services**.

## 6.22 Condominium

Means a group of **dwelling units** or **premises**, each under individual ownership in a multiple unit **structure** with common elements in which:

- a) the **dwelling units** or **premises** comprise not only the space enclosed by the boundaries of the **dwelling unit** or **premises**, but all material parts of the land within the space;
- b) the common element means all the property except the **dwelling unit** or **premises**; and,
- c) the common elements are owned by all of the owners as tenants in common.

## 6.23 Corporation

When capitalized, means the **Corporation** of the City of Richmond Hill.

## 6.24 Council

Means the Council for the **City**.

## 6.25 Daylighting Triangle

Means a triangular area of land on or abutting a **corner lot**, formed by measuring from the point of intersection of **street lines** the distance required by this By-law for a **daylighting triangle** along each **street line** and joining such points with a straight line. The hypotenuse of a daylighting triangle shall be that property line directly opposite the angle formed by the point of intersection of the street lines.

## 6.26 Day Nursery

Means a day nursery facility licensed under the *Child Care and Early Years Act* or its successor.

## 6.27 Deck

Means a **structure** without a roof having a foundation to hold it erect and **attached** to or abutting one or more walls of a **building** or constructed separate from a **building** with or without direct access to the ground, the floor of which is above finished **grade**, and which is designed and intended for use as a sun deck but shall not include a landing or a stair.

## 6.28 Dwelling, Apartment

Means a **building** containing five (5) or more **dwelling units** all of which have a common external access to the **building** by means of a common corridor system. An **apartment dwelling** may take the form of a **high rise**, **mid rise** or **low rise building**.

## 6.29 Dwelling, Back to Back

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Means a **building** or part thereof containing three (3) or more **dwelling units**, but shall exclude an **apartment dwelling** or a **townhouse dwelling**

#### 6.30 Dwelling, Block Townhouse

Means a **townhouse dwelling** that is not a **Street townhouse dwelling** and may include a **stacked townhouse dwelling**, **rear lane townhouse**, **back to back dwelling** and **quadruplex dwelling**.

#### 6.31 Dwelling, Quadruplex

Means a **building** divided vertically and/or horizontally into four **dwelling units**, each one of which has two walls or parts thereof in common with adjoining **units** and an independent entrance to either the ground or common corridor.

#### 6.32 Dwelling, Rear Lane Townhouse

Means a **Townhouse Dwelling** (**Street Townhouse Dwelling** or **Block Townhouse Dwelling**) that is not a **stacked townhouse dwelling** or **back to back dwelling** and where vehicular access to an **attached garage** is provided via a **driveway** crossing the **Rear Lot Line** that is accessed from either a private or public **Lane**.

#### 6.33 Dwelling, Senior Citizen

Means an **apartment dwelling** that is occupied by senior citizens and which may be, but is not limited to being sponsored and/or administered by any public agency or any service **club**, **place of worship**, or other non-profit organization, either of which obtains its financing from Federal, Provincial or Municipal Governments or agencies, or by public subscription or donation, or by any combination thereof, and may include **accessory** uses and lounge facilities, usually associated with senior citizen developments. A **Senior Citizen Dwelling** shall include **Assisted Living Residence** and **Independent Seniors Living Residence**.

#### 6.34 Dwelling, Stacked Townhouse

Means a **building** containing at least three (3) **dwelling units**, each **dwelling unit** being separated from the other vertically and horizontally and having an independent external access

#### 6.35 Dwelling, Street Townhouse

Means a **townhouse dwelling** composed of **dwelling units** each of which has frontage on a **street**.

#### 6.36 Dwelling, Townhouse

Means a **building** divided vertically into three (3) or more **dwelling units**, each sharing a wall above the **established grade** and each of which has independent entrances at **grade** to a front and **rear yard** immediately abutting the front and rear walls.

#### 6.37 Dwelling Unit

Means a unit that:

- a) consists of one self-contained set of rooms located in a **building** or a **structure**;

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- b) is used or has the capability of being used as a domicile by one or more persons as a single housekeeping unit;
- c) contains cooking, eating, living, sleeping and sanitary facilities designated for the exclusive use of its occupants; and
- d) has a means of egress to the outside of the **building**, which may be an means of egress with other shared **dwelling units**.

#### 6.38 Entry Element

Means an open sided platform, with or without foundation, and with an upper **structure** covered by a roof, a balcony or enclosed second floor habitable space.

#### 6.39 Erect

Means “build”, “construct”, “reconstruct”, “**alter**”, and “relocate” and without limiting the generality of the foregoing shall be taken to include any preliminary physical operation such as excavating, grading, piling, cribbing, filling or draining, structurally **altering** any existing **building** or **structure** by an addition, deletion, enlargement or extension.

#### 6.40 Expropriating Authority

Has the same meaning as in the *Expropriations Act*, R.S.O. 1990, c. E. 26

#### 6.41 Fence

Means a structure constructed of posts, boards, tailings, rails, wire, masonry or similar methods or any combination thereof used to define a property boundary or to enclose any outdoor area. Fencing shall have a corresponding meaning.

#### 6.42 Financial Institution

Means a bank, credit union, trust company, savings **office** or retail banking operation which is open to the general public, but not including an investment **office**.

#### 6.43 First Storey

Means the **storey** with its floor closest to **grade** and having its ceiling more than 1.8 metres above **grade**.

#### 6.44 Floor Area

Means the total horizontal area of all floors in a **building**.

#### 6.45 Floor Area, Gross (GFA)

Means the aggregate of the **floor areas** of a **building**, measured between the exterior faces of the exterior walls of the **building** at each floor level but excluding **basement**, **mechanical penthouses**, loading areas, a **parking structure**, elevator shaft, stairwell, mechanical or electrical rooms, and any space with a floor to ceiling height of less than 1.8 metres.

#### 6.46 Floor Space Index (FSI)

Means the maximum **gross floor area** of all **buildings** on a **lot** expressed as a ratio or multiple of the **lot area**. For the purposes of this definition, the maximum

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**floor space index** in each **zone** shall apply only to that portion of such **lot** which is located within said **zone** prescribed in Schedule B.

#### 6.47 **Garage**

Means an enclosed **structure** designed and used for the storage of one or more **motor vehicles**.

#### 6.48 **Garage, Detached**

Means a building or structure which is not attached and is designed or used for the storage of one or more motor vehicles, and excludes a carport, other open shelter or any detached accessory structure.

#### 6.49 **Garage, Attached**

Means an enclosed **structure** which is **attached** and is designed or used for the storage of one or more **motor vehicles**, and excludes a carport, other open shelter or any **detached accessory structure**.

#### 6.50 **Gas Bar Convenience Retail Store**

Means a **retail store** established or existing only in conjunction with a **gas bar**, having a variety of convenience goods to serve the traveling public such as milk and dairy products, pre-packaged groceries, patent medicines, carbonated beverages, sundries, tobacco, stationary, magazines and newspapers, but not include fresh meats and produce. An automatic banking machine may also be included.

#### 6.51 **Gas Bar**

Means a **building** or **structure** including lands appurtenant thereto, used for the sale of petroleum products and automobile accessories, but shall not include the performance of minor running repairs essential to the actual operation of **motor vehicles**, a **motor vehicle** sales establishment, an auto body repair shop, or **automobile service station**.

#### 6.52 **Grade**

Means the level of the ground adjacent to the outside wall of a **building** or **structure**.

#### 6.53 **Grade, Established**

Means with reference to a **building** or **structure**, the average elevation of the finished **structure** off the ground where it meets the exterior of the front of such **building** and, when used with reference to a **structure** other than a **building**, shall mean the average elevation of the finished **grade** of the ground immediately surrounding such **structure**, exclusive in both cases of any artificial embankment or entrenchment and when used with reference to a **street** or road means the elevation of the **street** or road established by the **Corporation** or other designated authority.

#### 6.54 **Height, Building**

Means the number of **storeys** measured from, and including the **first storey** of each **building**. For the purposes of this definition, the minimum **building heights** in each **zone** shall apply only to that portion of such **lot** which is located within said **zone** prescribed in Schedule C.



Note: Entire Zoning By-law for Eastern Quadrants of the KDA (except Richmond Hill Retirements Lands at 70 Bernard Avenue) deferred to Phase 2

Flagpoles and roof constructions which are less than 5.5 metres in height and do not occupy more than 30% of the area of the roof upon which they are located shall not be included in the calculation of maximum **height**.

#### 6.55 High Rise

Means **buildings** or **structures** with a **height** of 9 **storeys** or greater.

#### 6.56 Home Occupation

Means an economic enterprise operated within a **dwelling unit**, incidental and secondary to the **residential use**.

#### 6.57 Hotel

Means a **building** or part of a **building** or 2 or more connected **buildings** used mainly for the purpose of catering to the needs of the travelling public by the furnishing of sleeping accommodations which do not include separate kitchen or housekeeping facilities but may include a **restaurant**, dining room, lounge, meeting rooms, **retail stores**, and other ancillary uses.

#### 6.58 Independent Seniors Living Residence

Means a **building** or **structure** that provides living accommodation primarily to retired persons or couples where each living unit has a separate entrance from a common hall and contains sanitary facilities, but does not contain a kitchen for the preparation of meals, and where common kitchen and dining facilities are separately located within each of the **buildings**. Common lounges and recreation facilities and medical care and/or assisted living services/facilities may also be provided. It shall be considered an **apartment dwelling**.

#### 6.59 Landscaping

Means any combination of trees, shrubs, flowers, grass or other horticultural elements, decorative stonework, paving, screening or other architectural elements, all of which is designed to enhance the visual amenity of a property and shall not include **amenity space**, **parking areas**, **driveways** or ramps.

#### 6.60 Lane

Means a public or private means of vehicular access to a **lot** or an abutting **property**. This may also include a parcel of land which is a **common element condominium** for means of vehicular access.

#### 6.61 Live-Work Unit

Means a single unit (e.g. studio, loft, or apartment) consisting of both a **commercial**, **retail** and/or **office** component and a residential component that is occupied by the same resident. A **live-work unit** may be used as both a living accommodation, which has a kitchen and sanitary facilities, and a business operated by one or more people who live in the unit.

#### 6.62 Loading Space

Means an unobstructed area of land which is provided and maintained upon the same **lot** or **lots** upon which the principal use is located and which:

- a) is provided for the temporary parking of one or more **commercial motor vehicles** while merchandise or materials are being loaded or unloaded from such **vehicles**;

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- b) is suitable for the temporary parking of one **commercial motor vehicle**; and
- c) shall not be used for the purpose of sale or display.

#### 6.63 Long Term Care Facility

Means a long term care facility that is licensed under the *Long Term Care Homes Act* or its successor.

#### 6.64 Lot

Means a parcel or tract of land:

- a) which is a whole **lot** as shown on a Registered Plan of Subdivision, but a registered Plan of Subdivision for the purpose of this definition does not include a Registered Plan of Subdivision which has been deemed not to be a Registered Plan of Subdivision under a by-law passed pursuant to Section 50 of the *Planning Act*, R.S.O. 1990, as amended, or a predecessor thereof; or
- b) which fronts on a **street** and is a separate parcel of land without any adjoining lands being owned by the same owner or owners as of the date of passing of this By-law; or
- c) the description of which is the same as in a deed which has been given consent pursuant to Section 50 of the *Planning Act*, R.S.O. 1990 as amended, or a predecessor thereof; or
- d) a parcel of tied land.

For the purpose of this definition no parcel or tract of land ceases to be a **lot** by reason only of the fact that part or parts of it has or have been conveyed to or acquired by the **Corporation**, Her Majesty in the Right of Canada, or the Regional Municipality of York.

For the purposes of this By-law, a **lot** separated from a **street** by a **reserve**, as defined in this By-law, shall be deemed to abut such **street**.

#### 6.65 Lot Area

Means the total horizontal area within the **lot lines** of a **lot**.

#### 6.66 Lot, Corner

Means a **lot** abutting two or more **streets** at their intersection or upon two parts of the same **street** provided that the interior angle of the intersection of such streets or parts of one street is not more than 135 degrees measured at the centre line of the street.

#### 6.67 Lot Coverage

Means the percentage of the **lot** covered by all **buildings**. **Lot coverage** in each **zone** shall be deemed to apply only to that portion of such **lot** which is located within said **zone**. The calculation of **lot coverage** shall not include that portion of such **lot** which is occupied by a **building** or portion thereof completely below grade, a covered **entry element**, a porch, with or without a basement and stairs with foundations, and barrier free access ramps. Within a residential **zone**, **lot coverage** for a principal building and **lot coverage** for detached **accessory** structures shall be separately calculated, and the habitable space on the second



Note: Entire Zoning By-law for Eastern Quadrants of the KDA (except Richmond Hill Retirement Lands at 70 Bernard Avenue) deferred to Phase 2

floor directly above an **entry element** or porch, **detached garages**, and **barrier free access ramps** shall be excluded from the calculation of **lot coverage**.

#### 6.68 Lot Frontage

Means the horizontal distance between the **side lot lines** measured at right angles; where the **front lot lines** are not parallel, the **lot frontage** shall be measured by a line six metres back from and parallel to the “chord” of the **front lot line**; for the purposes of this definition, the “chord” of the **front lot line** is a straight line joining the two points where the **side lot lines** intersect the **front lot line**. In the case of a **corner lot** with a **daylighting triangle**, the **flankage lot lines** shall be deemed to extend to their hypothetical point of intersection with the extension of a **front lot line** for the purposes of calculating **lot frontage**.

#### 6.69 Lot, Interior

Means a **lot** situated between adjacent **lots** and having access to one **street**.

#### 6.70 Lot, Through

Means a **lot** bounded on two opposite sides by **streets**, provided however that if any **lot** qualifies as being both a **corner lot** and a **through lot** as herein before defined, such **lot** shall be deemed to be a **corner lot** for the purpose of this By-law.

#### 6.71 Lot Line

Means a line delineating any boundary of a **lot**.

#### 6.72 Lot Line, Flankage

Means a **lot line** of a **corner lot** which abuts a **street** and is not a **front lot line**.

#### 6.73 Lot Line, Front

Means the line which divides the **lot** from the **street**; in the case of a **corner lot** or a **through lot**, the shortest of the lines which divide the **lot** from the **streets** shall be deemed to be the **front lot line**; on a **corner lot** or a **through lot** where such **lot lines** are of equal length, the **front lot line** shall be deemed to be that line which abuts a regional or provincial road or highway.

#### 6.74 Lot Line, Side

Means a **lot line**, other than a **rear lot line** that does not abut a **street**.

#### 6.75 Lot Line, Rear

Means the **lot line** opposite and most distant from the **front lot line** or, in the case of a triangular or otherwise irregularly shaped **lot**, a line of minimum three metres in length entirely within the **lot**, parallel to and at a maximum distance from the **front lot line**.

#### 6.76 Low Rise

Means **buildings** or **structures** with a **height** of 4 **storeys** or less and shall exclude a **street townhouse dwelling**, **block townhouse dwelling**, **stacked townhouse dwelling**, **rear lane townhouse dwelling**, **back to back dwelling** or a **quadruplex dwelling**.

#### 6.77 Main Building

Note: Entire Zoning By-law for Eastern Quadrants of the KDA (except Richmond Hill Retirements Lands at 70 Bernard Avenue) deferred to Phase 2

Means a **building** in which is carried on the principal purpose for which the **lot** is used.

#### 6.78 Main Wall

Means the exterior front, side or rear wall of a **building** and all structural members essential to the support of a fully enclosed space or roof.

#### 6.79 Mechanical Penthouse

Means the rooftop floor area above the livable area of a **building** that is used exclusively for the accommodation of stairwells and/or mechanical equipment necessary to physically operate the **building** such as heating, ventilation, air conditioning, electrical, telephone, plumbing, fire protection and elevator equipment and includes walls and **structures** intended to screen the mechanical penthouse and equipment.

#### 6.80 Mid Rise

Means **buildings** or **structures** with **heights** ranging between 5 **storeys** and 8 **storeys**.

#### 6.81 Motel

Means a separate **building** or two or more connected or detached **buildings** designed and used for the purpose of catering to the needs of the travelling public by furnishing sleeping accommodation with or without supplying food and/or other refreshments, and without limiting the generality of the foregoing shall include a motor court, auto court and tourist home.

#### 6.82 Motor Vehicle

Means an automobile, motorcycle and motor assisted bicycle unless otherwise indicated in the *Highway Traffic Act*, R.S.O. 1990, as amended, and any other **vehicle** propelled or driven otherwise than by muscular power, but does not include the cars of electric or steam railways, or other motorized **vehicles** running only upon rails, or a motorized snow **vehicle**, traction engine, farm tractor, or road **building** machine within the meaning of the *Highway Traffic Act*, R.S.O. 1990, as amended.

#### 6.83 Motor Vehicle/Lubrication Establishment

Means a **building** or part thereof used to provide ongoing regular maintenance essential to the actual operation of **motor vehicles** but shall not include a **motor vehicle** sales establishment, an auto body repair shop, public garage or **automobile service station**.

#### 6.84 Motor Vehicle Washing Establishment

Means a **building** or part thereof used for the automatic and/or coin operated washing of **motor vehicles**.

#### 6.85 Non-Complying

Means that which does not comply with the regulation(s) of this By-law as of the date of the final passing thereof.

#### 6.86 Non-Complying Building or Structure

Note: Entire Zoning By-law for Eastern Quadrants of the KDA (except Richmond Hill Retirements Lands at 70 Bernard Avenue) deferred to Phase 2

Means a **building** or **structure** that legally existed on the date of the passage of this By-law and that no longer complies with one or more standards of this By-law.

#### 6.87 **Non-Complying Lot**

Means a **lot** that legally existed on the date of the passage of this By-law that has less than the minimum required **lot frontage** or **lot area** required by this By-law.

#### 6.88 **Non-Conforming Use**

Means a use that legally existed on the date of the passage of this By-law and is no longer a permitted use in the **zone** in which the said use is situated.

#### 6.89 **Non-Residential Building**

Means a **building** that does not contain any **dwelling units**.

#### 6.90 **Obnoxious Use**

Means an offensive use of trade within the meaning of the *Public Health Act*, R.S.O. 1990, as amended or its successor, or a use which is a nuisance by reason of the emission or creation of odours, gases, dirt, smoke, noise, vibration, fumes, cinders, soot or waste or the depositing or leaving of unsightly objects or chattels on land.

#### 6.91 **Office**

Means a **building** or part of a **building** used for conducting the affairs of business, professions, services, industries, governments, or like activities, in which the chief product of labour is the processing of information rather than the production and distribution of goods.

#### 6.92 **Office, Major**

Means an **office** building that has a gross floor area of 10,000 square metres or greater used primarily for the practice of a profession or the carrying on of a business such as the management or direction of an agency, organization, public administration, or administration of an industry including research and development.

#### 6.93 **Office, Medical**

Means a **building** or part of a **building** used for the medical, dental, surgical and/or therapeutical treatment of human beings, but does not include a public or private hospital, or a professional office of a medical practitioner located in his or her residence.

#### 6.94 **Outdoor Patio**

Means an outdoor area used in conjunction with any restaurant, tavern, banquet hall or any other **premises** where food or refreshments are consumed by the public and where seating accommodation is provided and where meals or refreshments are served to for consumption on the **premises** and includes all such facilities whether or not licensed under the *Liquor License Act*.

#### 6.95 **Outdoor Storage**

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Note: Entire Zoning By-law for Eastern Quadrants of the KDA (except Richmond Hill Retirement Lands at 70 Bernard Avenue) deferred to Phase 2

Means any **accessory** storage outside of a principal or main or **structure** on a **lot**.

#### 6.96 Parcel of Tied Land

Means a parcel of land to which the common interest of an owner in a **common element condominium** attaches as provided for in Subsection 139(2)(a) of the *Condominium Act*, R.S.O. 1998, or a successor thereto and “parcels of tied land” has the corresponding plural meaning.

#### 6.97 Parking Area

Means an open area of land other than a **street**, **driveway** or **lane** used for the communal parking of **vehicles** with or without a fee being charged or the storage of delivery **vehicles**.

#### 6.98 Parking Structure

Means a **building** or part thereof used for the storage or parking of **motor vehicles**, which can be above or below **grade**.

#### 6.99 Parking Space

Means a space for the parking of a **motor vehicle** that is free and clear of any encroachments.

#### 6.101 Place of Worship

Means lands, **buildings** or lands and **buildings** used by bona fide religious groups for the practice of religious rites.

#### 6.102 Plan of Subdivision

Means a plan of subdivision registered in accordance with Section 51 of the *Planning Act*.

#### 6.103 Porch

Means a **structure** abutting a dwelling having a roof but with walls that are open and unenclosed to the extent that 50% of the vertical plane of the wall is open to the movement of air and which is used as an outdoor living area.

#### 6.104 Premises

Means the area of a **building** or part thereof occupied or used by a business enterprise. In a multiple tenancy **building**, occupied by more than one business, each business area shall be considered a separate **premises**.

#### 6.105 Private Home Day Care

Means a private home daycare facility licensed under the *Child Care and Early Years Act* or its successor.

#### 6.106 Private Utility

Any telephone or communications utility company operating within the Town may for the purposes of the public service, use any land or **erect** or use any **building** or **structure** in the **zone(s)** permitted subject to the use of land or **building** or **structure** being in compliance with the regulations prescribed for such **zone** or

Note: Entire Zoning By-law for Eastern Quadrants of the KDA (except Richmond Hill Retirement Lands at 70 Bernard Avenue) deferred to Phase 2

use and subject to there being no **outdoor storage** of goods, materials or equipment in any **yard** abutting a Residential **zone**.

#### **6.107 Public Authority**

Means any Federal or Provincial government authority, agency, body or department, the Regional Municipality of York, or the Corporation of the City of Richmond Hill, or any agency, body or department of either of these municipalities.

#### **6.108 Region**

Means The Regional Municipality of York.

#### **6.109 Reserve**

Means a strip of land 0.5 metres in width or less abutting a **street** and owned by the authority having jurisdiction over such a **street**. For the purposes of this By-law, a **lot** separated from a street by a **reserve** shall be deemed to abut such a **street**.

#### **6.110 Residential Use**

Means the use of land, **buildings** or **structures** for human habitation.

#### **6.111 Retail**

Means a use conducted in a building or structure or part thereof in which goods, merchandise, substances or items are displayed, rented or sold directly to the general public.

#### **6.112 Retail, Major**

Means a large format **retail** facility (or facilities), such as **retail** big box stores, retail warehouses and shopping centres which has a gross floor area of 10,000 square metres or greater.

#### **6.113 Satellite Dish/Receiver**

Means a **structure** that is 0.84 square metres (1 square feet) or greater, designed and used for the reception of television signals relayed back to Earth from a communication satellite.

#### **6.114 School**

Means a **school** under the jurisdiction of the York Region Board of Education, a **school** under the jurisdiction of the York Region Roman Catholic Separate School Board, or other similar Provincially approved educational institution or parochial **school** operated on a nonprofit basis.

#### **6.115 School, Portable**

Means an **accessory building** of a temporary or removable nature which is a **teaching classroom** used in conjunction with a primary, secondary or **private school** located on the same **lot** whether **attached** to or detached from the **main building**.

#### **6.116 School, Post Secondary**

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Means a **premises** used for educational purposes by a degree granting college or university under Province of Ontario legislation.

#### 6.117 School, Primary

Means a **school** established by the Ministry of Education providing education for children up to the level of grade 8.

#### 6.118 School, Private

Means a **school** meeting the standards set out for **schools** by the Ministry of Education which secures the major part of its funding from sources other than government agencies.

#### 6.119 School, Secondary

Means a **school** established by the Ministry of Education providing education for persons between the level of grade 9 and grade 12.

#### 6.120 School Bus

Means a motor vehicle for the purposes of the transportation of **school** children.

#### 6.121 Secondary Suite

Means a self contained **dwelling unit accessory** to the main **dwelling unit**.

#### 6.122 Semi-Trailer

Means a mechanical device that is towed by a motor vehicle and is so designed that a substantial part of its weight rests on or is carried by the motor **vehicle** or a **trailer** converter dolly through a fifth wheel assembly.

#### 6.123 Setback

Means the horizontal distance from the **lot line** measured at right angles to such **lot line** to the nearest part of any **building, structure, parking space, parking lot, parking area** or **loading space** for which a **setback** is required by this By-law.

#### 6.124 Site Plan Agreement

Means an agreement entered into pursuant to Section 41 of the *Planning Act* or a successor thereto.

#### 6.125 Social Services

Means a non-government, not-for-profit, non-**commercial** organization which carries on social, cultural, welfare, athletic or recreational programs for the benefit of the community.

#### 6.126 Storey

Means that portion of a **building** between the surface of a floor and the floor, ceiling or roof immediately above, provided that any portion of a **building** partly below **grade** level shall not be deemed a **storey** unless its ceiling is at least 1.8 metres above **grade**, and provided that the floor to ceiling height of a storey shall not exceed 4.5 metres. Any **storey** with a floor to ceiling height beyond 4.5 metres shall be deemed an additional **storey**.

#### 6.127 Street



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Means a public highway as defined by the *Municipal Act, 2001* S.O. 2001, c.25, as amended and shall exclude an unopened road allowance of any **street** which is shown on a Registered Plan of Subdivision which has been deemed not to be a Registered Plan of Subdivision under Section 50 of the *Planning Act*, R.S.O. 1990, or a predecessor thereof.

#### 6.128 Street Line

Means the boundary between a **street** and a **lot**.

#### 6.129 Street Wall

Means the wall of a **high rise or mid rise building** with a minimum of 3 storeys to a maximum of 6 storeys and that abuts a **front yard**, **flankage yard**, or a **yard** abutting a **lane** or a public park.

#### 6.130 Structure

Means anything that is **erected**, built or constructed of parts joined together and **attached** or fixed permanently to the ground. For the purpose of this By-law, a **fence**, a retaining wall, a light standard and a sign shall be deemed not to be **structures**.

#### 6.131 Suite

Means a single room or series of rooms of complementary use, operated under a single tenancy and includes **dwelling units**, individual guest rooms in **motels**, **hotels**, **boarding houses**, rooming houses and dormitories as well as individual or complementary rooms for businesses and personal services occupancies.

#### 6.132 Swimming Pool

Means any body of water located outdoors on privately owned property contained by artificial means in which the depth of the water at any point can exceed 0.6 metres and shall include any **accessory deck** or support **structure**.

#### 6.133 Tower

Means all storeys above the storeys that constitute the height of a **street wall** in a **high rise building**.

#### 6.134 Trailer

Means a mechanical device that is towed by a **motor vehicle**, a mobile home or any mechanical device on wheels that is designed not to transport persons.

#### 6.135 Vehicle

Means a mechanical device that is self propelled and is designed to be supported by the contact of wheels that is designed not to transport persons.

#### 6.136 Veterinary Clinic

Means the **premises** of a veterinary surgeon, where animals, birds, or other livestock are treated but are not boarded overnight.

#### 6.137 Yard

Note: Entire Zoning By-law for Eastern Quadrants of the KDA (except Richmond Hill Retirements Lands at 70 Bernard Avenue) deferred to Phase 2

Means an open, uncovered space on a **lot** appurtenant to a **building** and unoccupied by **buildings** or **structures** except as specifically permitted in this By-law.

#### **6.138 Yard, Flankage**

Means the **side yard** of a **corner lot** which **side yard** extends from the **front yard** to the **rear yard** between the **flankage lot line** and the closest point of the **main wall** of any **building** or **structure**.

#### **6.139 Yard, Front**

Means a **yard** extending across the full width of the **lot** between the **front lot line** and the closest point of the **main wall** of any **building** or **structure** on the **lot**.

#### **6.140 Yard, Side**

Means a **yard** other than a **flankage yard** which extends from the **front yard** to the **rear yard** between the **side lot line** and the closest point of the **main wall** of the **building lot** or **structure**.

#### **6.141 Yard, Minimum Required**

Means the minimum distance required from a **lot line**. No part of a required minimum **yard** for a **building** or **structure** shall be included as part of a required minimum **yard** for another **building** or **structure**. In calculating **minimum required yards**, the minimum horizontal distance from the respective **lot line** shall be used.

#### **6.142 Yard, Rear**

Means the open space extending across the full width of the **lot** between the **rear lot line** and the closest point of the **main wall** of any **building** or **structure** on the **lot**.

#### **6.143 Zone**

Means a designated area of land use shown on the zoning maps of this By-law.



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**Section 7 Exceptions**

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The following subsections of this "Section 7 Exceptions" are exceptions to the provisions of this By-law. In accordance with Section 2.4 of this By-law, where a **zone** symbol on the **attached** schedule(s) is followed by one or more bracketed numbers, e.g. R2(1) or R2(1)(8), the bracketed numbers refer to subsections in Section 7 - Exceptions of this By-law.

Modifications and **Deferred Sections** –September 18, 2020

Note: Entire Zoning By-law for Eastern Quadrants of the KDA (except Richmond Hill  
Retirements Lands at 70 Bernard Avenue) deferred to Phase 2

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### **Section 8 Enactment**

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Passed this 27th day of November, 2017.

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Dave Barrow

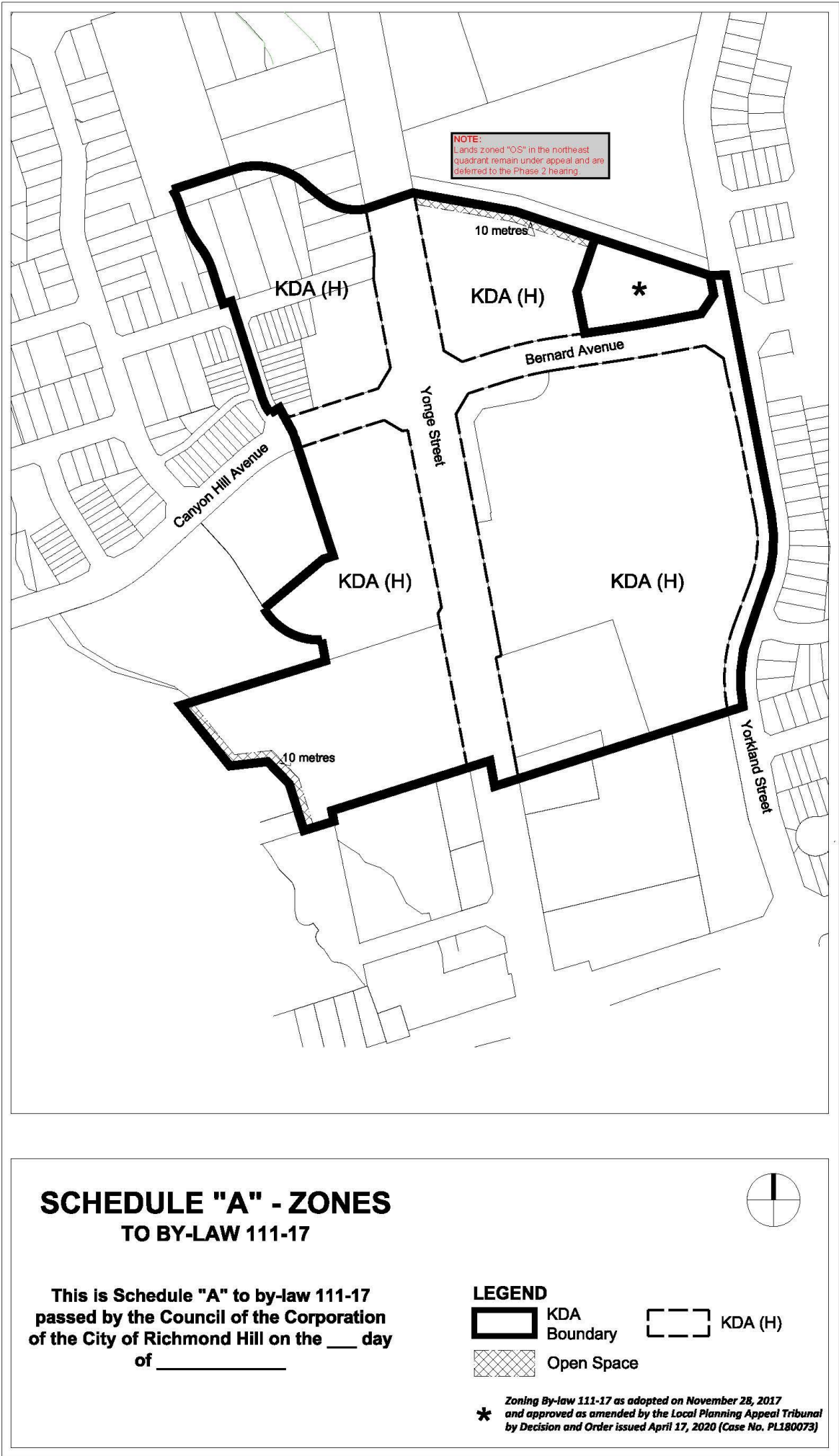
Mayor

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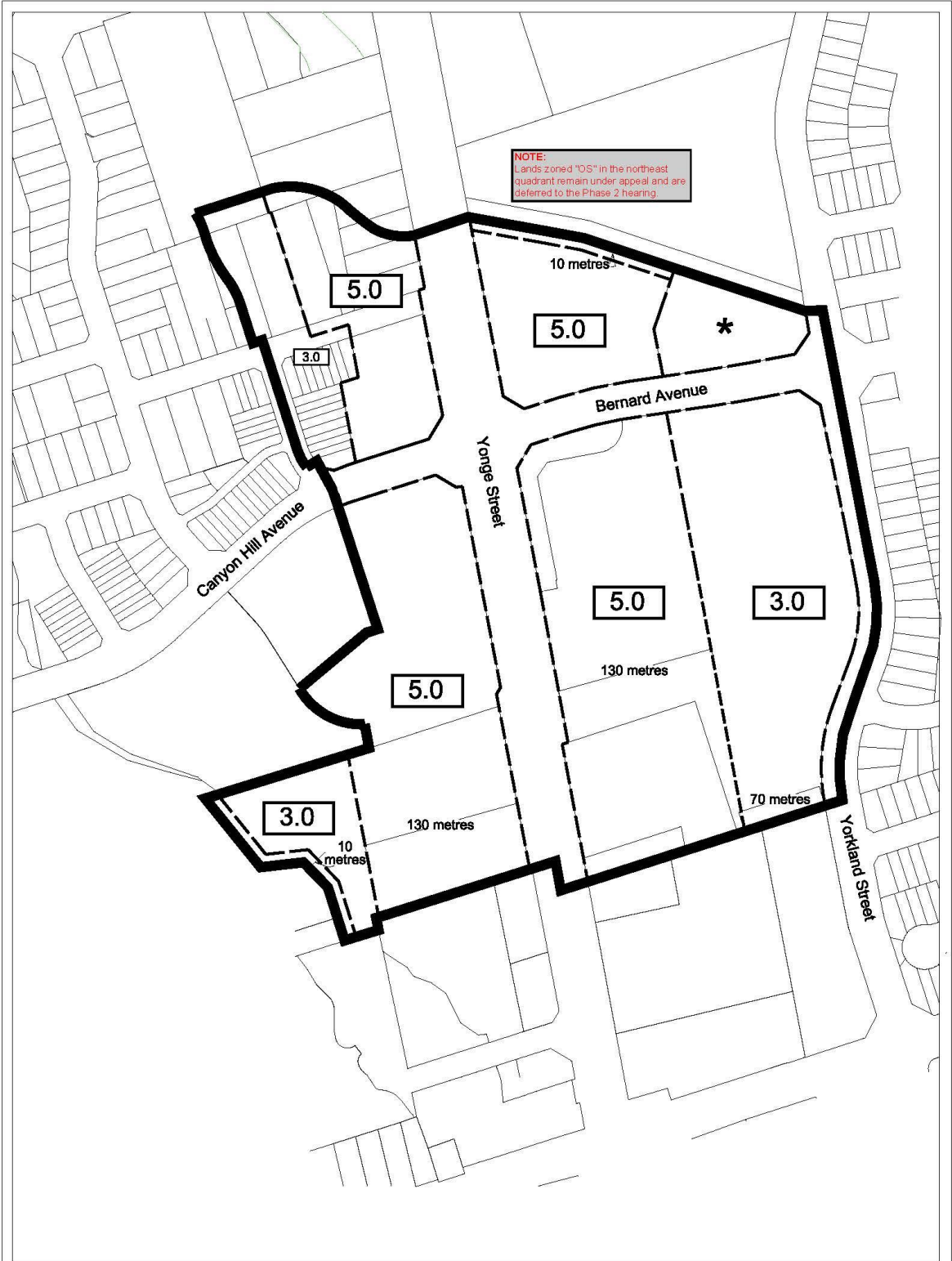
Stephen M.A. Huycke

Town Clerk

Note: Entire Zoning By-law for Eastern Quadrants of the KDA (except Richmond Hill Retirements Lands at 70 Bernard Avenue) deferred to Phase 2



Note: Entire Zoning By-law for Eastern Quadrants of the KDA (except Richmond Hill Retirements Lands at 70 Bernard Avenue) deferred to Phase 2



**SCHEDULE "B" - MAXIMUM DENSITY  
TO BY-LAW 111-17**



This is Schedule "B" to by-law 111-17  
passed by the Council of the Corporation  
of the City of Richmond Hill on the \_\_\_\_ day  
of \_\_\_\_\_

**LEGEND**

- 3.0** Maximum FSI  
**5.0** Maximum FSI

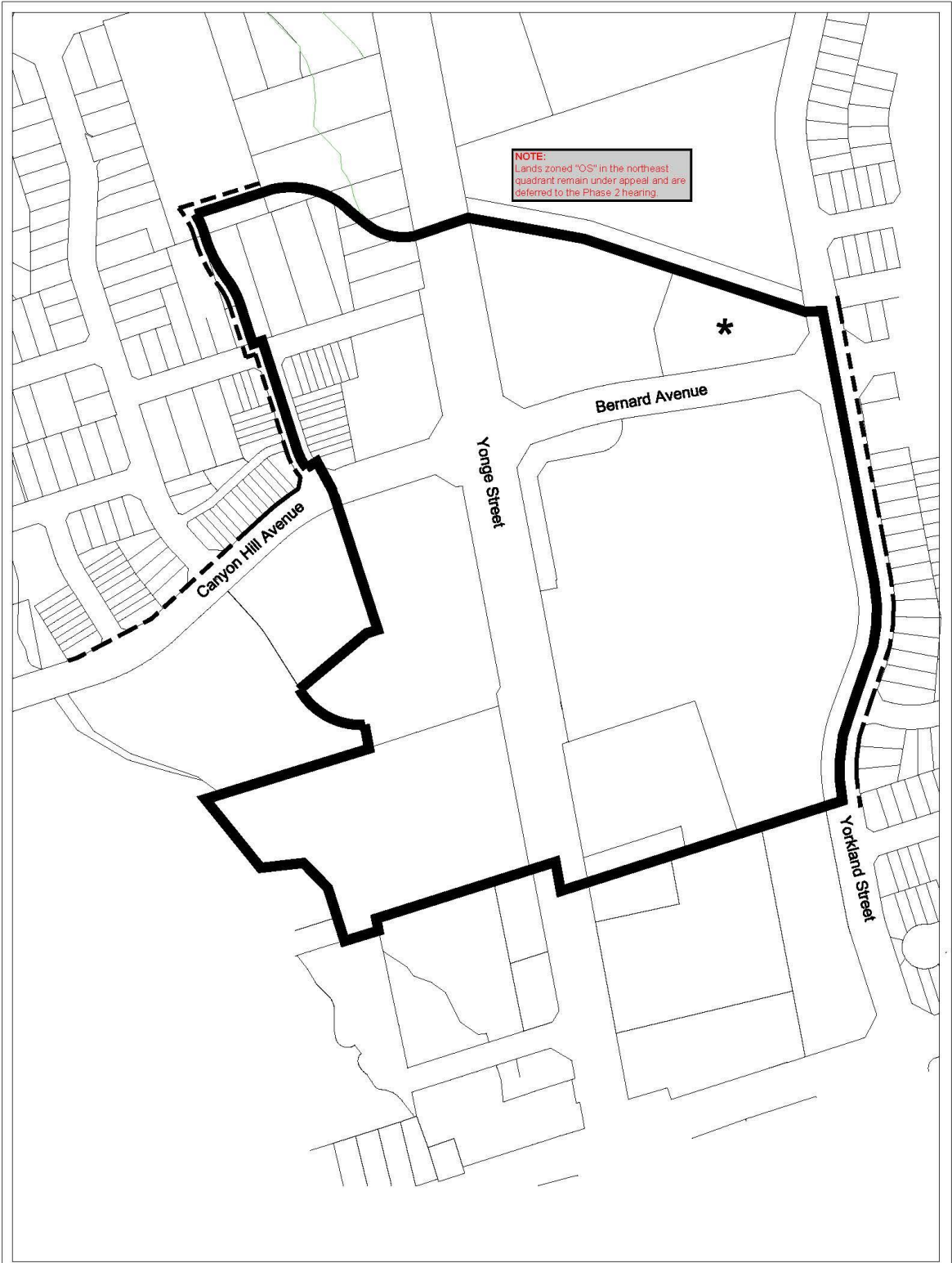
\* Zoning By-law 111-17 as adopted on November 28, 2017  
and approved as amended by the Local Planning Appeal Tribunal  
by Decision and Order issued April 17, 2020 (Case No. PL180073)

Note: Entire Zoning By-law for Eastern Quadrants of the KDA (except Richmond Hill Retirements Lands at 70 Bernard Avenue) deferred to Phase 2





Note: Entire Zoning By-law for Eastern Quadrants of the KDA (except Richmond Hill Retirements Lands at 70 Bernard Avenue) deferred to Phase 2



## SCHEDULE "D" - ANGULAR PLANE TO BY-LAW 111-17



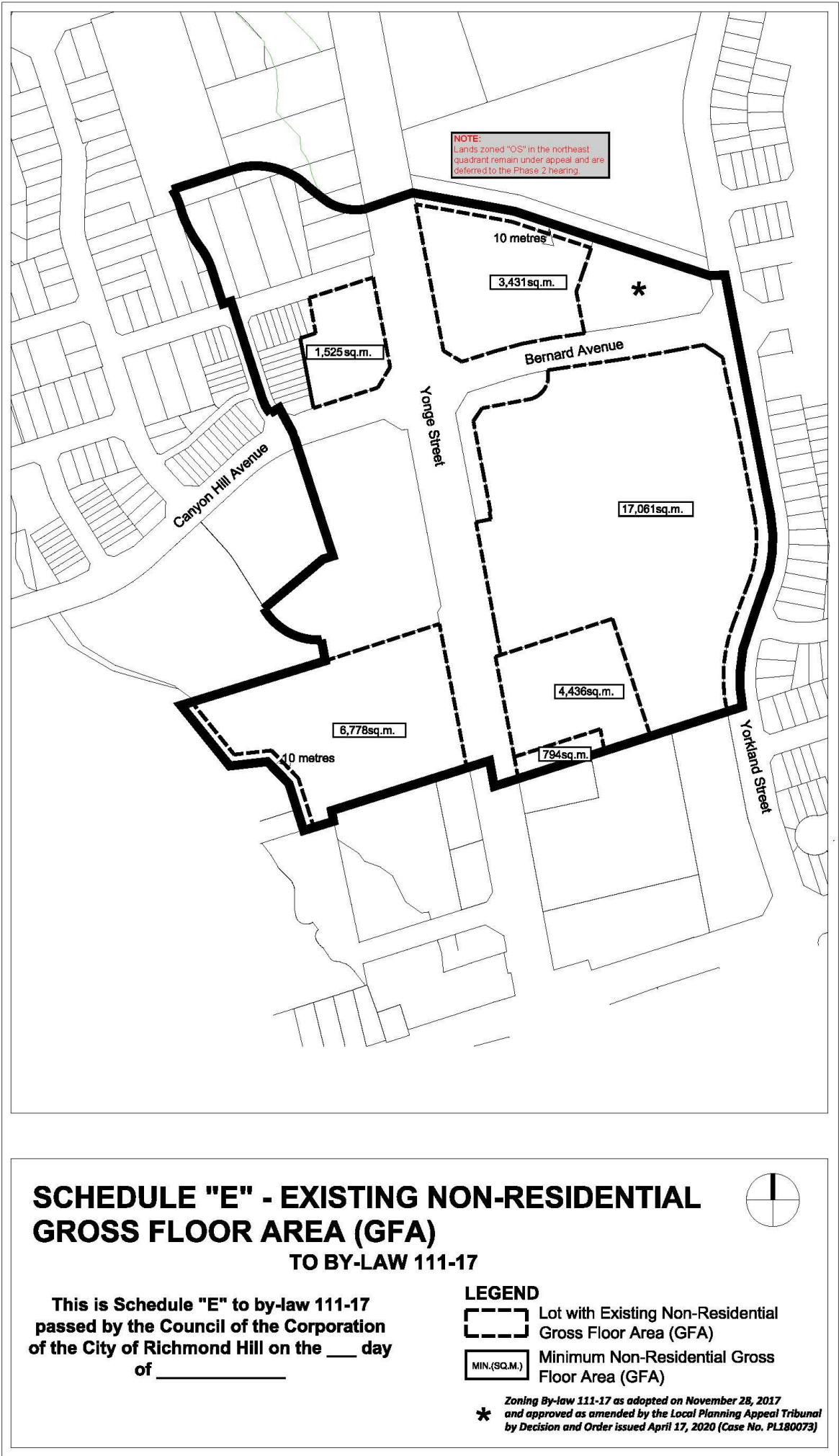
This is Schedule "D" to by-law 111-17  
passed by the Council of the Corporation  
of the City of Richmond Hill on the \_\_\_\_ day  
of \_\_\_\_\_

### LEGEND

■ ■ ■ ■ Angular Plane measured  
from grade

\* Zoning By-law 111-17 as adopted on November 28, 2017  
and approved as amended by the Local Planning Appeal Tribunal  
by Decision and Order issued April 17, 2020 (Case No. PL180073)

Note: Entire Zoning By-law for Eastern Quadrants of the KDA (except Richmond Hill Retirements Lands at 70 Bernard Avenue) deferred to Phase 2



## APPENDIX C

### Consolidated Modifications to the Part 1 Official Plan - September 18, 2020

#### Proposed Modifications to the Part I Official Plan

*A. Accept policy 3.1.3 (5):*

- 3.1.3(5) Development in the *centres and corridors* shall accommodate the highest densities and widest range of uses within the City and shall be provided at an appropriate scale and density, in accordance with policies of this Plan. This includes a built form transitioning to the surrounding areas and ensures the creation of high-quality, human scaled, pedestrian-orientated public realm.

*B. Accept policy 3.1.4 (3):*

- 3.1.4 (3) Within the centres and corridors, the greatest mix and range of uses, and the highest densities shall be directed to major public rapid transit terminals and stations.

*C. Accept the City's proposed modifications to Policy 4.4.1(6):*

- 4.4.1(6)(a) The density of a development block within a KDA shall be a minimum of 2.5 FSI and maximum of 3.0-FSI. The overall minimum and maximum FSI for specific blocks within a KDA or for a KDA overall may be revised through the development and approval of the Secondary Plan for that KDA. The boundaries of development blocks shall be identified in a Secondary Plan."

- 4.4.1(6)(b) Density of development with the Yonge Street and Bernard Avenue KDA overall shall be a minimum of 2.5 FSI to a maximum of 4.0 FSI. Allocation of density within the KDA shall be specified in a schedule to the Official Plan and the implementing zoning by-law, these allocations on a parcel basis can be less than and/or greater than the prescribed overall density

*D. Modify Policy 4.4.1(7) as follows:*

- 4.4.1(7). Until such time as Council approves a Secondary Plan for the KDAs, applications for *development* shall be required to submit a concept plan, in



accordance with Section 5.2 of this Plan, which demonstrates how the development meets land use and design policies of this Plan.

*E. Accept the City's proposed modifications to Policy 4.4.1(9):*

- 4.4.1(9) The following height requirements shall apply to development in the Yonge Street and Bernard Avenue KDA:
- a) A minimum building height of 3 storeys
  - b) A maximum base building height of 6 storeys;
  - c) A maximum building height shall be determined through a policy led framework that includes the application of allocated site densities and angular plane policies, among others for specific sites within the KDA; and,
  - d) The tallest buildings shall be directed towards the intersection of Yonge Street and Bernard Avenue, and along Yonge Street in general.

*F. Accept policy 3.1.3 (8):*

- 3.1.3 (8) Development applications to amend the Official Plan that would have the effect of reducing the density of a site that has been designated for medium or high-density residential development in *centres and corridors* shall only be considered through a *municipal comprehensive review*.

*G. Accept Policy 5.7 (2):*

- 5.7 (2) A Holding By-law passed under Section 36 of the Planning Act may be used in order to implement this Plan for one or more of the following purposes: ...