



Report to: Development Services Committee

Meeting Date: February 24, 2020

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**SUBJECT:** RECOMMENDATION REPORT, Applications by Uptown Green Garden Inc., for Official Plan and Zoning By-law Amendments and Site Plan Approval to permit a nine (9) storey mixed use building on the west side of Kennedy Road, north of 16<sup>th</sup> Avenue, 9332 to 9346 Kennedy Road, File Nos. OP 18 182671, ZA 18 182671 and SPC 19 132197 (Ward 6)

**PREPARED BY:** Rick Cefaratti, M.C.I.P., R.P.P., ext. 3675  
Senior Planner, West District

**REVIEWED BY:** Ron Blake, M.C.I.P., R.P.P. ext. 2600  
Senior Development Manager

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**RECOMMENDATION:**

1. That the report titled “RECOMMENDATION REPORT, Applications Uptown Green Garden Inc., for Official Plan and Zoning By-law Amendments and Site Plan Approval to permit a nine (9) storey mixed use building on the west side of Kennedy Road, north of 16<sup>th</sup> Avenue, 9332 to 9346 Kennedy Road, File Nos. OP 18 182671, ZA 18 182671 and SPC 19 132197 (Ward 6)” be received;
2. That the Official Plan Amendment application submitted by Uptown Green Garden Inc., to amend the 2014 Official Plan, be approved by Council, and that the draft Official Plan Amendment attached as Appendix ‘A’ be finalized and adopted by Council;
3. That the amendments to Zoning By-laws 304-87 and 177-96, as amended be approved and the draft implementing Zoning By-law, attached as Appendix ‘B’, be finalized and enacted, without further notice;
4. That the Site Plan application by Uptown Green Garden Inc., be endorsed in principle, subject to the Conditions attached as Appendix ‘C’ and subject to any refinements as required by the Design Review Panel;
5. That the approval of the Site Plan application be delegated to the Director of Planning and Urban Design or his designate once further refinements to the building elevations have been provided to the satisfaction of the City Architect;
6. That site plan endorsement shall lapse after a period of three (3) years from the date of endorsement, in the event that the site plan agreement is not executed within that period;
7. That in accordance with the provisions of subsection 45(1.4) of the Planning Act, R.S.O. 1990, c.P.13, as amended, the owner shall, through this Resolution, be

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- permitted to apply to the Committee of Adjustment for a variance from the provisions of the zoning by-law attached as Appendix 'B' to this report, before the second anniversary of the day on which the by-law was approved by Council;
8. That servicing allocation for two hundred and sixty nine (269) dwelling units be assigned to the subject development;
  9. That the City reserves the right to revoke or reallocate servicing allocation should the development not proceed in a timely manner;
  10. That the proposed mixed use development be designated a Class 4 area to allow for the implementation of "on building" noise control measures to mitigate sound level excesses on the building emanating from the existing Unionville Montessori Private School site located at 4484 16<sup>th</sup> Avenue;
  11. That Staff be authorized and directed to do all things necessary to give effect to this resolution.

**EXECUTIVE SUMMARY:**

This report discusses and recommends approval of applications to amend the Official Plan and Zoning By-law, and endorsement in principle of a Site Plan application submitted by Uptown Green Garden Inc., for a proposed mixed use mid-rise development at 9332 to 9346 Kennedy Road (the "Subject Lands"). The "Subject Lands" are located on the west side of Kennedy Road between New Yorkton Avenue to the north and 16<sup>th</sup> Avenue to the south. Uptown Green Garden Inc. is proposing a mixed use, nine (9) storey building. The proposed development will have a Gross Floor Area of 22,651.5 m<sup>2</sup> (243, 819 ft<sup>2</sup>), two hundred and sixty nine (269) residential units, and one (1) non-residential unit on the ground floor.

The "Subject Lands" are designated 'Mixed Use – Mid Rise' in the 2014 Official Plan (as partially approved on November 24, 2017, and updated by the LPAT on April 9, 2018). This designation provides for integrated retail, office and residential uses within buildings up to a maximum height of eight (8) storeys and a maximum density of 2.0 FSI. The owner's revised proposal for (9) storeys for a mixed use mid-rise building with a site density of 3.0 FSI requires an Official Plan Amendment.

The "Subject Lands" are zoned Rural Residential – RR1 under Zoning By-law 304-87, as amended. This zone category permits single detached dwellings and limited home occupations on large rural properties. The owner's the proposed development, which will include site specific development standards, requires a Zoning By-law Amendment.

The applicant has further requested that Council recognize the proposed mixed use development as a Class 4 area acoustical environment to allow for the implementation of noise control measures on the subject lands to mitigate sound level excesses from Unionville Montessori School (UMS) located south of the site. The province of Ontario's current noise guidelines require formal recognition from the land use planning authority (City Council) to confirm the "Subject Lands" as Class 4 Area acoustical environment.

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Noise control measures may include the incorporation of noise walls and sound absorbing materials as part of the proposed mixed use building.

The applicant will enter into a Section 37 Agreement with the City for community benefits, including the provision of a Public Art contribution, in return for the increase in density. This report recommends approval of the Official Plan and Zoning By-law Amendments (Appendix 'A' and 'B') as the proposed development will not in staff's opinion, adversely impact the surrounding properties. Staff is satisfied with the location and massing of the proposed building and also recommend endorsement in principle of the Site Plan application. However, refinements to the elevations are required.

**PURPOSE:**

This report recommends approval of the Official Plan Amendment and Zoning By-law Amendment applications, and endorsement in principle of the Site Plan application for a proposed nine (9) storey mixed use building.

**BACKGROUND:**

The "Subject Lands" (9332 to 9346 Kennedy Road) comprise four properties with a combined area of approximately 0.75 ha. (1.85 ac.). These lands are located on the west side of Kennedy Road, approximately 200 metres (656 feet) north of 16<sup>th</sup> Avenue (See Figures 1 to 3, Location Map, Area Context and Air Photo, respectively). There are three (3) single detached dwellings and mature vegetation on the "Subject Lands". One of the subject properties is vacant and undeveloped. Surrounding uses include:

- To the north are lands currently being developed for 132 townhouse units (Kylemore Yorkton Phase II);
- To the south is Unionville Montessori Private School (UMS);
- To the east across Kennedy Road is an existing residential low rise development comprised of single and semi-detached dwellings, and townhouses;
- To the west is an existing low rise development comprised of townhouses and single detached dwellings (Kylemore Yorkton Phase I);

**PROCESS**

Applications submitted in support of the proposal include a site specific amendment to the 2014 Official Plan and a Zoning By-law Amendment.

- These applications were deemed complete in June, 2018.
- A Statutory Public Meeting was held on January 22, 2019.
- An application for Site Plan approval in August, 2019.
- A Draft Plan of Condominium application remains outstanding.

**PROPOSAL:**

The mixed use mid-rise development proposal includes a height of nine (9) storeys, a Gross Floor Area of 22,651.5 m<sup>2</sup> (243, 819 ft<sup>2</sup>), two hundred and sixty nine (269) residential units, one (1) non-residential unit on the ground floor, and a rooftop outdoor amenity area on the east side adjacent to Kennedy Road. The applicant has revised the proposal as a result of input received to date from the public as well as internal departments and external agencies

Table 1 below provides a comparison between the original proposal and the revised proposal:

Table 1

Site Statistics	Original Proposal	Revised Proposal
Residential Gross Floor Area	20,515 m <sup>2</sup> (220,823 ft <sup>2</sup> )	22,651.5 m <sup>2</sup> (243,819 ft <sup>2</sup> )
Retail Gross Floor Area	307 m <sup>2</sup> (3,305 ft <sup>2</sup> )	66.5 m <sup>2</sup> (716 ft <sup>2</sup> )
Residential Units	232	269
Non-Residential Units	1	1
Total Private Amenity Area	1,044 m <sup>2</sup> (11,237 ft <sup>2</sup> )	1,076 m <sup>2</sup> (11,581 ft <sup>2</sup> )
Building Height	10 storeys	9 storeys
Floor Space Index (FSI)	2.87	3.00
Vehicle Parking	363	311
Bicycle Spaces	46	92

Vehicular access to the site is proposed via a restricted right-in/right-out, left-in access from Kennedy Road, and a one way outbound driveway onto to a private lane (Fernhill Lane) located within the townhouse development to the north (Kylemore Yorkton Phase II). This private lane will connect to New Yorkton Avenue which will also connect to Beckett Avenue to the East, across Kennedy Road.

## **OFFICIAL PLAN**

### York Region Official Plan

The “Subject Lands” are designated ‘Urban Area’ in the York Region Official Plan, 2010 (ROP), which permits residential, commercial, industrial and institutional uses. York Region staff has advised that the proposed Official Plan Amendment is a routine matter of local significance and is exempted from Approval by Regional Planning Committee and Council.

### 2014 Official Plan

The “Subject Lands” are designated ‘Mixed Use – Mid Rise’ in the 2014 Official Plan (as partially approved on November 24, 2017, and updated by the LPAT on April 9, 2018). This designation provides for integrated retail, office and residential uses within buildings up to a maximum height of eight (8) storeys and a maximum density of 2.0 FSI (Floor Space Index means the ratio of gross floor area of all buildings on a lot divided by the area of the lot on which the buildings are being developed). The original application was for ten (10) storeys and a maximum site density 2.87 FSI. The owner has revised the Official Plan amendment application to allow a maximum building height of nine (9) storeys and a maximum site density of 3.0 FSI.

## **ZONING**

### Zoning By-law 304-87

The “Subject Lands” are zoned Rural Residential – RR1 under Zoning By-law 304-87, as amended. This zone category permits single detached dwellings and limited home occupations on large rural properties. The owner has applied to amend the Zoning By-law

to permit the proposed development, which will include site specific development standards.

The draft Zoning By-law amendment (Appendix 'B') proposes to delete the "Subject Lands" from the designated area of By-law 304-87 and to add it to By-law 177-96, as amended as a Neighbourhood Commercial (NC3) zone to permit the proposed development.

A number of site specific development standards are proposed, including:

- a maximum permitted building height of nine (9) storeys;
- a maximum site density of 3.0 FSI;
- minimum parking rate for residential – 1.0 space per unit
- minimum parking rate for visitors – 0.15 spaces per unit
- minimum parking rate for retail uses – 1 space per 30 m<sup>2</sup>

The draft Zoning By-law Amendment also includes a holding provision. The provision requires the execution of an agreement with the adjacent landowner to the north for services on Royal Aberdeen Road and access to Fernhill Lane to facilitate the proposed development. This matter is discussed in more detail later in this report.

#### **OPTIONS/ DISCUSSION:**

##### **Issues identified in the Preliminary Report, at the Community Meeting and Public Meeting**

###### Preliminary Report

Several matters for consideration were identified in the June 11, 2018 preliminary report including:

- appropriateness of the proposed site density;
- the Region's traffic/transportation requirements (i.e. road widening, vehicular access restrictions etc.)
- compatibility between the proposed building heights and adjacent low rise residential development;

###### Public Meeting

The Statutory Public Meeting was held on January 22, 2019. Comments made at the Public Meeting included:

- concerns by residents of the adjacent Kylemore (Yorkton) low rise community to the west, regarding the loss of privacy;
- concerns about impacts the proposed development would have on traffic;
- concerns about the loss of mature trees along the west lot line;
- Concerns about the impacts of height between the proposed ten (10) storey building on residents of the existing townhouses to the west;

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The City has also received written submissions from the public that provide comments and objections similar to those noted above.

#### Site Layout, Building Massing and Density Are Appropriate

The proposed site layout has been designed to minimize potential impacts to the existing residences in the area. The proposed massing provides an appropriate transition to the adjacent low rise neighbourhood located to the west by proposing the tallest portion of the building closest to Kennedy Road (9 storeys) and stepping down the building height to the west and north adjacent to the existing residential development to the west (3 storeys). In consultation with Planning and Urban Design staff, the applicant has revised the overall building design to address comments from the community. The applicant has reduced the building height from ten (10) to nine (9) storeys. The rooftop outdoor amenity area has been relocated approximately 40 metres away from the west side of the building to the east side adjacent to Kennedy Road. This amenity area will also be partially screened by the penthouse mechanical room. This shift of the amenity space will mitigate any potential overlook condition on the adjacent residential properties and enhance their privacy.

The applicant submitted an angular plane diagram in support of the application (See Figure 6). This diagram was provided to evaluate the relationship between the proposed mixed use mid-rise and the existing low rise development to the west. The City typically requires angular planes with a maximum 1:1 slope, where the slope is taken from the closest low rise residential use property line to the top of mid-rise building (1:1 slope means 1 metre away for every metre in building height). With exception of some minor encroachments, the massing of the proposed building largely fits within a 45 degree angular plane drawn from the property line of the adjacent townhouses, and generally achieves a 1:1 slope.

Staff is satisfied with the building massing and the preliminary elevations. However, the owner will also need to satisfy the City's sustainability requirements, including obtaining LEED Silver equivalent building performance, conform to the City's Bird Friendly Guidelines and provide dark sky compliant lighting.

#### Further Refinements to Building Elevations Required

On January 30, 2020, the proposal was presented to the Design Review Panel (DRP). The DRP recommended, among other matters, that revisions be made to the vertical and horizontal treatment of the building elevations. The applicant is developing revised building elevations in order to incorporate additional feedback received from the DRP and the City Architect. On February 18, 2020, Staff received a letter and new perspective drawings of the proposed nine (9) storey building from the applicant advising of revisions made to the proposal to address comments received from the DRP (see Attachment 1 – Letter to City Architect, and Attachment 2 – Perspective Drawings, February 2020).

#### Existing trees to be preserved

The site plan was revised to preserve several mature trees along the west property line to provide a natural buffer between and the existing townhouses and the proposed building. Staff note that, along the west side of site, the soil depth provides an ideal opportunity for additional landscaping, planting and for the survival of existing mature trees.

### Dog Facilities

The applicant has advised that the proposed development is dog friendly. Details to ensure the proposed development is dog friendly shall be secured through the site plan agreement process.

### Mixed Use Development Requires Class 4 Area Declaration

The rooftop HVAC mechanical units for the existing private school (UMS) buildings to the south of the site will create noise impacts for future residents of the proposed development. The applicant is requesting that Council designate the subject lands a Class 4 Area to allow for higher daytime/night time sound level limits than would otherwise be permitted where sensitive land uses such as mixed use mid-rise buildings are proposed adjacent to existing noise sources (UMS). A Class 1 Area is the typical designation for developments that incorporate residential uses.

The Class 1 area designation requires a significant degree of noise mitigation measures to be provided at the noise source (the UMS property), including the replacement of HVAC units with quieter models. A Class 4 Area designation will allow noise control measures to be provided within the proposed mixed use mid-rise development on the subject lands, including the incorporation of noise walls, and sound absorbing materials.

Staff note that the Ministry of the Environment released provincial noise guidelines (NPC-300) in October of 2013 to allow for relaxed noise limits in areas where there are proposals to develop sensitive land uses next to existing noise sources, and to promote intensification. The provincial noise guidelines require formal recognition from the land use planning authority (City Council) to recognize the “Subject Lands” to be a Class 4 Area acoustical environment.

Staff has no objections to the applicant’s request for Council to declare the subject lands as a Class 4 Area provided that the owner includes appropriate warning clauses in every purchase and sale agreement advising purchasers of noise impacts from the UMS property. Staff will review the applicant’s warning clause through the site plan agreement process.

### Transportation Improvements to Regional roads required

Regional staff has advised that a minimum right of way of 43.0 m will be required for this section of Kennedy Road. Consequently, a road widening that accommodates 21.5 metres from the centre line of construction on Kennedy Road, will be required. In addition, a 5.0 metre by 5.0 metre daylight triangle easement will be required at the proposed access to Kennedy Road.

York Region has also identified future improvements to the 16<sup>th</sup> Avenue/Kennedy Road intersection including:

- a) Extending the existing southbound exclusive right turn lane from the 16<sup>th</sup> Avenue/Kennedy Road intersection to the Kennedy Road/Beckett Avenue intersection;
- b) Constructing a new receiving lane on the south side of the 16<sup>th</sup> Avenue/Kennedy Road intersection;

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- c) Extending the existing westbound exclusive right turn lane storage at the intersection of 16<sup>th</sup> Avenue/Kennedy Road intersection;
  - d) Extending the existing eastbound exclusive right turn lane storage from the 16<sup>th</sup> Avenue/Kennedy Road intersection to approximately 135 metres west of Yorkton Boulevard;

The funding for the above noted improvements to 16<sup>th</sup> Avenue and Kennedy Road will be up-fronted through the redevelopment of the York Downs Golf Course lands. However, the owner of the Uptown Green Garden proposal will also be required to contribute funding for the proposed Regional improvements.

This matter will be secured through the site plan agreement process.

#### Vehicular Access to Kennedy Road Restricted

As noted previously, vehicular access for the “Subject Lands” will be from a restricted right-in/right-out, left-in from Kennedy Road. In addition a one way outbound driveway will be provided to a private lane (Fernhill Lane) that leads to New Yorkton Avenue through the adjacent Kylemore Yorkton Phase II townhouse development located to the north.

York Region has agreed in principle to permit the proposed right-in/right-out/left-in access to/from the subject lands to Kennedy Road. The City of Markham and York Region will require the owner to enter into an access easement agreement with the adjacent property to the north (Kylemore Yorkton Phase II) to secure this arrangement. Kylemore has agreed to provide this easement.

#### Reduced Parking Rates Supported

Markham’s Transportation Engineering Staff has reviewed the Parking Utilization Study submitted in support of the proposal. Staff is satisfied that the proposed residential parking rate of 1.0 space per unit and the proposed visitor parking rate of 0.15 space per unit, will accommodate the anticipated peak parking demands for the proposed development.

#### Transportation Demand Measures (TDM) required

In an effort to provide alternatives to automobile transportation, the applicant will be required to provide a number of TDM measures including: maintaining long-term and short-term bicycle parking spaces, a Car-Share service, together with a New Resident Information Package & Transit Incentive Program. These matters shall be secured through the site plan agreement process.

#### Site Specific Official Plan Policy requested to permit increases in Maximum Height and Maximum Floor Space Index (FSI) is appropriate

As noted earlier in this report, the proposed amendment to the 2014 OP proposes a site-specific policy to permit a maximum height of nine (9) storeys and a FSI of 3.0.

The scale of the proposed development has been assessed in light of a detailed review and analysis of the built form. Density, in the form of an FSI number, is not the exclusive indicator of whether or not a proposed development is appropriate or compatible. The

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design, layout, massing and height transitions of the applicant's current proposal are intended to mitigate any negative impacts on surrounding residences.

Following a detailed review of the materials submitted in support of the applications, staff are of the opinion that, due to the proposed orientation of the building massing and the overall site layout, the proposed increased height and density can be supported.

#### Sustainable measures proposed

The applicant has advised that a number of sustainable development measures will be incorporated, including:

- Bird friendly and dark sky compliance;
- Water efficient landscaping, through the planting of native and drought tolerant vegetation; and,
- 92 bicycle parking spaces to support the use of active transportation;

As noted previously, the applicant will be required to satisfy the City's sustainability requirements, including obtaining a LEED Silver or equivalent building performance. Staff will continue to work with the applicant to achieve additional sustainability features, such as increasing energy efficiency, incorporating environmentally preferable building materials and reducing the local-heat island effects. These matters will be secured through the site plan agreement.

#### Parkland Dedication

The applicant is not proposing public parkland through this proposal. Therefore, the applicant will be required to fulfill the parkland requirement through a cash-in-lieu of parkland payment, as a condition of site plan approval.

#### Access to services on Royal Aberdeen Road required

Privately owned Water, Storm and Sanitary service infrastructure located on Royal Aberdeen Road can accommodate the proposed development. The applicant will be required to enter into an agreement with the owner of the Kylemore (Yorkton) development (Angus Glen Developments) to access these services.

#### Compensation for Tree Removal Required

Notwithstanding the applicant's efforts to preserve perimeter trees along the west edge of the "Subject Lands", there are a number of mature trees that are proposed to be removed from other locations within the "Subject Lands". Compensation for tree removal will be determined prior to site plan endorsement being issued by the Director of Planning & Urban Design, and secured through the site plan agreement.

#### Committee of Adjustment Rights

Due to the scale and complexity of the proposal, it is recommended that Council approve a resolution to allow the applicant to apply to the Committee of Adjustment for minor variances from the provisions of the zoning by-law before the second anniversary of the day on which the proposed by-law is approved by Council.

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### Section 37 and Public Art

The applicant will be required to provide Section 37 benefits, including a Public Art contribution, in accordance with the City policies and Section 37 of the Planning Act. The requirement for a contribution will be identified in the Zoning By-law Amendment and provided with the execution of the site plan agreement.

### Draft Plan of Condominium Required

A Draft Plan of Condominium application, to allow the sale of the individual apartment dwelling units, non-residential units and to create the common elements, will be required. The authority to approve the Draft Plan of Condominium is delegated to the Director of Planning and Urban Design. This application has not yet been submitted.

### Market Based Apartments Proposed

Based on the materials submitted with the applications and discussions with the applicant, the proposed mixed use mid-rise condominium apartments will be marketed as premium units. The proposed apartments will not be developed with the intent of adding affordable housing units to the area.

### Site Specific Amendment to add the “Subject Lands” to Zoning By-law 177-96, as amended, is appropriate

The proposed amendment to remove the “Subject Lands” from Zoning By-law 304-87 and add them to Urban Residential Zoning By-law 177-96, as amended, is appropriate. Amendments to these zoning by-laws are required to facilitate the development of the proposed condominium apartment buildings. A number of site-specific development standards will permit the proposed development to proceed, in accordance with the proposal as shown in Figures 4, 5 and 6.

The proposed Zoning By-law Amendment will include a Holding (H) provision. The H provision will require the developer to enter into an agreement with Angus Glen Developments to connect to existing services on Royal Aberdeen Road, and to permit vehicular egress from this property to Fernhill Lane, prior to the start of the development. Lifting of the H would only occur after the servicing and vehicular access matters have been resolved to the satisfaction of Council.

### **CONCLUSION:**

The proposed mixed use apartment development is appropriate. The built form will not adversely impact the surrounding properties. The building massing will be sympathetic to their surroundings as the tallest portion of the building is proposed closest to Kennedy Road while stepping down the building height to the west and north. Consequently, Staff recommends: that the draft Official Plan Amendment (Appendix ‘A’) be finalized and adopted and, that the draft Zoning By-law Amendment (Appendix ‘B’) be finalized and enacted, and that the associated Site Plan application be endorsed in principle, subject to the conditions outlined in Appendix ‘C’.

### **FINANCIAL CONSIDERATIONS:**

Not applicable.

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**HUMAN RESOURCES CONSIDERATIONS**

Not applicable.

**ALIGNMENT WITH STRATEGIC PRIORITIES:**

The applications were reviewed in the context of the City's strategic priorities of Growth Management and Municipal Services.

**BUSINESS UNITS CONSULTED AND AFFECTED:**

These applications have been circulated to various City departments and external agencies and no objections to the proposal have been raised.

**RECOMMENDED BY:**

Biju Karumanchery, M.C.I.P., R.P.P.  
Director, Planning & Urban Design

Arvin Prasad, M.C.I.P., R.P.P.  
Commissioner of Development Services

**ATTACHMENTS:**

- Figure 1 – Location Map
- Figure 2 – Area Context/Zoning
- Figure 3 – Air Photo
- Figure 4 – Site Plan
- Figure 5 – North and East Elevations
- Figure 6 – South and West Elevations
- Figure 7 – Angular Plane Illustration

**APPENDICES:**

- Appendix 'A' – Draft OPA
- Appendix 'B' – Draft ZBA
- Appendix 'C' – Site Plan Conditions

**ATTACHMENTS:**

- Attachment 1 – Letter to City Architect, February 2020
- Attachment 2 – Renderings , February 2020

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