



Report to: Development Services Committee

Meeting Date: December 12, 2023

SUBJECT: RECOMMENDATION REPORT for Official Plan and Zoning By-law Amendment applications TH (Warden) Developments (BT) Inc., at 10506 and 10508 Warden Avenue to permit townhouses, stacked townhouses, and mixed use multi-storey units, a 2 ha dual use park/stormwater management block; and a secondary school block (Ward 2), File No. PLAN 22 265291

PREPARED BY: Hailey Miller
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REVIEWED BY: Clement Messere, MCIP, RPP
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RECOMMENDATION:

1. That the report titled, “RECOMMENDATION REPORT for Official Plan and Zoning By-law Amendment applications TH (Warden) Developments (BT) Inc., at 10506 and 10508 Warden Avenue to permit townhouses, stacked townhouses, and mixed use multi-storey units, a 2 ha dual use park/stormwater management block; and a secondary school block (Ward 2), File No. PLAN 22 265291”, be received;
2. That the Official Plan Amendment application submitted by TH (Warden) Developments (BT) Inc., to amend the Official Plan, be endorsed in principle by Council, and that the draft Official Plan Amendment be finalized and brought forward to a future Council meeting to be enacted without further notice;
3. That the Zoning By-law Amendment application submitted by TH (Warden) Developments (BT) Inc. to amend Zoning By-law 304-87, as amended, be endorsed in principle by Council and that the draft Zoning By-law be finalized and brought forward to a future Council meeting to be enacted without further notice; and
4. That staff be authorized and directed to do all things necessary to give effect to this resolution.

EXECUTIVE SUMMARY:

The Proposed Development would facilitate the creation of approximately 274 back-to-back and lane-based townhouse units; blocks for future mixed use multi-storey development (1,170 units estimated), a 2 ha dual use park/stormwater management block (“SWM”), and a secondary school block (the “Proposed Development”) at 10506 and 10508 Warden Avenue that comprise 20.22 ha (49.96 ac)(the “Subject Lands”).

The 2022 York Region Official Plan (“2022 ROP”) was approved by the Minister of Municipal Affairs and Housing on November 2022, and included a site-specific policy for the Subject Lands that permits additional uses and height and density increases beyond what the Berczy Glen Secondary Plan contemplates. In January 2023, the City received applications for Official Plan and Zoning By-law

Amendment, with a concurrent Draft Plan of Subdivision, on the Subject Lands that sought to implement the 2022 ROP site-specific policy. The statutory Public Meeting was held on May 9, 2023, and the comments provided by one member of the public and members of the Development Services Committee are considered in the Discussion section of this report. Through discussions with the applicant the original proposal was reduced in density and height and includes additional parkland.

On October 23, 2023, the Ministry of Municipal Affairs and Housing (“MMAH”) announced its intention to reverse recent official plan decisions for various municipalities through legislation. On November 2, 2023 the Minister wrote to the City asking for comments on the provincial modifications to the York Region Official Plan. On November 16, 2023, the Province introduced Bill 150 which, among other matters, proposes to delete the 2022 ROP site-specific policy applicable to the Subject Lands. On December 5, 2023 the Mayor, as requested by the Minister of MMAH, provided comments on the proposed changes in Bill 150 and requested that this provincial site specific modification be maintained but revised to reduce the density from “a minimum of 100 units per hectare” to “a maximum of 71 units per hectare” and a reduction from “25 storeys” to “19 storeys” on the high density block that is consistent with the development proposal. Staff received confirmation from the applicant that they are in support of these changes. Bill 150 received Royal Assent on December 6, 2023, however, the Environmental Registry of Ontario posting of this Bill remains open for comments until December 16, 2023.

Staff recommend that the Official Plan and Zoning By-law Amendment (the “Applications”) be endorsed by Council in principle, subject to finalizing the instruments, that will be brought forward to a future Council meeting once all matters have been resolved to Staff’s satisfaction, including ensuring conformity to the York Region Official Plan. The Subject Lands are subject to a Draft Plan of Subdivision application that will be brought to a future Development Services Committee (“DSC”) meeting.

PURPOSE:

This report recommends endorsement of the Applications, in principle, submitted by TH (Warden) Developments (BT) Inc. (the “Owner”) to facilitate the Proposed Development on the Subject Lands.

Process to Date

- Staff deemed the Applications complete on January 27, 2023
- Heritage Markham Committee reviewed the Applications on March 8, 2023
- The statutory Public Meeting was held on May 9, 2023

The 120-day period set out in the *Planning Act* before the Owner can appeal the Applications to the Ontario Land Tribunal (the “OLT”) for a non-decision ended on May 27, 2023. Accordingly, the Owner is in a position to appeal the Application to the OLT.

Pending review of any changes to the York Region Official Plan by the Province, if the DSC endorses the Applications in principle, then the planning process will include the following next steps

- The draft Official Plan and Zoning By-law Amendments will be finalized and brought forward to a future Council meeting
- The Draft Plan of Subdivision recommendation report and conditions will be finalized and brought forward to future DSC and Council meetings
- The Owner would be required to clear the finalized conditions of Draft Plan of Subdivision, enter into a Subdivision Agreement with the City, and register the Draft Plan of Subdivision
- The review of future applications for Site Plan Control and Draft Plan of Condominium, where required.

BACKGROUND:

The 20.22 ha (49.96 ac) Subject Lands are located within the Berczy Glen Secondary Plan Area

Figure 1 shows the Subject Lands being located in the Berczy Glen Secondary Plan Area (the “Secondary Plan Area”). The Subject Lands contain rural residential uses and the “Trudgeon House”, which is listed under the *Ontario Heritage Act*, as shown on Figure 2. Figure 3 shows the surrounding land uses, which is predominantly under construction.

The Owner submitted the Applications to permit the Proposed Development as shown in Table 1

Table 1: Original and Current Proposal - Development Blocks		
	Original Proposal (see Figure 4)	Current Proposal (see Figure 5)
Building Heights	<ul style="list-style-type: none"> • Townhouses (rear-lane and back-to-back): 12.5 m or three storeys • Medium Density Block (Block 35): up to six storeys • High Density Blocks (Block 36 and 37): up to 25 storeys 	<ul style="list-style-type: none"> • Townhouses (rear-lane and back-to-back): 12.5 m or three storeys • Medium Density Block (Block 35): up to six storeys • High Density Block (Block 36): up to 19 storeys • Medium Density Block (Block 37): up to eight storeys
Units	<ul style="list-style-type: none"> • Total: 2,026 to 2,426 units • 140 rear-lane townhouses • 136 back-to-back townhouses • 200 to 250 estimated units (Block 35) • 850 to 1000 estimated units (Block 36) • 700 to 900 estimated units (Block 37) 	<p>Total: 1,444</p> <ul style="list-style-type: none"> • 138 rear-lane townhouses • 136 back-to-back townhouses • 210 estimated units (Block 35) • 800 estimated units (Block 36) • 160 estimated units (Block 37)
Park	<p>Total: 1.51 ha (3.73 ac)</p> <ul style="list-style-type: none"> • Park: 0.71 ha (1.75 ac) • Dual Use Park/ SWM Facility: 0.80 ha (1.98 ac) 	<p>Total: 2 ha (4.94 ac)</p> <ul style="list-style-type: none"> • Park: 1.13 ha (2.79 ac) • Dual Use Park/SWM Facility: 0.87 ha (2.15 ac)
Public Secondary School*	<p>3.4 ha (8.4 ac)</p> <p>* Block 32 represents a portion of a public secondary school site which is anticipated to be combined with the abutting block to the west on draft approved Plan of Subdivision 19TM-18004 (Mattamy) to form a complete school site.</p>	<ul style="list-style-type: none"> • No change

Key changes made to the Proposed Development during the review process include the following:

- Reduced overall site density from a minimum of 100 units per ha (“UPH”) to a maximum of 71 UPH that resulted in a decrease of 982 units from 2,426 to 1,444 units
- Block 36 maximum building height has been reduced from 25 storeys to 19 storeys
- Block 37 maximum building height on Block 37 has been reduced from 25 storeys to 8 storeys
- Block 33 (Park) has increased in size from 0.71 ha (1.75 ac) to 1.13 ha (2.79 ac)
- Block 34 (Park/SWM Facility) has increased in size from 0.8 ha (1.97 ac) to 0.87 ha (2.15 ac)

The Proposed Development is consistent with the Provincial Policy Statement, 2020 (the “2020 PPS”) and conforms to the Growth Plan for the Greater Golden Horseshoe, 2019 (the “Growth Plan”)

The 2020 PPS provides direction on matters of Provincial interest related to land use planning and development. These matters, in-part, include building strong healthy communities with an emphasis on efficient development and land use patterns, and wise use and management of resources. The Subject Lands are designated for development in the 2022 ROP and City Official Plans.

The Growth Plan provides, in-part, a framework for implementing the Province’s vision for building strong, prosperous communities within the Greater Golden Horseshoe to 2051, with building compact, vibrant and complete communities, and optimizing the use of existing and new infrastructure to support growth. The Subject Lands are located within a Designated Greenfield Area (“DGA”) of the Growth Plan. DGA lands are planned for development and are required to accommodate forecasted growth to the horizon of the Growth Plan. Staff are of the opinion that the Applications conform to the Growth Plan, as it is located within a DGA, promotes a diverse mix of land uses, provides a range and mix of housing types, and supports the achievement of a compact complete community.

The City and Applicant have requested the Minister to maintain and amend the site specific provincial modification to the 2022 York Region Official Plan to reflect the revised development, as shown in Figure 5

The 2022 ROP includes policies that guide land-use planning consistent with the requirements of the Growth Plan 2020 to encourage high quality urban design, attractive buildings, landscape, and public streetscapes. The Subject Lands are designated ‘Urban Area’ on Map 1 - Regional Structure. The Urban Area designation permits a wide range of land uses including residential, commercial, employment, and institutional uses. Map 1A – Land Use Designations designates the Subject Lands ‘Community Area’, which are areas where the majority of residents, personal services, retail, arts, culture, recreational facilities and human-services needs would be located.

As part of its approval of the 2022 ROP, the Minister of Municipal Affairs and Housing amended the 2022 ROP on November 4, 2022, to include the following site-specific policy respecting the Subject Lands:

“4.2.31 Special provisions for lands within the property known municipally as 10506 Warden Avenue and 10508 Warden Avenue in the City of Markham (PIN 030531745). Notwithstanding any other policies in this Plan to the contrary, the minimum density target to be achieved is 100 units per hectare across the whole of the lands and building heights up to 25 storeys for any high density residential built form on the site. Permitted uses shall include, but not be limited to, long-term care facility, retirement and senior’s residence together with healthcare clinics, low, medium, and high density housing in a variety of built-forms, schools and a dual-use parkland/stormwater management facility.”

On October 23, 2023, the Ministry of Municipal Affairs and Housing (“MMAH”) announced its intention to reverse recent official plan decisions for various municipalities through legislation. On November 2, 2023 the Minister wrote to the Mayor asking for comments on the provincial modifications to the York Region Official Plan. On November 16, 2023, the Province introduced Bill 150 which, among other matters, proposes to delete the 2022 ROP site-specific policy applicable to the Subject Lands. At the request of the Minister, the Mayor, on December 5, 2023, provided comments on the proposed changes through Bill 150 and requested that the provincial site specific modification be maintained but revised to reduce the density from “a minimum of 100 units per hectare” to “a maximum of 71 units per hectare” and a reduction from “25 storeys” to “19 storeys” on the high density block consistent with the development proposal. Staff have received communications from the applicant that they support this direction by the City. Bill 150 received Royal Assent on December 6, 2023, however, the Environmental Registry of Ontario posting of this Bill remains open for comments until December 16, 2023.

The Applications, as modified since the initial submission, seek to implement this policy by concentrating the highest densities and heights closest to Warden Avenue and broadening the land use permissions on the Subject Lands to include a dual use park/SWM facility, and long-term care facility, retirement and senior’s residence together with healthcare clinics.

The City’s requested modification to the 2022 ROP’s site specific policy will need to be formally approved for the Proposed Development to conform to the 2022 ROP and enable the applications to be approved.

The 2014 Markham Official Plan (“2014 OP”) sets out land use policy to guide future development and manage growth, and the Berczy Glen Secondary Plan (the “Secondary Plan”) provides detailed direction for these lands as shown in Figure 6, and summarized in Table 2

Table 2: Berczy Glen Secondary Plan Information (OPA 24)	
Current Designations:	“Residential Low Rise”; “Residential Mid Rise I”; “Mixed Use Mid Rise”; “Mixed Use Mid Rise – Neighbourhood Service Node”
Permitted Building Types:	<ul style="list-style-type: none"> • The “Residential Low Rise”: permits townhouses and subject to review of a development approval application and criteria to permit back-to-back townhouses • The “Residential Mid Rise I”: permits townhouses (includes back-to-back and stacked townhouses) • The “Mixed Use Mid Rise”: permits apartment buildings, multi-storey non-residential or mixed-use buildings and stacked townhouses • The “Mixed Use Mid Rise - Neighbourhood Service Node”: permits apartment buildings, multi-storey non-residential or mixed-use buildings (require non-residential ground floor uses for any building fronting Warden Avenue or Street ‘D’)
Proposal:	The Owner’s Official Plan Amendment proposes to amend the Secondary Plan to add site-specific provisions to permit a maximum of 19-storeys (Block 36) and a maximum density of 71 UPH on the entire Subject lands, and expand the uses and building types permitted.

The Proposed Development is subject to Zoning By-law 304-87, as amended, as shown in Figure 2, and will require an amendment, as summarized in Table 3

Table 3: Zoning By-law Amendment Information	
Current Zone:	Agriculture One Zone (A1)
Permissions:	Agricultural uses, storage of agricultural produce, seasonal vegetable and fruit stand, one single detached dwelling, private home day care, and public conservation projects
Proposal:	The Owner proposes to rezone the Subject lands to “CA2 – Community Amenity Two”, “CA4 – Community Amenity Four”, “OS2 – Open Space Two”, “R2-S – Residential Two - Special, and “R2-LA – Residential Two Lane Access”, under By-law 177-96, as amended, with site-specific development standards.

DISCUSSION:

The following section identifies how the matters raised through the review process for the Proposed Development, including those raised at the statutory Public Meeting, have been resolved or considered.

The following are matters that were raised by the public and the DSC members, as shown below

1. A member of the public suggested that there should be more retail near the secondary school and noted that this area is not currently supported by transit and that transit will be needed to support the density
The secondary school site is located within a 5-minute walk of a planned Mixed Use Neighbourhood Service Node at the intersection of Street ‘D’ and Warden Avenue with the intent to be developed with higher density housing forms and mixed use functions. The node would offer retail, personal service, and other non-residential uses that serves future students and residents. Transit services are planned along Warden Avenue to support the planned higher densities.
2. DSC members suggested the Owner consider including duplexes and triplexes, purpose-built rental units, and a dog park within the Proposed Development
The Proposed Development includes lane-based and back-to-back townhouses, as permitted in the Secondary Plan. Building types provided for on the future development Blocks 35 and 37 include stacked townhouses, apartment buildings, and multi-storey non-residential or mixed use buildings. Block 36 permits apartment buildings and multi-storey non-residential or mixed use buildings. To encourage purpose built rental units, as part of the future conditions of draft plan approval, staff will seek 5% of the ground related product (14 units) be required to provide a “built in” secondary suite in the basement, which has been applied consistently throughout this area. Suggestions regarding how to program the park block (i.e. dog park) will be considered as part of its detailed design that typically occurs after a decision is made on the Applications and involves public consultation.
3. DSC members questioned how Bill 23 affects the parkland in the proposed development
As a result of Bill 23, the parkland requirement for the Subject Lands have changed from 1 ha/300 units (4.813 ha) to 1 ha/600 units (2.407 ha). This results in a reduction of 50% (2.406 ha). The Owner is proposing to provide 1.565 ha of parkland resulting in an under dedication of 0.842 ha.

In the context of large greenfield communities like the Secondary Plan Area it is common for some landowners to under-dedicate parkland while others over-dedicate parkland on a property-specific basis. Typically, staff require these discrepancies be reconciled through an agreement between the Owner and/or the Landowners Group and the City. Through the related draft Plan of Subdivision application, Staff will incorporate a draft plan condition to this effect, to be addressed prior to release of the lands for registration.

4. DSC members questioned if the Mon Sheong Foundation component of the development application could be expedited

The Proposed Development does not include a commitment to deliver a long-term care and senior's campus on the Subject Lands. Notwithstanding, should such an opportunity materialize in the future, land use permissions to develop a long term care and senior's campus will be applied to Blocks 36 and 37 in keeping with the expanded use permissions found within the ROP 2022 site-specific policy.

The following are matters that were raised by City Staff and the public agencies

a) *The draft Official Plan and Zoning By-law Amendments apply specific use, height and density provisions to the future development blocks*

Staff recommend that the Official Plan and Zoning By-law Amendments restrict building heights, densities, and uses based on the information provided on the proposed draft plan of subdivision. To this effect the instruments that will be finalized and brought forward to a future Council Meeting will include, but are not limited to, the following:

- i) A maximum density of 71 UPH applied to the entirety of the Subject Lands
- ii) A maximum height of 19 storeys for Block 36
- iii) Permissions for shared housing long term care, retirement home, senior's care facility, and medical or health care clinic for Blocks 36 and 37
- iv) Restricting the maximum number of units for Blocks 35-37
- v) The use of Holding Provisions, if required, to satisfy requirements related to water and waste water servicing.

Staff will continue to work with the Owner in order to finalize the Official Plan and Zoning By-law Amendment instruments for enactment at a future Council Meeting.

b) *The Secondary School block is acceptable to the York Region District School Board ("YRDSB")*

Block 32 represents a portion of a public secondary school site that is to be combined with the abutting block to the west on draft approved Plan of Subdivision 19TM-18004 (Mattamy) to form a complete school site.

The YRDSB have requested the City consider an increase in the building height permissions on the school block from 3 storeys to 4 storeys. Staff have no concerns with the request and the requisite permissions will be included in the Official Plan Amendment and Zoning By-law Amendment.

c) *Future development blocks for mixed use mid-rise are subject to site plan approval*

Blocks 35, 36, and 37 are proposed to be future mixed use mid-rise/high rise developments. Building types permitted on Blocks 35 and 37 include apartment buildings, multi-storey non-residential or mixed-use buildings, and stacked townhouses. Building types permitted on Block 36 include apartment buildings, multi-storey non-residential or mixed-use buildings. Non-residential uses are required on the

ground floor of any building fronting Warden Avenue or Street 'D'. These blocks are subject to future site plan approval processes that would include a review of built form transitions to adjacent uses, among other matters.

d) The cultural heritage resource has been appropriately addressed

The Heritage Markham Committee considered the demolition permit application for the Trudgeon House and its associated structures on March 8, 2023. The Committee recommended that it is not a significant cultural resource and no objections were raised to the demolition subject to the existing buildings on site being advertised for relocation or salvage by others. This position was supported by Council on April 5, 2023.

e) Staff continue to investigate the availability of municipal servicing

Based on review of the Functional Servicing Report, Staff identified concerns with the downstream sanitary sewer capacity as a result of the increase in height and density beyond what was contemplated in the Secondary Plan and Master Environmental Servicing Plan. To ensure all site servicing issues are resolved before development proceeds, a Holding provision will be included in the draft zoning by-law for Blocks 35, 36 and 37. The Holding provision shall be removed prior to the site plan(s) approval once criteria related to water supply and sanitary capacity have been met.

f) The Official Plan Amendment Application was exempted from York Region approval in correspondence dated May 4, 2023

The exemption will allow the Official Plan Amendment to come into effect following adoption by the City and the expiration of the required appeal period.

CONCLUSION:

The Owner submitted applications for Official Plan and Zoning By-law Amendment to permit a new residential community in the Berczy Glen Secondary Plan area. Based on the matters discussed above, Staff recommend that the Applications be endorsed by Council in principle, subject to finalizing the instruments, that will be brought forward to a future Council meeting once all matters have been resolved to Staff's satisfaction, including ensuring conformity to the York Region Official Plan. The Subject Lands are subject to a Draft Plan of Subdivision application that will be brought to a future DSC meeting.

FINANCIAL CONSIDERATIONS:

Not applicable

HUMAN RESOURCES CONSIDERATIONS:

Not applicable

ALIGNMENT WITH STRATEGIC PRIORITIES:

The Applications been reviewed in the context of the City's Strategic Priorities of Safe Sustainable and Complete Community.

BUSINESS UNITS CONSULTED AND AFFECTED:

The Applications were circulated to internal City department and external agencies. Requirements of the City and external agencies have been reflected in the draft Official Plan Amendment and Zoning By-law amendments.

RECOMMENDED BY:

Darryl Lyons, MCIP, RPP
Deputy Director, Planning and Urban Design

Giulio Cescato, MCIP, RPP
Director, Planning and Urban Design

Arvin Prasad, MCIP, RPP
Commissioner of Development Services

FIGURES:

Figure 1: Location Map

Figure 2: Area Context and Zoning

Figure 3: Aerial Photo

Figure 4: Original Draft Plan of Subdivision

Figure 5: Draft Plan of Subdivision

Figure 6: Berczy Glen Secondary Plan Extract - Detailed Land Use

OWNER:

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