

963 & 1001 Roselawn Avenue
Zoning By-law Amendment Application - Supplementary Report
Change to the Proposed By-law after the Public Meeting
Owners: Westside Developments Limited
Applicant: Mr. M. Goldman; file No. R99-006
Ward 28, York Eglinton

The York Community Council recommends the adoption of the report (August 23, 2000) from the Director, Community Planning, West District.

The York Community Council reports having requested the Director, Community Planning, West District, to:

- (1) submit a report to the October 3rd, 2000 meeting of City Council, addressing issues 1 to 5 in the letter (September 19, 2000) from Mr. Michael Kovacevic, Smith Lyons, Barristers and Solicitors, with respect to the "H" Holding symbol on the lands designated as RM2-16 (387)-H; and
- (2) have the report ready by the Friday prior to the City Council meeting and to make such report available to the interested parties,

The York Community Council submits the following report (August 23, 2000) from the Director, Community Planning, West District:

Purpose:

To report on revisions to the proposed Draft Zoning By-law following the Planning Act Public Meeting.

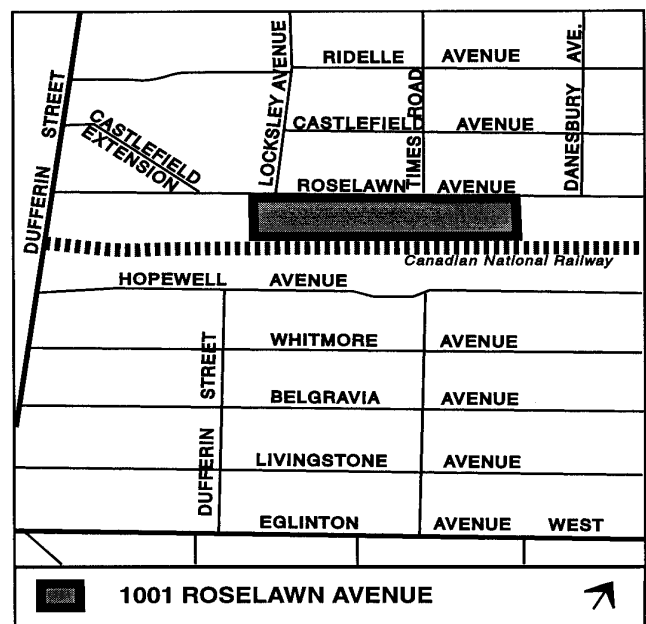
Financial Implications and Impact Statement:

City funding is not required. There are no impacts regarding the capital or operating budgets.

Recommendations:

It is recommended that:

- (1) Zoning By-law No. 1-83 be amended generally in accordance with the revised Draft Zoning By-law attachment as Attachment No. 1 to this report and worded to the satisfaction of the City Solicitor;



- (2) in consideration of the By-law revisions noted in this report, no further notice of a public meeting be given in respect of the revised Draft Zoning By-law; and,
- (3) Council authorize staff to take the necessary action to introduce the revised Draft Zoning By-law to City Council for enactment once comments are received from Works and Emergency Services.

Background:

York Community Council, following a Public Meeting held on February 1, 2000, recommended approval of an application by Westside Developments Limited for a Zoning By-law Amendment to permit the conversion of a manufacturing/warehouse building, to a condominium apartment building containing 180 units and the construction of 67 freehold residential townhouses, at 963 and 1001 Roselawn Avenue.

The draft Zoning By-law to permit the development was attached to the Supplementary Planning report considered at the Public Meeting. Schedule A of the draft Zoning By-law illustrates the legal description of the application site. Schedule B of the draft Zoning By-law shows the location and the minimum dimensions of the proposed condominium and townhouse development blocks, and the alignment and minimum right-of-way width of the proposed public road serving the development.

City Council on February 2, 3 and 4 adopted York Community Council's recommendation approving the rezoning application by Westside Development Ltd. and the draft Zoning By-law Amendment, subject to three conditions to be fulfilled prior to the introduction of the Zoning By-law for enactment, as follows:

- (i) submission of final site plan drawings and statistics to finalize preparation of the amending By-law;
- (ii) receipt of comments from Economic Development, Culture and Tourism; and,
- (iii) receipt of comments from Works and Emergency Services.

Conditions (i) and (ii) have been satisfied. Condition (iii) remains outstanding to permit the By-law to be introduced. The comments from the Policy and Development Division of Economic Development, Culture and Tourism advise of issues that can be addressed through the subsequent Consent and Site Plan approval processes.

Comments:

Since the Public Meeting a number of events have occurred which have necessitated revisions to the draft Zoning By-law.

- (a) Site plan and parking revisions

Changes in the loft condominium market since February 2000 prompted the applicant to consider a range of development scenarios over the last several months. The applicant has now decided to proceed with conversion of the existing 4-storey manufacturing warehouse building to a 4-storey condominium apartment building with 136 units and 14 000 square metres of gross floor area. A 180 unit, 19 500 square metre condominium building with two additional floors totalling six storeys was proposed in February 2000. Townhouses will continue to be constructed in four development blocks, to the east and west of the condominium apartment. Two new public roads will service these blocks. The total number of townhouse units have been reduced by three from 67 to 64 units. The number of residential units proposed now totals 200, reduced from 237.

As a result of the reduction in condominium units fewer parking spaces are now required for the 136 unit condominium apartment.

The applicant has reduced the extent of the underground parking garage extension under the rear surface parking lot in favour of providing additional surface parking adjoining the east side of the condominium building. These spaces will be on the condominium lands, and will gain access from the proposed public road. In addition, the spaces will be made available for use by visitors to the condominium as well as visitors to the adjoining townhouse development through agreements to be secured by the City. A total of 166 (visitor and occupant) parking spaces are now provided, excluding 10 tandem parking spaces. A minimum of 162 apartment building spaces are required following the minimum parking standards of the draft By-law.

This reconfiguration of apartment parking spaces necessitates technical revisions to Schedule B to the draft By-law to increase the width of the condominium apartment Block 3 to accommodate the additional surface parking area, and consequently, to shift the proposed roadway easterly and reduce the width of townhouse development Blocks 4 and 5.

The text of the draft Zoning By-law also must be amended to reflect a maximum 4-storey height, a maximum of 136 condominium apartment units, a maximum of 63 townhouses and the corresponding maximum gross floor area totals for these residential components. The townhouse component continues to exceed the minimum parking standards of the Zoning By-law of 1 space per townhouse.

For comparison purposes the previous site plan of the proposal considered at the February 2000 public meeting is appended as Attachment 1 and the current site plan is included as Attachment 2.

(b) Updated survey information

As a result of recent survey information provided by the applicant, the metes and bounds description of the eastern portion of the application site requires updating on both draft Zoning By-law Schedules A and B to provide the correct boundary description. As a further consequence, the minimum depth of Block 6 on Schedule B must be reduced to 17.5 metres from 18.0 metres as previously shown.

(c) Revision to Incorporate Walkway Connection to Park as Part of the Condominium Apartment Block

As a result of recent negotiations with the Parks Division of Economic Development, Culture and Tourism, the walkway and abutting landscaped strip which adjoins the western edge of the rear surface parking area and connects the proposed road to the Beltline Park is required to be privately owned by the future condominium. However, an easement will be conveyed to the City for public access to the park along the walkway. In order to accommodate this arrangement, the parcel containing the walkway will be transferred from townhouse Block 2 and included within the condominium apartment Block 3. This technical change requires that the minimum length of townhouse Block 2 be amended from 74.3 metres to 72 metres and that the corresponding townhouse block minimum side yard also be change from 2.4 metres to 0.3 metres.

(d) Revision to Permit PE-Prestige Employment Zoning to Continue to Apply

The applicant has requested that staff give consideration to allowing the use of the lands as currently permitted by the existing PE zoning and regulations to apply until the By-law to permit the residential redevelopment proposal is in full force and effect. The applicant has made this request to ensure that in the event of an appeal to the proposed Zoning By-law for the development the current vacant building can be for use permitted in PE zones. Appropriate wording has been included in the draft revised Zoning By-law to accommodate the applicant's request.

(e) Revision to the Draft Zoning By-law following the Public Meeting

Section 34(17) of the Planning Act provides that where a change is made on a proposed Zoning By-law after the holding of a public meeting, the Council shall determine whether any further notice for a public meeting must be given in respect to the proposed By-law.

In this instance, it has been necessary to make revisions to the draft By-law, as noted in this report, after the public meeting. However, the revisions are minor and within the intent of the approved rezoning application. Therefore a further public meeting is not needed.

A revised draft By-law containing all the changes to the text and to Schedules A and B is attached as Attachment No. 3 to this report.

Next Steps

The applicant is anxious to have the Zoning By-law for this proposal before City Council at its final meeting in September.

In order to be in a position to introduce the By-law for enactment approval of the recommendations in this report is required along with the submission of comments on the final proposal from the Works and Emergency Services for the final City Council agenda.

The Site Plan Approval application will be addressed following enactment of the Zoning By-law once detailed Site Plan comments are received. Once the Zoning By-law has been passed the applicant will make application for consent to the Committee of Adjustment in order to sever the lands into development blocks and to create the rights-of-way for the public road, the walkway parcels to the Beltline Park, and easements for shared surface parking on the condominium site.

Through the consent approval process, staff will require that the applicant enter into a consent agreement, which operationally will be similar to a subdivision agreement. The agreement will secure the particulars and timelines for construction and conveyance of the public road, walkways and easements.

Consent approval will establish the condominium apartment block as a separate block so that Site Plan Approval can be completed to permit a building permit to be issued for the condominium conversion. Once construction is underway a Plan of Condominium application will likely be filed with the City.

Site Plan Approval for the townhouse blocks will likely follow in late winter, early spring to prepare for construction of the townhouses in the new spring/summer of 2001. Severance of the townhouses for sale as individual freehold units are proposed to be undertaken through the part lot control exemption process following construction.

Conclusions:

It is necessary to make revisions to the draft Zoning By-law as noted in this report after the Public Meeting held on February 1, 2000.

It is recommended that Zoning By-law No. 1-83 be amended in accordance with the revised Draft Zoning By-law attached as Attachment No. 3 to this report and that no further notice of a public meeting be given in respect of the revised Draft Zoning By-law.

Approval of these recommendations will fulfil the requirements of Section 34(17) of the Planning Act in regard to the revisions made to a proposed Zoning By-law after the Public Meeting.

Contact:

Lou Moretto, Manager
Community Planning, West District
Tel: (416) 394-2610; Fax: (416) 394-2782
E-mail: lmoretto@city.toronto.on.ca

The York Community Council also submits the following letter (September 19, 2000) from Mr. Michael G. Kovacevic, Smith Lyons, Barristers and Solicitors:

We are the solicitors for Ryding Auto Body Ltd. ("Ryding") the lessees of the premises known as 961 Roselawn Avenue Toronto (the "Property"). Ryding has operated an auto body shop on

the property for over twenty years. In fact an auto body shop has existed on the property since approximately 1953.

This letter will accompany the author oral submissions to the Community Council and are in response to our receipt of a report dated August 23, 2000 prepared by the Director, Community Planning, West District (the "Director") for the York Community Council. This report recommends certain requested revisions to the draft zoning by-law which had last been considered at a public meeting held on February 1, 2000.

Ryding's primary concern with the rezoning and accompanying development scenario on the abutting property owned by Westside Developments Limited ("Westside") is Ryding's ability to continue operating without the threat of closure due to complaints from the residents that will occupy Westside's lands.

Ryding's concern has been recongized in general manner by the Ministry of the Environment ("MOE") through its creation of the D-1 and D-6 Guidelines whose purpose is to prevent land use problems due to the encroachment of sensitive land uses on industrial uses and vice versa. Ryding has communicated its position regarding the application of the D-1 and D-6 Guidelines to Westside and has forwarded this position to the City. Attached hereto for ease of reference is a copy of our letter to Westside dated July 10, 2000. Westside proposed development of its lands on Roselawn Avenue does not comply with the D-6 Guidelines. In particular the separation distance as provided for in the Guideline is non-existent. In order to develop within the separation distances set out in D-6 a developer must provide mitigation measures. To date an agreement as required by the D-1 and D-6 Guidelines has not been entered into between Westside, Ryding and the owners of the Property.

The conditions proposed by the Director attempt to ensure mitigation will be implemented by the wording proposed by staff does not ensure the continued existence of Ryding on the Property. The Director's conditions are dependant on the implementation of a Holding symbol "H" on the zoning. However, the H only applies to approximately a 37-metre length of Westside's property commencing from Ryding Property line. City planning staff have advised us that the size of the lands to which the H applies was not based on any consideration of potential environmental impacts.

Since the lifting of the H is based entirely on the satisfaction of environmental conditions the area of the H should also be based on the those same considerations. Our concern in this regard is echoed in the D-6 Guidelines which indicate that an industry such as Ryding has a potential influence area for adverse effects from 70 m to 300 m depending on how the industry is classified. Accordingly, the minimum area to which the H should apply is a distance of 70 m from the Ryding property. A 300 m distance would however be a more prudent application of the D-6 Guideline. The current 37-metre distance is wholly inadequate.

In addition to the size of the portion of the property to which the H applies the conditions attached to the H should be revised in order to ensure that Ryding can continue its operations on the Property without threat of closure we suggest that the following conditions replace those proposed by the Director.

The Holding symbol “H” on the lands designated as RM2-16 (387)-H shall only be removed when the following conditions have been met:

1. That the applicant has submitted an air quality study and a noise impact study to the Director of Community Planning, West District, which demonstrate that air quality and noise from adjoining uses can be mitigated to ensure that no adverse effects, as defined in the Environmental Protection Act R.S.O. c. E19, from the adjoining uses will occur on the applicant’s property or upon its occupants;
2. That the said air quality and noise impact studies both be the subject of a peer review exercise by a respective consultant appointed by the City of Toronto at the expense of the applicant;
3. That the combined air quality and noise mitigation works ultimately recommended, be incorporated into a site plan approved by the Director of Community Planning, West District;
4. That under the authority of Chapter 165, Development of Land Article IV of the former City of Toronto Municipal Code, and pursuant to Section 41 of the Planning Act, the applicant execute a Statement of Approval/Undertaking agreeing to among other matters, the implementation of the said mitigation measures prior to the issuance of any building permit respecting these lands; and
5. As provided for in the Ministry of Environment D-1 and D-6 Guidelines the applicant enter into agreements with the affected parties (both property owner and tenants) to ensure the installation and maintenance, at the applicant’s expense, of the mitigation measures recommended by the applicant’s consultants and/or peer review.

The previous conditions suggested by the Director fail to recognize that even though an industry may be in compliance with MOE standards it can still cause adverse effects and therefore be subject to prosecution and closure if it cannot mitigate (whether from financial difficulty or technical difficulty) those adverse effects. The D-1 and D-6 Guidelines recognize this and provide that prior to a sensitive land use encroaching on an industrial use the developer of the sensitive land use must ensure that mitigation measures are installed at its expense. The Guidelines go even further and indicate the local municipality or other approving authority should require, review and endorse agreements between the developer and the affected parties to ensure the installation and maintenance of adequate mitigation measures on surrounding properties.

The D-1 Guidelines recognize that Holding provisions can be used by indicate there use should only occur where there are no significant impacts and a legal agreement is in place to ensure mitigation.

The conditions outlined above are reasonable and mirror the requirements of the D-1 and D-6 Guidelines. The imposition of these conditions to the H symbol to an area of the Westside property that reflects the potential for adverse effects will afford more protection for the

continued operation of Ryding and will better protect the future residents of the Westside property.

We would ask to be advised of the ultimate disposition of these matters before the Community Council and to be placed on the list for all notices so that, if Ryding deems it necessary, we will be able to appeal any decisions to the Ontario Municipal Board.

Thank you for considering our written and oral submissions.

(July 10, 2000) from Mr. Michael G. Kovacevic, Smith Lyons, Barristers and Solicitors to Mr. Murray Goldman, Westside Developments Ltd.

As you are aware, we act for Ryding Auto Body Ltd. Until recently you have been communicating with Mr. Linardi at Smith Lyons. Mr. Linardi has transferred carriage of this file to my attention and instructed me to communicate with you regarding the possibility of a settlement in regard to mitigation of air quality impacts on your proposed residential development.

The settlement proposals to date are unacceptable to Ryding. Ryding is currently operating in compliance with all applicable Ministry of Environment requirements. The settlement proposals suggest that remediation is required to Ryding's operations. No remediation is required at this time.

Westside's proposal to rezone its lands from an industrial designation to a residential designation is the only factor which is driving the need for mitigation. It is Westside that requires the mitigation of Ryding's operations so that it can re-designate its lands. Accordingly all costs associated with any mitigation measures must be borne by Westside. This position is consistent with the requirements of the D-1-1 Land use Compatibility Guidelines and D-6 Compatibility Between Industrial Facilities and Sensitive Land Uses Guidelines, both issued by the MOE.

Mr. Coulter has outlined the mitigation measures required from a noise perspective however the report prepared by Church and Trought Inc. is inadequate in its outline of what specific mitigation measures are required by Ryding. Further, as you are aware Ryding has retained its own air quality consultant who has indicated that there are alternative mitigation measures available other than extending the height of the stack at Ryding. As a result of the potential detrimental impact the proposed housing on Westside's lands may have on Ryding, the most efficient method of mitigation should be installed at Ryding to ensure no odour complaints are received from future residents.

Ryding is particularly concerned with the proposed setbacks between its operations and the residential development on Westside's lands. According to the D-6 Guidelines separation distance should be measured from lot line to lot line. In this case the separation distance would be 0 m as a result of the common lot line. Even if the distances were measured from use to use on the properties it is my understanding that the separation distance is not even 10 m. This is quite disturbing to Ryding considering the minimum separation distance between a Class II industry and residential uses is 70 m under the D-6 Guidelines. According to the classification

chart within the D-6 Guidelines Ryding would be classified as a Class II industry. Even if it was classified as a Class I industry the minimum required separation distance is 20 m (lot line to lot line). Westside's plans do not come close to compliance with the separation distances required in the D-6 Guidelines.

In order to develop within the separation distance Westside at a minimum would have to ensure mitigation of any impacts from surrounding industries on its proposed residential development. Both the D-6 Guidelines and the D-1-1 Guidelines are unequivocal in their requirements that when mitigation measures are required they are:

- Provided at the expense of the developer;
- A legal agreement should be entered into between the developer and the industrial property owner and interested parties (i.e. tenants) to ensure mitigation of adverse effects to the greatest degree;
- Security be provided by the developer to ensure that mitigation is carried out; and
- The proponent/developer is responsible for proposing, designing and implementing the mitigation.

Westside's settlement proposal does not comply with the above requirements.

You have also indicated to our client that you do not wish to have the landlord participate in the settlement. This may prove problematic as some of the mitigation measures may need the landlord's approval for installation. The landlord's participation may not be needed if certain mitigation measures are installed in lieu of the extended stack. However, this is a discussion better left to relevant consultants.

In order to avoid an appeal, by Ryding, of the zoning by-law proposed for Westside's lands, Westside will have to ensure that any noise or air quality impacts that are to be mitigated will be mitigated solely at the expense of Westside, designed by Westside and approved by Ryding and implemented by Westside. Further, Ryding will require a report from Westside that the mitigation measures ensure that no adverse air quality or noise impacts will occur on the proposed residential development on Westside's lands. In addition to the foregoing any mitigation measures that are to be installed will have to be installed prior to any development taking place on Westside's lands and prior to the H being lifted from the zoning. Ryding will also require Westside to enter into an indemnity agreement in favour of Ryding which would result in Westside indemnifying Ryding for any liabilities it incurs as a result of residential development on Westside's lands. Failing the entry into an agreement between Westside and Ryding that ensures the foregoing, Ryding will have no option but to appeal the zoning proposed by Westside and allow the Ontario Municipal Board to determine whether its development proposal should proceed.

Please direct all further communications to Mr. Linardi or me and not our client.

I look forward to discussing this matter with you or your solicitors.

The York Community Council also submits the following letter (September 18, 2000) from Mr. Murray Chusid, Q.C., Blaney McMurtry, Barristers and Solicitors:

We act for Domenic Pacitti and Marisa Pacitti, the owners of premises known as 961 Roselawn Avenue, Toronto (former City of York). The said premises are operated as an auto body shop under the name of Ryding Auto Body Ltd.

Ryding Auto Body Ltd. leases the said premises from our said clients and is the operator of the body shop pursuant to such Certificates, licenses and permits are required.

We are in receipt of a Notice from the Clerk's Department that a report dated August 23rd, 2000 from the Director, Community Planning, West District, will be considered by the York Community Council on Tuesday, September 19, 2000 at 11:00 a.m.

We are also in receipt of a copy of the said report which recommends certain requested revisions to the draft zoning by-law which had been considered at a public meeting held on February 1st, 2000.

We enclose a copy of our letter of April 12th, 2000 as addressed to the Clerk for the City of Toronto, wherein we registered our said clients' objections to the proposed redevelopment of this property. We believe that our said letter is self-explanatory.

We also note that the firm of Smith, Lyons wrote to the City Clerk on August 1st, 2000, making similar objections on behalf of their client, Ryding Auto Body Ltd., the tenant of our clients' said premises.

The aforementioned staff report dated August 23rd, 2000, does not appear to address any of the concerns raised in our letter or in the Smith, Lyons letter.

Under the circumstances we take this opportunity to reiterate our earlier concerns and to request that the Community Council recommend against the proposed development in its presently proposed form or in any form that fails to address the environmental concerns of our clients and of Ryding Auto Body Ltd.

We would ask to be advised of the Community Council's decision in this respect and to be placed on the list for all notices so that, if required, we will be able to appeal any decision to the Ontario Municipal Board.

(April 12, 2000) from Mr. Murray Chusid, Q.C., Blaney McMurtry, Barristers and Solicitors to the City Clerk:

We act for Domenic Pacitti and Marisa Pacitti, the owners of premises known as 961 Roselawn Avenue, Toronto (former City of York). The said premises are operated as an auto body shop under the name of Ryding Auto Body Ltd.

Ryding leases the said premises from our said clients and is the operator of the body shop pursuant to such Certificates, licenses and permits are required.

It has recently come to our clients' attention that an application was being processed by the City with respect to a proposed zoning amendment for 963 and 1001 Roselawn Avenue for the purpose of enabling the said industrially zoned and utilized property to be redeveloped for residential purposes, specifically apartments and street townhouses.

Our clients are in opposition to this proposed development on a number of grounds including but not limited to impacts which will be experienced by reason of complaints from the future inhabitants of such proposed residential uses. It is not unreasonable to expect that such future residents will complain of noise, odors and other possible environmental impacts from a permitted auto body shop. Our clients cannot permit the value of this property and of the approval Certificates and permits which govern the auto body use to be jeopardized by such a proposed zoning change.

It is unfortunate that this zoning proposal did not come to our clients' attention until after the Community Council meeting which was held on February 2nd last. It appears that concerns were expressed at that meeting, and presumably it was on behalf of our clients' lessee, Ryding. Our clients have since learned that Ryding is in negotiations with Westside Development Limited ("Westside") for the purpose effecting certain modifications etc. to the equipment at 961 Roselawn Avenue. Ryding has since informed our clients that Westside is apparently prepared to pay for part of the cost of any such equipment modification etc. The purpose, presumably, is to address the City's expressed concern with respect to environmental matters by effecting changes which have not heretofore been necessary on our clients' property.

In subsequent discussions with Westside, our clients were informed by Westside that other modifications to our clients' building would be very helpful to Westside's proposed development i.e. glass blocks on the wall adjacent to the Westside proposal so that light could be received but without visibility.

Our clients consider it unfair to grant approval to a development whose suitability can only be effected through modifications to our clients' property.

Furthermore, any discussions or arrangements that could possibly be made should be properly done directly with our clients as the owners of the property. Clearly, Ryding cannot speak for nor bind our clients' property rights.

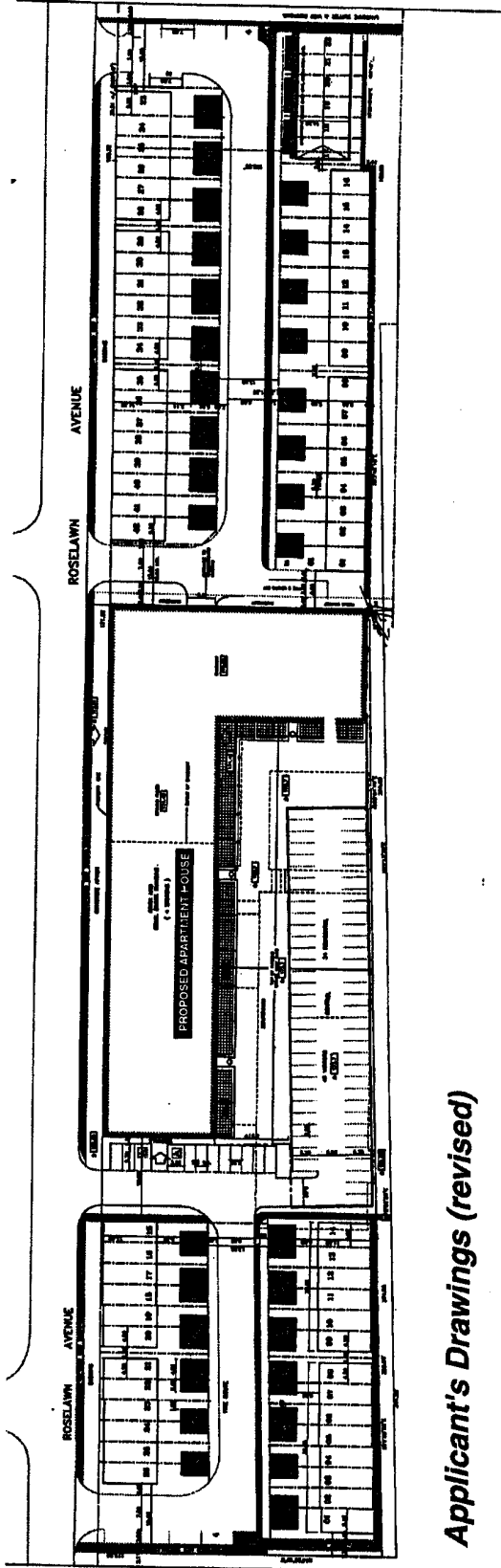
Under the circumstances we have been instructed and do hereby request that our firm (to the writer's attention) as well our clients be placed on a list for proper notification of any further meetings or hearings with respect to this matter and in particular we require notification of the enactment of a zoning or any other by-law which would implement the Westside application. We have been instructed to appeal any such by-law to the Ontario Municipal Board.

Our clients' address for notification is as follows:

Domenic & Marisa Pacitti
c/o Forest Hill Auto Body Ltd.
2829 Dufferin Street
Toronto, Ontario
M6B 3R9

The following persons appeared before the Community Council in connection with the foregoing matter:

- Mr. Michael Kovacevic, Smith Lyons, on behalf of Ryding Auto, 961 Roselawn Avenue;
- Ms. Marisa Pacitti, owner of 961 Roselawn Avenue;
- Mr. Scott Dowie, owner of property abutting project; and
- Mr. Murry Goldman, Westside Developments.



Applicant's Drawings (revised)

Previous Site Plan
Applicant's Submitted Drawing

1001 Roselawn Avenue
File # YCC Drwg. # 2000.8.23

Not to Scale
08/25/2000
Attachment **1**

ATTACHMENT 3
Revised Draft Zoning By-law

Authority: York Community Council Report No._____, Clause No._____
As adopted by City of Toronto Council on _____
Enacted by Council:

CITY OF TORONTO

Bill No.

BY-LAW NO.

TO AMEND former City of York By-law Number 1-83
(963 and 1001 Roselawn Avenue)

WHEREAS authority is given to Council by Section 34 of the Planning Act, R.S.O. 1990, c.P.13, as amended, to pass this By-law; and whereas Council of the City of Toronto has provided adequate information to the public and has held at least one public meeting in accordance with the Planning Act;

The Council of the City of Toronto HEREBY ENACTS as follows:

SECTION 6 - AMENDED

1. That Section 6 of Zoning By-law Number 1-83, as amended, of the former City of York, is hereby further amended by adding the following as a new Subsection (66) , provided that this Subsection shall not have full force and effect until either,
 - i) the last day for filling an appeal to the By-law to introduce this Subsection has passed and no appeal has been filed, or
 - ii) the Ontario Municipal Board has issued an Order to effectively give full force and effect to the By-law to introduce this Subsection where an appeal of such By-law has been filed and considered by the Ontario Municipal Board and no other appeals or motions to the courts in respect of such By-law has been made and is pending decision:

“(66) MAP 25

By changing the area shown on District Map 25, municipally known as 963 and 1001 Roselawn Avenue and more particularly referenced in Schedule “A” hereto, from PE – Prestige Employment to RM2 – Residential Multiple Zone and to RM2-16 (397)-H Zone as shown on Schedule ‘A’ hereto and by changing District Map 25 accordingly.”

SECTION 16 - AMENDED

2. That Section 16 of Zoning By-law Number 1-83, as amended, of the former City of York, is amended by adding the following as a new Subsection (397), provided that this Subsection shall not have full force and effect until either,
- i) the last day for filing an appeal to the By-law to introduce this Subsection has passed and no appeal has been filed, or
 - ii) the Ontario Municipal Board has issued an Order to effectively give full force and effect to the By-law to introduce this Subsection where an appeal of such By-law has been filed and considered by the Ontario Municipal Board and no other appeal or motion to the courts in respect of such By-law has been made and is pending decision:

“(397) LANDS – 963 and 1001 Roselawn Avenue

Notwithstanding any provisions of this by-law the lands municipally known as 963 and 1001 Roselawn Avenue which lands are more particularly referenced on Schedule “A” hereto and shown on Schedule “B” hereto (hereinafter referred to as “the lands”), shall not be used for any purpose other than for erecting and using an apartment house; townhouses; and accessory uses, buildings and structures, subject to the following provisions:

- a) The number of dwelling units within the apartment house shall not exceed 136.
- b) The total number townhouses shall not exceed 64.
- c) Permitted uses shall be located within development blocks shown on Schedule “B” hereto as follows:
 - i) townhouses, and accessory uses, buildings and structures shall be within Blocks 1, 2, 4, 5 and 6, and
 - ii) an apartment house and accessory uses, buildings and structures shall be within Block 3.

Notwithstanding the arrangement and minimum dimensions of the development blocks as shown on Schedule “B”, the development blocks may be reduced in area and width by the future conveyance of lands within the block to the City for municipal purposes.

- d) Within Blocks 1, 2, 4, 5 and 6:

- i) townhouses shall be located within the areas marked “building areas within development block” shown on Schedule “B” hereto so as to provide the minimum setbacks to the limit of the development block shown thereon, inclusive of any land which is or has been conveyed to the City for municipal purposes, and
 - ii) detached garages shall be located abutting the proposed roadway and shall be separated from the townhouse to which it is accessory to by a minimum distance of 4.5 m.
- e) Within Blocks 2, 5 and 6 detached garages and other accessory buildings or structures shall be permitted in the area between the garage and main wall of the townhouse.
- f) Buildings located within Blocks 1, 3 and 4 shall be deemed to have frontage and front yards abutting Roselawn Avenue.
- g) Accessory buildings and structures for each townhouse to which they are accessory within Blocks 1, 2, 4, 5 and 6 shall not exceed 35 square metres in total ground floor area.
- h) Within Block 6 the portion of the townhouse containing the garage may be constructed closer to the front lot line than the portion of the townhouse that does not contain the garage.
 - i) Townhouse development blocks shall contain the following minimum number and width of building separations up to a maximum of eight attached townhouses:
 - i) For Blocks 1, 2, and 5 – one separation of 2.4 metre minimum width and
 - ii) For Block 4 – two separations of 2.4 metre minimum width.
- j) Within Block 3, an apartment house and any accessory parking garage or structure shall be located within the area marked “building area within development block” shown on Schedule “B” hereto so as to maintain the minimum setbacks shown thereon.
- k) For the purpose of determining setbacks and separation all measurement shall be to the main wall of the building or structure to which the setback or separation relates except that:
 - i) ordinary projecting parts of a building or structure such as cornices, sills, roof, chimneys, steps to the ground may extend into the required yards a maximum of 0.6 metres;

- ii) awnings or roof overhangs in the rear yards of townhouses on Blocks 5 and 6 may extend into the required yard a maximum of 1.2 metres; and,
 - iii) any projecting part of a building or structure shall not encroach on an abutting roadway or municipally owned land.
- l) No portion of any building erected above ground shall exceed the maximum heights in storeys and metres as follows:
 - i) Maximum height for townhouses on Blocks 1, 2, 4 and 5 shall be 3 storeys and 11.3 metres and for townhouses on Block 6 shall be 4 storeys and 12 m;
 - ii) Maximum height for apartment house on Block 3 shall be 4 storeys and 18.5m;
 - iii) Maximum height for the parking garage or other accessory building or structure related to the apartment house shall be 1 storey and 3.1m; and,
 - iv) Maximum height for buildings or structures accessory to townhouse shall be 1 storey and 4.5 metres except that any portion of the accessory garage having a ground floor area not exceeding 5 square metres, a roof, and is used for decorative or recreational purposes shall not exceed a height of 2 storeys and 7 metres.

For the purpose of this subsection “height” shall mean the number of full storeys and the measured vertical height from the finished grade adjoining the front entrance of the residential building or the vehicle access door in the case of a garage, to the highest point of the roof joists in the case of a flat roof, or the average height half way up in the case of a pitched roof, except that mechanical penthouses and equipment, parapet walls and antennae shall be excluded in the determination of height. Where there is a garage under the front of the building the measurements shall be taken from the grade at the steps leading to the front entrance.

- m) Subsection 3 (c) of Section 10.1 of this By-law shall not apply. Within Blocks 1, 2, 4, and 5 a minimum of fifteen percent (15%) of the area of the lot, excluding the area covered by any porch, verandah, deck or balcony shall be green landscaped open space. No portion of the required green landscaped open space may be used for the parking of motor vehicles.
- n) The maximum floor space index provisions of Section 10.1 shall not apply. The maximum gross floor area shall be 14 000 square metres in

total for the apartment house and 9 450 square metres in total for the townhouses.

- o) The minimum width of each townhouse lot shall be 4.45 metres.
- p) Parking shall be provided in accordance with Section 3.2.1 except that:
 - i) a the minimum width of a parking space within a garage accessory to a townhouse shall be 2.75 metres and
 - ii) parking, excluding visitor parking, within the apartment house shall be provided and maintained at a minimum rate of 0.9 parking space for a bachelor or one bedroom dwelling unit.
- q) The Chief Building Official for the City or his designate, prior to the issuance of any building permit for the development shall be provided with a completed “Record of Site Condition” pursuant to the Ministry of the Environment “Guideline for Use at Contaminated Sites in Ontario, February 1997”, as amended or updated, marked as having been received by the Ministry of Environment along with a letter from the Ministry of Environment advising that the Record of Site Condition is not subject to an audit review; or, alternatively, a letter from the Ministry of Environment advising that the Record of Site Condition has passed a Ministry audit for compliance with the Guideline; and the suitable use or uses for the lands set out in Part 3 of the “Record of Site Condition” is consistent with the residential use or uses for the lands permitted by this Subsection.
- r) Until the removal of the holding symbol ‘H’ any portion of the lands designated RM2-16 (397)-H shall be used only for the purposes existing on the day of the passing of the by-law.
- s) The holding symbol ‘H’ on the lands designated as RM2-16 (397)-H shall only be removed when the following conditions have been met:
 - i) an air quality study and a noise impact study have been prepared and submitted to the satisfaction of the Director of Community Planning West District, that demonstrates that air quality and noise impact from adjoining uses can be mitigated to acceptable Ministry of the Environment standards following the recommendations of the studies, and
 - ii) written confirmation is received from the air quality consultant and the noise consultant that the recommendations of the respective studies as they relate to off-site mitigation measures have been fulfilled or other arrangements satisfactory to the Director of

Community Planning, West District, have been made to provide for the completion of the off-site mitigation measures.

- t) All other provisions of this By-law shall continue to apply except in the case where those provisions are in conflict with the provisions of this Subsection, in which case the provisions of this Subsection shall prevail.”
- 3. Subject to the provisions of Section 34 of the Planning Act, R.S.O. 1990 c.P.13 this By-law shall come into force and effect on the date of its passing.

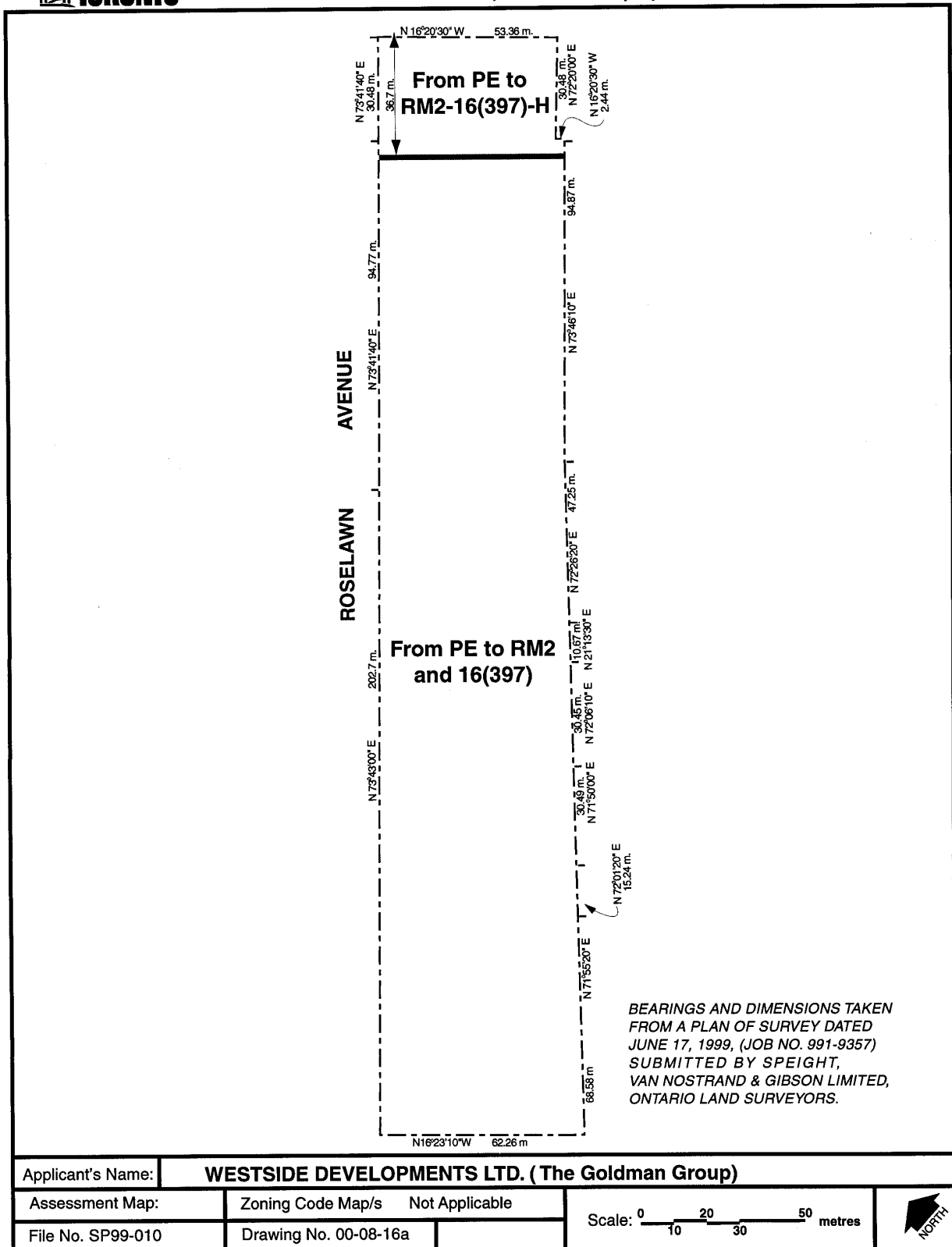
ENACTED AND PASSED this th day of , A.D. 2000.

Mayor

City Clerk



Schedule 'A' to BY-LAW Number _____
and to Section 6, Subsection(66) of ZONING BY-LAW 1-83





Schedule 'B' to BY-LAW Number _____
and to Section 16 (397) of ZONING BY-LAW 1-83

