



Bill No. 017

BY-LAW NUMBER 2014-

A By-law of The Corporation of the City of Barrie to amend By-law 2009-141, a land use control by-law to regulate the use of land, and the erection, use, bulk, height, location and spacing of buildings and structures in the City of Barrie.

WHEREAS the Ontario Municipal Board issued an Order on October 10, 2013 that By-law 2009-141 be amended to rezone Firstly: Simcoe Condominium Corporation No. 106, Barrie known municipally as 106 Saunders Road and Secondly: Simcoe Condominium Corporation No. 154, known municipally as 110 Saunders Road.

NOW THEREFORE the following is enacted:

1. **THAT** the City of Barrie Comprehensive Zoning By-law 2009-141 be amended as follows:

Section 13.2.34 (subsequently renumbered as 13.2.31 as a result of office consolidations to date) of Zoning By-law 2009-141 be amended by deleting the section in its entirety

AND adding in its place:

13.2.31 C4 (SP-134)

106 and 110 Saunders Road, will have the permitted uses for the C4 Highway 400 zone together with the following additional permitted uses:

- Bakery and warehouse uses
- Retail store, shopping centre, office, restaurant, bank, tavern, hotel/motel, recreational establishment, theatre, medical office, building supply centre, nursery and garden supply centre, trade centre, conference centre, data processing centre, drive thru facility, entertainment establishment, assembly hall, arena;
- Florist, bake shop, private club, funeral establishment, personal service store, laundry or dry cleaning depot, fitness or health club, golf driving range (indoor), auto leasing establishment, service store, photography studio, vet clinic, kennel (indoor), custom workshop, local convenience retail, wholesale establishment, private/public art gallery, rental store, office (medical), commercial school, industrial school, day nurseries (outdoor play spaces to be screened from the highway)
- Car wash, auto repair establishment
- Place of worship, automobile sales.

The following special parking standards shall apply:

- a) Manufacturing and processing, Industrial uses, 1 space for each 50 m² of *gross floor area*, up to 3,000 m² plus 1 space for each 200m² of *gross floor area* thereafter.
- b) Industrial Warehousing 1 space for each 1,000 m² of *gross floor area*, bakery 1 space for each 70 m² of *gross floor area* (Bylaw 1997-84)

At such time as a redevelopment of all or part of the subject properties is applied for, such that a site plan application is required pursuant to the provisions of section 41 of the Planning Act, such application must be for a use in conformity with the commercial zoning applicable to Highway 400 corridor properties generally under the applicable zoning bylaw in force at that time and may be reviewed accordingly. The site specific zoning herein provided for the properties or part of the properties for which the said application is made will terminate following approval of the said site plan, and one day prior to the registration of the site plan for the properties or part of property subject to same.

2. **THAT** this By-law shall come into force and effect October 10, 2013 as per Ontario Municipal Board Order issued by J. P. Atcheson, Member, on October 10, 2013.

THE CORPORATION OF THE CITY OF BARRIE

MAYOR – J. R. LEHMAN

CITY CLERK – DAWN A. MCALPINE

ISSUE DATE:

October 10, 2013



Ontario

Ontario Municipal Board

Commission des affaires municipales de l'Ontario

PL090870

IN THE MATTER OF subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant(s) Cedar Hill Developments Inc. & Saunders Road Investments Inc.
Subject: By-law No. 2009-141
Municipality: City of Barrie
OMB Case No.: PL090870
OMB File No.: PL090870

RECEIVED

OCT 15 2013

CLERK'S OFFICE

APPEARANCES:

Parties

Counsel*/Agent

The City of Barrie

Robyn Carlson*
Merwan Kalyaniwalla

Cedar Hill Developments Inc. & Saunders Road Investments Inc.

Marshall Green*
Sarah Hahn*

**MEMORANDUM OF ORAL DECISION DELIVERED BY J. P. ATCHESON
ON SEPTEMBER 24, 2013 AND ORDER OF THE BOARD**

[1] This was a hearing by way of a Telephone Conference Call ("TCC") in the matter of appeals from the decision of the Council for the City of Barrie ("City") to pass a new Comprehensive Zoning By-law ("CZB") for the municipality known as By-law 2009-141. This By-law was passed on August 10, 2009.

[2] This TCC deals with a settlement reached between Cedar Hill Development Inc. & Saunders Road Investment Inc. ("Cedar Hills") and the City as set out in Minutes of Settlement being Exhibit "E" to the affidavit Exhibit CH-2 of Mr. Merwan Kalyaniwalla, a qualified land use Planner, employed as Manager of Policy Planning for the City.

BACKGROUND

[3] Cedar Hills owns a fully developed property at the south east corner of Mapleview Drive and Highway 400 and have had the benefit of a Special C4 zoning which provided for a wide range of uses for their property. The property has multiple tenants that change from time to time and Cedar Hills had concerns that the range of permitted uses they currently enjoy may have been restricted by the new CZB. Cedar Hills' appeal to CZB 2009-141 was site specific. They seek to maintain the same range of permitted use they currently enjoy. The Board, at a previous prehearing, on consent of the parties, granted an adjournment of these appeals *sine die* on the understanding that this matter may be brought back by either party subject to the Board's availability.

[4] This TCC deals with a settlement reached between the City and Cedar Hills as set out in Minutes of Settlement, Exhibit "E", to the affidavit of Merwan Kalyaniwalla.

[5] The Board heard uncontradicted planning evidence from Mr. Kalyaniwalla, as set out in his affidavit, Exhibit CH-2.

[6] Mr. Kalyaniwalla reviewed the development in the area owned by the Appellants and reviewed the proposed zoning by-law amendment set out in the Minutes of Settlement being Schedule "C" and confirmed through his evidence that the proposed amendment would allow the Appellants to generally maintain permission for the full range of commercial uses as well as the site specific industrial uses to which they were entitled prior to the passage of By-law 2009-141. He noted however, that upon redevelopment of the property at some undetermined point in the future, the changes implemented through By-law 2009-141 would come into force and effect as they relate to 106 and 110 Saunders Road. He noted that the third property, 1112 Saunders Road is already fully compliant with By-law 2009-141 and does not front on to Highway 400.

[7] He testified that the result of the settlement reached would allow the existing property owners to maintain the permissions they currently enjoy and will allow them to continue the uses currently on the property as well as to replace tenants when necessary, provided no redevelopment is required. He opined that the settlement also allows the City, over time, to ultimately realize the intent of the changes implemented through its update to the CZB.

[8] He concluded his evidence by proffering the opinion that the proposed amendments to section 13.2.24 of the Comprehensive Zoning By-law 2009-141, as set out at Schedule "C" in the Minutes of Settlement, represented good planning for the City, is consistent with the policy directions found in the 2005 Provincial Policy Statement and the Provincial Growth Plan legislation and would be in conformity with the City's Official Plan. He noted that City Council on August 26, 2013 had approved the Minutes of Settlement. Mr. Green confirmed that his client was in full agreement with the settlement reached as reflected in the text amendments found at Schedule "C" in the Minutes of Settlement.

FINDINGS AND CONCLUSIONS

[9] The Board, after considering the uncontradicted evidence of the City Planner, the submissions of Counsel for the parties, and the exhibits filed, is satisfied that the Minutes of Settlement represent good planning consistent with Provincial Policy and the Official Plan policies of the municipality and should be approved.

ORDER

[10] The Board orders that the appeals of Cedar Hill Development Inc. & Saunders Road Investment Inc. to Comprehensive Zoning By-law 2009-141 of the City of Barrie be allowed in part and that Comprehensive Zoning By-law 2009-141 be amended as set out in Attachment 1 to this decision.

[11] The section of Comprehensive Zoning By-law 2009-141 shall come into force and effect as of the date of this decision.

[12] The clerk of the municipality is further authorized to number the attached Zoning By-law Amendment consistent with municipal nomenclature practices.

"J. P. Atcheson"

**J. P. ATCHESON
MEMBER**

ATTACHMENT "1"

PROPOSED TEXT OF THE BY-LAW AMENDMENT:

106 and 110 Saunders Road, will have the permitted uses for the C4 Highway 400 zone together with the following additional permitted uses:

- Bakery and warehouse uses
- Retail store, shopping centre, office, restaurant, bank, tavern, hotel/motel, recreational establishment, theatre, medical office, building supply centre, nursery and garden supply centre, trade centre, conference centre, data processing centre, drive thru facility, entertainment establishment, assembly hall, arena;
- Florist, bake shop, private club, funeral establishment, personal service store, laundry or dry cleaning depot, fitness or health club, golf driving range (indoor), auto leasing establishment, service store, photography studio, vet clinic, kennel (indoor), custom workshop, local convenience retail, wholesale establishment, private/public art gallery, rental store, office (medical), commercial school, industrial school, day nurseries (outdoor play spaces to be screened from the highway)
- Car wash, auto repair establishment
- Place of worship, automobile sales.

The following special parking standards shall apply:

- a) Manufacturing and processing, Industrial uses, 1 space for each 50 m² of *gross floor area*, up to 3,000 m² plus 1 space for each 200m² of *gross floor area* thereafter.
- b) Industrial Warehousing 1 space for each 1,000 m² of *gross floor area*, bakery 1 space for each 70 m² of *gross floor area* (Bylaw 1997-84)

At such time as a redevelopment of all or part of the subject properties is applied for, such that a site plan application is required pursuant to the provisions of section 41 of the Planning Act, such application must be for a use in conformity with the commercial zoning applicable to Highway 400 corridor properties generally under the applicable zoning bylaw in force at that time and may be reviewed accordingly. The site specific zoning herein provided for the properties or part of the properties for which the said application is made will terminate following approval of the said site plan, and one day prior to the registration of the site plan for the properties or part of property subject to same.