

**Milner Properties Limited, 785 Milner Avenue  
Amendments to Development Agreement (Z95056)  
Scarborough Malvern**

*(City Council on November 23, 24 and 25, 1999, adopted this Clause, without amendment.)*

**The Scarborough Community Council recommends the adoption of the following report (October 27, 1999) from the Director of Community Planning, East District:**

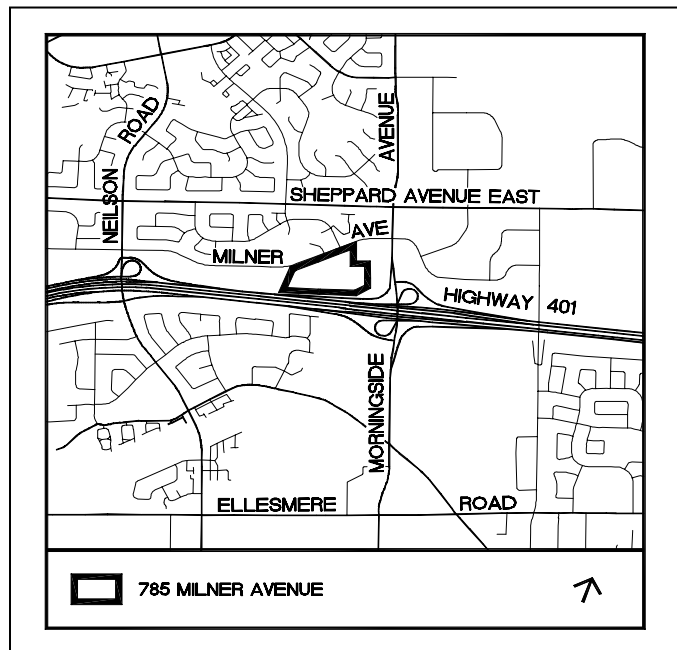
Purpose:

This report responds to the request of Community Council at its meeting of September 14, 1999 to reassess the obligations of Milner Properties in providing the road improvements contained in the Development Agreement with the City, and advises Council on suitable modifications to that Agreement and to the Capital Works Program.

Financial Implications and Impact Statement:

The estimated value of the obligations, as presented to the City by Read, Voorhees & Associates Limited in May 1996, in their "Report on Benefit Allocation for Milner Properties Limited Cost Sharing Agreement", is approximately \$2 million for the Street A connection within the Ministry of Transportation (MTO) lands, and approximately \$1.5 million for construction of Street A within the private property, exclusive of land value.

The City will need to include the relevant portion of the proposed Street A (connection to Morningside Avenue over MTO property) in the Capital Works Program and in future revisions to the list of projects to be funded from Development Charges. If the developer is successful in further improving the site at 785 Milner Avenue, then additional property taxes will accrue to the City.



## Recommendations:

It is recommended that City Council:

- (1) authorize Legal Services staff to amend the Development Agreement dated December 13, 1995 between the former City of Scarborough and Milner Properties Limited to remove the obligation of the owner to construct the “Street A Improvements” and replace this with a new condition that, in conjunction with future development on this property, the owner will be required to construct that portion of Street A which is located within the property to municipal standards and make provision for its dedication as a public highway, and to provide such other transportation improvements as may be identified through the study described in Recommendation 3;
- (2) direct the appropriate staff to include the construction of that portion of Street A located within the MTO property, together with the associated interchange modifications, as part of the Capital Works Program for inclusion in the next revision to the Development Charges By-law, and to negotiate with the Ministry of Transportation on design issues in an effort to minimize the construction cost; and
- (3) Milner Properties Limited be requested to submit a revised Traffic Impact Study addressing the anticipated traffic impacts from the approved level of development and demonstrating what, if any, previously identified transportation works included in the “associated improvements” are no longer required to mitigate those impacts.

## Background:

Council, at its meeting of September 28, 1999, approved the following resolution adopted by Scarborough Community Council at its meeting of September 14:

That the Director of Community Planning, East District, in consultation with Works and Emergency Services Department and Legal Services, report to the Community Council meeting scheduled to be held on October 12, 1999, to reassess the obligations of Milner Properties in providing road improvements contained in the development agreement applying to the property in the Milner Avenue/Progress Avenue (sic) area, and further, to provide recommendations as to whether the City should be assuming any of these obligations.

In 1991, Milner Properties Limited applied to the City for Official Plan and Zoning By-law Amendments to permit the development of the 8.9 hectare (22 acre) site with a building supply store, additional “big box” retail, offices and an hotel, to a total of 67,700 square metres (729,000 square feet). The application was supported by a Traffic Impact Study (TIS) dated October 1993. The TIS assumed that there would be industrial and retail development east of Morningside, such as the Auto Mall and the then-proposed Coca Cola bottling plant, to a total of 66,200 square metres (712,500 square feet), as well as the newly approved Rouge River Business Park further east on Sheppard Avenue opposite Dean Park Road. At that time, Highway 401 had

not been widened to its current full core-collector system east of Neilson Road, and there were heavy volumes of commuter traffic on Sheppard, Milner and Morningside Avenues.

The TIS concluded that to support the level of development contemplated by Milner Properties, a package of road improvements would be required, including Street A, a new public road connecting Milner Avenue through the site to the redesigned west-bound exit ramp from Highway 401 (see Figure 2). The applications were approved subject to the provision of the road improvements, secured through a Holding (H) provision in the zoning by-law and a Development Agreement with the City.

There was a provision in the Development Agreement that dealt with cost recovery for Street A. It was understood that the applicant would pursue this through a front-ending agreement, and the City further acknowledged that there were other benefitting owners for Street A. The onus was on Milner Properties to prepare the necessary studies to bring forward a front-ending agreement, pursuant to the Development Charges Act, but the City agreed to 'assist' the owner. A traffic report, which included the estimated value of construction and other matters quoted above, was prepared by Read, Voorhees & Associates Limited in May 1996 for review by other targeted benefitting owners and the City. Agreement could not be reached among the City and the landowners on the cost estimates and a cost-sharing formula, and the proposal for a front-ending agreement was not pursued.

Subsequently, the Morningard lands to the east were re-designated and rezoned for mixed employment uses including "big box" commercial. Improvements at the intersection of Milner and Morningside, the widening of Milner Avenue east of Morningside Avenue, and the provision of a northbound right turn lane on Morningside Avenue approaching Sheppard Avenue were funded by Morningard Developments, as required to mitigate the impacts of their development.

The first, and only, project to be built on the Milner Properties lands has been a cinema complex, which required no improvements to the public road system. Milner Properties now wishes to continue to develop its site, but is experiencing difficulty in raising funds due to the financial obligations represented by the eventual construction of Street 'A' valued at over \$3 million, and other improvements which are more minor in nature.

Changes to the road system capacity now warrant a re-examination of the Milner Properties Limited obligations.

#### Comments:

#### Transportation Issues

The widening project for Highway 401 to continue the core-collector system east of Neilson Road was under construction for several years in the early 1990's and was completed to Meadowvale Road in 1994. The next contract from Port Union Road to Brock Road, Pickering, followed with completion in 1998. The resulting increase in capacity for commuter traffic from Durham Region has significantly reduced the pressure on the arterial road alternatives such as Sheppard and Milner Avenues, leaving more road capacity for local traffic.

Figures collected under the City Centre Monitoring Program, east of Morningside Avenue, indicate the following changes for the critical evening peak hour:

Street and Direction	1991	1992	1993	1994	1995	1996	1998
Sheppard Avenue east-bound	2011	1683	2632	2175	1476	1454	1336
Sheppard Avenue west-bound	609	485	526	653	601	757	790
Milner Avenue east-bound	361	344	618	650	494	226	361
Milner Avenue west-bound	60	68	182	184	191	691	266
* evening peak hour volumes							

East-bound flows show a steady decline from 1993 (the year the original traffic study was completed) to 1996. The higher volume on Milner Avenue in 1998 is likely related to the opening of Home Depot.

The retention of more commuter traffic on Highway 401 has also relieved pressure on Morningside Avenue, which used to operate as a transfer facility between Highway 401 and Sheppard Avenue for drivers seeking to avoid the bottleneck further east. Traffic on Milner Avenue destined for Sheppard Avenue also created a heavy east-bound left turn demand at the intersection with Morningside Avenue. At the same time as demand has dropped, the local improvements put in place by Morningard, including the new traffic signals at Grand Marshall and Sheppard Avenues, have created better operating conditions and more route choices.

#### Development Issues

The extensive office and industrial development planned for Rouge River Business Park on Sheppard Avenue east of Morningside Avenue has not materialised to date. As Community Council is aware, the owners have now applied for residential uses on the property, which if approved will generate less traffic than employment uses.

To the north, a substantial amount of residential development is being planned for Morningside Heights and sections of Malvern. Traffic studies submitted in support of these applications indicate that new traffic will be spread over the available routes such as Finch Avenue, Neilson Road and Steeles Avenue, as well as Morningside Avenue.

Milner Properties is now looking at less development than contemplated on its site when the original traffic study was prepared. The site is zoned for 568,000 square feet of mixed office, hotel and commercial uses rather than the 729,000 square feet which were originally requested, but is still subject to the same road improvement package. To gain access to the property, the north portion of Street A has been constructed but only to a private driveway standard. In order to service the balance of the lands, Street A needs to be extended, and it should be constructed to municipal standards in readiness for eventual adoption as a public road. As well, for safe access to the site and to other streets or driveways on the north side, it is likely that a centre turn lane on

Milner Avenue across the frontage will still be required, which will entail a pavement widening. However, other portions of the “associated improvements” may now be unnecessary.

Much of the formerly vacant land in the rest of the Malvern Employment District has now been developed and road improvements put in place to support that development. Unless there are to be substantial changes to established industries such as Teleglobe or Honda, the area can be viewed as relatively stable.

In order to address all of these transportation and development matters, Milner Properties should submit a new TIS to demonstrate what, if any, other previously identified improvements are not now required.

### Network Benefits

At the time that a front-ending agreement was being pursued, it was recognised by all parties, including neighbouring landowners, that there are wider City benefits to the construction of Street A. During the earlier City study of traffic operations on Milner Avenue and approaches to the Scarborough Civic Centre area from the east, it was determined that a connection between Neilson Road and Milner Avenue, opposite the west-bound off-ramp from Highway 401, would provide network benefits. However, such a connection would be very difficult to achieve.

The continuous traffic movement from the westbound Highway 401 off-ramp onto Street ‘A’ would effectively feed the Milner Avenue corridor in a more efficient manner at its eastern end. Rather than channelling traffic onto Milner Avenue from parallel corridors such as Highway 401 or Sheppard Avenue principally at Morningside Avenue or Markham Road, the Street ‘A’ connection would offer a much needed intermediate access point, especially in the absence of such a connection at Neilson Road.

Furthermore, it would have significant value in removing the need for north-bound left turns at Milner and Morningside Avenues, where substantial queues can occur in the morning peak hour if there is congestion on west-bound Highway 401. The resulting reduction in turning movements at the Morningside Avenue/Milner Avenue intersection would offer all users of this intersection (including motorists, pedestrians and cyclists) a better level of service.

In summary, the City, and more specifically the broad group of users of the area public road system, would gain a benefit from the eventual Street A connection to Morningside Avenue in the MTO lands; therefore, it would be reasonable for the City to assume construction of that portion of Street A contained within the MTO lands. This would necessitate the addition of this project to the City’s Capital Works Program, and it could also be added to the City’s list of Development Charge funded projects when the by-law is next updated.

As indicated above, although others in the area would benefit from the Street A connection between Morningside Avenue and Milner Avenue, the Milner Properties site also would gain improved access. It is reasonable to expect that Milner Properties should contribute towards the cost of implementing Street A in part. The most practical way of achieving this contribution

would be by way of land dedication and construction of Street A to municipal standards through the site, secured through an amended Development Agreement with Milner Properties Limited.

Conclusions:

Both the City and Milner Properties stand to benefit from the construction of the new connection from Milner Avenue to Morningside Avenue at the Highway 401 west-bound off-ramp. The Development Agreement currently in force is onerous on Milner Properties and is hampering efforts to continue development of the site. Accordingly, the City should now move to remove part of the obligation for the Street A connection from Milner Properties. Should Milner Properties wish further relief from the provision of the other “associated improvements” then they should commission a revised traffic study which could address the new reality both in the area and in terms of potential site development levels. The appropriate staff should be authorised change the legal agreement and to include the new City obligation in the relevant programmes.

Staff of Legal Services and of Works and Emergency Services have assisted in the preparation of this report and concur with the recommendations.

Contact:

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*(Councillor Feldman, at the Council meeting held on November 23, 24 and 25, 1999, declared his interest in the foregoing Clause, in that he is a partner in the subject project.)*

Insert Table/Map No. 1  
785 Milner Avenue