

**1780 Markham Road - Zoning and Site Plan Applications
- Request for Direction Report**

Date:	October 15, 2007
To:	Planning and Growth Management Committee
From:	Chief Planner and Executive Director, City Planning Division
Wards:	Ward No. 41 - Scarborough–Rouge River
Reference Number:	Files No. 06 177164 ESC 41 OZ and 06 193878 ESC 41 SA

SUMMARY

This application proposes a rezoning to provide for retail and other commercial uses in a 3,660 square metre (39,400 square foot) shopping centre located north of Sheppard Avenue East, on the west side of Markham Road, municipally known as 1780 Markham Road.

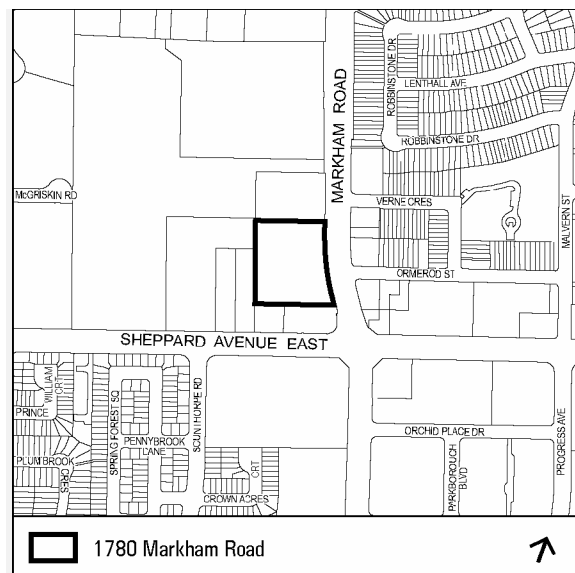
The rezoning application and the accompanying site plan control application have been appealed to the Ontario Municipal Board (OMB) by the applicant because of the City’s failure to make a decision on the zoning application within 120 days.

The purpose of this report is to seek the direction of Council with respect to the position to be taken at the OMB hearing, which has been scheduled to commence on December 10, 2007.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council direct the City Solicitor and appropriate staff to attend the OMB



hearing to ensure that the City's interests are appropriately represented by opposing the applications in their present form.

Financial Impact

There are no financial implications resulting from the adoption of this report.

DECISION HISTORY

The application for rezoning was made on September 20, 2006. The site plan application was received on November 24, 2006.

The Preliminary Report was adopted by the Scarborough Community Council at its meeting of January 16, 2007. The Preliminary Report recommended scheduling a community consultation meeting and authorized notices for the community consultation meeting and a public meeting.

The community consultation meeting was held on March 20, 2007. Three members of the public attended. The issues identified were traffic and access.

ISSUE BACKGROUND

Proposal

A 3,660 square metre (39,400 square foot) shopping centre is proposed on a 1.4 hectare (3.5 acre) site previously containing a Ford automobile dealership. Four buildings are proposed. The future tenants were described by the applicant on January 22, 2007, to be as follows:

Building A	Shoppers Drug Store	1 587 m ²	17,080 ft ²
Building B	No tenant specified	782 m ²	8,200 ft ²
Building C	Bank	516 m ²	5,550 ft ²
Building D	Multi-unit, unspecified uses	790 m ²	8,500 ft ²

One hundred and eighty surface parking spaces would be provided.

Site and Surrounding Area

A gas station and two bank buildings fronting on Sheppard Avenue abut the site to the south. A trucking operation abuts the site to the north, and a car dealership is located west of the site. To the east of the site, across Markham Road, is a site for which an application for residential development was recently approved.

The site is located within the Tapscott/Marshalling Yard Employment District, which is a large employment district extending from Sheppard Avenue north to Steeles Avenue, both east and west of Markham Road. This Employment District comprises approximately 1 200 hectares (30,000 acres) of land and has attracted companies seeking a central location with excellent access to Highway 401. The District employs 33,000 workers in 2,067 businesses. Throughout the past 20 years this Employment District has

seen a healthy increase in employment. Since 1986 total employment rose from 16,966 to 33,000, an increase of 95%.

Provincial Policy Statement and Provincial Plans

The new Provincial Policy Statement 2005 (PPS) applies to this proposal. The PPS provides policy direction on matters of provincial interest related to land use planning and development. The PPS is issued under Section 3 of the Planning Act and sets the policy foundation for regulating the development and use of land. Section 3 of the Planning Act was amended in 2005 to ensure that all municipal planning decisions are required to be “consistent with” the PPS.

The PPS requires the City to promote economic development and competitiveness by:

- a) providing for an appropriate mix and range of employment (including industrial, commercial and institutional uses) to meet long-term needs;
- b) providing opportunities for a diversified economic base, including maintaining a range and choice of suitable sites for employment uses which support a wide range of economic activities and ancillary uses, and take into account the needs of existing and future businesses;
- c) planning for, protecting and preserving employment areas for current and future uses; and
- d) ensuring the necessary infrastructure is provided to support current and projected needs.

The PPS defines employment areas as those areas designated in an Official Plan for clusters of business and economic activities including, but not limited to, manufacturing, warehousing, offices, and associated retail and ancillary facilities.

Section 1.3.2 of the PPS states that the City may only give consideration to converting lands within employment areas to non-employment uses when a comprehensive review has met the following two-part test:

- (i) the land is not required for employment purposes over the long-term; and,
- (ii) there is a need for the conversion (for example, to meet the population and housing targets determined through the comprehensive review).

Growth Plan for the Greater Golden Horseshoe

The Province’s Growth Plan for the Greater Golden Horseshoe (Growth Plan), which has its basis under the Places to Grow Act 2005, applies to this proposal. The Places to Grow Act states that where there is a conflict between the PPS and the Growth Plan, the Growth Plan prevails.

The Growth Plan provides a framework for managing growth in the Greater Golden Horseshoe including: directions for where and how to grow; the provision of infrastructure to support growth; and protecting natural systems and cultivating a culture

of conservation. City Council's planning decisions are required by the Planning Act to conform, or not conflict, with the Growth Plan.

The Growth Plan requires the City to maintain an adequate supply of lands providing locations for a variety of appropriate employment uses in order to accommodate the employment growth forecasts of the Plan. The Plan requires municipalities to promote economic development and competitiveness by:

- a) providing for an appropriate mix of employment uses including industrial, commercial and institutional uses to meet long-term needs;
- b) providing opportunities for a diversified economic base, including maintaining a range and choice of suitable sites for employment uses which support a wide range of economic activities and ancillary uses, and take into account the needs of existing and future businesses;
- c) planning for, protecting and preserving employment areas for current and future uses; and,
- d) ensuring the necessary infrastructure is provided to support current and forecasted employment needs.

The definition of an employment area in the Growth Plan is the same definition used in the PPS.

Municipalities may permit conversion of lands within employment areas to non-employment uses only through a "municipal comprehensive review". The Growth Plan clarifies and strengthens the application of the PPS as it applies to employment lands, in particular by clarifying the definition of "municipal comprehensive review" by defining it as "an Official Plan review, or an Official Plan Amendment, initiated by a municipality that comprehensively applies the policies and schedules of the Growth Plan." Consistent with the PPS, the Growth Plan limits such conversions only where it has been demonstrated through the municipal comprehensive review that it meets a number of criteria.

Section 14 of the Places to Grow Act 2005 requires that all decisions under the Planning Act made by a municipal council and the Ontario Municipal Board must conform to the Growth Plan.

Official Plan

The site is shown on Map 2, Urban Structure, within an Employment District. The lands are also designated as Employment Areas on the Land Use Plan, Map 22. There are no Secondary Plan or Site and Area Specific policies that apply to these lands.

Policy 1 of Section 2.2.4, Employment Districts: Supporting Business and Employment Growth states that Employment Districts will be protected and preserved exclusively for economic activity in order to among other matters maintain and grow the City's tax base; attract new and expand existing employment clusters that are key to Toronto's competitive advantage. The proposed drug store use which has been identified by the

applicant at this time is not provided for within Employment Districts. The drug store is the only retail use that has been confirmed to date. Other non-defined retail uses proposed in the applicant's zoning by-law which could be permitted by the requested rezoning are also not provided for within Employment Districts.

The subject site is designated as Employment Areas. Employment Areas are places of business and economic activity. Uses that support this function consist of: offices, manufacturing, warehousing, distribution, research and development facilities, utilities, media facilities, parks, hotels, retail outlets ancillary to the preceding uses, and restaurants and small scale stores and services that serve area businesses and workers. This proposed drug store use is not provided for within Employment Areas. Other non-defined retail uses which the proposed rezoning could permit are also not provided for.

Zoning

The site is zoned Highway Commercial (HC), permitting only offices, restaurants, places of worship, financial institutions, hotels and vehicle sales, service garages and repair garages. Retail uses and the sale of petroleum products are not permitted.

Site Plan Control

The property is subject to site plan control. A site plan control application has been filed.

Reason for the Application

The applicant filed the rezoning application because retail uses are not permitted by the zoning by-law.

COMMENTS

Provincial Plans and Policy Statement

To consider an application for conversion of employment lands to non-employment uses, the PPS requires a comprehensive review to be conducted which is based on a review of growth projections, and which includes consideration of alternative directions for growth.

Only after such a review can Council consider converting employment lands, and then only where the two-part test has been satisfied. The comprehensive review must have demonstrated that the land is not required for employment purposes over the long-term, and that there is a need for the conversion.

The Province's Growth Plan reiterates and clarifies the objectives of preserving and protecting employment lands from conversions to non-employment uses. Policy 5 of Section 2.2.6 clarifies that the City may only permit a conversion of employment area lands to non-employment uses following a municipal comprehensive review that has fully demonstrated the following:

- a) there is a need for the conversion;

- b) the City will meet its employment forecasts allocated to the City pursuant to the Growth Plan;
- c) the conversion will not adversely affect the overall viability of the employment area and the achievement of the intensification and density targets, and other policies of the Growth Plan;
- d) there is existing and planned infrastructure to accommodate the proposed conversion;
- e) the lands are not required over the long term for the employment purposes for which they are designated; and
- f) cross-jurisdictional issues have been considered.

The Growth Plan describes a municipal comprehensive review as an Official Plan review, or an Official Plan Amendment, that is initiated by a municipality and comprehensively applies the policies and schedules of the Growth Plan. Approval of an application to convert employment lands to non-employment uses would not conform to the Growth Plan without the City first undertaking a comprehensive review addressing the criteria set out in the Growth Plan. The City's new Official Plan has fulfilled the requirements of the comprehensive review by directing population and employment growth to appropriate priority locations. The proposed retail uses do not conform to the Official Plan.

Based on these reasons, this proposal is not consistent with the PPS, and it does not conform to the Growth Plan.

Official Plan

The principal issue with the subject application is the conversion of the lands from employment uses to non-employment uses that are not provided for within the Official Plan's Employment Areas designation.

Policy 1 of Employment Areas requires that uses support business and economic activity. Employment Areas exist to support business activity by providing land, buildings and infrastructure for employment and employment clusters. To assist these employers with their economic function, other uses that play a supporting role are also permitted. These other uses are identified in Policy 1 and include: offices, manufacturing, warehousing, distribution, research and development facilities, utilities, media facilities, parks, hotels, retail outlets ancillary to the preceding uses, and restaurants and small scale stores and services that serve area businesses and workers.

Within Employment Areas, retail uses that are not large scale, stand-alone or power centres, are only provided for when they are ancillary to a manufacturing, distribution or other economic function, or when they are small scale stores and services that serve area businesses and workers. Examples of stores and services serving area businesses and workers include banks, personal service shops, photocopy stores, specialized equipment

rental stores, and specialized service providers intended primarily for manufacturers or media facilities. The proposed retail stores do not conform to the Official Plan and therefore represent a conversion to non-employment uses.

Employment Areas policies do not provide for small or medium scale retail uses that are intended to serve a general public market that is broader than an Employment Area. The Employment Areas are to be protected for business and economic activities, and not for retailing districts. Locating small and medium retail uses in Employment Areas that are specifically intended to serve a broader market, would have a number of negative impacts upon the functioning of the Employment Areas. Firstly, they would reduce the availability of lands for the prime economic functioning of the Employment Areas. As Hemson has noted in the report “Long Term Employment Land Strategy”, adopted by Council June 4, 2007, Employment Districts are required to remain available for employment purposes, for those uses that support that role, and for the establishment and growth of economic clusters.

Secondly, locating those small and medium scale retail uses intended for a broader market within Employment Areas would have significant traffic impacts upon the interiors of Employment Areas. While the subject application, on a major street at the Employment Area edge, would not have this particular impact, the principle of permitting these types of retail uses would set a precedent for future retail uses within the hearts of the Employment Areas.

The Official Plan specifically encourages and directs retail uses to locate within Mixed Use Areas and Regeneration Areas. In addition, small scale retail and service uses are provided for in Neighbourhoods, when meeting specific criteria and locating along major streets shown on Map 3. Small scale stores and services are also provided for within the City’s Apartment Neighbourhoods.

The proposed drug store is not a small scale store or service, and will serve the needs of a broader population than area businesses and workers. It is not possible to determine whether the unspecified retail tenants in proposed Buildings “B” and “D” will be of a nature provided for within the Employment Areas, and these uses should therefore be opposed.

Initially, in the Preliminary Report submitted to the January 16, 2007, Scarborough Community Council, staff advised that an Official Plan amendment was not required. The applicant continues to maintain this position. However, with further analysis of the application, staff recognize that the proposed zoning by-law does not propose retail uses limited to those designed to support the Employment Area. Therefore the zoning should be opposed because it does not comply with the Official Plan and because the criteria for conversion of the Employment Area designation in the Official Plan are not satisfied.

Site Plan

The site plan application was submitted on November 24, 2006. The application was circulated to commenting agencies. The principal problems identified with the site plan

are related to vehicle turning movements at the two access points to Markham Road. After discussions between Transportation Services and the applicant's traffic engineers, agreement was reached to prohibit outbound left turning movements from the south driveway and its realignment with Ormerod Street and prohibit inbound left turning movements into the north driveway. Signal timing modification for the signals on Markham Road north and south of the subject property are also required. Conditions relating to signage, parking stall dimensions, stacking lanes, curbs, grades and clearances were also identified.

Urban Forestry identified a number of issues relating to tree protection and the configuration of a planting bed.

The technical review process of the site plan application is not complete. Satisfactory revised plans have not been submitted and no notice of conditions of draft approval has been issued. Should the OMB approve an application on the subject site, plans addressing these issues should be submitted to the satisfaction of the Director of Community Planning and a Site Plan Agreement should be executed prior to the issuance of the Board's Order.

Conclusion

The rezoning application to permit retail uses in Employment Areas does not conform to the Official Plan policies requiring retail and service uses to be small in scale and serve area businesses and workers. An amendment to the Official Plan to provide for these uses would be contrary to the Growth Plan for the Greater Golden Horseshoe. It is therefore recommended that the City Solicitor be instructed to attend the OMB hearing opposing the applications as presently constituted.

CONTACT

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SIGNATURE

Ted Tyndorf
Chief Planner and Executive Director
City Planning Division

ATTACHMENTS

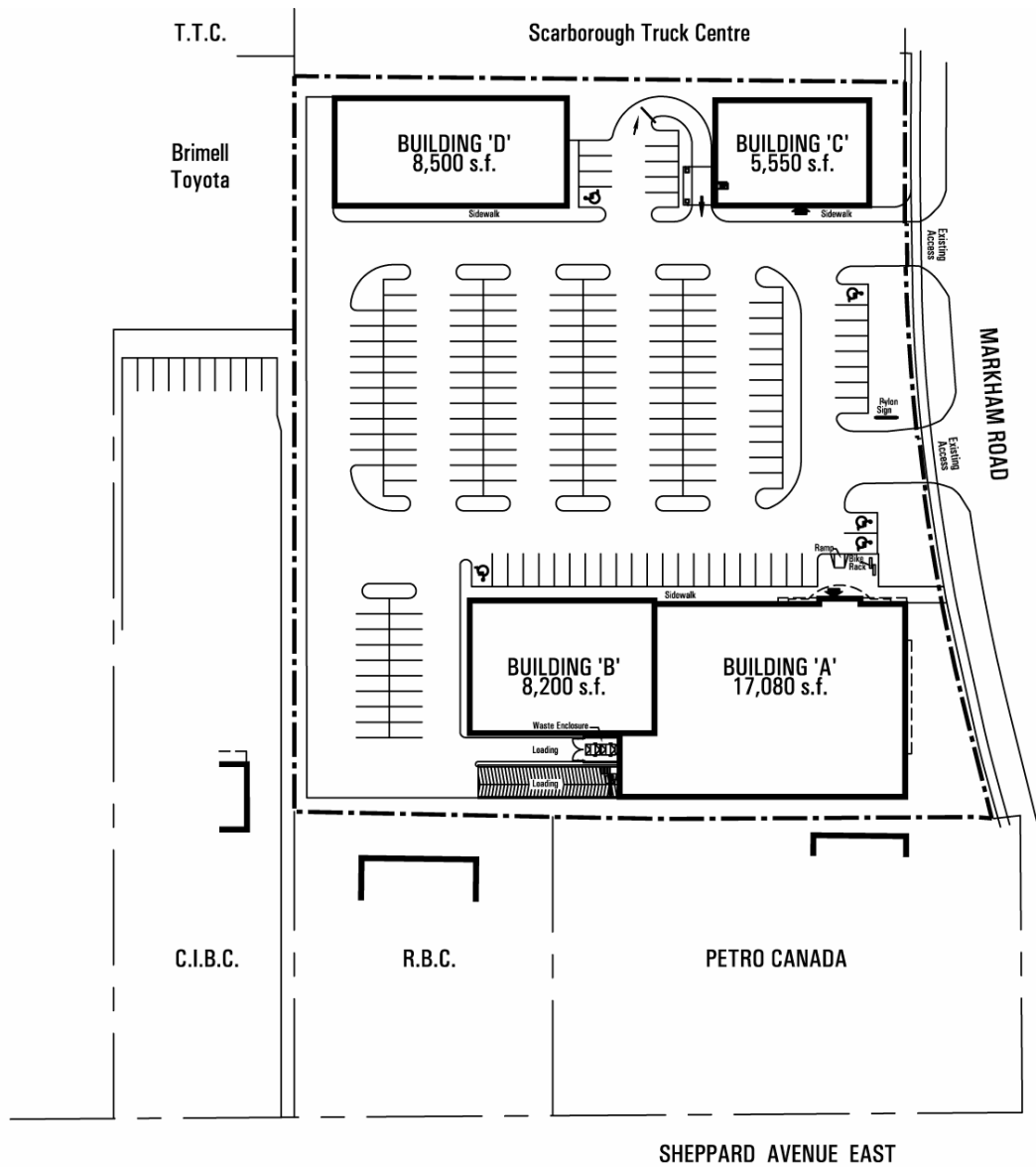
Attachment 1: Site Plan

Attachment 2: Elevations

Attachment 3: Zoning

Attachment 4: Application Data Sheet

Attachment 1: Site Plan



Site Plan

Applicant's Submitted Drawing

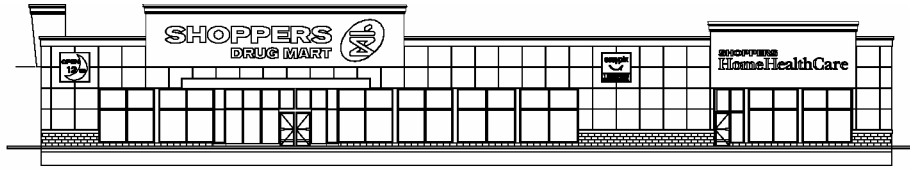
Not to Scale
10/10/07



1780 Markham Road

File # 06-177164 OZ

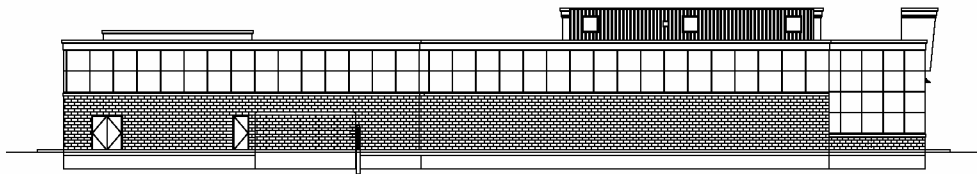
Attachment 2: Elevations



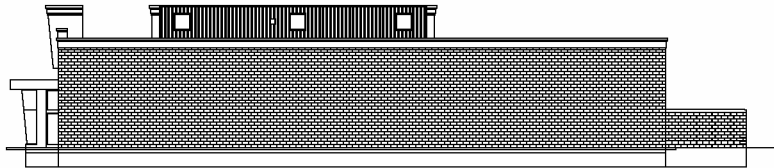
North Elevation



East Elevation
(Markham Road)



South Elevation



West Elevation

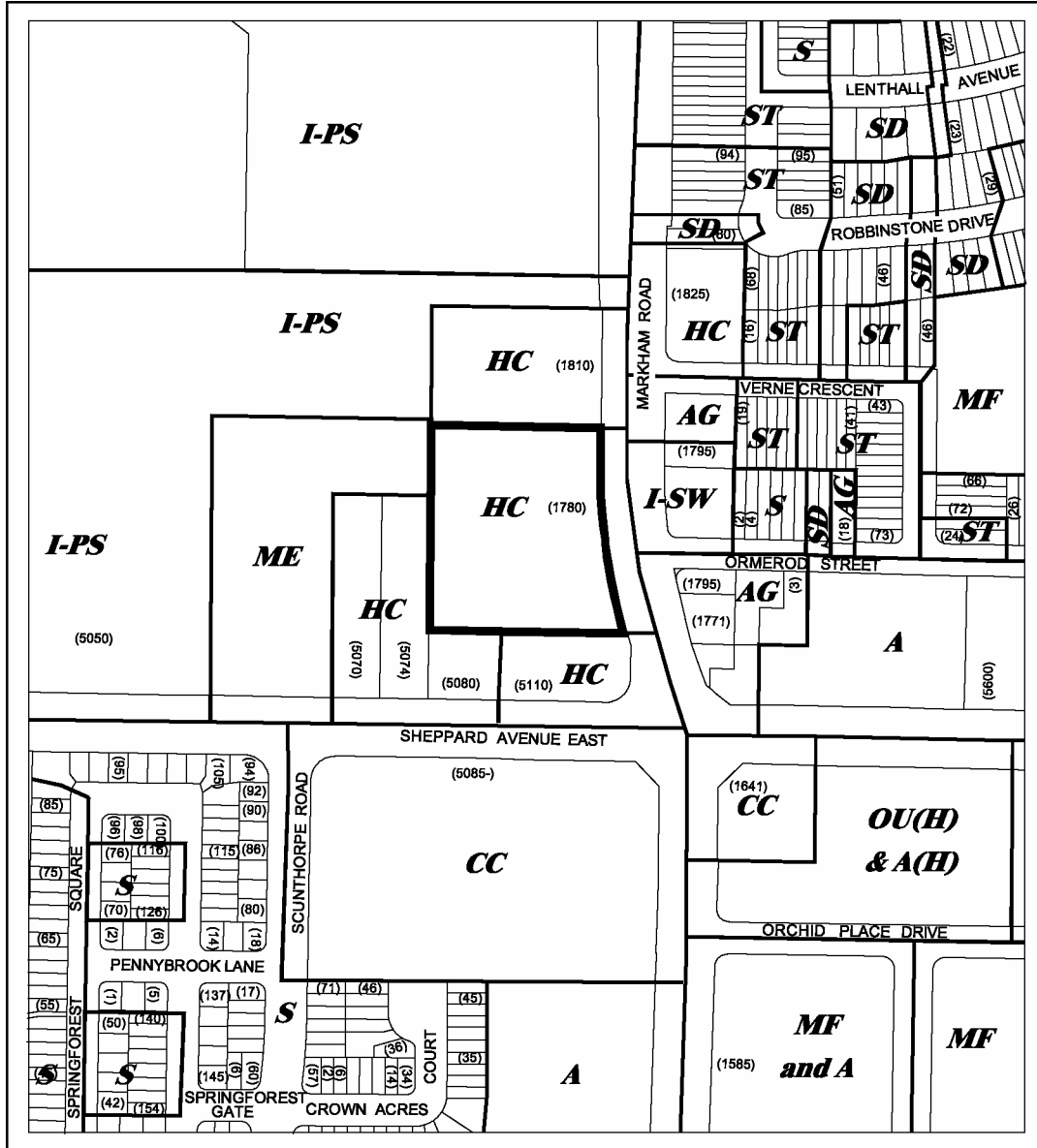
Elevation Plan - Buildings A and B
Applicant's Submitted Drawing

Not to Scale
12/6/06

1780 Markham Road

File # **06-177164 0Z**

Attachment 3: Zoning



TORONTO City Planning Division
Zoning

1780 Markham Road

File # **06-177164 0Z**

HC Highway Commercial Zone	SD Semi-Detached Residential	CC Community Commercial	Marshalling Yard Employment District By-law
ME Mixed Employment Zone	ST Street Townhouse Residential	AG Agricultural Uses	
I-PS Institutional - Public Services Zone	MF Multiple-Family Residential	I-SW Institutional - Social Welfare	OU Office Uses
S Single-Family Residential	A Apartment Residential	OU Office Uses	(H) Holding Provision

Not to Scale
 12/5/06

Attachment 4: Application Data Sheet

Application Type	Rezoning	Application Number:	06 177164 ESC 41 OZ
Details	Rezoning, Standard	Application Date:	September 20, 2006

Municipal Address: 1780 MARKHAM RD, TORONTO ON
 Location Description: CON 3 PT LT19 **GRID E4107
 Project Description: A 3700 sq m shopping centre on a 1.4 ha former Ford dealership.

Applicant:	Agent:	Architect:	Owner:
BOUSFIELDS INC.			1693534 ONTARIO LIMITED

PLANNING CONTROLS

Official Plan Designation:	Employment Areas	Site Specific Provision:	
Zoning:	Highway Commercial	Historical Status:	
Height Limit (m):		Site Plan Control Area:	Y

PROJECT INFORMATION

Site Area (sq. m):	14240.19	Height:	Storeys:	1	
Frontage (m):	122.24		Metres:	7	
Depth (m):	109.12				
Total Ground Floor Area (sq. m):	3656.54				Total
Total Residential GFA (sq. m):	0		Parking Spaces:	180	
Total Non-Residential GFA (sq. m):	3656.54		Loading Docks	0	
Total GFA (sq. m):	3656.54				
Lot Coverage Ratio (%):	25.68				
Floor Space Index:	0.26				

DWELLING UNITS

FLOOR AREA BREAKDOWN (upon project completion)

			Above Grade	Below Grade
Tenure Type:				
Rooms:	0	Residential GFA (sq. m):	0	0
Bachelor:	0	Retail GFA (sq. m):	3656.54	0
1 Bedroom:	0	Office GFA (sq. m):	0	0
2 Bedroom:	0	Industrial GFA (sq. m):	0	0
3 + Bedroom:	0	Institutional/Other GFA (sq. m):	0	0
Total Units:	0			

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