

**W/S Hummingbird Drive and Pitchpine Drive, North of Neilson Tributary and East of the CPR – Subdivision Application and Removal of Holding Provision - Final Report**

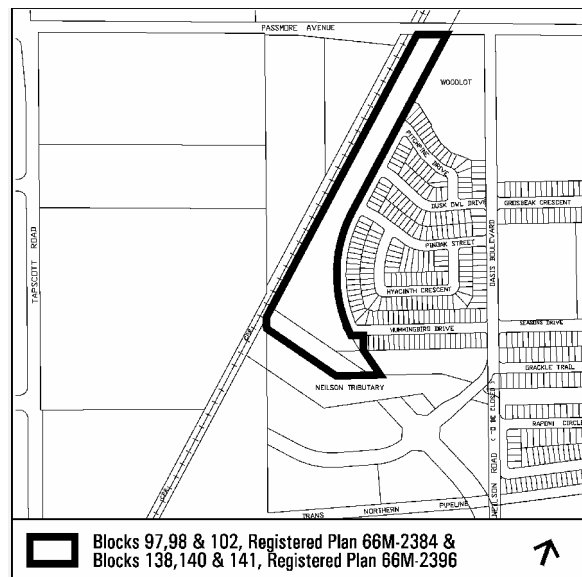
<b>Date:</b>	August 24, 2007
<b>To:</b>	Scarborough Community Council
<b>From:</b>	Director, Community Planning, Scarborough District
<b>Wards:</b>	Ward No.42 – Scarborough-Rouge River
<b>Reference Number:</b>	File Nos: 05 110339 ESC 42 SB and 05 110340 ESC 42 OZ

**SUMMARY**

The applicant, Mattamy (Neilson) Limited, has requested the lifting of the Holding Provision (H) on its lands adjacent to the Canadian Pacific Railway (CPR) line in order to develop these lands by plan of subdivision. The Holding Provision was put in place to protect for the possible future extension of Morningside Avenue in an alignment along the east side of the CPR.

The plan of subdivision will create 56 lots, for 28 semi-detached structures, in accordance with the underlying semi-detached residential zoning.

It is appropriate for Council to remove the Holding Provision now that the Environmental Assessment (EA) for the Morningside Avenue Extension has concluded that the preferred alignment for the future road not be located along the east side of the CPR line. This conclusion is supported by both Toronto Council and by the Region of York. There is no proponent for an alignment east of the CPR.



Lands in the southern part of the property, which are required for the preferred alignment, will be transferred to the City in fulfilment of conditions of the draft plan of subdivision.

Approval of these applications will allow the completion of this part of the Morningside Heights Community.

## **RECOMMENDATIONS**

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### **The City Planning Division recommends that:**

1. City Council amend the zoning by-law for the Morningside Heights Community substantially in accordance with the draft zoning by-law amendment are attached as Attachment No. 7.
2. City Council recommend to the Chief Planner that the draft plan of subdivision be approved, generally as illustrated on Attachment 1, subject to:
  - (a) the conditions as generally listed in Attachment 8, which, except as otherwise noted, must be fulfilled prior to the release of the plan of subdivision for registration; and
  - (b) such revisions to the proposed plan of subdivision or additional or modified conditions as the Chief Planner may deem to be appropriate to address matters arising from the on-going technical review of the development.
3. City Council authorize the City Solicitor to make such stylistic and technical changes to the draft zoning by-law and draft conditions of subdivision approval as may be required.

### **Financial Impact**

The recommendations in this report have no financial impact.

### **DECISION HISTORY**

The Ontario Municipal Board (OMB) approved the Morningside Heights Secondary Plan in 2000, designating the subject lands which are adjacent to the CPR line as Buffer Reserve, to a width of 56 metres. The Buffer Reserve was to provide a separation between the railway and industrial uses to the west and the residential uses of the Morningside Heights Community to the east. It was also to protect for a potential alignment of the northerly extension of Morningside Avenue, which now terminates at Oasis Boulevard/McNicoll Avenue.

The Morningside Heights Community Zoning By-law was approved by the OMB in 2002, placing zoning for single, semi-detached and street townhousing on the subject lands, subject to a Holding Provision (H) (Attachment 2: Zoning).

The OMB ordered the approval of a draft plan of subdivision (SC-T19990009) for Mattamy lands in this part of the community including the subject site. A specific holding provision was ordered, to be removed in whole or in part at such time as Council was satisfied that Morningside Avenue was not to be extended through this zone.

The subdivision agreement states that “the owner agrees to register on title...a restriction that no transfer of this property will take place until the City’s Official Plan policies in respect of development have been complied with; including the outside date of December 31, 2005 for completing an Environmental Assessment as to the alignment of the Morningside Avenue extension northerly to Steeles Avenue East. In the event that an EA is not completed by the date of December 31, 2005, then the obligations to reserve this land for a future Morningside Avenue extension shall be lifted, except insofar as the obligation pertains to the reservation of the lands for a possible local road “.

The 5% park contribution for the subject lands was also satisfied as part of this agreement.

Plan 66M-2396 was registered on October 17, 2002. (This registered plan covered part of the lands in the previously mentioned draft plan.) The lands on the east side of Hummingbird Drive and Pitchpine Drive were divided into lots, and the lands on the west side, within the subject lands, were shown as blocks.

At its meeting of July 16-18, 2007, City Council removed the Holding Provision “H” from the Brookside property to the north, which was similarly located abutting the CPR line and partly within the Buffer Reserve.

## **ISSUE BACKGROUND**

### **Proposal**

Mattamy proposes to develop 56 lots for semi-detached residential units (28 structures). Fifty of the lots would have a frontage of 6.75 metres (22 feet) and all but 6 would have a depth in excess of 45 metres (148 feet). Six lots would have frontages of 9.15 metres (30 feet) and depths of at least 36 metres (118 feet).

Hummingbird Drive and Pitchpine Drive, existing roads which now have right-of-way widths of 16.5 metres, would be widened to 18.5 metres from the subject lands to accommodate the proposed lots on their west side.

A 6-metre walkway, Block 62 on Attachment 1, will be conveyed to the City to establish a pedestrian link between the west end of Hummingbird Park and Hummingbird Drive.

The future alignment of the Morningside Avenue extension will cross the southern part of the subject lands approximately in the location of Block 59. Three Blocks, ie. 59, 60 and 61, will be conveyed to the City for the right of way, the precise land requirement for which will be established when the engineering design has been undertaken.

Block 58, a 0.573 hectare parcel between the proposed dwellings and Passmore Avenue, will be conveyed to the Toronto and Region Conservation Authority (TRCA) for woodlot purposes, to join abutting woodlot lands held by the TRCA.

### **Site Description**

The subject property is located on the west side of Hummingbird Drive and Pitchpine Drive, north of the Neilson Tributary and east of the CPR rail line. The property is irregular in shape and comprises approximately 3.1 hectares (7.7 acres). It is vacant and treeless except for that part closest to Passmore Avenue, which contains a woodlot. A berm and concrete sound fence is located near the CPR property on the subject lands. To the west of the site is the CPR rail line, which, according to the CPR, has a railbed capable of supporting only low-speed traffic. To the east is the present extent of development of the Morningside Heights Community, ie. semi-detached houses on the east side of both Hummingbird Drive and Pitchpine Drive.

To the south is the Neilson Tributary of the Morningside Creek. To the north is Passmore Avenue and woodlots under the jurisdiction of the TRCA.

### **Official Plan**

The subject lands are designated Neighbourhoods in the Official Plan, providing for detached houses, semi-detached houses and street-townhouses. A portion of the lands in the northern end of the site is designated Natural Area. In addition the Morningside Heights Secondary Plan designates the greater part of the subject lands adjacent to the rail corridor as a Buffer Reserve. This is to provide for a potential corridor for the extension of Morningside Avenue and for buffers or distance separation to protect the residential uses in the community from noise, dust, odour and other potential impacts from the railway line and from industrial operations to the west.

The Secondary Plan states that should the Buffer Reserve not be required for these purposes, based on detailed studies, then the lands can be used according to the adjacent land use designations i.e.: Neighbourhoods and Natural Areas, without any need for amendment to the Secondary Plan.

### **Zoning**

The subject lands are zoned to permit detached and semi-detached houses and street townhouses abutting Hummingbird Drive and Pitchpine Drive, with lot frontages and areas “as shown on the Registered Plan”. The subject lands are also subject to a Holding Provision (H), which can be removed in whole or in part by amending by-law when Council is satisfied that Morningside Avenue will not be extended through the zone. The north end of the site up to Passmore Avenue is zoned Open Space (Attachment 2: Zoning).

### **Site Plan Control**

The site is not subject to site plan control.

## **Reasons for Applications**

The owner wishes to have the Holding Provision (H) lifted to enable development of the greater part of the subject lands within the Buffer Reserve, now that the Environmental Assessment (EA) for the Morningside Avenue extension has found in favour of an alignment west of CPR and the Region of York has supported the alignment. The plan of subdivision sets out the lotting and limits of the lands to be transferred to the City for the future Morningside extension across the southern part of the subject lands.

## **Community Consultation**

No community consultation meeting was required, as no rezoning was requested in addition to the lifting of the Holding Provision. Staff have however discussed the application with the Morningside Heights Residents Association and have notified the association of the Community Council meeting. Notice of the meeting has been sent to within 120 metres distance of the Mattamy ownership, which extends south to the Hydro corridor.

## **Agency Circulation**

The application was circulated to all appropriate agencies and City divisions. Responses received have been used to assist in evaluating the application with respect to lifting of the Holding Provision and providing appropriate conditions of draft plan approval.

## **COMMENTS**

### **Environmental Assessment for Markham Bypass Corridor**

The EA study for the Morningside extension, otherwise known as the Markham Bypass, was carried out by consultants for the Region of York to assess the need for transportation improvements in the Markham By-pass corridor. The report responded specifically to provisions of the Morningside Heights Secondary Plan which had been agreed to at the Ontario Municipal Board hearing on the Plan by the City of Toronto, Region of York and the area landowners.

A Buffer Reserve was designated in the Secondary Plan along the east side of the CPR corridor and was to be maintained pending the completion of the Environmental Assessment to determine if the corridor would be required for the future alignment of the Morningside Avenue extension. A Holding Provision (H) was subsequently created in the Morningside Heights Zoning By-law to implement the Buffer Reserve and was applied to the subject lands.

The EA report of December 2005 recommended an alignment for the Morningside extension which proceeds north-west from where it presently ends at Oasis Boulevard, crosses the CPR line and then turns north and finally north-east to meet Steeles Avenue. This alignment is shown on Attachment 4. It is supported by the Region of York and has been submitted to the Ministry of Environment for approval.

The City of Toronto Council and staff do not support this alignment. Through Works Committee Report 2, Clause 4, adopted by Council in April 2006, Council expressed its preference for Alignment “C” which differs from the recommended alignment in that it takes a route directly north to Steeles after crossing the CPR.

There is no proponent for an alignment of the Morningside extension which would follow an alignment along the east side of the CPR through the Buffer Reserve.

Although the EA has not yet finally been approved by the Ministry of the Environment, Council can be satisfied that Morningside Avenue will not be extended through that part of the Buffer Area which is presently being proposed for residential development within the subject lands.

### **Noise Mitigation**

The Buffer Reserve policies of the Morningside Heights Secondary Plan describe its purpose as also providing distance separation and mitigation measures to protect the residential community from noise, dust, odours and other potential impacts from the railway and industrial uses west of the railway.

A consultant’s noise report was submitted in support of the proposed development and has recently been updated.

Noise sources examined by the report include the road traffic noise from the future Morningside Avenue extension, from Oasis Boulevard / future McNicoll Avenue extension and from the CP rail line. Noise from the operations of IPSCO, an electric arc steelmaker, and from Furfari Paving Co, a hot mix asphalt and asphalt and concrete recycling operation, both located on Tapscott Road, were also considered by the report.

Some noise mitigation measures mentioned in the report have already been implemented. A 2.0 metre high berm has been created on the subject lands along the CPR line to meet the railway’s requirements for a safety berm. A 3.0 metre concrete acoustical fence has been erected on top of the berm.

IPSCO has submitted a noise report to the Ministry of Environment indicating acceptable noise levels without mitigation, but has requested mitigation measures be required as part of the development, notably a sound barrier of between 5.0 to 5.5 metres along the rear of lots 45 to 56, at the south end of the proposed development. The requirement for this barrier has been reaffirmed in the recommendations of the applicant’s noise report.

The noise report also recommends that all houses are to be designed with no second storey bedroom or living space windows facing the rail line and the IPSCO facility. Side windows are to be oriented away from stationary noise sources and appropriate warning clauses will be required to be in offers to sell or lease.

The existing berm and acoustical fence along the CPR will also mitigate possible future noise generation from the Furfari operation and will also shield residences from road noise from the future Morningside extension on the west side of the CPR.

Any new industries constructed to the west will need to obtain Ministry of Environment certificates of approval which includes a noise and vibration study. The certificate of approval will have to take into account the new residences to be built on the subject site.

The preferred alignment for the Morningside extension would overpass the CPR line, south of the proposed residential units, creating an elevated noise source. Sound barriers at the rear of lots would need to be 7.5 to 11.0 metres high to mitigate road traffic noise from this source. Such walls would be technically and economically infeasible and would be aesthetically undesirable.

An alternative would be a “jersey wall”; a barrier wall of approximately 1 metre in height, erected in combination with the crash barrier at the edge of the elevated roadway. Technical Services staff have discussed this approach with the applicant’s engineers and will further review this feature of the road overpass to determine implications for the applicant’s noise mitigation requirements. Staff will seek satisfactory written confirmation from the applicant that the jersey wall feature will not add significantly to the cost of the bridge. Should it be determined by City staff that further draft plan conditions are required regarding this issue, they will be added prior to draft plan approval.

### **Other Environmental Mitigation**

There is no record with the Ministry of Environment or the City’s Municipal Licensing and Standards Division of complaints about odour or dust from industrial operations west of the CPR. Future industrial applications in this area must address these issues.

### **Subdivision**

The proposed semi-detached units are the same unit type as has been built on the east side of Hummingbird Drive and Pitchpine Drive, but have smaller lot frontages. This mixture of low density residential densities is common in the Morningside Heights Community. The widening of the two local streets to an 18.5 metre right of way is consistent with other streets in the community with development on both sides. The walkway, Block 62, will add a needed pedestrian access to Hummingbird Park to the south. The conveyance of the wooded area, Block 58, to the TRCA, will add to the natural area under the TRCA’s jurisdiction.

The conveyance of the roadway blocks will provide the land for the right of way for the Morningside Road extension. The noise barriers identified in the draft plan conditions, much of which are already in place, will provide the future residents with the necessary mitigation.

## **Conclusion**

It is timely for Council to lift the Holding Provision (H) for that part of the subject lands which will remain outside the future alignment of the Morningside Avenue extension. A noise study has determined that road and rail noise can be mitigated without maintaining the Buffer Reserve. The condition set out in the zoning by-law for removal of the Holding Provision as it affects the lands proposed for residential development has been met.

The removal of the Holding Provision within this property will enable its development for semi-detached housing, and will contribute to the completion of the Morningside Heights Community.

## **CONTACT**

David Beasley, Principal Planner  
Tel. No. 416-396-7026  
Fax No. 416-396-4265  
E-mail: dbeasle@toronto.ca

## **SIGNATURE**

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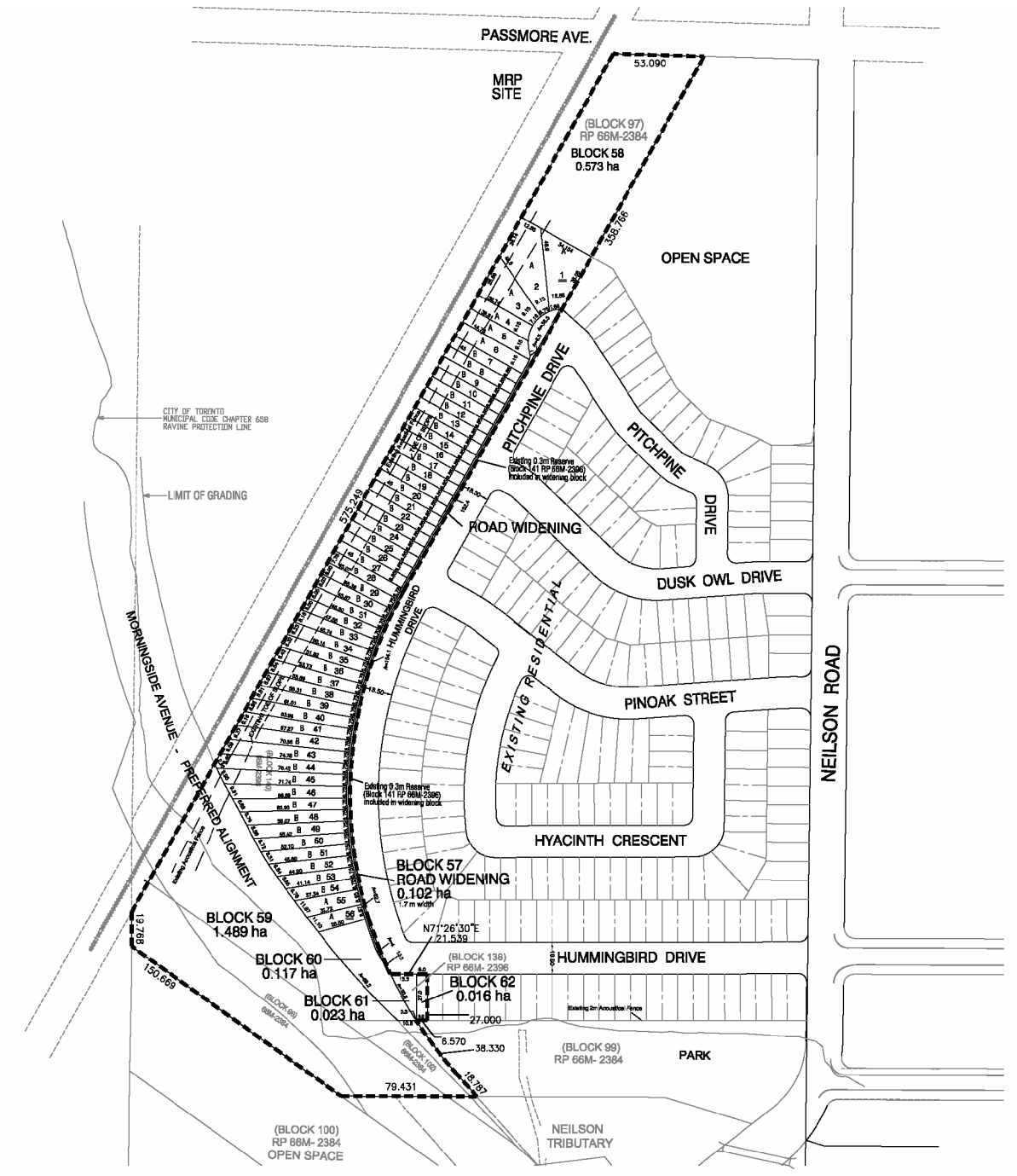
Allen Appleby, Director  
Community Planning, Scarborough District

## **ATTACHMENTS**

Attachment 1: Proposed Plan of Subdivision  
Attachment 2: Zoning  
Attachment 3: Official Plan  
Attachment 4; Morningside Heights Secondary Plan  
Attachment 5: Technically Preferred Alternative Alignment for Morningside Extension  
Attachment 6: Application Data sheet  
Attachment 7: Draft Zoning By-law Amendment  
Attachment 8: Proposed Conditions of Draft Plan Approval



# Attachment 1: Proposed Plan of Subdivision

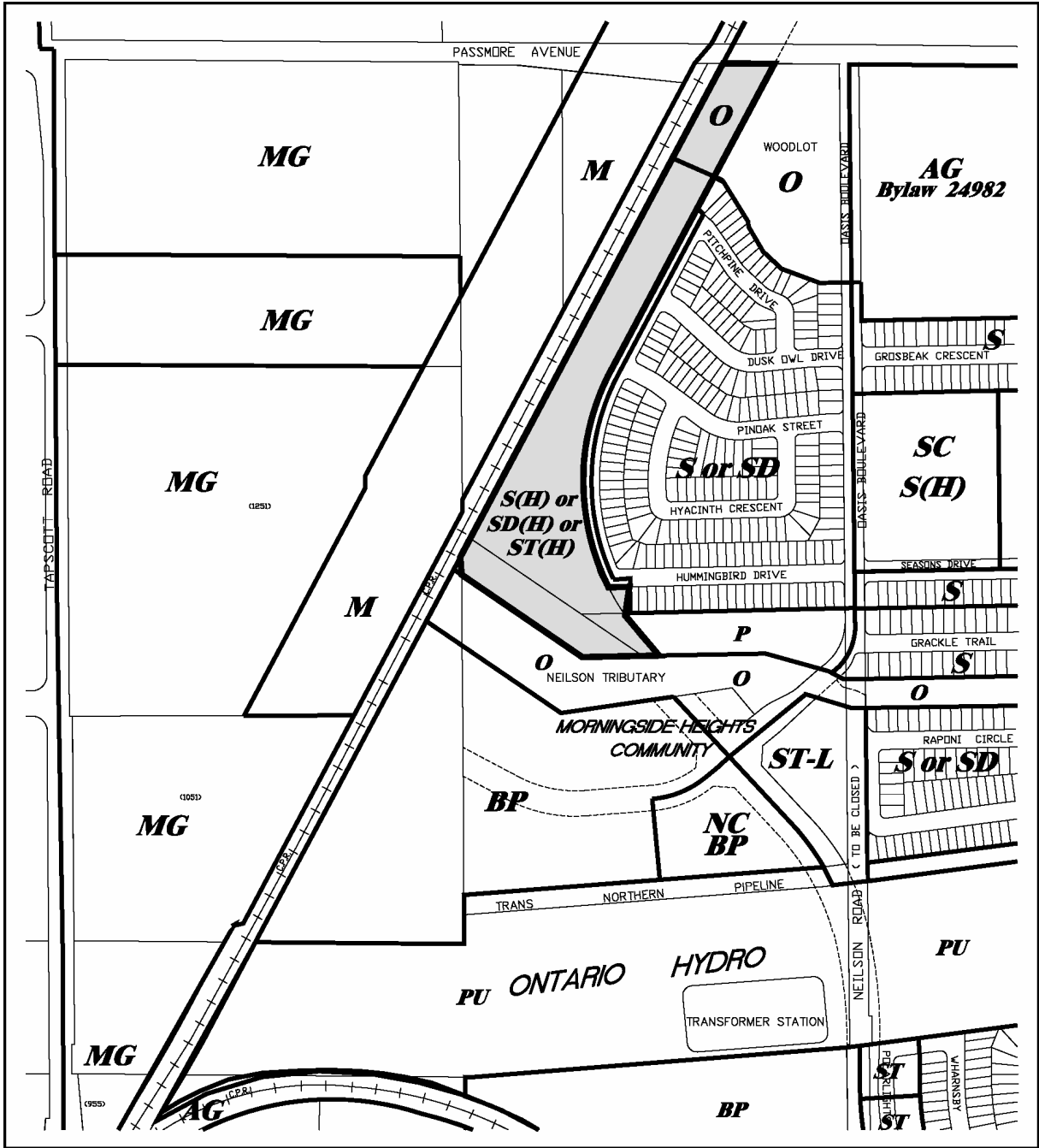


## Proposed Plan of Subdivision Blocks 97,98 and 102, Registered Plan 66M-2384 & Applicant's Submitted Drawing Blocks 138,140 and 141, Registered Plan 66M-2396

Not to Scale  
7/17/07

File # 05-110340 OZ, 05-110339 SB

## Attachment 2: Zoning

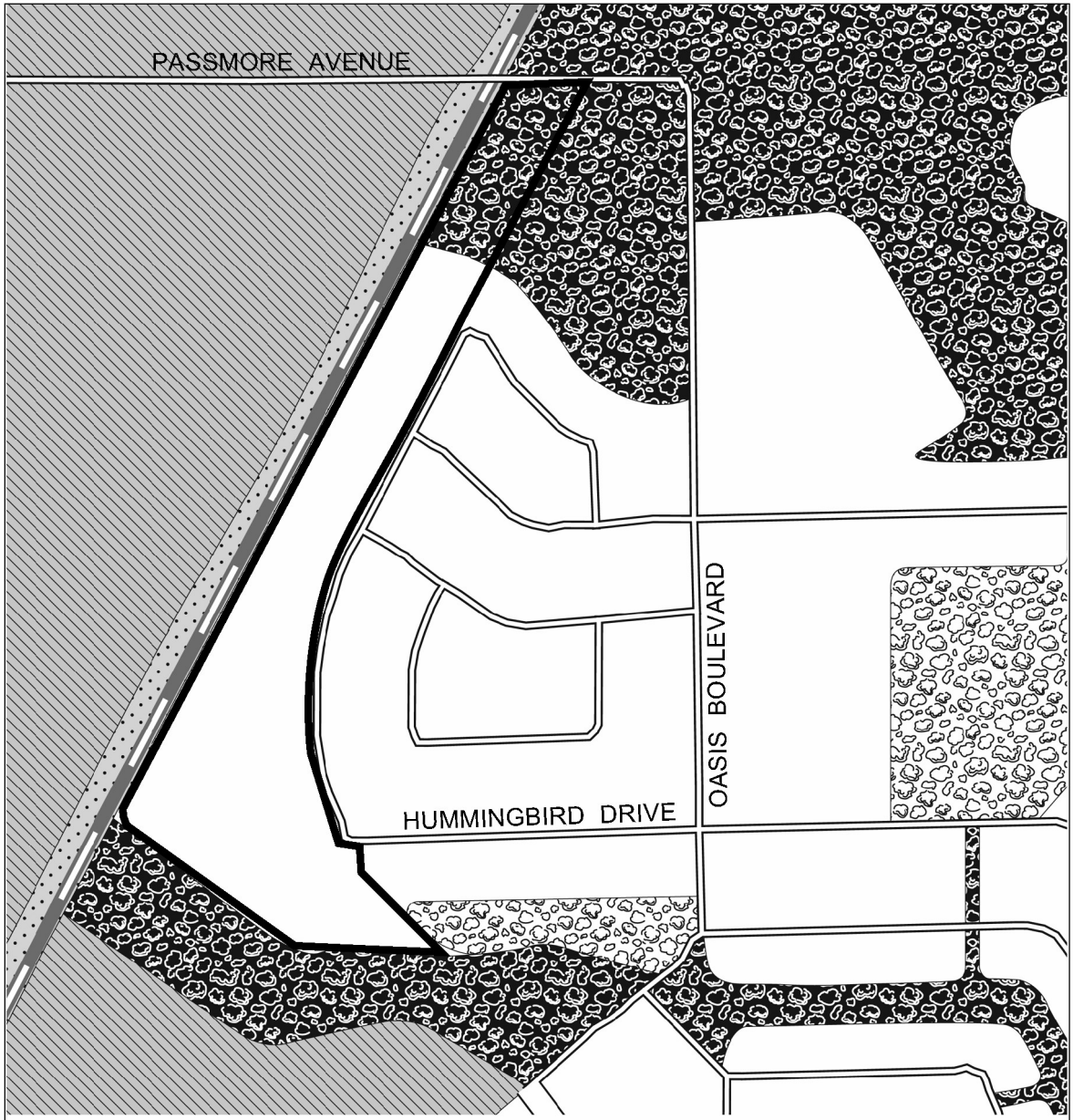


**TORONTO** City Planning Division  
**Zoning**

Blocks 97, 98 & 102, R.P. 66M-2384 &  
 Blocks 138, 140 & 141, R.P. 66M-2396  
 File # 05-110340\_OZ, 05-110339\_SB

<b>AG</b> Agricultural Zone	<b>S</b> Single-Family Residential	<b>NC</b> Neighbourhood Commercial	Morningside Heights Community Bylaw
<b>M</b> Industrial Zone	<b>SD</b> Semi-Detached Residential	<b>PU</b> Public Utility	Not to Scale
<b>MG</b> General Industrial Zone	<b>ST</b> Street Townhouse Residential	<b>SC</b> School	7/16/07
<b>BP</b> Business Park	<b>ST-L</b> Street Townhouse-Lane Residential	<b>P</b> Park	
		<b>O</b> Open Space	

### Attachment 3: Official Plan



**TORONTO** City Planning  
**Official Plan**

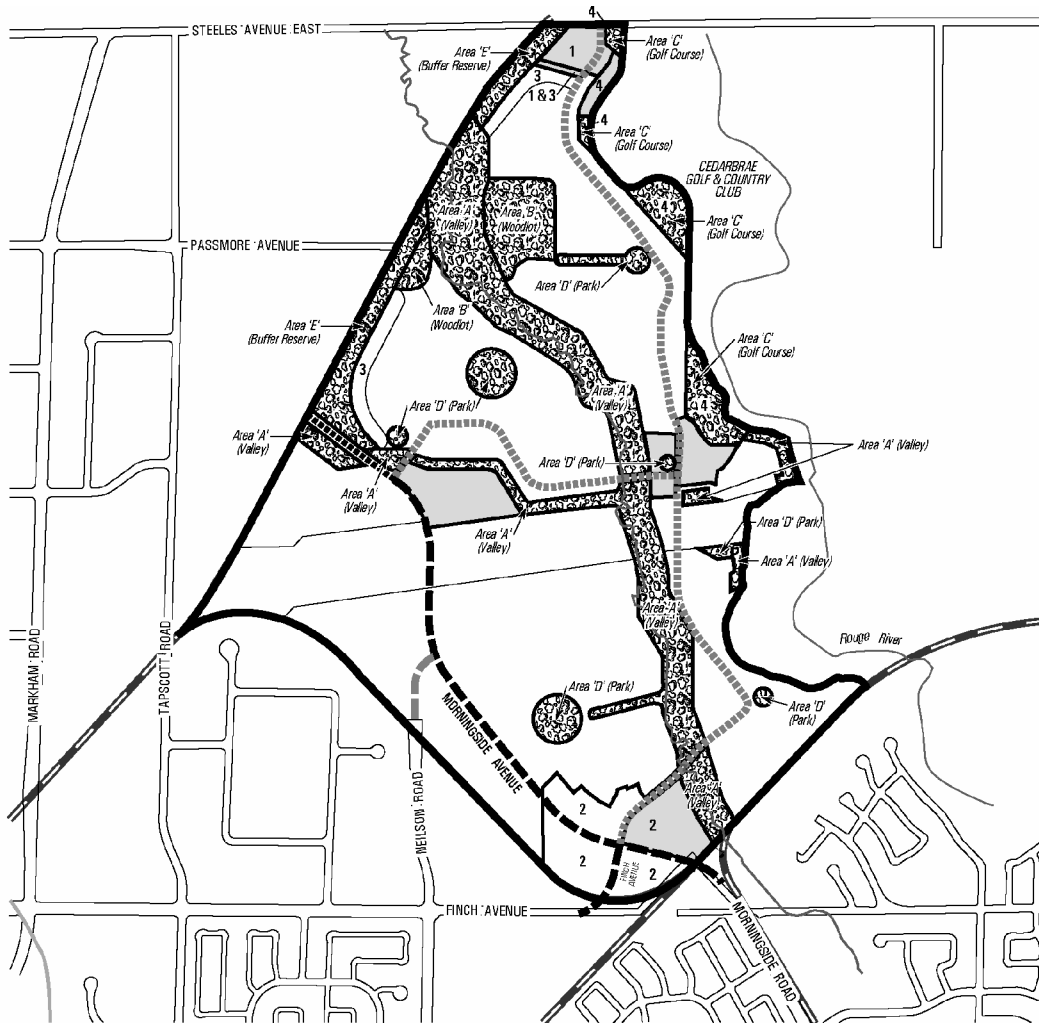
Blocks 97,98,102,138,140,141, R.P. 66M-2396

File # 05-110340\_OZ, 05-110339\_SB













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 07/16/07

## Attachment 4: Morningside Heights Secondary Plan



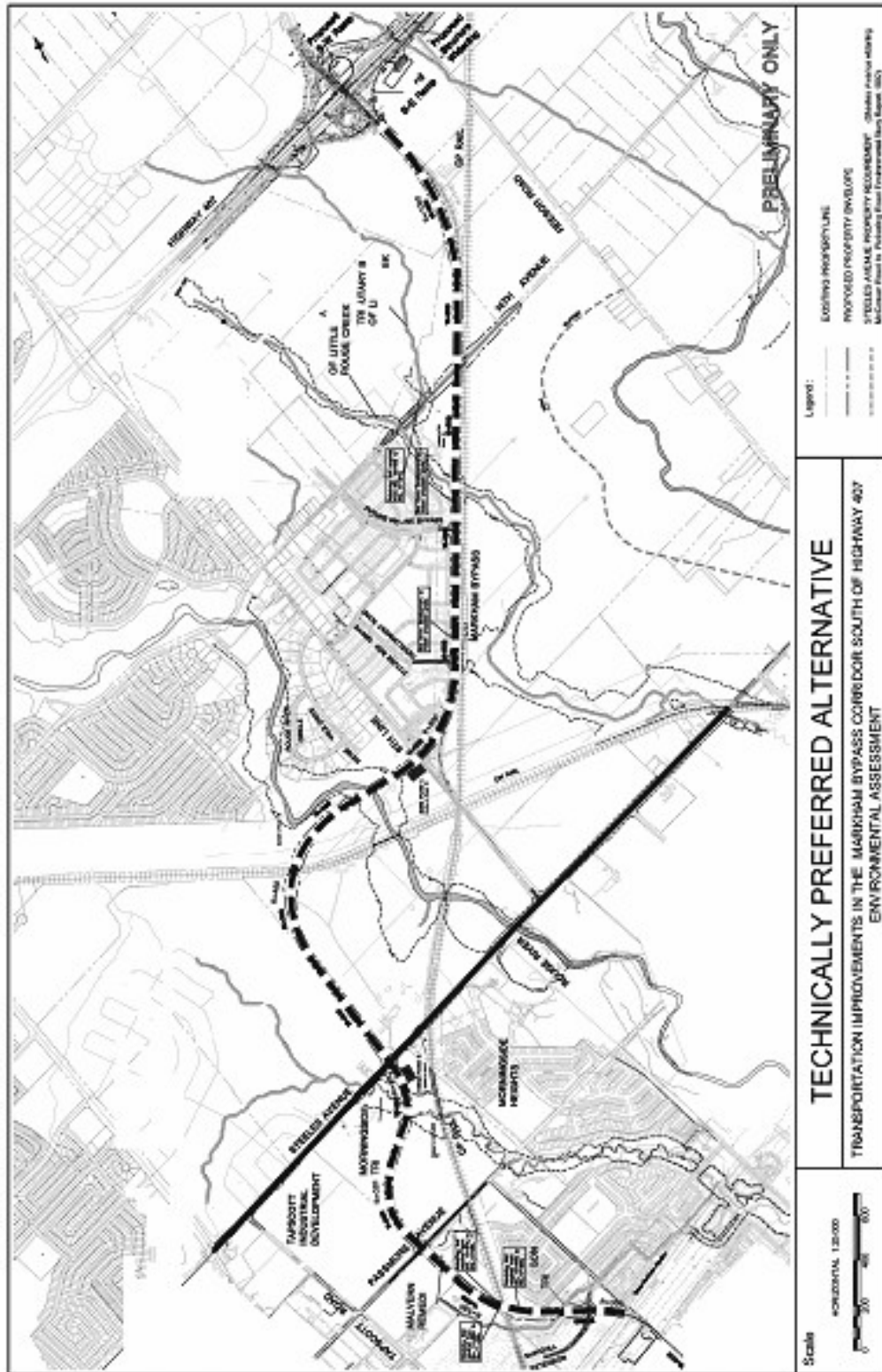
### Morningside Heights Secondary Plan

MAP 3-1 Land Use Plan

 Secondary Plan Boundary	 Road Reserve	 Railway
 Site and Area Specific Policies	 Major Arterial	 Hydro Corridor
 Parks and Open Space Areas	 Minor Arterial	
 Neighbourhood Area 'A'	 Collector	

June 2006

## Attachment 5: Technically Preferred Alternative Alignment for Morningside Extension



## Attachment 6: Application Data Sheet

Application Type	Subdivision; Lifting the Hold	Application Number:	05 110339 ESC 42 SB 05 110340 ESC 42 OZ
Details		Application Date:	February 21, 2005

Municipal Address: HUMMINGBIRD DR and PITCHPINE DR W/S, TORONTO ON  
 Location Description: BLKS 97, 98 and 102, RPLAN 66M-2384; BLKS 138, 140 AND 141, RPLAN 66M-2396 \*\*GRID E4201  
 Project Description: CONSTRUCT 56 SEMI-DETACHED DWELLINGS (28 STRUCTURES)

<b>Applicant:</b>	<b>Agent:</b>	<b>Architect:</b>	<b>Owner:</b>
MATTAMY (NEILSON) LIMITED TIM WARNER			MATTAMY (NEILSON) LIMITED

### PLANNING CONTROLS

Official Plan Designation:	Buffer Reserve; Neighbourhoods	Site Specific Provision:
Zoning:	S(H) or SD(H) or ST(H)	Historical Status:
Height Limit (m):	12.5	Site Plan Control Area: N

### PROJECT INFORMATION

Site Area (sq. m):	46010	Height:	Storeys:	2
Frontage (m):	580		Metres:	6.75
Depth (m):	45			
Total Ground Floor Area (sq. m):	0			<b>Total</b>
Total Residential GFA (sq. m):	n/a		Parking Spaces:	112
Total Non-Residential GFA (sq. m):	0		Loading Docks	0
Total GFA (sq. m):	0			
Lot Coverage Ratio (%):	0			
Floor Space Index:	0			

### DWELLING UNITS

Tenure Type:	Freehold
Rooms:	0
Bachelor:	0
1 Bedroom:	0
2 Bedroom:	0
3 + Bedroom:	56
Total Units:	56

### FLOOR AREA BREAKDOWN (upon project completion)

	Above Grade	Below Grade
Residential GFA (sq. m):	0	0
Retail GFA (sq. m):	0	0
Office GFA (sq. m):	0	0
Industrial GFA (sq. m):	0	0
Institutional/Other GFA (sq. m):	0	0

<b>CONTACT:</b>	<b>PLANNER NAME:</b>	David Beasley, Principal Planner
	<b>TELEPHONE:</b>	(416) 396-7026

**Attachment 7: Draft Zoning By-law Amendment**

Authority: Scarborough Community Council Report No. ~, Clause No. ~,  
as adopted by City of Toronto Council on ~, 2007  
Enacted by Council: ~, 2007

**CITY OF TORONTO**

**Bill No. ~**

**BY-LAW No. ~-2007**

**To amend Morningside Heights Zoning By-law, approved by the Ontario Municipal Board on June 17, 2002 as amended, with respect, to the lands the west side of Hummingbird Drive and Pitchpine Drive, east of CPR**

WHEREAS authority is given to Council by Section 34 and 36 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:

(a) **SCHEDULE ‘A’** of the Morningside Heights Community Zoning By-law is amended by deleting the holding symbol (H) from the Single-Family Residential, Semi-Detached Residential, and Street Townhouse Residential, Zones, so that the amended zoning shall read as follows as shown on Schedule “1”:

S-1-20-21-22-34-50

or

SD-2-20-21-23-34-50

or

ST-6-20-21-23-34-51

(b) **SCHEDULE C’, EXCEPTIONS MAP**, is amended by deleting Exception 1 from lands as shown on Schedule “1”.

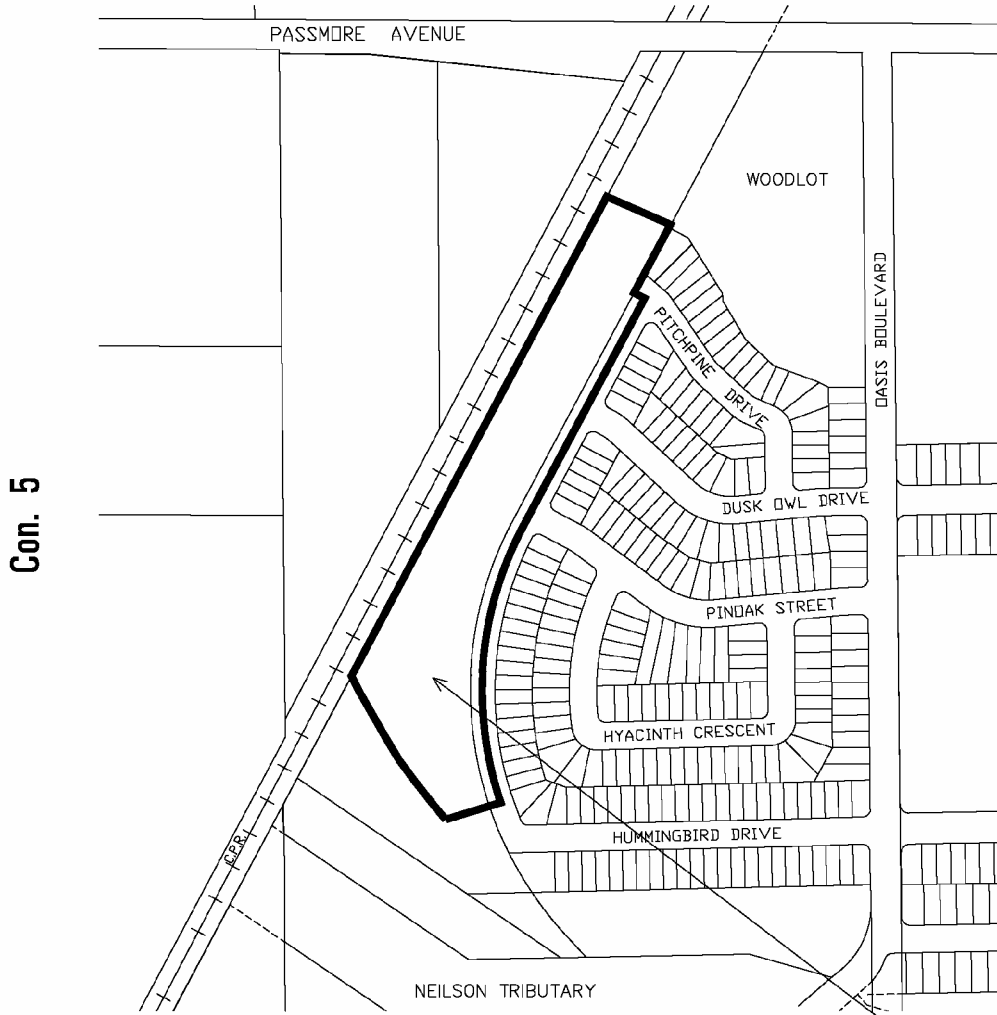
ENACTED AND PASSED this ~ day of ~, A.D. 2007.

DAVID R. MILLER,  
Mayor

ULLI S. WATKISS,  
City Clerk

(Corporate Seal)

**Schedule '1'**  
**Lot 15**



Con. 5

**S-1-20-21-22-34-50 or SD-2-20-21**  
**-23-31-34-50 or ST-6-20-21-23-34-51**

**TORONTO** City Planning  
Division  
**Zoning By-Law Amendment**

**Blocks 97,98 and 102, Registered Plan 66M-2384**  
**& Blocks 138,140 and 141, Registered Plan 66M-2396**  
File # 05-110340 OZ, 05-110339 SB

 **Area Affected By This By-Law**

Morningside Heights Community Bylaw s  
Not to Scale  
8/23/07





## **Attachment 8: Proposed Conditions of Draft Plan Approval**

**CITY OF TORONTO  
CONDITIONS OF DRAFT PLAN OF SUBDIVISION APPROVAL  
SUBDIVISION APPLICATION 05 110339 ESC 42 SB  
DRAFT PLAN PREPARED BY MATTAMY (NEILSON) LIMITED  
FOR BLOCKS 138, 140 & 141, R.P. NO. 66M-2396  
AND BLOCKS 97, 98 & 102, R.P. NO. 66M-2384**

1. This approval shall relate to the above-noted plan by Mattamy (Neilson) Limited dated December 17, 2004, and revised to April 3, 2007, certified by Greg G. Robinson, Ontario Land Surveyor.
2. The Owner shall execute the City's standard subdivision agreement, and shall satisfy all of the pre-registration conditions contained therein.
3. The approval of this plan of subdivision will lapse if the subdivision is not registered within 5 years of the date of draft plan approval.
4. The Official Plan land use designations and zoning implementing the Official Plan are in full force and effect.
5. The Owner shall provide to the Director of Community Planning, Scarborough District, a Statement of Account from Revenue Services Division, Finance Department, confirming payment of all outstanding and current taxes.
6. Prior to the registration of the plan of subdivision, the Owner shall become a party to the existing Cost Sharing Agreement with the other participating Owners within the Morningside Heights Secondary Plan who have funded and who will continue to fund the establishment of the Core Service and defined by the applicable Ontario Municipal Board orders. Final registration of the plan of subdivision shall not be permitted until the Owner has executed the said Cost Sharing Agreement and has further submitted to the City a letter from the Cost Sharing Trustee that states that the Owner is in good standing under provisions of the Cost Sharing Agreement at the time of registration.
7. The Owner shall retain an architect acceptable to the Chief Planner and Executive Director to formulate privately administered Architectural Design and control Guidelines and shall covenant and agree in the subdivision agreement to implement the Architectural Control Guidelines.
8. Prior to the registration of the plan of subdivision, the Owner shall ensure that land to be conveyed to the City of Toronto shall be free and clear, above and below grade, of all easements, encumbrances and encroachments except those existing already on the lands that are for the benefit of the City of Toronto or those required by the City of Toronto as part of this plan of subdivision.

9. Prior to the registration of the plan of subdivision, the Owner shall agree to provide such easements to the City as deemed necessary by the Executive Director, Technical Services Division for utilities, drainage and servicing purposes to the appropriate authorities in order to service this plan of subdivision.
10. Prior to the registration of the plan of subdivision, the Owner shall make any necessary red-line changes to the plan of subdivision regarding rights-of-way, 0.3 metre (1 foot) reserves, corner roundings, sight lines and these shall be provided satisfactory to the Executive Director, Technical Services Division.
11. The Owner shall prepare the final plan of subdivision in metric units related to the Ontario Co-ordinate System and shall submit a digital copy of the plan to the Executive Director, Technical Services Division.
12. The Owner shall provide an environmental report and Record of Site Condition for the land to be transferred to the City. The report must present the soil condition and confirm compliance with the current criteria of the Ministry of Environment's guidelines for use at contaminated sites in Ontario.
13. The Owner shall agree to transfer Blocks 59, 60, and 61 to the City for municipal highway purposes, with the blocks to be managed by, and under the working jurisdiction of, the Transportation Services Section of the City's Technical Services Division. (Block numbers as shown on the draft plan.)
14. The Owner shall agree to transfer Block 58 to the Toronto and Region Conservation Authority for Wood Lot purposes.
15. The Owner shall provide an environmental report and Record of Site Condition for the land to be transferred to the City. The report must present the soil condition and confirm compliance with the current criteria of the Ministry of Environment's guidelines for use at contaminated sites in Ontario.
16. The Owner shall erect a minimum 1.8 metre high black vinyl chain link fence on the north limit of lots 1 and 2 abutting Block 58.
17. The existing 2m safety berm and 3.0m high concrete acoustical wall is to be maintained in the rear of lots 1-45 inclusive.
18. The Owner shall provide a 1.7 metre wide right-of-way (ROW) widening along Hummingbird Drive and Pitchpine Drive.
19. The Owner shall provide a 5.0m to 5.5m high sound barrier (berm and acoustic fence combination) at the rear of lots 45-56 inclusive.

20. The Owner shall provide a 5.0m to 5.5m high sound barrier, along the south side of lot 60 tapering down to 3.0m in height at the front setback, to a point level with the front yard setback.
21. The following warning clauses are to be included in a registerable portion of the subdivision agreement and to be included in offers of purchase and/or lease agreement on all designated lots:
  - a) “Purchasers are advised that despite the inclusion of noise control features in this development area and within the building units, noise levels from increasing traffic on the Morningside Avenue Extension and/or the CP Rail Havelock Subdivision may continue to be a concern, occasionally interfering with the activities of the occupants as the sound levels may exceed the Municipality’s and the Ministry of the Environment’s noise criteria.”
  - b) “This dwelling unit was fitted with a central air conditioning system in order to permit closing of windows for noise control. (Note: locate air cooled condenser unit in compliance with NPC-216 as required by The City of Toronto By-Law.)”
  - c) “The acoustical berm and/or barrier as installed must be maintained, repaired or replaced, as necessary, by the owner. Any maintenance repair or replacement shall be with the same material, to the same standards, and having the same colour and appearance of the original.”
  - d) “Purchasers are advised that this development is in proximity to existing industrial facilities and industrially zoned lands whose activities may at times be audible.”
  - e) “Warning: Canadian Pacific Railway Company or its assigns or successors in interest has or have a right-of-way within 300m from the land and subject hereof. There may be alternations to or expansions of the rail facilities on such right-of-way in the future including the possibility that the railway or its assigns or successors as aforesaid may expand its operations, which expansion may effect the living environment of the residents in the vicinity, notwithstanding the inclusion of any noise vibration attenuating measures in the design of the development and individual dwelling(s). CP Rail will not be responsible for any complaints or claims arising from use of such facilities and/or operations on, over or under the aforesaid right-of-way”.
22. The Owner shall be required to adjust the municipal sewers and watermains, including lateral service connections, presently existing along these two existing municipal street frontages per engineering drawings approved by the City.
23. Prior to a construction release the Owner shall provide a detailed Erosion and Sediment Control Plan to protect the water quality in the Neilson Tributary during

construction of the subdivision, to the satisfaction of the Toronto and Region Conservation Authority.

24. Purchasers are advised that the City of Toronto Zoning by-law for these lands requires parking to be provided at a rate of 1.0 spaces per dwelling unit and that all units have at least one space within a garage which meets these requirements. In addition to the Zoning By-Law requirements, the Owner must provide a hard surface where applicable which may be partially located within the City owned ROW leading to the parking space within the garage.
25. The grading of the rear of lots 44-56 inclusive, in its satisfaction of the crash barrier and acoustic requirements, shall consider as much as reasonably possible, the grading of the future Morningside Avenue Extension.
26. The Owner shall agree to include in all offers of purchase and sale or lease the following warning clause prior to registration of the plan and for a period of 10 years after the registration of the subdivision plan:

“ The Individual Environmental Assessment Study for Transportation Improvements in the Markham Bypass Corridor South of Highway 407 has concluded that Morningside Avenue should be extended to Highway 407 with a bridge over the CPR and retaining walls both north and south of the bridge.”
27. The Environmental Assessment has identified a road alignment that is elevated with a retaining wall, abutting the CPR line.”
28. Prior to release for construction and/or registration of the plan of subdivision, the Owner shall make arrangements to prepare a composite utility plan, prepared by a licensed municipal servicing engineer, who shall co-ordinate, on behalf of the City and to City standards, all utility company installation proposals within the public right-of-ways. This same consulting engineer shall provide a composite utility plan, indicating the utility company’s installations of services within the municipal road allowances created and /or extended to service this development. Such plan shall be prepared to the satisfaction of the Executive Director, Technical Services.
29. Prior to release for construction and/or the registration of the plan of subdivision, the Owner shall provide a street tree planting plan, in conjunction with a composite utility plan that indicates the species, size, and location of all proposed boulevard trees, as these relate to the location of any roads, sidewalks, driveways, street lines and utilities. The street tree planting plan shall be satisfactory to the Executive Director, Technical Services and the General Manager, Parks, Forestry and Recreation.

30. Prior to the registration of the plan of subdivision, the Owner agrees to post a Letter of Credit in the form and from an institution, acceptable to the City Treasurer, equivalent to One Hundred and Twenty Percent (120%) of the value of the street trees and other plantings, as a Financial Security to guarantee the planting including the maintenance of the street trees for a minimum period of two (2) years to the satisfaction of the General Manager, Parks, Forestry and Recreation.
31. Prior to the registration of the plan of subdivision, the Owner agrees to contact the Supervisor of Urban Forestry, Tree Protection and Plan Review of his/her designate prior to commencement of street tree planting. The Owner further agrees to plant the street trees as per the approved street tree planting and composite utility plans, to the satisfaction of the General Manager of Parks, Forestry and Recreation and the Executive Director, Technical Services Division. There shall be a two-year maintenance period, with an annual inspection involving Urban Forestry and the Owner (and their agents). At the end of the two-year maintenance period, if the street trees are in good condition, the General Manager of Parks, Forestry and Recreation shall accept maintenance responsibilities and return the Letter of Credit. The Owner acknowledges that any trees requiring removal will be replaced, maintained and guaranteed by the Owner for an additional two-year period.
32. The Owner agrees that the following clause will be included in all Offers of Purchase and Sale and/or Rental Agreement for any lands within the proposed plan of subdivision;

“the Purchaser(s) and/or Tenant(s) are hereby advised that they may not receive a street tree in front of their property.”
33. Prior to the registration of the plan of subdivision, the Owner agrees to provide its solicitor’s confirmation to the City advising that the above clause has been included in all Offers of Purchase and Sale and/or Rental Agreements within the plan of subdivision to ensure that future occupants are aware that they may not receive a street tree in front of their property and be registered on title to the satisfaction of the City Solicitor.
34. Prior to the registration of the plan of subdivision, the Owner shall make satisfactory arrangements, financial and otherwise, with a hydroelectric provider including, amongst other matters the following regarding the installation of an underground hydro and street lighting system to the satisfaction of the Executive Director, Technical Services.
35. Prior to the registration of the plan of subdivision, the Owner shall make satisfactory arrangements, financial and otherwise with telecommunications provider all to the satisfaction of the Executive Director, Technical Services. The Owner shall agree in the Subdivision Agreement to grant the telecommunications

provider any easements that may be required for telecommunications services. Easements may be required subject to final servicing decisions

36. Prior to the registration of the plan of subdivision, the Owner shall make satisfactory arrangements, financial and otherwise (including providing easements), with a natural gas provider for the delivery of gas services to the plan of subdivision to the satisfaction of the Executive Director, Technical Services.
37. Prior to the registration of the plan of subdivision, the Owner shall make satisfactory arrangements with the Toronto District School Board and the Toronto Catholic District School Board to erect and maintain signs, at points of egress and ingress of the development site or in a manner otherwise acceptable to the School Boards, advising that sufficient accommodation may not exist at local schools, and as such, alternative accommodation will be made. These signs shall be to the specifications of the School Boards and erected prior to registration of the plan of subdivision.

The Toronto District School Board sign shall advise that:

“The Toronto District School Board makes every effort to accommodate students locally. However, due to residential growth, sufficient accommodation may no be available in this area for all students. Students may be accommodated in facilities outside the area until adequate funding or space becomes available. For information regarding designated school(s), please call (416) 394-7526.”

The Toronto Catholic School Board sign shall advise that:

“The Toronto Catholic District Board has plans to provide for the accommodation of all students from this development area. The accommodation may not be in the local development area at this time. Student accommodation, if not in this area, will be in the existing facilities located in adjacent areas.

For information regarding Catholic Schools servicing this development, please call the Planning Department at (416) 222-8282 ext. 2277.”

38. Prior to the registration of the plan of subdivision, the Owner shall agree to include in all offers of purchase and sale or lease the following warning clause prior to registration of the plan and for a period of 10 years after registration of the subdivision plan:

“Despite the best efforts of the Toronto District School Board sufficient accommodation may not be locally available for all students anticipated

from the development area and that students may be accommodated in facilities outside the area, and further, that students may later be transferred; and Purchasers agree for the purpose of transportation to school, if bussing is provided by the Toronto District School Board in accordance with the Board's policy, that students will not be bussed home to school, but will meet the bus at designated locations in or outside of the area."

and

"Despite the best efforts of the Toronto Catholic District School Board, sufficient accommodation may not be locally available for all students anticipated from the development area and that students may be accommodated in facilities outside the area and that students may later be transferred"; and

"The Purchaser(s) or Tenant(s) agree for the purpose of transportation to school, if bussing is provided by the Toronto Catholic District School Board, that children will not be bussed from home to school and/or from school to home, but will meet the bus at designated locations in or outside of the area."

39. Prior to the registration of the plan of subdivision, the Owner is required to convey Block 62 to the City as a walkway leading from Hummingbird Drive to Hummingbird Park to the satisfaction of the General Manager of Parks, Forestry and Recreation.
40. Prior to conveyance to the City of Block 62, the Owner shall submit environmental assessment reports and a Remedial Action Plan pertaining to the park block, for third-party peer review and concurrence, to the satisfaction of the Executive Director of Technical Services Division.
41. Prior to conveyance to the City of Block 62, the Owner agrees to clean up the block in accordance with the accepted environmental assessment reports and Remedial Action Plan and submit a statement from the Qualified Person ("Qualified Person" shall mean a person retained by the Owner who meets the qualification requirements set out in Ontario Regulation 153/04 under the *Environmental Protection Act*, amended or superseded from time to time) that based on all necessary supporting environmental documents:
  - a. The block is suitable for its intended use; and
  - b. It is unlikely that there is any off-site contamination, resulting from past land uses on the site, that has migrated from the site to the adjacent public rights-of-way, that would exceed applicable Ministry of the Environment standards and regulations.

42. The Owner is required to grade and sod Block 62 (the walkway) to match the grading and sodding of Hummingbird Park where it adjoins the park.
43. The Owner is required to grade and sod the lots/blocks abutting Block 62 (the walkway) to match the grading and sodding of Block 62 (the walkway).
44. The Owner is required to install a 1.8 metre high, black vinyl coated chain link fence along the east boundary of Block 62 (the walkway) to the satisfaction of the General Manager of Parks, Forestry and Recreation.
45. Block 62 is to be dedicated free and clear, above the below grade, of all easements, encumbrances and encroachments unless otherwise approved by the General Manager of Parks in consultation with the City Solicitor.
46. The Owner is to pay for the costs of the Block 62 dedication, including any Land Transfer Tax and the preparation and registration of all relevant documents. Prior to the dedication the Owner shall provide to the satisfaction of the City Solicitor all legal descriptions and applicable reference plan of survey for Block 62.
47. At the time Block 62 is conveyed, the Owner will post a Letter of Credit as security for the installation of the base park improvements equal to 120% of the value of the base park improvements or such lesser amount that may be satisfactory to the General Manager of Parks.
48. Once Block 62 has been completed to the satisfaction of the General Manager of Parks, the submitted Letter of Credit securing the base improvements will be released, less 20% which shall be retained by the City for a 2 year period as a performance guarantee.
49. Prior to registration of the draft plan of subdivision, the Owner shall make agreements to prepare a composite utility plan, prepared by licensed municipal servicing engineer, who shall co-ordinate, on behalf of the City and the City standards, all utility company installation proposals within the public right-of-way. The same consulting engineer services within the municipal road allowances created and/or extended to service this development. Such plan shall be prepared to the satisfaction of the Executive Director, Technical Services.
50. The Owner acknowledges and agrees to complete or comply with any other requirements by the City acting reasonably that result from the City's examination and review of all requisite plans, drawings, reports, and submissions required by the City to facilitate the development.
51. The Owner shall agree to provide street lighting to the City Standards, at no cost to the City and appurtenances in accordance with the approved street lighting plan to the satisfaction of the Executive Director, Technical Services and the Chief Planner and Executive Director.



## **NOTES TO DRAFT APPROVAL**

1. Where any provision of these draft plan of subdivision conditions of approval makes reference to the Owner, it is understood that any rights and/or obligations accruing to the Owner and attributable to its successors and assigns.
2. Where any provisions of these draft plan of subdivision conditions of approval makes reference to a condition to be satisfied or work undertaken by the parties to this agreement, those parties agree to pursue the resolution of such conditions or work in a timely, reasonable and cooperative manner.