

2451 Birchmount Rd – Rezoning & Site Plan Applications – Request for Direction Report

Date:	September 22, 2009
To:	Scarborough Community Council
From:	Director, Community Planning, Scarborough District
Wards:	Ward 40 – Scarborough-Agincourt
Reference Number:	08 165097 ESC 40 OZ & 08 165100 ESC 40 SA

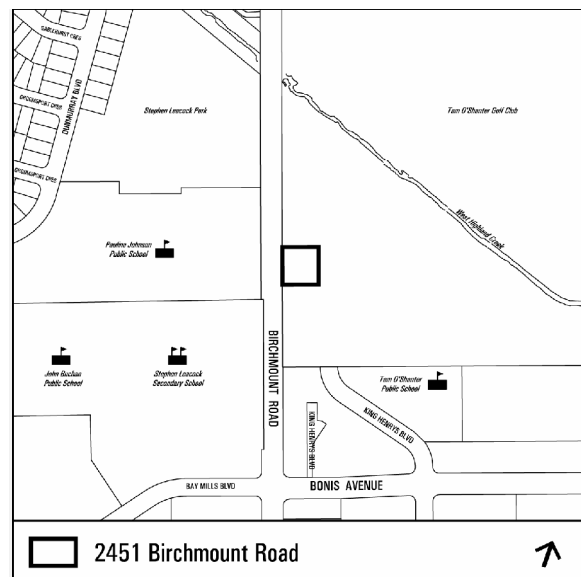
SUMMARY

This application was made on or after January 1, 2007 and is subject to the new provisions of the Planning Act and the City of Toronto Act, 2006.

The applicant proposes to construct a 4 storey (20.24 metre) building to be used as a columbarium containing approximately 12,600 niches and 25 parking spaces at 2451 Birchmount Road.

This applicant has appealed the zoning by-law amendment, site plan application and the request for approval under Section 3(2) of the Cemeteries Act (Revised) to establish a cemetery, to the Ontario Municipal Board (OMB) due City Council's failure to make a decision. The purpose of this report is to seek Council's direction for an as yet unscheduled OMB hearing.

This report recommends that the proposed zoning amendment, site plan application and the request for approval under Section 3(2) of the Cemeteries Act (Revised) be opposed at the OMB for the reasons outlined in this report including:



- a) the applicant has not provided an adequate number of parking spaces on site to serve the proposal;
- b) the applicant has not sufficiently demonstrated the proposal can be adequately serviced;
- c) the proposal constitutes overdevelopment of the site; and,
- d) if a cemetery is established, and the operation fails the city will be financially responsible for the care and maintenance of the proposed facility.

RECOMMENDATIONS

The City Planning Division recommends that:

- 1. City Council refuse the applications to permit a columbarium at this location for the reasons outlined in this report;
- 2. City Council refuse the request for approval under Section 3(2) of the Cemeteries Act (Revised) to establish a cemetery; and,
- 3. City Council direct the City Solicitor and appropriate staff to attend the Ontario Municipal Board hearing in opposition to the applications.

Financial Impact

The recommendations in this report have no financial impact.

ISSUE BACKGROUND

Proposal

On June 3, 2008 Birch Mount Park Inc. applied for a zoning by-law amendment and for site plan approval, to construct a 4 storey columbarium. A columbarium is a structure designed for the purpose of interring cremated human remains in sealed compartments. The original proposed columbarium was to contain 15,780 niches, with each niche being approximately 40cm x 40cm x 40cm in size, but was later reduced to 12,600 niches.

The proposed total gross floor area is 2,814 square metres (30,285 sq.ft.) or 1.39 times the area of the lot and the proposed height is 4 storeys (20.24 metres). A total of 25 parking spaces located at grade are proposed. See Attachment 5: Application Data Sheet.

On September 9, 2008 a preliminary report for this application was prepared by City Planning staff and adopted by Scarborough Community Council. The report identified a number of concerns including land use, parking and access, requirements of the Cemeteries Act (Revised), and siting of the building.

The Cemeteries Act (Revised) defines a “cemetery” as land set aside to be used for the interment of human remains and includes a mausoleum, columbarium, or other structure intended for the interment of human remains. A proposal to establish a cemetery, including a columbarium requires consent from the Registrar of the Ministry of

Consumer and Business Service's, under the Cemeteries Act (Revised). Prior to applying for the consent of the Registrar, the applicant must obtain approval for the proposal by the municipality. A request to obtain approval for a cemetery under Section 3(2) of the Cemeteries Act (Revised) has been submitted by the applicant.

The applicant appealed the applications and the request for approval under Section 3(2) of the Cemeteries Act (Revised) to the OMB on June 24, 2009. No hearing date has been set at this time.

Site and Surrounding Area

The 2,023 square metre (0.5 acres) site with a frontage and depth of approximately 45 metres is located on the east side of Birchmount Road, north of Sheppard Avenue East. The site is currently vacant with some vegetation located on the property.

The surrounding uses are as follows:

North: Tam O'Shanter Golf Course parking area

South: Ron Watson Park

East: Tam O'Shanter Golf Course with 1 storey club house

West: Institutional Uses: Pauline Johnson P.S. and Stephen Leacock Collegiate Institute, Stephen Leacock Community Centre

Provincial Policy Statement and Provincial Plans

The Provincial Policy Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and development. The PPS sets the policy foundation for regulating the development and use of land. The key objectives include: building strong communities; wise use and management of resources; and, protecting public health and safety. City Council's planning decisions are required to be consistent with the PPS.

The Growth Plan for the Greater Golden Horseshoe 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 to conform, or not conflict, with the Growth Plan for the Greater Golden Horseshoe.

Official Plan

The Official Plan designates the site as Parks and Open Space Areas; Other Open Space Area. This designation permits such uses as golf courses, public utilities, and cemeteries.

The site is also identified to be within the Green Space System on Map 2 Urban Structure. The policies seek to improve, preserve and enhance the Green Space System.

Zoning

The subject site is located within the Agricultural Uses (AG) zone under Tam O'Shanter Community By-law No. 12360, and permits agricultural uses and day nurseries.

Site Plan Control

The proposed development is subject to site plan control. An application for site plan approval has been submitted.

Reasons for Application

The applicant proposes a use (Cemetery) which is not permitted in the AG zone in the Tam O'Shanter Community By-law No. 12360.

Community Consultation

A community consultation meeting was held on November 12, 2008 at Stephen Leacock Collegiate Institute. The meeting was well attended by the community, along with the local councillor and the applicant. The overwhelming majority of the approximately 400 residents were opposed to the proposal. Issues raised by the community included: traffic, adequacy of parking, inappropriate land use at this location, and cultural concerns.

Agency Circulation

The application was circulated to all appropriate agencies and City divisions. Responses received have been used to assist in evaluating the application.

COMMENTS

Official Plan

The site is listed as Other Open Spaces Areas within the Parks and Open Space Areas designation. Common uses typically found within this designation include parks, watercourses, ravines, golf courses public utilities and cemeteries. They contain many of the City's natural habitat areas, recreation trails, stormwater management facilities, and include privately owned lands.

Development is generally prohibited within Parks and Open Space except for recreational and cultural facilities, conservation projects, public transit and essential public works projects and cemetery facilities. While the proposed cemetery use is permitted within this designation, historically a columbarium is situated within a more traditional cemetery setting. A traditional cemetery use is typically associated with large open spaces with a significant proportion of the site being dedicated to trees, shrubs and soft landscaping. In this case the applicant is seeking permission to develop the lands with what would appear to be a commercial type building covering a large portion of the site with minimal amounts of soft landscaping surrounding it.

The Official Plan did not contemplate a stand alone columbarium. It was anticipated that such uses would be in conjunction with traditional in ground burial cemeteries. However, under the Cemeteries Act (Revised), a stand alone columbarium is considered to be a cemetery. Based on this definition a stand alone columbarium can be considered a permitted use.

Parking and Traffic Impacts

The applicant originally proposed a total of 15 parking spaces to serve the development. As a result of concerns expressed by staff respecting the amount of on site parking the proposal was later increased to a total of 25 parking spaces. In addition, the applicant has not indicated if a loading space will be provided on site.

The applicant has submitted a traffic impact and parking study which was circulated to both the Transportation Planning section within City Planning and the City's Transportation Services Division. To assist in the review of the application staff asked the applicant for information on comparable facilities in operation at other locations. As indicated by the applicant's traffic consultant, there is no direct comparable facility in the Greater Toronto Area.

The applicant's study indicated that on certain days 150 vehicles could attend the site resulting in approximately 125 vehicles not able to be accommodated on the site. Their consultant concludes that on days where parking demand exceeds supply that visitors to the columbarium could park offsite at facilities including, Tam O'Shanter Golf Course, Ron Watson Park, Pauline Johnson P.S., Stephen Leacock C.I., Stephen Leacock Community Centre, or find parking on local public streets.

In reviewing numerous cemeteries in and around Toronto it has become apparent that the type of facility proposed is typically situated on much larger parcels of land. Typical cemeteries are comprised of lots that are between 1-80 hectares (5-200 acres) and have a vast internal road network able to handle a significant number of cars. Throughout the entire year a cemetery use generates a significant level of vehicular traffic requiring a large amount of parking which this site simply does not have.

Staff maintain that parking generated as a result of this application should be contained on site and not spill over onto other area properties or local roads. It should be noted that parking is also prohibited on Birchmount Road between Ellesmere Road and Finch Avenue East.

Transportation and City Planning staff do not agree that the proposed parking supply would adequately meet the demands of this development.

Overdevelopment

The applicant has indicated that there are no other comparable cemetery facilities located in the Great Toronto Area. Staff have conducted their own investigation to find a similar facility and have found that it is unprecedented. Both the applicant and staff have determined that Highland Memorial Gardens most closely resembles this proposal, however it is situated on 22.3 ha (55 acres) of land. The applicant has failed to provide compelling information explaining how this use can be accommodated on such a small site. In this instance the site at 0.2 hectares (0.5 acres) is physically by far the smallest of the modern and active cemeteries that could be found in the Greater Toronto Area.

The property is situated immediately abutting Tam O'Shanter Golf Course on the north and east and a City park to the south. In this instance the developer does not have the ability to increase the size of the site through consolidation of adjacent lands to accommodate activities or mitigate any unacceptable impacts.

Due to the extremely small size of the property, staff do not agree that the site can accommodate the cemetery activities associated with this use and are of the opinion that the proposal constitutes overdevelopment of the site.

Cemeteries Act (Revised), R.S.O. 1990, c.C.4

The Cemeteries Act (Revised) governs all activities associated with the interment of human remains. Establishment of a cemetery including a columbarium, requires consent from the Provincial Registrar of the Ministry of Consumer and Business Services. Prior to receiving consent from the Registrar, the owner is required under Section 3(2) of the Act to first obtain approval of the proposal from the appropriate municipality. In considering a request for approval the principal factor shall be the public interest.

Staff have serious concerns related to the feasibility of this proposal as a non-traditional cemetery that, once established must remain in perpetuity. Under the Cemeteries Act (Revised), should any operator cease to carry on the functions of an established cemetery the municipality would, by default, become the sole operator. Along with operating a cemetery on a daily basis the municipality would be financially obligated to provide ongoing care and maintenance of the lands and buildings. This would include all aspects of maintenance, repair and replacement of all systems within the approximately 2,814 square metres (30,000 square feet) building. All cemeteries are required to establish a fund that is used towards care and maintenance of the facility and grounds (this amounts to 15% of the purchase price or \$100.00 per niche, whichever is the greater amount). In this case, the dollar amount which would be required in the care and maintenance fund, once all niches were sold, would grow to a maximum of approximately \$1,260,000 (at \$100/niche). Only the interest earned from this amount could be used to care for and maintain this facility.

As the care and maintenance fund approach has been based on traditional in-ground cemeteries with limited ongoing maintenance requirements, staff are concerned that the costs of ongoing maintenance to be incurred by the City should the operation cease would exceed the revenue generated by the maintenance fund.

Servicing

Servicing for the site remains an outstanding issue. Currently the site is not serviced and would require a connection from nearby storm and sanitary sewer services located to the north and south of the site. Technical Services has advised that the proposed solution by the applicant to deal with storm and sanitary sewer connections is not acceptable. A private pumped forcemain on the right-of-way must be changed to a gravity public sewer or a septic system. The septic system is not to have an outlet into the subsurface because the area to the north and east is controlled by the Ravine By-law. The applicant has not sufficiently demonstrated to staff that this proposal can be adequately serviced.

Site Plan Control Application

A site plan control application has been submitted. Staff believe that this application is premature given the serious concerns outlined in this report relating to the proposed zoning by-law amendment application.

Conclusion

The proposed development of a stand alone 4 storey columbarium on a 0.2 hectare (0.5 acre) site represents a significant over-development in relation to the size of the site and is not appropriate at this location. An approval of the proposal to establish a cemetery under Section 3(2) of the Cemeteries Act (Revised) is not in the public interest. For the reasons outlined in this report staff recommend that City Council oppose the proposal and direct staff to defend this position at the Ontario Municipal Board.

CONTACT

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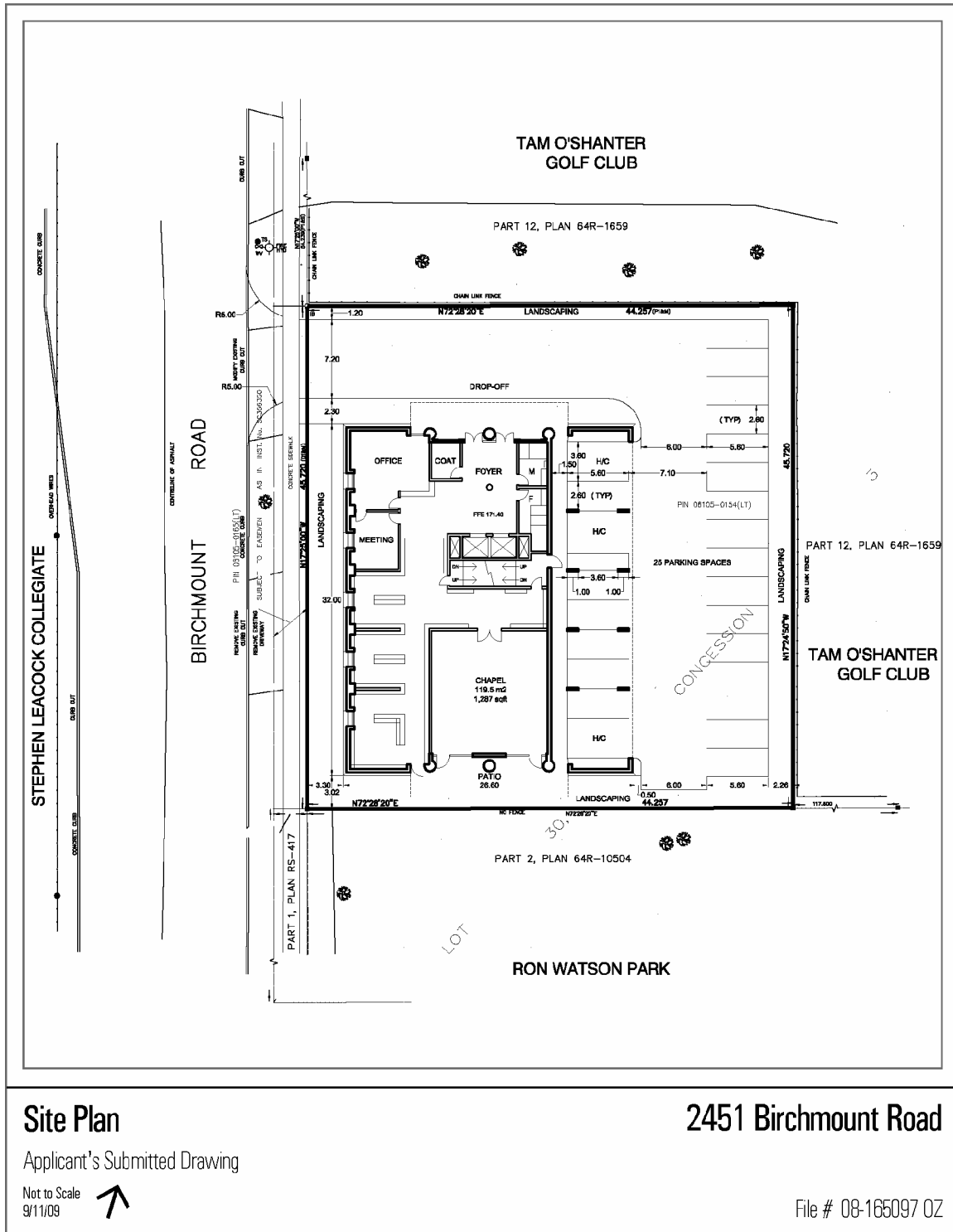
SIGNATURE

Allen Appleby, Director
Community Planning, Scarborough District

ATTACHMENTS

Attachment 1: Site Plan
Attachment 2: Elevations
Attachment 3: Zoning
Attachment 4: Official Plan
Attachment 5: Application Data Sheet

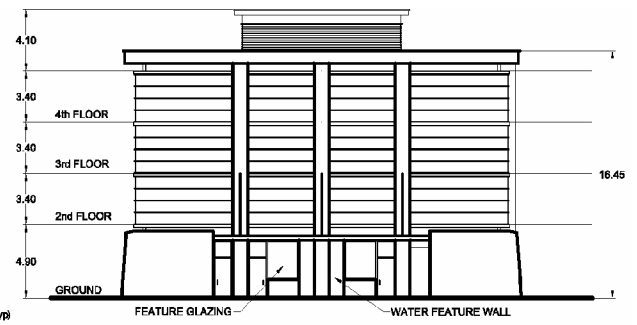
Attachment 1: Site Plan



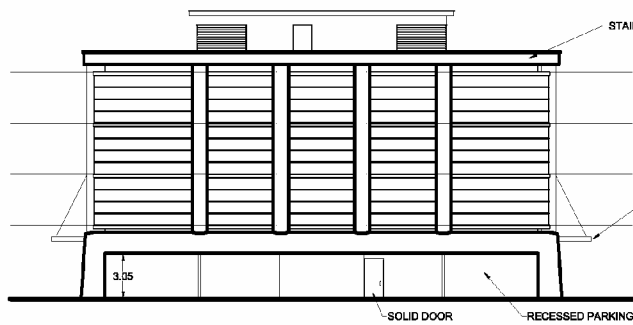
Attachment 2: Elevations



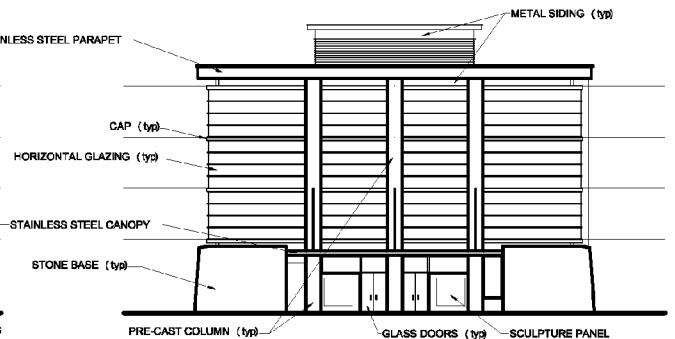
West Elevation (Birchmount Rd.)



South Elevation



East Elevation



North Elevation

Elevations

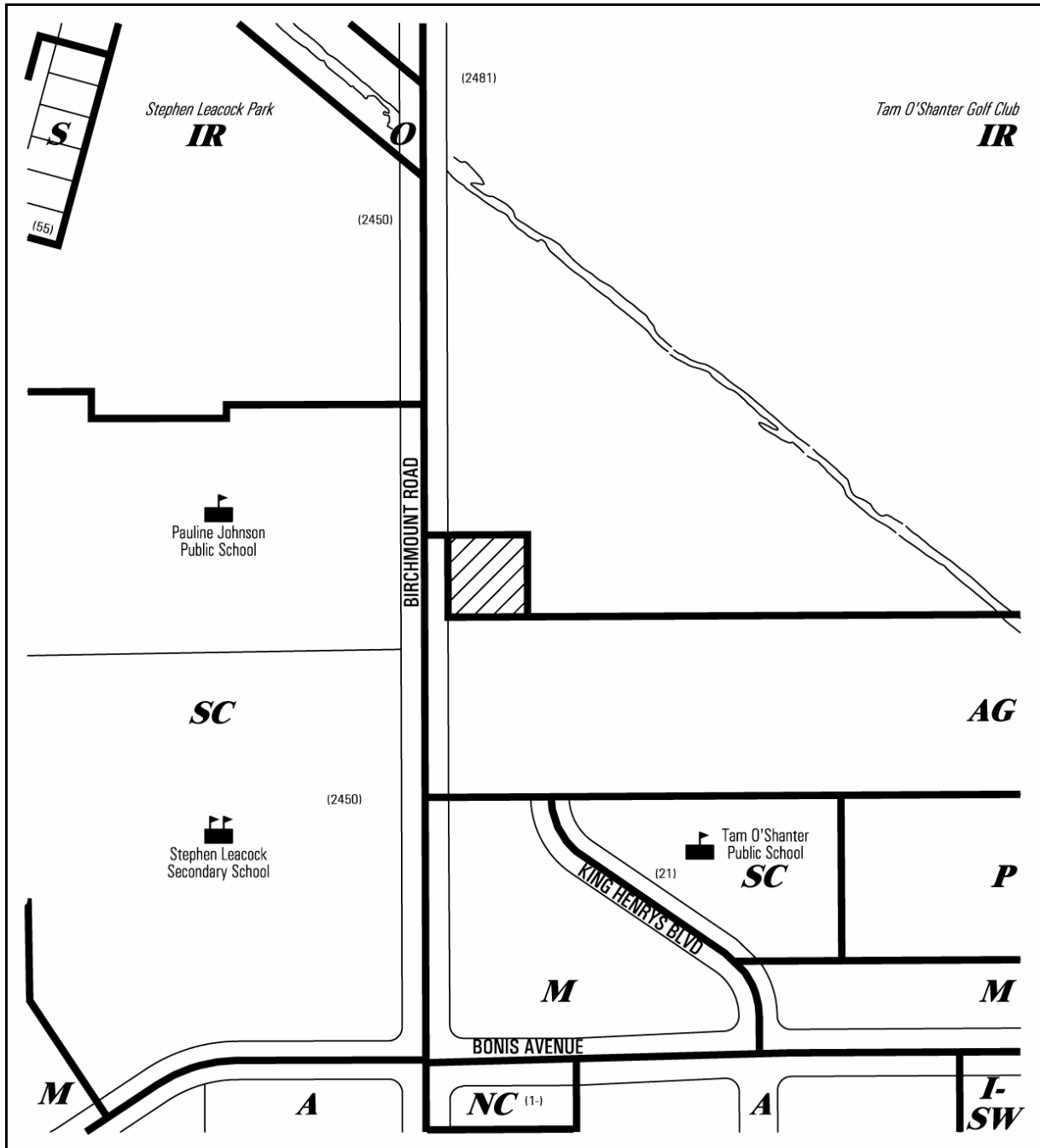
Applicant's Submitted Drawing

Not to Scale
09/21/09

2451 Birchmount Road

File # 08-165097 OZ

Attachment 3: Zoning



Toronto City Planning
Division
Zoning

2451 Birchmount Road

File # 08-165097 0Z

S Single-Family Residential
M Multiple-Family Residential
A Apartment Residential
NC Neighbourhood Commercial

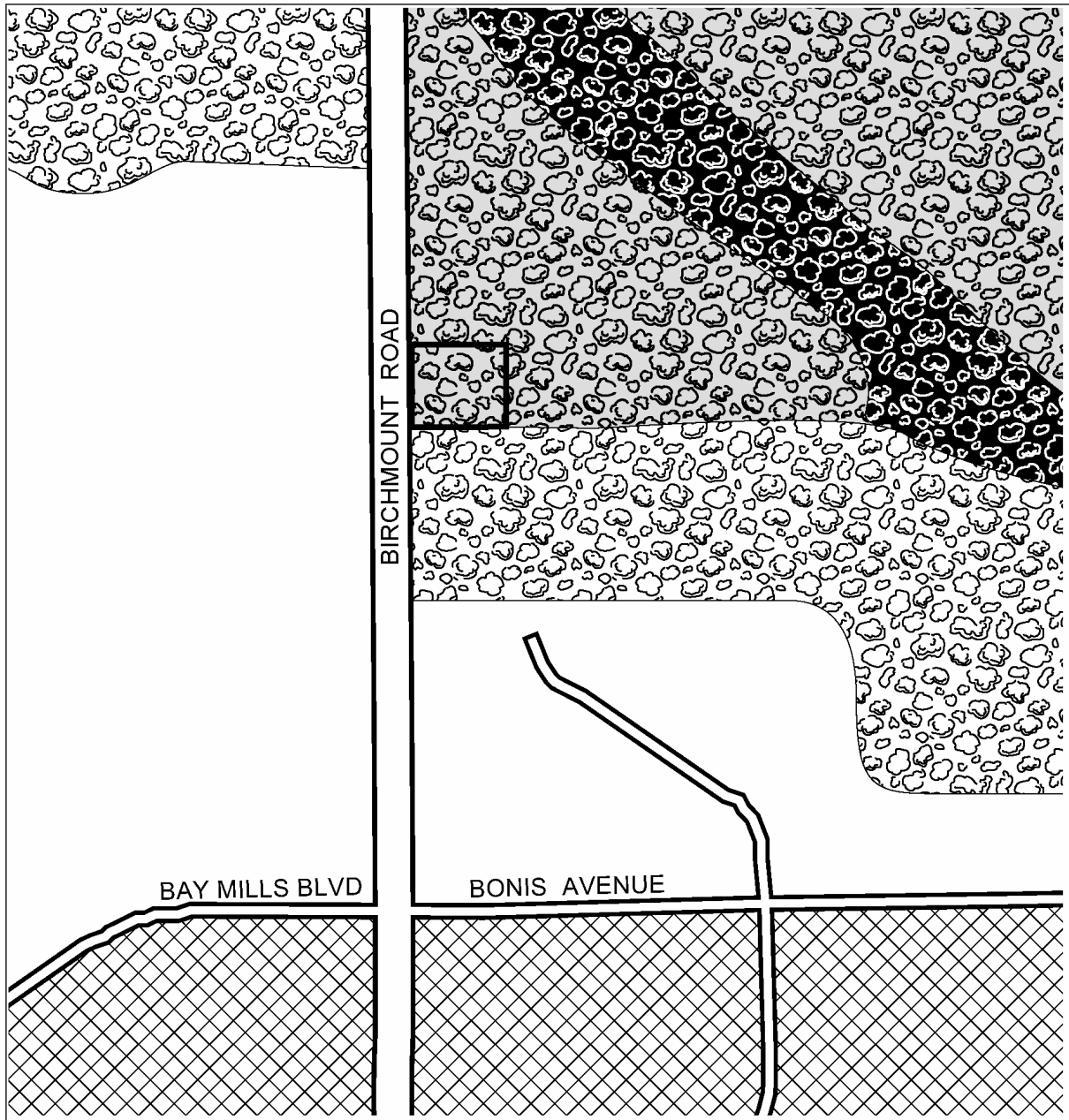
IR Institutional - Private and Public Recreational
I-SW Institutional - Social Welfare Fraternal Organizations
SC School

O Major Open Spaces
AG Agricultural Uses
P Park

Tam O'Shanter Community Bylaw
Not to Scale
06/24/08



Attachment 4: Official Plan



Toronto City Planning
Official Plan

2451 Birchmount Road

File # 08_165097 02

 Site Location	 Natural Areas	 Institutional Areas	 Utility Corridors
 Neighbourhoods	 Parks	 Regeneration Areas	
 Apartment Neighbourhoods	 Other Open Space Areas	 Employment Areas	
 Mixed Use Areas			

↑
Not to Scale
09/22/09

Attachment 5: Application Data Sheet

Application Type	Rezoning & Site Plan Control	Application Number:	08 165097 ESC 40 OZ
Details	Rezoning, Standard	Application Date:	08 165100 ESC 40 SA June 3, 2008

Municipal Address: 2451 BIRCHMOUNT ROAD

Location Description: CON 3 PT LT30 **GRID E4005

Project Description: Rezoning vacant land zoned agricultural to permit a columbarium

Applicant:	Agent:	Architect:	Owner:
BIRCH MOUNT PARK INC			BIRCH MOUNT PARK INC

PLANNING CONTROLS

Official Plan Designation:	Other Open Spaces	Site Specific Provision:
Zoning:	AG-Agricultural Uses	Historical Status:
Height Limit (m):		Site Plan Control Area: Y

PROJECT INFORMATION

Site Area (sq. m):	2023	Height:	Storeys:	4
Frontage (m):	45.72		Metres:	20.24
Depth (m):	44.26			
Total Ground Floor Area (sq. m):	784.3			Total
Total Residential GFA (sq. m):	0		Parking Spaces:	25
Total Non-Residential GFA (sq. m):	2814		Loading Docks	0
Total GFA (sq. m):	2814			
Lot Coverage Ratio (%):	38.7			
Floor Space Index:	1.39			

DWELLING UNITS

FLOOR AREA BREAKDOWN (upon project completion)

Tenure Type:			Above Grade	Below Grade
Rooms:	0	Residential GFA (sq. m):	0	0
Bachelor:	0	Retail GFA (sq. m):	0	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):	2814	0
Total Units:	0			

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