

Northeast Corner of Markham Road and Passmore Avenue – Rezoning Application – Request for Direction Report

Date:	May 4, 2010
To:	Scarborough Community Council
From:	Director, Community Planning, Scarborough District
Wards:	Ward 42 – Scarborough-Rouge River
Reference Number:	06 156009 ESC 42 OZ

SUMMARY

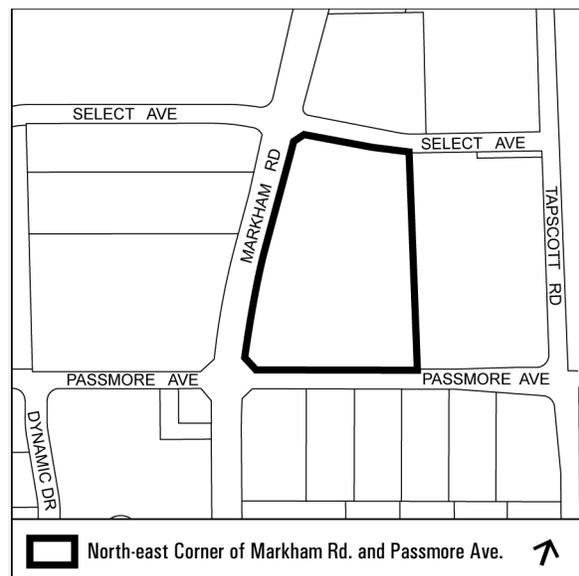
The purpose of this report is to inform City Council of the status of the subject zoning by-law amendment application and to seek direction from Council for an upcoming Ontario Municipal Board (OMB) Hearing on appeal by the owner. This report recommends that the City Solicitor and appropriate staff attend the OMB and bring forward the position outlined in this report to the Hearing scheduled for June 24, 2010.

The applicant proposes to rezone the entire 5.0 hectare (12.3 acre) vacant parcel located at the northeast corner of Markham Road and Passmore Avenue to permit industrial, office, retail and service uses on the subject lands that currently only allows agricultural uses. The applicant also proposes to restrict the type and size of individual retail and restaurant uses.

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 and to support the rezoning on the terms outlined in Recommendation 2.

2. City Council authorize City staff to support amendments to the Employment District Zoning Bylaw No. 24982 (Tapscott Employment District), for the lands at the northeast corner of Markham Road and Passmore Avenue as generally outlined in Attachment 6: Amended List of Uses.
3. City Council authorize the City Solicitor to request the OMB to withhold its Order approving the zoning by-law amendment until a draft by-law is prepared to the satisfaction of the City Solicitor in consultation with the Chief Planner and Executive Director of the City Planning Division.
4. City Council enact an amendment to the site plan control by-law substantially in accordance with the draft site plan control by-law amendment attached as Attachment 5.
5. City Council authorize the City Solicitor and City staff to take the necessary steps required to implement the foregoing.

Financial Impact

The recommendations in this report have no financial impact.

ISSUE BACKGROUND

On July 13, 2006 Lorne Ross Planning Services submitted an application to amend the zoning by-law to permit industrial uses within 4 freestanding buildings. The applicant did not pursue the approvals in this form and as a result the application was put on hold. On March 17, 2009, a revised proposal was submitted maintaining 2 of the 4 previous industrial buildings, and adding 6 additional buildings for uses including recreation, restaurant, retail and service uses.

On December 11, 2009, the subject zoning by-law amendment application was appealed by the applicant to the Ontario Municipal Board on the basis of the "failure of the City Council to approve the application in a timely manner", pursuant to Section 34(11) of the Planning Act.

The OMB hearing is scheduled to commence on June 24, 2010.

Proposal

The zoning amendment application contemplates a rezoning from Agricultural (AG) to Industrial (M) to permit a broad range of Industrial uses, medical offices, recreational uses and banks, as well as the addition of small scale retail, restaurant and service uses. The applicant's conceptual site plan shows 8 one-storey buildings having a combined gross floor area of 17,935 square metres (193,061 square feet) or a density of approximately 0.36 times the area of the lot. A total of 435 parking spaces will be located throughout the site at grade.

The project would provide 15,935 square metres (171,528 square feet), or 89% of the total proposed GFA for traditional industrial purposes. The remainder of the proposed floor area, 2,000 square metres (21,528 square feet), or 11%, would be used for small scale retail, service and restaurant uses.

The applicant proposes to apply the Industrial (M) Zone permissions to the entire site. The uses generally permitted in this zone include Day Nurseries, Educational and Training Facility Uses, Industrial Uses, Offices and Recreational Uses. In addition to these M Zone permissions the applicant is proposing Financial Institutions and Medical and Dental offices. The applicant is also proposing to exclude Places of Worship from the list of permitted uses.

The applicant also proposes to permit restaurant and small scale retail and service uses on a portion of the site fronting on Markham Road and Select Avenue. The proposed uses are discussed in detail on page 7 & 8 of this report under the heading “Zoning”.

In addition to the restrictions related to use, performance standards limiting the gross floor area of any individual retail unit to a maximum of 475 square metres is proposed. The applicant has also provided further restrictions related to restaurant tenancies to a maximum of 550 square metres and will limit convenience stores and personal service shops to a maximum of 125 square metres

Site and Surrounding Area

The 5.0 hectare site is located on the northeast corner of Markham Road and Passmore Avenue, south of Steeles Avenue East. The eastward extension of Select Avenue bounds the north side of the property. The site is currently vacant.

The surrounding uses are as follows:

- North: vacant City-owned land, a storm water management pond zoned Agricultural (AG), and further north 1 storey retail stores zoned Special District Commercial (SDC)
- South: 1 storey industrial building zoned Industrial (M)
- East: 1 storey industrial building and aggregate yard zoned General Industrial (MG)
- West: garden center and golf driving range zoned Agricultural (AG)

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 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.

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.

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 Growth Plan includes similar policies to the PPS directed at the preservation of employment areas for future economic opportunities. An employment area is defined as an area "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". The definition of an employment area in the Growth Plan is the same definition used in the PPS. The Growth Plan clarifies that for the purpose of the conversion policy, major retail uses are considered non-employment uses.

The Growth Plan provides that municipalities may permit conversion of lands within employment areas to non-employment uses only through a municipal initiated comprehensive review. Under the Growth Plan, conversion of lands within an employment area to major retail uses is considered to be a conversion of land to non-employment uses. The conversion may be permitted only where it has been demonstrated through the municipal comprehensive review that it meets a number of criteria.

Staff have reviewed the zoning changes as set out in Attachment 6 and find it consistent with the PPS and in conformity with the Growth Plan for the Greater Golden Horseshoe.

Official Plan

The lands are located within an Employment District, as identified in Map 2 – Urban Structure. Policies relating to Employment Districts seek to protect and promote these areas exclusively for economic activity.

Employment Districts will be enhanced to ensure they are attractive and function well, through actions such as: permitting a broad array of economic activity that encourages existing businesses to branch out into new areas of activity and facilitates firms with functional linkages to locate in close proximity to one another; investing in key infrastructure or facility investment through special tools, programs or partnerships in order to promote the distinctive character or specialized function of a District to attract firms within a particular targeted cluster of economic activity.

The subject lands are also designated as Employment Areas within the Toronto Official Plan on Map 22. 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.

Policy 4.6.2 of the Official Plan indicates that within Employment Areas, places of worship, recreation and entertainment facilities, business and trade schools and branches of community colleges or universities may locate only on major streets as shown on Map 3. Markham Road is identified as a major street.

Built Form policies of the Official Plan, contained in Section 3.1.2, recognize that future development will be built on infill and redevelopment sites, and these policies will guide future development so that it will fit in and respect and improve the character of the surrounding area.

Zoning

The subject lands are currently zoned Agricultural (AG) Zone in the Employment Districts Zoning By-law No. 24982. This zone generally permits such uses as the planting of crops.

Site Plan Control

The lands are not currently subject to site plan control approval. As such, an application has not been filed. It is recommended that the lands be placed under site plan control. A draft amendment to the site plan control by-law is attached as Attachment 5.

Reasons for Application

The purpose of this application is to rezone the lands from Agricultural (AG) to Industrial (M) to allow for a wider range of employment uses and restaurants, and small scale stores

and services in accordance with the provisions of the Employment Districts Zoning By-law No. 24982.

Community Consultation

A community consultation meeting was held regarding the original proposal on March 26, 2007 with 2 people attending. The landowner immediately west raised no 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 and to formulate appropriate by-law standards.

COMMENTS

Official Plan

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. The proposed amendments to permit industrial development on this site will help achieve the vision to implement the Employment Areas policies of the Official Plan. Similarly, the expanded industrial use list proposed by the applicant to permit financial institutions, medical/dental offices and recreational uses are consistent with the policies of the Official Plan.

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, photocopy stores, specialized equipment rental stores, and specialized service providers intended primarily for manufacturers or media facilities. As the applicant has agreed to restrict the range of retail stores and services to be small scale and serving area businesses and workers, the proposed expanded use list conforms to the Official Plan and are generally acceptable as the basis for an OMB settlement.

Staff would support a draft by-law that places restrictions on the range of uses, their location, maximum floor areas by category and maximum individual unit size. The maximum gross floor area devoted to retail, restaurant and service uses of 2,000 square metres only represents 11% of the total gross floor area and is appropriate at this scale and consistent with similar applications. Proposed restrictions and performance standards will ensure consistency with official plan policies and will maintain the employment character of the development and area.

Zoning

The applicant proposes to rezone the subject lands on the east side of Markham Road, between Passmore and Select Avenues from Agricultural (AG) to Industrial (M) with special permissions on the north western portion of the site permitting retail, restaurant and service uses.

As described above, the surrounding land uses are generally comprised of mixed employment, retail and restaurant uses to the north, while industrial and recreational uses are generally located to the south, east and west. The applicant is proposing to rezone the entire site to Industrial (M). These use permissions would include Day Nurseries, Educational and Training Facility Uses, Industrial Uses, Offices and Recreational uses. The proposal to rezone the majority of the site to permit higher order industrial and employment uses is supportable and consistent with the primary vision of the Official Plan.

Additional employment uses being sought by the applicant and not permitted under the Industrial (M) designation include Financial Institutions, and Medical/Dental offices. These additional uses are also supportable and consistent with the vision of the Official Plan. The applicant has also agreed with staff that the by-law should not permit Places of Worship.

The applicant is also seeking permission for a limited number of small scale retail stores, restaurants and service uses on the site, which would serve the area business and workers. They are limited to Bakery; Caterer's Shop; Computer Electronic Sales and Service; Convenience Store; Florist; Health Food and Nutritional Supplements; Optical Retail Outlet; Pharmacy; Photography Studio, Sales and Service; Post Office / Courier Service; Print and Copy Store; Sales of Supplies, Equipment, Furniture and Hardware for Offices; Sales of Work Clothing, Footwear, Safety Equipment, Tools and Supplies for Work; Take-out Food; and Telecommunications Sales and Service.

The small percentage of retail, restaurant and service uses located along the Markham Road and Select Avenue frontage will not result in negative impacts to the surrounding properties.

In addition to the restrictions related to the use list above, the following general performance standards will be included in the draft Zoning Bylaw and is a condition for support of the applicants proposed rezoning.

- 1) The total gross floor area of all retail stores, restaurants, and personal service shops shall not exceed 2,000 m²
- 2) Maximum gross floor area per individual restaurant tenancy shall not exceed 550m²
- 3) Maximum gross floor area per individual retail store tenancy shall not exceed 475m²

- 4) Personal Service Shops shall be limited to a maximum of three tenancies and restricted to only barber shops, beauty salons, health and beauty spas, and nail salons which uses shall not exceed a maximum gross floor area of 125 m² per tenancy
- 5) Convenience Stores shall be restricted to a maximum gross floor area of 125 m².
- 6) Buildings containing retail stores, restaurants, and personal service shops shall be permitted only on the portion of the site bounded by 77 m from the streetline of Markham Road and 118 m of the streetline of Select Avenue.
- 7) Places of Worship will be prohibited
- 8) Front yard parking will be limited
- 9) Appropriate landscaping on site and along street frontages.

The proposed amended list of uses and performance standards are summarized in Attachment 6. This report recommends that staff support the proposed rezoning as generally outlined in this attachment.

Traffic Impact & Access

The applicant has submitted a Traffic Impact Study prepared by BA Group dated September 2009, in order to determine appropriate traffic controls, vehicular access points and to identify the necessity for transportation improvements. The study concluded traffic generated by the proposed development can be accommodated by the existing street network with recommended modifications to signal timing.

Right-in/right-out vehicular access/egress from the western boundary along with full vehicular movements at the northern and southern driveways provide for the efficient movement of vehicles. Transportation Services staff concur with the findings of the Traffic Impact Study that the proposed development will not have a major impact on the existing road network. The additional traffic generated by this development would not cause a significant increase in daily traffic on the area streets.

Site Plan

The current conceptual site layout proposes buildings along the edges of Markham Road, and Passmore and Select Avenues creating a strong street edge. Main building entrances will be clearly visible and directly accessible from the public sidewalk on Markham Road. Conceptual site and landscape plans show landscaping areas along the frontage of Markham Road and coordinated landscape improvements. These landscape areas will create an attractive streetscape which also provides for appropriate transition areas between the public and private realms. The proposed buildings and landscaping will help to visually screen parking areas within the site.

Vehicular parking, vehicular access, service areas and utilities have been located as to minimize their impact on the site and on surrounding properties and will improve the safety and attractiveness of Markham Road. Staff will seek further enhancements to the site plan (as part of a site plan approval application). Part of the site plan process will involve finalizing issues such as lighting, landscaping, pedestrian and bicycle amenities.

The applicant's most recent concept plans address the issues raised by staff and address the built form policies of the Official Plan. The applicant has modified the concept plans to address the issues raised. Staff will finalize details of the proposal as part of the Site Plan application process.

Toronto Green Standard

On October 27, 2009 City Council adopted the two-tiered Toronto Green Standard (TGS). The TGS is a set of performance measures for green development. Tier 1 is required for new development. Tier 2 is a voluntary, higher level of performance with financial incentives. Achieving the Toronto Green Standard will improve air and water quality, reduce green house gas emissions and enhance the natural environment.

The applicant is required to meet Tier 1 of the TGS. Applicable TGS performance measures will be secured through the Site Plan Approval process.

Development Charges

It is estimated that the development charges for this project will be \$188,500.00. This is an estimate. The actual charge is assessed and collected upon issuance of the building permit.

Conclusion

Following ongoing discussions, the applicant submitted a revised proposal on March 17, 2009. Additional negotiated changes to the revised proposal have since been made and the application now complies with the Official Plan. Staff and the applicant are generally in agreement with provisions that need to be contained in the draft by-law.

It is staff's recommendation that this Directions Report be adopted and that the City Solicitor and appropriate staff support this position at the Ontario Municipal Board in accordance with Recommendations 1, 2, 3.

Staff also recommend that City Council adopt recommendation 4 which place the lands under Site Plan Control Approval.

CONTACT

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Tel. No. 416-396-7026

Fax No. 416-396-4265

E-mail: mmestyan@toronto.ca

SIGNATURE

Allen Appleby, Director
Community Planning, Scarborough District

ATTACHMENTS

Attachment 1: Conceptual Site Plan

Attachment 2: Elevations

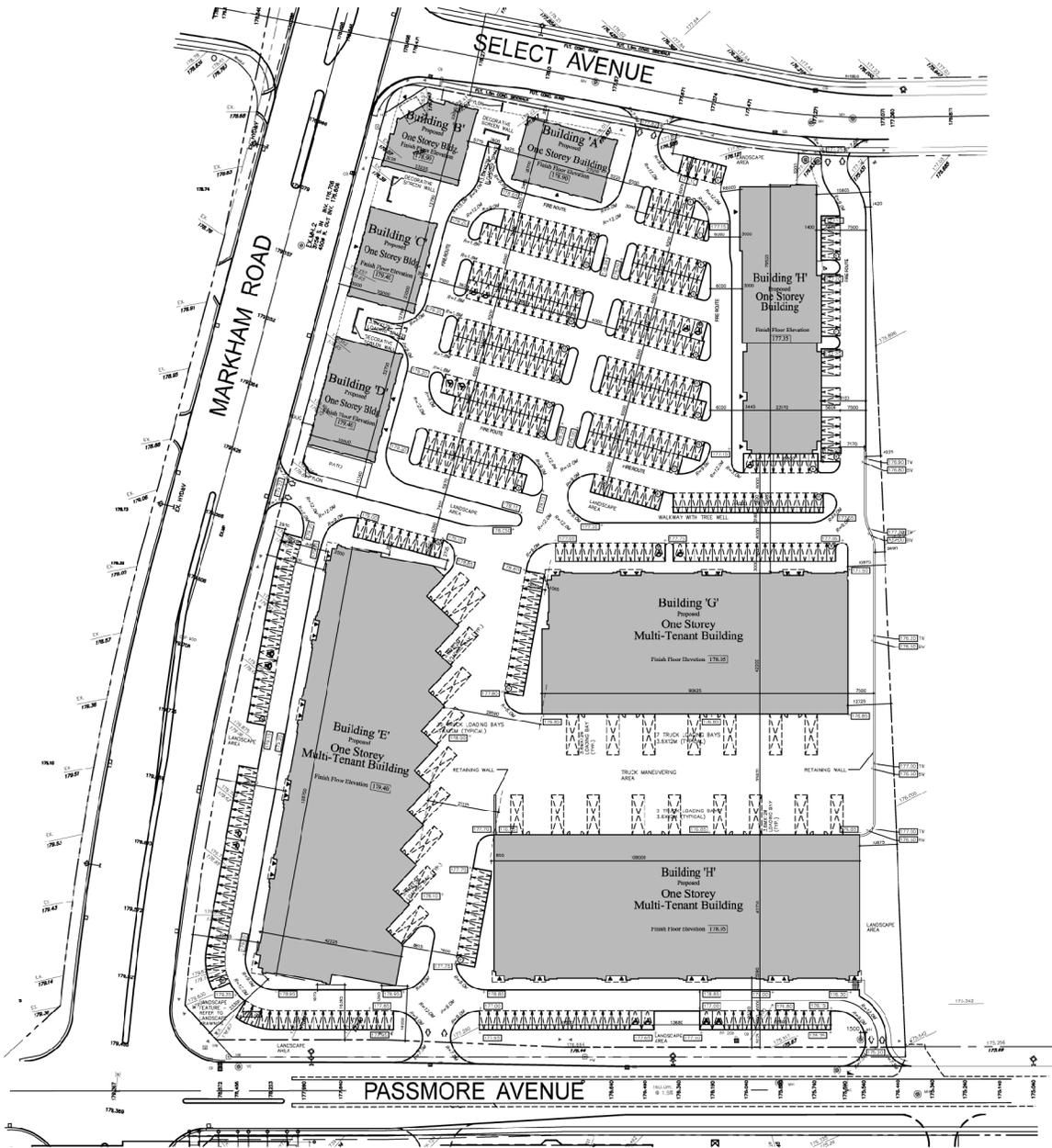
Attachment 3: Zoning

Attachment 4: Application Data Sheet

Attachment 5: Draft Site Plan Control By-law Amendment

Attachment 6: Amended List of Uses

Attachment 1: Conceptual Site Plan



Site Plan

North-east Corner of Markham Rd. and Passmore Ave.

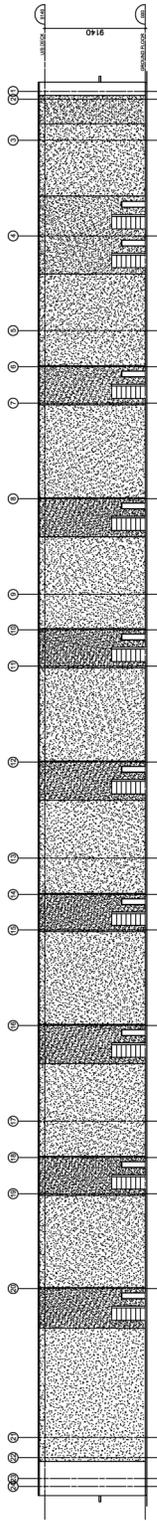
Applicant's Submitted Drawing

Not to Scale
4/19/10

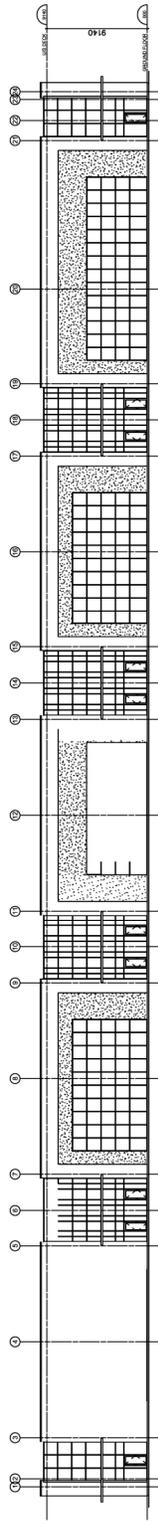


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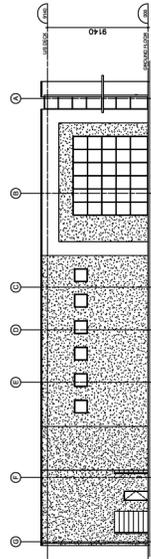
Attachment 2: Elevations



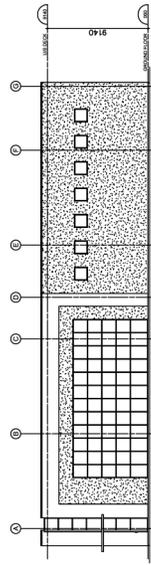
East Elevation



**West Elevation
(Markham Road)**



North Elevation



**South Elevation
(Passmore Avenue)**

Elevations - Building "E"

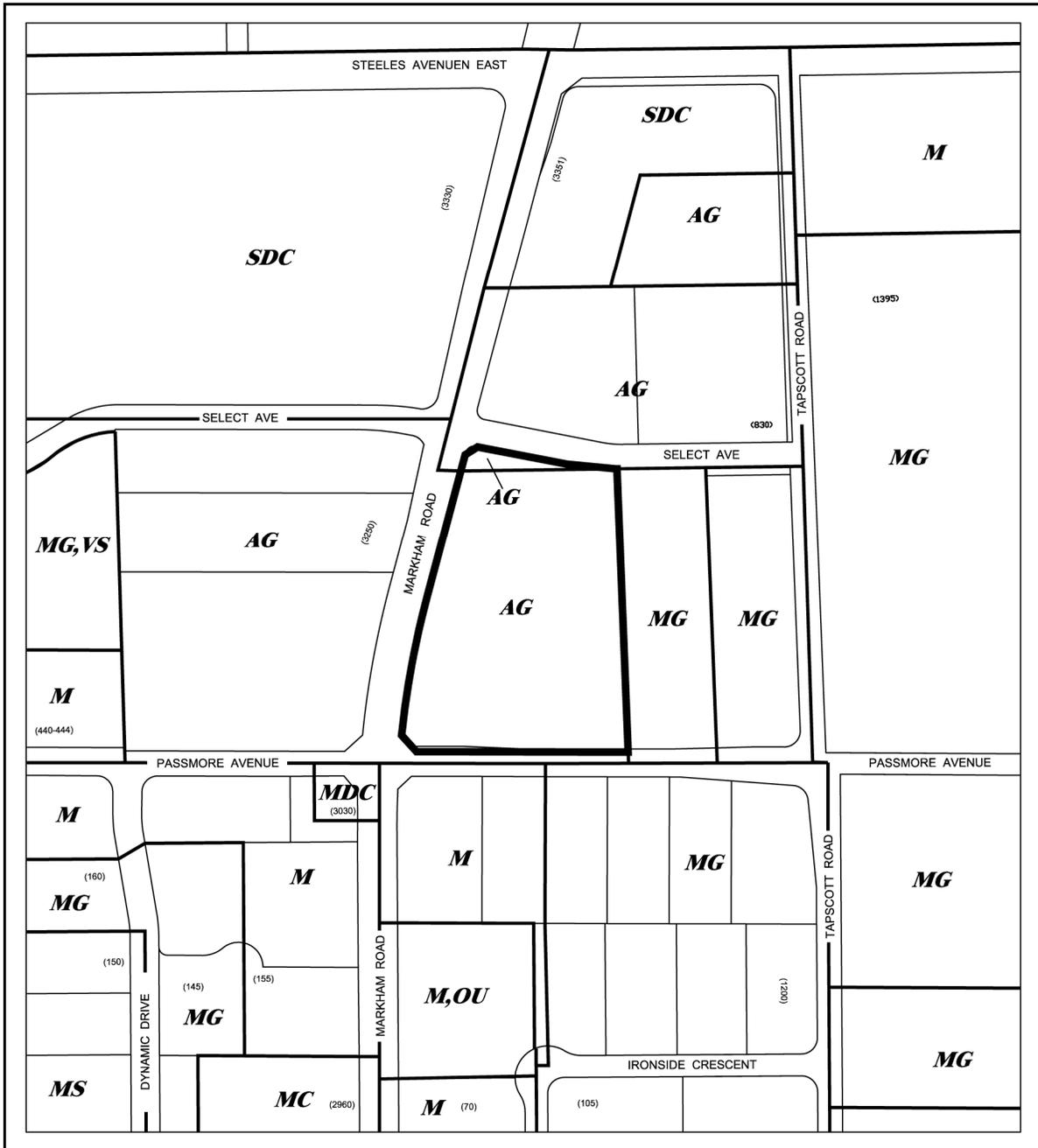
Applicant's Submitted Drawing

Not to Scale
4/19/10

North-east Corner of Markham Rd. and Passmore Ave.

File # 06-156009 0Z

Attachment 3: Zoning



North-east Corner of Markham Rd. and Passmore Ave.

File # 06-156009 0Z

- | | |
|--------------------------------------|---------------------------------------------|
| AG Agricultural Zone | MS Special Industrial Zone |
| M Industrial Zone | OU Office Uses Zone |
| MC Industrial Commercial Zone | SDC Special District Commercial Zone |
| MG General Industrial Zone | VS Vehicle Service Zone |

Tapscott Employment District By-law
 Not to Scale
 20/4/10



Attachment 4: Application Data Sheet

Application Type	Rezoning	Application Number:	06 156009 ESC 42 OZ
Details	Rezoning, Standard	Application Date:	July 13, 2006
Municipal Address:	0 MARKHAM RD E S, TORONTO ON		
Location Description:	CON 5 PT LT17 RP 64R9010 PT 1, 66R-22264 PT 4		
Project Description:	Proposed rezoning of the 4.97 ha (12.3 acre) vacant parcel from Agricultural Uses to Industrial Uses under the provisions of the Employment Districts Zoning By-law No. 24982 as amended. A total of 17,935 sq. m. (193,061 sq. ft.) of mixed industrial, retail, and restaurant floor area is proposed to be located in eight free-standing buildings. A total of 435 parking spaces are proposed.		

Applicant:	Agent:	Architect:	Owner:
LORNE ROSS PLANNING SERVICES CARL JANUSZCZAK			BRADGATE INVESTMENTS LTD

PLANNING CONTROLS

Official Plan Designation:	Employment Areas	Site Specific Provision:
Zoning:	AG-Agricultural	Historical Status:
Height Limit (m):		Site Plan Control Area: N

PROJECT INFORMATION

Site Area (sq. m):	49,761	Height:	Storeys:	1
Frontage (m):	273		Metres:	0
Depth (m):	183			
Total Ground Floor Area (sq. m):	17,935			Total
Total Residential GFA (sq. m):	0		Parking Spaces:	435
Total Non-Residential GFA (sq. m):	17,935		Loading Docks	multiple
Total GFA (sq. m):	17,935			
Lot Coverage Ratio (%):	36.0			
Floor Space Index:	0.36			

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):	2,000	0
1 Bedroom:	0	Office GFA (sq. m):	0	0
2 Bedroom:	0	Industrial GFA (sq. m):	15,935	0
3 + Bedroom:	0	Institutional/Other GFA (sq. m):	0	0
Total Units:	0			

CONTACT:	PLANNER NAME:	Mike Mestyan, Senior Planner
	TELEPHONE:	(416) 396-7026

Attachment 5: Draft Site Plan Control By-law Amendment

Authority: Scarborough Community Council Item ~ [or Report No. ~, Clause No. ~]
as adopted by City of Toronto Council on ~, 20~
Enacted by Council: ~, 20~

CITY OF TORONTO

Bill No. ~

BY-LAW No. ~-20~

To amend Site Plan Control By-law No. 21319, as amended, of the former City of Scarborough, to designate a Site Plan Control Area, with respect to a portion of the lands known municipally in the year 2010 as, Markham Road E/S between Select & Passmore Avenue

WHEREAS authority is given to Council by Section 41 of the *Planning Act*, R.S.O. 1990, c.P. 13, as amended and Section 114 of the *City of Toronto Act*, S.O. 2006, to designate the whole or any part of the area covered by an Official Plan as a Site Plan Control Area;

The Council of the City of Toronto HEREBY ENACTS as follows:

1. By-law no. 21319 is amended by designating the land shown outlined by a heavy black line on Schedule '1' of this By-law as a Site Plan Control Area.

ENACTED AND PASSED this ~ day of ~, A.D. 20~.

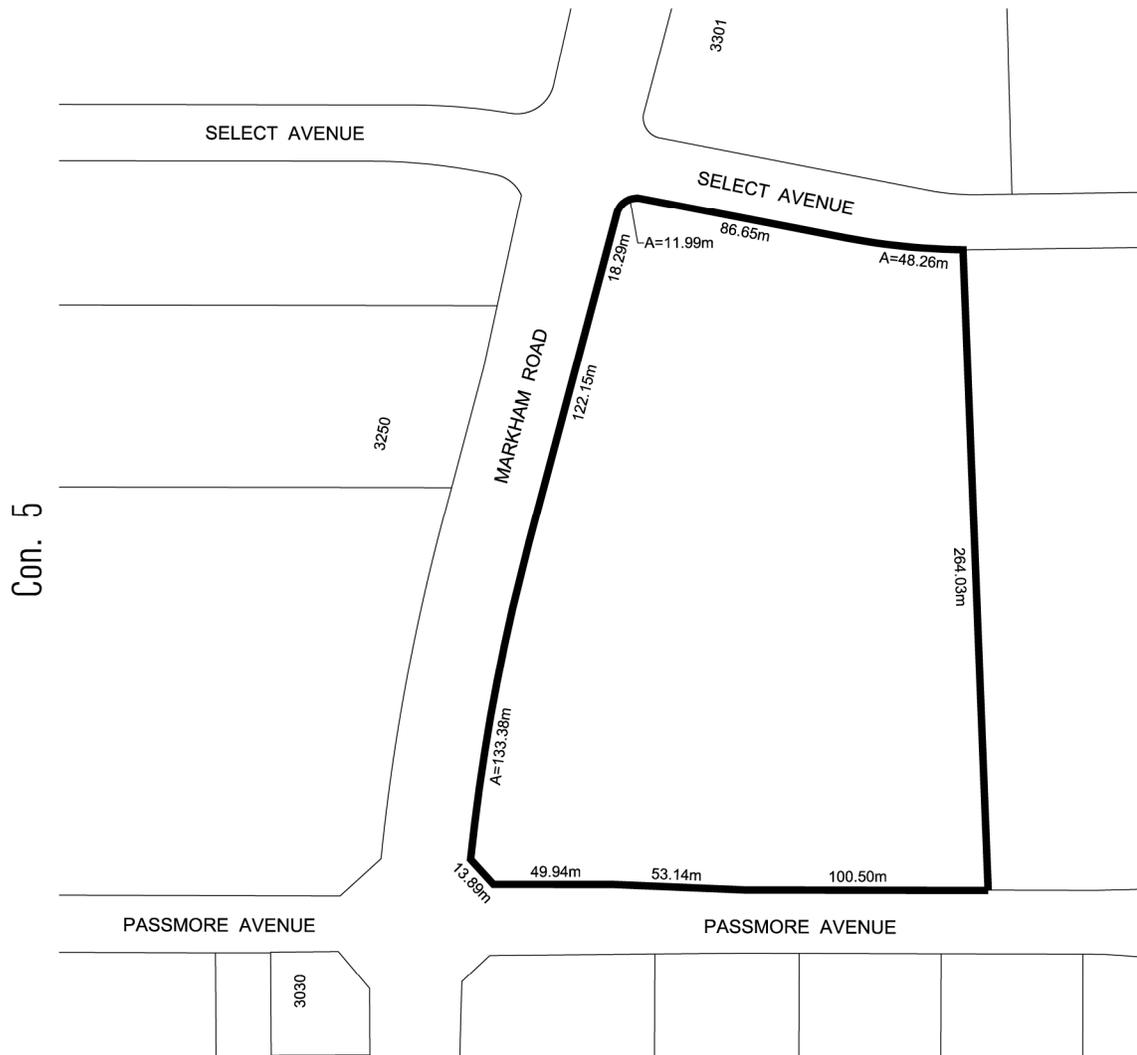
DAVID R. MILLER,
Mayor

ULLI S. WATKISS,
City Clerk

(Corporate Seal)

Schedule '1'

Lot 17



Site Plan Control Amendment

North-east Corner of Markham Rd. and Passmore Ave.

File # 06-156009 0Z



Area Affected By This By-law

Tapscott Employment District By-law
Not to Scale
4/19/10



**Attachment 6: Amended List of Uses
(As proposed by the applicant)**

Proposed Industrial (M) zone uses

Day Nurseries
Educational and training Facility Uses
Industrial Uses
Offices
Recreational Uses

Proposed Additional Employment Uses

Medical and Dental Offices
Financial Institutions

Proposed small scale stores, service and restaurant Uses

Convenience Store
Bakery
Pharmacy
Optical Retail Outlet
Sales of Supplies, Equipment, Furniture and Hardware for Offices.
Sales of Work Clothing, Footwear, Safety Equipment, Tools and Supplies for Work
Photography Studio, Sales and Service
Florist
Computer Electronic Sales and Service
Telecommunications Sales and Service
Health Food and Nutritional Supplements
Caterer's Shop
Take-out Food
Print and Copy Store
Post Office / Courier Service

Performance Standards

- 1) Maximum gross floor area per individual restaurant tenancy shall not exceed 550m²
- 2) Maximum gross floor area per individual retail store tenancy shall not exceed 475m²
- 3) The total gross floor area of all retail stores, restaurants, and personal service shops shall not exceed 2,000 m²
- 4) Personal Service Shops shall be limited to a maximum of three tenancies and restricted to only barber shops, beauty salons, health and beauty spas, and nail salons which uses shall not exceed a maximum gross floor area of 125 m² per tenancy
- 5) Convenience Stores shall be restricted to a maximum gross floor area of 125 m².

- 6) Buildings containing retail stores, restaurants, and personal service shops shall be permitted only on the portion of the site bounded by 77 m from the streetline of Markham Road and 118 m of the street line of Select Avenue.
- 7) Limiting front yard parking
- 8) Appropriate landscaping on site and along street frontages