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July 12, 2013

Corporation of the City of Toronto
Metro Hall
22nd Floor
55 John Street
Toronto, Ontario
M5V 3C6

COPY

Attention: **Mr. Paul Bain**
Project Manager, Strategic Initiatives, Policy and Analysis

Re: **Five Year - Municipal Comprehensive Review of the City of Toronto Official Plan**
41 Passmore Avenue
Our File: PN 5130

Dear Mr. Bain:

We have been retained by 1585168 Ontario Inc., the owner of those lands generally described as forming part of Lot 28, Concession 4, in the former City of Scarborough, now in the City of Toronto, municipal address of 41 Passmore Avenue, to assist in the review and consideration of the policy directions now emerging from the Five Year - Municipal Comprehensive Review of the Official Plan. Our Client's interests relate specifically to the Milliken Employment District and the policies applicable to lands designated within the Employment Area land use classification.

On behalf of our Client, we are requesting that the property located at 41 Passmore Avenue be designated within the Retail Employment land use classification as outlined in the draft policy paper now before the Planning and Growth Management Committee. To assist you in the review and consideration of this request, we offer the following comments in relation to the existing use of the lands, the contextual setting of the property, and the current land use and transportation planning framework which will influence the future development or redevelopment of lands in this area.

1. Site Characteristics

The subject lands encompass approximately 8,180 square metres (i.e. 2.02 acres) with a frontage of approximately 67 metres (i.e. 220 feet) adjacent the southerly limit of Passmore Avenue. At present, there is a one storey structure on the lands in question, the gross floor area of which is approximately 3,900 square metres (i.e. 41,990 square feet).

We are advised that the building was erected in phases and was initially used as a manufacturing and assembly facility until being vacated in 2001. At the time our Client acquired the property in 2004, the building was vacant and in a general state of disrepair as the site and existing structure were no longer well suited to manufacturing and assembly uses by virtue of the area of the property, the size of the structure and the limitations which exist in terms of the built form and access by larger vehicles and tractor trailers.

Today, the structure is occupied by a variety of businesses which include retail commercial uses, light manufacturing, assembly and fabrication operations, and, wholesale distribution and warehouse operations inclusive of showrooms for the display and sale of products. It follows that the existing uses may generally

be described as retail commercial and quasi light industrial and fabrication activities which, by their nature and scale of operations, are not well suited to retail or mixed use locations and/or do not require large floor plates for the purposes of manufacturing activities or areas for the outside storage of goods and materials.

To summarize, our Client has successfully provided for the rehabilitation and sequential use of an abandoned and underutilized vacant structure within the Milliken Employment Area for retail commercial and light manufacturing, assembly and fabrication activities consistent with Section 2(b) of the Official Plan and the goal of providing for the revitalization of Employment Areas. As a result of our Client's capital investment in the structure, the property now contributes in a positive manner to the economic base of the City of Toronto by reason of being assessed at the full taxable rate and through the provision of employment opportunities in keeping with the social-economic fabric of the area.

2. Contextual Setting

To assist you in the review and consideration of our Client's request, an aerial view illustrating the pattern of land use and development adjacent the north and south limits of Passmore Avenue, to the east of Kennedy Road and west of Silver Star Boulevard, that is the lands within 250 to 300 metres of 41 Passmore Avenue, is attached hereto as Appendix "A1". Reference should also be made to Appendix "A2" wherein a description of the existing use of each of the properties within the area in the vicinity of 41 Passmore Avenue is provided for your review and information. The information provided by way of this submission is based upon field observations undertaken by the writer during June of this year.

As previously noted, the lands front upon the southerly limit of Passmore Avenue, an east - west collector road which extends from Kennedy Road on the west to Midland Avenue on the east. Passmore Avenue serves the north-central portion of the Milliken Employment District. Over time, the land uses present in the north-west quadrant of the Milliken Employment District have evolved to include a mixture of office, retail and personal service commercial uses in association with self-storage, warehouse and wholesale type uses and various industrial and light manufacturing uses and activities, inclusive of contractor yards and other uses and activities which involve the outside storage of goods and materials.

To the north of 41 Passmore Avenue, immediately to the west of the GO Rail corridor, is a site owned and operated by the K-Line Group of Companies (i.e. 50 Passmore Avenue). The facility is referred to as a Maintenance and Construction Depot. Facilities at this location include offices, a depot for the receiving, shipping and storage of electrical cables, transformers, switches, supplies and related devices, a compound for the parking of trucks and the storage of goods and materials, and, an off-street parking area.

Immediately to the east of 41 Passmore is the site of AllWeld Engineering (49 Passmore Avenue). Facilities at this location include offices, a fabrication facility and off-street parking areas. An area to the rear of the property, adjacent the rail corridor, is utilized for the outside storage of goods and materials.

Further to the east, to the east of the rail corridor, the area north and south of Passmore Avenue is characterized by larger blocks of land developed and/or utilized in association with industrial uses and activities which involve the outside storage and/or processing of materials. The uses present include a construction maintenance depot, truck and equipment compounds, an asphalt recycling facility, and, the offices and yard facilities of the Structural Group of Companies. The industrial uses to the east of the rail corridor are representative of core industrial uses which involve heavy truck traffic movements and may, by reason of their inherent nature, result in nuisance vectors as a result of noise, dust, odours and other fugitive emissions.

It is noted that the lands to the south of Passmore Avenue, east of the rail corridor which are now utilized for the purposes of a truck and vehicle compound and asphalt recycling area are presently underutilized, the pattern of land use not being well defined. Upon construction of the southerly extension of Silver Starr Boulevard, between Passmore Avenue and McNicoll Avenue, it is anticipated that an opportunity will exist for redevelopment of the lands for core industrial uses, subject to confirmation of the environmental quality of the lands.

To the south of 41 Passmore Avenue, the lands are developed for the purposes of three relatively large, multi-tenant structures. The uses present within those buildings, which are situated to the east of the proposed Redlea Avenue and to the west of the GO Rail corridor, consist of a mixture of quasi commercial, warehouse and wholesale operations, and, light industrial concerns which involve the assembly and fabrication various products and materials. Further to the south is the site of the Scarborough Chinese Baptist Church and associated off-street parking area.

Immediately to the west of 41 Passmore Avenue is the site of Home Appliance Sales and Service and the yard of a Landscape Contractor (33 Passmore Avenue). It is noted that approximately 17 metres of the westerly portion of the lands situated at 33 Passmore Avenue have been expropriated by the City of Toronto to provide for the construction of Redlea Avenue, south of Passmore Avenue. To the north-west of 41 Passmore Avenue, are the sites of two other Landscape Contractors, namely 22 and 30 Passmore Avenue, portions of which properties have also been wholly or partially expropriated or acquired by the City to allow for the construction of Redlea Avenue south from Steeles Avenue to Passmore Avenue.

The Canadian National - GO Rail corridor is a significant land use feature in this area by reason of the fact that it clearly divides the Milliken Employment District into east and west sectors. Unlike the area to the west of the rail corridor, east of Kennedy Road between Passmore Avenue and McNicoll Avenue, the lands to the east of the rail corridor, north and south of Passmore Avenue, are developed for the purposes of heavy industrial operations, that is sites representative of core industrial uses and activities. Such heavy industrial operations are characterized by the outside storage of goods and materials and/or involve activities and processes more likely to result in adverse impacts in terms of noise and other air emissions. It follows that the character of the area located to the east of the rail corridor, north and south of Passmore Avenue, is significantly different from the area to the west of the rail corridor.

The function of the properties which front upon Passmore Avenue, between Kennedy Road and the Canadian National / Go Rail Corridor, is continuing to evolve. This follows from the policies of the approved Official Plan which have provided for the introduction of business and professional offices, retail and personal service commercial uses, retirement homes and places of worship, north and south of Passmore Avenue, east of Kennedy Road.

Recent meetings with Staff of the City of Toronto indicate that construction of the section of Redlea Avenue, south of Passmore Avenue to McNicoll Avenue, is scheduled to commence later this year with completion in 2014. Construction of this road will either result in the division and/or displacement of several properties which are located north and south of Passmore Avenue. As a result, it is expected that pressure will exist for the introduction of non-industrial, employment forms of land use on the smaller parcels in the vicinity of the intersection of Passmore Avenue and Redlea Avenue, most notably the lands located adjacent the south-east corner, inclusive of 41 Passmore Avenue. Designation of the lands within the Retail Employment land use classification will allow for the meaningful redevelopment of underutilized lands through the introduction of higher order land uses and intensification of the office and retail and service commercial component of development in this area consistent with the intent of the Places To Grow, the Provincial Growth Plan for the Greater Golden Horseshoe.

3. Current Land Use Planning Framework

3.1 Approved Official Plan

With the exception of the Canadian National - GO Rail corridor, which is designated as a Utility Corridor, those lands in the vicinity of 41 Passmore Avenue are designated within the Employment Area land use classification under the approved Official Plan for the City of Toronto. A copy of an extract of Map 17, the Land Use Plan attached to and forming part of the approved Official Plan for the City of Toronto, whereon the general location of the subject lands is identified, is attached as Appendix "B" to this submission.

As stated in Section 4.6, the introduction to the Employment Area policies, of the approved Official Plan for the City of Toronto..." *a broad and inclusive approach to employment uses in Employment Areas is needed for the City's economic future. Uses that support the prime economic function of Employment Areas, such as parks, small scale retail stores and services to meet the daily needs of business and employees, workplace daycare and restaurants, must also be readily accessible within Employment Areas. Uses that detract from the economic function of these lands will not be permitted to locate in Employment Areas*". By way of reference to Section 4.6.1 of the Official Plan, it is further noted that Employment Areas are generally defined as places of business and economic activity, and, that the permitted uses include offices, manufacturing, warehousing, distribution, research and development facilities, utilities, media facilities, parks, hotels, ancillary retail outlets, and, restaurants and small scale stores and services that serve area businesses and workers. It follows that the existing use of 41 Passmore Avenue and the on-going initiatives of our Client are consistent with the policy directions established under the approved Official Plan for the City of Toronto.

Reference is also made to Chapter Seven, entitled Site and Specific Area Policies, of the approved Official Plan. It is noted that the lands to the east of Kennedy Road are within an area covered by Specific Area Policies 104 and 133. In recent years the effect of the approved policy framework has been to allow for the introduction of retail and service commercial uses, business and professional offices, places of worship, retirement residences and long term care facilities in the area bounded by Steeles Avenue on the north, Kennedy Road on the west, McNicoll Avenue on the south and the rail corridor on the east.

The effect of the issuance of building permits and the introduction of such sensitive land uses on a site specific and somewhat ad hoc basis in this sector of the Milliken Employment District has been to significantly alter the future role and disposition of this area, specifically from the perspective of providing for the expansion and/or introduction of industrial uses and activities. In fact, we submit that the effect has been to impose the need for enhanced performance standards to the degree where those lands within 70 to 300 metres of such uses may no longer be well suited to either Class 1 or 2 Industrial uses, that is concerns of a manufacturing nature and/or whose operations involve the outside storage and/or processing of goods and materials. Such industrial uses are recognized to result in nuisance effects and thus the potential for adverse impacts upon the use and enjoyment of adjacent lands developed in association with sensitive lands uses. Clearly, the introduction of Class 3 Industrial uses in this area is highly unlikely given that significant separation distances may be required to allow for the mitigation of adverse impacts.

As is apparent from the contextual setting of the subject lands, the foregoing policies have been effective to shape the built form of the properties adjacent to Passmore Avenue, most notably to the west of the Canadian National - GO Rail corridor. Over time, the approved policy framework has resulted in the gradual adoption of vacant industrial buildings and/or the redevelopment of underutilized lands in the north-west quadrant of the Milliken Employment District, inclusive of 41 Passmore Avenue, for such purposes as offices, retail and service commercial land uses, wholesale and warehouse operations, storage facilities, places of worship, and other sensitive lands uses.

Given the current juxtaposition of sensitive and non-sensitive land uses in this area, it is submitted that the function of 41 Passmore Avenue within the Milliken Employment District today is very different from that of 10 to 15 years ago. The north-west quadrant of the Milliken Employment District has evolved in recent years into one which is not exclusively devoted to industrial uses and activities but rather a mixture of retail and employment land uses, often in close proximity to sensitive land uses. In this context, 41 Passmore Avenue is within an area now representative of a spatial separator which buffers heavy industrial uses and activities, inclusive of the railway corridor, from the sensitive land uses to the west and south-west of the site.

Consistent with the stated goal of providing for the maintenance and reinforcement of the function of the Employment Area, there is a need to recognize the changing economic role of those lands situated north and south of Passmore Avenue, in the vicinity of the Redlea Avenue, as a spatial buffer which is no longer well suited to larger manufacturing concerns by reason of the existing built form, parcel size characteristics and the presence of sensitive land uses. In summary, the approved land use planning framework is not conducive to the redevelopment and re-use of properties in this area for strictly industrial purposes nor does it provide the necessary degree of flexibility to ensure continued private sector investment by allowing for a mixture of retail commercial uses in association with assembly, fabrication and light manufacturing activities inclusive of warehouses and wholesale distribution operations.

3.2 Zoning By-law No. 569-2013

The subject property, 41 Passmore Avenue, is zoned within the Employment Industrial (EH) Zone under By-law No. 569-2013. The lands in question are delineated in red on an extract of the Zone Map to By-law No. 569-2013 attached to this submission as Appendix "C". Our Client has filed an appeal in relation to the passing of By-law No. 569-2013 as it applies to 41 Passmore Avenue on the grounds that the by-law does not conform with the Official Plan for the City of Toronto and further results in an unnecessary degree of hardship by virtue of precluding uses previously permitted under By-law No. 24982, the Employment Districts Zoning By-law, of the former City of Scarborough.

The zoning of the lands within the Employment Heavy Industrial (EH) Zone under By-law No. 569-2013 is effective to preclude the use of our Client's property for existing, established uses previously permitted under By-law No. 24982. In essence the effect of By-law No. 569-2013 is to impair the initiatives of our Client which have, as previously noted in this submission, provided for the rehabilitation and sequential use of an abandoned structure no longer suited to heavy industrial - core manufacturing uses. This position follows from the fact that many of the uses permitted in the Employment Heavy Industrial (EH) Zone are either land uses which are associated with the provision of services by the City of Toronto and/or affiliated organizations which serve the general needs of the public, or, uses which are neither compatible with adjacent land uses nor feasible to locate on the property by reason of the built form and/or site characteristics.

Rather, it would appear that the zoning of the lands within the Employment Heavy Industrial (EH) Zone under By-law No. 569-2013 follows from the provisions of the Special Industrial (MS) Zone under By-law No. 24982 of the former City of Scarborough. The zoning of the lands as proposed under By-law No. 569-2013 fails to recognize the full range of uses permitted within the Industrial (M) Zone and the General Industrial (MG) Zone, which zones also applied to regulate the use of 41 Passmore Avenue. In addition to industrial uses, the provisions of By-law No. 24982 provided for the redevelopment and sequential use of the property for such purposes as warehouse and wholesale distribution operations, custom workshops, offices, places of worship, day nurseries, educational and training facilities, recreational uses and ancillary retail uses.

As you may appreciate, reinvestment in the land and buildings by our Client was predicated on the ability to provide for the redevelopment and sequential use of the property for a mixture of uses, which included a retail commercial component, as provided for under the approved Official Plan. Accordingly, the designation and future policies directions applicable to the subject lands should not be solely predicated upon the zoning of the property under By-law No. 569-2013. Rather, as part of the Five Year - Municipal Comprehensive Review, there is a need to review the designation of the lands in the context of generally accepted planning principles which, among other matters, include the existing and established use of the property, and, compatibility with the use of adjacent lands having regard for the nature and frequency of potential impacts associated with industrial concerns and operations.

5. Concluding Remarks

For the reasons set forth in this submission, it is respectfully submitted that the subject lands, 41 Passmore Avenue, and the property immediately to the west, 33 Passmore Avenue, should be designated within the Retail Employment Area land use classification as set forth in the draft policy paper presently before the Planning and Growth Management Committee. Designation of the two properties noted above within the Retail Employment Area classification will provide for sequential use of the lands and continued reinvestment in the retrofitting of 41 Passmore Avenue as well as the remnant portion of portion of 33 Passmore Avenue following construction of Redlea Avenue, south of Passmore Avenue.

From a land use planning perspective, there is a need to have regard for the established and future disposition of lands in this area. Based upon our field studies and analysis of the existing and future built form of the Milliken Employment Area, it is submitted that the designation of lands based not only upon the approved policy framework, but also the established pattern of land use and current infrastructure initiatives of the City, would result in a meaningful increase in the net area of land designated within the Core Employment Area land use classification within the Milliken Employment District. A further benefit would be the recognition of lands presently associated with larger industrial concerns where the potential for adverse off-site impacts exists today.

Through the Five Year - Municipal Comprehensive Review, the City of Toronto has an opportunity to establish a rational planning framework which is conducive to the sequential use of underutilized and vacant lands no longer well suited to industrial uses strictly of a manufacturing nature while protecting areas devoted to core industrial uses within the Milliken Employment District. Upon consideration of alternative planning scenarios which follow from the evaluation of those issues influencing the future growth and development of this area, inclusive of existing use, built form, and, parcel size and distribution characteristics, it is possible to foster and strengthen the long term role of the Core Employment Area within this Employment District. In part, this may be achieved by providing for the introduction of alternative employment forms of land use, inclusive of retail and service commercial uses, in appropriate locations and in a manner which promotes spatial separation between sensitive land uses established in recent years and existing Class 2 and 3 Industrial uses to the north, north-east and south-east of our Client's lands.

In addition to providing for the maintenance and reinforcement of core industrial uses located within the north central portion of the Milliken Employment District, we respectfully submit that it is necessary to provide for the introduction of other employment forms of land use at appropriate locations, consistent with generally accepted planning principles and in a manner which embraces the principles set forth in the Provincial Growth Plan and the Provincial Policy Statement. It is further submitted that, as part of the Five Year - Municipal Comprehensive Review, an opportunity exists to recognize the diverse nature of this area and to refine the boundaries of areas well suited to employment land uses involving retail activities adjacent sensitive receptors. Such an approach will not only avoid speculation but also encourage continued private

sector investment in the economic base of the City of Toronto, a fundamental consideration in establishing healthy core employment areas.

We trust that our Client's concerns and the matters outlined herein will be given due consideration during the course of the Five Year - Municipal Comprehensive Review of the Official Plan for the City of Toronto. Should you require any additional information in relation to the existing character and use of our Client's lands, please do not hesitate to contact the undersigned. In closing, we would welcome the opportunity to meet with you to discuss the designation of our Client's property holdings and adjacent lands in the north-east quadrant of the Milliken Employment District in greater detail.

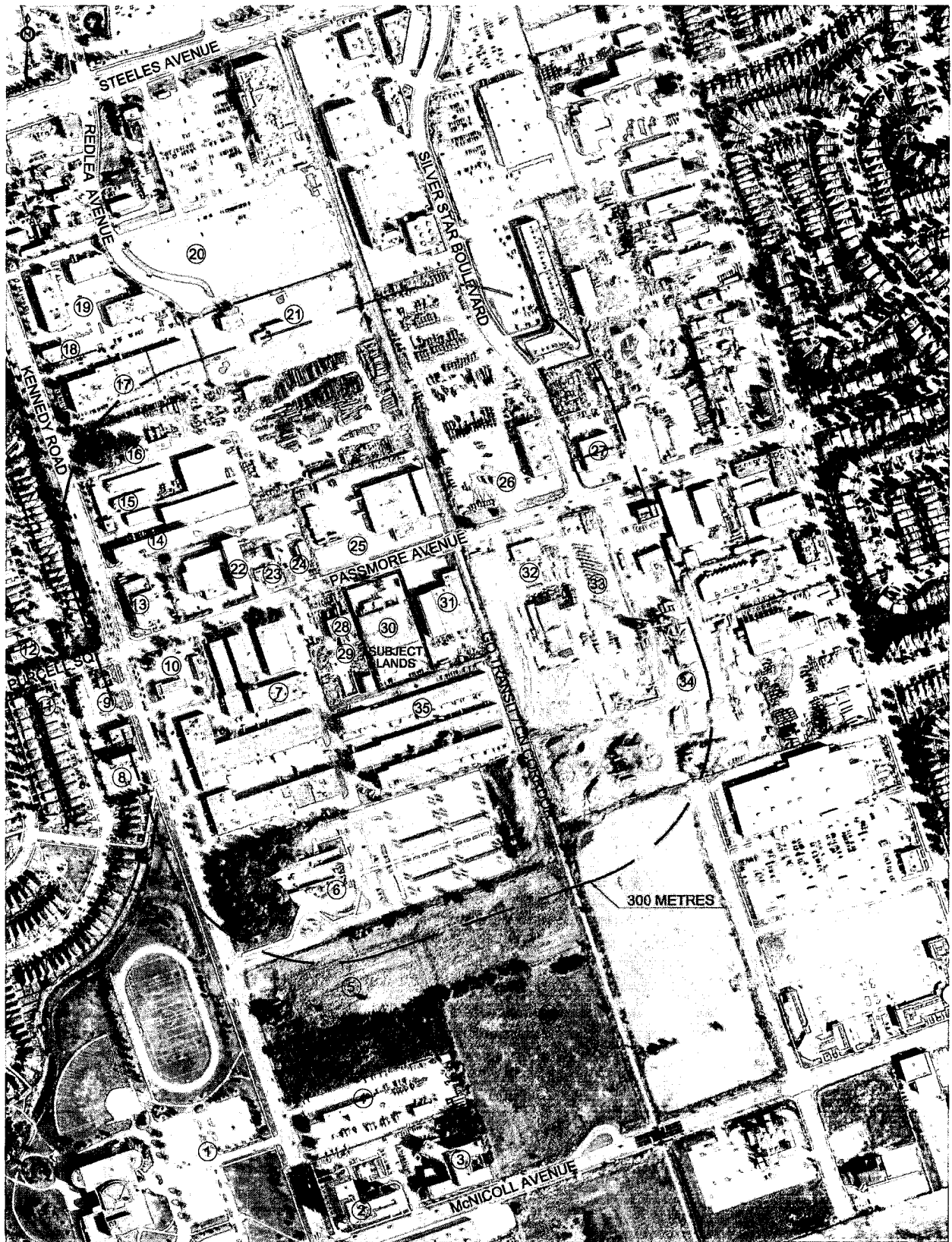
Sincerely yours,
McDermott & Associates Limited



John McDermott, M.C.I.P., R.P.P.
Principal Planner

copy to: The Chair and Members,
Planning and Growth Management Committee, City of Toronto

Mr. David White, Q.C.
Devry Smith Frank LLP



CONTEXTUAL SETTING

41 PASSMORE AVENUE
 SCARBOROUGH, ONTARIO

Appendix "A2"
Contextual Setting
41 Passmore Avenue
Land use Index

1. Mary Ward Catholic Secondary School / Track & Field Area (2000 McNicoll Avenue)
2. Mon Sheong Court (2020 McNicoll Avenue)
- Retirement Residence (11 storeys)
3. Mon Sheong Long Term Care Facility (2030 McNicoll Avenue)
(4 storeys residential structure)
4. Enbridge Gas / Construction & Maintenance Depot (3157 Kennedy Road)
5. Vacant Lands
6. Scarborough Chinese Baptist Church (3223 Kennedy Road)
7. Mixed Use Multi-Tenant Complex
(3241, 3251 & 3261 Kennedy Road - 19, 25 & 27 Passmore Avenue)
-Retail and Service Commercial / Business Offices / Storage Units & Light Industrial Mall Complex
8. Toronto Chinese United Church (3300 Kennedy Road)
- T. H. Chan Memorial Chinese School & Day Care
9. Retail & Service Commercial Centre (3370 / 3380 Kennedy Road)
- Pizza Pizza Restaurant
- Vperfect Beauty Salon
- Nail Spa
- Jungle Learning Centre
10. Shell Retail Gasoline Outlet & Car Wash (3381 Kennedy Road)
11. Heathwood Residential Community
12. City of Toronto / Kennedy Road Pumping Station
13. Office Building (3405 Kennedy Road)
14. Yanokaka Housewares / Pacific Range Hood (3419 Kennedy Road)
- Offices / Warehouse Facility
15. Storage Mart / Self Storage Units (3429 Kennedy Road)
16. Anchor Shoring Limited (3445 Kennedy Road)
Offices and Equipment Depot inclusive of Outside Storage of Equipment and Materials
17. Mixed Use Multi-Tenant Building (3447 Kennedy Road)
- Retail Commercial / Business and Professional Offices /Commercial / Light Industrial Uses

18. Maitreya Great Tao Hep Kwong Temple Inc. (3471 Kennedy Road)
- Place of Worship
19. Mixed Use Multi-Tenant - Commercial / Industrial Complex (3477, 3487 & 3497 Kennedy Road)
-Retail Commercial / Business and Professional Offices / Commercial - Industrial Units
20. Go Transit Milliken Station & Parking Facility
21. Vacant Property
(future Redlea right-of-way)
22. All-Weld Company Limited / Canada Millwright (14 Passmore Avenue)
- Offices & Warehouse
23. ON Tree Experts (22 Passmore Avenue)
- Offices & Yard Facility
24. Lovelands Landscaping Inc. (30 Passmore Avenue)
- Offices & Yard Facility
25. K-Line Group of Companies (50 Passmore Avenue)
- Electrical Utility Contractors / Offices and Warehouse Facility inclusive of outside storage
26. Crupi Group Maintenance Facility (70 Passmore Avenue)
- Offices, Truck Depot & Yard Facility
27. Structural Group of Companies (84 Passmore Avenue)
28. Home Appliance Sales and Service (33 Passmore Avenue)
29. Contractor Depot & Yard Facility (33 Passmore Avenue)
30. Retail Commercial / Wholesale Outlet (41 Passmore Avenue)
- Legend Windows
- Everest Furniture / Factory Outlet
- K&B Farms - Produce Warehouse
- Mo Mart Inc. - Housewares Wholesale & Distribution
31. All-Weld Company Limited (49 Passmore Avenue)
- Offices & Plant Facility
32. Vacant Structure (65 Passmore Avenue)
33. Allied Systems Truck Depot & Yard
34. D.Crupi & Sons Limited (85 Passmore Avenue)
- Offices , Asphalt Plant & Storage Yard
35. Multi-Tenant Industrial Units (29, 31 & 31A Passmore Avenue)
36. City of Toronto
Proposed Site of TTC Bus Depot

Land Use Designations

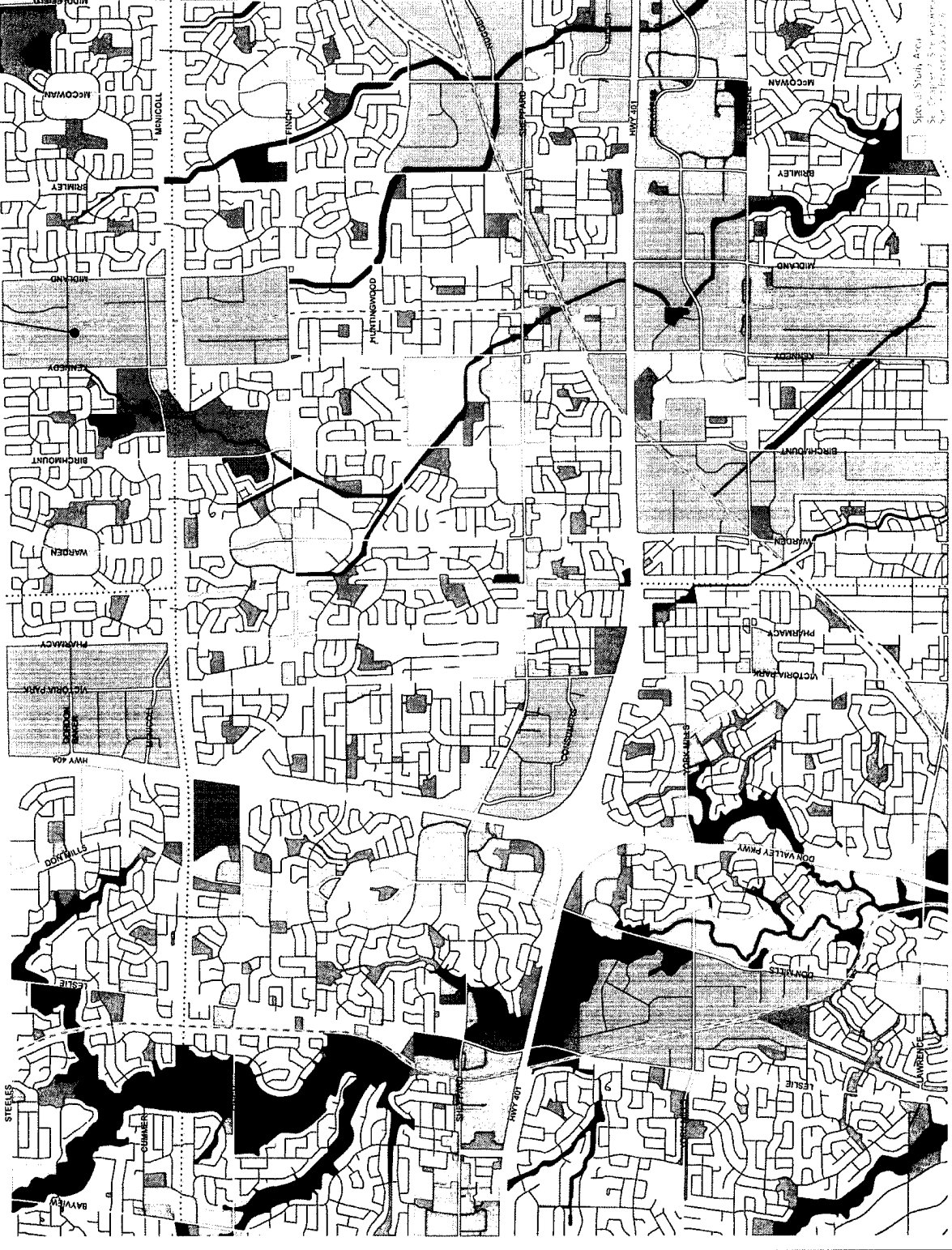
- Neighbourhoods
- Apartment Neighbourhoods
- Mixed Use Areas
- Park and Open Space Areas
- Nature Areas
- Parks
- Other Open Space Areas (Including Dog Parks, Greenways, Centres, Public Utilities)
- Institutional Areas
- Recreation Areas
- Employment Areas
- Utility Corridors

- Major Street and Highways
- Local Streets
- Railroad Lines
- Hydro Corridors



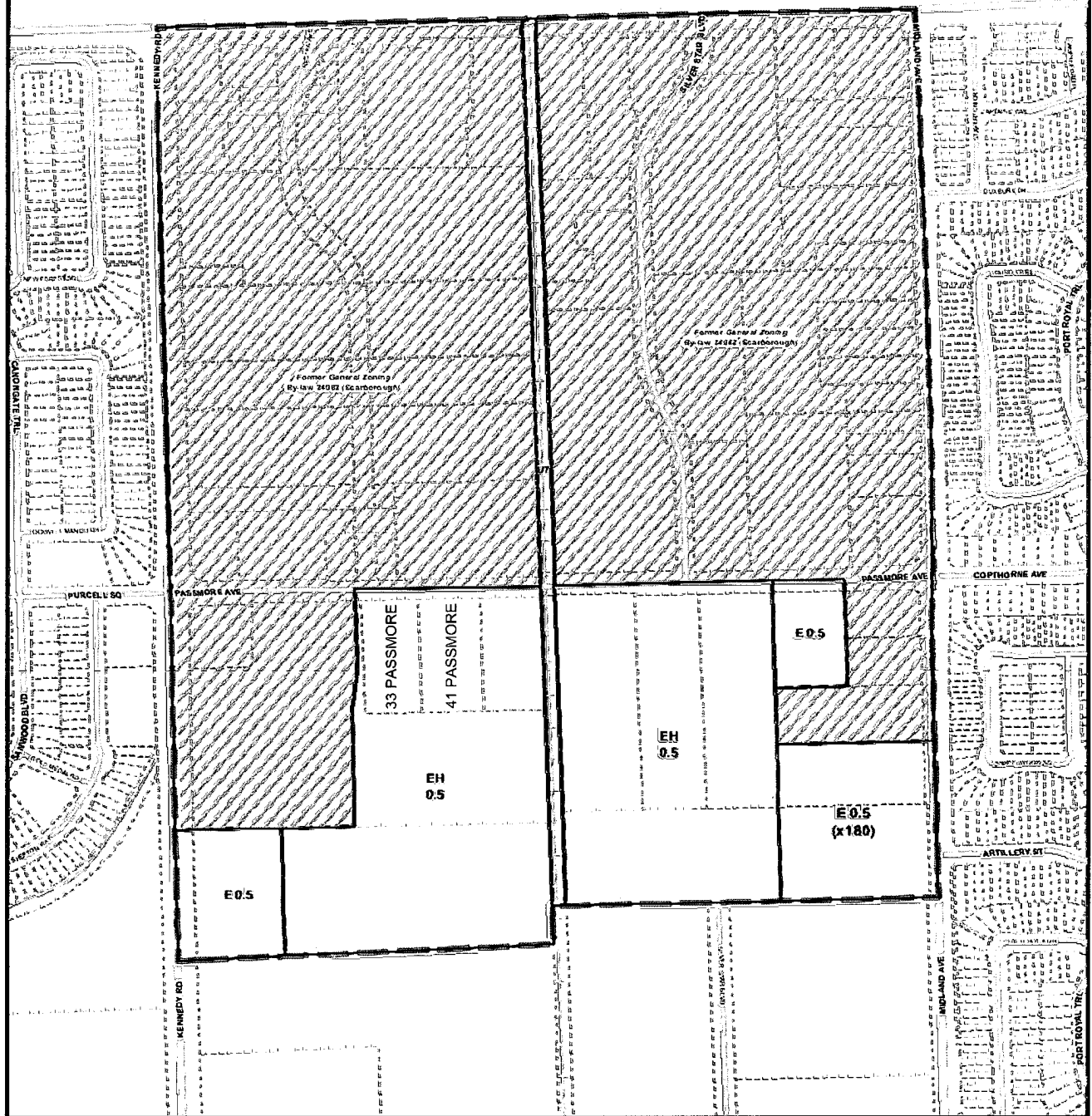
Key Map

SUBJECT LANDS
41 PASSMORE AVENUE



Spec. of Study Area
See Chapter 2, Section 2.1
See Appendix 2, Table 2.1

TOWNSHIP OF MARKHAM



TORONTO City Planning

Zoning By-law

May 2013

Maps must be read together with Zoning By-law text

- Zoning
- Property Boundary
- Railway
- Hydro Line
- River
- Map Sheet Boundary



TOWNSHIP OF MARKHAM

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683	684	685	686	687

Current Page Pages with Zoning