

**43 Upton Road - Zoning By-law Amendment Application  
– Final Report**

<b>Date:</b>	December 15, 2015
<b>To:</b>	Scarborough Community Council
<b>From:</b>	Director, Community Planning, Scarborough District
<b>Wards:</b>	Ward 35 – Scarborough Southwest
<b>Reference Number:</b>	15 183871 ESC 35 OZ

**SUMMARY**

This application proposes to delete permissions for both heavy industrial uses and sensitive uses from the Zoning By-laws for the lands at 43 Upton Road. Submission of the subject application was one of the conditions of the negotiated settlement of the Ontario Municipal Board (OMB) appeals on the lands immediately south of the subject property known as 743 Warden Avenue.

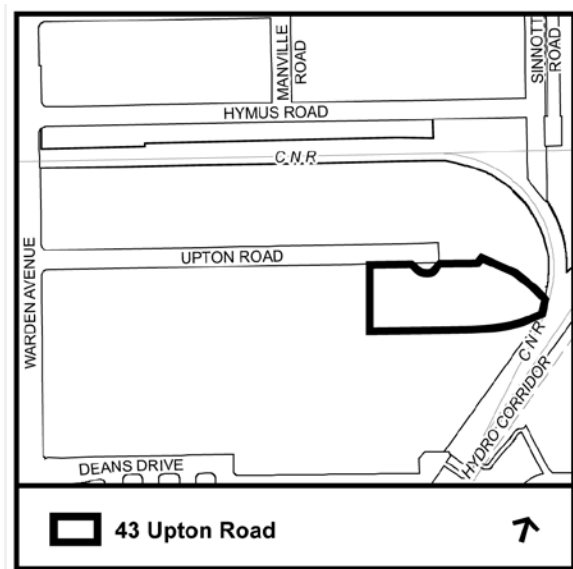
The proposal complies with the Official Plan, conforms to the Growth Plan for the Greater Golden Horseshoe and is consistent with the Provincial Policy Statement.

This report reviews and recommends approval of the application to amend the Zoning By-laws.

**RECOMMENDATIONS**

**The City Planning Division recommends that:**

1. City Council amend former City of Scarborough Employment Districts Zoning By-law No. 24982 (Golden Mile Employment District), for the lands at 43 Upton Road substantially in accordance with the draft Zoning By-law Amendment



- attached as Attachment 3 to report dated December 15, 2015.
2. City Council amend City of Toronto Zoning By-law 569-2013 for the lands at 43 Upton Road substantially in accordance with the draft Zoning By-law Amendment attached as Attachment 4 to report dated December 15, 2015.
  3. City Council authorize the City Solicitor to make such stylistic and technical changes to the draft Zoning By-law Amendments as may be required.

### **Financial Impact**

The recommendations in this report have no financial impact.

### **DECISION HISTORY**

On October 6, 2015 Scarborough Community Council adopted a Preliminary Report for the subject application. The report provided background information on the proposal, and recommended that a community consultation meeting be held and that notice be given according to the regulations of the *Planning Act*. The Preliminary Report is available at: <http://www.toronto.ca/legdocs/mmis/2015/sc/bgrd/backgroundfile-83827.pdf>

Submission of the subject Zoning By-law Amendment application was one of the conditions of the negotiated settlement of the OMB appeals on the adjacent lands at 743 Warden Avenue. The lands at 743 Warden Avenue are under the same ownership as the subject property. In December 2013, the owner of 743 Warden Avenue submitted Official Plan Amendment, Zoning B-law Amendment and Draft Plan of Subdivision applications to redesignate the lands from *Employment Areas* to *Mixed Use Areas* and *Neighbourhoods* in the Official Plan. The development would include 314 dwelling units consisting of 184 townhouses and 130 apartment units in a 5-8 storey mixed use building; a minimum of 4,645 square metres of commercial space; a network of public streets and lanes; and a stormwater management pond. In June 2014, the owner appealed the applications to the OMB due to the City's lack of decision within the statutory timeframe. On October 23, 2015, the OMB approved the draft Official Plan and Zoning By-law Amendments and Draft Plan of Subdivision, as identified in the Request for Directions Report with Confidential Attachment adopted by City Council at its meeting of July 7 and 8, 2015, available at: <http://www.toronto.ca/legdocs/mmis/2015/cc/bgrd/backgroundfile-82140.pdf>. The OMB decision is available at: <https://www.omb.gov.on.ca/e-decisions/mm140029-oct-23-2015.pdf>.

### **ISSUE BACKGROUND**

#### **Proposal**

This application proposes to delete permissions for heavy industrial uses from both City of Toronto Zoning By-law 569-2013, as amended, and former City of Scarborough Employment Districts Zoning By-law No. 24982 (Golden Mile Employment District), as amended, for the lands at 43 Upton Road. Heavy industrial uses include uses that may generate adverse effects from odour, noise, vibration, smoke, dust, heat and other

contaminants and could pose a risk to public health and safety if not appropriately designed, buffered and/or separated from more sensitive uses. Heavy industrial uses that would no longer be permitted on the site include chemical materials storage, fuel storage, waste transfer stations and certain manufacturing uses such as abattoirs, asphalt plants and concrete batching plants.

This application also proposes to delete permissions for sensitive uses from former City of Scarborough Employment Districts Zoning By-law No. 24982 (Golden Mile Employment District), as amended. City of Toronto Zoning By-law 569-2013, as amended, does not permit sensitive uses on the site. Sensitive uses consist of buildings, amenity areas or outdoor spaces where routine or normal activities occurring at reasonably expected times would experience adverse effect(s) from contaminant discharges generated by a nearby major facility. Sensitive uses may be a part of the natural or built environment. Sensitive uses that would no longer be permitted on the site include day nurseries, places of worship, recreation uses and education uses.

See Attachment 2: Application Data Sheet for project data.

### **Site and Surrounding Area**

The site is located northeast of Warden Avenue and St Clair Avenue East on the south side of Upton Road. The site has a frontage along Upton Road of approximately 79 metres, a depth of approximately 75 metres and an area of approximately 1.3 hectares (3.2 acres). The relatively flat site contains several one-storey industrial buildings and surface parking areas.

Surrounding uses include:

- North: Mix of one- and two-storey industrial and vehicle service buildings and open storage areas
- East: Former Canadian National Rail line, Line 2 Bloor-Danforth subway and residential uses beyond
- South: Vacant lands subject of the proposed residential development
- West: One-storey industrial and vehicle service buildings

### **Provincial Policy Statement and Provincial Plans**

The Provincial Policy Statement (PPS), 2014 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

by the *Planning Act*, to conform, or not conflict, with the Growth Plan for the Greater Golden.

## **Official Plan**

The site is within an *Employment District* in the Official Plan. *Employment Districts* are large districts comprised exclusively of lands where the *Employment Areas* land use designation applies. *Employment Districts* can accommodate substantial growth in jobs and meet the needs of key economic clusters. *Employment Districts* are protected and promoted exclusively for economic activity.

The site is designated *Employment Areas* in the 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.

## **Five-Year Official Plan Review and Municipal Comprehensive Review: Official Plan Amendment 231**

City Planning has completed the five-year Official Plan Review and the Municipal Comprehensive Review of employment lands required under Provincial statute.

On December 18, 2013, City Council adopted Official Plan Amendment (OPA) 231, which contains new and revised economic health and employment policies and new land use designations for employment lands. OPA 231 would strengthen the policies concerning the protection and preservation of strategic areas for employment uses and replace the classification *Employment Districts* with *Employment Areas*. In addition to amending the Urban Structure section of the Official Plan, the Land Use designation *Employment Areas* would be replaced with two new land use designations: *Core Employment Areas* and *General Employment Areas*.

The subject property would be designated *Core Employment Areas*. Uses permitted in *Core Employment Areas* are manufacturing, warehousing, wholesaling, transportation facilities, offices, research and development facilities, utilities, industrial trade schools, media facilities and vertical agriculture. Secondary uses, which support the primary employment uses permitted in *Core Employment Areas* are: hotels, parks, small-scale restaurants and catering facilities of a maximum size set out in the applicable Zoning By-law(s), and small-scale service uses that directly serve business needs such as courier services, banks and copy shops of a maximum size as set out in the Zoning By-law(s). Small-scale retail outlets that are ancillary to and on the same lot as the principal use may be permitted up to a maximum size set out in the applicable Zoning By-law(s).

On July 29, 2013, OPA 231 was approved, with minor modifications, by the Minister of Municipal Affairs and Housing. OPA 231 has been appealed to the OMB. On June 22, 2015, the OMB issued an order partially approving OPA 231. Most of the in-force policies deal on a broad basis with such matters as Toronto's economic health and economic development strategies; continued investment in key infrastructure to support

employment needs; directing office and employment growth on transit routes; updating population and employment forecasts and density targets in conformity with the Growth Plan; and fostering the growth of public institutions that are a large source of employment. The OMB order is available at <http://www1.toronto.ca/wps/portal/contentonly?vnextoid=50430621f3161410VgnVCM10000071d60f89RCRD>.

Other policies, land use designations and maps for employment lands that are in OPA 231 are still under appeal. As such, OPA 231 is not yet in full force and is relevant, but not determinative.

## **Zoning**

The western half of the site is zoned Employment Heavy Industrial (EH) and the eastern half of the site is zoned Employment Industrial (E) in City of Toronto Zoning By-law 569-2013, as amended (see Attachment 1: Zoning). The EH zoning category permits a range of industrial uses including animal shelters, building supply yards, dry cleaning or laundry plants and recovery facilities. The E zoning category permits a range of industrial uses including contractor's establishments, laboratories, offices and pet services.

The site is zoned Industrial (M), Special Industrial (MS), General Industrial (MG), and Vehicle Service (VS) in former City of Scarborough Employment Districts Zoning By-law No. 24982 (Golden Mile Employment District), as amended. The industrial zoning categories permit light to heavy industrial uses while the Vehicle Service category permits vehicle sales and service and repair garages. Sensitive uses including day nurseries, education uses and places of worship are also permitted in the industrial zoning categories.

## **Site Plan Control**

A Site Plan Control application is not required as no new development is proposed.

## **Reasons for Application**

While the application has been reviewed on its own merit, the application was submitted as part of the negotiated settlement for the adjacent lands at 743 Warden Avenue.

## **Community Consultation**

A community consultation meeting was held on October 27, 2015. The meeting was attended by City Planning staff, the Ward Councillor's staff, the applicant and owner and approximately five members of the public. Issues raised by the public at the meeting included:

- Land uses – questions about the types of land uses that would be permitted on the site.
- Future plans for the site – questions about any plans for the future development of the site.

## **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**

### **Provincial Policy Statement and Provincial Plans**

The proposal is consistent with the PPS. The PPS contains employment policies that seek to promote economic development and competitiveness by, among other matters, providing for an appropriate mix of employment uses and providing opportunities for a diversified economic base, including maintaining a range and choice of suitable sites for employment uses and taking into account the needs of existing and future businesses. The proposal would protect the lands for employment uses by eliminating permissions for sensitive uses and provide opportunities for a wide range of economic activities through the new zoning provisions.

The proposal conforms and does not conflict with the Growth Plan for the Greater Golden Horseshoe. The Growth Plan requires that the City maintain an adequate supply of lands providing locations for a variety of appropriate employment uses. The lands would be maintained for employment purposes.

### **Official Plan**

The proposal complies with the policies of the Official Plan that are in force and effect as well as the policies, as adopted by City Council, in OPA 231, which were developed as part of the Municipal Comprehensive Review of the employment policies of the Official Plan.

Policy 2.2.4.1 of the Official Plan states that *Employment Districts* will be protected and promoted exclusively for economic activity. Use of the subject property would be maintained solely for employment purposes, thereby ensuring the ongoing viability of the employment area to the north while allowing the approved development to the south at 743 Warden Avenue to proceed. Policy 4.6.1 of the Official Plan includes a list of uses that support the function of *Employment Areas*, including offices, manufacturing, warehousing, distribution, research and development facilities, public utilities and media facilities, which would be permitted on the site.

Policy 2.2.4.6 of the Official Plan requires that development adjacent to or nearby *Employment Districts* will be appropriately designed, buffered and/or separated from industries as necessary to mitigate adverse effects from noise, vibration, traffic, odour and other contaminants, and to promote safety and security. The subject application was submitted to satisfy a condition of the negotiated settlement for the abutting lands to the south, which includes residential uses. By removing permissions for potentially noxious heavy industrial uses from the subject property, greater separation from the sensitive uses

approved on the abutting site can be secured. Heavy industrial uses would still be permitted in the employment area to the north of the subject property.

The proposed uses that would be permitted on the site would be consistent with the emerging policy direction contained in OPA 231. Lands designated as *Core Employment Areas* are reserved for employment uses, including manufacturing and warehousing, offices, research and development facilities, media facilities and post-secondary business and trade training facilities. Policies respecting sensitive uses have been introduced under OPA 231 and sensitive uses such as places of worship, day nurseries and schools are no longer permitted. Through the application, sensitive uses would no longer be permitted on the site.

## **Land Use**

The subject application was submitted to satisfy a condition of the negotiated settlement for the abutting lands to the south. Changing the uses on the subject property is intended to permit the introduction of sensitive uses to the south without disrupting the ongoing viability of the *Employment Area*. A wide array of employment uses would still be permitted on the site, with only permissions for the most potentially noxious uses, such as industrial gas manufacturing pesticide or fertilizer manufacturing and petrochemical manufacturing, deleted. The development to the south would still have to be appropriately designed and buffered from the subject property and the larger *Employment Area* to the north to prevent or mitigate potential adverse effects from odour, noise and other contaminants, minimize risk to public health and safety, and to ensure the long-term viability of employment uses in the surrounding area.

The request to change the employment uses permitted on the site also provides an opportunity to remove existing permissions for sensitive uses that are allowed under the former Scarborough Zoning By-law. Removing permissions for day nurseries, education uses, places of worship and recreation uses would improve the ongoing viability of employment uses on the site and in the area to the north by restricting the introduction of new sensitive uses in the *Employment Area*.

As such, the applicable Zoning By-laws would be amended to provide consistency between the By-laws in terms of permitted and prohibited uses. City of Toronto Zoning By-law 569-2013 would be amended to rezone the entire site to an Employment Industrial Zone (E). Permitted uses would include carpenter's shops, laboratories, limited manufacturing uses, offices, pet services, vehicle service shops, warehouses and wholesaling uses. Former City of Scarborough Employment Districts Zoning By-law No. 24982 (Golden Mile Employment District) would be amended to rezone the entire site to an Industrial Zone (M). Permitted uses would include limited manufacturing uses, offices, production facilities, research and development uses, vehicle service shops and warehouses.

## **Conclusion**

The proposal is consistent with the Provincial Policy Statement and in conformity with the Growth Plan for the Greater Golden Horseshoe. The proposal also conforms to the general policies of the Official Plan.

## **CONTACT**

Paul Johnson, Planner

Tel. No. 416-396-7658

Fax No. 416-396-4265

E-mail: pjohnso3@toronto.ca

## **SIGNATURE**

---

Lorna Day, Director  
Community Planning, Scarborough District

## **ATTACHMENTS**

Attachment 1: Zoning

Attachment 2: Application Data Sheet

Attachment 3: Draft Zoning By-law Amendment to former City of Scarborough  
Employment Districts Zoning By-law No. 24982 (Golden Mile  
Employment District)

Attachment 4: Draft Zoning By-law Amendment to City of Toronto By-law 569-2013



# Attachment 1: Zoning



**Zoning By-Law No. 569-2013**

**43 Upton Road**

**File # 15 183871 ESC 35 0Z**



Location of Application

**RS** Residential Semi-Detached  
**RT** Residential Townhouse  
**CR** Commercial Residential

**E** Employment Industrial  
**EH** Employment Heavy Industrial  
**I** Institutional  
**UT** Utility and Transportation



See Former City of Scarborough Employment District Bylaw No. 24982 & See Former City of Scarborough Birchmount Park Community Bylaw No. 9174

**M** Industrial Zone  
**MG** General Industrial Zone  
**ME** Mixed Employment Zone  
**MDC** Industrial District Commercial Zone  
**V** Vehicle Service Zone

**CC** Community Commercial Zone  
**I-PT** Institutional - Public Transit Zone  
**SC** School

↑  
 Not to Scale  
 Extracted: 08/20/2015

**Attachment 2: Application Data Sheet**

Application Type      Rezoning      Application Number:      15 183871 ESC 35 OZ  
 Details      Rezoning, Standard      Application Date:      July 2, 2015  
 Municipal Address:      43 Upton Road  
 Location Description:      SCARBOROUGH CON C PT LOTS 31 AND 32 AND RP 64R11463 PARTS 5 TO 7  
 Project Description:      This application proposes to remove permissions for both heavy industrial uses and sensitive uses that are currently allowed under the Zoning By-laws for the lands at 43 Upton Road.

**Applicant:**      **Agent:**      **Architect:**      **Owner:**  
 Goldman (Upton) Ltd.                Goldman (Upton) Ltd.

**PLANNING CONTROLS**

Official Plan Designation:      Employment Areas      Site Specific Provision:      No  
 Zoning:      By-law 569-2013: EH 1.0 and E 1.0 and By-law 24982: M-361-913-982-1043, MG, VS-361-913-982-1043-2300-2301-2302-2303-2304, and MS, VS-361-913-991-1054-2300-2301-2302-2303-2304. Ex. 120      Historical Status:  
 Height Limit (m):      20      Site Plan Control Area:      Yes

**PROJECT INFORMATION**

Site Area (sq. m):      12,950      Height:      Storeys:      0  
 Frontage (m):      79      Metres:      0  
 Depth (m):      75  
 Total Ground Floor Area (sq. m):      0      **Total**  
 Total Residential GFA (sq. m):      0      Parking Spaces:      0  
 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**

**FLOOR AREA BREAKDOWN**

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

**CONTACT:**      **PLANNER NAME:**      **Paul Johnson, Planner**  
                                  **TELEPHONE:**      **416-396-7658**

**Attachment 3: Draft Zoning By-law Amendment to former City of Scarborough  
Employment Districts Zoning By-law No. 24982 (Golden Mile Employment District)**

Authority: Scarborough Community Council Item ~ as adopted by City of Toronto  
Council on ~, 20~

Enacted by Council: ~, 20~

**CITY OF TORONTO**

**Bill No. ~**

**BY-LAW No. --20~**

**To amend former City of Scarborough Employment Districts Zoning By-law No.  
24982 (Golden Mile Employment District), as amended, with respect to the lands  
municipally known as 43 Upton Rd**

Whereas authority is given to Council by Section 34 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:

1. **Schedule "A"** of the former City of Scarborough Employment Districts Zoning  
By-law No. 24982 (Golden Mile Employment District) is amended by deleting  
the current zoning and replacing it with the following zoning as shown on  
Schedule '1'.

M-363-913-991-1054-1640 (235)

2. **Schedule "C"** of the former City of Scarborough Employment Districts Zoning  
By-law No. 24982 (Golden Mile Employment District) is amended by adding the  
following Exception No. 235:

235. a. Prohibited Uses:

- **Day Nurseries**
- Educational and Training Facility Uses
- **Places of Worship**
- **Recreational Uses**

b. Additional Permitted Use:

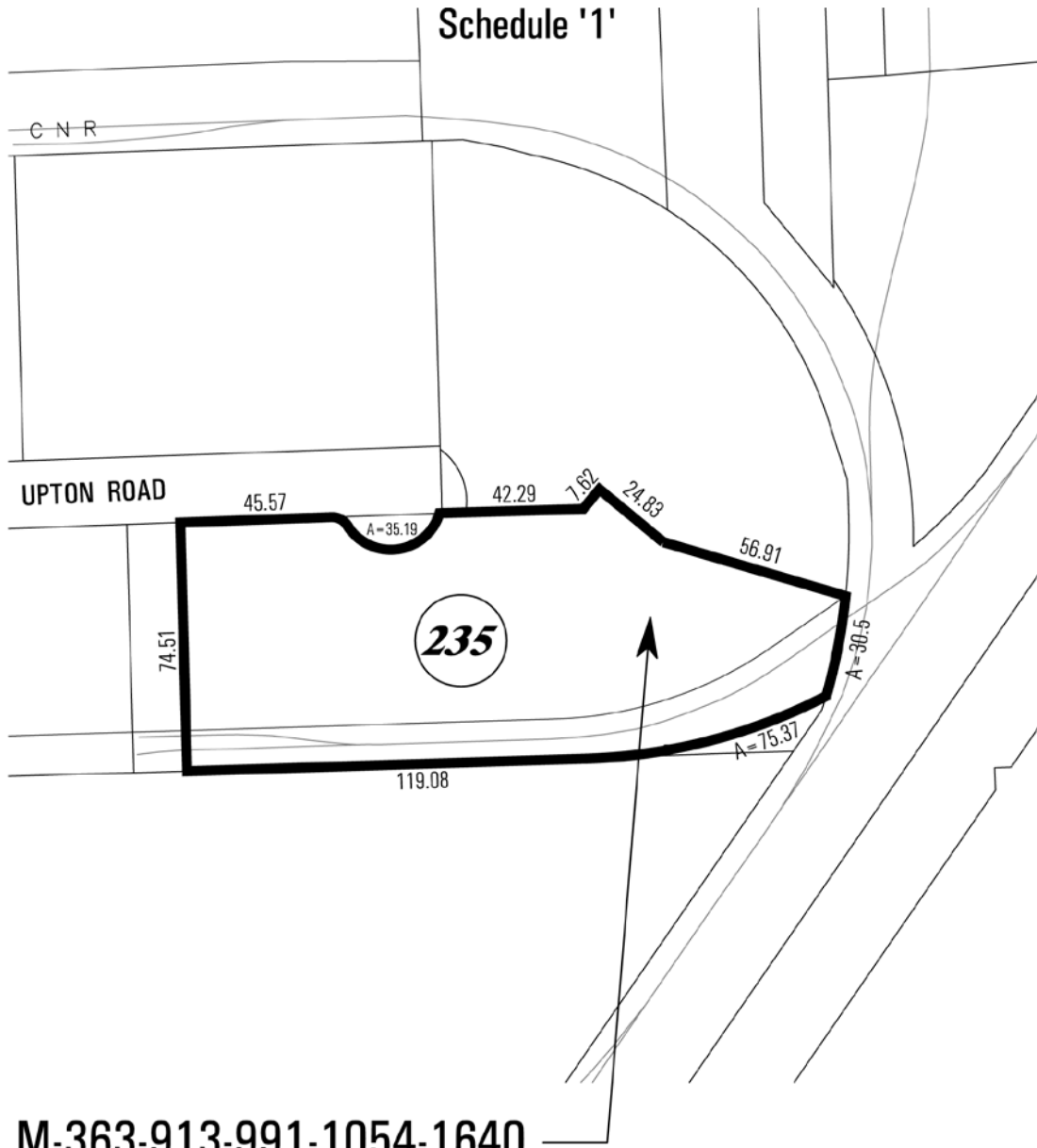
- **Vehicle Service Garages**

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

JOHN TORY,  
Mayor

ULLI S. WATKISS,  
City Clerk

(Corporate Seal)



**Toronto** Urban  
Development Services  
**Zoning By-Law Amendment**

**43 Upton Road**  
File # **15 183871 ESC 35 02**

Area Affected By This By-Law

Golden Mile Employment District Bylaw  
Not to Scale  
12/9/2015

↑

**Attachment 4: Draft Zoning By-law Amendment to City of Toronto By-law 569-2013**

Authority: Scarborough Community Council ##, as adopted by City of Toronto Council on ~, 20~

**CITY OF TORONTO**

**Bill No. ~**

**BY-LAW No. [XXXX- 2014]**

**To amend Zoning By-law No. 569-2013, as amended, with respect to the lands municipally known in the year 2015 as 43 Upton Road**

Whereas Council of the City of Toronto has the authority to pursuant to Section 34 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*; and

The Council of the City of Toronto enacts:

1. The lands subject to this By-law are outlined by heavy black lines on Diagram 1 attached to this By-law;
2. The words highlighted in bold type in this By-law have the meaning provided in Zoning By-law No. 569-2013, Chapter 800 Definitions;
3. Zoning By-law No. 569-2013, as amended, is further amended by amending the zone label on the Zoning By-law Map in Section 990.10 respecting the lands outlined by heavy black lines to E 1.0 (x10), as shown on Diagram 2 attached to this By-law;
8. Zoning By-law No. 569-2013, as amended, is further amended by adding Article 900.20.10 Exception Number 10 so that it reads:

**(10) Exception E 10**

The lands, or a portion thereof as noted below, are subject to the following Site Specific Provisions, Prevailing By-laws and Prevailing Sections.

Site Specific Provisions:

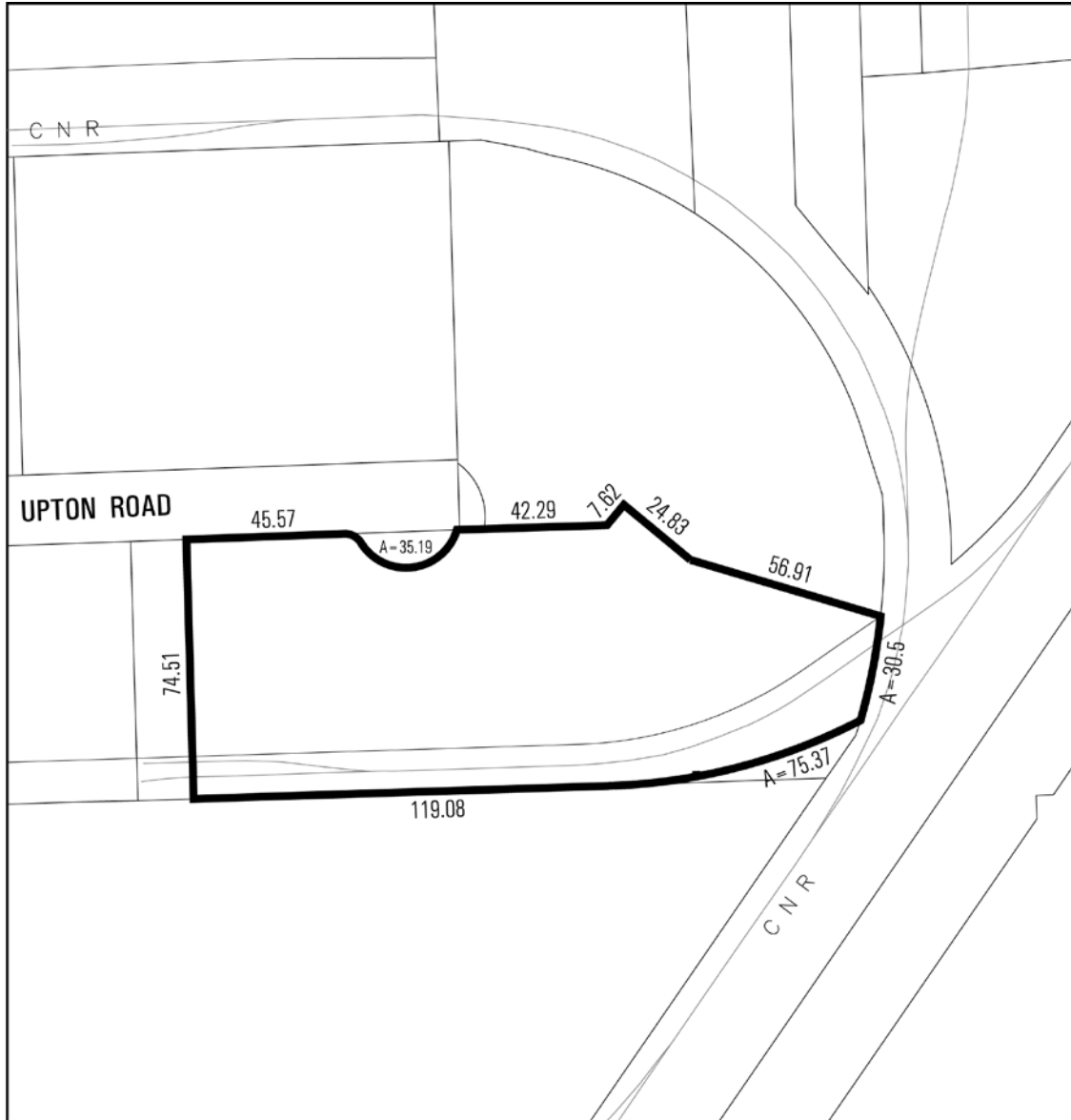
- (A) Despite the uses listed in Article 60.20.20, the following uses are not permitted: building supply yards, dry cleaning or laundry plant, **public works yard.**

Prevailing By-laws and Prevailing Sections: (None Apply)

Enacted and passed on month ##, 20##.

Name,  
Speaker  
(Seal of the City)

Ulli S. Watkiss,  
City Clerk



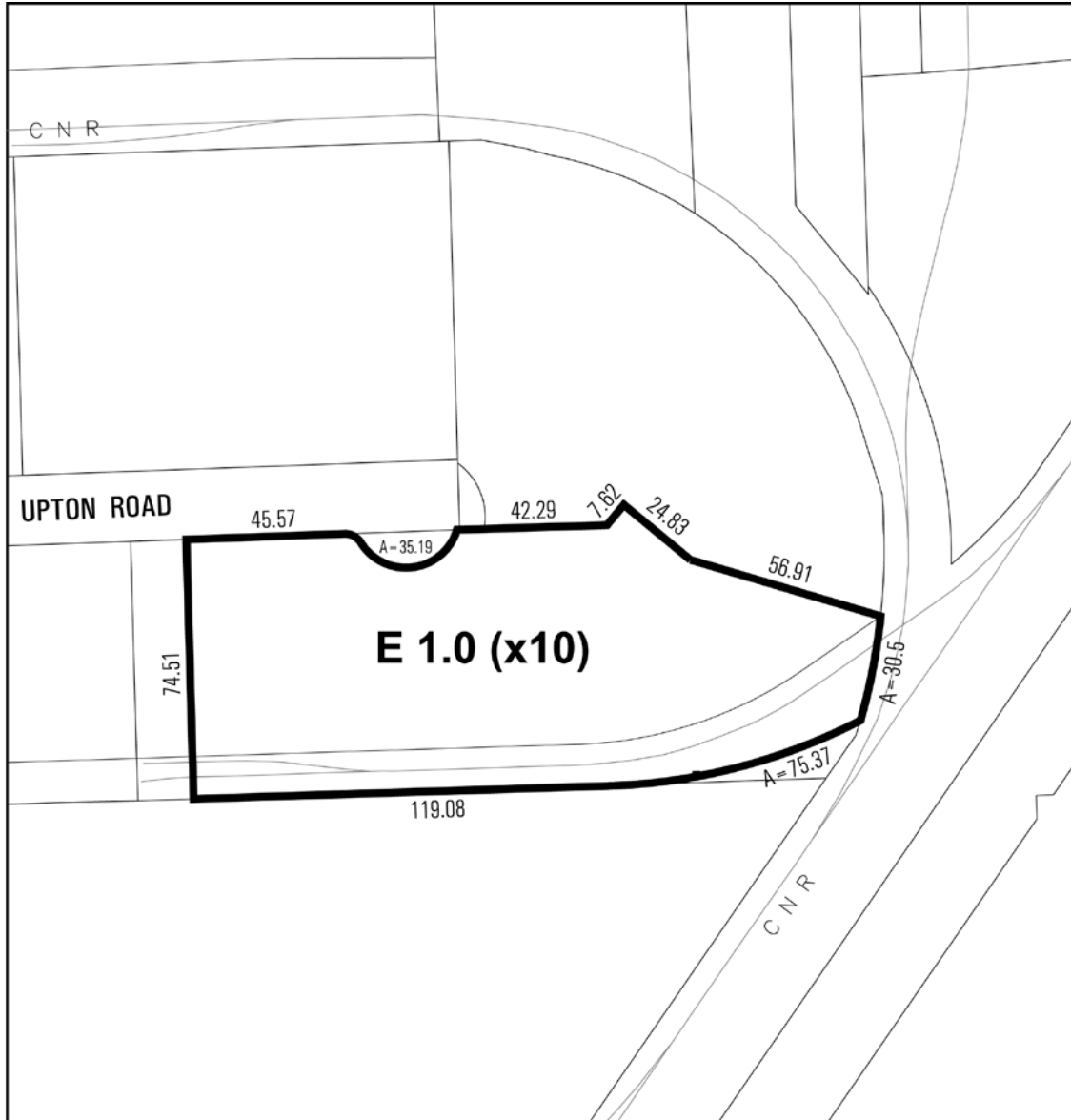
**TORONTO** City Planning  
**Diagram 1**

**43 Upton road**

File # 15 183871 ESC 35 02

City of Toronto By-Law 569-2013  
 Not to Scale  
 12/8/2015





**TORONTO** City Planning  
**Diagram 2**

**43 Upton road**

File # 15 183871 ESC 35 02

City of Toronto By-Law 569-2013  
 Not to Scale  
 12/8/2015