

743 Warden Avenue - Proposed Amendment to Section 37 Agreement

Date: December 20, 2023

To: Scarborough Community Council

From: Director, Community Planning, Scarborough District

Wards: 20 - Scarborough Southwest

Related Planning Application Number: 23 184003 ESC 20 OZ

SUMMARY

This report reviews a request from the owner of the subject lands to adjust terms of construction phasing secured as a legal convenience in a Section 37 agreement to facilitate timely construction of a previously approved residential development. The community benefits secured through the Section 37 Agreement are not subject to the proposed amendment.

A related application was received to lift the Holding symbol (H) for 743 Warden Avenue, specifically Blocks 6-8 on Registered Plan of Subdivision 66M-2549 that are subject to site specific Zoning By-law 528-2016 (OMB). Once satisfactory material has been submitted and the Hold is lifted, an accompanying amendment to the associated Section 37 Agreement is required.

This report recommends that City Council accept this request and authorize the City Solicitor, in consultation with the Chief Planner to amend the Section 37 Agreement registered on title for the lands formerly known as 743 Warden Avenue .

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council authorize the City Solicitor, in consultation with the Chief Planner and Executive Director, City Planning, to amend the Section 37 Agreement, dated December 7, 2015, between the owner and the City registered on title for the lands formerly known as 743 Warden Avenue (AT4254031), to adjust the construction phasing provisions to allow for concurrent construction of final phases on terms further set out in an amending agreement.
2. City Council authorize City officials to take such action as is necessary to implement the recommendations above, including execution of necessary agreement(s).

FINANCIAL IMPACT

The City Planning Division confirms that there are no financial implications resulting from the recommendations included in this report in the current budget year or in future years.

DECISION HISTORY

In November and December, 2013, Official Plan Amendment, Zoning By-law Amendment, Draft Plan of Subdivision and Site Plan Control applications were submitted for the lands at 743 Warden Avenue. The applications sought permission for 202 residential townhouse units, three commercial buildings, a network of public roads and lanes, a public park, and a storm water management pond.

On June 17, 2014 the applicant appealed the applications to the OMB due to the City's lack of decision within the statutory timeframe. At its meeting of August 25, 26, 27 and 28, 2014, City Council directed the City Solicitor, together with other staff, to attend at the OMB in opposition to the proposed application. That decision and background information can be found at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.PG35.10>

At its meeting of July 7, 8 and 9, 2015, City Council adopted the Request for Directions Report with Confidential Attachment, which recommended acceptance of a settlement offer. That decision and background information can be found at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.CC8.2>

The OMB approved, in principle, the draft Official Plan and Zoning By-law Amendments and Draft Plan of Subdivision to re-designate the lands from *Employment Areas* to *Mixed Use Areas* and *Neighbourhoods* as per the recommended settlement.

The final Plan of Subdivision was registered on June 25, 2018 as Registered Plan 66M-2549. Refer to Attachment 4, Plan of Subdivision. Initial phases of development have been constructed as outlined below.

THE SITE

Description: Lands formerly known as 743 Warden Avenue are located on the east side of Warden Avenue, north of St. Clair Avenue East. The site is roughly rectangular in shape and is approximately 6.5 hectares in area. Refer to Attachment 1, Location Map.

Existing Use: Block 20 is a mixed-use block currently under construction; Blocks 21 and 22 are commercial blocks, which have an active site plan application; Block 23 is a stormwater management pond; and block 24 is a public park. Blocks 1-19 and 25 are residential blocks. All blocks are developed with townhouses except Blocks 6-8 (southwest corner of Cleanside Road and Pidgeon Street), which are currently vacant. Refer to Attachment 4, Plan of Subdivision.

PROPOSAL

The site specific zoning by-law (By-law 528-2016 (OMB)) established three primary phases of development: Phase 1 (Blocks 1-5 and 9-20); Phase 2 (Block 21 and/or Block 22); Phase 3 (Blocks 6, 7 and 8); and Phase 4 (the remaining Block 21 or Block 22 if only one of these blocks is constructed as part of Phase 2). Along with the addition of a holding provision to the Zoning By-law for Blocks 6-8, the sequencing of all of these phases were to be further set out in the Section 37 Agreement.

A Section 37 Agreement, dated December 7, 2015, was registered on title for the lands at 743 Warden Avenue (AT4254031) (the "Section 37 Agreement"). In addition to a financial contribution towards a series of potential community benefits, the Section 37 Agreement secured the phasing set out in the zoning amendment as a legal convenience. Specifically, Sections 4.6 and 4.7 of the Agreement included provisions related to the implementation of construction phasing for the lands.

The original objective had been to build in incentive to build out the commercial blocks coincidental to the larger residential component Phase 1 of the development, which is now complete. The request to adjust the construction phasing language in the Section 37 agreement to allow for construction of Blocks 6-8 (Phase 3) to proceed concurrently with Blocks 21 and 22 (Phase 2/4) on certain conditions, rather than subsequent to. The requirements for lifting the Holding provision on the Blocks 6-8 prior to construction of those Blocks would remain unchanged.

Reasons for Application

The registered Section 37 agreement outlines construction phasing for the lands, specifically that Blocks 6-8 (Phase 3) not proceed until Blocks 21 and 22 (Phase 2/4) are under construction. An amendment is being sought to allow construction on residential Blocks 6-8 to proceed concurrently with commercial Blocks 21 and 22.

POLICY CONSIDERATIONS

Provincial Land-Use Policies: All decisions of Council in respect of the exercise of any authority that affects a planning matter shall be consistent with the Provincial Policy Statement (2020), and shall conform to provincial plans, including the Growth Plan (2020) for the Greater Golden Horseshoe, and others.

Official Plan Designation: The subject lands are designated Neighbourhoods. Please see Attachment 2 for an excerpt from the Official Plan land use map.

Secondary Plan: The subject lands are located within the Warden Woods Community Secondary Plan.

Zoning: The subject lands are zoned Townhouse (TH) with associated performance standards under Site Specific Zoning By-law 528-2016 (OMB) and the Warden Woods Community Zoning By-law No. 950-2005, as amended. These lands are not subject to

the City-wide Zoning By-law 569-2013, as amended. Refer to Attachment 3 for an excerpt from the Zoning By-law map.

Site Plan Control: The lands are subject to site plan control. Statement of Approval for the lands was issued on October 31, 2018 under file number 13 275737 ESC 35 SA and a site plan agreement for the development has been registered on title. An extension to the approval will be required before construction proceeds on Blocks 6-8.

Draft Plan of Subdivision: The Plan of Subdivision that created the development blocks, public roads, public park and stormwater management pond was registered on June 25, 2018 as Registered Plan 66M-2549. Refer to Attachment 4, Plan of Subdivision. A Subdivision Agreement, dated March 28, 2017, was entered into and registered on title (AT4908517). A minor amendment to the conditions set out in the subdivision agreement will be required to reflect the change to the construction phasing for Blocks 6-8 as contemplated. The Chief Planner has delegated authority for Plans of Subdivision under By-law 229-2000, as amended.

COMMENTS

The proposal has been reviewed against the policies of the PPS (2020), the Growth Plan (2020) and the Official Plan. Staff are of the opinion that the recommended amendment is consistent with the PPS (2020) and does not conflict with the Growth Plan (2020). Furthermore, the proposed amendment to Section 4.6 Phasing Plan in the Section 37 agreement will allow for the timely construction of Blocks 6-8 to the rear of the lands concurrently with construction on Blocks 21 and 22 fronting Warden Avenue, on which there is an active site plan application under review for a self-storage facility.

The provisions to be included in the updated amendment will require the following for development to advance:

- 1) the Holding Symbol referred to in Exception 22 in Section 8 of the Zoning By-law to have been lifted from Blocks 6-8;
- 2) the extension of Pidgeon Street (a 16.5 metre wide right-of-way) to have been constructed or satisfactory arrangements made to secure its construction; and
- 3) a final building permit for a building on Block 21 and/or Block 22 to have been issued with construction having commenced on those Blocks (or one of those Blocks should only one of those Blocks be constructed as part of Phase 2).

All three of the above matters would be completed to the satisfaction of the Chief Planner and Executive Director, City Planning Division. On these terms and in current context, the phasing objectives of the zoning will be maintained but will allow for the remaining townhouse blocks within the subdivision to be completed providing additional housing in the area.

Holding Provision

Zoning By-law 528-2016 (OMB) that applies to the subject lands contains a holding provision under Section 36 of the *Planning Act*, restricting the proposed use of the lands

until the conditions to lifting the holding provision, as set out in the By-law, are satisfied. Section 5.1.2 of the Official Plan contemplates the use of a holding provision and outlines the types of conditions that may have to be satisfied prior to the removal of a holding provision. The specific conditions to be met prior to the removal of the proposed holding provisions in the proposed By-law include:

- (a) the owner demonstrating to the satisfaction of the Toronto Transit Commission that the development of the affected lands will not adversely impact the Commission's existing and planned facilities and operations in the vicinity; and
- (b) the owner demonstrating to the satisfaction of the Executive Director, Engineering and Construction Services that the necessary road improvement will be implemented.

The Chief Planner and Executive Director and their designates have the authority to make decisions on applications to remove holding provisions. A decision on the related application to lift the H will be made once satisfactory material has been submitted and reviewed.

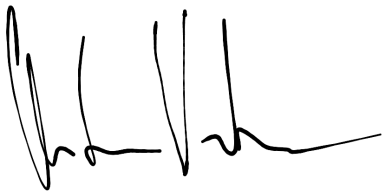
Conclusion

Staff recommend that Council delegate authority to the City Solicitor and Chief Planner and Executive Director to amend the Section 37 Agreement as outlined in this report.

CONTACT

Kelly Dynes, Senior Planner, Community Planning, Scarborough District,
Tel. No. 416-396-4250, E-mail: Kelly.Dynes@toronto.ca

SIGNATURE



Christian Ventresca, MScPI, MCIP, RPP , Director
Community Planning, Scarborough District

ATTACHMENTS

City of Toronto Data/Drawings

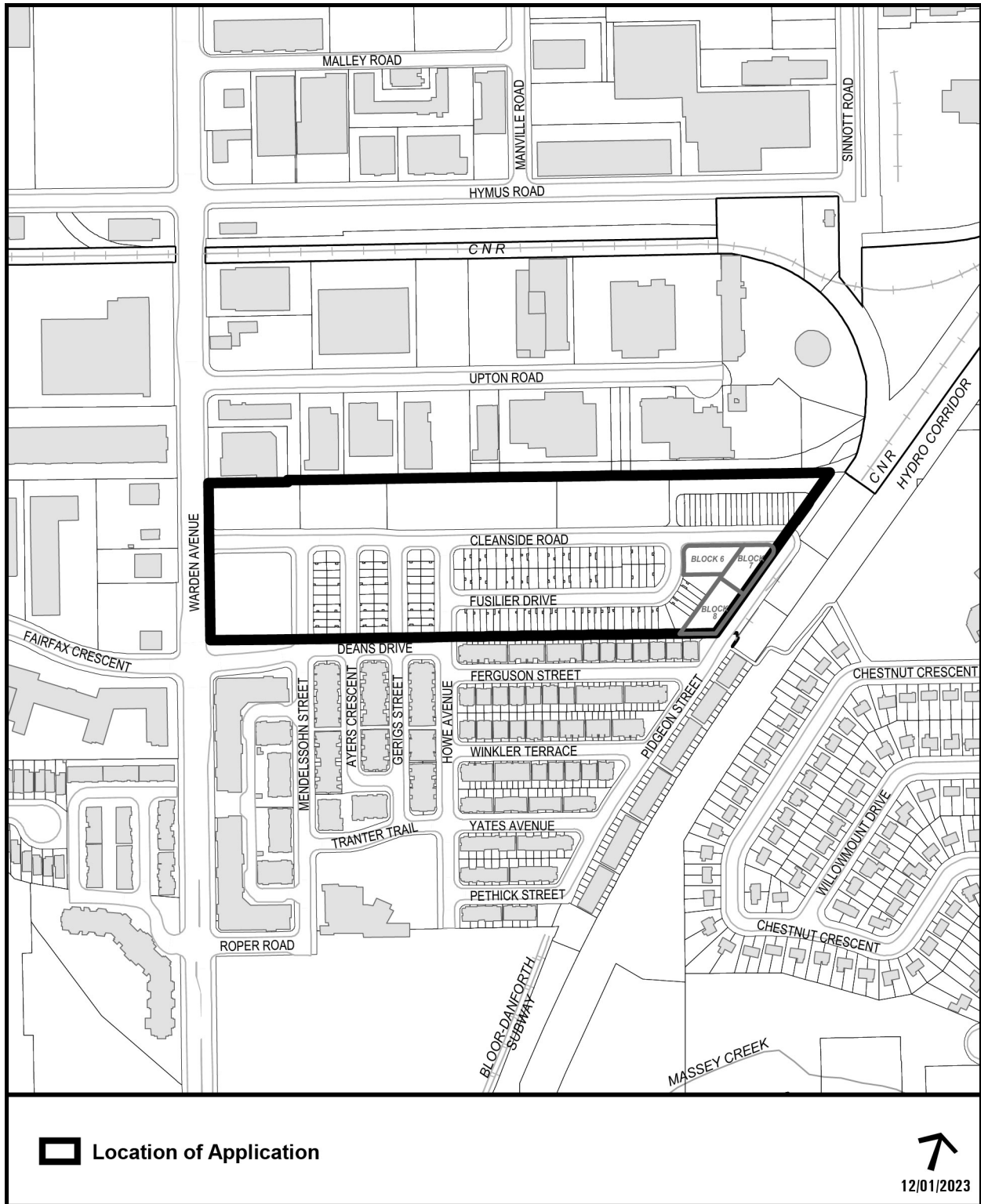
Attachment 1: Location Map

Attachment 2: Official Plan Land Use Map - Blocks 6-8 on Registered Plan 66M-2549

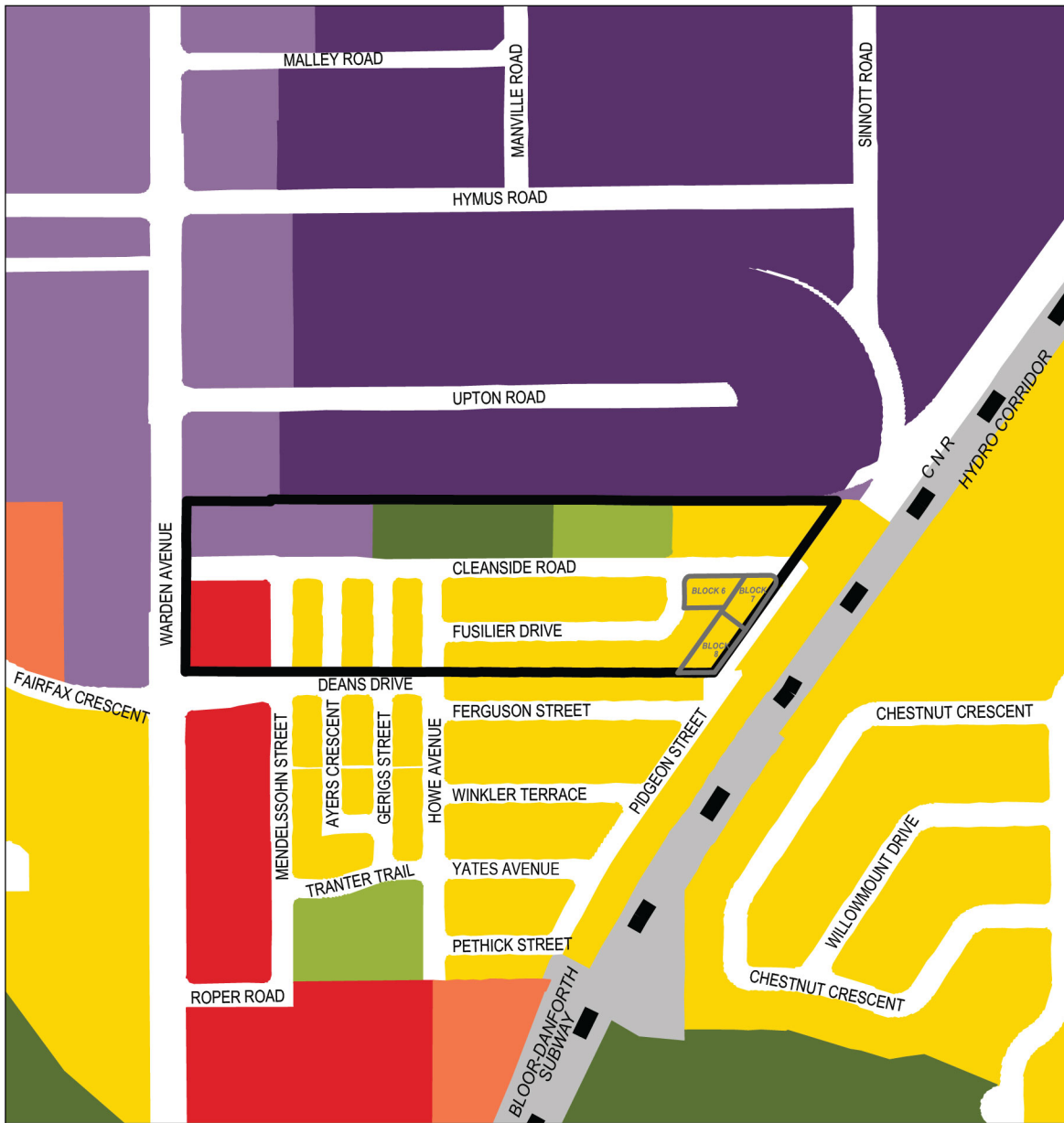
Attachment 3: Existing Zoning By-law Map - Blocks 6-8 on Registered Plan 66M-2549

Attachment 4: Registered Plan of Subdivision 66M-2549

Attachment 1: Location Map












Attachment 2: Official Plan Land Use Map - Blocks 6-8 on Registered Plan 66M-2549



743 Warden Avenue

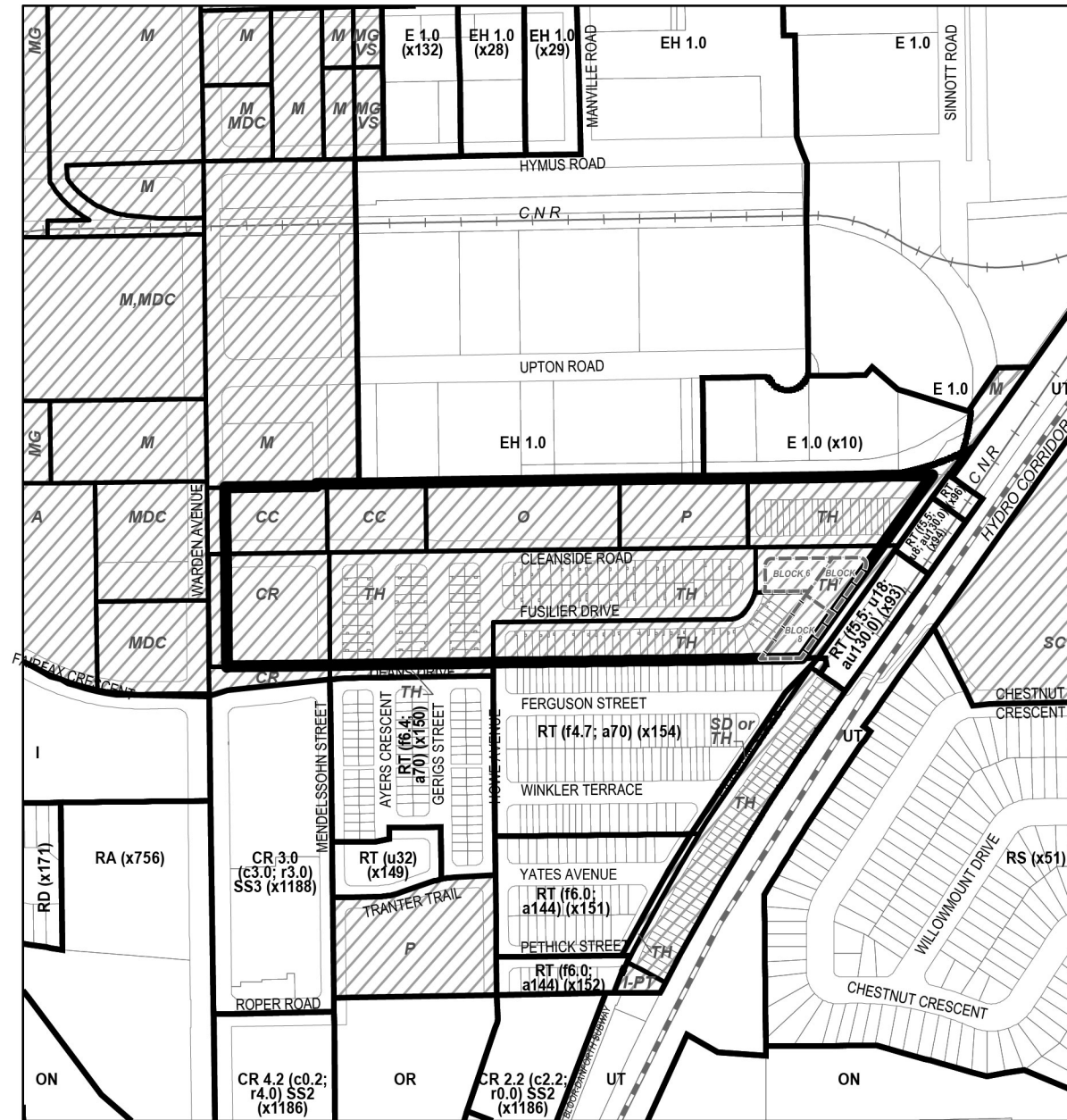
Official Plan Land Use Map 20

File # 23 184003 ESC 20 0Z

 Location of Application	 Natural Areas	 General Employment Areas
 Neighbourhoods	 Parks	 Core Employment Areas
 Apartment Neighbourhoods	 Utility Corridors	
 Mixed Use Areas		

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Not to Scale
12/01/2023

Attachment 3: Existing Zoning By-law Map - Blocks 6-8 on Registered Plan 66M-2549



Zoning By-law 569-2013

743 Warden Avenue

File # 23 184003 ESC 20 0Z

	Location of Application		See Former City of Scarborough Community By-laws Birchmount Park No.9174, Clairlea No.8978, Warden Woods Community No.950-2005 and Golden Mile Employment District By-law No.24982
RD	Residential Detached	SD	Semi-Detached Residential
RS	Residential Semi-Detached	TH	Townhouse Residential
RT	Residential Townhouse	A	Apartment Residential
RA	Residential Apartment	CR	Commercial-Residential
CR	Commercial Residential	SC	School
E	Employment Industrial	I	Institutional Uses
I	Institutional	P	Park
IH	Institutional Hospital	O	Major Open Spaces
ON	Open Space Natural	PU	Public Utilities
OR	Open Space Recreation	I-PT	Institutional - Public Transit Zone
UT	Utility and Transportation	CC	Community Commercial Zone
EH	Employment Heavy Industrial	ME	Mixed Employment Zone
		M	Industrial Zone
		MDC	Industrial District Commercial Zone
		MG	General Industrial Zone
		VS	Vehicle Service Zone

Not to Scale
Extracted: 12/01/2023

Attachment 4: Registered Plan of Subdivision 66M-2549

