

Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: November 29, 2024

CASE NO.: OLT-22-003831

PROCEEDING COMMENCED UNDER subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant: 1107656 Ontario Inc. (Times Group)
Subject: Request to amend the Official Plan – Failure to adopt the requested amendment
Description: To permit the development of 6 residential buildings with a total of 2,603 condominium units, an elementary school and a 3-storey commercial building with a total floor area of 9,800 square metres (105,487 square feet)
Reference Number: PLAN 20 128679
Property Address: Blocks 46 and Part of Block 49, Plan 65M-3226, southwest corner of Highway 7 and South Park Road, City of Markham
Municipality/UT: City of Markham/ Regional Municipality of York
OLT Case No.: OLT-22-003831
OLT Lead Case No.: OLT-22-003831
OLT Case Name: 1107656 Ontario Inc. (Times Group) v. Markham (City)

PROCEEDING COMMENCED UNDER subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant/Appellant: 1107656 Ontario Inc. (Times Group)
Subject: Application to amend the Zoning By-law – Neglect to make a decision
Description: To permit the development of 6 residential buildings with a total of 2,603 condominium units, an elementary school and a 3-storey commercial building with a total floor area of 9,800 square metres (105,487 square feet)
Reference Number: PLAN 20 128679
Property Address: Blocks 46 and Part of Block 49, Plan 65M-3226, southwest corner of Highway 7 and South Park Road, City of Markham
Municipality/UT: City of Markham/ Regional Municipality of York
OLT Case No.: OLT-22-003832
OLT Lead Case No.: OLT-22-003831

BEFORE:

| | | |
|----------------|---|-------------------------------------|
| W. DANIEL BEST |) | Friday, the 29 th day of |
| MEMBER |) | November, 2024 |

THIS MATTER having come on for a public hearing and the Tribunal, in its Decision issued on February 13, 2024, having withheld its Final Order pending receipt of the final form of the Planning Instruments, confirmed to be satisfactory by the City of Markham and 1107656 Ontario Inc. (Times Group);

THE TRIBUNAL ORDERS that the appeal with respect to the Official Plan Amendment is allowed, in part, and the Official Plan for the City of Markham is amended as set out in Attachment “1” to this Order;

AND THE TRIBUNAL ORDERS that the appeal with respect to the Zoning By-law Amendment is allowed, in part, and the City of Markham Zoning By-law 2004-196, as amended, is hereby amended in the manner attached hereto as Attachment “2”. The Tribunal authorizes the municipal clerk to assign a number to this By-law for record keeping purposes.

“Euken Lui”

EUKEN LUI
ACTING REGISTRAR

Ontario Land Tribunal

Website: olt.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

The Conservation Review Board, the Environmental Review Tribunal, the Local Planning Appeal Tribunal and the Mining and Lands Tribunal are amalgamated and continued as the Ontario Land Tribunal (“Tribunal”). Any reference to the preceding tribunals or the former Ontario Municipal Board is deemed to be a reference to the Tribunal.

Attachment "1"

CITY OF MARKHAM

OFFICIAL PLAN AMENDMENT NO. XXX

To amend the City of Markham Official Plan 2014, as amended.

(Times Group Corporation)

CITY OF MARKHAM**OFFICIAL PLAN AMENDMENT NO. XXX**

To amend the City of Markham Official Plan 2014, as amended.

This Official Plan Amendment was adopted by the Corporation of the City of Markham, By-law No. 20XX-XX in accordance with the *Planning Act*, R.S.O., 1990 c. P.13, as amended, on the XX day of November 2024.

Kimberley Kitteringham
City Clerk
(Signed)

Frank Scarpitti
Mayor



By-law 2024-XX

Being a by-law to adopt Amendment No. XXX
to the City of Markham Official Plan 2014, as amended

THE COUNCIL OF THE CORPORATION OF THE CITY OF MARKHAM, IN ACCORDANCE WITH THE PROVISIONS OF THE *PLANNING ACT*, R.S.O., 1990 HEREBY ENACTS AS FOLLOWS:

1. THAT Amendment No. XXX to the City of Markham Official Plan 2014, as amended, attached hereto, is hereby adopted.
2. THAT this by-law shall come into force and take effect on the date of the final passing thereof.

READ A FIRST, SECOND AND THIRD TIME AND PASSED THIS XXth DAY OF NOVEMBER 2024.

Kimberley Kitteringham
City Clerk
(Signed)

Frank Scarpitti
Mayor

CONTENTS

| | |
|--|----|
| <u>PART I – INTRODUCTION</u> | 9 |
| <u>1.0 GENERAL</u> | 9 |
| <u>2.0 LOCATION</u> | 9 |
| <u>3.0 PURPOSE</u> | 9 |
| <u>4.0 BASIS OF THIS OFFICIAL PLAN AMENDMENT</u> | 9 |
| <u>PART II – THE OFFICIAL PLAN AMENDMENT</u> | 12 |
| <u>1.0 THE OFFICIAL PLAN AMENDMENT</u> | 12 |
| <u>2.0 IMPLEMENTATION AND INTERPRETATION</u> | 14 |
| 3.0 SCHEDULE "A" | |
| 4.0 SCHEDULE "B" | |
| 5.0 SCHEDULE "C" | |

PART I – INTRODUCTION

(This is not an operative part of the Official Plan Amendment No. XXX)

PART I – INTRODUCTION

GENERAL

- 1.1. PART I – INTRODUCTION, is included for information purposes and is not an operative part of this Official Plan Amendment.
- 1.2. PART II – THE OFFICIAL PLAN AMENDMENT, constitutes Official Plan Amendment No. XXX to the City of Markham Official Plan 2014, as amended. Part II is an operative part of this Official Plan Amendment.

LOCATION

This Amendment applies to 6.9 hectares (17.0 acres) of land municipally known as Block 46 and Part of Block 49, Registered Plan 65M-3226 (the “Subject Lands”). The Subject Lands are located on the south side of Highway 7 East, between South Park Road and Bayview Avenue in the Leitchcroft community.

PURPOSE

The purpose of this Amendment is to provide for maximum building heights of 34 to 50 storeys, with a maximum overall density of up to 9.5 Floor Space Index (FSI) within the ‘Mixed Use High Rise’ designation on the subject lands as an Area and Site-Specific Policy. An Area and Site-Specific Policy will also be revised to secure a public elementary school site in the Leitchcroft community.

BASIS OF THIS OFFICIAL PLAN AMENDMENT

[1] The Subject Lands are designated Business Park Office Priority Employment, Residential Mid Rise and Deferral Area in the 2014 Official Plan, as amended. The Business Park Office Priority Employment designation provides for prestige office as well as retail and service uses that are accessory to permitted non-industrial uses. The ‘Residential Mid Rise’ designation provides for residential buildings with a maximum building height of 6 storeys.

[2] Markham Council adopted a modification to the 2014 Official Plan, as amended in June 2017 which was subsequently approved by the Ontario Municipal Board in November 2017 and is now in effect on the Subject Lands. The modification implemented an employment lands conversion subject to satisfying site-specific policies, which deferred the employment land use designation.

[3] An amendment to the 2014 Official Plan is required to provide for the residential uses, limited retail and service uses adjacent to Highway 7 East, building heights of up to 50 storeys and an overall 5.0 Floor Space Index (FSI), as the 2014 Official Plan currently permits a maximum building height of 15 storeys and a 2.5 Floor Space Index (FSI) within the ‘Mixed Use High Rise’ designation. An Area and Site

Specific Policy will also be revised with respect to securing a public elementary school site in the Leitchcroft community.

[4] The proposed development is consistent with the Provincial Policy Statement, 2020, conforms to A Place to Grow: Growth Plan for the Greater Golden Horseshoe 2019, and the 2022 York Region Official Plan.

[5] An associated Zoning By-law amendment is also required to implement the new Official Plan land use designation and development standards, including the height permission and Floor Space Index (FSI

[6]

PART II – THE OFFICIAL PLAN AMENDMENT

1.0 THE OFFICIAL PLAN AMENDMENT

1.1 The following Maps of Part 1 of the Official Plan 2014, as amended, are hereby amended as follows:

a) Map 1 - Markham Structure and Map 2 - Centres and Corridors and Transit Network is amended by replacing a portion of the 'Employment Area' component with a 'Neighbourhood Area' component as shown on Schedule 'A' attached hereto.

b) Map 3 - Land Use is amended by redesignating the Subject Lands from the "Business Park Office Priority Employment" and "Residential Mid-Rise" designations to the "Mixed-Use High-Rise" designation, as shown in Schedule 'B' attached hereto.

c) Map 14 - Public School, Place of Worship and Park Sites is amended by adding a park site and identifying a modified location for a public school site as shown on Schedule 'C' attached hereto.

1.2 Section 9.6.4 of the Official Plan 2014, as amended is hereby amended by deleting and replacing it with the following:

"9.6.4

The following provisions shall apply to the lands designated 'Business Park Office Priority Employment' shown on Figure 9.6.4:

a) the following uses shall also be permitted:

- i. entertainment use such as cinemas and theatres, motion simulation rides, laser games and similar types of uses;
- ii. recreational use such as bowling alleys, curling rinks, billiard halls or similar indoor leisure activities;
- iii. retail, service, banquet hall and night club;
- iv. grocery store and supermarket;
- v. private school;
- vi. commercial school;

b) future development of the lands shall be subject to a transportation impact assessment confirming the associated traffic volumes and movements can be accommodated to the satisfaction of Markham; and,

c) in considering an application for development approval on the lands, a comprehensive block plan shall be prepared in accordance with Section 10.1.4 of this Plan."

1.3 Section 9.6.5 of the Official Plan 2014, as amended is hereby amended by deleting and replacing it with the following:

"Section 9.6.5 Southwest Corner of Highway 7 and South Park Road

The following provisions shall apply to the lands outlined in Figure 9.6.5:

a) future development of the lands shall be subject to a transportation impact assessment confirming the associated traffic volumes and movements can be accommodated to the satisfaction of Markham; and,

b) in considering an application for development approval on the lands, a comprehensive block plan shall be prepared in accordance with Section 10.1.4 of this Plan.

c) The following height and density provisions shall apply to the 'Mixed-Use High Rise' lands located on the southwest corner of Highway 7 and South Park Road as shown in hatching on Figure 9.6.5:

- i. the maximum building height shall be in accordance with the maximum number of storeys shown in Figure 9.6.5
- ii. the total *floor space index* of all buildings on the lands shall not exceed 9.5.

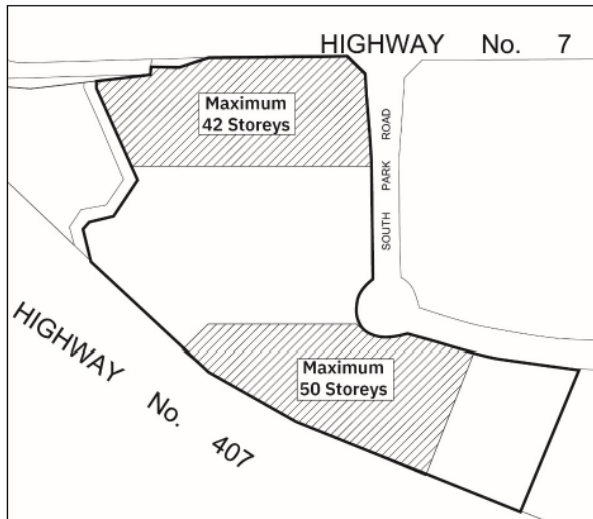


Figure 9.6.5"

1.4 Section 9.6.9 of the Official Plan 2014, as amended is hereby amended by deleting and replacing it with the following:

"9.6.9 Public School Site

A public school site for the Leitchcroft district as generally identified in Figure 9.6.9 and on Map 14 – Public School, Place of Worship and Park Sites shall be secured through the development approval process, to the satisfaction of the York Region District School Board and the City of Markham.

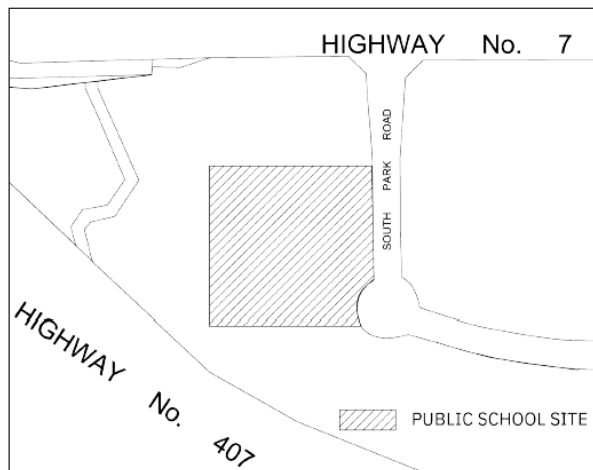


Figure 9.6.9"

IMPLEMENTATION AND INTERPRETATION

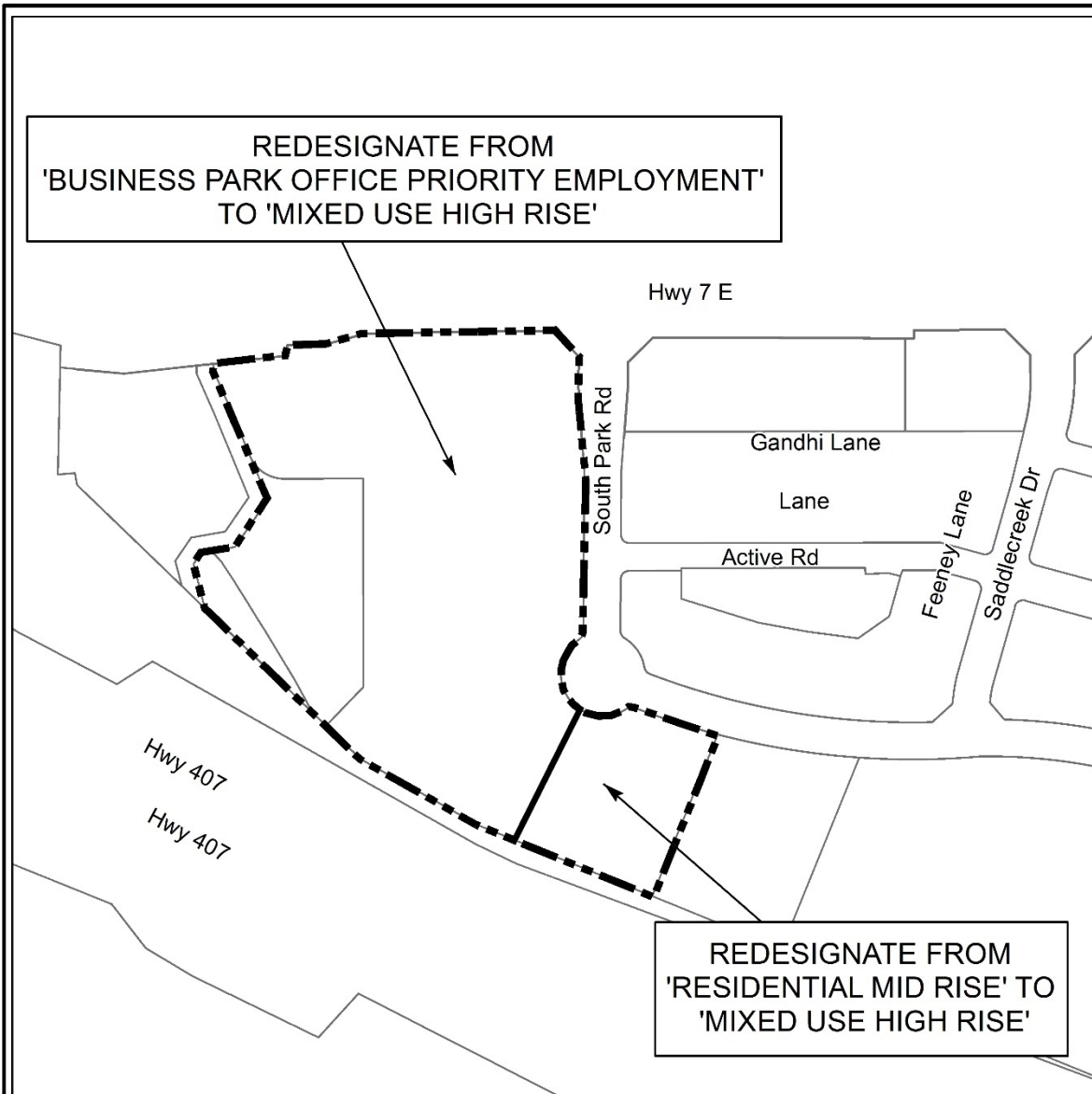
The provisions of the City of Markham 2014 Official Plan, as amended, regarding the implementation and interpretation of the Plan, shall apply in regard to this Amendment, except as specifically provided for in this Amendment.

This Amendment shall be implemented by an amendment to the Zoning By-law and Site Plan approval and other Planning Act approvals, in conformity with the provisions of this Amendment.



This Amendment to the City of Markham Official Plan 2014, as amended, is exempt from approval by the Region of York. Following adoption of the Amendment, notice of Council's decision will be given in accordance with the Planning Act, and the decision of Council is final, if a notice of appeal is not received before or on the last day for filing an appeal.

Prior to Council's decision becoming final, this Amendment may be modified to incorporate technical amendments to the text and associated figure(s) and schedule(s). Technical amendments are those minor changes that do not affect the policy or intent of the Amendment. The notice provisions of Section 10.7.5 of the 2014 Markham Official Plan, as amended, shall apply.

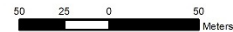
Schedule "A"




AMENDMENT TO MAP 3 – LAND USE
CITY OF MARKHAM OFFICIAL PLAN 2014, AS AMENDED

-  BOUNDARY OF AREA COVERED BY THIS AMENDMENT
-  BOUNDARY OF AREA OF REDESIGNATION

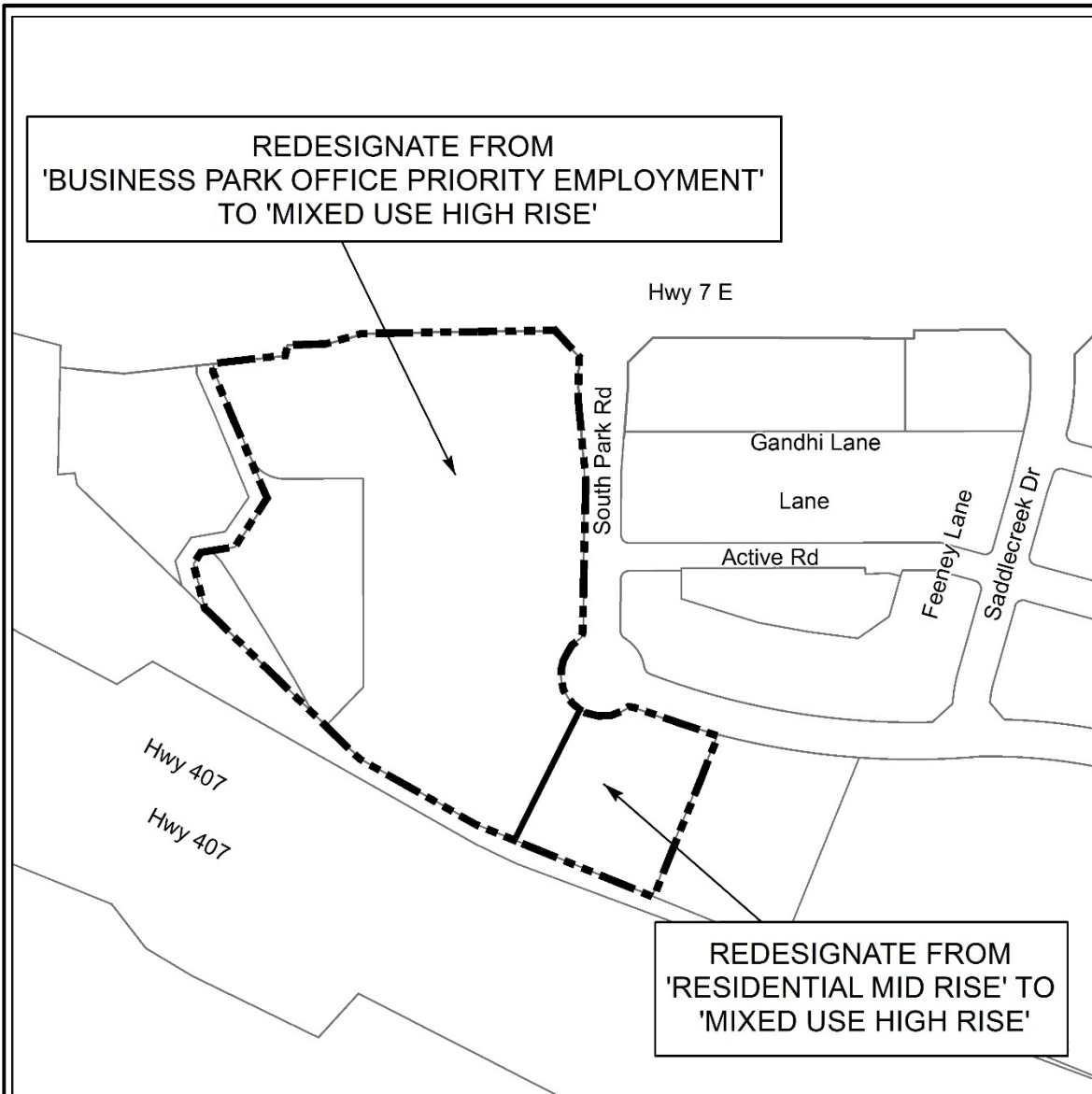
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
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|  DEVELOPMENT SERVICES COMMISSION | Schedule B to OPA No.XXX | Drawn By: BE | Checked By: RC | DATE: 07/15/2024 |
|---|--------------------------|--------------|----------------|------------------|

NOTE: This Schedule should be read in conjunction with the signed original By-Law filed with the City of Markham Clerk's Office

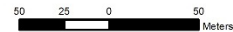
Schedule "B"




**AMENDMENT TO MAP 3 – LAND USE
CITY OF MARKHAM OFFICIAL PLAN 2014, AS AMENDED**

-  BOUNDARY OF AREA COVERED BY THIS AMENDMENT
-  BOUNDARY OF AREA OF REDESIGNATION

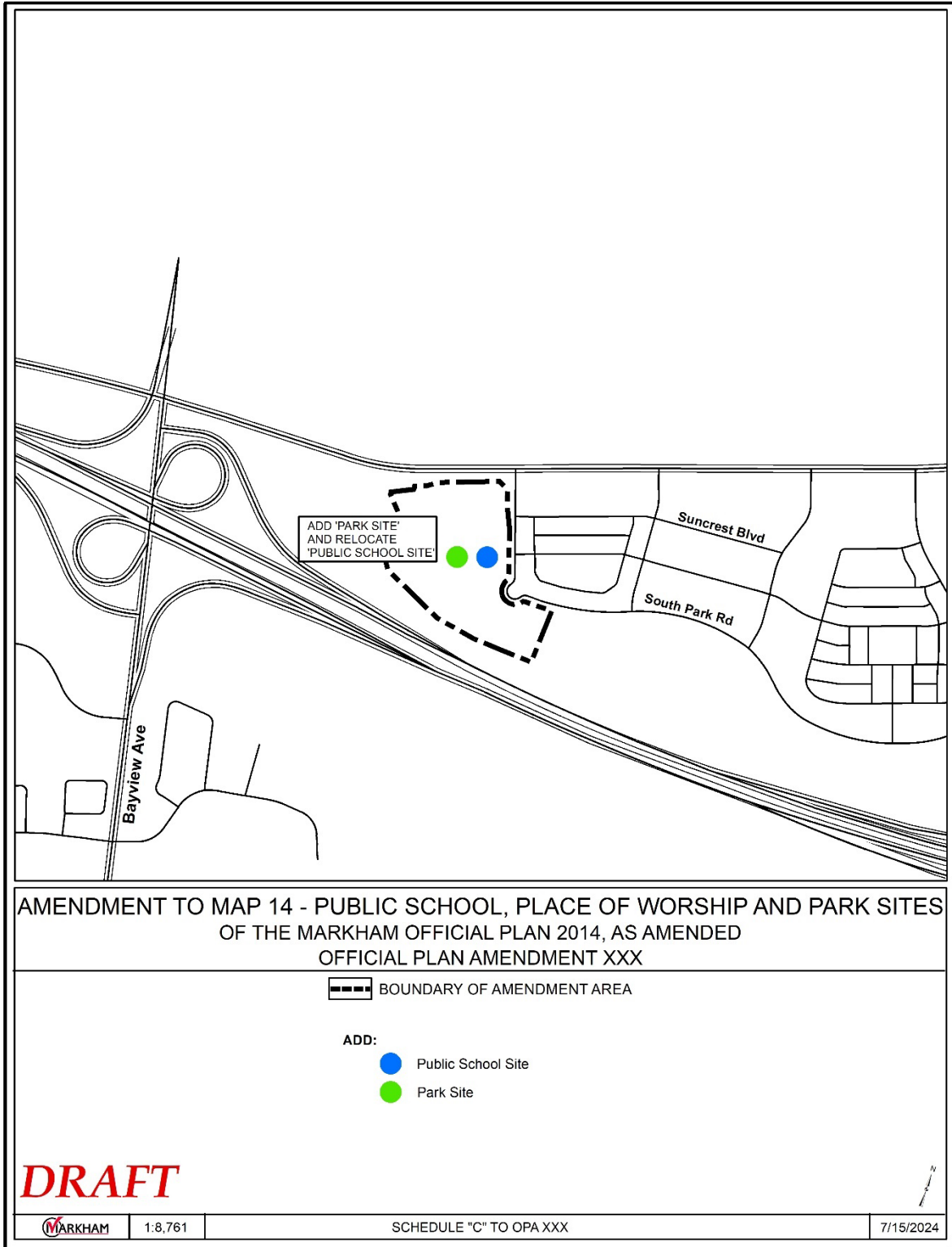
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|---|--------------------------|--------------|----------------|------------------|
|  DEVELOPMENT SERVICES COMMISSION | Schedule B to OPA No.XXX | Drawn By: BE | Checked By: RC | DATE: 07/15/2024 |
|---|--------------------------|--------------|----------------|------------------|

NOTE: This Schedule should be read in conjunction with the signed original By-Law filed with the City of Markham Clerk's Office

Schedule "C"



Attachment "2"

EXPLANATORY NOTE**BY-LAW NO. 2024-XX**

A By-law to amend By-law 177-96, as amended.

Times Group Corporation

Block 46 and Part of Blocks 45 and 49, Plan 65M-3226

South of Highway 7, between Bayview Avenue and Saddlecreek Drive

PLAN 20 128679

LANDS AFFECTED

This by-law applies to properties located on the south side of Highway 7, between Bayview Avenue and Saddle Creek Drive measuring approximately 3.2 hectares (8.0 acres).

EXISTING ZONING

The subject lands are zoned Business Park*34 [BP*34 (H)] Zone, Business Park*36*49 [BP*36*49 (H)] Zone, Business Corridor*37 [BC*37 (H)] Zone, Business Corridor*37*49 [BC*37*49 (H)] Zone, and Residential Two – Lane Access*583 [R2-LA*583] Zone under Bylaw 177-96, as amended.

PURPOSE AND EFFECT

The purpose and effect of this By-law is to rezone the subject lands under By-law 177-96, as amended as follows:

from:

Business Park*34 [BP*34 (H)] Zone

Business Park*36*49 [BP*36*49 (H)] Zone

Business Corridor*37 [BC*37 (H)] Zone

Business Corridor*37*49 [BC*37*49 (H)] Zone

Residential Two – Lane Access*583 [R2-LA*583] Zone

to:

Community Amenity Two *776 Hold [CA2*776 (H)] Zone

Community Amenity Two *777 Hold [CA2*777 (H)] Zone

Business Park*36*49 Hold [BP*36*49] Zone

Open Space One (OS1) Zone

Open Space Two (OS2) Zone

in order to permit a high density mixed-use development on the lands comprised of six apartment towers with heights ranging between 34 and 50 storeys joined by podiums. The development also includes two parks and a school block. This zoning bylaw amendment also includes site-specific provisions to permit the development of a supermarket within the Leitchcroft community.

BY-LAW 2024-XX**A by-law to amend 177-96, as amended.**

The Council of the Corporation of the city of Markham hereby enacts as follows:

1. THAT Zoning By-law 177-96, as amended, is hereby further amended as it applies to the lands outlined on Schedule 'A', as follows:

- 1.1 By rezoning the lands outlined on Schedule 'A' attached hereto

from:

Business Park*34 [BP*34 (H)] Zone

Business Park*36*49 [BP*36*49 (H)] Zone

Business Corridor*37 [BC*37 (H)] Zone

Business Corridor*37*49 [BC*37*49 (H)] Zone

Residential Two – Lane Access*583 [R2-LA*583] Zone

to:

Community Amenity Two *776 Hold [CA2*776 (H)] Zone

Community Amenity Two *777 Hold [CA2*777 (H)] Zone

Business Park*36*49 [BP*36*49] Zone

Open Space One (OS1) Zone

Open Space Two (OS2) Zone

- 1.2 By adding the following subsections to Section 7 – EXCEPTIONS:

| Exception 7.776 | Times Group Corporation South of Highway 7, between Bayview Avenue and South Park Road | Parent Zone CA2 |
|--|---|----------------------------|
| File ZA 20 128679 | | Amending By-law 2024-XX |
| Notwithstanding any other provisions of this By-law, the following provisions shall apply to the land denoted by the symbol *X1 on the schedules to this By-law. All other provisions, unless specifically modified/amended by this section, continue to apply to the lands subject to this section. | | |
| 7.776.1 Special Zone Standards | | |
| The CA2 Zone standards in Table B7 do not apply. The following special zone standards shall apply: | | |
| a) | The lot line abutting Highway 7 shall be deemed to be the front lot line | |
| b) | Maximum <i>building height</i> – 143 metres | |
| c) | Maximum number of <i>dwelling units</i> – 1,175 | |
| d) | Minimum <i>front yard</i> – 1.0 metres | |
| f) | Minimum <i>exterior side yard</i> – 1.0 metres | |
| g) | Minimum <i>rear yard</i> – 2.0 metres | |
| h) | Minimum setback from a daylighting triangle – 0.0 m | |
| i) | Minimum <i>landscaped open space</i> – 5% | |
| j) | Maximum <i>Floor Space Index</i> – 10.7 | |
| k) | Encroachments into all yards by architectural features, terraces, roof overhangs, eaves, cornices, sills, rainwater leaders, canopies, porches, architectural wing walls, ramps, retaining walls, shafts, balconies, underground cellars, underground parking garage, underground storage lockers, underground bicycle racks and rooms, underground mechanical and service rooms, stairs and landings shall be set back 0.0 metres from any <i>lot line</i> . | |
| l) | In the calculation of height, mechanical features, such as but not limited to structures containing the equipment necessary to control an elevator, and any ornamental roof construction features including towers, steeples, parapets or cupolas are permitted to project a maximum of 8.0 metres above the highest point of the roof surface, regardless of the height of the building. | |
| m) | The minimum permitted podium height along Highway 7 to a depth of 10.5 metres shall be 10.5 metres; and the maximum permitted podium height shall be 4 storeys. | |
| n) | The minimum first storey height for any commercial uses along Highway 7 to a depth of 7.5 metres (excluding parking for commercial uses) along Highway 7 shall be 7.5 metres and the portion of the first storey above 4.2 metres shall not be deemed an additional storey. | |

| | |
|---|---|
| 7.776.2 | Special Parking Provisions |
| The following parking provisions apply: | |
| a) | A minimum of one loading space is required. |

| | | |
|--|---|----------------------------|
| Exception 7.777 | Times Group Corporation South of Highway 7, between Bayview Avenue and South Park Road | Parent Zone CA2 |
| File ZA 20 128679 | | Amending By-law 2024-XX |
| Notwithstanding any other provisions of this By-law, the following provisions shall apply to the land denoted by the symbol *X2 on the schedules to this By-law. All other provisions, unless specifically modified/amended by this section, continue to apply to the lands subject to this section. | | |
| 7.777.1 Special Zone Standards | | |
| The CA2 Zone standards in Table B7 do not apply. The following special zone standards shall apply: | | |
| a) | The lot line abutting South Park Road shall be deemed to be the front lot line | |
| b) | Maximum <i>building height</i> – 165 metres | |
| c) | Maximum number of <i>dwelling units</i> – 1,440 | |
| d) | Minimum <i>front yard</i> – 1.5 metres | |
| e) | Minimum <i>interior side yard</i> – 5.0 metres | |
| f) | Minimum <i>rear yard</i> – 14.0 metres | |
| g) | Minimum <i>landscaped open space</i> – 25% | |
| h) | Maximum <i>Floor Space Index</i> – 8.7 | |
| i) | Encroachments into all yards by architectural features, terraces, roof overhangs, eaves, cornices, sills, rainwater leaders, canopies, porches, architectural wing walls, ramps, retaining walls, shafts, balconies, underground cellars, underground parking garage, underground storage lockers, underground bicycle racks & rooms, underground service & mechanical rooms, stairs and landings shall be set back 0.0 metres from any <i>lot line</i> . | |
| j) | In the calculation of height, mechanical features, such as but not limited to structures containing the equipment necessary to control an elevator, and any ornamental roof construction features including towers, steeples, parapets or cupolas are permitted to project a maximum of 8.0 metres above the highest point of the roof surface, regardless of the height of the building. | |

1.1 By adding the following subsections to Section 2.5 – HOLDING PROVISIONS:

“Holding Provision in the Leitchcroft Community (By-law 2024-XX)

The Holding provision (H) applying to those lands within the Leitchcroft Community as shown on Schedule A1, shall not be lifted until the following conditions have been met:

- i) The Owner is required to make satisfactory arrangements, including execution of Site Plan Agreement (or Development Agreement or any other such agreement to the satisfaction of the City) for construction of municipal road and services at no cost to the City and provide financial securities, submit detailed engineering drawings, pay required fees in accordance with the latest Fee By-law, provide insurance, as required, to the satisfaction of Director of Engineering;
- ii) Update the Transportation Impact Study prepared by NexTrans (dated October 2023) to the satisfaction of the City; and,
- iii) The Owner is required to demonstrate that construction has commenced on Part of Block 45 prior to applying for any above grade building permits for any other portion of Blocks 46 and 49.

1.2 By deleting and replacing 'Section 7.36.1 Additional permitted uses' to state the following:

- a) *Art galleries*
- b) *Commercial fitness centres*
- c) *Libraries*
- d) *Museums, private*
- e) *Places of amusement*
- f) *Private clubs*
- g) *Restaurants, take-out*
- h) *Retail store*
- i) *Schools, commercial*
- j) *theatres*
- k) *Supermarket*
- l) *Pharmacy*

Provided that:

- i) there is no outdoor storage and outdoor display and sales
- ii) A supermarket shall have a minimum Gross Floor Area of 2,787 square metres.

1.3 Section 7.36.2 f) is deleted.

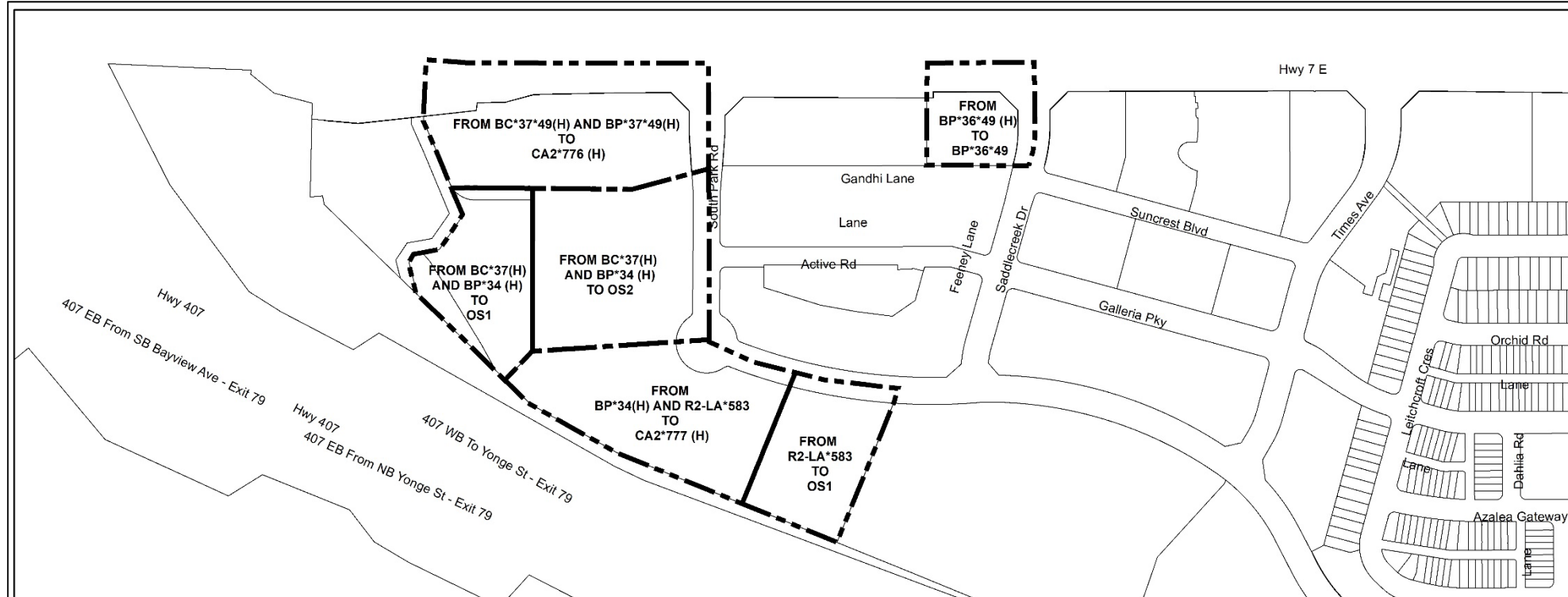
2. All other provisions of By-law 177-66, as amended not inconsistent with the provisions of this by-law shall continue to apply.

Read and first, second and third time and passed on November __, 2024.

Kimberly
Kitteringham City
Clerk

Frank Scarpitti
Mayor

Schedule "A"



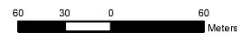
SCHEDULE 'A' TO BY-LAW

AMENDING BY-LAW 177-96 DATED

| | | |
|---|---|---|
| <p>--- BOUNDARY OF AREA COVERED BY THIS SCHEDULE</p> <p>OS1 OPEN SPACE ONE</p> <p>OS2 OPEN SPACE TWO</p> <p>CA2 COMMUNITY AMENITY TWO</p> | <p>--- BOUNDARY OF ZONE DESIGNATION(S)</p> <p>BP BUSINESS PARK</p> <p>BC BUSINESS CORRIDOR</p> <p>R2-LA RESIDENTIAL TWO - LANE ACCESS</p> | <p>*No. EXCEPTION ZONE</p> <p>(H) HOLDING PROVISION</p> |
|---|---|---|

THIS IS NOT A PLAN OF SURVEY. Zoning information presented in this Schedule is a representation sourced from Geographic Information Systems. In the event of a discrepancy between the zoning information contained in this Schedule and the text of zoning by-law, the information contained in the text of the zoning by-law of the municipality shall be deemed accurate.

MARKHAM DEVELOPMENT SERVICES COMMISSION



Drawn By: BE

Checked By: RC

DATE: 15/07/2024

NOTE: This Schedule should be read in conjunction with the signed original By-Law filed with the City of Markham Clerk's Office

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