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Ontario Municipal Board

Commission des affaires municipales de l'Ontario

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CITY OF MARKHAM
CLERKS DEPT.

scott Heasley
Lucy
PL120371
PL120483
PL121238

1820266 Ontario Inc. (Times Group Corporation) has appealed to the Ontario Municipal Board under subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, from Council's neglect to enact a proposed amendment to the Official Plan for the Town of Markham as it pertains specifically to the "Urban Residential" designation, by revising the high, medium and low density boundaries in the Secondary Plan, to amend the Markham and Unionville Planning District Secondary Plan to increase the residential unit count for apartment and townhouse units on the subject lands (amend the density from a unit per hectare calculation to a floor space index), as well as to permit additional height for the apartment buildings from six storeys to eight storeys for the purpose of permitting the development of the subject lands consisting of 4.44 hectares (11 acres) located at the northeast corner of Highway 7 East and Village Parkway, municipally known as 4002 and 4022 Highway 7 East, to consist of two, eight-storey condominium space apartment dwelling units and 342 square metres (3,680 square feet) of commercial space on the south portion of the subject lands, 96 condominium townhouse units in a "back-to-back" configuration with underground parking on the centre portion of the subject lands and 1.4 hectares (3.4 acres) of land in the north portion of the subject lands to be conveyed by the Town of Markham for parkland purposes.

Town of Markham File No. OP 11 129271

O.M.B. File No. PL120371

1820266 Ontario Inc. (Times Group Corporation) has appealed to the Ontario Municipal Board under subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, from Council's neglect to enact a proposed amendment to Zoning By-law No. 273-94, a By-law to amend Zoning 118-79, of the Town of Markham to rezone a portion of the subject lands from "Sixth Density-Single Family Residential (R6) Zone" to "First Density-Street Townhouses Residential (RST1) Zone" as well as to rezone a portion of the subject lands from "First Density-Street Townhouse Residential Exception (RST1-E) Zone" to "First Density-Street Townhouse Residential (RST1) Zone" for the purpose of permitting the development of the subject lands consisting of 4.44 hectares (11 acres) located at the northeast corner of Highway 7 East and Village Parkway, municipally known as 4002 and 4022 Highway 7 East, to consist of two, eight-storey condominium space apartment buildings with a two-storey link adjacent to Highway 7 East, accommodating a total of 444 apartment dwelling units and 342 square metres (3,680 square feet) of commercial space on the south portion of the subject lands, 96 condominium townhouse units in a "back-to-back" configuration with underground parking on the centre portion of the subject lands to the Town of Markham for parkland purposes.

Town of Markham File No. ZA 11 129271

O.M.B. File No. PL120372

2124123 Ontario Limited has appealed to the Ontario Municipal Board under subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, from Council's neglect to enact a proposed amendment to Zoning By-law No. 118-79, as amended by By-law 91-87, of the City of Markham to rezone a 2.0065 hectare (4.96 acres) parcel of land located on the north side of Highway 7 East, west of Village Parkway, east of Warden Avenue, municipally known as 3940 Highway 7 East, from "Residential Development (RD) Zone" to "Second Density - High Density Residential - X (RHD2-X) Zone", "First Density - Townhouse Residential - X (RT1) Zone" and "Open Space (OS) Zone" to permit the development consisting of high density, medium density and open space uses on three (3) development blocks (Block 1 – 8-storey, 254-unit apartment building; Block 2 – 36 townhouse dwelling units; Block 3 – Open Space/Future Development)
City of Markham File No. ZA 07 134461
O.M.B. File No. PL120483

2124123 Ontario Limited has appealed to the Ontario Municipal Board under subsection 51(34) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, from the failure of the City of Markham to make a decision respecting a proposed Plan of Subdivision on lands composed of Part of Lot 11, Concession 5, City of Markham, Regional Municipality of York, located on the north side of Highway 7 East, west of Village Parkway, east of Warden Avenue, municipally known as 3940 Highway 7 East, for the purpose of dividing the subject lands into three (3) blocks (Blocks 1, 2 and 3) and allow for the creation of east-west public roads between Blocks 1 and 2, known as Street "A" and between Blocks 2 and 3, known as Street "B"
City of Markham File No. SU 07 134454
O.M.B. File No. PL120484

2124123 Ontario Limited has appealed to the Ontario Municipal Board under subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, from Council's neglect to enact a proposed amendment to the Official Plan for the City of Markham for the purpose of updating the nomenclature of the land use designations for the subject lands to better reflect the emerging development context along Highway 7 East as an "Urban Corridor" by assigning land use designations as "Urban Corridor High Density 1" in Block 1, "Urban Corridor Medium Density 1" in Block 2 and "Urban Corridor Open Space" in Block 3 to permit the development consisting of high density, medium density and open spaces uses on three (3) development blocks (Block 1 – 8-storey, 254-unit apartment building; Block 2 – 36 townhouse dwelling units; Block 3 – Open Space/Future Development) on a 2.0065 hectare (4.96 acres) parcel of land located on the north side of Highway 7 East, west of Village Parkway, east of Warden Avenue, municipally known as 3940 Highway 7 East
City of Markham File No. OP 07 134436
O.M.B. File No. PL120523

Unionville Development Corporation has appealed to the Ontario Municipal Board under subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from Council's neglect to enact a proposed amendment to the Official Plan for the City of Markham for land at the northwest corner of Highway 7 East and Village Parkway to increase the proposed number of permitted units and to increase the height of the apartment Block
OMB File No. PL121238

Unionville Development Corporation has appealed to the Ontario Municipal Board under subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from Council's neglect to enact a proposed amendment to Zoning By-law 118-79 of the City of Markham to rezone lands respecting northwest corner of Highway 7 East and Village Parkway to increase the proposed number of permitted units and to increase the height of the apartment block facing Highway 7 East from 6 storeys to 8 storeys, to increase the number of units from 181 units to 430 units, and the townhouse block would increase the number of units from 50 to 94
OMB File No. PL121239

APPEARANCES:

<u>Parties</u>	<u>Counsel/Agent*</u>
1820266 Ontario Inc. ("Times")	I. Kagan
Unionville Development Corporation ("Lee")	M. Flynn-Guglietti A. Forristal
2124123 Ontario Limited ("Peak") and Scardred 7 Company Ltd. ("Scardred")	J. Streisfield
Whiterose Village Investments Inc. ("Whiterose")	M. Melling R. Kehar
2310601 Ontario Inc. ("Milliken")	T. Halinski
City of Markham	B. Ketcheson
Region of York	B. Montgomery
York Region District School Board	M. Flowers
Village Parkway Residents Association ("VPRA")	T. Zigomanis*

Unionville Ratepayers Association
("URA")

P. Miasek*

DECISION DELIVERED BY JASON CHEE-HING AND ORDER OF THE BOARD

BACKGROUND

[1] 1820266 Ontario Inc. ("Times"), Unionville Development Corporation ("Lee"), and 2124123 Ontario Limited ("Peak") are the proponents in these proceedings. The proponents each filed appeals with respect to their lands which are all located contiguously on the north side of Highway 7, just west of Warden Avenue, in the City of Markham ("City").

[2] Times filed appeals of its Official Plan Amendment ("OPA"), and Zoning By-law Amendment ("ZBA") which Council neglected to enact. These amendments would facilitate the proposed development of approximately 540 dwelling units in the form of both condominium apartments (444) and townhouses (96) and provide 342 sq m of commercial space. Peak proposed to dedicate as parkland the northern part of its lands (Area 2).

[3] Lee filed appeals of its OPA and ZBA which Council refused to enact. These amendments would facilitate the proposed development of 524 dwelling units in the form of both condominium apartments (430) and townhouses (94) on the southern part of its lands (Areas 1 and 2). The northern part of its lands (Area 3) is already designated as a school site and will remain as such.

[4] Peak filed appeals of Council's neglect or failure to enact its OPA, ZBA, and draft Plan of Subdivision for its lands. These amendments and draft Plan of Subdivision would facilitate the proposed development of 290 dwelling units in the form of condominium apartments (254) and townhouses (36) on the southern portion of its lands (Blocks 1 and 2). Peak proposed to dedicate as parkland the northern portion of its lands (Block 3) to the City.

[5] The Village Parkway Residents Association ("VPRA") and the Unionville Ratepayers Association ("URA") were opposed to all three development proposals for these lands on the basis of density, housing form, scale, incompatibility with the surrounding built forms, and traffic concerns.

[6] The York Region District School Board ("School Board") is opposed to Peak's proposal to dedicate Block 3 of its lands as parkland to the City. The School Board seeks to have this block designated and zoned as a partial school site. It is the School Board's desire to locate an elementary school on a land assembly comprising of this portion of the Peak lands and the northern portion of the Lee lands which is already designated as a partial school site. The Peak and Lee lands abut each other. The City took no position on the school site vs. parkland issue.

[7] There were a number of pre-hearing conferences ("PHC") and motion hearings involving these appeals. An approved procedural order ("PO") with a total of 31 issues was put in place for all the proponents' appeals. The Board had agreed at the PHC stage, that while there is to be no consolidation of these appeals, the three proponents' appeals would be heard consecutively within the ambit of one hearing given the proximity of the proponents' lands to each other and the joining of various parties interests. For reasons detailed later on, the Board has determined that administratively, it will address each proponent's appeals and make findings on each set of appeals within the ambit of one overall decision. Separate orders will address each proponent's appeals.

CONTEXT

[8] This hearing lasted 18 days over the course of five months (January 28 – May 2, 2013) due to continuations, availability of counsel and expert witnesses and inclement winter weather conditions. During the hearing, a number of events occurred which are important to address at this juncture in order to properly frame the context of these proceedings.

[9] At the onset of the hearing, Lee, Times and the City advised the Board that they had agreed on principles of settlement with respect to the Lee and Times proposals (Ex. 12). The VPRA and the URA remained opposed to all three proposals notwithstanding principles of settlement. The URA withdrew its issues and called no witnesses but with the consent of the other parties, the URA representative was allowed to cross-examine other parties' expert witnesses.

[10] Because of the complexity and diversity of the issues, the evidence was presented along four themes:

1. Traffic.
2. School Site vs. Park on the Peak Lands.
3. Cost sharing.
4. Planning.

[11] The school site vs. park issue was an issue essentially between the School Board and Peak. Both called expert witnesses in support of their respective positions.

[12] The cost sharing issue was an issue contested among the three proponents. Lee and Times were joined in their interests against Peak's position. The cost sharing issue revolved around Peak paying its share of the front-ending costs incurred by Lee and Times for sanitary and storm sewers and the mechanism by which Peak will pay for its share of costs. Lee and Times used the same traffic and cost-sharing expert witnesses as their interests were joined in these matters. Considerable evidence was given on both sides during the hearing.

[13] On the second to the last day of the hearing (May 2, 2013), Peak informed the Board that they had reached a settlement with the City on its appeals. This settlement included an agreement on the cost sharing issue with Lee and Times and resolution of the internal access issue with Lee and the City. The issue of the school site vs. parkland on the Peak lands was not resolved and remained a matter to be adjudicated by the Board.

[14] The VPRA remained opposed to all three settlements. The VPRA called a transportation expert to provide evidence on its traffic concerns against all three proposals and called a lay witness who resides in the neighbourhood immediately north on the subject lands. The VPRA decided not to call its planning expert. It should be noted at this juncture, that the VPRA's representative, Tom Zigomanis was given a wide degree of latitude to call his case by this panel of the Board. Mr. Zigomanis is not a lawyer and resides in the neighbourhood immediately north of the subject lands.

Summary of the Minutes of Settlement

[15] On May 2, 2013, all three proponents presented to the Board executed Minutes of Settlement with the City. Times' and Lee's settlements with the City are contained in one settlement agreement (Ex. 62). Peak's Minutes of Settlement is found in Exhibit 61A. After considerable evidence and submissions during the hearing, the issue of cost sharing as between Times/Lee and Peak was resolved. The issue of a public road vs. a private road on the Peak lands was resolved. The issue of the school site vs. parkland on the Peak lands was not resolved and was left to the Board to determine.

[16] Earlier on during the hearing, Times and Whiterose advised the Board that they had settled their particular issues with each other. Whiterose, a party to this hearing owns a strip of land which abuts the Times lands to the east. Whiterose advised that in the event the Board designates the northern part of the Times lands (Area 1) as parkland then it would resolve the status of its lands with the City. Alternatively, if the Board does not designate it as parkland or the City decides to not take the lands as parkland dedication then Whiterose and Times propose to develop those lands as single family detached housing.

[17] The proponents and the City requested the Board's approval of these Minutes of Settlement based on the merits of the evidence and submissions made during the hearing. Throughout the hearing, the VPRA remained opposed to all three proposals and settlements. The URA remained opposed to the densities being sought by all the proponents.

[18] All three development proposals are similar in terms of density, built form, scale, massing and housing mix. The lands are located contiguously with the Village Parkway separating the Times lands from the Lee and Peak lands. All have frontages onto the north side of Highway 7. The proposals each contemplate apartment building(s) of eight storeys fronting on Highway 7, with townhouses towards the interior of the sites (Ex.14 & 22).

[19] It is trite to state that notwithstanding the settlements reached with the City, the onus is on the proponents to demonstrate to this Board that these settlements together with the associated planning instruments meet the requirements of the *Planning Act* ("Act"), represent good planning and are in the public interest.

Times

[20] The Minutes of Settlement (Ex. 62) included the following:

1. A maximum of three apartment buildings with a maximum height of eight storeys, a maximum GFI of 3.5 and a maximum of 393 apartment units. A maximum of 72 three-storey townhouse units. The total number of units for the Times development will be 465. The conceptual site plan configuration is shown in Schedules C-1 and C-2.
2. A public park will be added as a permitted use on the north block.
3. Section 37 payment of \$560,000.00
4. An area specific development charge ("ASDC") by-law will be implemented by the City as part of the Village Parkway urbanization.
5. Current draft Plan of Subdivision to be revised to reflect the Minutes of Settlement.
6. Cost sharing in accordance with the joint settlement submissions. City will require that all landowners within the planning area enter into a developer group cost sharing agreement to pay their fair share of services.
7. Site plan approval required.

Lee

[21] The Minutes of Settlement (Ex. 62) included the following:

1. A maximum of three apartment buildings with a maximum height of eight storeys, maximum FSI of 3.5, and a maximum of 379 apartment units. A maximum of 72 three-storey townhouse units. The total number of units for the Lee development will be 451. The conceptual site plan configuration is shown in Schedule D.
2. Section 37 payment of \$560,000.00

3. An area specific development charge ("ASDC") by-law will be implemented by the City as part of the Village Parkway urbanization.
4. Current draft Plan of Subdivision to be revised to reflect the Minutes of Settlement.
5. Cost sharing in accordance with the joint settlement submissions. City will require that all landowners within the planning area enter into a developer group cost sharing agreement to pay their fair share of services.
6. Site plan approval required.

Peak

[22] The Minutes of Settlement (Ex. 61A) included the following:

1. The maximum permitted units on the Peak lands will be 262. Block 1 shall contain 228 units of which 19 may be townhouse units. The maximum height of the apartment building will be eight storeys or 30 metres, whichever is less. The maximum number of townhouse units on Block 2 shall be 36 and the maximum height shall be 12 metres.
2. Board decision will be required for Block 3 on whether this block is required/reserved for a school site or dedicated as parkland to the City.
3. ZBL to include a holding provision for cost sharing agreement.
4. Cost sharing in accordance with the joint settlement submissions. The City will require that all landowners within the planning area enter into a developer group cost sharing agreement to pay their fair share of services.
5. Conditions for removing the "H".
6. An area specific development charge ("ASDC") by-law will be implemented by the City as part of the Village Parkway urbanization.
7. Section 37 benefits to be paid in the amount of \$250,000.00.

8. Provision of a 9.25 m ROW along the east limit of Block 1 and 2 which will form part of a future 18.5 m public road located on both the Peak and Lee lands and reflected in their respective draft Plans of Subdivision.

[23] Given this interplay of events during the course of the proceedings, including the sharing of traffic and cost sharing expert witnesses by Lee and Times, the eventual settlements on all three proposals presented to the Board, and the opposition to all three proposals/settlements by the VPRA and the URA, the Board has decided that administratively there will be one (as opposed to three) decision. This decision will address each proponent's appeals with three separate Board orders.

SUMMARY OF FINDINGS

[24] The Board considered all of the evidence and submissions in making its findings on each proponent's appeals. The Board's detailed findings and reasons are given later in this decision.

The Times Appeals (PL120371, PL120372)

[25] The Board finds that the settlement between Times and the City represent good planning and is in the public interest. The Minutes of Settlement found in Exhibit 62 allows for a maximum of 465 units of which 393 will be condominium apartment units and 72 will be townhouse units. The Board finds the density, unit types and housing mix to be appropriate. The Board finds that the traffic generated from the Times, Lee and Peak proposals would not have unacceptable impacts to the levels of service along Highway 7.

[26] The Board finds that the proposed housing forms, with an eight storey apartment building fronting onto Highway 7 and townhouses in the interior of the site to be appropriate and is compatible with the surrounding built forms on the north and south side of Highway 7.

[27] The Board finds that the proposal to add a park permission on the northern block (Area 1) of the Times lands to be good planning and in the public interest. For reasons detailed further in this decision, the Board does not agree with the VPRA's position that this portion of the Times lands should be developed as single family detached homes.

The Lee Appeals (PL121238, PL121239)

[28] The Board finds that the settlement between Lee and the City represent good planning and is in the public interest. The Minutes of Settlement found in Exhibit 62 allows for a maximum of 451 units of which 379 will be condominium apartment units and 72 will be townhouse units. The Board finds the density, unit types and housing mix to be appropriate. The Board finds that the traffic generated from the Times, Lee and Peak proposals would not have unacceptable impacts to the levels of service that already exist along Highway 7.

The Peak Appeals (PL120483, PL120484, PL120523)

[29] The Board finds that the settlement between Peak and the City represent good planning and is in the public interest. The Minutes of Settlement found in Exhibits 61A allows for a maximum of 264 units of which a maximum of 228 will be condominium apartment units and 36 will be townhouse units. The Board finds the density, unit types and housing mix to be appropriate. The Board finds that the traffic generated from the Times, Lee and Peak proposals would not have unacceptable impacts to the levels of service along Highway 7.

[30] With respect to the northern portion of the Peak lands (Block 3), the Board finds that the school site permission is appropriate. In this regard and for reasons detailed later, the Board prefers the evidence of the School Board that an elementary school site situated on both the Peak and Lee lands is required for existing and anticipated elementary school enrollment.

[31] The Board notes that as part of the Minutes of Settlement, Peak will revise its draft Plan of Subdivision to include two additional blocks which provide for a 9.25 m right-of-way (ROW). These blocks are intended to form part of a future 18.5 m wide public road located on both the Peak and Lee draft Plans of Subdivision. The Board finds that a public road network within the subject lands represents good planning.

EVIDENCE

Planning

[32] All three proponents retained professional planners to adduce planning evidence in support of their proposals. Scott Heaslip, staff planner for the City, appeared under

summons by Lee and Times. The VPRA did not call a planner in opposition to the proposals. The VPRA called Karen Gullason, who is both a resident in the subdivision immediately to the north of the subject lands and member of the VPRA to provide lay evidence in opposition to the proposals. Two participants – Michelle Tidball and Christiane Bergauer-Free – both residents within the community spoke in opposition to all three proposals (p.152-154).

[33] To a large extent much of the planning evidence given by the proponent's planners as it related to the development proposals in terms of built form, massing, scale, housing mix and compatibility with the surrounding context were congruent with each other. The exception to this was the planning evidence adduced by Michael Manett on the school vs. park issue on the Peak lands.

[34] Nick Pileggi, planner for Times, stated that his planning opinions also extend to the Lee proposals. He testified that since the development approvals given through the OMB decision of 1994 for the Times and Lee lands that the provincial and municipal planning policy contexts have changed significantly. The provincial plans including the Provincial Policy Statement ("PPS") and the Growth Plan have placed a priority on residential intensification where there is existing infrastructure. He testified that the corridor along Highway 7 has been designated as an urban growth and intensification corridor both at the regional and local levels. Major transit capacity infrastructure is currently being built along Highway 7. This is the area along Highway 7 where the City would like to see its residential intensification occur where there is direct access to public transit.

[35] It is his opinion that the proposals provide for a range and mix of housing appropriate for an intensification corridor. Public transit would be available to all of the residents in the OPA 15 planning area. It is his opinion that the proposed densities, built form, massing and scale of the Times and Lee proposals are compatible with the surrounding built forms. The proposals which propose to locate its eight storey apartment buildings along Highway 7 and its townhouse units in the interior of the site would be compatible with the low density residential neighbourhood to the north of the subject lands. He testified that the dedication of the northern part of the Times lands as parkland would serve the broader public interest.

[36] It is his opinion that the settlement between Times, Lee and the City represent good planning and it is consistent with and conforms to the residential intensification policies of the PPS and the Growth Plan. It is his opinion that the proposed OPA and ZBA to implement the proposals are also good planning.

[37] Lindsay Dale-Harris, planner for Lee, provided similar planning opinion evidence in support of Lee's proposal and its settlement with the City (Ex.15, 42A & B). It was her opinion, that a public road between the Lee and Peak lands is much preferable over a private road in terms of public benefits and vehicular access. She had no concerns on the alignment of the internal roads (Street 'A' and 'B') on the Lee lands with the proposed roads on the Peak lands. This, in her opinion, should be done by redlining the existing approved draft Plan of Subdivision for the Lee lands. It is Ms. Dale-Harris's opinion that the proposed OPA and ZBA to implement the Lee proposal is consistent with and conforms to the provincial plans and the City's OP.

[38] Mr. Manett, planner for Peak, adduced evidence in support of Peak's proposal. Similarly, his evidence was consistent with the evidence given by the planners for Times and Lee in support of the proposed densities, built form, massing and scale of the Peak proposals and compatibility with the surrounding built forms. As noted earlier, the three development proposals before the Board are similar in terms of built form, massing, scale and density.

[39] Prior to the settlement with the City, Mr. Manett provided considerable evidence in support of a private road on his client's lands rather than a public road which Lee, the Region and the City preferred. Mr. Manett was satisfied with the settlement reached with respect to the provision of a public road.

[40] Mr. Manett's evidence on the school vs. park issue is addressed in that section of this decision.

[41] Both the Region and the City support the settlements reached with the three proponents. Mr. Heaslip, staff planner for the City, was summonsed by Lee and Times. He was satisfied with the three settlements reached and gave the opinion that the settlements and the associated planning instruments (OPAs, ZBAs, and draft Plan of Subdivision) represented good planning.

[42] Mr. Heaslip gave considerable evidence in responding to the VPRA's concern about the lack of family sized accommodation (three-bedroom units) in all three proposals. He testified that family sized accommodation is already being provided through existing low density housing (single family detached, semis and townhouses) in the surrounding communities. He testified that there is an identified need for the types of units that are being provided in these proposals which are one-bedroom and two bedroom units. He noted that the proposed townhouses will provide for larger size units.

[43] Mr. Heaslip testified that the proposed housing mix, density, built form, massing and scale of these proposals are appropriate along the Highway 7 intensification corridor. This is where the City wants to locate these types of proposals within very close proximity to a major transit and transportation corridor and supported by existing infrastructure.

[44] The URA did not call any evidence in opposition to all three proposals/settlements. Peter Miasek, spokesperson for this ratepayers association stated in his closing submission that its opposition is mainly with the proposed densities. It is their position that the proposals should be scaled back to the residential densities approved by the OMB in its 1994 decision. He made reference to the Lee minor variance application of 2011 for its lands which was 25 percent more than the unit count approved by the Board in 1994. The URA prefers a phasing of the developments if the Board saw merit in approving some or all of the density.

[45] In terms of the internal road network, the URA supported a public road rather than a private road as proposed by Peak (pre-settlement). The URA supports the provision of parkland as proposed in the Times application. The URA took no position on the school vs. park issue on the Peak lands.

[46] The VPRA remained opposed to all three proposals and settlements with the City. Their opposition to the proposals/settlements was based on perceived unacceptable traffic impacts, inappropriate housing mix, densities, housing form, massing and scale. In terms of planning evidence, the VPRA did not call a planner and relied on the evidence given by Ms. Gullason, who is a resident of the abutting neighbourhood to the north of the subject lands; Mr. Zigomanis's cross-examination of witnesses in support of the proposals/settlements; and the testimony of the VPRA's

spokesperson (Mr. Zigomanis) who provided a written position statement on the reasons for their opposition to the three proposals/settlements.

[47] It is the VPRA's position that the proposals are too large and the density too high to be considered good planning. The proposals represent an over-intensification of these lands which would cause unacceptable traffic impacts along Highway 7 (VPRA's traffic evidence is detailed in the traffic evidence section).

[48] It is the VPRA's position that the proposed densities are inappropriate. The planners in support of the proposals did not consider the lower densities of the single-family detached neighbourhoods to the north and relied on densities along Highway 7 for their planning justification. The proposed housing mix is inappropriate as it does not address the demand for family sized apartment units in this area. Rather it will attract a singles transient population to this part of Markham. This in the VPRA's opinion is not desirable. The housing mix should include three-bedroom apartment units to attract families to the area.

[49] The VPRA wants more parks in the OPA 15 area and proposes that part of the Peak lands (Block 2) be dedicated as parkland. However, it is their position that the lands proposed as parkland by Times (Area 1) should be set aside for single family detached housing. The rationale being that a park on the northern portion of the Times lands abuts the existing residential community and would attract undesirables.

[50] In its closing submissions, the VPRA proposed reduced unit counts for all three proposals of 781 units. The settlements in their estimation would provide for a maximum of 1,214 units.

[51] Two participants, both residents of the area testified in opposition to the proposals. Ms. Tidball is concerned about the number of condominiums along Highway 7 and that the units within many of these condominium buildings are rented rather than owner occupied. She is concerned that the developers are getting a "second kick at the can" and that the densities established in the 1994 OMB decision should be respected. She is concerned that the municipal planning process is being circumvented by the developers.

[52] Ms. Bergauer-Free is also opposed to the development proposals. She lived for many decades in this part of Unionville. She is concerned about potential ground-water

problems as the sites were formerly wetlands. She claimed that trees were removed from the Lee lands despite the City's tree by-law. She is concerned with shadow impacts from the proposed eight storey apartment buildings and the increased traffic infiltration into her neighbourhood if these proposals are approved.

Traffic

[53] Times and Lee retained the same expert witness (Richard Pernicky) to adduce traffic/transportation evidence in support of their respective proposals. Ting Ku, who is the staff transportation planner for the City, was summonsed by Lee and Times. Nick Poulos adduced transportation evidence in support of Peak's proposal. Richard Hui, manager of transportation planning, adduced transportation evidence on behalf of the Region. Michael Tedesco, transportation planner adduced evidence for the VPRA in opposition to all three proposed developments.

[54] Messrs. Pernicky and Poulos's testimony were similar in support of their respective client's proposals. Mr. Pernicky's firm (Cole Engineering) conducted three traffic impact studies ("TIS"). He is of the opinion that the proposed internal road network with the proposed connections to Highway 7 would be capable of moving anticipated traffic to Highway 7. It is his opinion based on his TIS that the traffic generated by the proposed developments would not significantly impact the existing volume of traffic on Highway 7. It is his opinion that Highway 7 will be able to accommodate all of the traffic generated by the proposed developments within OPA 15 area. The Region reviewed his TIS's and accepted his findings.

[55] Mr. Ku reviewed all three applications from a traffic perspective for the City. He is satisfied with the proposed internal road network for all three proposed developments. He did note his preference for a public road with an 18.50 m ROW between the Lee and Peak lands rather than a private road as proposed by Peak (prior to its settlement with the City). He pointed out the many benefits that result from a public road.

[56] Mr. Hui, regional manager of transportation, provided evidence from a regional perspective. Highway 7 is a regional road. His department reviewed all the TIS's authored by Mr. Pernicky and supports the recommendations made in these studies. The Region is satisfied that Highway 7 has enough capacity to accommodate the vehicular traffic from all three proposals. In response to questions during cross-examination by Mr. Kagan, Mr. Hui gave the opinion that Highway 7 is one of two main

intensification corridors (the other being Yonge Street) in the Region. The Region would like to see growth directed along these corridors. Major public transit infrastructure improvements on Highway 7 are already underway.

[57] Mr. Tedesco, transportation planner, took issue with the three TIS done by Mr. Pernicky/Cole Engineering. It is his position that the reports show a failing level of service ("LOS") along Highway 7 as a result of the anticipated traffic from the proposed developments. This is at odds with the recommendations of the studies that Highway 7 can accommodate the anticipated traffic. He noted a "paradigm shift" in attitude towards the acceptance of failing LOS at intersections. It is his opinion that the anticipated vehicular traffic for the proposed developments would create unacceptable LOS on Highway 7. Mr. Tedesco gave the opinion that the public transit improvements on Highway 7 does not guarantee that residents will use public transit over their vehicles. It is his opinion that the residential densities as proposed by the three developers should not be approved due to the unacceptable traffic impacts.

School Site vs. Parkland

[58] This issue relates to the northern portion of the Peak lands shown as Block 3 (1.15 acres) on Peak's draft Plan of Subdivision (Ex. 22). The school board wants Block 3 to be designated and zoned as a partial school site. Peak wants to dedicate Block 3 as parkland to the City and to receive a park credit for the dedication. The City took no position on this issue.

[59] The school board had a panel of experts (J. Peake and J. Ross) and Peak retained a planner (Mr. Manett) to adduce evidence in support of their respective positions.

[60] The school board's experts are staff whose primary responsibility is to assess and select potential school sites for acquisition. Both are qualified land use planners. They testified that it is the school board's intention to combine this parcel with the abutting Lee designated school site to form a six acre site. Based on their analysis and projections, it is their opinion that an elementary school site in this area is needed to serve existing and anticipated student population from within the catchment area, which include the OPA 15 and 21 planning areas. Six acres would be of sufficient size to locate an elementary school with an anticipated capacity of 400 students.

[61] The Panel testified that the Lee parcel is too small on its own to accommodate an elementary school site of sufficient size to accommodate the anticipated enrollment and Block 3 of the Peak lands is required as part of land assembly for the school site.

[62] They testified that the school board's intentions to locate a school in this area were known as far back as 1991. In 1993, a report to City Council on Lee's development application at the time referred to the school board's need for an elementary school site. In a subsequent 1994 OMB decision affecting the Lee lands, a school site reservation was put in place for the northern part of the Lee lands.

[63] Peak's planner testified that based on his calculations there will be a pupil yield from the OPA 15 planning area of 165 elementary students. The need does not justify a school whose anticipated capacity will be 400 students. It is his opinion that an elementary school can be built entirely on the portion of the Lee lands that is already designated. He testified that a school had been built on a smaller more intensified school site of 3.5 acres on the south side of Highway 7.

[64] He asserted that the Act does not require developers to offer lands for a school site that serves more than the planning area where its lands are located. Mr. Manett asserted that the broader public interest is for a park not a school. He asserted that the anticipated pupil yield generated from these proposals could be met by existing schools in the area.

[65] Mr. Manett testified that the school board's review of Peak's development application in 2008, resolved that a school site was not required on the Peak lands.

[66] In closing arguments, Mark Flowers, counsel for the school board, submitted that a developer is required to look at the adequacy of school sites as part of the development criteria under s. 51(24) of the Act. He submitted that the 2008 school board resolution was an inadvertent error which through subsequent correspondence was corrected. It has always been the school board's intention for over 20 years to locate an elementary school in a site of sufficient size in the OPA 15 planning area.

[67] Jeffrey Streisfield, counsel for Peak, submitted in closing arguments that there is no planning justification that would support a partial school site designation on its lands. The need has not been demonstrated by the school board. If required an elementary

school can be built entirely on the abutting Lee lands which already has a school designation.

Cost Sharing

[68] As mentioned earlier in this decision, the issues involved in this aspect of the hearing were eventually resolved among the three proponents and the City. This culminated in the joint settlement submissions to the Board on May 1, 2013. As such, the Board will not elaborate on the evidence given by all the proponents and the City but suffice to say that considerable evidence was given prior to the settlement agreement on cost sharing.

[69] The cost sharing issue was an issue contested among the three proponents. Lee and Times were joined in their interests against Peak's position. The cost sharing issue revolved around Peak paying its share of the front-ending costs incurred by Lee and Times for sanitary and storm sewers and the mechanism by which Peak will pay for its share of costs. Lee and Times retained the same expert witness (Julie Bottos) as their interests were joined in these matters.

BOARD FINDINGS AND REASONS

[70] The Board carefully considered all of the evidence given by the expert and lay witnesses as well as the submissions made by the various parties' representatives in making its findings.

The Times Appeals

[71] The Board finds that the Minutes of Settlement between Times and the City to be good planning and is in the public interest. The Board finds that the Times proposal in terms of its density, housing mix, site layout, massing, scale to be appropriate given its proximity to Highway 7. Highway 7 is an intensification corridor for the City where the City's stated intent is to meet its intensification objectives. It is also a major east-west public transit corridor with public transit expansion initiatives already underway.

[72] The Board finds that the Times proposal will be compatible both with the locus of existing developments along Highway 7 and the single family detached character of the residential neighbourhood to the north. In this regard, the Board prefers the collective

expert evidence given by the proponents' and the City's planners with respect to the mix of housing, density, massing and scale for all three proposals. The Board does not agree with the VPRA's position that the scale of the proposal is inconsistent with the single family detached character of the residential neighbourhood to the north. The Board finds that gradation of the housing forms with the apartment buildings fronting onto Highway 7 and the townhouses located in the interior of the lands provide an adequate transition to the existing single family detached neighbourhood.

[73] The VPRA raised a legitimate concern with respect to the lack of family sized apartment units (three bedroom units) for families that would prefer to live in transit supportive developments along the Highway 7 corridor. However, the Board is satisfied with the City's evidence that demand for family type housing is adequately served by the availability of detached housing throughout the City. Over 95 percent of housing forms within the Unionville area is detached housing. The Board prefers the evidence of Mr. Heaslip that there is a need within Markham for smaller units (one and two bedroom units) typically found in apartment buildings for smaller households.

[74] With respect to traffic impacts, the Board finds that the proposals will not have unacceptable adverse impacts on the level of service on Highway 7. The City's traffic expert (Mr. Ku) found the proposed internal road network to be acceptable and the Region's traffic expert (Mr. Hui) testified that Highway 7 will be able to accommodate the anticipated traffic flows from these proposed developments. The City and Region accepted the findings and recommendations of Mr. Pernicky/Cole Engineering TIS reports.

[75] The Board prefers the traffic evidence of Messrs. Pernicky, Poulos, Ku and Hui in support of the proposed internal road network. The Board does not accept the traffic opinion of Mr. Tedesco that a failing level of service along Highway 7 at the vicinity of these proposals should be enough to not approve the proposals. The Board finds that from a traffic perspective, failing levels of service at busy intersections is a common occurrence within a highly urbanized environment. Vehicles may not get through on one signal cycle however; this does not mean that this level of service is inadequate.

[76] The Board finds that the addition of a park use as a permitted use for Area 1 of the Times lands to be good planning and in the public interest. The City in due course could decide whether it wants to accept this 3.4 acre block of land as a park dedication.

The Board does not accept the contention by the VPRA that these lands would be better utilized for single family detached housing. The VPRA had argued that the Area 1 lands which back onto the residential homes to the north will attract undesirable activity. Yet the VPRA in its position statement advocated for more parkland within the OPA 15 area. This is inconsistent and diminishes the credibility of the VPRA's position on this issue.

[77] It is for these reasons that the Board finds that Minutes of Settlement to be good planning and in the public interest. The Board find that the proposed OPA and ZBA are consistent with the PPS and conform to the Growth Plan and the City's OP. The Board will allow the appeals of Times and approve the finalized OPA and ZBA submitted to the Board (Attachments 1 and 2).

The Lee Appeals

[78] The Board finds that the Minutes of Settlement between Lee and the City to be good planning and is in the public interest. The Lee proposal is similar to the Times proposal. The Board's reasons are the same as those given for its findings on the Times appeals as it relates to the density, housing mix, housing form, massing and scale. As such they will not be restated here.

[79] The Board finds that the proposed OPA and ZBA are consistent with the PPS and conform to the Growth Plan and the City's OP. The Board will allow the appeals of Lee and approve the finalized OPA and ZBA submitted to the Board (Attachments 3 and 4).

The Peak Appeals

[80] The Board finds that with the exception of the school vs. park issue on Block 3 of the Peak lands that the Minutes of Settlement between Peak and the City to be good planning and in the public interest.

[81] Peak's proposal for Blocks 1 and 2 of its lands is similar in built form to the Times and Lee proposals with an apartment building fronting onto Highway 7 and proposed townhouses for the interior Block 2. The Board finds that the proposed housing mix, density, site layout, massing and scale to be compatible with the surrounding built forms for the same reasons as the Board found for the Times and Lee proposals.

[82] All three proposals have similar densities, massing and scale. When viewed from the street (Highway 7), the built form will have a consistency and uniformity that will be compatible with the streetscape along Highway 7.

[83] With respect to the northern part of the Peak lands (Block 3), it is the Board's finding that partial school site permission would be more appropriate than a parkland dedication. The Board prefers the evidence of the school board's planners that a school site of approximately 6 acres is required to meet the current and anticipated demand for elementary school students from the surrounding catchment area. Block 3 when combined with the abutting Lee lands (which is already designated as a school site), and a portion of the Milliken lands will be of sufficient size to accommodate an elementary school with a capacity of 400 students and an appropriate amenity space.

[84] The Board prefers the planning evidence of the school board that the school site is required for this catchment area, which includes OPA 15 and 21 planning areas. The Board finds that the school board made its intentions known since 1994 that an elementary school site will be required in the OPA 15 planning area in order to serve anticipated demand for elementary students.

[85] The Board prefers the school board's analysis of the current and anticipated numbers of elementary school students within its catchment area that will be served by the planned school to be located in these lands. The planned elementary school will not only draw from the potential student population of the OPA 15 area but from a much wider area.

[86] The Board does not accept the planning opinion of Mr. Manett that the Act does not require a developer to offer lands for a school site that serves more than the planning area where its lands are located. Section 51(24)(j) of the Act requires that the approval authority have regard to the adequacy of school sites when considering a draft Plan of Subdivision. The Board prefers the opinion evidence of the school board's planners that when accessing demand for schools that its catchment area often encompasses more than one secondary planning area.

[87] It is the Board's finding that the broader public interest will be better served in designating Block 3 of the Peak lands as a partial school site. Peak, the City and the Region will be required to revise the conditions of the draft Plan of Subdivision approval

(Ex. 61D) to reflect the Board's findings on Block 3. In addition, Peak's planning instruments must reflect the Board's finding on this issue where appropriate.

[88] In closing submissions, Mr. Streisfield, counsel for Peak, requested that in the matter of the internal road alignments with the Lee lands, the Board amend and enlarge the Lee OPA to include the Peak lands. Ms. Flynn-Guglietti, counsel for Lee, was opposed to this and submitted that if the Board decided to include a school site permission on Block 3, then the school board must be consulted with respect to the proposed road alignments. On this matter, the Board denies Peak's request and finds that the subdivision approval process as prescribed in the Act is the appropriate planning mechanism for addressing the proposed internal road alignments.

Conclusion

[89] With respect to land use planning much has changed since the 1994 Board decision which approved limited development on the Lee and Times lands. The planning policy priorities at the provincial and municipal levels have changed with the enactment of the provincial plans (PPS and the Growth Plan) which supports residential intensification where there is existing infrastructure and that are transit supportive. Development of the OPA 15 lands along Highway 7 has been anticipated since the 1994 Board decision.

[90] It is the Board's view that the residential developments approved in 1994 do not reflect the current planning realities almost twenty years later for development along this part of Highway 7.

[91] The City has identified Highway 7 as an intensification corridor where it would like to see transit supportive more intensive residential development occur. Significant public rapid transit expansion along Highway 7 (at substantial capital costs) is already underway with dedicated bus lanes to run along Highway 7.

[92] For all the reasons given in this decision, it is the Board's view that the settlements with the City will result in three developments whose housing form, site layout, density, housing mix, massing and scale would be appropriate for these lands and would be compatible with the surrounding built forms. Additionally, the proposed park dedication and the location of an elementary school to serve this area are tangible public benefits to the community.

[93] In closing arguments, Times advised the Board that it intends to seek costs against Peak. Lee reserved its right to seek costs against Peak. This hearing was long and the contentious issues were vigorously debated and argued by all counsels. It is the view of this panel of the Board that the parties reconsider seeking costs.

ORDERS

[94] The Board orders pertaining to each proponent's appeals are separate and distinct.

[95] With respect to the Times appeals, the Board orders that:

1. The appeal is allowed and the Official Plan for the City of Markham is amended as set out in Attachment 1 to this order, and as amended is approved; and
2. The appeal against By-law 273-94, of the City of Markham is allowed in part, and By-law 273-94 is amended as set out in Attachment 2 to this order.

[96] With respect to the Lee appeals, the Board orders that:

1. The appeal is allowed and the Official Plan for the City of Markham is amended as set out in Attachment 3 to this order, and as amended is approved; and
2. The appeal against By-law 273-94, of the City of Markham is allowed in part, and By-law 273-94 is amended as set out in Attachment 4 to this order.

[97] With respect to the Peak appeals, the Board orders that:

1. The appeal is allowed and the Official Plan for the City of Markham is amended as set out in Attachment 5 to this order, and as amended is approved;

2. The appeal against By-law 273-94, of the City of Markham is allowed in part, and By-law 273-94 is amended as set out in Attachment 6 to this order; and
3. The appeal is allowed and the draft plan prepared by D. Wilton, OLS, comprising part of Lot 11 Concession 5 and found at Tab 8, Exhibit 21 (bearing revision date June 25, 2012) be approved subject to the fulfillment of the City of Markham's draft plan conditions found in Exhibit 61D and the Region of York's draft plan conditions found in Exhibit 61E;

And the Board further orders that pursuant to s. 51(56.1) of the Act, the City of Markham shall have the authority to clear the conditions of draft plan approval and to administer final approval of the Plan of Subdivision for the purposes of s. 51(58) of the Act. In the event that there are any difficulties implementing any of the draft plan conditions, the Board may be spoken to.

"Jason Chee-Hing"

JASON CHEE-HING
MEMBER

ATTACHMENT 1

OFFICIAL PLAN
of the
MARKHAM PLANNING AREA
AMENDMENT No. XXX

To amend the Official Plan (Revised 1987), as amended, and to incorporate Amendment No. 4 to Secondary Plan (PD 1-15) for a portion of the Markham and Unionville Planning District (Planning District No. 1).

1820266 Ontario Inc. (Times Group Inc.)

(4002/4022 Highway 7)

XXXXXX 2013

**OFFICIAL PLAN
of the
MARKHAM PLANNING AREA
AMENDMENT NO. XXX**

To amend the Official Plan (Revised 1987), as amended, to incorporate amendment No. 4 to Secondary Plan (PD 1-15-4) for a portion of the Markham and Unionville Planning District (Planning District No. 1).

This Official Plan Amendment was approved by the Ontario Municipal Board on

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PART I – INTRODUCTION

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

PART I - INTRODUCTION

1. GENERAL

- 1.1 Part I – INTRODUCTION is included for information purposes and is not an operative part of the Official Plan Amendment.
- 1.2 Part II - THE OFFICIAL PLAN AMENDMENT, constitutes Official Plan Amendment No. XXX to the Official Plan (Revised 1987), as amended, and is required to enact Amendment No. 4 to Secondary Plan PD 1-15 for a portion of the Markham and Unionville Planning District. Part II is an operative part of the Official Plan Amendment.
- 1.3 Part III - THE SECONDARY PLAN AMENDMENT, including Schedule "A" attached thereto, constitutes Amendment No. 4 to Secondary Plan PD 1-15 for a portion of the Markham and Unionville Planning District (Planning District No. 1). This amendment may be identified by the symbol PD 1-15-4. Part III is an operative part of this Official Plan Amendment.

2. LOCATION

This amendment applies to approximately 3.2 hectares of land in part of Lot 10, Concession 5, located at the north-east corner of Highway 7 East and Village Parkway, as shown on Schedule "A" of Part III of this Amendment. The lands are municipally known as 4002 and 4022 Highway 7.

The subject lands are currently vacant.

3. PURPOSE

The purpose of this Official Plan Amendment is to amend the site specific policies of the Official Plan and amend Secondary Plan PD 1-15 (OPA 15) to permit a proposed development consisting of an 8-storey apartment building(s) and townhouses.

4. BASIS OF THIS AMENDMENT

The subject lands are located on Highway 7, a Regional Arterial Road, at the southern limit of the Markham and Unionville Planning District.

The subject lands are designated "Urban Residential" in the Markham Official Plan (Revised 1987), as amended. Site Specific and Area Policy 4.3.1.2 i) incorporates site specific use permissions and development requirements for the south and centre portions of the lands.

The lands are within the designated area of Secondary Plan PD 1-15 (OPA 15) for Part of the Markham and Unionville Planning District.

The south portion of the lands is designated "Urban Residential High Density 1 - Special Exception 3" in the Secondary Plan. The applicable policies permit this portion of the lands to be developed with up to 181 apartment units in building(s) having a maximum height of 6 storeys.

The centre portion of the subject lands is designated "Urban Residential Medium Density 1 - Area 2". The applicable policies permit this portion to be developed with residential uses at an overall residential density not exceeding 31 units per hectare in buildings having a maximum height of 4 storeys.

The north portion of the subject lands is designated "Urban Residential Low Density 1 - Area 1". The applicable policies permit this portion to be developed with single detached dwellings at an overall residential density not exceeding 14.8 units per hectare.

The owner proposes to develop the south portion of the lands with an 8-storey, 393 unit apartment building(s) and 12 townhouse units, and the centre and the north portions with 60 townhouse units.

The lands are well suited for residential intensification given their proximity to Markham Centre, ready access to transit, and separation from existing low density residential uses to the north.

The proposed development conforms with approved Provincial and Regional policies, and is consistent with the City's Growth Management Strategy and Draft Official Plan.

PART II – THE OFFICIAL PLAN AMENDMENT

(This is an operative part of Official Plan Amendment No. XXX)

7.

PART II – THE OFFICIAL PLAN AMENDMENT

(This is an operative part of Official Plan Amendment No. XXX)

1. THE AMENDMENT

- 1.1 Section 1.1.2 of Part II of the Official Plan (Revised 1987), as amended, is hereby amended by the addition of the number XXX to the list of amendments, to be placed in numerical order including any required grammatical and punctuation changes.
- 1.2 Section 1.1.3 c) of Part II of the Official Plan is hereby amended by the addition of the number XXX to the list of amendments, including any required grammatical and punctuation changes in the bullet item dealing with Secondary Plan (PD 1-15) for a portion of the Markham and Unionville Planning District (Planning District No. 1).
- 1.3 Section 9.2.12 of Part II of the Official Plan (Revised 1987), as amended, is hereby amended by the addition of the number XXX to the list of amendments, to be placed in numerical order including any grammatical and punctuation changes prior to the words "to this Plan".
- 1.4 Section 4.3.1.2(i) and accompanying Figure 1.9 are hereby deleted in their entirety.
- 1.5 No additional changes to the text or schedules of the Official Plan (Revised 1987), as amended, are being made by this Amendment. This Amendment is also being made to incorporate changes to Schedule 'AA' – DETAILED LAND USE and text of the Secondary Plan (PD 1-15) for a portion of lands north of Highway 7, being part of the Markham and Unionville Planning District (Planning District No. 1). These changes are outlined in Part III which comprises Amendment No. 4 to Secondary Plan PD 1-15.

2. IMPLEMENTATION AND INTERPRETATION

The provisions of the 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, in conformity with the provisions of this Amendment.

PART III – THE SECONDARY PLAN AMENDMENT (PD 1-15-4)

(This is an operative part of Official Plan Amendment No. XXX)

PART III – THE SECONDARY PLAN AMENDMENT (PD 1-15-4)

(This is an operative part of Official Plan Amendment No. XXX)

1.0 THE AMENDMENT

(Amendment No. 4 to the Secondary Plan PD 1-15 for a portion of the Markham and Unionville Planning District).

Secondary Plan PD 1-15 for a portion of the Markham and Unionville Planning District is amended for the subject lands as follows:

1.1 Schedule "AA" – DETAILED LAND USE is amended as follows:

- by redesignating a portion of the lands municipally known as 4002-4022 Highway 7 from "Urban Residential Low Density 1 (Area 1)" to "Urban Residential Medium Density 1 (Area 2)" as shown on Schedule "A".
- By replacing the site specific exception numbers on the designations for the subject lands with those shown on Schedule "A" hereto.

1.2 Section 5.2 is hereby amended by deleting subsection 5.2.9 and replacing it with the following new subsection 5.2.9 as follows:

"5.2.9 4002/4022 Highway 7 East

The following provisions apply to the lands municipally known as 4002/4022 Highway 7 East. Should there be a conflict between these provisions and any other provisions in this Secondary Plan, the provisions of this section shall prevail for the subject lands:

- (a) That the portion of the subject lands that is designated "Urban Residential High Density 1 (Special Exception *3)" may be used for a maximum of 12 townhouse dwelling units, and a maximum of 393 apartment dwelling in building(s) having a maximum height of eight storeys and a maximum floor space index of 3.5 (excluding any floor space for up to 12 townhouse dwelling units).
- (b) That the portion of the subject lands that is designated "Urban Residential Medium Density 1 (Area 2)" may be used for a maximum of 60 townhouse dwelling units

(c) Apartment development shall be subject to the following specific design guidelines:

- Building setbacks should be minimized to create an urban relationship to streets that is conducive to pedestrian activity.
- Prominent at-grade pedestrian entrances should be provided from the buildings to the adjoining streets.
- The majority of street frontages of buildings should contain fenestration/openings providing views into and out of the building. Blank building walls facing public streets should be minimized and where unavoidable should be mitigated by landscaping and building detailing.
- All major loading and waste management facilities should be enclosed and screened from public view.
- Underground parking structures, if not incorporated as part of the main building massing, should not project above the finished grade adjoining streets. Entrances to underground parking garage(s) from public streets should be avoided.
- The development should incorporate sustainable design features to, among other things, reduce energy consumption, minimize the heat island effect, minimize stormwater runoff, harvest rainwater for irrigation, reduce water consumption, and maximize the use of sustainable materials and resources.
- The first two storeys of building massing should be articulated in a manner that is of high visual and architectural quality and responds to human scale.

(d) Townhouse development shall be subject to the following specific design guidelines:

- High quality urban landscaped courts should buffer the transition from public streetscape to private unit access.
- Prominent at grade pedestrian access should be provided to each unit.
- The street frontage of townhouses should contain fenestration/openings providing views into and out of the building. Blank building walls facing public streets should be minimized and where unavoidable should be mitigated by landscaping, building detailing and public art.

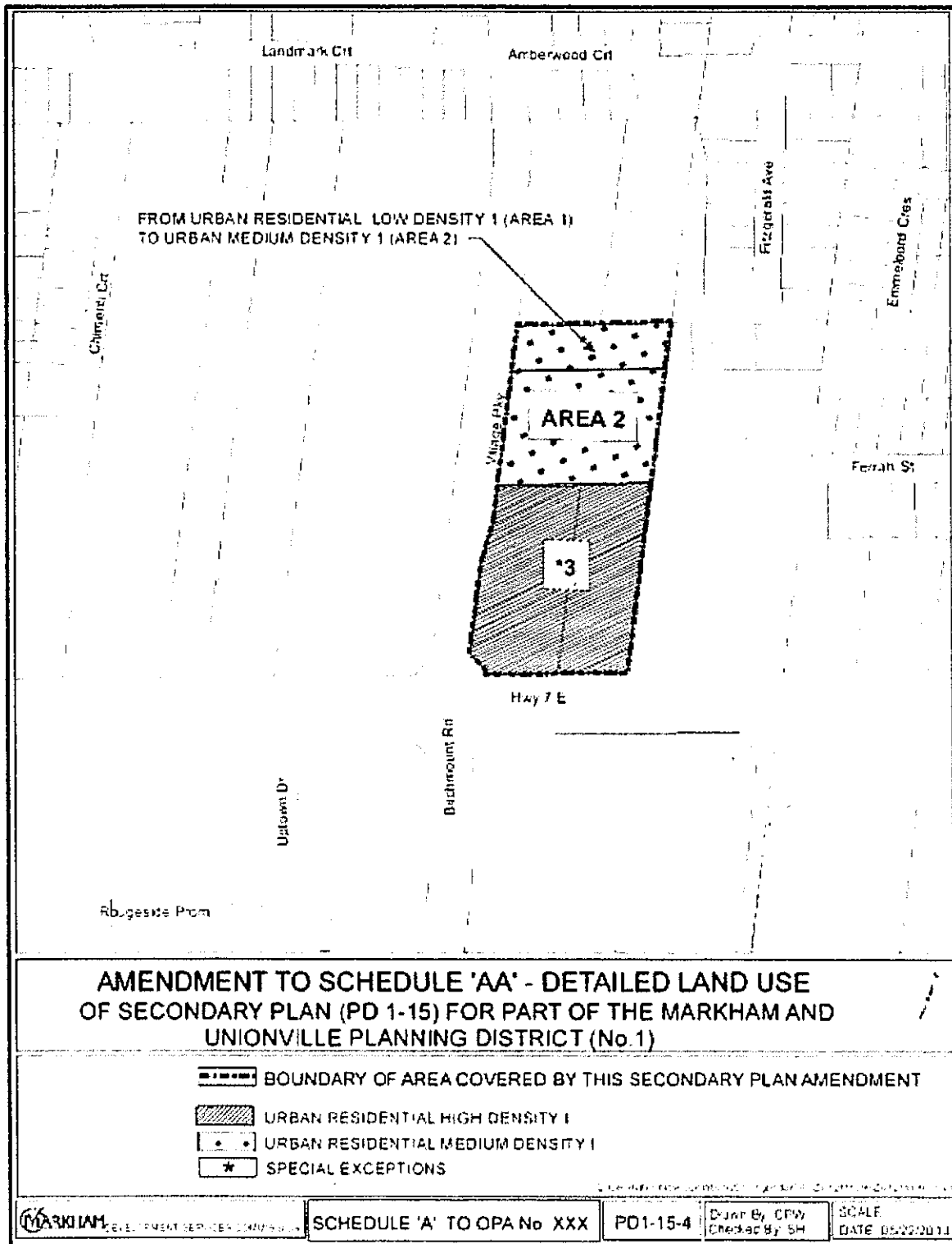
- The architecture and landscape of the townhouses should contribute to the character of the pedestrian and public realm.”

2. IMPLEMENTATION AND INTERPRETATION

The provisions of the Official Plan (Revised 1987), 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 Zoning By-law 118-79, as amended, and Site Plan Approval in conformity with the provisions of this Amendment.

XXXXX, 2013



ATTACHMENT 2

BY-LAW 2013-XX

A by-law to amend 118-79, as amended

THE COUNCIL OF THE CORPORATION OF THE CITY OF MARKHAM
HEREBY ENACTS AS FOLLOWS:

1. THAT By-law 118-79, as amended, is hereby further amended as it applies to the lands outlined on Schedule "A" attached hereto, as follows:
 - 1.1 By deleting Schedule "A" of By-law 273-94 and replacing it with Schedule "A" attached hereto.
 - 1.2 By deleting Schedule "B" of By-law 273-94.
 - 1.3 By rezoning the lands from SECOND DENSITY - HIGH DENSITY RESIDENTIAL (RHD2), FIRST DENSITY - STREET TOWNHOUSE RESIDENTIAL (RST1), FIRST DENSITY - STREET TOWNHOUSE RESIDENTIAL EXCEPTION (RST1-E) and SIXTH DENSITY - SINGLE FAMILY RESIDENTIAL (R6) to:
 - SECOND DENSITY - HIGH DENSITY RESIDENTIAL, HOLD [RHD2(H)]
 - FIRST DENSITY - MEDIUM DENSITY RESIDENTIAL, HOLD [RMD1(H)]
 - SIXTH DENSITY - SINGLE FAMILY RESIDENTIAL (R6)as shown on Schedule "A" attached hereto.
 - 1.4 For the purposes of this by-law, the following definitions shall apply:

DWELLING, TOWNHOUSE means a building that is vertically divided into a minimum of three dwelling units, each of which has an independent entrance at grade to the front of the building.

DWELLING UNIT, APARTMENT means a dwelling unit in an apartment dwelling.

FLOOR AREA, GROSS means the aggregate of the floor areas of a building above or below established grade, excluding car parking areas and bicycle parking storage areas within the building.
-

GUEST SUITE means a suite, other than a dwelling unit, that is available for use on a temporary basis as overnight accommodation for persons visiting residents of an apartment dwelling.

All other definitions in SECTION 2 -- DEFINITIONS of By-law 118-79, as amended, not inconsistent with the above, shall continue to apply.

1.5 HOLDING PROVISION

- 1.5.1 For the purpose of this By-law, a Holding (H) provision is hereby established and is identified on Schedule "A" attached hereto by the letter (H) in parenthesis following the zoning symbol.
- 1.5.2 No person shall hereafter erect or alter any building or structure on lands subject to '(H)' provisions for the purpose permitted under this By-law until amendments to this By-law to remove the letter '(H)' have come into effect pursuant to the provisions of Section 36 of the Planning Act.
- 1.5.3 The holding provision '(H)' shall only be lifted on all or part of the lands shown on Schedule A hereto when all of the following criteria have been met:
 - i. Execution of a site plan agreement (including review, through the site plan approval process, of a TDM report).
 - ii. The Owner has entered into a developers group agreement or has made other alternative arrangements with the City to ensure the fair and equitable cost sharing of community infrastructure and facilities, to the satisfaction of the City's Commissioner of Development Services and the City Solicitor.
 - iii. Execution of a Section 37 Agreement between the City and the Owner regarding a contribution of \$2,500 by the Owner for each dwelling unit over and above 241 dwelling units, pursuant to Section 37 of the Planning Act.
- 1.5.4 Driveways and underground *parking garages* are permitted to be constructed prior to the removal of Holding provision H.

1.6 The following special provision shall apply to the SIXTH DENSITY – SINGLE FAMILY RESIDENTIAL (R6) ZONE:

In addition to the provisions of Subsection 7.1 of By-law 118-79, as amended, the following additional use is permitted:

• PUBLIC PARKS

- 1.7 By deleting Subsection 1.2.2 of By-law 273-94 and replacing it with the following:

"1.2.2 PERMITTED USES

No person shall hereafter change the use of any BUILDING, STRUCTURE or land, nor ERECT and use any BUILDING or STRUCTURE in the in the SECOND DENSITY – HIGH DENSITY RESIDENTIAL (RIID2) ZONE except for the following uses:

- (a) APARTMENT DWELLINGS containing not more than a total of 393 APARTMENT DWELLING UNITS, exclusive of GUEST SUITES, and TOWNHOUSE DWELLINGS containing not more than a total of 12 TOWNHOUSE DWELLING UNITS. For the purposes of this section, STREET TOWNHOUSE DWELLINGS shall be considered TOWNHOUSE DWELLINGS."

- 1.8 By deleting Subsections 1.2.3(b) through (f) of By-law 273-94 and replacing them with the following:

"(b) MINIMUM LOT AREA – 1.0 hectare

(c) MINIMUM YARDS AND SETBACKS

APARTMENT DWELLINGS:

- 2 metres from any STREET LINE, except where any part of any DWELLING UNIT within the FIRST STOREY of a building is located within 10 metres of the STREET LINE, the minimum BUILDING SETBACK shall be 3 metres. Notwithstanding the above, a maximum of 25% of the length of the wall facing the STREET LINE may be located no closer than 0.3 metres from the STREET LINE.
- 3.5 metres from any other LOT LINE.
- 10 metres from any TOWNHOUSE DWELLING

TOWNHOUSE DWELLINGS:

- 1 metre from any STREET LINE.
- 3.5 metres from any other LOT LINE.
- 10 metres from any APARTMENT DWELLING.
- 70 metres from the FRONT LOT LINE.

In addition to the provisions of Section 5.7, the following STRUCTURES may project a maximum of 2 metres into any required YARD: canopies, cantilevered window bays, garden walls, porches, steps, stoops, underground cold cellars located entirely underneath roofed porches, and trellises.

(d) MAXIMUM FLOOR SPACE INDEX

3.5 times the LOT AREA excluding any floor area located within the TOWNHOUSE DWELLING UNITS.

(e) MAXIMUM BUILDING HEIGHT

- APARTMENT DWELLINGS - the lesser of 8 storeys or 210.00 Canadian Geodetic Datum.
- TOWNHOUSE DWELLINGS - 13 metres

Any ornamental roof construction features including towers, landscaping features, steeples or cupolas, shall not be included in the calculation of height. Mechanical features, such as structures containing the equipment necessary to control an elevator, are permitted to project to a maximum of 5.0 metres above the highest point of the roof surface, regardless of the height of the building.

(f) PARKING REQUIREMENTS

(i) PARKING SPACES REQUIRED

APARTMENT DWELLINGS - A minimum of 0.8 PARKING SPACES per DWELLING UNIT plus 0.1 PARKING SPACES per DWELLING UNIT for visitors. No PARKING SPACES are required for GUEST SUITES

TOWNHOUSE DWELLINGS - A minimum of 2.0 PARKING SPACES per DWELLING UNIT.

Notwithstanding the provisions of Subsection 6.1.4 of By-law 28-97, TANDI M PARKING SPACES are permitted."

1.9 By deleting Subsection 1.2.3(g) of By-law 273-94 in its entirety.

1.10 By deleting Section 1.3 of By-law 273-94 and replacing it with the following:

"1.3 Notwithstanding any other provisions of By-law 118-79, as amended, for the purposes of this by-law a FIRST DENSITY MEDIUM DENSITY RESIDENTIAL (RMD1) ZONE is hereby established, as follows:

1.3.1 ZONE AND SYMBOL

The ZONE is referred to by name and symbol as follows:

FIRST DENSITY – MEDIUM DENSITY RESIDENTIAL
(RMD1)

1.3.2 PERMITTED USES

No person shall hereafter change the use of any BUILDING, STRUCTURE or land, nor ERECT and use any BUILDING or STRUCTURE in the in the FIRST DENSITY – MEDIUM DENSITY RESIDENTIAL (RMD1) ZONE except for the following uses:

- (a) TOWNHOUSE DWELLINGS containing a total of not more than 60 TOWNHOUSE DWELLING UNITS. For the purposes of this section, STREET TOWNHOUSE DWELLINGS shall be considered TOWNHOUSE DWELLINGS.

1.3.3 ZONE REQUIREMENTS

No person shall erect or use any BUILDING or STRUCTURE in the FIRST DENSITY – MEDIUM DENSITY RESIDENTIAL (RMD1) ZONE except in compliance with the following regulations:

- (a) Minimum LOT FRONTAGE: 90 metres.
 - (b) Minimum LOT AREA: 1.0 hectare.
 - (c) Minimum YARDS and SETBACKS:
 - 1 metre from any STREET LINE.
-

- 3.5 metres from any other LOT LINE.

In addition to the provisions of Section 5.7, the following STRUCTURES may project a maximum of 2 metres into any required YARD: canopies, cantilevered window bays, garden walls, porches, steps, stoops, underground cold cellars located entirely underneath roofed porches, and trellises.

- (c) Maximum BUILDING HEIGHT:

13 metres.

Any ornamental roof construction features including towers, landscaping features, steeples or cupolas, shall not be included in the calculation of height.

Mechanical features, such as structures containing the equipment necessary to control an elevator, are permitted to project to a maximum of 5.0 metres above the highest point of the roof surface, regardless of the height of the building.

- (d) Parking Requirements

- (i) PARKING SPACES required:

TOWNHOUSE DWELLINGS - A minimum of 2.0 PARKING SPACES per DWELLING UNIT. Notwithstanding the provisions of Section 6.1.4 of By-law 28-97, TANDEM PARKING SPACES are permitted."

1.11 By deleting Section 1.4 of By-law 273-94 in its entirety

1.12 The provisions of Sections 5.12 and 6.1 of By-law 118-79, as amended, shall not apply to the land outlined on Schedule "A", attached hereto.

1.13 For the purposes of zoning, the lands shown on Schedule "A" attached to this by-law as being rezoned to FIRST DENSITY - MEDIUM DENSITY RESIDENTIAL HOLDING [RMD1 (H)] shall be considered one lot.

1.14 For the purposes of zoning, the lands shown on Schedule "A" attached to this by-law as being rezoned to SECOND DENSITY - HIGH DENSITY RESIDENTIAL HOLDING [RHD2(H)] shall be considered one lot.

- 2.0 All other provisions of By-law 118-79, as amended, not inconsistent with the provisions of this By-law shall continue to apply.



ATTACHMENT 3

OFFICIAL PLAN

of the

MARKHAM PLANNING AREA

AMENDMENT NO. XXX

To amend the Official Plan (Revised 1987), as amended, and to incorporate Amendment No. 5 to the Secondary Plan (PD 1-15) for a portion of the Markham and Unionville Planning District.
(Planning District No. 1)

Unionville Development Corporation (Lee Developments)
(3972 Highway 7 East)

OFFICIAL PLAN

XXXX 2013

of the
MARKHAM PLANNING AREA
AMENDMENT NO. XXX

To amend the Official Plan (Revised 1987), as amended, to incorporate amendment No. 5 to Secondary Plan (PD 1-15) for a portion of the Markham and Unionville Planning District (Planning District No. 1).

This Official Plan Amendment was approved by the Ontario Municipal Board on

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PART I – INTRODUCTION

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

PART I – INTRODUCTION

1.0 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 Amendment No. XXX to the Official Plan (Revised 1987), as amended, and is required to enact Amendment No. 5 to the Secondary Plan PD 1-15 for a portion of the Markham and Unionville Planning District. Part II is an operative part of this Official Plan Amendment.
- 1.3 **PART III – THE SECONDARY PLAN AMENDMENT**, including Schedule "A" attached thereto, constitutes Amendment No. 5 to Secondary Plan PD 1-15 for a portion of the Markham and Unionville Planning District (Planning District No 1). This amendment may be identified by the symbol PD 1-15-5. Part III is an operative part of this Official Plan Amendment.

2.0 LOCATION

This Amendment applies to approximately 3.25 ha of land in part of Lot 10, Concession 5, located at the north-west corner of Highway 7 and Village Parkway as shown on Schedule "A" of Part III of this Amendment. The lands are municipally known as 3972 Highway 7

3.0 PURPOSE

The purpose of this Official Plan Amendment is to amend the site specific policies of the Official Plan and amend Secondary Plan PD 1-15 (OPA 15) for the subject lands to permit a proposed development consisting of an 8-storey apartment building(s) and townhouses.

4.0 BASIS OF THIS AMENDMENT

The subject lands are located on Highway 7, a Regional Arterial Road, at the southern limit of the Markham and Unionville Planning District.

The lands are designated "Urban Residential" in the Markham Official Plan (Revised 1987), as amended, and "Urban Residential High Density 1 (Special Exception 6)" and "Urban Residential Medium Density 1 (Area 2), Special Exception 5" in Secondary Plan PD 1-15 for part of the Markham and Unionville Planning District (OPA15), as amended.

The lands are subject to the policies set out in Section 4.3.1.2 j) of the Markham Official Plan (Revised 1987), as amended, and to the policies set out in Official Plan Amendment No. 15. These policies, which date from 1994, permit the subject lands to be developed with 6-storey apartment building(s) fronting on Highway 7, transitioning down to

townhouses and then to a school site or single detached dwellings on adjoining lands to the north, which are also owned by the applicant.

The Owner proposes to develop the lands with an 8-storey apartment building(s) fronting on Highway 7, transitioning down to townhouses and then to a school site on the adjoining lands also owned by the applicant.

The subject lands are well suited for residential intensification given their proximity to Markham Centre, ready access to transit, and separation from existing low density residential uses to the north.

The proposed built form program is appropriate at this location and is compatible with the existing low density residential community to the north.

This amendment conforms to approved Provincial and Regional policies and is consistent with the City's Growth Management Strategy and Draft Official Plan.

PART II – THE OFFICIAL PLAN AMENDMENT

(This is an operative part of Official Plan Amendment No. XXX)

PART II – THE OFFICIAL PLAN AMENDMENT

(This is an operative part of Official Plan Amendment No. XXX)

1.0 THE AMENDMENT

- 1.1 Section 1.1.2 of Part II of the Official Plan (Revised 1987), as amended, is hereby amended by the addition of the number XXX to the list of amendments to be placed in numerical order including any required grammatical and punctuation changes.
- 1.2 Section 1.1.3 c) of Part II of the Official Plan is hereby amended by the addition of the number XXX to the list of amendments, including any required grammatical and punctuation changes in the bullet item dealing with Secondary Plan (PD 1-15) for a portion of the Markham and Unionville Planning District (Planning District No. 1).
- 1.3 Section 9.2.12 of Part II of the Official Plan (Revised 1987), as amended, is hereby amended by the addition of the number XXX to the list of amendments, to be placed in numerical order including any grammatical and punctuation changes prior to the words "to this Plan".
- 1.4 Section 4.3.1.2(j) and accompanying Figure 1.10 are hereby deleted in their entirety.
- 1.5 No additional changes to the text or schedules of the Official Plan (Revised 1987), as amended, are being made by this Amendment. This Amendment is also being made to incorporate changes to Schedule "AA" – Detailed Land Use and text of the Secondary Plan (PD 1-15) for a portion of the Markham and Unionville Planning District (Planning District No. 1). These changes are outlined in Part III which comprises Amendment No. 5 to the Secondary Plan PD 1-15.

2.0 IMPLEMENTATION AND INTERPRETATION

The provisions of the Official Plan (Revised 1987), 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, in conformity with the provisions of this Amendment.

PART III – THE SECONDARY PLAN AMENDMENT (PD 1-15-5)

(This is an operative part of Official Plan Amendment No. XXX)

PART III- THE SECONDARY PLAN AMENDMENT (PD 1-15-5)

(This is an operative part of Official Plan Amendment No. XXX)

1.0 THE AMENDMENT

(Amendment No. 5 to the Secondary Plan PD1-15 for a portion of the Markham and Unionville Planning District)

Secondary Plan PD 1-15 for a portion of the Markham and Unionville Planning District is amended for the subject lands as follows:

- 1.1 Schedule "AA" - DETAILED LAND USE is amended by replacing the site specific exception numbers on the designations for the subject lands with those shown on Schedule "A" attached hereto.

- 1.2 Section 5.2 is hereby amended by the addition of subsection 5.2.11 as follows:

5.2.11 3952 and 3972 Highway 7 East

The following provisions apply to the lands municipally known as 3952 and 3972 Highway 7 East. Should there be a conflict between these provisions and any other provisions of this Secondary Plan, the provisions of this section shall prevail for the subject lands:

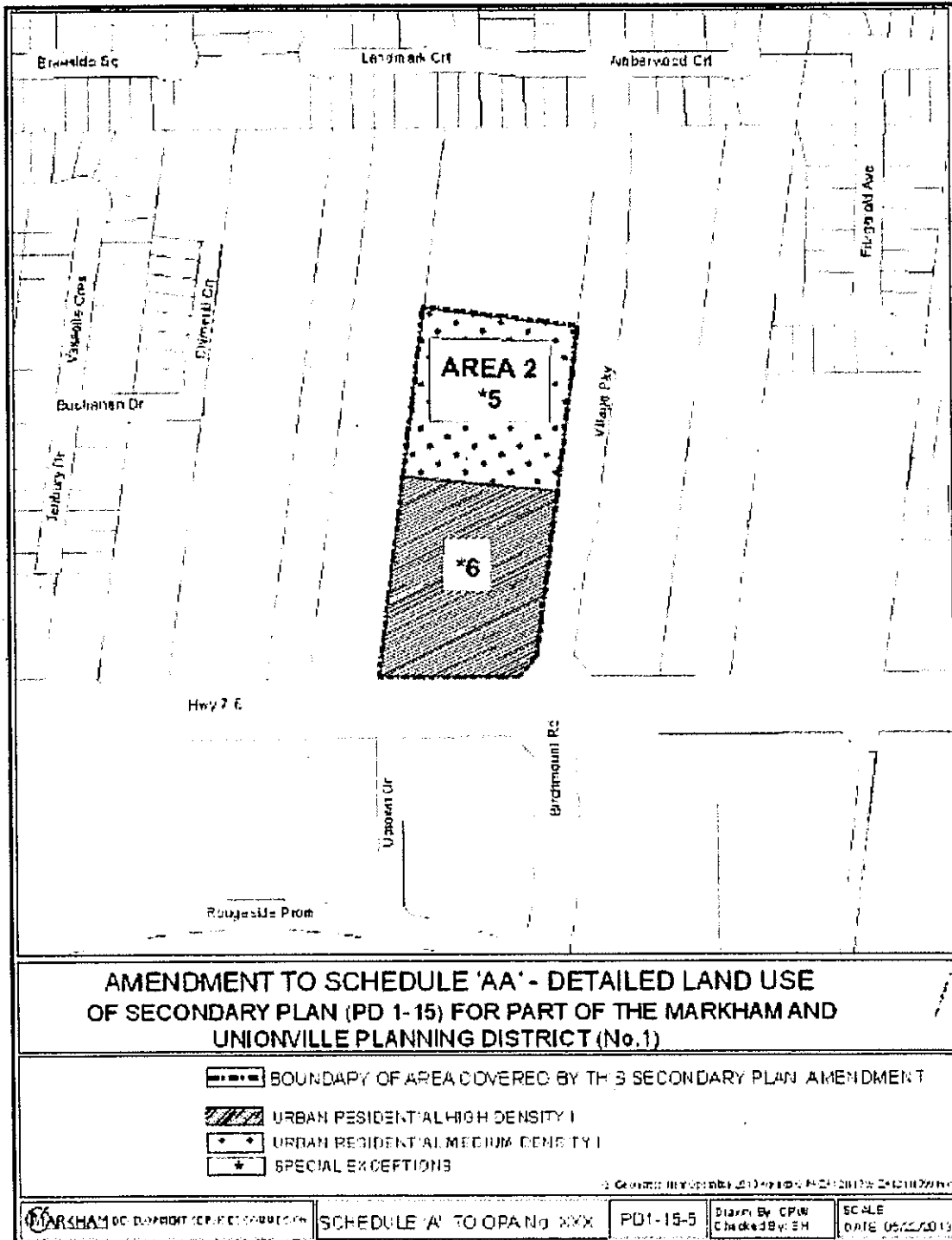
- (a) That the portion of the subject lands that is designated "Urban Residential High Density 1 (Special Exception '6)" on Schedule "AA" - DETAILED LAND USE may be used for a maximum of 12 townhouse dwelling units, and a maximum of 379 apartment dwelling in building(s) having a maximum height of eight storeys and a maximum floor space index of 3.5 (excluding any floor space for up to 12 townhouse dwelling units).
- (b) That the portion of the subject lands that is designated "Urban Residential Medium Density 1 (Special Exception '5)" may be used for a maximum of 60 townhouse dwelling units.
- (c) Apartment development shall be subject to the following specific design guidelines:
 - Building setbacks should be minimized to create an urban relationship to streets that is conducive to pedestrian activity.
 - Prominent at-grade pedestrian entrances should be provided from the buildings to the adjoining streets.
 - The majority of street frontages of buildings should contain fenestration/openings providing views into and out of the building. Blank building walls facing public streets should be minimized and where

- unavoidable should be mitigated by landscaping, building detailing and public art,
- All major loading and waste management facilities should be enclosed and screened from public view.
 - Underground parking structures, if not incorporated as part of the main building massing, should not project above the finished grade adjoining streets. Entrances to underground parking garage(s) from public streets should be avoided.
 - The development should incorporate sustainable design features to, among other things, reduce energy consumption, minimize the heat island effect, minimize stormwater runoff, harvest rainwater for irrigation, reduce water consumption, and maximize the use of sustainable materials and resources.
 - Useable landscape outdoor amenity space should be provided for residents.
 - The first two storeys of building massing should be articulated in a manner that is of high visual and architectural quality and responds to human scale.
- (d) Townhouse development shall be subject to the following specific design guidelines:
- High quality urban landscape courts should buffer the transition from public streetscape to private unit access.
 - Prominent at grade pedestrian access should be provided to each unit.
 - The street frontage of townhouses should contain fenestration/openings providing views into and out of the building. Blank building walls facing public streets should be minimized and where unavoidable should be mitigated by landscaping, building detailing and public art.
 - The architecture and landscape of the townhouses should contribute to the character of the pedestrian and public realm."

2.0 IMPLEMENTATION AND INTERPRETATION

The provisions of the Official Plan (Revised 1987), 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 Zoning By-law 118-79, as amended and Site Plan Approval in conformity with the provisions of this Amendment.



ATTACHMENT 4

BY-LAW 2013-XX

A by-law to amend 118-79, as amended

THE COUNCIL OF THE CORPORATION OF THE CITY OF MARKHAM
HEREBY ENACTS AS FOLLOWS:

1. THAT By-law 118-79, as amended, is hereby further amended as it applies to the lands outlined on Schedule 'A' attached hereto, as follows:

1.1 By deleting Schedules 'A', 'B' and 'C' of By-law 274-94 and replacing them with Schedule 'A' attached hereto.

1.2 For the purposes of this by-law, the following definitions shall apply:

DWELLING, TOWNHOUSE means a building that is vertically divided into a minimum of three dwelling units, each of which has an independent entrance at grade to the front of the building.

DWELLING UNIT, APARTMENT means a dwelling unit in an apartment dwelling.

FLOOR AREA, GROSS means the aggregate of the floor areas of a building above or below established grade, excluding car parking areas and bicycle parking storage areas within the building.

GUEST SUITE means a suite, other than a dwelling unit, that is available for use on a temporary basis as overnight accommodation for persons visiting residents of an apartment dwelling.

All other definitions in SECTION 2 – DEFINITIONS of By-law 118-79, as amended, not inconsistent with the above, shall continue to apply.

1.3 By rezoning the lands from SECOND DENSITY – HIGH DENSITY RESIDENTIAL (RHD2) and FIRST DENSITY – MEDIUM DENSITY RESIDENTIAL (RMD1) to:

- SECOND DENSITY – HIGH DENSITY RESIDENTIAL, HOLD [RHD2011]
- FIRST DENSITY – MEDIUM DENSITY RESIDENTIAL, HOLD [RMD1011]

as shown on Schedule 'A' attached hereto.

1.4 HOLDING PROVISION

1.4.1 For the purpose of this By-law, a Holding (H) provision is hereby established and is identified on Schedule "A" attached hereto by the letter (H) in parenthesis following the zoning symbol.

1.4.2 No person shall hereafter erect or alter any building or structure on lands subject to "(H)" provisions for the purpose permitted under this By-law until amendments to this By-law to remove the letter "(H)" have come into effect pursuant to the provisions of Section 36 of the Planning Act.

1.4.3 The holding provision "(H)" shall only be lifted on all or part of the lands shown on Schedule A hereto when all of the following criteria have been met:

- i. Execution of a site plan agreement (including review, through the site plan approval process, of a TDM report).
- ii. The Owner has entered into a developers group agreement or has made other alternative arrangements with the City to ensure the fair and equitable cost sharing of community infrastructure and facilities, to the satisfaction of the City's Commissioner of Development Services and the City Solicitor.
- iii. Execution of a Section 37 Agreement between the City and the Owner regarding a contribution of \$2,500 by the Owner for each dwelling unit over and above 246 dwelling units, pursuant to Section 37 of the Planning Act.

1.4.4 Driveways and underground *parking garages* are permitted to be constructed prior to the removal of Holding provision H.

1.5 By deleting Subsections 1.2.2(a) through (d) of By-law 274-94 and replacing them with the following:

- (a) APARTMENT DWELLINGS containing not more than a total of 379 APARTMENT DWELLING UNITS, exclusive of GUEST SUITES, and TOWNHOUSE DWELLINGS containing not more than a total of 12 TOWNHOUSE DWELLING UNITS. For the purposes of this section, STREET TOWNHOUSE DWELLINGS shall be considered TOWNHOUSE DWELLINGS."
-

1.6 By deleting Subsections 1.2.3(b) through (f) of By-law 274-94 and replacing them with the following:

(b) MINIMUM LOT AREA 1.0 hectare

(c) MINIMUM YARDS AND SETBACKS

APARTMENT DWELLINGS:

- 2 metres from any STREET LINE, except where any part of any DWELLING UNIT within the FIRST STOREY of a building is located within 10 metres of the STREET LINE, the minimum BUILDING SETBACK shall be 3 metres. Notwithstanding the above, a maximum of 25% of the length of the wall facing the STREET LINE may be located no closer than 0.3 metres from the STREET LINE.
- 3.5 metres from any other LOT LINE.
- 10 metres from any TOWNHOUSE DWELLING.

TOWNHOUSE DWELLINGS:

- 1 metre from any STREET LINE.
- 3.5 metres from any other LOT LINE.
- 10 metres from any APARTMENT DWELLING
- 70 metres from the FRONT LOT LINE.

In addition to the provisions of Section 5.7, the following STRUCTURES may project a maximum of 2 metres into any required YARD to a minimum of 0.3 metres from the STREET LINE or LOT LINE: canopies, cantilevered window bays, garden walls, porches, steps, stoops, underground cold cellars located entirely underneath roofed porches, and trellises.

(d) MAXIMUM FLOOR SPACE INDEX

3.5 times the LOT AREA excluding any floor area located within the TOWNHOUSE DWELLING UNITS

(e) MAXIMUM BUILDING HEIGHT

APARTMENT DWELLINGS - the lesser of 8 storeys or 210.00 Canadian Geodetic Datum.

TOWNHOUSE DWELLINGS - 13 metres

Any ornamental roof construction features including towers, landscaping features, steeples or cupolas, shall not be included in the calculation of height. Mechanical features, such as structures containing the equipment necessary to control an elevator, are permitted to project to a maximum of 5.0 metres above the highest point of the roof surface, regardless of the height of the building.

(f) PARKING REQUIREMENTS

(i) PARKING SPACES REQUIRED

APARTMENT DWELLINGS - A minimum of 0.8
PARKING SPACES per **DWELLING UNIT** plus 0.15
PARKING SPACES per **DWELLING UNIT** for visitors. No
PARKING SPACES are required for **GUEST SUITES**.

TOWNHOUSE DWELLINGS - A minimum of 2.0
PARKING SPACES per **DWELLING UNIT**.
Notwithstanding the provisions of Subsection 6.1.4 of By-law
28-97, **TANDEM PARKING SPACES** are permitted."

1.7 By deleting Subsection 1.2.3(g) of By-law 274-94 in its entirety.

1.8 By deleting Subsection 1.3.2(a) of By-law 274-94 and replacing it with the following:

"(a) Not more than 60 **TOWNHOUSE DWELLING UNITS**. For the purposes of this section, **STREET TOWNHOUSE DWELLINGS** shall be considered **TOWNHOUSE DWELLINGS**"

1.9 By deleting Subsections 1.3.3 (b) through (f) of By-law 274-94 and replacing them with the following:

"(b) **MINIMUM LOT AREA -** 1.0 hectare

(c) **MINIMUM YARDS AND SETBACKS**

- 1 metre from any **STREET LINE**
- 3.5 metres from any other **LOT LINE**.

In addition to the provisions of Section 5.7, the following
STRUCTURES may project a maximum of 2 metres into any

required YARD to a minimum of 0.3 metres from the STREET LINE or LOT LINE: canopies, cantilevered window bays, garden walls, porches, steps, stoops, underground cold cellars located entirely underneath roofed porches, and trellises.

(d) MAXIMUM BUILDING HEIGHT - 13 metres

Any ornamental roof construction features including towers, landscaping features, steeples or cupolas, shall not be included in the calculation of height. Mechanical features, such as structures containing the equipment necessary to control an elevator, are permitted to project to a maximum of 5.0 metres above the highest point of the roof surface, regardless of the height of the building."

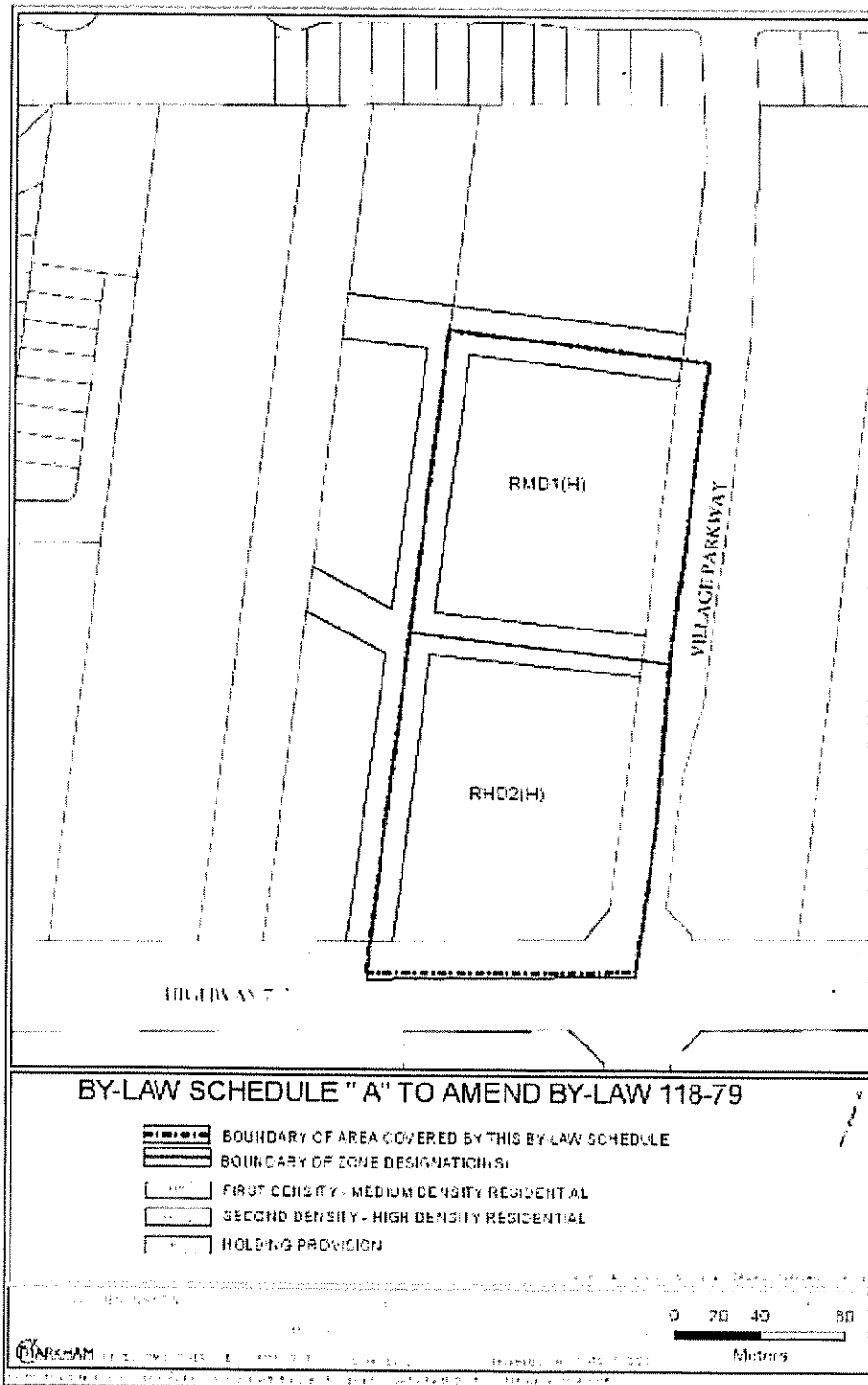
(e) PARKING REQUIREMENTS

PARKING SPACES REQUIRED

A minimum of 2.0 PARKING SPACES per DWELLING UNIT. Notwithstanding the provisions of Subsection 6.1.4 of By-law 28-97, TANDEM PARKING SPACES are permitted."

- 1.10 By deleting Subsection 1.3.3(f) of By-law 274-94 in its entirety.
 - 1.11 In addition to the provisions of Section 5.7 of By-law 118-79, as amended, the following STRUCTURES may project a maximum of 2 metres into any required YARD to a minimum of 0.3 metres from the STREET LINE or LOT LINE: canopies, cantilevered window bays, garden walls, porches, steps, stoops, underground cold cellars located entirely underneath porches, and trellises.
 - 1.12 The provisions of Sections 5.12 and 6.1 of By-law 118-79, as amended, shall not apply to the land outlined on Schedule "A", attached hereto.
 - 1.13 For the purposes of zoning, the lands shown on Schedule "A" attached to this by-law as being rezoned to FIRST DENSITY - MEDIUM DENSITY RESIDENTIAL HOLDING [RMD1 (H)] shall be considered one lot.
 - 1.14 For the purposes of zoning, the lands shown on Schedule "A" attached to this by-law as being rezoned to SECOND DENSITY - HIGH DENSITY RESIDENTIAL HOLDING [RHD2(H)] shall be considered one lot.
-

- 2.0 All other provisions of By-law 118-79, as amended, not inconsistent with the provisions of this By-law shall continue to apply



ATTACHMENT 5

OFFICIAL PLAN

of the

MARKHAM PLANNING AREA

AMENDMENT NO. XXX

To amend the Official Plan (Revised 1987), as amended, and to incorporate Amendment No. 6 to the Secondary Plan (PD 1-15) for a portion of the Markham and Unionville Planning District (Planning District No. 1)

2124123 Ontario Ltd. (Peak Garden Development)

(3940 Highway 7 East)

xxxxxxxx 2013

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PART I – INTRODUCTION

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

PART I – INTRODUCTION

1.0 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 Amendment No. XXX to the Official Plan (Revised 1987), as amended, and is required to enact Amendment No. 6 to the Secondary Plan PD 1-15 for a portion of the Markham and Unionville Planning District. Part II is an operative part of this Official Plan Amendment.
- 1.3 PART III – THE SECONDARY PLAN AMENDMENT, including Schedule "A", attached thereto, constitutes Amendment No. 6 to Secondary Plan PD 1-15 for a portion of the Markham and Unionville Planning District (Planning District No. 1). This amendment may be identified by the symbol PD 1-15-6. Part III is an operative part of this Official Plan Amendment.

2.0 LOCATION

This Amendment applies to approximately 1.5 ha of land on the north side of Highway 7 west of Village Parkway, known municipally as 3940 Highway 7, as shown on Schedule "A" of Part III of this Amendment.

3.0 PURPOSE

The purpose of this Official Plan Amendment is to revise the land use designations and policies of Secondary Plan PD 1-15 (OPA 15) to permit a proposed development consisting of an 8-storey apartment building and townhouses.

4.0 BASIS OF THIS AMENDMENT

The subject lands are designated 'Urban Residential' in the City of Markham Official Plan (Revised 1987), as amended, and 'Urban Residential High Density 1' and 'Urban Residential Medium Density 1' and 'Open Space - Neighbourhood Park' in the Secondary Plan for part of the Markham and Unionville Planning District (OPA15), as amended.

The owner proposes to develop the lands with an 8-storey apartment building fronting on Highway 7, transitioning down to townhouses.

The subject lands are well suited for residential intensification given their proximity to Markham Centre, ready access to transit, and separation from the existing low density residential uses to the north.

This amendment conforms to approved Provincial and Regional policies and is consistent with the City's Growth Management Strategy and Draft Official Plan.

PART II – THE OFFICIAL PLAN AMENDMENT

(This is an operative part of Official Plan Amendment No. XXX)

PART II – THE OFFICIAL PLAN AMENDMENT
(This is an operative part of Official Plan Amendment No. XXX)

1.0 THE AMENDMENT

- 1.1 Section 1.1.2 of Part II of the Official Plan (Revised 1987), as amended, is hereby amended by the addition of the number XXX to the list of amendments to be placed in numerical order including any required grammatical and punctuation changes.
- 1.2 Section 1.1.3 c) of Part II of the Official Plan is hereby amended by the addition of the number XXX to the list of amendments, including any required grammatical and punctuation changes in the bullet item dealing with Secondary Plan (PD 1-15) for a portion of the Markham and Unionville Planning District (Planning District No. 1)
- 1.3 Section 9.2.12 of Part II of the Official Plan (Revised 1987), as amended, is hereby amended by the addition of the number XXX to the list of amendments, to be placed in numerical order including any grammatical and punctuation changes prior to the words "to this Plan."
- 1.4 No additional changes to the text or schedules of the Official Plan (Revised 1987), as amended, are being made by this Amendment. This Amendment is being made to incorporate changes to Schedule "AA"-DETAILED LAND USE and text of the Secondary Plan (PD 1-15) for a portion of the Markham and Unionville Planning District (Planning District No. 1). These changes are outlined in Part III which comprises Amendment No. 6 to the Secondary Plan PD 1-15.

2.0 IMPLEMENTATION AND INTERPRETATION

The provisions of the Official Plan (Revised 1987) 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, in conformity with the provisions of this Amendment.

PART III – THE SECONDARY PLAN AMENDMENT (PD 1-15-6)

(This is an operative part of Official Plan Amendment No. XXX)

PART III- THE SECONDARY PLAN AMENDMENT (PD 1-15-6)

(This is an operative part of Official Plan Amendment No. XXX)

1.0 THE AMENDMENT

(Amendment No. 6 to the Secondary Plan PD 1-15 for a portion of the Markham and Unionville Planning District)

Secondary Plan PD 1-15 for a portion of the Markham and Unionville Planning District is amended for the subject lands as follows:

- 1.1 Schedule 'AA' - DETAILED LAND USE is amended by redesignating certain lands from 'Open Space – Neighbourhood Park' to 'Urban Residential Medium Density 1' as shown on Schedule 'A' attached hereto.

- 1.2 Section 5.2 is hereby amended by the addition of subsection 5.2.12 as follows:

5.2.12 3940 Highway 7 East

The following provisions apply to the lands municipally known as 3940 Highway 7 East. Should there be a conflict between these provisions and any other provisions of this Secondary Plan, the provisions of this section shall prevail for the subject lands:

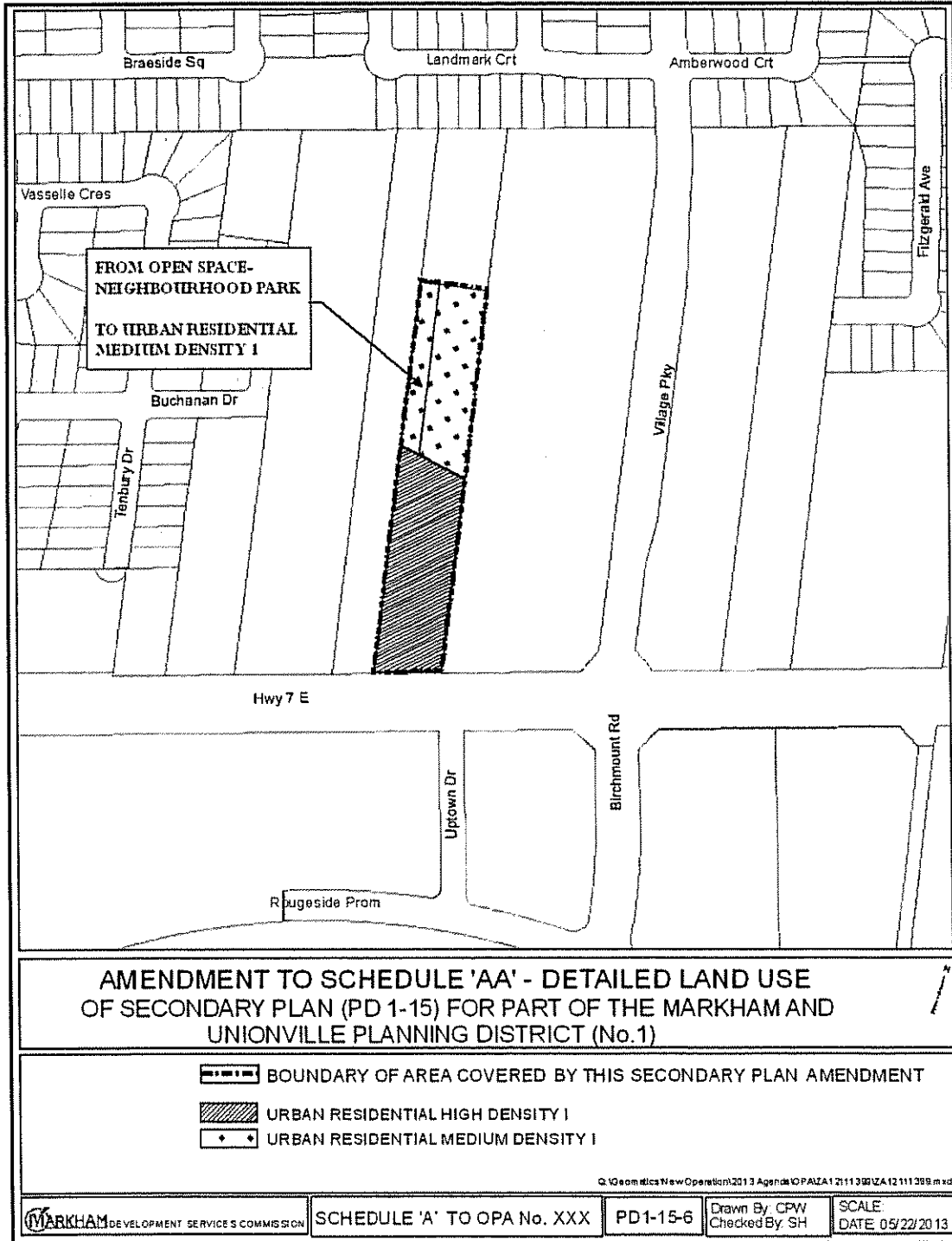
- (a) That the portion of the subject lands designated "Urban Residential Medium Density 1" on Schedule 'AA' – DETAILED LAND USE may be used for up to 35 townhouse units.
- (b) That the portion of the subject lands designated "Urban Residential High Density 1" on Schedule 'AA' – DETAILED LAND USE may be used for up to 228 dwelling units. Up to 19 of the dwelling units may be townhouse units. All other dwelling units shall be apartment units in one apartment building having a maximum height of 8 storeys and a maximum floor space index of 3.5 excluding the floor space of any townhouse units. Commercial uses are permitted in the first storey of the apartment building.
- (c) That the total number of dwelling units on the subject lands shall not exceed 262.
- (d) That apartment development shall be subject to the following specific design guidelines:
 - Buildings setbacks should be minimized to create an urban relationship to streets that is conducive to pedestrian activity.
 - Prominent at-grade pedestrian entrances should be provided from the buildings to the adjoining streets.
 - The majority of street frontages of buildings should contain fenestration/openings providing views into and out of the building. Blank building walls facing public streets should be minimized and where unavoidable should be mitigated by landscaping, building detailing and public art.

- All major loading and waste management facilities should be enclosed and screened from public view
 - Underground parking structures, if not incorporated as part of the main building massing, should not project above the finished grade adjoining streets. Entrances to underground parking garage(s) from public streets should be avoided.
 - The development should incorporate sustainable design features to, among other things, reduce energy consumption, minimize the heat island effect, minimize stormwater runoff, harvest rainwater for irrigation, reduce water consumption, and maximize the use of sustainable materials and resources.
 - Useable landscape outdoor amenity space should be provided for residents.
 - The first two storeys of building massing should be articulated in a manner that is of high visual and architectural quality and responds to human scale
- (e) That townhouse development shall be subject to the following specific design guidelines:
- High quality urban landscape courts should buffer the transition from public streetscape to private unit access
 - Prominent at grade pedestrian access should be provided to each unit.
 - The street frontage of townhouses should contain fenestration/openings providing views into and out of the building. Blank building walls facing public streets should be minimized and where unavoidable should be mitigated by landscaping, building detailing and public art
 - The architecture and landscape of the townhouses should contribute to the character of the pedestrian and public realm."

2.0 IMPLEMENTATION AND INTERPRETATION

The provisions of the 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 Zoning By-law 118-79, as amended, and Site Plan Approval in conformity with the provisions of this Amendment.



ATTACHMENT 6

BY-LAW 2013-XX

A by-law to amend 118-79, as amended

THE COUNCIL OF THE CORPORATION OF THE CITY OF MARKHAM HEREBY ENACTS AS FOLLOWS

1. By-law 118-79, as amended, is hereby further amended as it applies to the lands outlined on Schedule "A" attached hereto as follows:

- 1.1 By rezoning the lands from RESIDENTIAL DEVELOPMENT (RD) to:
- SECOND DENSITY – HIGH DENSITY RESIDENTIAL HOLD [RH2(H)]
 - FIRST DENSITY – MEDIUM DENSITY RESIDENTIAL HOLD [RM1(H)]
 - INSTITUTIONAL AND OPEN SPACE (O2)
- as shown on Schedule "A" attached hereto.

1.2 Definitions

For the purposes of this by-law, the following definitions shall apply:

DWELLING, TOWNHOUSE means a building that is vertically divided into a minimum of three dwelling units, each of which has an independent entrance at grade to the front of the building.

DWELLING UNIT, APARTMENT means a dwelling unit in an apartment dwelling.

FIRST STOREY means the storey with its floor closest to the established grade and having its ceiling more than 1.8 metres above grade.

FLOOR AREA, GROSS means the aggregate of the floor areas of a building above or below established grade, excluding car parking areas and bicycle parking/storage areas within the building.

FLOOR AREA, NET means the aggregate of the floor areas of a building above or below established grade, but excluding car parking areas and bicycle parking/storage within the building, stairways, elevator shafts, service/mechanical rooms and penthouses, washrooms, garbage/recycling rooms, staff locker and lunch rooms, loading areas, any space with a floor to ceiling height of less than 1.8 metres and any part of a basement that is

unfinished, is used solely for storage purposes and is not accessible to the public.

GUEST SUITE means a suite, other than a dwelling unit, that is available for use on a temporary basis as overnight accommodation for persons visiting residents of an apartment dwelling.

All other definitions in SECTION 2 – DEFINITIONS of By-law 118-79, as amended, not inconsistent with the above, shall continue to apply.

13. HOLDING PROVISION

- 13.1 For the purpose of this By-law, a Holding (H) provision is hereby established and is identified on Schedule "A" attached hereto by the letter (H) in parenthesis following the zoning symbol.
- 13.2 No person shall hereafter ERECT or use any BUILDING or STRUCTURE on lands subject to "(H)" provisions for the purpose permitted under this By-law until amendments to this By-law to remove the letter "(H)" have come into effect pursuant to the provisions of Section 36 of the Planning Act.
- 13.3 The holding provision "(H)" shall only be lifted on all or part of the lands shown on Schedule A hereto when all of the following criteria have been met:
- i. Execution of a site plan agreement (including review, through the site plan approval process, of a TDM report)
 - ii. The Owner has entered into a developers group agreement or has made other alternative arrangements with the City to ensure the fair and equitable cost sharing of community infrastructure and facilities, to the satisfaction of the City's Commissioner of Development Services and the City Solicitor
 - iii. Execution of a Section 37 Agreement between the City and the Owner regarding a contribution of \$250,000 by the Owner pursuant to Section 37 of the Planning Act
- 13.4 Driveways and underground *parking garages* are permitted to be constructed prior to the removal of Holding provision H.
-

- 1.4 Notwithstanding any other provisions of By-law 118-79, as amended, for the purposes of this by-law a Second Density - High Density Residential (RHD2) zone is hereby established, as follows:

1.4.1 ZONE AND SYMBOL

The ZONE is referred to by name and symbol as follows:

SECOND DENSITY - HIGH DENSITY RESIDENTIAL (RHD2)

1.4.2 PERMITTED USES

No person shall hereafter change the use of any BUILDING, STRUCTURE or land, nor erect and use any BUILDING or STRUCTURE in the SECOND DENSITY - HIGH DENSITY RESIDENTIAL (RHD2) ZONE except for the following uses:

- (a) One APARTMENT DWELLING
- (b) TOWNHOUSE DWELLING(S) comprising not more than 19 TOWNHOUSE DWELLING UNITS. For the purposes of this section, STREET TOWNHOUSE DWELLINGS shall be considered TOWNHOUSE DWELLINGS.
- (c) CLINICS, HEALTH CENTRES, RESTAURANTS, RETAIL STORES, PERSONAL SERVICE SHOPS and offices within the first storey of an APARTMENT DWELLING, having a maximum combined NET FLOOR AREA of 700 square metres.

The total number of DWELLING UNITS within the SECOND DENSITY - HIGH DENSITY RESIDENTIAL (RHD2) ZONE shown on Schedule "A" shall not exceed 228, exclusive of GUEST SUITES, subject to the provisions of Section 1.7.

1.4.3 ZONE REQUIREMENTS

No person shall ERECT or use any BUILDING or STRUCTURE in the SECOND DENSITY - HIGH DENSITY RESIDENTIAL (RHD2) ZONE except in compliance with the following regulations:

- (a) Minimum LOT FRONTAGE - 25 metres. For the purposes of Section 1.4.3, the FRONT LOT LINE shall be the LOT LINE abutting Highway 7.
 - (b) Minimum LOT AREA - 0.6 hectares
-

(c) Minimum YARDS and SETBACKS

APARTMENT DWELLING

- 0.3 metres from the south LOT LINE
- 2 metres from any other STREET LINE, except where any part of any DWELLING UNIT within the FIRST STOREY of a building is located within 10 metres of the STREET LINE, the minimum BUILDING SETBACK shall be 3 metres. Notwithstanding the above, a maximum of 25% of the length of the wall facing the STREET LINE may be located no closer than 0.3 metres from the STREET LINE
- 7 metres from the west LOT LINE
- 10 metres from any TOWNHOUSE DWELLING

TOWNHOUSE DWELLINGS:

- 1 metre from any STREET LINE
- 3.5 metres from the west LOT LINE
- 10 metres from any APARTMENT DWELLING
- 70 metres from the south LOT LINE

In addition to the provisions of Section 5.7, the following STRUCTURES may project a maximum of 2 metres into any required YARD to a minimum of 0.3 metres from the STREET LINE or LOT LINE: canopies, cantilevered window bays, garden walls, porches, steps, stoops, underground cold cellars located entirely underneath roofed porches, and trellises

(d) Maximum FLOOR AREA RATIO

3.5 times the LOT AREA, excluding any FLOOR AREA located within the TOWNHOUSE DWELLING UNITS

(e) Maximum BUILDING HEIGHT

The lesser of 8 STOREYS or 210.00 Canadian Geodetic Datum

Any ornamental roof construction features including towers, landscaping features, steeples or cupolas, shall not be

included in the calculation of height. Mechanical features, such as structures containing the equipment necessary to control an elevator, are permitted to project to a maximum of 5.0 metres above the highest point of the roof surface, regardless of the height of the building.

(f) Parking Requirements:

(i) PARKING SPACES required:

APARTMENT DWELLINGS - A minimum of 0.8 PARKING SPACES per DWELLING UNIT plus 0.15 PARKING SPACES per DWELLING UNIT for visitors. No PARKING SPACES are required for GUEST SUITES.

TOWNHOUSE DWELLINGS - A minimum of 2.0 PARKING SPACES per DWELLING UNIT. Notwithstanding the provisions of Section 6.1.4 of By-law 28-97, TANDEM PARKING SPACES are permitted.

CLINICS, HEALTH CENTRES, RESTAURANTS, RETAIL STORES, PERSONAL SERVICE SHOPS and offices - 1.0 PARKING SPACE per 30 square metres of NET FLOOR AREA.

(ii) Small car parking for APARTMENT DWELLINGS

Any PARKING SPACES provided above 0.8 PARKING SPACES per DWELLING UNIT may have a width of not less than 2.4 metres and a length of not less than 4.8 metres.

1.5 Notwithstanding any other provisions of By-law 118-79, as amended, for the purposes of this by-law a FIRST DENSITY - MEDIUM DENSITY RESIDENTIAL (RMD1) ZONE is hereby established, as follows:

1.5.1 ZONE AND SYMBOL

The ZONE is referred to by name and symbol as follows:

FIRST DENSITY - MEDIUM DENSITY RESIDENTIAL
(RMD1)

1.5.2 PERMITTED USES

No person shall hereafter change the use of any BUILDING, STRUCTURE or land, nor ERRECT and use any BUILDING or STRUCTURE in the in the FIRST DENSITY – MEDIUM DENSITY RESIDENTIAL (RMD1) ZONE except for the following uses:

- (a) TOWNHOUSE DWELLINGS containing a total of not more than 56 TOWNHOUSE DWELLING UNITS, subject to the provisions of Section 1.7. For the purposes of this section, STREET TOWNHOUSE DWELLINGS shall be considered TOWNHOUSE DWELLINGS.

1.5.3 ZONE REQUIREMENTS

No person shall erect or use any BUILDING or STRUCTURE in the FIRST DENSITY – MEDIUM DENSITY RESIDENTIAL (RMD1) ZONE except in compliance with the following regulations:

- (a) Minimum LOT FRONTAGE – 25 metres
- (b) Minimum LOT AREA – 0.4 hectares
- (c) Minimum YARDS and SETBACKS:
 - 1 metre from any STREET LINE
 - 3.5 metres from the west LOT LINE

In addition to the provisions of Section 5.7, the following STRUCTURES may project a maximum of 2 metres into any required YARD to a minimum of 0.3 metres from the STREET LINE or LOT LINE: canopies, cantilevered window bays, garden walls, porches, steps, stoops, underground cold cellars located entirely underneath roofed porches, and trellises.

- (d) Maximum BUILDING HEIGHT

15 metres.

Any ornamental roof construction features including towers, landscaping features, steeples or cupolas, shall not be

included in the calculation of height. Mechanical features, such as structures containing the equipment necessary to control an elevator, are permitted to project to a maximum of 5.0 metres above the highest point of the roof surface, regardless of the height of the building.

(c) Parking Requirements

(i) PARKING SPACES required:

TOWNHOUSE DWELLINGS - A minimum of 2.0 PARKING SPACES per DWELLING UNIT.
Notwithstanding the provisions of Section 6.1.4 of By-law 28-97, TANDEM PARKING SPACES are permitted.

1.6 The following special provision shall apply to the INSTITUTIONAL AND OPEN SPACE (O2) ZONE:

1.6.1 Notwithstanding the provisions of Section 9.1, only the following uses are permitted:

- PUBLIC PARKS
- PUBLIC OR SEPARATE SCHOOLS

1.7 Notwithstanding the provisions of Sections 1.4.2 and 1.5.2, of this by-law, the total number of DWELLING UNITS within the lands outlined on Schedule "A", attached hereto, shall not exceed 262.

1.8 The provisions of Sections 5.12 and 6.1 of By-law 118-79, as amended, shall not apply to the land outlined on Schedule "A", attached hereto.

1.9 For the purposes of zoning, the lands shown on Schedule "A" attached to this by-law as being rezoned to FIRST DENSITY - MEDIUM DENSITY RESIDENTIAL HOLDING [RMD1 (H)] shall be considered one lot.

1.10 For the purposes of zoning, the lands shown on Schedule "A" attached to this by-law as being rezoned to SECOND DENSITY - HIGH DENSITY RESIDENTIAL HOLDING [RHD2(H)] shall be considered one lot.

2.0 All other provisions of By-law 118-79, as amended, not inconsistent with the provisions of this By-law, shall continue to apply.

