



Report to: Development Services Committee

Meeting Date: February 27, 2017

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**SUBJECT:** Controlling Ground Floor Office Uses in Markham Village – Commercial Core Area  
**PREPARED BY:** Regan Hutcheson, Manager, Heritage Planning, ext 2080

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**RECOMMENDATION:**

1) That the staff report entitled “Controlling Ground Floor Office Uses in Markham Village – Commercial Core Area”, dated February 27, 2017, be received.

2) That Council give consideration to the following options:

Option 1

That staff be directed to engage a retail consultant and undertake a review of the impact of ground floor office space in the Markham Village traditional commercial core area;

That Council enact the draft interim control by-law attached as Appendix ‘C’ to this report;

Option 2

That staff be directed to draft a City-initiated amendment to the existing zoning by-law to restrict or limit ground floor office uses in C1, C2 and C3 zones of By-law 1229, as amended, and arrange a statutory public meeting to explain the by-law and to solicit public input;

Option 3

That staff and consultants be directed to examine the issue of ground floor office space in the traditional commercial core area of Markham Village as part of the new Markham Village Heritage Centre Secondary Plan and any zoning changes be considered as part of the Comprehensive Zoning By-law Project.

3) That Staff be authorized to implement the direction to be provided by Council regarding the options outlined in this report.

**PURPOSE:**

The purpose of this report is to provide Council with options regarding the concept of introducing controls on ground floor office uses in the commercial core area of Markham Village.

**BACKGROUND:**

**Controlling ground floor office uses in Markham Village was raised as new business**  
On January 23, 2017, Councillor Karen Rea expressed concern for the increase in ground floor office use on Main Street Markham and the impact on the retail character of the street.

Staff was directed to report back on the options to restrict these uses including implementing an Interim Control By-law or a Zoning By-law Amendment to place restrictions on ground-floor office space within the commercial area of Main Street Markham.

**Official Plan encourages at-grade uses to be predominately retail**

The lands within the traditional commercial core area of Markham Village are designated as ‘Commercial-Heritage Main Street Area’ in the Official Plan (Revised 1987), as amended and as ‘Main Street Commercial’ in the Secondary Plan. The Official Plan policies note that this area is “*to provide a traditional shopping experience where the at-grade uses are predominately retail*” and “*to provide for pedestrian-oriented uses at-grade that will contribute to animation of the historic commercial area*” Offices are a permitted land use. The policy also notes that a diversified mix of commercial uses in small establishments is encouraged to provide animation and pedestrian activity at street level.

The Secondary Plan further indicates that “*Business and professional offices shall be permitted in the Main Street Commercial Area; however, office uses will be encouraged to locate on the upper floors of buildings to increase opportunities for retail uses on the ground floor*”.

**Markham Village zoning by-law permits office uses**

The lands within the traditional commercial core area of Markham Village are zoned General Commercial (C1), Central Commercial (C2) and Service Commercial (C3) under By-law 1229, as amended (see Appendix ‘A’). All three zones permit office uses. The nature and location of offices is not specified in the zoning by-law.

In 2014, the term ‘**business and professional office**’ was deleted from By-law 1229, as amended, (and all other By-laws) and replaced with “**Business Office**”. A business office means “*a premise used for conducting the affairs of business, professions, services, industries, governments, or like activities, in which the chief product of labour is the processing and/or storage of information rather than the production and distribution of goods, and for the purposes of this By-law, includes a **Medical Office***”. A Medical Office is now defined as “*a premises used for the medical, dental, surgical, diagnostic and/or therapeutic treatment of human beings including clinics operated by a number and/or variety of medical professionals, but does not include a public or private hospital*”. The purpose of this change was to ensure that all zoning by-laws in the City contain the same definition of medical office and that wherever a business office was a permitted use, a medical office was also permitted. However, the parking requirements for medical office use are greater than those for business office.

**OPTIONS/ DISCUSSION:**

**Ground floor office uses are controlled on Main Street Unionville**

The zoning by-law which covers the Main Street commercial area of Historic Unionville permits business offices provided that such uses are not located on the ground floor of

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buildings. However, the Secondary Plan for this area does allow ground floor offices on Main Street subject to the uses being set back a minimum of 10m from the front wall of the structure and having a clearly defined separation between uses in order to maintain animation and pedestrian activity/interest at street level. To obtain a ground floor office as per the Secondary Plan policy, a variance to the zoning by-law through the Committee of Adjustment is required.

**Other municipalities were consulted as to their policy regarding ground floor offices in commercial core areas**

Staff obtained feedback from 11 municipalities which have similar downtown commercial areas to Markham Village to discover if others restrict the location of office uses (see Appendix 'B').

Nine of the municipalities currently permit office uses on the ground floor. Two municipalities have controls on ground floor office uses. Grimsby recently adopted a new comprehensive zoning by-law and now does not permit office uses on the ground floor of its Main Street in order to maintain an active shopping/retail/tourism environment. In Oakville, policy documents promote retail and service commercial uses with only limited office use on Main Street area. The associated Oakville zoning by-law allows business/medical offices on the ground floor subject to a size cap and a 50% building frontage limitation for office use for lots having a frontage over 20m. Guelph currently permits ground floor offices, but its proposed zoning by-law will include new 'Active Frontage' zones in their downtown where general offices will not be permitted.

**A number of options are available for consideration**

The following options represent specific approaches Markham Council could consider.

Option 1 – Interim Control By-law (ICB)

Where Council has, by by-law or resolution, directed that a review or study be undertaken in respect of land use planning policies in the municipality (or a defined area), Section 38 of the Planning Act allows Council to pass an interim control by-law. Such a by-law can be in effect for a specified period of time, up to a maximum of one year, with the possibility of an additional one year extension. The by-law may prohibit the use of land, buildings and structures within the defined area for, or except for, such purposes as are set out in the by-law. This means building permits would be issued to all existing permitted uses with the exception of those uses identified as being prohibited while the ICB is in place.

No notice or hearing is required prior to the passing of a by-law, but the by-law is appealable to the OMB.

Council previously adopted an Interim Control By-law (2002-20) on February 7, 2002 for Main Street Unionville with the express purpose of prohibiting new restaurants, take-out restaurants, cafes, pubs and taverns while a land use and parking study was being undertaken. A retail consultant was hired by the City and brought forward recommendations which resulted in a zoning by-law amendment in 2003 to further

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restrict these uses. (This by-law was subsequently amended in 2014 to reinstate specific restaurant uses).

If Council is of the opinion that the further expansion of ground floor office uses in the traditional commercial core area of Markham Village is detrimental to the planned function and long term viability and vitality of the area, it could:

- direct staff to engage a retail consultant to review the impact of ground floor office space; and,
- immediately pass an interim control by-law prohibiting ground floor office use in all three commercial zones (C1, C2 and C3) or in just a specific zone such as C2 which covers the majority of commercial properties on Main Street North.

Funding for the retail consultant could be provided from the Secondary Plan Program capital account.

A draft interim control by-law, attached as Appendix 'C' has been prepared that effectively would permit all uses lawfully existing at the time of enactment of the interim control by-law (including existing ground floor offices) as well as uses permitted within the C1, C2 and C3 zones, except for those specifically prohibited. Uses specifically prohibited include business office and medical office on the ground floor. The interim control by-law would also prohibit additions, expansion or conversion of floor area for ground floor office use. The by-law would not prevent such building activity for other currently permitted uses.

It should be noted that if an Interim Control By-law is passed, no ICB can be passed for the same area for three (3) years. This would prevent Council from introducing a future ICB for the Markham Village core area if another potentially detrimental land use issue should arise and need to be restricted while being studied.

The purpose of an ICB is to allow time for a review of the issue that could potentially lead to a new official plan amendment or zoning by-law amendment (if appropriate) to be enacted before the ICB expires. Without the ICB, changes in use for new ground floor office would be permitted by current zoning and could occur without consideration by Council.

#### Option 2 – Zoning By-law Amendment

If Council is of the opinion that the further expansion of ground floor office uses in the traditional commercial core area of Markham Village is detrimental to the planned function and long term viability and vitality of the area, it could direct staff to draft a City-initiated amendment to the existing zoning by-law to restrict or limit ground floor office uses in C1, C2 and C3 zones of By-law 1229, as amended. This action would be based on Council direction, and could be taken without the benefit of a land use or retail study by staff and/or consultants. A statutory public meeting would be arranged to explain the by-law and to solicit public input. If Council enacted such a by-law, objectors would have the opportunity to appeal the decision to the OMB.

**Option 3- Do Nothing**

If Council is of the opinion that ground floor office uses are not affecting the commercial core area in a detrimental manner, and that market forces should prevail as to the mix of land uses, then no action is required.

Council still may wish to ask staff and consultants to examine the issue as part of the new Markham Village Heritage Centre Secondary Plan and any zoning changes be considered as part of the Comprehensive Zoning By-law Project. The anticipated timing for the Secondary Plan review is June-Dec 2017.

It should be noted that when considering Options 2 or 3, without an ICB, any new ground floor office applications meeting the requirements of the current zoning by-law would be approved.

**FINANCIAL CONSIDERATIONS**

Removing the opportunity for ground floor office use could potentially result in vacant premises in the commercial area. Owners of vacant commercial buildings can apply to the City for a reduction in property taxes (Commercial Vacancy Rebate).

**HUMAN RESOURCES CONSIDERATIONS**

Not applicable

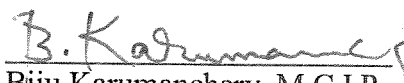
**ALIGNMENT WITH STRATEGIC PRIORITIES:**


Not applicable

**BUSINESS UNITS CONSULTED AND AFFECTED:**

Not applicable

**RECOMMENDED BY:**

  
Biju Karumanchery, M.C.I.P., R.P.P.  
Director, Planning & Urban Design

  
Jim Baird, M.C.I.P., R.P.P.  
Commissioner of Development Services

**ATTACHMENTS:**

Appendix 'A'	Map of Commercial Zones, By-law 1229, as amended,
Appendix 'B'	Summary of Findings: Ground Floor Office Use – Other Municipalities
Appendix 'C'	Draft Interim Control By-law

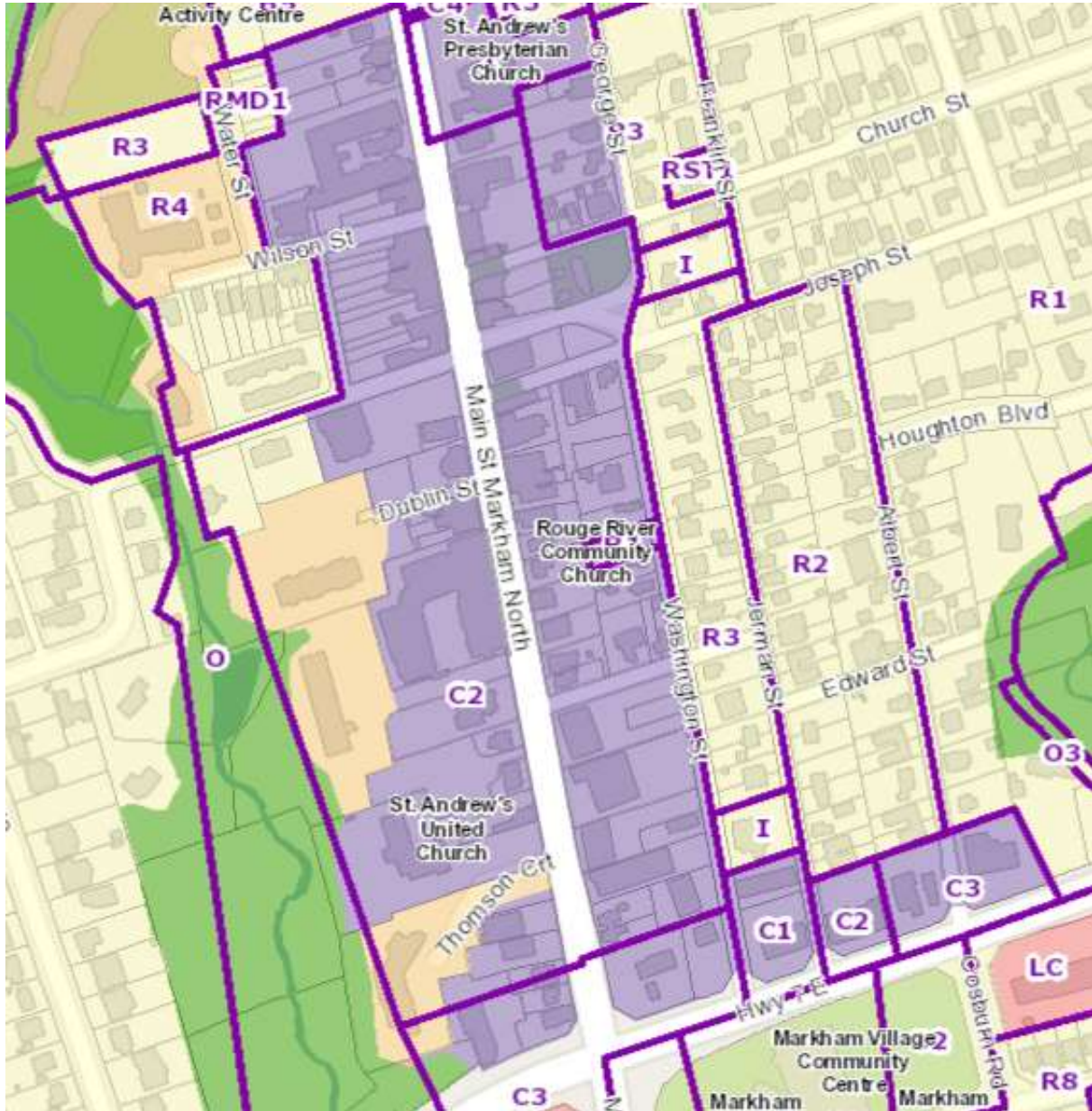
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Office Use.doc

**Appendix 'A'**

**Map of Commercial Zones, By-law 1229. as amended**



## Summary of Feedback – Other Municipalities

### Offices Uses – Ground Floor

Municipality	Comment
Brampton	- no response
Caledon	- no response
Cobourg	- office use <b>is permitted</b> on ground floor.
Elora	- office use <b>is permitted</b> on ground floor (residential only permitted above commercial). Highly tourist driven and the retail tends to still be profitable
Grimsby	- office uses are <b>not permitted</b> on the ground floor in the Main Street zone - this was part of a new comprehensive zoning by-law exercise - their main street is not extensive so they wanted maintain a shopping/retail/tourism based economy- not offices (which are permitted on upper floors and on side streets) - initially some resistance from real estate companies, but after consultation, they accepted the Town's objectives. No appeals were received.
Guelph	- office use <b>is currently permitted</b> on ground floor, but new zoning by-law update is proposed to include <b>active frontage requirements</b> and general office uses are not considered as Active
Kingston	- office use <b>is permitted</b> ground floor commercial uses are required and offices are considered a commercial use for both downtown Kingston and Williamsville Main St. -they do regulate ground floor residential uses
Mississauga	- no response
Niagara-on-the-Lake	- office use <b>is permitted</b> on ground floor in its commercial areas including the heritage area (Queen St)
Oakville	- Official Plan – Central Business District – office uses <b>are permitted</b> - no restrictions. -Official Plan – <b>other Main Street areas</b> – “small scale, mixed use development intended to reflect a pedestrian-oriented, historic main street character. As to permitted uses- the ground floor of buildings in this designation shall be primarily occupied by retail and service commercial uses. Limited office uses and ancillary residential uses may be permitted on the ground floor of mixed use buildings. -Zoning – CBD – <b>business/medical offices allowed subject to conditions:</b> * <i>On a lot having lot frontage greater than 20.0 metres uses subject to this footnote are limited to a cumulative maximum width of 50% of the building in the first 9.0 metres of depth of the building on the first storey only, measured in from the main wall oriented toward the front lot line.</i> * <i>Shall have a maximum net floor area of 1,400.0 square metres per premises, applying only for the portion of the premises located on the first storey.</i>
Perth	- office use <b>is permitted</b> on the ground floor
Peterborough	- office use <b>is permitted</b> on the ground floor – agreed that “it wasn’t great for creating a lively downtown”

<b>Port Hope</b>	- office use <b>is permitted</b> . Residential uses are restricted within 12m of streetline
<b>Vaughan</b>	- no response
<b>Whitby</b>	- office use <b>is permitted</b> on the ground floor of both downtown Whitby and historic Brooklin - they have noted of late that a number of dentists are starting to occupy Brooklin's main street

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## By-law 2017 – \_\_\_\_

### **An Interim Control By-law Pursuant to Section 38 of the Planning Act, R.S.O. 1990**

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Whereas Section 38 of the Planning Act, R.S.O. 1990, c. P.13, as amended, provides that where the Council of a Municipality has directed that a review or study be undertaken in respect of land use policies in a defined area, the Council may pass an interim control by-law;

And whereas the Council of the Corporation of the City of Markham by resolution dated February 28, 2017, has directed that the impact of ground floor office space on lands zoned General Commercial (C1), Central Commercial (C2) and Service Commercial (C3) in By-law 1229, as amended, within those lands as outlined on the attached Schedule 'A', be reviewed;

And whereas Council has directed that an Interim Control By-law applying to the said lands be enacted immediately in accordance with the provisions of Section 38(1) of the Planning Act, R.S.O. 1990, c P.13 as amended;

Now therefore the Council of the Corporation of the City of Markham hereby enacts as follows:

1. Notwithstanding the provisions of By-law 1229, as amended, permitted uses of the lands shown on Schedule 'A' shall be restricted to:
  - 1.1 Uses lawfully existing as of the date of enactment of this By-law, provided such existing uses are conducted entirely within the buildings in existence on the lands shown on Schedule 'A' as of the date of the enactment of this By-law;
  - 1.2 All uses permitted by the General Commercial (C1), Central Commercial (C2) and Service Commercial (C3) zones of By-law 1229, as amended, including any addition, expansion or conversion of floor area, except as provided for in Section 2 of this by-law.
2. The following uses shall be prohibited in the said Commercial Zones, except where lawfully existing as per Section 1.1:
  - 2.1 *Business Office*, including *Medical Office*, on the *First Storey*;
  - 2.2 Any addition, expansion or conversion of floor area of any building in existence on the lands shown on Schedule 'A' as of the date of enactment of this By-law for

a use listed in Section 2.1 above, except for construction in the nature of repair, maintenance or restoration.

3. This by-law shall be in effect from February 28, 2017 to February 28, 2018.

Read a first, second, and third time and passed on \_\_\_\_\_ 2017.

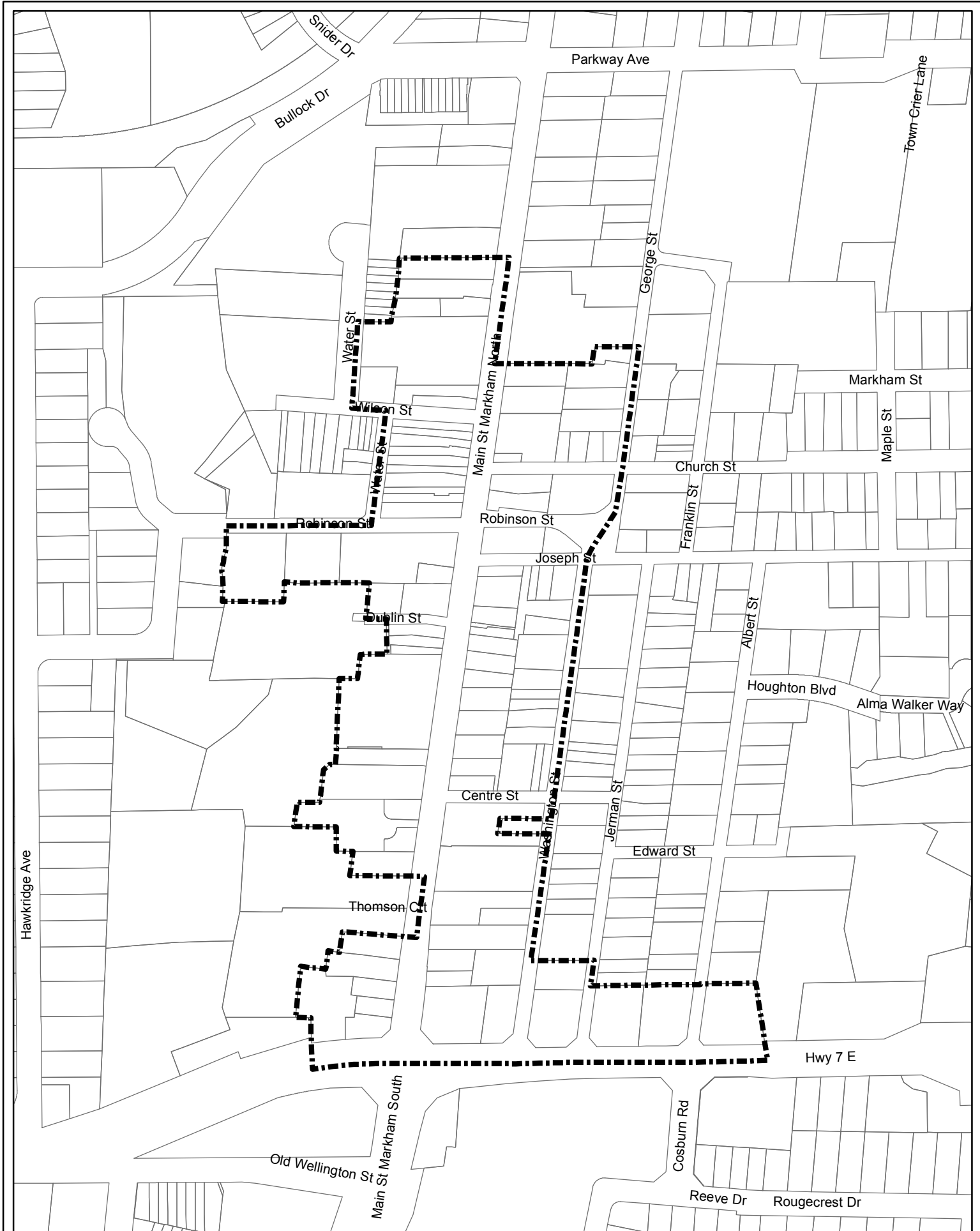
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Kimberley Kitteringham  
City Clerk

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Frank Scarpitti  
Mayor

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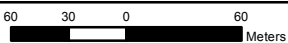
# SCHEDULE "A" TO BY-LAW INTERIM CONTROL BY-LAW AMENDING BY-LAW 1229 DATED

 BOUNDARY OF AREA COVERED BY THIS SCHEDULE

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DEVELOPMENT SERVICES COMMISSION



Drawn By: CPW Checked By: RH

DATE: 02/02/2017

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