



Report to: Development Services Committee

Report Date: September 19, 2016

SUBJECT: RECOMMENDATION REPORT, P.A.R.C.E.L. Inc., Zoning By-law Amendment Application to permit a medical office and pharmacy on a temporary basis at 28 Langstaff Road East
File No. ZA 15 156923

PREPARED BY: Rick Cefaratti, MCIP, RPP, Planner II, West District

REVIEWED BY: Dave Miller, MCIP, RPP, West District Manager

RECOMMENDATION:

- 1) That the report titled "Recommendation Report, P.A.R.C.E.L. Inc., Zoning By-law Amendment Application to permit a medical office and pharmacy on a temporary basis at 28 Langstaff Road East, File No. ZA 15 156923" dated September 19, 2016, be received; and,
- 2) That the Zoning By-law Amendment Application to permit a medical office and pharmacy on a temporary basis at 28 Langstaff Road East, File No. ZA 15 156923 be denied;
- 3) And that Staff be authorized and directed to do all things necessary to give effect to this resolution.

EXECUTIVE SUMMARY:

The Owner is requesting approval of a temporary use by-law to permit the medical office and pharmacy which has been operating on the property for the last five (5) years, to continue to remain on the property.

Staff has reviewed the proposal and is concerned that the medical office and pharmacy uses will not be terminated at the expiry of a temporary use by-law, and could remain in this location permanently. This could impact the development within the Langstaff Gateway Secondary Plan area. It is Staff's opinion that the proposal does not meet the general intent of the Land Use policies of the Langstaff Gateway Secondary Plan, does not conform to the 2014 Official Plan policies for establishing Temporary Use Zoning By-laws, and the nature of on-site works to date suggest that the uses operating on the property are more than temporary. Staff is recommending that the Zoning By-law Amendment Application, to permit a medical office and pharmacy on the subject property, be denied.

PURPOSE:

This report discusses the application to amend the zoning by-law to add office and retail on a temporary basis. The office use is proposed to be a medical office for treatment of drug addictions and the retail is an associated pharmacy.

BACKGROUND:

The 870 m² (9,365 ft²) property is located on the west side of Langstaff Road East. The 407 ETR Highway is located north of the property. An unoccupied Place of Worship

(Ethiopian Orthodox) is located on the abutting property to the south. Located to the east, across Langstaff Road East, is a vacant parcel formerly occupied by a building supply retailer store with an outdoor storage yard (Beaver Valley Stone). Located to the west is the Highway 407 ETR Yonge Street on ramp (see Figure 1 – Location Map).

The property contains a one storey building constructed as a dwelling circa 1959, and a parking lot. The building has a gross floor area of approximately 167 m² (1797 ft²). It is currently being used as a medical office for drug addiction treatment. A pharmacy associated with the medical office is located in the basement. These uses are not permitted by the current zoning on the property. P.A.R.C.E.L. Inc. has owned the property since November 15, 2010. Attachment 1 is a Zoning Search dated July 27, 2010, advising that a “Doctor’s office/clinic” is not a permitted use on the subject property

The application, to amend the zoning by-law to permit the uses on a temporary basis, was deemed complete on March 4, 2016.

Orders to Comply Issued

The Owner has received several Orders to Comply related to the Building Code, Fire Code and Zoning By-law since acquiring the property. The By-law Enforcement Division issued a Zoning Notice to the owner in March 2015, advising that a medical office was operating on the subject property in contravention of the Zoning By-law. The Building Department inspected the property and issued Orders to Comply in December 2012, November 2015, and December 2015. The Fire Department visited the property on December 1, 2015. Following the site visit, the Fire Department issued Inspection Orders in December 2015 regarding contraventions to the Fire Code. Table 1 below summarizes the Orders to Comply issued by City staff:

Table 1

Issued By	Issue Date	Order #	Description	Compliance Date
By-law Enforcement	March 26, 2015	15-150077	Zoning Notice – office and pharmacy not permitted	April 25, 2015
Building Department	December 18, 2012	12-135986	Change in occupancy without a permit	February 1, 2013
	November 16, 2015	15-176555	Interior alteration without a permit	November 30, 2015
	December 29, 2015	15-178789	Sewage System not operating in compliance with Building Code	January 29, 2016
Fire Department	December 8, 2015	15-176607 FP	Exit doors not in compliance with Fire Code	January 10, 2016
	December 10, 2015	15-1766607 FP 2	Missing fire separation between floor assemblies	March 10, 2016

Planning, Building and Fire Department Staff met with the owner on January 26, 2016 to discuss the above noted matters of non-compliance. The compliance deadlines for all of the above mentioned orders issued by the City have passed. The Building Standards Department has subsequently initiated a Request for Legal Action, but charges have not yet been filed. The Fire Department filed charges on March 16, 2016. Two (2) Court appearances relating to the Fire Department charges were adjourned (July 14, 2016 and August 18, 2016). Courts typically do not proceed with charges while the Owner is working to resolve outstanding Zoning issues through the Zoning Application process.

Pre-Consultation Application Requests Submitted

Three (3) Pre-Consultation requests proposing a medical office and pharmacy have been submitted to the City since July 2010. The first Pre-Consultation request was submitted in July 2010 (PRE 10 122362), prior to P.A.R.C.E.L. Inc. owning the property. After taking possession of the property, the owner submitted two (2) more Pre-Consultation Application requests, one in March 2012 (PRE 12 111932) and one (1) more in May 2015 (PRE 15 156923). To expedite an application submission, and as the complete application submission requirements are straightforward, Staff exempted the Owner from a formal Pre-Consultation meeting with Staff in 2010 and 2012. However, Planning Staff felt it prudent to conduct a formal Pre-Consultation Application meeting on the third request to strongly encourage the Owner to either remove the business from the property, or submit a Zoning By-law Amendment to permit the medical office and pharmacy. The proponent submitted the complete application to amend the Zoning By-law in March 2016.

Planning and Zoning Information Provided to Dr. Bijan Pardis in 2010

Prior to the purchase of the property in November 2010, written Zoning Information was provided in a letter to Dr. Pardis by Building Department Staff on July 27, 2010 (see Attachment 1). The letter confirmed that a medical office and pharmacy are not permitted uses. Planning Department Staff also emailed Dr. Pardis on July 28, 2010 advising that the land use policies of the Langstaff Gateway Secondary Plan (OPA 183) designate the property "OFFICE". However, the email message also advises that due to the "interpretive nature" of the Secondary Plan, a more specific response could not be provided.

Paving of the municipal boulevard

A portion of the municipal boulevard has been paved over to provide parking for the medical office (see Figures 4 and 5). This was done without consent of the City. Staff typically does not support property owners making modifications to municipal boulevards. Therefore, Staff recommends that the existing parking area be removed from the Langstaff Road Right-of-Way and that the boulevard be restored to municipal standards at the Owner's expense. The Owner should be required to submit a boulevard restoration plan to the satisfaction of the Director of Engineering, showing the extent of the works to be done to restore the municipal boulevard. The owner will also be required to enter into an agreement with the City which includes the posting of securities to guarantee completion of works. If the Owner does not agree to restore the municipal boulevard, the City could do these works at the Owner's cost or seek other remedies by

laying further charges through the By-Law Enforcement Division. If the City does the work, the costs could be added to the municipal property tax bill.

Public Consultation

A Statutory Public Meeting to consider the proposed Zoning By-law Amendment was held on June 21, 2016.

One written and one oral submission were received. Both submissions advised that permitting the addiction treatment clinic could undermine the vision for the Langstaff Gateway Planning Area.

These submissions have been considered in Staff's evaluation and recommendation.

PROPOSAL

The owner applied to permit the existing medical office and pharmacy, within the existing building, for a temporary period. No additional buildings or uses are proposed. Section 39 of the Planning Act allows Council to pass temporary use by-laws for a maximum 3 year period.

OFFICIAL PLAN AND ZONING:

Markham Official Plan and Langstaff Gateway Secondary Plan

The property is designated "Business Park Office Priority" in the City's 2014 Official Plan (partially approved on October 30, 2015 and May 26, 2016) and "Langstaff Gateway Regional Centre - Office" in the Langstaff Gateway Secondary Plan (OPA 183). The Langstaff Gateway Regional Centre Office designation is intended to accommodate high density office development in multi-storey buildings. Ancillary retail uses, including pharmacies, are also allowed where they are integrated as a component of an office building.

The policies of the 2014 Official Plan specify that temporary use by-laws may be passed by Council provided that the development proponent demonstrates that the use is temporary in nature, is appropriate for a limited lifespan, and can be terminated when the authorizing By-law expires. They temporary uses should not entail major construction or investment on the part of the owner, must be compatible with adjacent land uses and not jeopardize the long term intentions of the area. The 2014 Official Plan also requires the Owner to enter into an agreement with the City to terminate the temporary uses upon expiration of the by-law. These provisions of the 2014 Official Plan are in effect.

Zoning

The subject property is zoned (H) INST. – (Holding) Institutional under Zoning By-law 2551, as amended (see Figure 2 – Area Context/Zoning). This zoning does not permit offices and retail uses. A Zoning By-law Amendment is required to permit the existing medical office and associated pharmacy operation.

OPTIONS/ DISCUSSION:**Existing Site Alterations Not Temporary In Nature**

Based on Planning Staff's understanding of the interior alterations that have been made to the building and the extensive paving installed, not only on the property but also in the Langstaff Road East Right-Of-Way, the Owner has and is demonstrating that the existing illegal uses could remain on the property for an extended period of time. It is Staff's opinion that the proposal to permit a medical office and associated pharmacy does not meet the general intent of the Land Use policies of the Langstaff Gateway Secondary Plan with office development in multi-storey buildings and ancillary retail uses as a component of an office building.

The Owner has used the lands as a medical office and pharmacy since late 2010, contrary to municipal zoning. Should the by-law be approved to permit the use on a temporary basis, Staff is concerned that the medical office and pharmacy uses will not be terminated at the expiry of a temporary use by-law. As the medical office and pharmacy could potentially operate for a further prolonged period, the continued application for a temporary use by-law to avoid conforming to the Secondary Plan is of concern. Official Plan and Zoning By-law Amendments would be required to allow the medical office and pharmacy to stay on a permanent basis, and Staff is concerned about this use remaining in this location permanently, as it could impact the development within the Langstaff Gateway area.

Should Committee decide to approve a temporary use by-law to permit the medical clinic and pharmacy, the Owner will be able to bring the property into conformity with the Building Code and Fire Code. If the medical office and pharmacy operation continues beyond the expiration date of the temporary use by-law, the enforcement of the new By-law infractions will need to be re-initiated.

Public Meeting Comments Considered

In formulating a Planning Recommendation on this application, Staff has had regard for the comments received at the Public Meeting, to either allow the continued use of the medical office and pharmacy until the end of 2016, or to deny the proposal on the basis that it could undermine the vision for the Langstaff Gateway Planning Area.

While Dr. Pardis has established that relocating his clinic could be disruptive to patients' ability to get treatment, Dr. Pardis was aware that this facility was not a permitted use and assumed that risk to his patients. In addition to the outstanding Zoning issue, Dr. Pardis had knowledge that there were numerous Building and Fire Code issues which remain unresolved, but continues to conduct his illegal medical office and associated pharmacy business on the subject property.

City Staff are also aware that there are other treatment facilities available in the north Toronto area providing a range of care including treatment for alcohol addiction as well as drug and prescription medication addiction.

CONCLUSION

Should Committee decide to approve a by-law to permit the medical office and pharmacy, Staff has prepared a draft Temporary Use By-law which is attached to this report (see Attachment 2). Upon completion of Building Department and Fire Department approvals, the Orders would be removed. The Owner will be able to bring the property into conformity with the Building Code and Fire Code. If the medical office and pharmacy operation continues on the property beyond the expiration date of the temporary use by-law, By-law enforcement of the zoning infraction will need to be re-initiated.

Temporary Use By-laws for business offices and outdoor storage were approved by the Ontario Municipal Board (OMB) in 2008 for properties located within the Langstaff Gateway Secondary Plan Area. Extensions to these By-laws were approved by the City in 2012 and in 2015. If and when these temporary use By-laws are extended, it is staff's intention that they all expire on the same date, including the subject application if approved. Simultaneous expiration dates for temporary use By-laws allows for future development in the Langstaff Gateway Secondary Plan Area to occur in a coordinated manner, with no single land owner holding up development. The temporary use By-laws noted above will all expire on June 15, 2018.

FINANCIAL CONSIDERATIONS:

In the event that a temporary use By-law is approved to legalize the medical office and pharmacy operation, the applicant would need to bring the property into conformity with the Building code, Fire Code and all municipal by-laws, and work with the City to remove or legalize the surplus parking on a portion of the municipal boulevard.

HUMAN RESOURCES CONSIDERATIONS

Not applicable.

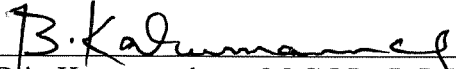
ALIGNMENT WITH STRATEGIC PRIORITIES:

Growth Management: The application for the temporary use to allow a medical office and pharmacy within the existing dwelling has been considered relative to the impact on the planned redevelopment of the property in coordination with the future redevelopment of the Langstaff Gateway Planning Area.

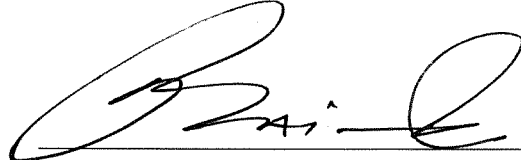
BUSINESS UNITS CONSULTED AND AFFECTED:

The Real Property Services Division was consulted regarding the encroachment of the parking area into the Langstaff Road East right-of-way. Fire Services, Building and By-law Enforcement Staff were also consulted. Their comments have been incorporated into the report.

RECOMMENDED BY:



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



James Baird, M.C.I.P., R.P.P.
Commissioner, Development Services

ATTACHMENTS:

Figure 1: Location Map

Figure 2: Aerial Photo

Figure 3: Area Context/Zoning

Figure 4: Site Plan

Figure 5: Photos of Site Alterations, 2011 and 2015

Attachment 1: Zoning Confirmation – Official Reply

Attachment 2: Draft Zoning By-law Amendment

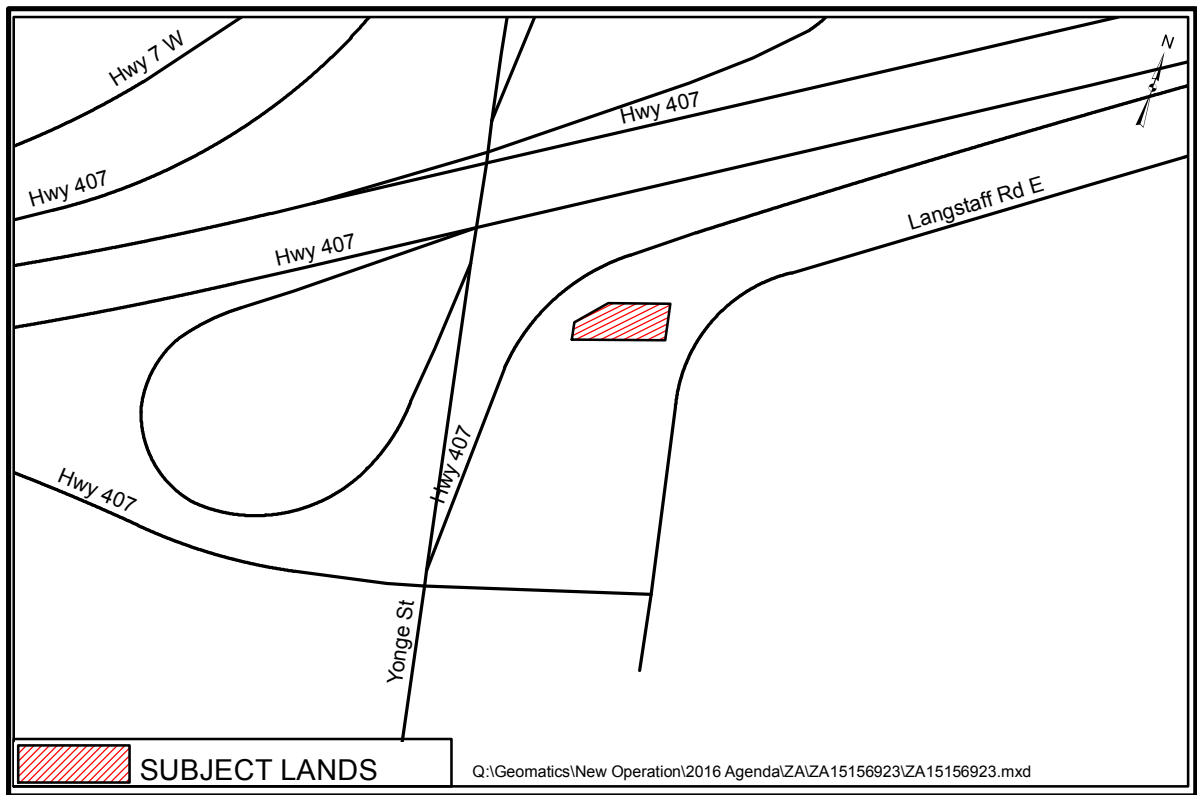
OWNER:

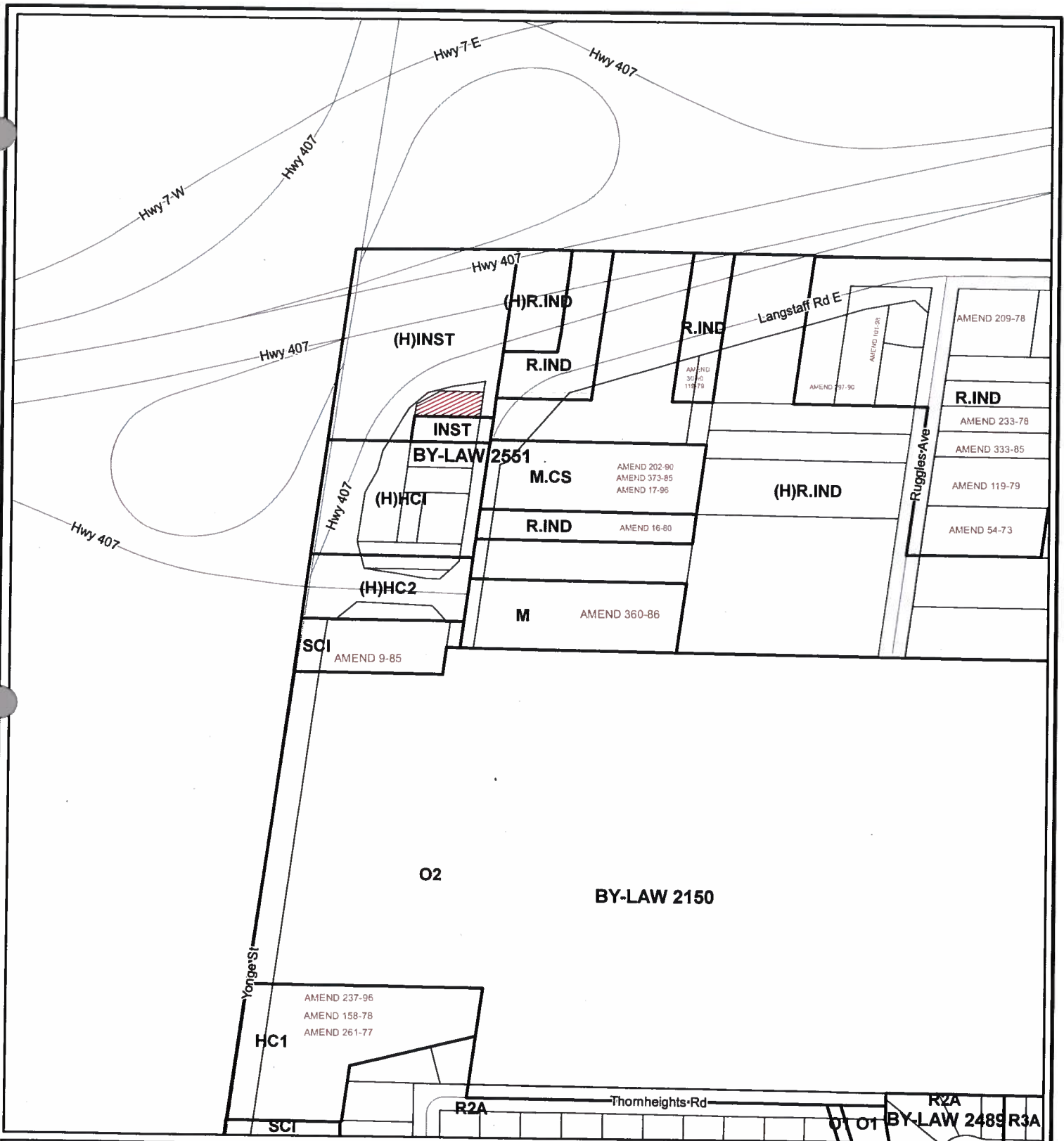
P.A.R.C.E.L. INC.
C/O Bijan Pardis
78 Harrison Gardens Unit 1609
Toronto, Ontario, M2N 7E2
Tel: (416) 419-2900
Email: bpardis@bijanpardis.com

APPLICANT:

Geofocus Construction Group
C/O Roger Altobelli
111 Zenway Boulevard Unit 29
Vaughan, Ontario, L4H3H9
Tel: (416) 622-0456
Email: roger@thegeofocusgroup.com

File path: Amanda\File 15 156923\Documents\Recommendation Report





AREA CONTEXT / ZONING

APPLICANT: P.A.R.C.E.L. Inc.
28 Langstaff Road

FILE No. ZA 15156923 (RC)

 SUBJECT LANDS

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DATE: 26/04/2016



DEVELOPMENT SERVICES COMMISSION

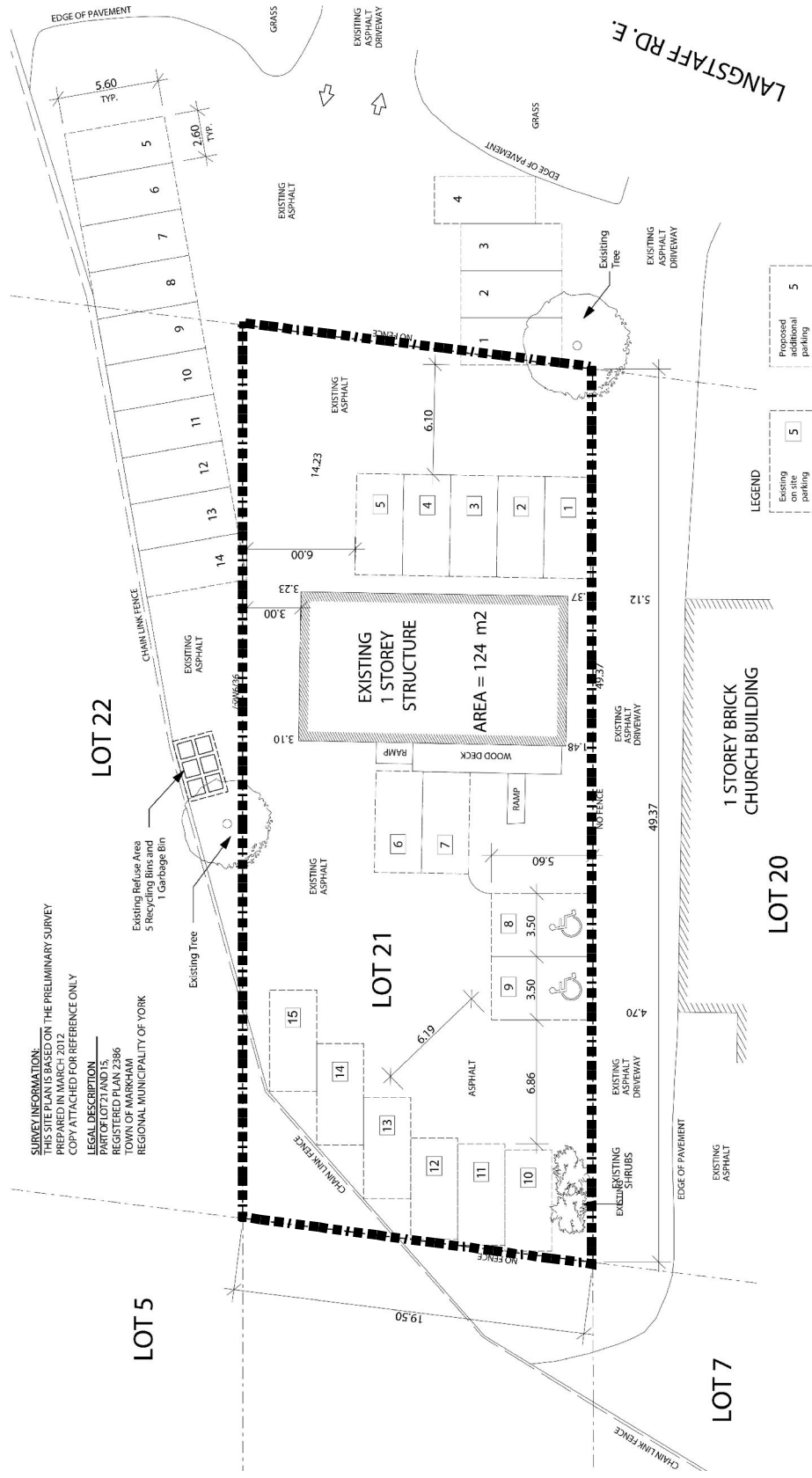
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Checked By: RC

FIGURE No. 2

SURVEY INFORMATION:
THIS SITE PLAN IS BASED ON THE PRELIMINARY SURVEY
PREPARED IN MARCH 2012
COPY ATTACHED FOR REFERENCE ONLY

LEGAL DESCRIPTION:
PART OF LOT 21 AND 15,
REGISTERED PLAN 2386
TOWN OF MARKHAM
REGIONAL MUNICIPALITY OF YORK



SITE PLAN

APPLICANT: P.A.R.C.E.L. Inc.
28 Langstaff Road

FILE No. ZA 15156923 (RC)

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MARKHAM DEVELOPMENT SERVICES COMMISSION

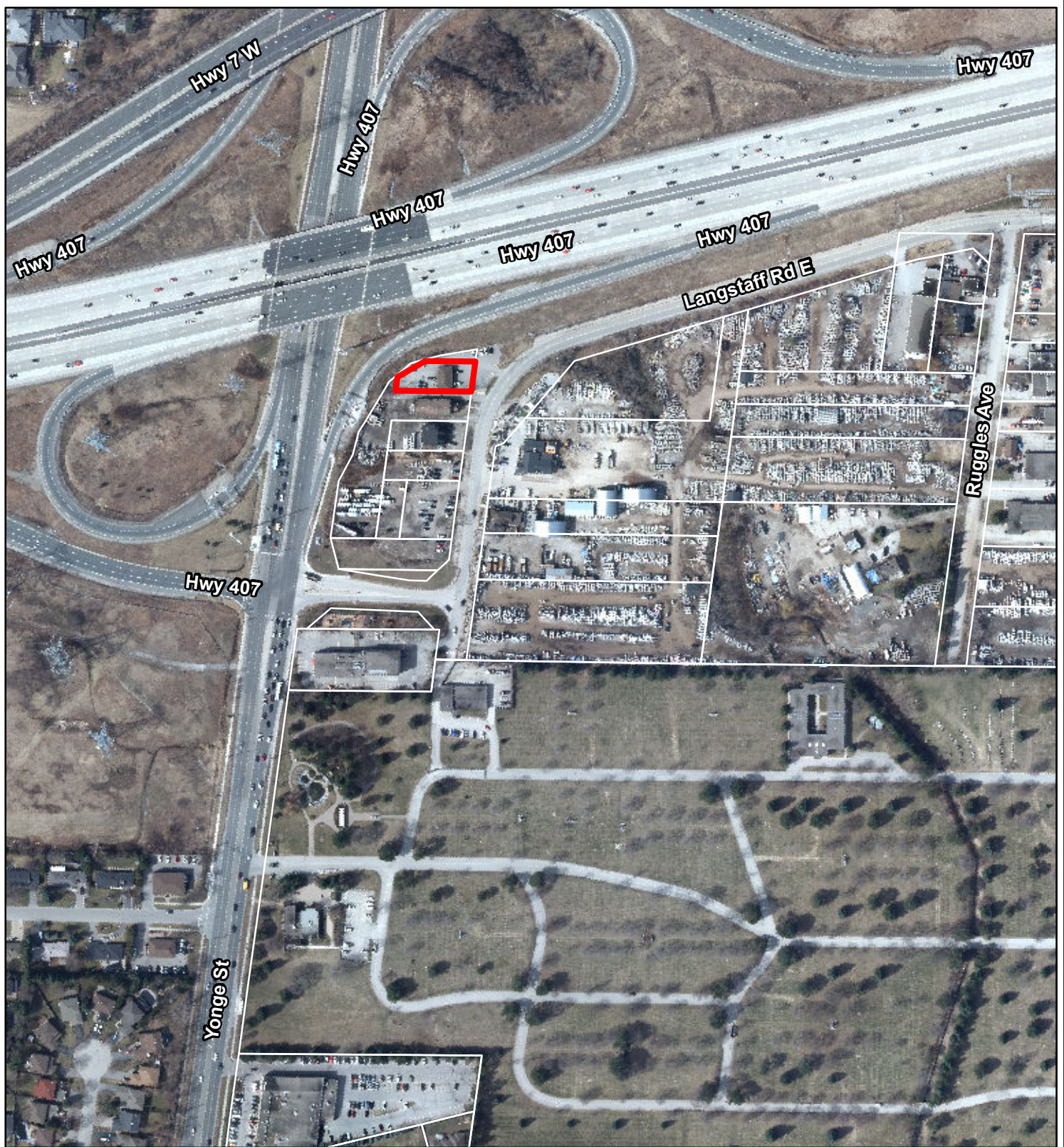
SUBJECT LANDS

DATE: 28/04/2016

Checked By: RC

Drawn By: LW

FIGURE No. 3



AERIAL PHOTO

APPLICANT: P.A.R.C.E.L. Inc.
28 Langstaff Road

FILE No. ZA 15156923 (RC)

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 SUBJECT LANDS

DATE: 26/04/2016



DEVELOPMENT SERVICES COMMISSION

Drawn By: LW

Checked By: RC

FIGURE No. 4

Figure No. 5
28 Langstaff Road East
Site Alterations

2011



2015





Tuesday, July 27, 2010

BIJAN PARDIS
78 HARRISON GARDEN, Unit 1608
NORTH YORK, ON
M2N 7E2

RE: ZONING SEARCH NUMBER: 10 121888 00
SITE LOCATION: 28 Langstaff Rd E

Thank you for your inquiry dated Jul 27, 2010.

The subject property is zoned (H) INST - (Holding) Institutional, under by-law 2551, as amended.

The proposed use (Doctor's office/clinic) as described in your letter is **not permitted**. You may contact the Planning Department at (905) 475- 4861 for information regarding a by-law amendment application.

See attached extract of zoning map (A6) and the (H) – Holding zone provisions.

Institutional permitted uses (attached) and development standards would only apply after the "H" provision has been removed by a by-law amendment.

You may contact the planning department at (905) 475-4861 for information regarding a by-law amendment to remove the "H" provision including applicable Secondary and Official plan information.

Please note that the establishment of such use or any proposed construction must also comply with the Building Code Act and Ontario Building Code, which may require the issuance of a building permit or change of use permit. If in doubt please retain the services of a qualified professional and/or contact the Building Standards Department at (905) 475-4870.

Any use is subject to compliance with all applicable provisions of the zoning or other by-laws of the Town, all regulations or laws of any governmental bodies, as well as the provisions of a site plan agreement, which may or may not be registered on title.

Every effort is made to ensure that our response contained herein is correct, but we do not warrant or certify its accuracy. Opinions should be verified and are subject to any contrary ruling of a court of competent jurisdiction.

Greg Nelson
477-7000 ext. 4370
Zoning Examiner

NOTE: Personal information on this form is collected pursuant to Building By-law 218-88 as amended, to identify the person requesting the information and providing a response. Questions about this collection should be directed to (905) 477-7000 ext 4743.



EXPLANATORY NOTE

BY-LAW 2016-_____

A Temporary Use By-law to amend By-law 2551, as amended

28 Langstaff Road East

Part of Lot 21, Registered Plan 2386

Lands Affected

This By-law amendment applies to the lands noted above within the Langstaff community.

Existing Zoning

The subject property is zoned (H) INST. – (Hold) Institutional Zone under Zoning By-law 2551, as amended.

Purpose and Effect

The purpose of this by-law amendment is to permit a medical office and with an ancillary pharmacy on the lands noted above.

The effect of the by-law amendment is to permit these uses for two (2) years as permitted under Section 39 of the Planning Act. The intent is to allow these uses for a temporary period until water and sanitary sewer services are made available to the Langstaff community and servicing allocation has been granted to allow redevelopment in accordance with the approved Langstaff Gateway Secondary Plan and the required approvals for redevelopment have been obtained.



BY-LAW 2016-_____

A By-law to amend By-law 2551, as amended

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

1. That By-law 2551, as amended, is hereby further amended as follows:
 - 1.1 Notwithstanding any other provisions of By-law 2551, as amended, the provisions in this By-law shall apply to those lands shown on Schedule 'A', attached hereto.
 - 1.1.1 Permitted Uses

The following additional uses are permitted on those lands shown on Schedule 'A':

 - a) *Medical Office*;
 - 1.1.2 Special Site Provisions

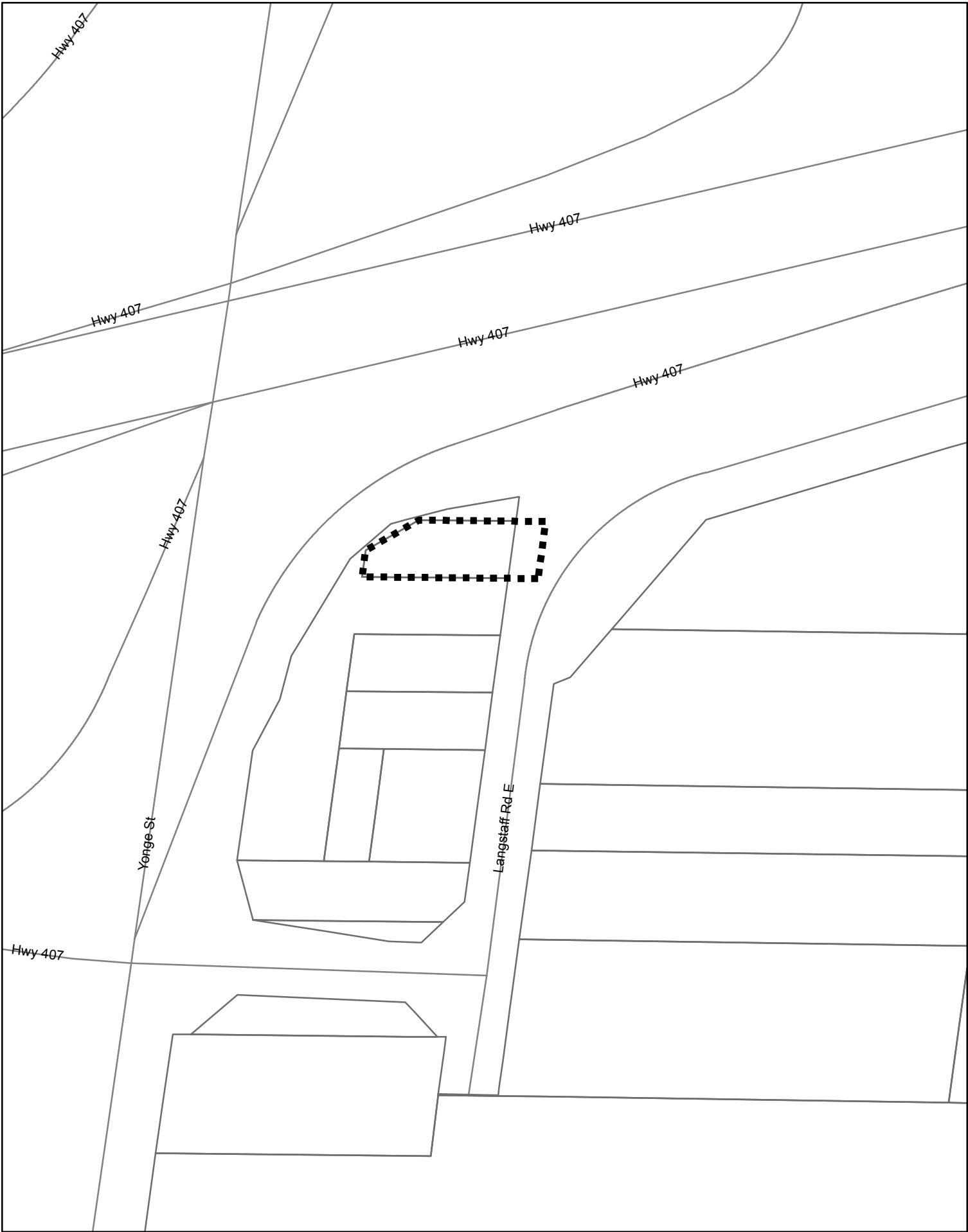
The following additional provisions apply:

 - a) *Medical Office* shall only locate within buildings existing on the date of the passing of this By-law;
 - b) additions to existing building are not permitted;
 - c) construction of new buildings is not permitted;
 - d) a pharmacy may only be permitted as an ancillary use to a *Medical Office* and shall not exceed a maximum Gross Floor Area of 50 m².
 2. All other provisions of By-law 2551, as amended, not inconsistent with the provisions of this By-law, shall continue to apply.
 3. This By-law shall expire on June 28, 2018, in accordance with the provisions of Section 39 of the Planning Act RSO 1990.

Read a first, second and third time and passed on September 27, 2016.

Kimberly Kitteringham
City Clerk

Frank Scarpitti
Mayor



SCHEDULE "A" TO BY-LAW

AMENDING BY-LAW 2551 DATED



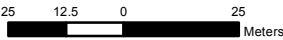
BOUNDARY OF AREA COVERED BY THIS SCHEDULE



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DEVELOPMENT SERVICES COMMISSION



Drawn By:LW Checked By:RC

DATE:15/06/2016

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