



Report to: Development Services

Report Date: June 23, 2015

SUBJECT: INFORMATION REPORT
Proposed Extension of Notification Period for Minor
Variances and Expansion of Circulation Boundaries for
Committee of Adjustment Applications and Statutory Public
Meetings

PREPARED BY: Rosanna Punit, Secretary-Treasurer, Committee of
Adjustment

REVIEWED BY: Tom Villella, MCIP, RPP
Manager, Zoning and Special Projects

RECOMMENDATION:

- 1) THAT the report entitled “Proposed Extension of Notification Period for Minor Variances and Expansion of Circulation Boundaries for Committee of Adjustment Applications and Statutory Public Meetings” be received as the Planning Staff response to the information requested by Development Services Committee.

PURPOSE:

This purpose of this report is to:

- provide information related to Planning Act requirements, current City Practices and proposed revisions to notification periods for minor variances and circulation boundaries for Committee of Adjustment applications;
- provide information related to Planning Act requirements, current City Practices and proposed revisions to circulation boundaries for Statutory Public Meetings;
- provide information on double-sided notification signs for Committee of Adjustment applications;
- provide information on notifying all Heritage Estates property owners of Committee of Adjustment minor variance applications;
- provide cost estimates and estimates of Staff resources that may be associated with these proposed changes.

BACKGROUND

On April 7, 2015, Development Services Committee directed Staff to provide a report on Staff resources and expenses involved in amending a variety of Committee of Adjustment and Statutory Public Meeting notification procedures including expanding the notification boundary for Committee of Adjustment applications from 60 metres to 120 metres; extending the notification period for Committee of Adjustment applications from 10 days to 14 days; and expanding the statutory public meeting notification boundary from 120 metres to 200 metres (Council Resolution attached as Appendix 1).

In addition, Staff have also been requested to comment on the possibility of adopting double-sided notification signs for minor variance applications and notifying all residents

in Heritage Estates when minor variance applications are filed in that neighbourhood was raised.

COMMITTEE OF ADJUSTMENT

The Committee of Adjustment is responsible for making decisions on minor variance and consent applications. The Committee of Adjustment generally meets twice a month. Members are appointed by Council for a four-year term. These appointed members are residents of Markham and perform quasi-judicial duties (decision making) in place of City Council. In the last three years (2012-2014), the Committee of Adjustment received an average of 232 applications per year. Currently, three Staff members support the Committee of Adjustment: the Secretary-Treasurer; a Planner I; and an Administrative Assistant that is shared with the Urban Design Section.

Committee of Adjustment Notification and Circulation Procedures

Chart 1 below identifies notification procedures for minor variance applications heard by the Committee of Adjustment in accordance with:

- Planning Act Requirements;
- Current City of Markham Practices; and,
- Revisions discussed at the April 7, 2015 Development Services Committee meeting:

Chart 1

Committee of Adjustment Notification: Planning Act and Markham's Current Practice

Planning Act Requirements	City of Markham Current Practice	Proposed Alternative	Comments
Time of Meeting: Minor Variance Applications shall be heard within 30 days after application is received by the Secretary-Treasurer	Applications are scheduled within 30 business days of receipt by the Secretary-Treasurer	N/A	Current City practice meets Planning Act Requirements
Notification practices: Minor Variance Notice to be given at least 10 days before the meeting by 1) Personal service 2) prepaid first class mail 3) sign posting and mailed to properties within 60 metres.	Notice given at least 13 days before meeting by 1) Personal service 2) prepaid first class mail 3) sign posting And mailed to properties within 60 metres.	To have signs posted 14 days in advance of a meeting and to provide notices to properties within 120 metres.	Current City practice exceeds Planning Act Requirements with regards to notification periods. Providing 14 days sign notification is possible, but will depend on the applicant responding to zoning comments in a timely manner. Further discussion is provided below. Expansion of boundary from 60m to 120m has cost and Staff implications as discussed further in this report.

Minor variance: detached, semi-detached or duplex housing	Notice of minor variances continue to be mailed to properties within 60 m of the subject application.	To provide notices to properties within 120 metres	Current City practice exceeds Planning Act Requirement.
The Committee of Adjustment may direct that area of notification be reduced to 30m			

Due to the complexity of the zoning regime in Markham (the City administers approximately 50 parent zoning By-laws), zoning examiners from the Building Department review Committee of Adjustment applications to ensure that all necessary variances are applied for and that the wording in the variance request is correct. The public notice signs are prepared only after the zoning examiners have reviewed the application and have provided their comments. These comments are due on the Friday of the week prior to public notification mail-out. In many cases, zoning examiners request alterations to the number of variances requested and the wording of those variances. Applicants are then given two days to revise their application in accordance with the changes identified by the zoning examiner. If applicants are not able to respond within the two day time period, an alternative future meeting date is agreed upon.

Currently, Markham's notification practices meet or exceed Planning Act requirements. The proposal to further extend the notification period for minor variance applications has potential implications. The City provides a 13 day notification period while the Planning Act sets out a 10 day notification requirement. As noted above, the current 13 day notice provided by the City already hinders the Planning Act requirement to hear minor variance applications within 30 days of filing an application with the City. Extending the notification period to 14 days will add to these time constraints and add to the risk that applicants may appeal to the Ontario Municipal Board (OMB) if their application(s) are not heard within the 30 day limit imposed by the Planning Act.

Costs Associated with Expanding Notification Boundaries for Committee of Adjustment Applications

To understand the costs associated with expanding notification for the Committee of Adjustment, an overview of application fees and estimated costs for current and expanded notification is presented below.

The current fee for a Minor Variance Application is \$1582.00 (HST inclusive), plus the cost of a sign for each public street frontage (\$22.60, HST inclusive). On average with one sign, the application fee for a minor variance is \$1604.60 (HST inclusive). The current cost for a Consent application is \$8,588.00 (HST inclusive) plus the cost of a sign for each public frontage (\$22.60, HST inclusive per sign). It is important to note that all direct and in-direct costs to the Municipality associated with processing of Committee of Adjustment applications must be covered by application fees to avoid negative impacts on department budgets.

Currently, the notice for Committee of Adjustment meetings (minor variance and consent applications) is sent to property owners within 60 metres of the subject property. To estimate the increase in prepaid mailing stamp costs if the circulation boundaries are increased from 60 metres to 120 metres, four examples are provided in Appendix 2 (note that additional printing expenses have not been included). Notification distance is measured from the perimeters of the subject property.

Currently, property mailing labels are created using Markham's GIS software (Geo-Logic), these labels are printed and individually placed on an envelope for mailing. The Staff time to create labels for a 60 metre circulation for the Map 1 (Appendix 1) would take approximately 15 minutes of Staff time. For example for Map 1, preparing circulation notices for 86 properties (within 120 metres) would take approximately 43 minutes of Staff time, or an additional 28 minutes of Staff time. In addition, the notification letters are folded and placed into the envelope using a machine; the time to perform this task has not been incorporated into the Staff time calculation.

As shown in the four examples in Appendix 1, the additional mailing stamp costs associated for increasing the circulation boundaries from 60 metres to 120 metres range between \$23.87 to \$133.21 per application. Actual applications would vary depending on the specific characteristic in each expanded circulation boundary.

If Council decides to expand the notification area from 60 metres to 120 metre, the additional mailing costs should be added to the application fees. Staff resource implications would also need to be addressed.

Committee of Adjustment and Double-Sided Signs

The current cost of a Committee of Adjustment sign is \$20.00, plus HST for a total of \$22.60 and is included in the application fee for the Committee of Adjustment. A notification sign is required for each public road frontage. To implement a double-sided sign, the cost would be doubled, to \$44.40 (HST inclusive). If Council decides to implement a double-sided sign, the fee for the additional sign should be added to the application to cover City costs of creating the sign.

Heritage Estates and Notification

Development Services Committee has requested that Staff comment on providing notification of minor variance applications within Heritage Estates, to all property owners in Heritage Estates, regardless of distance from the applicant's property. Staff do not anticipate significant costs or Staff resource impacts from this proposal.

STATUTORY PUBLIC MEETING

Expanding Notification Boundaries for Statutory Public Meetings

(Zoning By-law Amendment, Official Plan Amendment and Plan of Subdivision)

Currently, the City of Markham provides notice of public meeting to properties owners within 120 metres of the proposed application, which is the Planning Act requirement.

The Clerks Department is responsible for circulating notifications for Statutory Public meetings. Expanding the notification area would provide an opportunity for more property owners to be involved in the public process.

Chart 2 (Appendix 2) displays the cost implications (for postage only) of expanding the notice boundary from 120 metres to 200 metres in four sample areas in Markham. The Clerks Department also uses Markham's GIS software (Geo-Logic), to prepare notification envelopes; labels are printed and placed individually on envelopes for mailing. The increase in costs, in the examples provided range from \$16.17 to \$134.75 per application.

Increasing the notification boundary from 120m to 200m would in some cases more than double the number of notifications sent out. (From the chart, they could increase between 30% to 300%), this would place additional demand on Staff resources. While circulation notifications for statutory public meetings are done by the Clerk's Department, additional mailing costs and Staff resource costs for the expansion of notification areas should be covered through application fees.

FINANCIAL CONSIDERATIONS AND HUMAN RESOURCES:

Discussions with the Legal Department indicate that although increased application fees could offset the additional costs associated with the expanded circulation boundary, there could be objection from applicants, including those in the development industry. The Act is not worded in such a way as to allow the stated circulation boundary to be considered a "minimum requirement". It is simply the requirement. It could therefore be argued that any additional costs associated with circulation over and above that required by the Planning Act should be borne by the Municipality, and not the applicant. Section 69(3) of the Planning Act permits applicants to "pay under protest" and subsequently appeal the fee to the Ontario Municipal Board. If such an appeal were made, it would be difficult for Staff to support the fee based on planning grounds. The Committee should take this information into consideration when deliberating on the matter.

The current volume of applications processed through the Committee of Adjustment fully utilize current Staff resources. Additional assistance from Development Technicians at the Development Services Front Counter is often required to process the current volume of applications. Any additional tasks associated with the proposed amendments would create further demands on Staff resources. Development Services Committee should consider this when deliberating on this matter.

Public Consultation Workshop

The possibility of a workshop on the broader issue of public consultation was raised at Development Services Committee on April 7, 2015. Should Committee desire a workshop, further direction should be provided as to what matters would be discussed and who would be invited to attend.

CONCLUSION/NEXT STEPS

The current practice for public notification for Committee of Adjustment and Statutory Public Meetings complies with and in some cases exceeds the Planning Act legislative requirements. Expanding existing notification boundaries for Committee of Adjustment applications and Statutory Public Meetings would incur additional costs and add to existing demands on Staff resources.

If Council decides to expand the notification boundaries for both the Committee of Adjustment and Statutory Public Meetings certain matters will have to be carefully considered:

- Revision of the Fee By-law to ensure that the direct and in-direct costs to the Municipality of providing the services are being paid by the applicants;
- Ensure there are human resources available to accommodate the proposed additional workload;
- Possibility of objection and appeal by applicants as a result of cost and fee increases.

A workshop session can be scheduled in the fall to provide more information on the implementation of the proposed changes to notification procedures if Development Services Committee should find this helpful in determining next steps.

ALIGNMENT WITH STRATEGIC PRIORITIES:

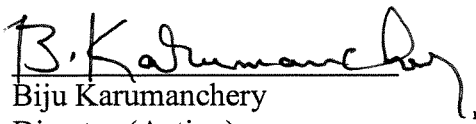
Not applicable.

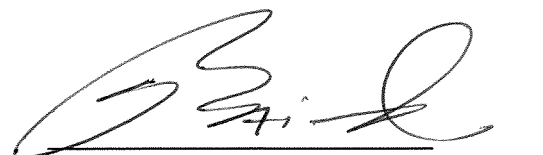
BUSINESS UNITS CONSULTED AND AFFECTED:

The Clerk's Department, Heritage Department and Legal Department were consulted and are affected.

RECOMMENDED

BY:


Biju Karumanchery
Director (Acting)
Planning and Urban Design


Jim Baird
Commissioner, Development Services

ATTACHMENTS:

Appendix 1 - Council Resolution – April 7, 2015
Appendix 2 - Committee of Adjustment Notification Cost Expansion from 60m to 120m
Appendix 3 - Statutory Public Meeting Cost Expansion from 120m to 200m
Map 1 - Neighbourhood (Thornhill) 60 metre notification and 120 metre notification
Map 2 – Residential Area 120 metre notification and 200 metre notification

File path: Amanda\File 15 152968\Documents\

“ APPENDIX 1 ”



THE CORPORATION OF THE CITY OF MARKHAM

**EXTRACT CONTAINING ITEM #0011 OF THE DEVELOPMENT SERVICES COMMITTEE
OF (Apr 07, 2015)**

11. NEW BUSINESS PLANNING NOTICE REQUIREMENTS (10.0)

A Committee member requested consideration be given to expanding the notice boundaries and time frames for Committee of Adjustment applications, and zoning applications, and Statutory Public Meetings, as well as amendments to sign posting requirements. This matter was referred to staff for a report back on expenses involved, targeted before the summer recess. A workshop on the broader issue of public consultation as also discussed.

Moved by: Councillor Karen Rea

Seconded by: Councillor Colin Campbell

That staff provide a report on expenses involved in expanded notice boundaries and time frames for Committee of Adjustment applications and Statutory Public Meetings.

CARRIED

Appendix 2

Committee of Adjustment Notification Cost Expansion from 60m to 120m

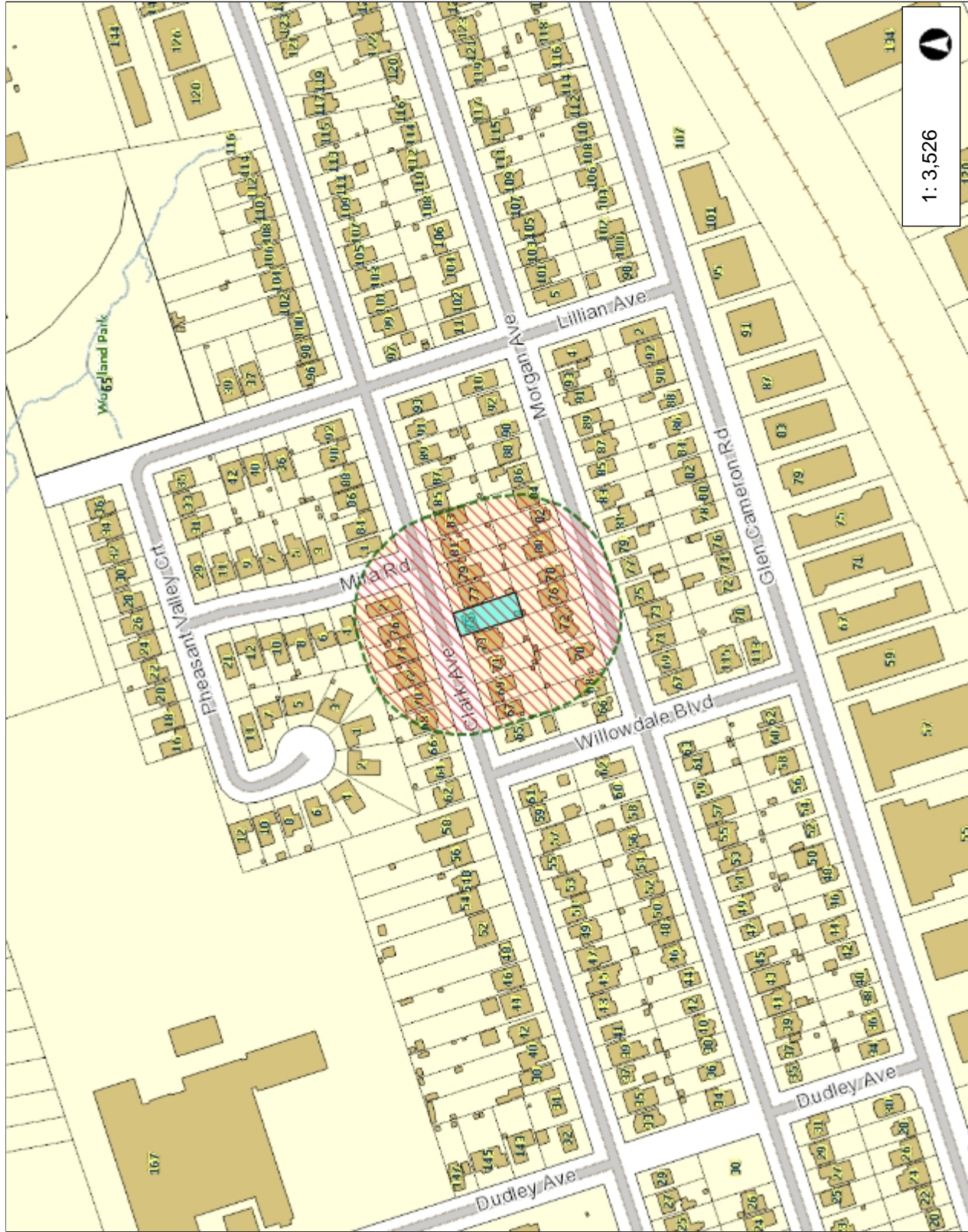
Map # & location	# of properties: 60 metres	Mail Cost: 60m	# of properties: 120 metres	Mail Cost: 120m	Additional Mail Cost from: 60m to 120m
Map 1					
Neighbourhood (Thornhill)	31 Properties	\$23.87	86 Properties	\$66.22	\$42.35
Neighbourhood (Milliken)	62 Properties	\$47.74	173 Properties	\$133.21	\$85.47
Neighbourhood (Wismer)	61 Properties	\$46.97	160 Properties	\$123.20	\$76.23
Commercial Property (Markham Village)	33 Properties	\$25.41	88 Properties	\$66.76	\$41.35

Appendix 3

Statutory Public Meeting Cost Expansion from 120m to 200m

Map # & Location	# of properties: 120 m	Mail Cost: 120 m	200 metres (Proposal)	Mail Cost: 200 m	Additional Mail Cost from: 120m to 200m
Map 2					
Residential area	325 Properties	\$250.25	500 Properties	\$385.00	\$134.75
Commercial Area	53 Properties	\$40.81	210 Properties	\$161.70	\$120.89
Industrial Area	21 Properties	\$16.17	37 Properties	\$28.49	\$12.32
Industrial Area	34 Properties	\$26.18	107 Properties	\$82.39	\$56.21

Map 1 - Neighbourhood (Thornhill) 60 metres Buffer



1: 3,526

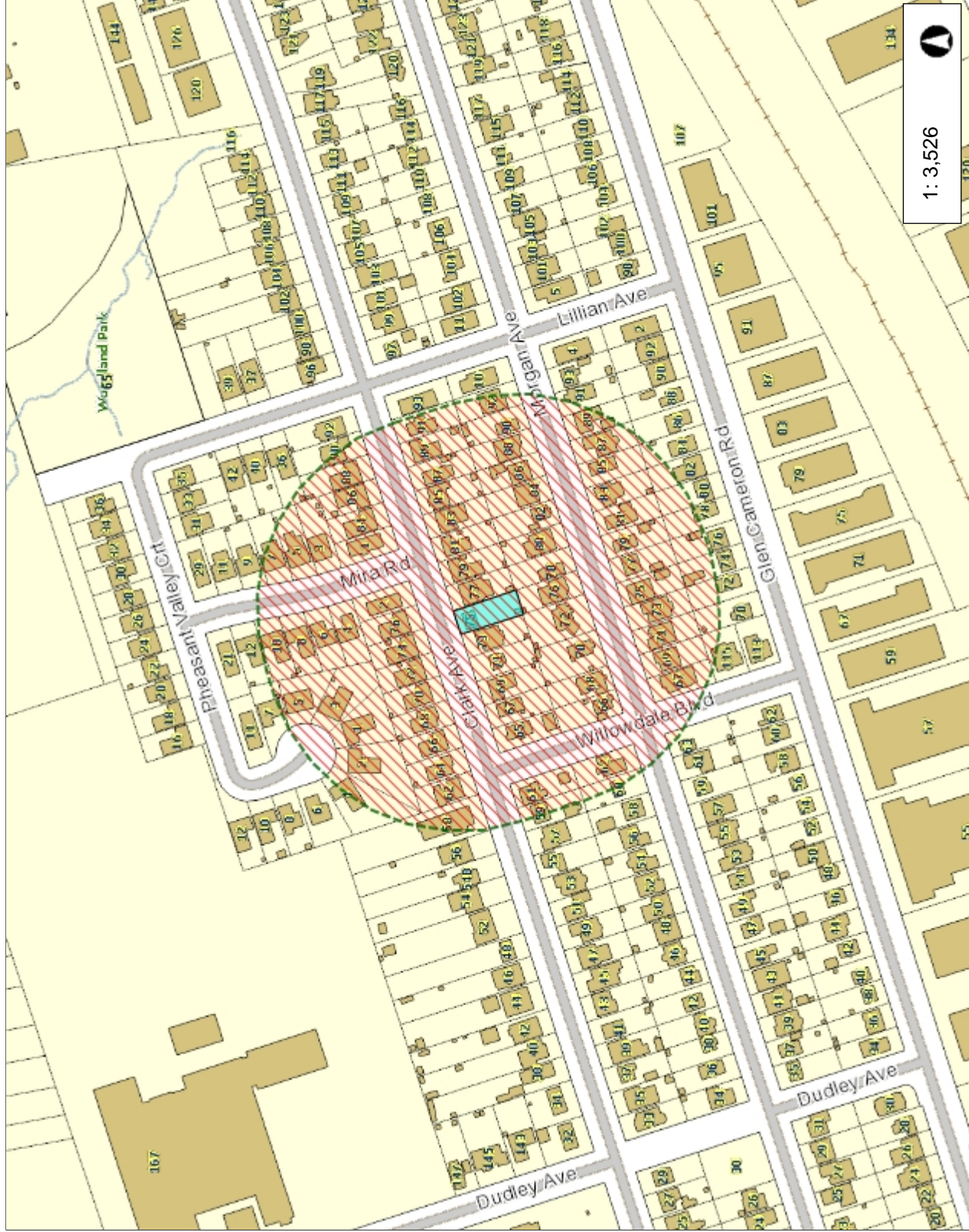
Notes

31 Residents

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

THIS MAP IS NOT TO BE USED FOR NAVIGATION

Map 1 - Neighbourhood (Thornhill) 120 metres Buffer



- Legend**
- Buildings
 - Ponds
 - Creeks
 - Rivers
 - Parks
 - <all other values>
 - Under Development
 - Parks
 - <all other values>
 - Under Development
 - MPAC Parcel

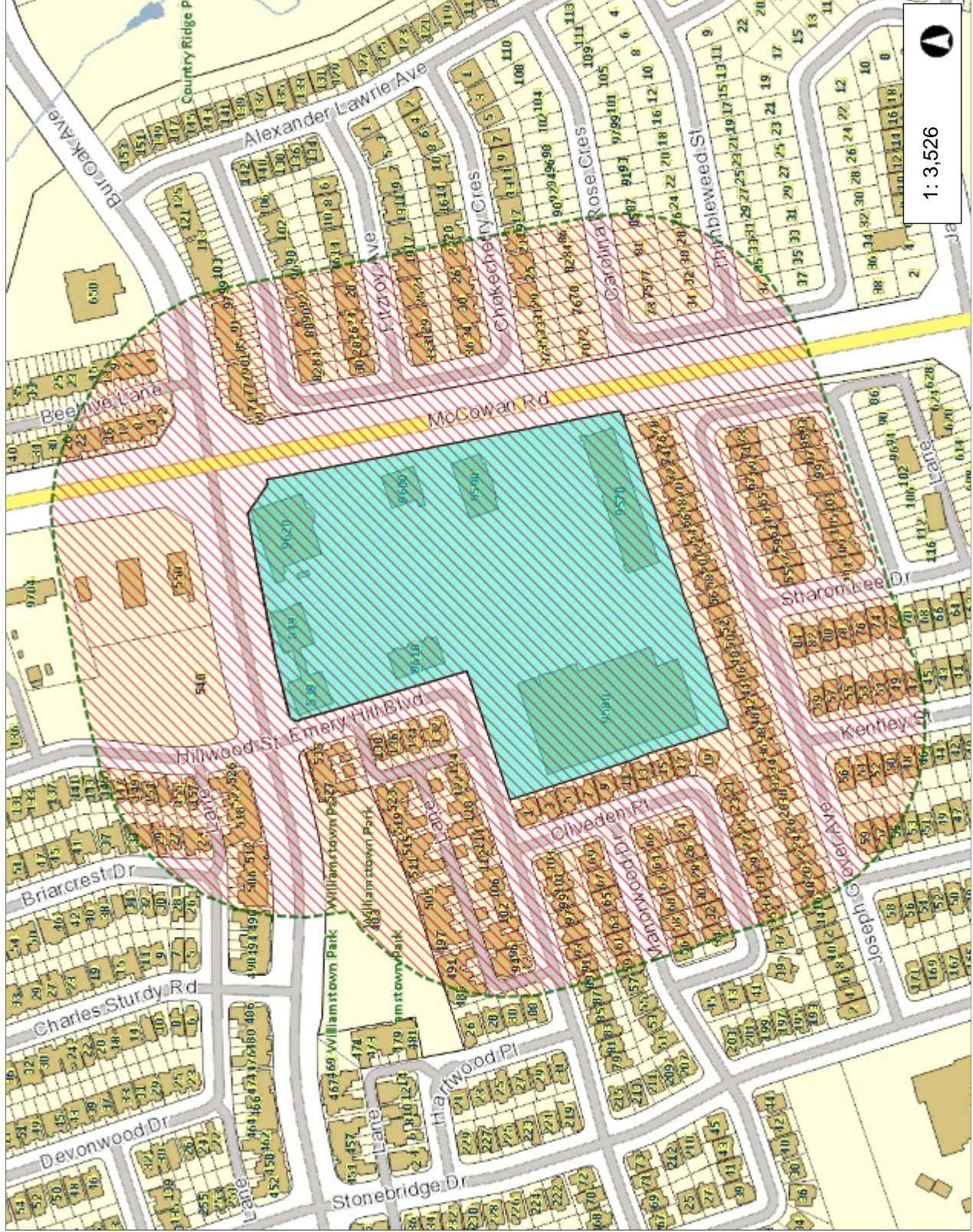
Notes

86 Residents

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

THIS MAP IS NOT TO BE USED FOR NAVIGATION

Map 2 - Residential Area 120 metres Buffer



Legend

- Buildings
- Ponds
- Creeks
- Rivers
- Parks
- <all other values>
- Under Development
- Parks
- <all other values>
- Under Development
- MPAC Parcel

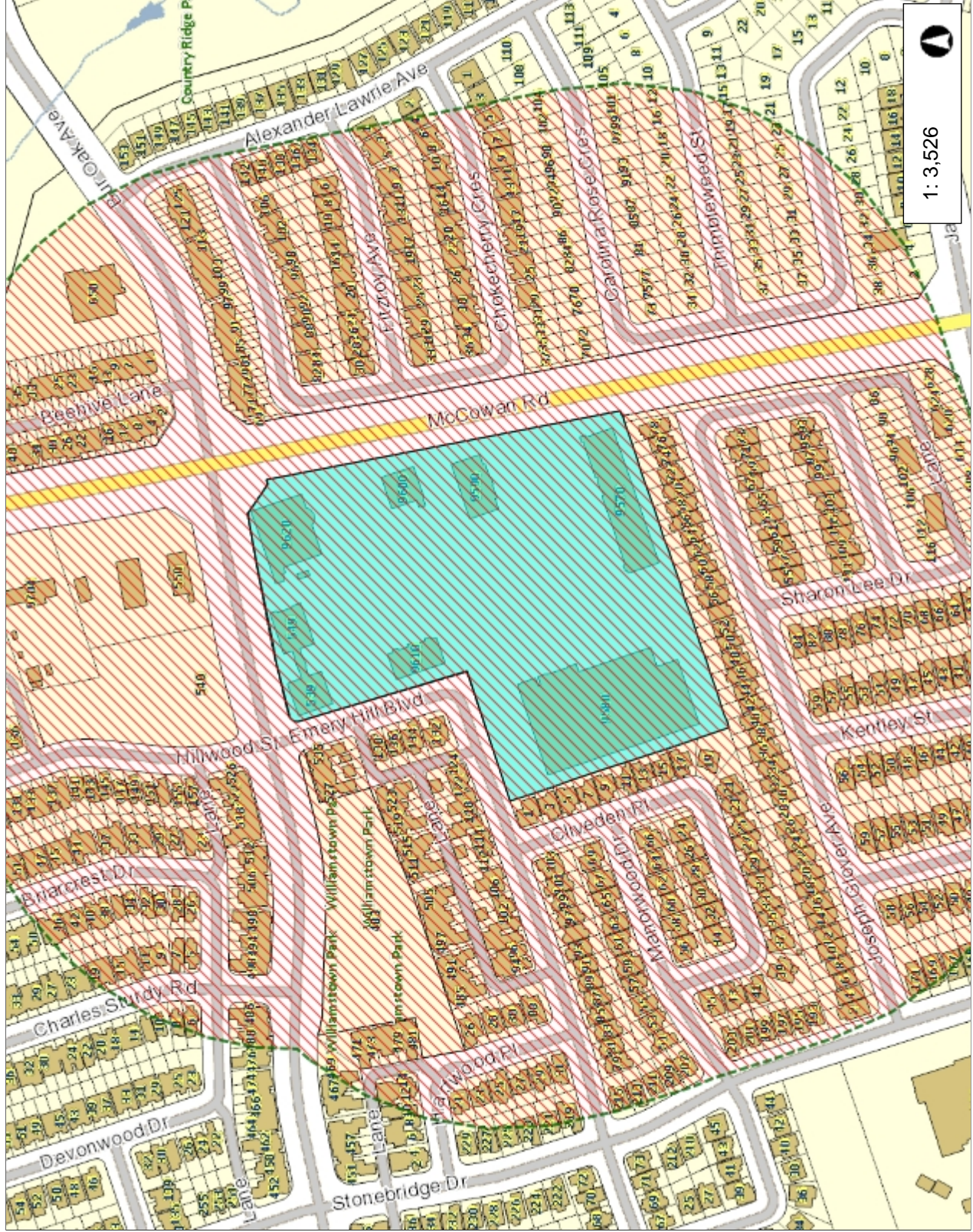
Notes

325 Residents

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

THIS MAP IS NOT TO BE USED FOR NAVIGATION

Map 2 - Residential Area 200 metres Buffer



1: 3,526

0.2 Kilometers

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.
THIS MAP IS NOT TO BE USED FOR NAVIGATION

Legend

- Buildings
- Ponds
- Creeks
- Rivers
- Parks
- <all other values>
- Under Development
- Parks
- <all other values>
- Under Development
- MPAC Parcel

Notes

500 Residents