



Report to: Development Services Committee

Report Date: September 16, 2014

SUBJECT: RECOMMENDATION REPORT
Arbor Memorial Inc. (formerly Memorial Gardens Canada Limited)
Rezoning application to permit a funeral home and cemetery at 6278 19th Avenue.

File Nos: ZA 13 113055

PREPARED BY: Stacia Muradali, Ext. 2008
Senior Planner, East District

REVIEWED BY: Dave Miller, Ext. 4960
Manager, East District

RECOMMENDATION:

- 1) That the report dated September 16, 2014 titled "RECOMMENDATION REPORT, Arbor Memorial Inc. (formerly Memorial Gardens Canada Limited), Rezoning application to permit a funeral home and cemetery at 6278 19th Avenue (File No. ZA 13 113055)", be received;
- 2) That the application (ZA 13 113055) submitted by Arbor Memorial Inc. to amend the City's Zoning By-law to permit a funeral home and cemetery not be supported;
- 3) That the City Solicitor and Staff be authorized to attend at the Ontario Municipal Board hearing to defend Council's position in opposition to the appeal of the Zoning By-law application (ZA 13 113055) filed by Arbor Memorial Inc. should the application to amend the City's Zoning By-law to permit a funeral home and cemetery be refused;
- 4) And that Staff be authorized and directed to do all things necessary to give effect to this resolution.

EXECUTIVE SUMMARY:

Not applicable.

PURPOSE:

This report recommends denial of the rezoning application submitted by Arbor Memorial Inc. to permit a funeral home and cemetery and seeks to obtain Council direction as the rezoning application has been appealed to the Ontario Municipal Board (OMB) by the applicant citing Council's failure to make a decision within 120 days.

BACKGROUND:**Subject land and area context**

6278 19th Avenue (the “subject property”) is located north of 19th Avenue with frontage on the east side of Dickson Hill Road, east of Highway 48 (Figure 1). The total area of the subject property is 40.47 hectares (100 acres) and includes lands to the east and west of the Little Rouge Creek tributary. The subject property contains an existing farm house (the “John Ramer House”) and barn which the City has identified as having cultural heritage value.

For the purposes of this report the “subject property” refers to 6278 19th Avenue in its entirety, and the term “subject land” is used to refer only to the 4.2 hectare (10.38 acre) area of the subject property which is the subject of this rezoning application.

The City boundary with Whitchurch-Stouffville is on the north side of the subject property, with commercial and residential development located to the north of this boundary. Predominantly residential and small scale commercial uses are located to the west and south, with agricultural lands located to the south and east, and Ninth Line located further east of the subject property (Figure 3). The subject property is currently being used for agricultural purposes including the farming of common field crops.

The application to amend the Zoning By-law was submitted on November 29th, 2013 and deemed complete on December 27th, 2013. The proponent appealed the application to the Ontario Municipal Board (OMB) on May 20th, 2014 citing Council’s failure to make a decision within 120 days as the reason for the appeal.

Official Plan amendment application submitted to allow a cemetery, funeral home and accessory uses

The landowner submitted separate Official Plan amendment applications to the Region of York and the City to develop approximately 22.14 hectares (54.71 acres) of the subject property, located to the west of the Little Rouge Creek, with a cemetery, funeral home and accessory uses. The subject property is designated ‘Hamlet’, ‘Oak Ridges Moraine’ and ‘Agriculture’ in the in-force Official Plan (1987 Revised), as amended and ‘Oak Ridges Moraine – Countryside Area’ in the Oak Ridges Moraine Secondary Plan (OPA 117). The subject property is also located in the Provincial Greenbelt.

Statutory Public Meetings were held for the Region’s and the City’s Official Plan amendment applications on May 5th, 2010 and May 18th, 2010 respectively. On February 17th, 2011, the Region of York denied the application to amend the Region’s Official Plan to permit the proposed development. Markham Council refused the Official Plan amendment application to the City’s in-force Official Plan (1987 Revised), as amended, on April 8th, 2014.

A funeral home and cemetery are proposed on the subject land

Arbor Memorial Inc. submitted an application to amend the Zoning By-law to develop a 4.2 hectare (10.38 acre) portion of the subject property (the “subject land”) located in the

Hamlet of Dickson Hill with a funeral home and cemetery. The subject land comprises the area of land along the Dickson Hill Road frontage and an area of land located near the south-west corner of the subject property which fronts onto 19th Avenue, and abuts residential properties to the west (see Figure 4).

The proposed funeral home fronts onto and has access from Dickson Hill Road and would have a gross floor area (GFA) of approximately 1,582.8 m² (17,037 ft²) with a maximum height of approximately 10 metres (32.8 feet). A cemetery comprised of burial gardens intended for in-ground burial and niche structures for cremated remains are also proposed for the subject land. 124 parking spaces are proposed. The access to the proposed funeral home and cemetery be towards the north end of Dickson Hill Road. Servicing would be by private well and septic system as municipal services are not available within the Hamlet.

Official Plan and Zoning

The subject land is designated 'Hamlet' in the in-force Official Plan (1987 Revised), as amended. The predominant use of land is intended to be for housing within the confines of small rural settlements. Other uses permitted in the in-force Official Plan (1987 Revised), as amended, include small scale institutional and commercial uses designed to serve the hamlet and surrounding rural area. There are also funeral home and cemetery policies in the in-force Official Plan (1987 Revised), as amended. Some of the cemetery policies include consideration of the need for the proposed and the appropriateness and suitability of the proposed location, the type, character and possible impacts of the surrounding properties, accessibility, parking, traffic, landscaping, the geophysical and environmental conditions in the general area including soil and sub-soil conditions, as well as having direct access from the property to an arterial road or Provincial highway. The policies related to permitting funeral homes include locational criteria, functionality of the site for the proposed funeral home and compatibility of the proposed development with adjacent uses including the provision of adequate buffering, parking, submission of a traffic study and traffic management plan and any other studies deemed necessary.

The subject land is designated 'Hamlets' and 'Countryside' in the Official Plan 2014 (not yet in force). The Official Plan 2014 (not yet in force) also has policies which apply to cemeteries and funeral homes. Lands designated 'Hamlets' are intended to protect and maintain the historic and rural residential character of the hamlet while allowing for limited opportunities for additions to buildings and small-scale infill development. "House form building" and "buildings associated with day care centres, places of worship and public schools" are contemplated on 'Hamlets' lands. Development on lands designated 'Hamlets' should be compatible minor infill development subject to servicing availability and compatibility with the historic and rural character of the hamlet. The built form and building materials are to be of similar scale and reflective of the hamlet's character. Limited non-residential uses which are compatible with adjacent uses are contemplated subject to certain considerations including having direct access to a public road, not having a negative impact on natural heritage features and functions, the provision of appropriate landscaping and buffering and off-street parking, and availability of an on-site private wastewater system and a private well among other things. The

“Countryside” designation applies to lands which are intended to be protected for agricultural uses and support farming activities. Most non-agricultural uses including the proposed funeral home and cemetery are prohibited. The site –specific policies which apply to funeral homes and cemeteries are similar to those in the in-force Official Plan (1987 Revised), as amended.

The subject land is zoned ‘Single Family Rural Residential (RRH)’ in Zoning By-law 91-79, as amended. A single family dwelling and home occupation are permitted. An amendment to the Zoning By-law is required to permit the proposed development.

Ontario Municipal Board (OMB) Appeals

Arbor Memorial Inc. appealed both the Region’s and City’s decisions to refuse their respective applications to amend the Official Plan, to the Ontario Municipal Board (OMB). Arbor Memorial Inc. also appealed Council’s refusal of demolition permits for the John Ramer House and Barn. On April 18th, 2006, Markham Council passed its Intention to Designate the John Ramer House and Barn located on the subject property as a property of cultural heritage value or interest under Part IV of the Ontario Heritage Act.

Arbor Memorial Inc. has also appealed the subject Zoning By-law amendment application to the OMB citing Council’s failure to make a decision within 120 days. A statutory Public Meeting has not been scheduled for the rezoning application. Staff are seeking Council direction on the Zoning By-law amendment application in anticipation that all of the OMB appeals will be consolidated into one (1) hearing. A pre-hearing conference is scheduled for October 9th, 2014.

OPTIONS/ DISCUSSION:

The proposed development does not conform to the Official Plan

The proposed zoning amendment does not conform to the Official Plan (1987 Revised), as amended. Both the Region and the City denied applications by Arbor Memorial to amend their respective Official Plans to permit the proposed funeral home, cemetery and accessory uses. The proposed amendment to the Zoning By-law to permit the proposed funeral home and cemetery does not conform to the in-force Official Plan (1987 Revised), as amended. It is staff’s opinion that this application to amend the Zoning By-law to permit the proposed funeral home cannot be considered in isolation of the applications to amend the Region’s and City’s Official Plans which include the subject land and proposed funeral home and cemetery in addition to a larger area of the subject property for a larger cemetery. As a result, all of the OMB appeals by Arbor Memorial Inc. will be considered together in one consolidated hearing.

The predominant land use envisioned in areas designated “Hamlet” is housing within the confines of small rural settlements. Other permitted uses include small scale institutional and commercial uses designated to serve the hamlet and surrounding rural area. The Local Catchment Area Cemetery Needs Analysis (the “Cemetery Needs Analysis”) prepared by urbanMetrics Inc dated January 12, 2011 and submitted by the applicant in support of the Official Plan amendment application assumes “about 600 burials can be

accommodated per acre". The proposed burial gardens will be approximately 3 hectares (7.4 acres) which based on the applicant's Cemetery Needs Analysis could accommodate approximately 4,440 burials which goes beyond serving the Dickson Hill hamlet. Further, there is an existing historic cemetery, the Dickson Hill Cemetery, located in the vicinity on Dickson Hill Road, south of 19th Avenue which is still active and still has burial capacity.

The proposed funeral home and cemetery does not conform to the 'Hamlets' and 'Countryside' land use policies in the Official Plan 2014 (not yet in force). The proposed development is not considered to be the type of small-scale infill development contemplated for lands designated 'Hamlets' and is prohibited in the 'Countryside' designation.

It is staff's opinion that the proposed development is not small-scale and will not only serve the hamlet and surrounding rural area but a larger area, which is not in keeping with the intent of the in-force Official Plan (1987 Revised), as amended 'Hamlet' policies.

Conclusion

Staff recommend denial of the rezoning application to permit a funeral home and cemetery on a portion of 6278 19th Avenue as it does not conform to the in-force Official Plan (1987 Revised), as amended. Committee had previously denied an application to amend the Official Plan to allow the proposed funeral home, a larger cemetery and accessory uses. Should Committee refuse the application to amend the Zoning By-law, Staff should be directed to attend at the OMB to defend Council's positions on both the Official Plan and Zoning By-law amendment applications.

FINANCIAL CONSIDERATIONS AND TEMPLATE: (external link)

Not applicable.

HUMAN RESOURCES CONSIDERATIONS

Not applicable.

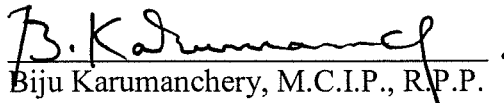
ALIGNMENT WITH STRATEGIC PRIORITIES:

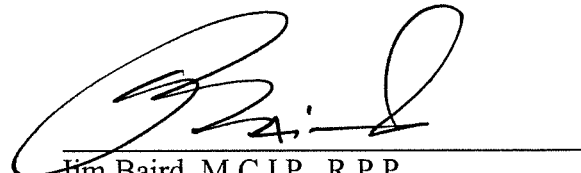
The proposed development does not align with the strategic priority to manage and balance growth.

BUSINESS UNITS CONSULTED AND AFFECTED:

All comments provided by internal departments and external agencies have been taken into consideration in the preparation of this report.

RECOMMENDED BY:

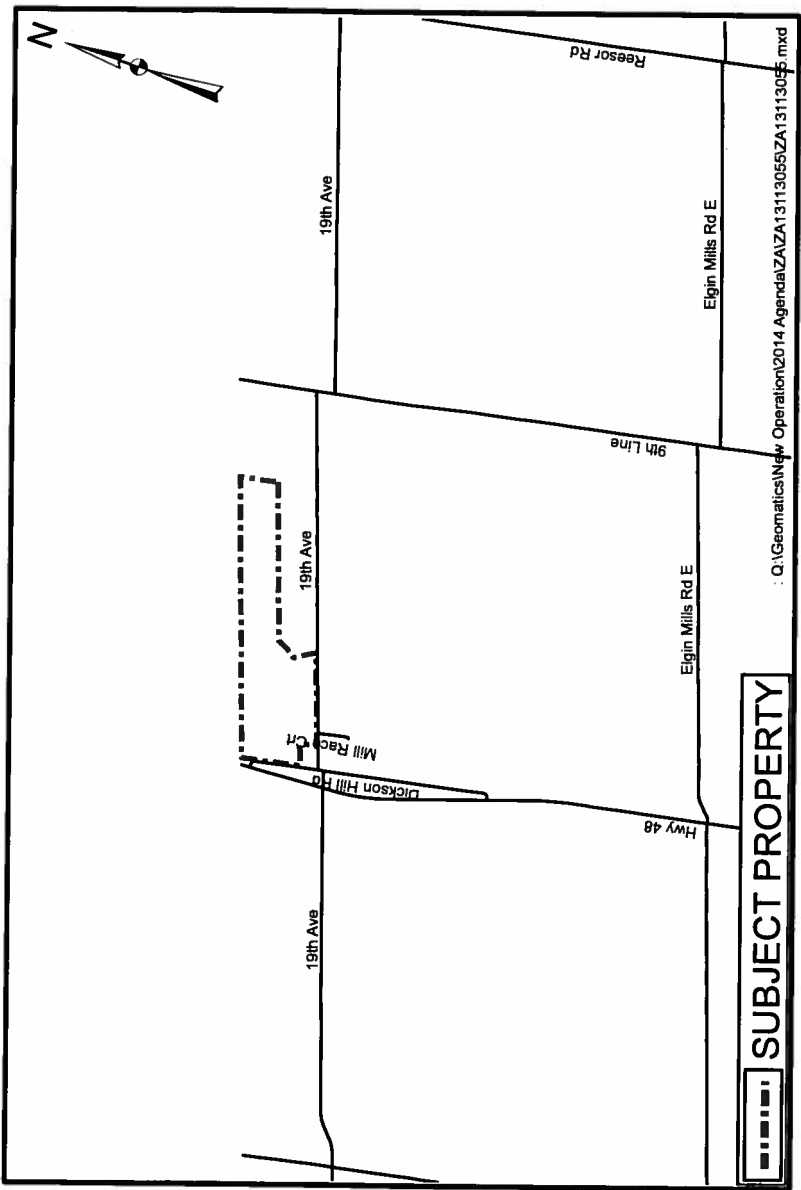

Biju Karumanchery, M.C.I.P., R.P.P.
Senior Development Manager

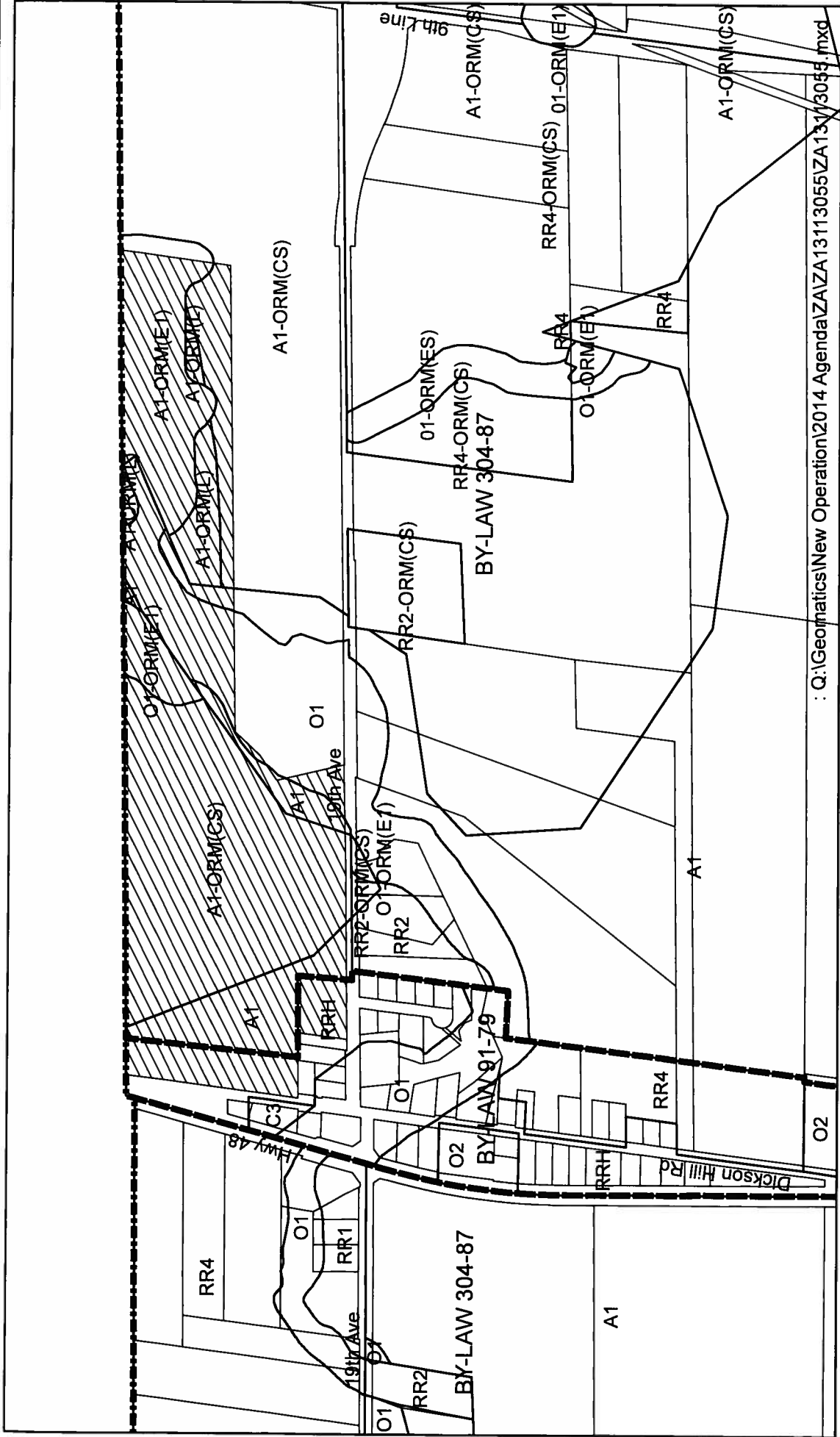

Jim Baird, M.C.I.P., R.P.P.
Commissioner of Development Services

ATTACHMENTS:

Figure 1: Location Map
Figure 2: Area Context/ Zoning
Figure 3: Air Photo
Figure 4: Site Plan

File path: Amanda\File 13 113055\Documents\Recommendation Report





AREA CONTEXT/ZONING

APPLICANT: ARBOR MEMORIAL INC.

6278 19th. AVENUE

FILE No. ZA13113055(SM)

 SUBJECT PROPERTY

DATE: 07/24/14

FIGURE No. 2



AIR PHOTO 2012

APPLICANT: ARBOR MEMORIAL INC.
6278 19th. AVENUE

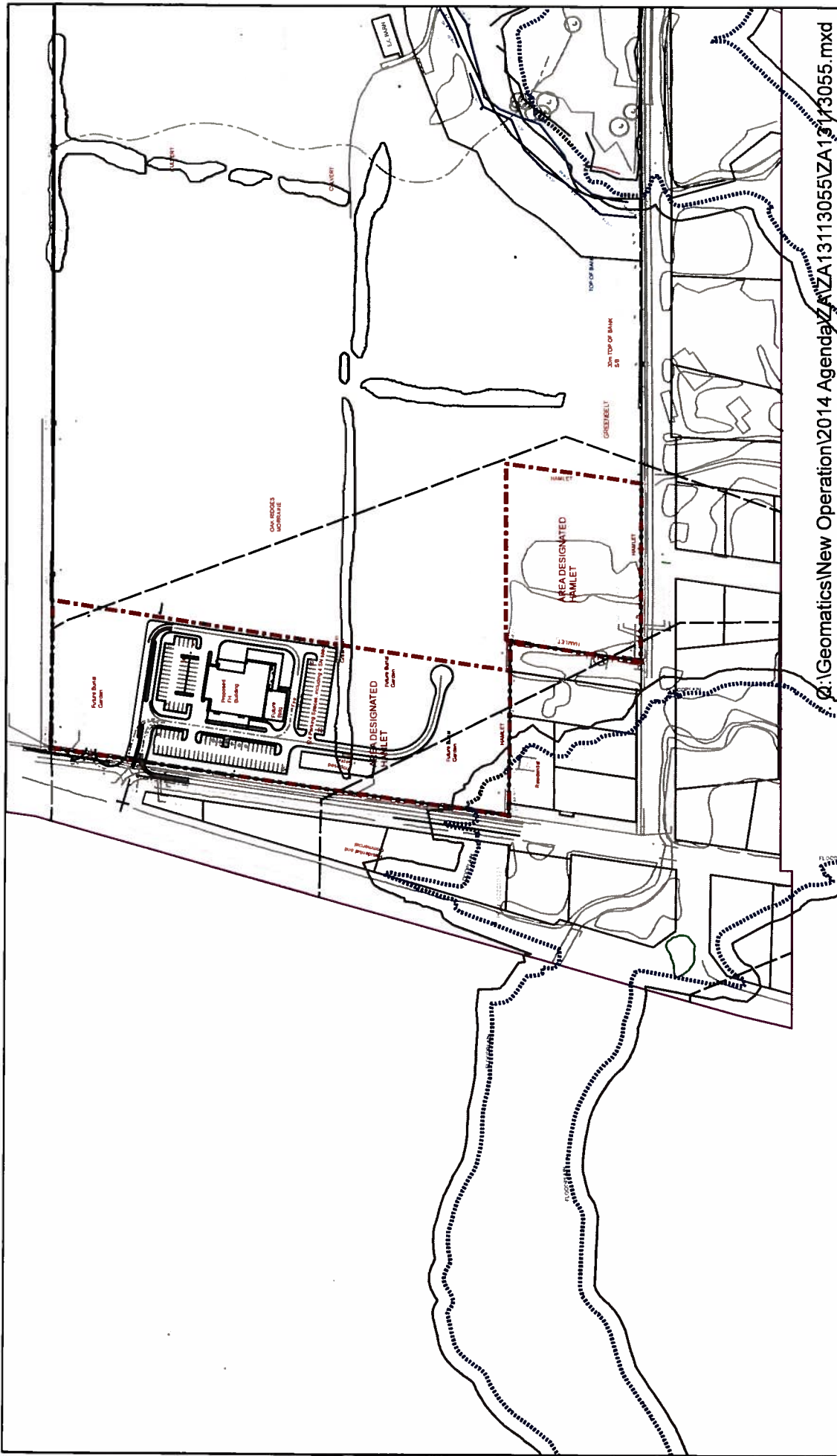
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 SUBJECT PROPERTY



DATE: 07/24/14

FIGURE No. 3



SITE PLAN

APPLICANT: ARBOR MEMORIAL INC.
6278 19th. AVENUE

FILE No. ZA13113055(SM)

DATE:07/24/14

MARKHAM DEVELOPMENT SERVICES COMMISSION

Drawn By:DD

Checked By: SM