



Report to: Development Services Committee

Report Date: April 1<sup>st</sup>, 2014

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**SUBJECT:** RECOMMENDATION REPORT  
Arbor Memorial Inc. (formerly Memorial Gardens Canada Limited)  
Official Plan Amendment application for a change in land use to permit a cemetery, funeral home and accessory uses at 6278 19<sup>th</sup> Avenue.

File No: OP 07 134061

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**RECOMMENDATIONS:**

- 1) That the report dated April 1, 2014 titled "RECOMMENDATION REPORT, Arbor Memorial Inc. (formerly Memorial Gardens Canada Limited), Official Plan Amendment application for a change in land use to permit a cemetery, funeral home and accessory uses at 6278 19<sup>th</sup> Avenue (File No: OP 07 134061)", be received;
- 2) That the record of the Public Meeting held on May 18<sup>th</sup>, 2010 regarding the proposed Official Plan Amendment be received;
- 3) That the application submitted by Arbor Memorial Inc. (formerly Memorial Gardens Canada Limited) to amend the City of Markham Official Plan for a portion of 6278 19<sup>th</sup> Avenue, be refused.
- 4) And that Staff be authorized and directed to do all things necessary to give effect to this resolution.

**EXECUTIVE SUMMARY:**

Arbor Memorial Inc. (formerly Memorial Gardens Canada Limited) has submitted an application to amend the Official Plan to permit a cemetery, funeral home and accessory uses on a portion of 6278 19<sup>th</sup> Avenue (the "subject lands"). Staff are recommending that the Official Plan Amendment application be denied, for the reasons outlined in this report.

The subject lands are located on the north side of 19<sup>th</sup> Avenue and front onto Dickson Hill Road (see Figure 1). The total area of the subject lands is 40.47 hectares (100 acres). The property contains an existing farm house (the "John Ramer House") and barn and the City has identified these buildings as having cultural heritage value. Council denied demolition permits submitted by the applicant for both structures, and the applicant appealed Council's decision to the Ontario Municipal Board (OMB) on July 25<sup>th</sup>, 2008. The appeal of the demolition permits has not proceeded to a hearing because it is

anticipated that it will be consolidated into one (1) hearing in addition to the appeal of the Region's Official Plan Amendment application and the possible appeal of the City's Official Plan Amendment application to permit the proposed development. A tributary of the Little Rouge Creek flows north to south through the subject lands. The subject lands are currently being used for agricultural purposes.

Arbor Memorial Inc. is proposing to develop approximately 22.14 hectares (54.71 acres) of the subject lands located to the west of the Little Rouge Creek tributary with a cemetery, funeral home and accessory uses such as a maintenance shed. The burial gardens would be approximately 18.2 hectares (44.97 acres) and the funeral home would be on a 3.94 hectare (9.74 acre) portion in a building of approximately 1,574 square metres (16,942 square feet) (see Figure 4).

On February 17<sup>th</sup>, 2011 the Region of York denied a separate application to amend the Region's Official Plan to permit the proposed development. The landowner appealed the Region's decision to the OMB on March 23<sup>rd</sup>, 2011. If Markham Council also refuses the local Official Plan Amendment application, it is anticipated that the landowner will appeal the decision to the OMB and a consolidated OMB Hearing will likely be held for both Official Plan Amendment applications and the demolition permits for the John Ramer House and barn. The Region of York is the approval authority for the City's Official Plan Amendment application process.

Statutory public meetings were held for the Region's and the City's Official Plan Amendment applications on May 5<sup>th</sup>, 2010 and May 18<sup>th</sup>, 2010 respectively. Arbor Memorial Inc. submitted a Zoning By-law Amendment application in November 2013, for the portion of the subject lands which is located in the hamlet and outside the Provincial Greenbelt and Oak Ridges Moraine, to permit the proposed funeral home and approximately 3 hectares (7.4 acres) of burial gardens. This report does not make a recommendation on the Zoning By-law Amendment application.

The area of the subject lands which is proposed to be developed is designated 'Hamlet', 'Oak Ridges Moraine – Countryside Area' and 'Agriculture' in the City's current Official Plan (see Figure 5). The majority of the subject land is located in the 'Oak Ridges Moraine- Countryside Areas' designation. The subject lands are also located in the Provincial Greenbelt Plan (see Figure 7). The cemetery land is designated 'Greenway', 'Countryside' and 'Hamlet' in the City's new Official Plan which was adopted by Council in December 2013 but has not yet received final approval (see Figure 6). The City's new Official Plan also identifies a portion the cemetery land as being within a Countryside Agriculture Area.

The Oak Ridges Moraine Conservation Plan does not permit cemeteries, but does identify and permit small-scale institutional uses in 'Countryside Areas' on 'rural' lands. However, the policy to permit such small-scale institutional uses does not apply in Markham as non urban lands in Markham are all classified as 'prime' and are identified as such in the Official Plan. The Region's Official Plan does not permit small-scale institutional uses in either 'rural' or 'prime' lands in the ORMCP and directs these uses to

hamlets, towns, villages and urban areas. It is Staff's opinion that the proposed development is not small-scale in nature and is located on prime agricultural land and therefore, is not permitted in the ORMCP. The proposed change in land use to allow the proposed development does not conform to the ORMCP. Municipal decisions must conform to the ORMCP.

A portion of the cemetery land is designated 'Protected Countryside' in the Provincial Greenbelt Plan (the 'Greenbelt Plan'). The Greenbelt Plan provides for a full range of agricultural and agriculture-related uses and secondary uses in prime agricultural areas. The Greenbelt Plan protects prime agricultural areas by preventing the redesignation of prime agricultural areas. Given that the cemetery land is comprised of prime agricultural land and under the Provincial Plan cannot be redesignated to permit the proposed land use, it is Staff's opinion that the proposed change in land use to permit the proposed development within the Provincial Greenbelt does not conform to the Greenbelt Plan.

A portion of the cemetery land is designated 'Agriculture' in the City's Official Plan. This designation allows farming, agriculture and related uses. The protection and use of agricultural lands are not only of local interest, but also matters of Provincial and Regional interest. The City's Official Plan provides for consideration of an amendment to the Official Plan to permit a use other than those permitted in the 'Agriculture' designation subject to satisfying certain criteria. The Region's Official Plan and Provincial Policy Statement (PPS) have similar criteria. It is Staff's opinion that the proposed change in land use to permit the proposed development on prime agricultural land does not meet these criteria and therefore should not be approved.

The City's Official Plan 'Hamlet' policies provide for small-scale institutional uses designed to serve the hamlet and the surrounding rural community. It is Staff's opinion that the proposed development is not small-scale in nature and does not only serve the hamlet and surrounding rural community. The proponent's Local Catchment Area Cemetery Needs Analysis demonstrates that the local catchment area expected for the proposed development encompasses lands within a 10 kilometer radius of the subject lands. The proposed change in land use to permit the proposed within a hamlet is not appropriate.

Staff recommend denial of the Official Plan Amendment application for a change in land use to permit a cemetery, funeral home and accessory uses because the proposed land use does not represent good planning as it does not conform to provincial, regional and municipal policies.

**PURPOSE:**

The purpose of this report is to evaluate the application to amend the Official Plan to change the land use to allow a cemetery, funeral home and accessory uses at 6278 19<sup>th</sup> Avenue. Given the proposed change in land use and applicable policies including those contained within the Provincial Policy Statement (PPS), Oak Ridges Moraine

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Conservation Plan (ORMCP), Provincial Greenbelt Plan and the City's and Region's Official Plan, Staff recommend denial of the Official Plan Amendment application.

**BACKGROUND:****Subject Land and Area Context**

6278 19<sup>th</sup> Avenue (the "subject lands") is located north of 19<sup>th</sup> Avenue with frontage on the east side of Dickson Hill Road, east of Highway 48 and is irregular in shape (Figure 1). The total area of the subject lands is 40.47 hectares (100 acres) and includes lands to the east and west of the Little Rouge Creek tributary. The City boundary with Whitchurch-Stouffville is on the north 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 further east of the subject lands (see Figure 3). There is an existing historic cemetery which is still active, the Dickson Hill Cemetery which is located south on Dickson Hill Road, south of 19<sup>th</sup> Avenue.

The subject lands are currently being used for agricultural purposes including the farming of common field crops. There is an existing farm house (the John Ramer House) and barn on the property which have been identified by the City as having cultural heritage value. A tributary of the Little Rouge River is centrally located on the subject lands and flows in a north to south direction. The area around the tributary is wooded and vegetated. The valleylands are not part of this application. The subject lands can be accessed from both 19<sup>th</sup> Avenue and Dickson Hill Road.

**An amendment to the Official Plan is being sought to permit a cemetery, funeral home (reception centre) and accessory uses**

The landowner, Arbor Memorial Inc. (formerly Memorial Gardens Limited) is proposing to develop approximately 22.14 hectares (54.71 acres) of the subject lands located to the west of the tributary of Little Rouge Creek. The applicant is seeking a site-specific amendment to create an exception to the 'Agriculture' and 'Oak Ridges Moraine – Countryside Area' Official Plan designations to permit a cemetery, funeral home (reception centre) and accessory uses. The application was submitted in 2007 and the Region of York is the approval authority for the local Official Plan Amendment application. An application was also submitted to the Region of York to amend the Region's Official Plan to permit the proposed development.

For the purposes of this report, the "cemetery lands" are comprised of the 22.14 hectares (54.71 acres) of the total land holdings located west of the tributary and which are proposed to be developed. The term "subject lands" will be used in this report to refer to the total land holdings of Arbor Memorial Inc, including the cemetery lands, the valleylands and tributary and the remainder of the lands to the east.

The proposed cemetery would be comprised of approximately 18.2 hectares (44.97 acres) of burial gardens. The burial gardens may be comprised of monuments, plaques and other dedication structures, in-ground and above-ground family crypts, above-ground niches, columbarium structures, walkways and private internal streets. The proposed

funeral home (reception centre) would be approximately 1,574 square metres (16,945 square feet) in size and will include a chapel, reception rooms, administrative offices, a kitchen and storage areas. The proposed funeral home would front onto Dickson Hill Road with its access on Dickson Hill Road. The proposal also includes an ancillary service building (approximately 333.6 square metres/ 3,590 square feet) intended for maintenance of the cemetery. The applicant has indicated that potential future development of the subject lands may include a mausoleum but not a crematorium. The proposed development would operate on private services. Two (2) stormwater management ponds totaling approximately 0.26 hectares (0.64 acres) in size are proposed as part of the development (Figure 4).

#### **Intention to designate 6278 19<sup>th</sup> Avenue as a property of cultural heritage value or interest**

On April 18<sup>th</sup>, 2006 Markham Council passed its Intention to Designate the John Ramer House and Barn located at 6278 19<sup>th</sup> Avenue as a property of cultural heritage value or interest under Part IV of the Ontario Heritage Act, because the existing John Ramer House and Barn were considered to be significant cultural heritage resources. The Conservation Review Board recommended that the designation of the John Ramer House and Barn proceed, following the landowner's objection to the designation. The landowner objected to the designation and submitted a demolition permit for the John Ramer House and Barn. Heritage Markham recommended that Council refuse the demolition permit application. On June 24<sup>th</sup>, 2008, Markham Council refused the demolition permit applications and the landowner appealed Council's refusal to the OMB. It should also be noted that the barn provides habitat for a population of barn swallows. Barn swallows are listed as endangered species and protected by the *Endangered Species Act*. The appeal of the demolition permit has been put on hold and it is anticipated that it will be consolidated into one (1) hearing with the appeal of the Region of York Official Plan Amendment application and a possible appeal of the City's Official Plan Amendment application.

#### **Provincial policies**

##### *Provincial Policy Statement (PPS)*

The Provincial Policy Statement provides policy direction for matters of provincial interest related to land use planning and development. The authority for the PPS is under Section 3 of the Planning Act which requires that decisions affecting planning matters 'shall be consistent with' policy statements issued under the Act. The Provincial Policy Statement (PPS) protects prime agricultural areas for long-term agricultural use. Agricultural uses, secondary uses and agriculture-related uses are permitted in prime agricultural areas. The PPS provides criteria for removing land from prime agricultural areas for limited non-residential uses. The Province has released the Provincial Policy Statement 2014 which provides some wording modifications to clarify and strengthen the policy addressing the process to assess non agricultural uses in prime agricultural areas. The PPS 2014 comes into effect April 30, 2014.

##### *Oak Ridges Moraine Conservation Plan (ORMCP)*

The Oak Ridges Moraine Conservation Plan came into effect in 2001 under the authority of the *Oak Ridges Moraine Conservation Act*, 2001, and covers 160 kilometers from Trent River to the Niagara Escarpment considered to be the landform feature. In November 2004, the Ministry of Municipal Affairs and Housing approved Markham's Official Plan Amendment No. 117 incorporating and confirming the relevant policies into the City's Official Plan and zoning by-laws. The ORMCP policies protect the ecological and hydrological integrity of the Oak Ridges Moraine feature and provide for compatible land uses which support the rural character. Municipal decisions must conform to the ORMCP which is a higher standard of implementation than the PPS. A significant portion of the cemetery lands are encumbered by the requirements of the ORMCP (see Figure 7).

The Oak Ridges Moraine Conservation Plan does not permit cemeteries. The ORMCP does identify and permit small-scale institutional uses in 'Countryside Areas' on 'rural' lands, but this policy does not apply in Markham due to the 'prime' land classification on all non urban lands. The proposed cemetery is not considered to be a small scale institutional use as described in the application. The ORMCP is a provincial plan and unlike the City's Official Plan, there is no applicant driven process to amend the Plan to permit a non-permitted use. The Province is the only authority to amend the Plan. The Provincial review of the ORMCP is expected in 2015. It is the opinion of staff that the proposed cemetery does not conform to the ORMCP.

#### *Provincial Greenbelt Plan*

The Greenbelt Plan came into effect in 2005 under the authority of the *Greenbelt Act*, 2005. This Plan identifies where urbanization should not occur in order to provide permanent protection for agricultural lands and the ecological features and functions within the landscape. Markham's conformity amendment for this plan was undertaken through the new Official Plan adopted by Council in December 2013. The Greenbelt Plan allows for normal farm practices and a full range of agricultural, agriculture-related and secondary uses in prime agricultural areas. The Greenbelt Plan does not allow for the redesignation of prime agricultural areas in municipal official plans for non-agricultural uses except for refinements to the prime agricultural and rural area designations. Non-agricultural uses are not permitted within prime agricultural areas in the 'Protected Countryside' designation. A portion of the cemetery land is located in the Provincial Greenbelt Plan (see Figure 7). . It is the opinion of staff that the proposed cemetery does not conform to the Greenbelt Plan.

#### **Region of York Official Plan policies**

##### *Agricultural Policy Area*

The cemetery land is designated 'Agricultural Policy Area', 'Oak Ridges Moraine Countryside Area' and 'Regional Greenlands System' in the Region of York Official Plan approved October 1994, as amended. In accordance with provincial policy, the Region reflects the 'prime' agricultural classification on lands designated 'Agricultural Policy Area'. This designation permits farm and accessory uses as the primary use on lands within the designation, as well as farm-related uses only where they are essential to the agriculture economy and cannot be located in hamlets, towns, villages, urban areas or

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in the Rural Policy Area. The 'Agricultural Policy Area' establishes criteria which must be considered when evaluating proposals for non-farm land uses. The criteria are as follows:

- Whether the proposal will reduce or impede surrounding farm operations;
- The necessity for the proposed land use;
- The suitability of the site chosen, the reasons for its choice, and the amount of land needed; and
- Whether suitable locations on lower-capability agricultural land or in hamlets, towns villages or urban areas have been considered.

#### *Regional Greenlands System*

Areas of the cemetery land are also located within the 'Regional Greenlands System'. The Region's Greenlands System is a connected system of natural heritage and hydrologic features, as well as protected Provincial policy areas. An environmental evaluation must be provided in support of any proposals for development within, or in close proximity to the Greenlands System which assesses the impact of the proposed development. Developments which would have an overall negative impact on the environmental functions, attributes or linkages of the Greenland System would not be supported or approved.

#### *Oak Ridges Moraine Countryside Area*

The Region's Official Plan also identifies the 'Oak Ridges Moraine Countryside Area' and provides policies and mapping to implement the ORMCP. Large cemeteries are not permitted in the 'Oak Ridges Moraine Countryside Area'. The Region's policies with respect to small scale institutional uses are more restrictive than those of the ORMCP in that they prohibit the establishment of small scale commercial, institutional and industrial uses in both the rural and prime lands of the 'Oak Ridges Moraine Countryside Area'. The Region's Official Plan directs these types of uses to hamlets, towns, villages and urban areas.

#### *Hamlet policies*

The Region's 'Hamlet' policies which apply to the area of the cemetery lands located within the hamlet, strive to "retain the rural character of hamlets while permitting limited growth primarily through infilling."

On February 17, 2011 the Region of York assessed a Regional Official Plan Amendment application for the cemetery use in accordance with their policies and denied the application based on non conformity with Provincial, Regional and City policies and the proposal did not represent good planning.

#### **City of Markham Official Plan and Zoning**

The cemetery land is designated 'Oak Ridges Moraine – Countryside Area', 'Hamlet' and 'Agriculture' in the City's Official Plan (see Figure 5).

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*Oak-Ridges Moraine – Countryside Area policies*

The City's Official Plan designates lands within the Oak Ridges Moraine as 'Countryside Area' and 'Natural Linkage Area'. The purpose of the 'Countryside Areas' is to encourage agricultural and other rural land uses that support the ORMCP objectives by "protecting prime agricultural areas" and "providing for the continuation of agricultural and other rural land uses and normal practices, and maintain the character of Rural Settlements". As noted previously in this report, cemetery uses both large-scale and small-scale, are not permitted in the Oak Ridges Moraine Countryside Area designation in Markham. There is no process to consider uses not permitted in the ORMCP outside of the mandated 10 year review by the Province or through a Provincially initiated site specific amendment to the ORMCP. The following uses are permitted through Markham's conformity amendment (OPA No. 117):

- Fish, wildlife and forest management
- Conservation projects and flood and erosion control projects
- Agricultural uses
- Transportation, infrastructure, and utilities
- Home businesses and home industries
- Bed and breakfast establishments
- Farm vacation homes
- Low-intensity recreational uses
- Uses accessory to the uses set out above

*Agriculture policies*

A small portion of the lands outside of the Hamlet boundary and Oak Ridges Moraine and Greenbelt Plan areas (see Figure 7), are designated 'Agriculture' in the City's Official Plan (Consolidated 1987). This designation permits agriculture and related uses. Cemeteries are not permitted in the 'Agricultural' designation. The City's Official Plan establishes criteria which must be satisfactorily met to justify allowing non-agricultural uses on lands designated 'Agriculture'. The criteria includes:

- Demonstrating the need for the proposed use at the proposed location
- Substantiating that the amount of land is necessary for the proposed use and that the location is suitable in terms of minimal impacts on the surrounding agricultural area compared with alternative, available sites and the location requirements of the proposed use.
- Identifying, evaluating and justifying potential impacts of the proposed use on the agricultural land base and on farming activity on the surrounding area that may be affected by the use.
- Identifying, evaluating and justifying potential impacts of the proposed use on natural resources affected by the proposed use.

The applicant has submitted a Justification Report.



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*Hamlet policies*

The area of land which fronts onto Dickson Hill Road is designated 'Hamlet' in the City's Official Plan. The predominant use of land designated 'Hamlet' in the City's Official Plan is housing. Small scale institutional and commercial uses designed to serve the hamlet and the surrounding rural area are also permitted.

*Cemetery and funeral home policies*

The City's Official Plan establishes policies and criteria to consider when applications to amend the Official Plan are received to permit new cemeteries, which include:

- Demonstrating the need for the proposed use and the appropriateness and suitability of the proposed location;
- Evaluating the type and character of uses on surrounding properties and the possible impacts of the proposal on these uses;
- Examining Accessibility, and points of access on the cemetery lands, and the impact of traffic generated by the proposed use on other uses in the surrounding area;
- Ensuring there is adequate off-street parking and internal traffic circulation;
- Ensuring there is adequate landscaping including planting, grading, and screening as appropriate, to complement the proposed and adjacent uses; and
- Evaluating the geophysical and environmental conditions in the general area including soil and sub-soil conditions.

Proposals for new funeral homes must take into consideration the following:

- that adequate parking is provided;
- that the proposed funeral home will not result in significant traffic impacts on adjacent development; and
- the functionality of the site and compatibility of the proposed funeral home on adjacent uses;

*City's new Official Plan*

The proposed cemetery land is designated 'Greenway', 'Countryside' and 'Hamlet' in the City's new Official Plan which was adopted in December 2013, but has not yet received final approval (see Figure 6). The 'Greenway' designation applies to lands associated within the 'Oak Ridges Moraine Conservation Plan Area' and 'Greenbelt Plan Area'. The 'Greenway' designation prohibits non-agricultural uses including commercial, industrial and institutional uses. The 'Countryside' designation applies to agricultural lands in north Markham not included in the 'Greenway' or 'Hamlet' designations, and is intended to be protected for agricultural uses and support farming activities. Most non-agricultural uses are prohibited in the 'Countryside' designation. The City's new Official Plan 'Hamlet' policies protect and maintain the historic and rural residential character of the hamlets and provides for limited non-residential uses where compatible with adjacent uses. The City's new Official Plan establishes policies and criteria for new cemeteries within the urban area but does not consider proposals for new cemeteries outside of the urban area. The cemetery land is located outside of the urban area. The City's new

Official Plan policies concerning funeral homes provides similar criteria when considering a proposal for new proposed funeral homes described in the previous section. The cemetery proposal would not be permitted by the new Official Plan.

### *Zoning*

The cemetery land is zoned to reflect the Official Plan designations and has corresponding 'Rural Residential (RRH)', 'Agriculture (A1)' and 'Oak Ridges Moraine-Countryside Areas [A1-ORM (CS)]' zoning in place (see Figure 2). A Zoning By-law Amendment is required to permit the proposed development.

The applicant submitted an application to amend the Zoning By-law in November 2013. The Zoning By-law Amendment application incorporates the area of the cemetery land located within the Hamlet and comprised of the proposed funeral home and approximately 3 hectares (7.4 acres) of burial gardens. Staff are not making a recommendation on the Zoning By-law Amendment application at this time.

### **City of Markham Statutory Public Meeting held**

The statutory public meeting for this Official Plan Amendment application was held on May 18<sup>th</sup>, 2010. The Public Meeting was attended by residents who expressed concerns including impact on surrounding water wells, impact of leachate from the cemetery on groundwater, and increased traffic.

### **OPTIONS/DISCUSSION:**

#### **The proposed change in land use has not be justified**

Agriculture is a matter of Provincial, Regional and local interest. As discussed previously in this report, the PPS, Regional and City Official Plans all contain policies to protect agricultural lands and criteria to be considered for consideration of non agricultural land uses, where the lands are not encumbered by more restrictive policies in Provincial Plans (including Oak Ridges Moraine Conservation Plan and Greenbelt). Given that there is no process to consider non-agricultural lands within the ORMCP and Greenbelt, an agricultural justification is required for the lands designated 'Agricultural' in the City's Official Plan, as shown on Figure 5.

In order to address this requirement, the proponent submitted an Agricultural Impact Assessment (AIS) prepared by AgPlan Limited dated January 2008. The Region of York had the AIS peer reviewed and City Staff also reviewed the AIS. The Region of York recommendation report (Report No. 2 of the Planning and Economic Development Committee) dated February 17<sup>th</sup>, 2011 indicates that the peer review by Stantec Consulting Limited concluded that the cemetery land is located on prime agricultural land, despite the AIS discussion regarding lower soil quality and the adjacency to non-agricultural hamlet uses. The City concurs that the cemetery land is comprised of prime agricultural land. Both the peer review and the City found that the AIS did not sufficiently demonstrate that there are no alternative locations which avoid prime agricultural areas which is one of the criteria in the PPS for giving consideration to the removal of lands from prime agricultural areas.

The Ministry of Municipal Affairs and Housing (MMAH) in their comments to the Region dated May 12<sup>th</sup>, 2010 confirmed that the predominantly Class 1, 2 and 3 soils on the cemetery land (which is one of the criteria for determining prime agricultural land), identified in the AIS, are considered to be prime agricultural land by the PPS.

**The proposed change in land use does not conform to the Oak Ridges Moraine Conservation Plan (ORMCP)**

The Oak Ridges Moraine Conservation Plan (ORMCP) applies to the majority of the proposed cemetery land that is not located in the Hamlet. As noted previously in this report, municipal decisions must conform to the ORMCP and currently there are no mechanisms available to proponents to amend the ORMCP to permit a land use. Cemetery uses are not permitted by the ORMCP. Small-scale institutional uses are not permitted in the Oak Ridges Moraine in York Region, however, the ORMCP does permit the consideration of small scale cemetery uses on 'rural' lands in other jurisdictions who have opted not to provide more restrictive policies. The total area of the subject lands is 40.47 ha and the cemetery lands are 18.2 ha. Based on the assumptions provided in the Cemetery Needs Analysis of approximately 600 burials accommodated per acre, the lands subject to this application could accommodate approximately 26,982 burials (on 18.2 ha). In addition to size, the Cemetery Demand Analysis prepared by the applicant, demonstrates the market demand for the cemetery will draw from surrounding municipalities including the City of Toronto with a local catchment area of 10 km around the subject lands which encompasses lands which extend to Highways 407 and 404, and Whitchurch-Stouffville, and areas of Uxbridge and Pickering. The Cemetery Demand Analysis based this demand on using the Highland Hills cemetery in Whitchurch-Stouffville as a proxy site.

Staff are of the opinion that the proposed cemetery is not small-scale. The York Region, in their recommendation report dated February 17<sup>th</sup>, 2011 also concluded that the proposed cemetery is not small-scale describing the cemetery as a "large scale operation, accommodating diverse religious affiliations and drawing from a significant geographic area."

**The proposed change in land use does not conform to the Provincial Greenbelt Plan**

The Greenbelt Plan applies to a small portion of the cemetery land that is not located in the Hamlet or ORMCP. As noted previously in this report, municipal decisions must conform to the Greenbelt Plan and currently there are no mechanisms available to proponents to amend the Greenbelt Plan to permit a land use. A small portion of the cemetery land is designated 'Protected Countryside' in the Provincial Greenbelt Plan. The 'Protected Countryside' designation allows for normal farm practices and a full range of agricultural, agriculture-related and secondary uses. Non-agricultural uses are not permitted within prime agriculture areas in the 'Protected Countryside'. The Greenbelt Plan goals include protecting prime agricultural areas. This is achieved in part, by preventing the redesignation of prime agricultural areas to permit non-agricultural uses. The classification of the cemetery land as prime agricultural land is confirmed through the PPS, Regional and Local Official Plans and the policies in the Greenbelt Plan

are clear and specific regarding uses in prime agricultural lands. It is Staff's opinion that the proposed change in land use does not conform to the Greenbelt Plan.

**The proposed change in land use does not conform to the Region of York Official Plan**

The Region's land use designations are discussed previously in this report. The Region of York has reviewed a separate application to amend their Official Plan to allow the proposed uses. In their recommendation report dated February 17<sup>th</sup>, 2011, Regional Staff were of the opinion that the application did not meet the test of good planning and recommended refusal due to its lack of conformity with Provincial, Regional and City policies. The landowner appealed the Region's decision to the Ontario Municipal Board (OMB). The Region of York is the approval authority for the City's Official Plan Amendment application process.

**The proposed change in land use does not conform to the City's 'Hamlet' Official Plan policies**

The area of the cemetery land which fronts onto Dickson Hill Road is designated 'Hamlet' in the City's Official Plan. The predominant land use envisioned in the Official Plan in areas designated 'Hamlet' is housing within the confines of small rural settlements. Other permitted uses shall include small scale institutional and commercial uses designated to serve the hamlet and surrounding rural area. As previously discussed, it is Staff's opinion that the proposed development is not small-scale and given the Local Catchment Area and Demand and Needs Analyses provided by the proponent, does not serve the hamlet and surrounding rural area but rather a much larger area. It is Staff's opinion that the proposed change in land use does not conform to the City's Hamlet policies.

**Technical Studies**

The City's Official Plan policies require technical studies to support proposed cemeteries. The proponent has submitted the following studies in support of the application:

- Planning Justification reports
- Traffic Impact Study
- Soil Investigation for the proposed cemetery use
- Hydrogeological Study
- Scoped Environmental Study
- Natural Heritage Evaluation
- Environmental Site Assessments.

It should be noted that the traffic impact study does not address the proposed funeral home use in its evaluation and that some of the studies would require more detailed analyses of certain components if the proposed development was to be approved and proceed.

**Ministry of Transportation (MTO) comments**

The subject lands are located within the Ministry of Transportation (MTO) permit control area. The MTO has provided comments and requested that expected traffic volumes for

the proposed development onto Highway 48 be provided to ensure that the provincial highway system will operate at an acceptable level upon completion of the proposed development. The applicant would also be required to provide additional plans and information for review and comment. Building/ land use permits from MTO are required for any buildings or structures within 46 metres from the Highway 48 property limit and/or 180 metres from the intersection of Highway 48 and 19<sup>th</sup> Avenue, as well as for any stormwater management ponds servicing the site.

**Ministry of Tourism and Culture comments**

The Ministry of Tourism and Culture considers the subject lands to have archaeological potential based on proximity to a primary water source and to a "Euro-Canadian" settlement area. The Ministry recommends that the applicant submits an Archeological Assessment which meets their requirements prior to any ground disturbance. The Ministry further recommends that a Heritage Impact Assessment be provided given that the subject lands, known as the "John Ramer Homestead and Barn" which is listed on the Markham Register of Property of Cultural Heritage Value of Interest has been identified by the City as having cultural heritage value.

**Toronto and Region Conservation Authority (TRCA) comments**

Some of the key points in the most recent comments from Toronto and Region Conservation Authority (TRCA) dated September 12<sup>th</sup>, 2013 pertain to water balance, groundwater, the regional floodline and potential impacts of the proposed development on key natural features. The water balance criterion is strict as the site is situated in the Oak Ridges Moraine. A comprehensive water balance analysis would be required to assess the existing site conditions and to assist in the selection of appropriate on-site low impact development (LID) measures to achieve water balance objectives including pre-development water balance. The TRCA has indicated in their comments that based on the proponent's hydrogeological study, there are no significant groundwater concerns for the proposed development. Additional information would be required to further examine any potential impacts of the proposed development on the existing natural features and to ensure that the proposed development is situated beyond the regional (regulatory) floodline.

**CONCLUSION:**

The proposed change in land use designation to allow a cemetery, funeral home and accessory uses does not represent good planning as it does not conform to the policies in the Provincial Policy Statement, the Oak Ridges Moraine Conservation Plan, the Provincial Greenbelt Plan, the Region of York Official Plan and the City's Official Plan. The aforementioned policies address the protection, use and management of the subject land for agricultural and limited Hamlet uses and do not contemplate nor permit the proposed uses. Staff recommend that the application to amend the Official Plan for a change in land use to permit the proposed cemetery, funeral home and accessory uses be denied.

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**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 balance growth while protecting the environment and agricultural land use.

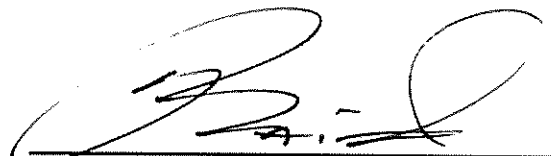
**BUSINESS UNITS CONSULTED AND AFFECTED:**

All comments provided by internal departments and external agencies have been incorporated into this report.

**RECOMMENDED BY:**



Rino Mostacci, M.C.I.P., R.P.P.  
Director of Planning & Urban Design



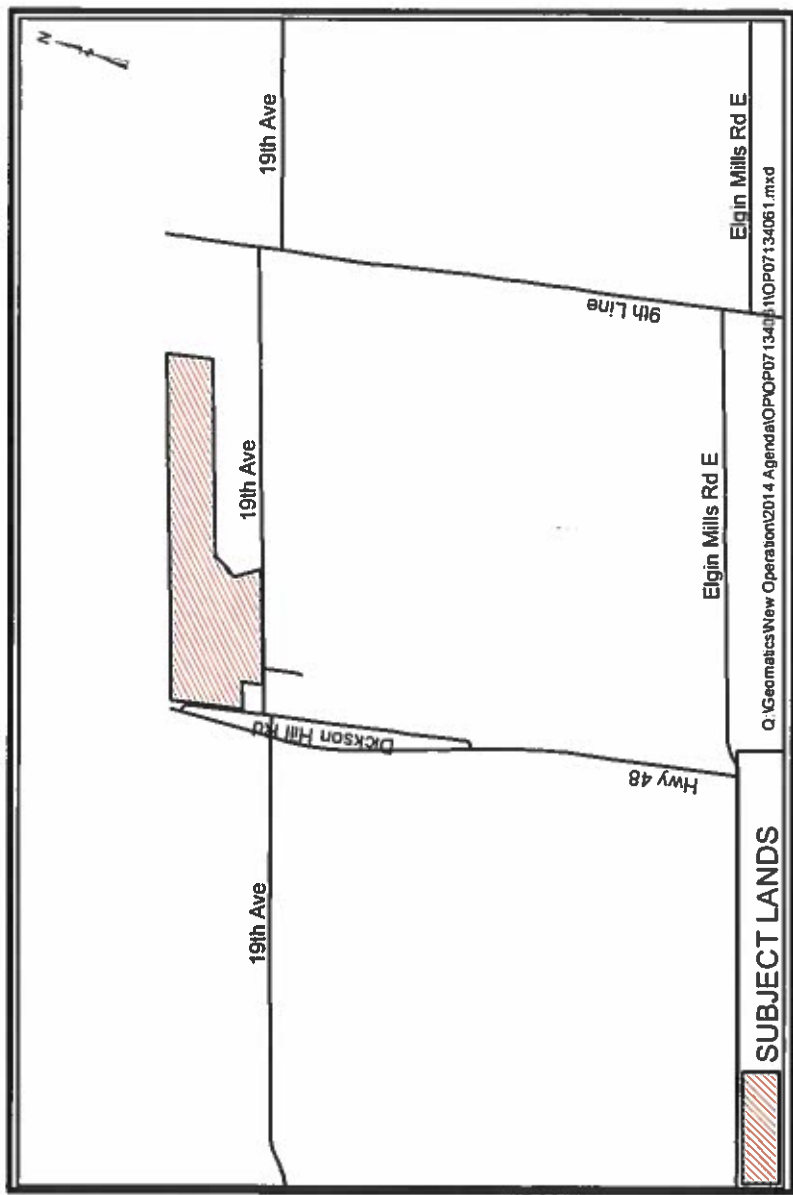
Jim Baird, M.C.I.P., R.P.P.  
Commissioner of Development Services

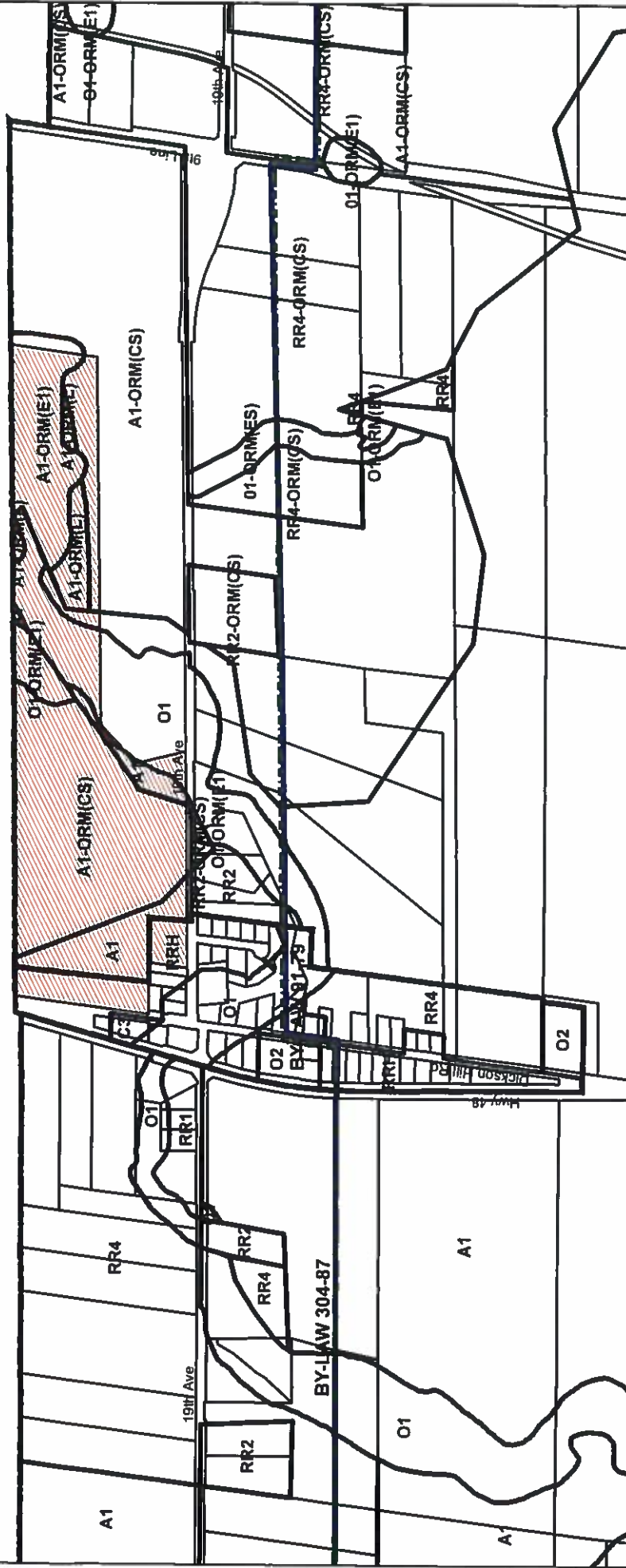
**ATTACHMENTS:**

- |           |                                     |
|-----------|-------------------------------------|
| Figure 1: | Location Map                        |
| Figure 2: | Area Context/ Zoning                |
| Figure 3: | Air Photo                           |
| Figure 4: | Proposed Site Plan                  |
| Figure 5: | Official Plan Land Use Designations |
| Figure 6: | New Official Plan Designations      |
| Figure 7: | Greenbelt Plan Area                 |

**APPLICANT/CONTACT INFORMATION:**

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1168 Kingdale Road  
Newmarket, ON, L3Y 4W1  
Tel: 905-895-0554  
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# AREA CONTEXT / ZONING

APPLICANT: ARBOR MEMORIAL INC. (FORMERLY MEMORIAL GARDENS CANADA LTD.)  
6278 19TH AVENUE

FILE No. OP. 07134061 (SM)

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MARKHAM DEVELOPMENT SERVICES COMMISSION

Drawn By: CPW

Checked By: SM

DATE: 01/15/2014

FIGURE No. 2





# AIR PHOTO

APPLICANT: ARBOR MEMORIAL INC. (FORMERLY MEMORIAL GARDENS CANADA LTD.)  
6278 19TH AVENUE

FILE No. OP. 07134061 (SM)

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Drawn By: CPW

Checked By: SM

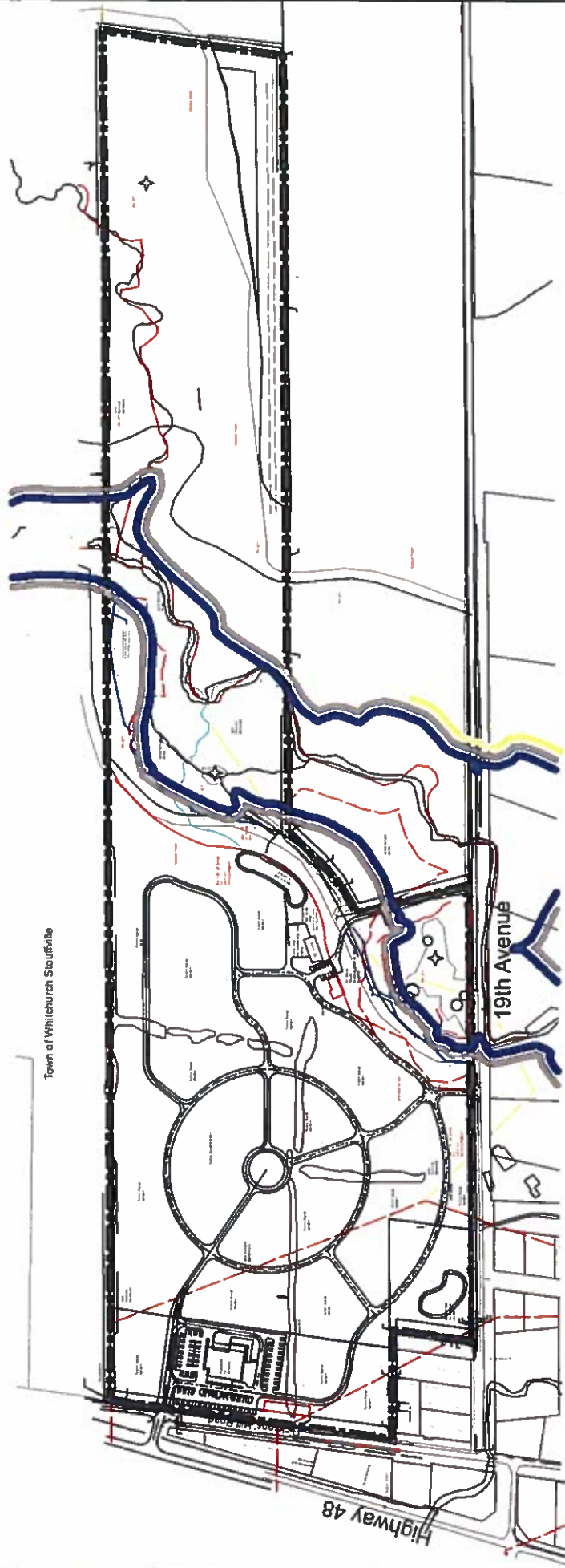
DATE: 01/15/2014

FIGURE No. 3

 SUBJECT LANDS







# SITE PLAN

APPLICANT: ARBOR MEMORIAL INC. (FORMERLY MEMORIAL GARDENS CANADA LTD.)  
6278 19TH AVENUE

FILE No. OP. 07134061 (SM)

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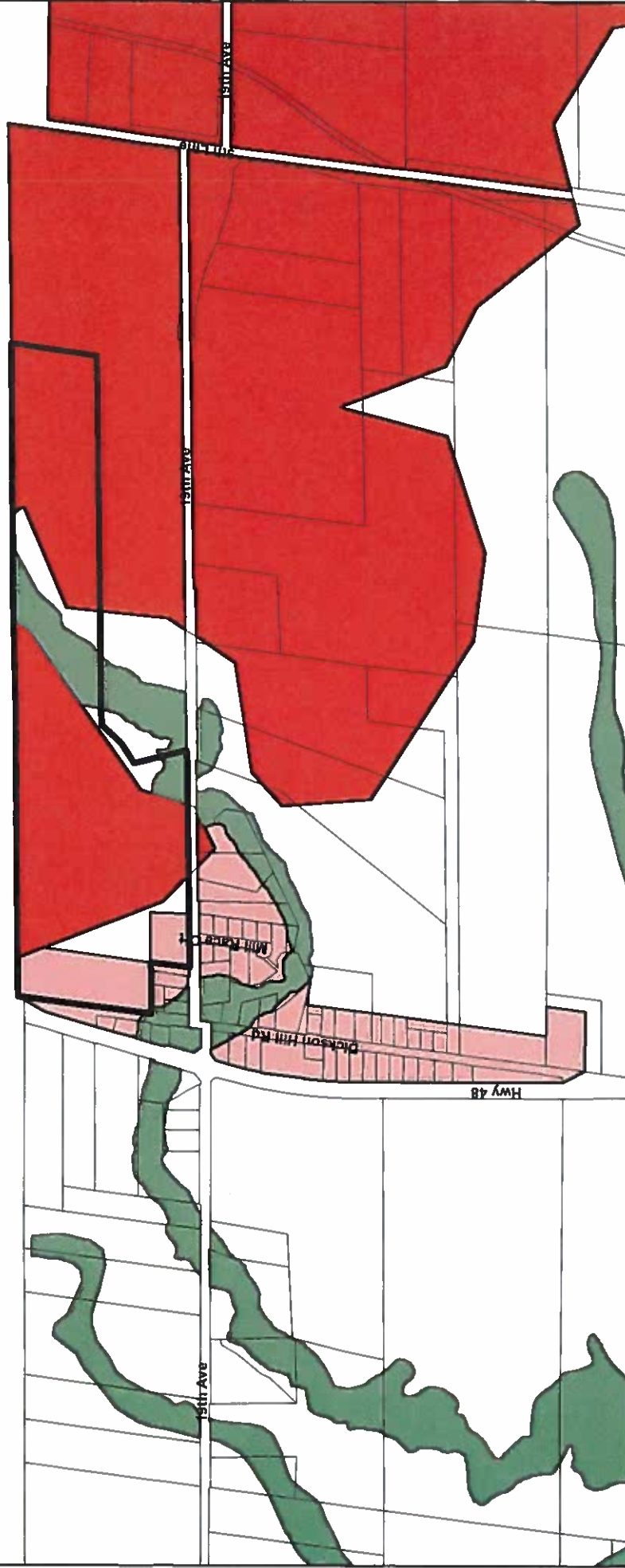


Drawn By: CPW

Checked By: SM

DATE: 01/15/2014

FIGURE No. 4

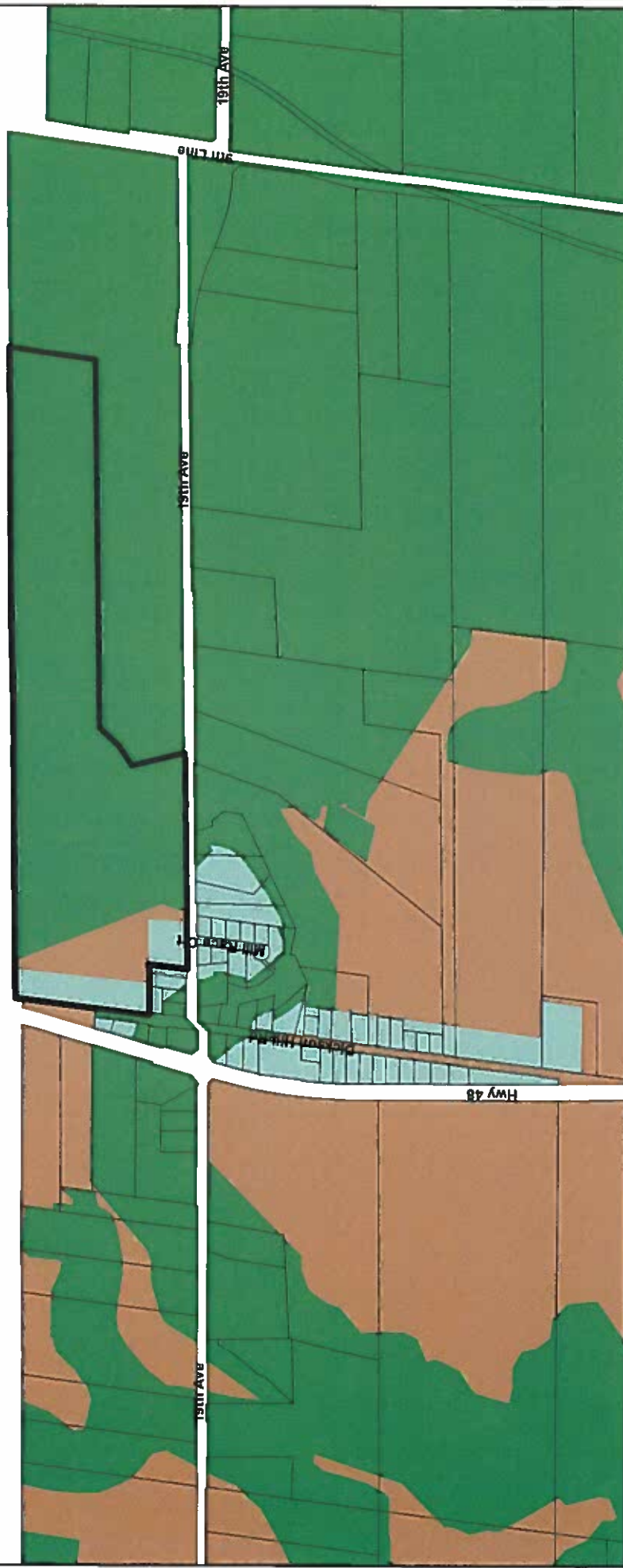


# OFFICIAL PLAN DESIGNATIONS

APPLICANT: ARBOR MEMORIAL INC. (FORMERLY MEMORIAL GARDENS CANADA LTD.)  
 6278 19TH AVENUE

FILE No. OP. 07134061 (SM)

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# NEW OFFICIAL PLAN DESIGNATIONS

APPLICANT: ARBOR MEMORIAL INC. (FORMERLY MEMORIAL GARDENS CANADA LTD.)  
6278 19TH AVENUE

FILE No. OP. 07134061 (SM)

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# GREENBELT SYSTEM

APPLICANT: ARBOR MEMORIAL INC. (FORMERLY MEMORIAL GARDENS CANADA LTD.)  
6278 19TH AVENUE

FILE No. OP. 07134061 (SM)

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## Legend

-  Subject Lands
-  Greenbelt Plan Area