



Report to: Development Services Committee

Report Date: January 14, 2014

SUBJECT:	INFORMATION REPORT Request by Times Group for release of Letter of Credit No. GTECGT030013 applying to 10 Suncrest Blvd., Leitchcroft Community File SC 02 109704
PREPARED BY:	Ron Blake, Manager West District Team

RECOMMENDATION:

- 1) That the Recommendation Report titled “Request by Times Group for release of Letter of Credit No. GTECGT030013, applying to 10 Suncrest Blvd., Leitchcroft Community, File SC 02 109704”, be received;
- 2) That the Times Group’s request for release of Letter of Credit No. GTECGT030013 be granted and the site plan agreement be declared null and void and released from the title of the property;
- 3) That Times Group assume all costs associated with any refund of Letter of Credit No. GTECGT030013 and the release of the site plan agreement from the title of the property
- 4) That the Times Group be advised that the property remains designated and zoned for employment uses, and that it is intended that the site be developed for future office and other permitted uses to the satisfaction of Council;
- 5) And That staff be authorized and directed to do all things necessary to give effect to this resolution.

PURPOSE:

The purpose of this report is to provide background information relating to the Owner’s request that the City release a letter of credit posted by the Owner pursuant to a site plan agreement registered against 10 Suncrest Blvd. (File SC 02 109704); and to recommend the release of this letter of credit.

BACKGROUND:

Property and area context

The 0.45 ha property is located at the south east corner of Highway 7 and Saddlecreek Drive in the Leitchcroft Community (see Figure 1 [google map link](#)). Surrounding uses include high density residential to the south and east; mixed residential and commercial uses north of Highway 7 in the Town of Richmond Hill; and vacant lands currently designated for employment uses on the blocks west of Saddlecreek Drive.

Official Plan and Zoning Provisions

The subject site is designated Commercial and Community Amenity Area in the Markham Official Plan (Business Park Office Priority in the new Official Plan) and Community Amenity Area – Mixed use in the Leitchcroft Secondary Plan (OPA 41) as amended.

The subject site is zoned Community Amenity Two*35 [CA2*35]. Site-specific amendments restrict uses to an office building (with permissions for a variety of retail, restaurant and service uses limited to the basement and first floor, and business offices, art galleries, fitness centres, financial institutions, medical offices, private clubs and commercial schools permitted above), day nurseries, community centres, libraries, places of worship, and private and public schools. Residential uses are prohibited on this site.

History of subject development

A site plan agreement to construct a five-storey office building on the property (File SC 02 104709) was executed on December 17, 2003, however this development has not been constructed and the site remains vacant. Pursuant to the site plan agreement, the owner was required to post a letter of credit, in the amount of \$125,300, as security for the completion of landscaping, streetscape, waste management, engineering, and fire department related works. The City currently holds this letter of credit.

Secondary Plan requirement for office development

When the original “Times Galleria” proposal was approved in the mid 1990’s, the Leitchcroft Secondary Plan (OPA 41) designated the lands bounded by Highway 7, Times Avenue, Saddlecreek Drive and Highway 407 (the Phase 2 lands) for mixed commercial and employment uses, while residential uses were reserved for the lands east of Times Avenue.

In 2001, Times Group submitted applications for Official Plan and Zoning By-law Amendments to permit high density residential development on the Phase 2 lands.

As a condition of City support for the proposed expansion of residential uses onto the Phase 2 lands, and in order to provide a transition between the Phase 2 lands and the employment lands designated on the blocks west of Saddlecreek Drive, Times Group agreed to incorporate an area of mixed use commercial, office and residential development along the east side of Saddlecreek Drive fronting the designated employment blocks to the west. This requirement for mixed uses in this area was set out in OPA 89 – the implementing Official Plan Amendment to permit the Phase 2 development – which required, among other matters, the establishment of holding zone provisions on all the Phase 2 residential blocks until one or more site plan agreements had been executed to permit development of one or more office buildings on the Phase 2 lands. The application for site plan approval for a five-storey office building on the subject site was the developer’s response to this requirement and the execution of this site plan agreement in December 2003 was a key trigger that allowed residential development on the rest of the Phase 2 lands to proceed.

DISCUSSION:**Times Group requesting release of the letter of credit**

Times Group submitted a letter to the City, dated November 20, 2013, indicating that they no longer intend to proceed with the approved office development on the subject site and requesting that the letter of credit, totaling \$125,300 to secure for various works pursuant to the site plan agreement, be released by the City and refunded to them. Times Group

also notes in their letter that they intend to approach the City with a new development proposal at some point in the future.

The site plan agreement contains a clause whereby the City, at its sole discretion, may declare the agreement to be null and void if the application does not proceed within two years of the date of execution of the agreement (December 2003). The agreement also provides for the City to refund fees and other charges paid pursuant to the agreement, at its sole discretion.

Times Group has submitted an application for Official Plan Amendment to convert the lands west of Saddlecreek to residential and commercial uses

In early 2013, an application for Official Plan Amendment was filed for the lands west of Saddlecreek Drive to convert the remaining Business Park and Business Corridor employment lands to permit over 2,800 residential units, 127,000 sq. ft. of retail and 83,000 sq. ft. of office uses. The subject site does not form part of this conversion application.

Staff recommend that the Owner's request to refund the Letter of Credit be granted

The letter of credit was taken by the City to secure for the provision of certain required works which were integral to the proposed development, which the applicant no longer intends to build. Under these circumstances staff has no objection to the Owner's request that the City refund this letter of credit. Should the Development Services Committee agree to release the letter of credit, staff would also release the site plan agreement from the property, and declare the site plan approval to be null and void, since the owner no longer intends to proceed with the development and there would no longer be securities for the required site plan works. Any future development proposal on the property, would be subject to a future site plan agreement at which time the applicant would be required to enter into a new site plan agreement and post a new Letter of Credit. In addition, the Owner should be responsible for all fees associated with any refund of the letter of credit and release of the site plan agreement from the property title.

Notwithstanding the staff support for the release of the Letter of Credit and the site plan agreement, it should be noted that staff's support for the Owner's current request in no way implies any support for possible future requests to amend the Official Plan or Zoning By-law to permit residential or other uses that are not permitted by the existing zoning. This is reflected in the recommendation.

FINANCIAL CONSIDERATIONS AND TEMPLATE

There are no direct financial implications to the City associated with the refund of this letter of credit. Any alternative future development on this site will require a new site plan agreement, which will incorporate new requirements for letters of credit.

HUMAN RESOURCES CONSIDERATIONS

Not applicable

ALIGNMENT WITH STRATEGIC PRIORITIES:

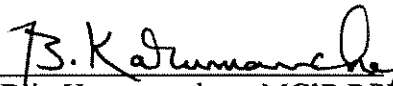
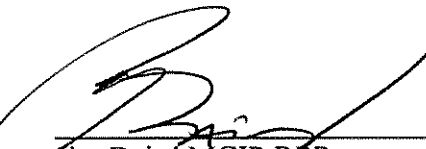
Not applicable

BUSINESS UNITS CONSULTED AND AFFECTED:

Not Applicable

RECOMMENDED

BY:

	
Biju Karumanchery MCIP RPP	Jim Baird MCIP RPP
Senior Development Manager	Commissioner of Development Services

ATTACHMENTS:

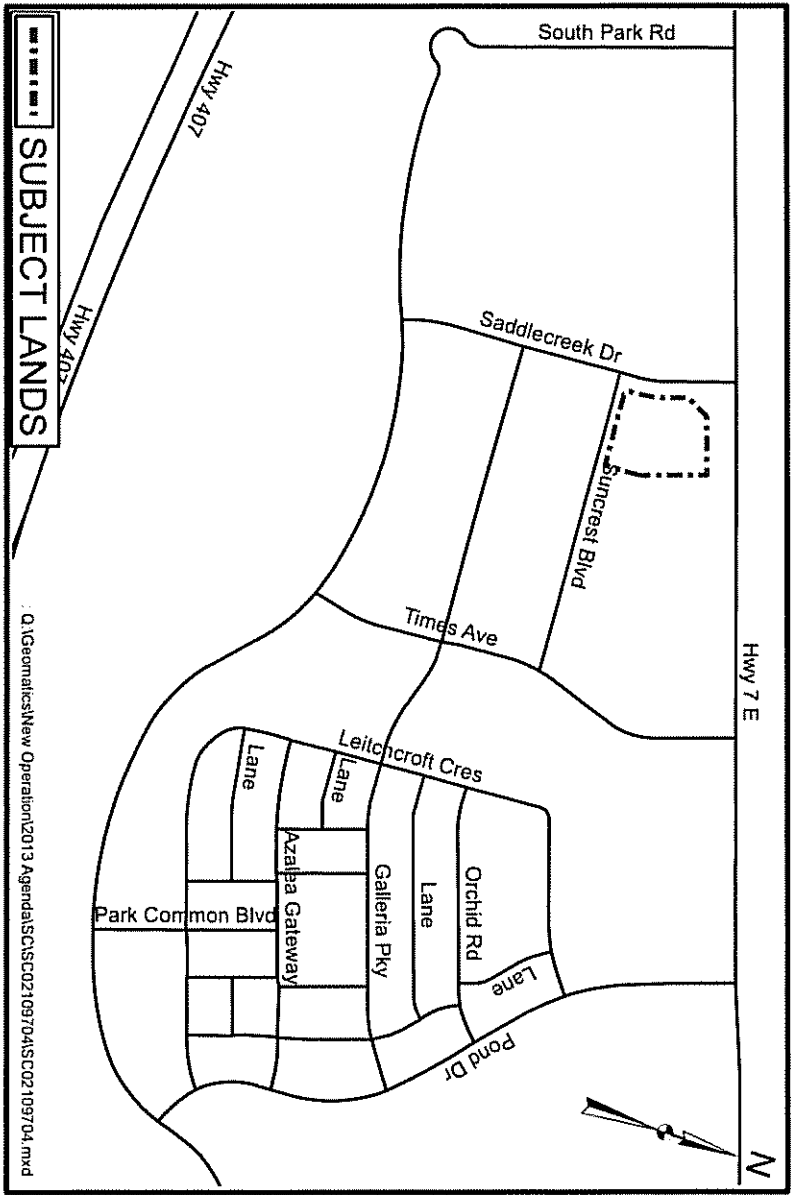
Figure 1: Location Map

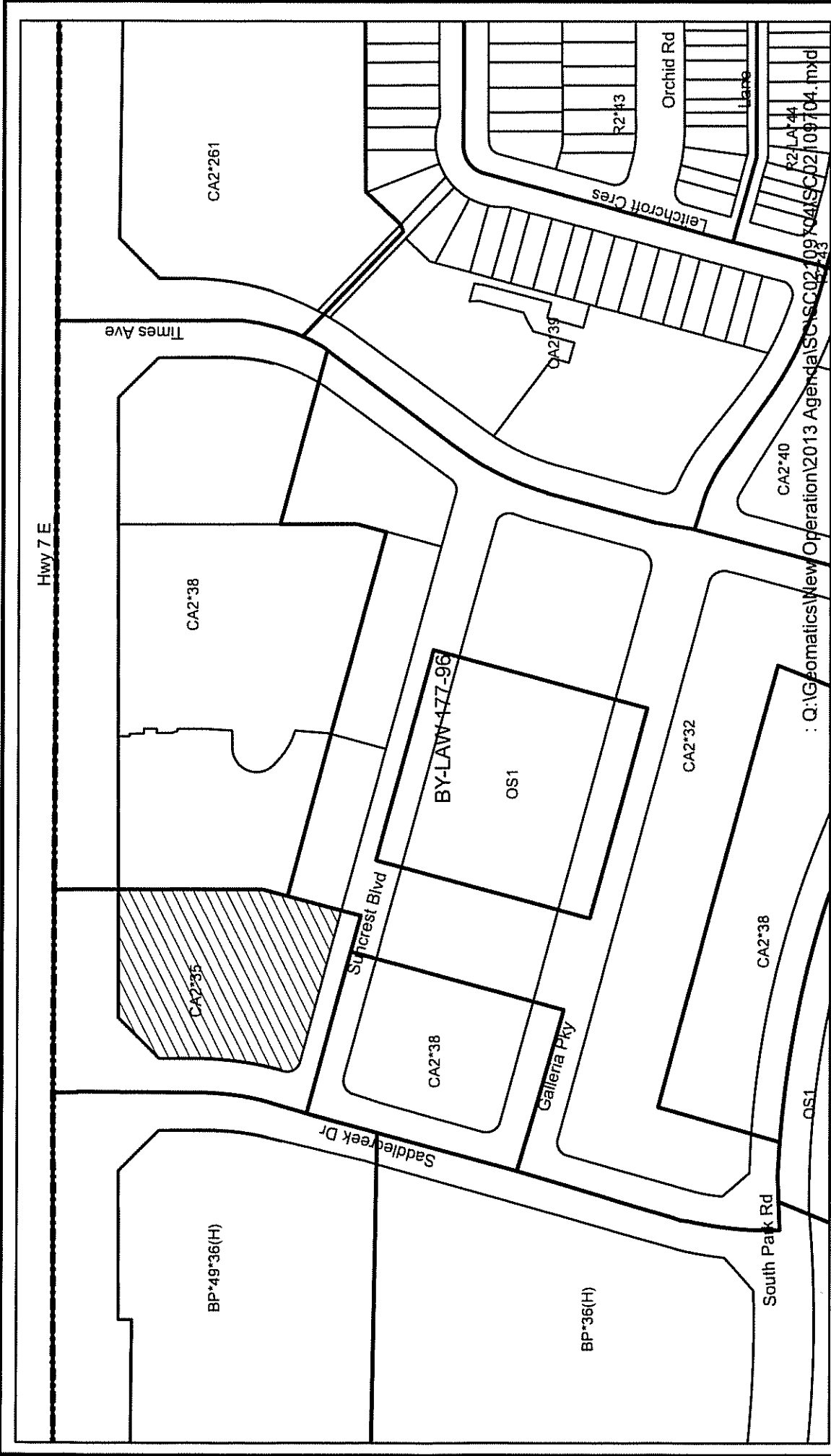
Figure 2: Area Context and Zoning Map

Figure 3: Air Photo

Appendix A – Letter from Times Group requesting refund of Letter of Credit

File path: Amanda\File 02 109704\Documents\Recommendation Report





AREA CONTEXT/ZONING

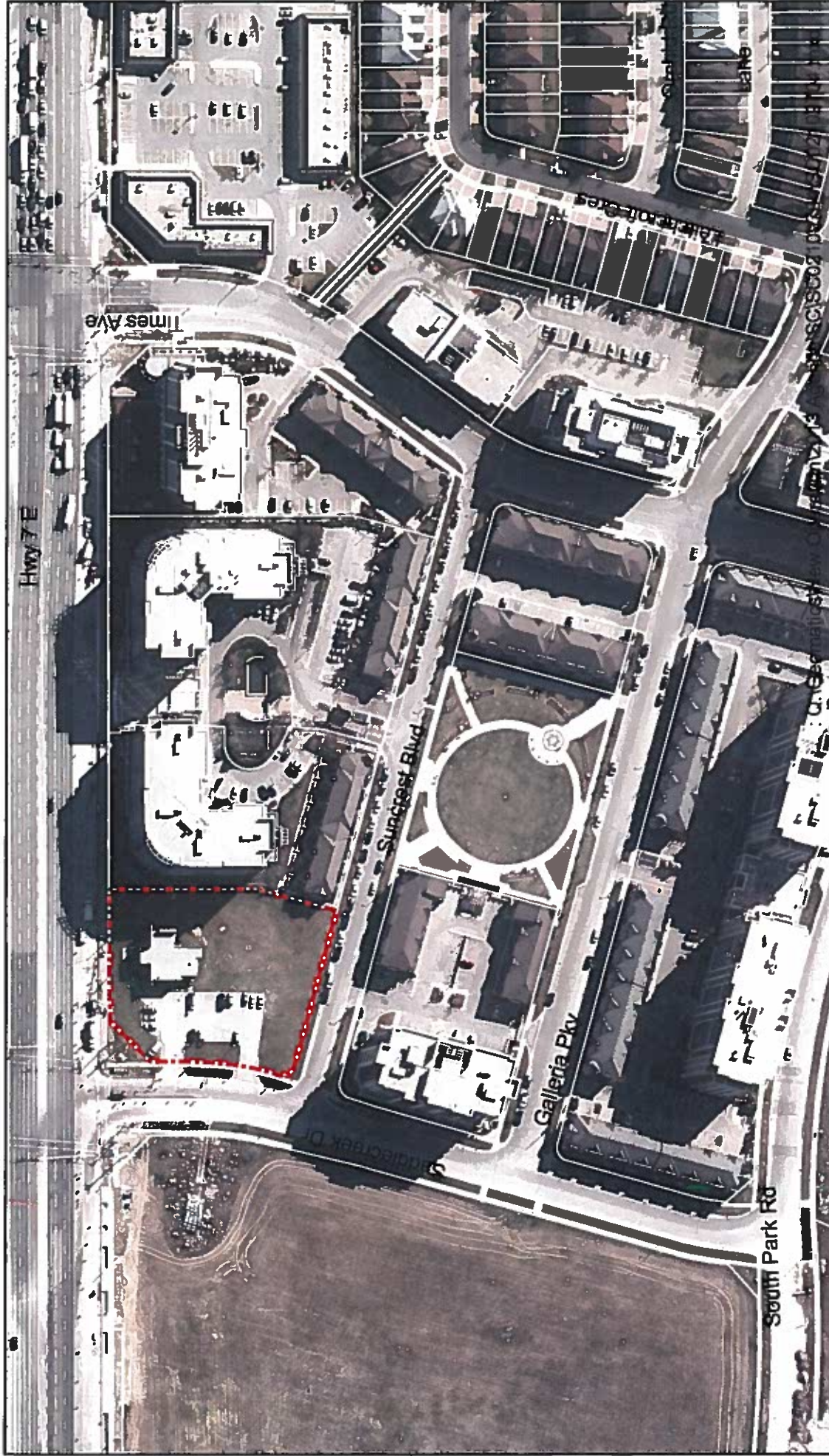
APPLICANT: TIMES GROUP CORP
10 SUNCREST BLVD.

FILE No. SC02109704(RB)

 SUBJECT LANDS

DATE: 12/06/13

FIGURE No. 2



AIR PHOTO 2012

APPLICANT: TIMES GROUP CORP
10 SUNCREST BLVD.

FILE No. SC02109704(RB)

 SUBJECT LANDS

DATE: 12/06/13

FIGURE No. 3



DELIVERED VIA E-MAIL

November 20, 2013

Mr. Jim Baird
Commissioner of Development Services
City of Markham
101 Town Centre Blvd
Markham, ON
L3R 9W3

Dear Mr. Baird,

**RE: Letter of Credit No. GTECGT030013 issued by HSBC Bank Canada on
December 12, 2004 from 1107656 Ontario Inc. (Times Group Corp.), in
favour of the City of Markham in the amount of \$125,300.00**

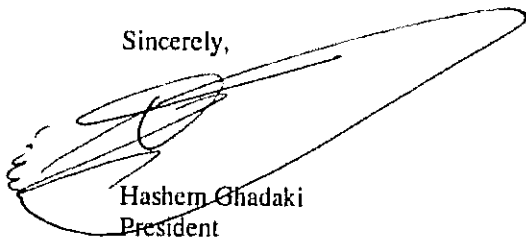
I am writing to seek your assistance in releasing the above-mentioned Letter of Credit issued under a Site Plan Control Agreement dated December 8, 2003 between the City of Markham and 1107656 Ontario Inc.

Our initial intent in designing the plans submitted in 2003 was to accommodate a jewelry centre. Unfortunately, the prospective tenants changed their mind and we have not found new tenants since. Our intent is no longer to proceed with the plans as submitted in 2003; furthermore, we have not met the City's timeline in developing the property within two years of the Site Plan Control Agreement's execution. We plan to approach the City when we are ready to proceed again.

If you could please proceed with the release of the above-mentioned letter of credit before December 6, 2013, it would help us avoid interest payment for the period 12/12/13 to 12/12/14.

We would also appreciate it if you could inform us of your action, so we may follow up with the issuing bank.

Sincerely,



Hashem Ghadaki
President

3985 Highway 7 East, Suite 202 Markham, ON, L3R 2A2

905-940-6286 905-940-1573

TimesGroupCorp.com