

Report to: Development Services Committee

Report Date: November 5, 2013

SUBJECT:

PRELIMINARY REPORT

Initiation of Markham's New Comprehensive Zoning By-law

Project

PR 13 128340

PREPARED BY:

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2758

RECOMMENDATION:

 That the report entitled "PRELIMINARY REPORT, Initiation of Markham's New Comprehensive Zoning By-law Project", dated November 5, 2013, be received;

- That Development Services Committee endorse the draft work program for Markham's New Comprehensive Zoning By-law Project and authorize Staff to proceed with the Project, as outlined in this report;
- That Staff be authorized to prepare and issue a Request For Quotation (RFQ) to retain a consultant to prepare a Zoning Issues Analysis and Strategic Direction Report, to identify key issues to be addressed and to recommend an appropriate strategic approach for undertaking the Project;
- 4) And that Staff be authorized and directed to do all things necessary to give effect to this resolution.

EXECUTIVE SUMMARY:

In 2011, the City initiated an Official Plan review process for the purpose of preparing a new City Official Plan that conforms with the new Region of York Official Plan (approved in September 2010) and recent provincial plans and policy initiatives.

In September 2012, a new draft Official Plan for the City was released for comments. Staff continue to work on finalizing the new draft Official Plan and are targeting to bring it forward to Council for adoption in November of this year.

There are approximately fifty (50) parent zoning by-laws in effect throughout the City. These zoning by-laws were adopted at various points in time, with a significant majority of the By-laws being adopted between the 1950's and 1980's (Figure 1). Over the past fifty (50) to sixty (60) years there have been numerous zoning by-law amendments to the City's parent zoning by-laws to update them and make them more relevant to emerging building and planning standards. In addition, over the same time period, there have been approximately 3,000 site specific zoning by-law amendments and approximately 6,000 minor variance approvals to facilitate development within the City.

The Planning Act [Section 26 (9)], requires that municipalities review and update, if necessary, their municipal zoning by-law(s) to conform with their Official Plan, no later than three (3) years after the Official Plan comes into effect. The City's parent zoning by-laws, will need to be updated to be consistent with the new draft Official Plan, once adopted by Council and approved by the Region. In addition to fulfilling the Planning Act's requirement as discussed above, the City's parent zoning by-laws are in need of a major comprehensive review and update.

The fundamental purpose of Markham's New Comprehensive Zoning By-law Project is to review, consolidate and update (where appropriate) the City's parent zoning by-laws into one (1) comprehensive zoning by-law that conforms with, and implements, the City's new Official Plan. A key objective of the project is to develop an innovative and user-friendly and web-based zoning by-law that responds to current and emerging planning and development trends, to guide future development in Markham and improve service delivery to City residents and the development industry.

Markham's New Comprehensive Zoning By-law Project will be a challenge given the age of the respective by-laws and the significant number of site specific zoning amendments and minor variance approvals that require consideration. In addition, Markham is a diverse and evolving City with a variety of cultural, environmental and heritage resources that also need to be taken into consideration moving forward. As such, the strategic approach to the overall Project is critical to ensure that the end result is an efficient and effective tool for managing land use and development while also implementing the future vision for Markham. Accordingly, staff will be seeking expert advice on the most appropriate direction for undertaking the overall Project given Markham's unique circumstances, as discussed in this report. Specifically, Staff will be preparing and issuing a Request for Quotation (RFQ), to pre-selected, qualified planning consultants, for a Zoning Issues Analysis and Strategic Direction Report.

Staff have prepared a draft work program for the project consisting of three (3) separate phases. Phase 1 involves background work and studies as well as, a zoning issues analysis and strategic direction report. Phase 2 consists of the drafting and processing of the new comprehensive zoning by-law and Phase 3 relates to the processing of potential OMB appeals. It is anticipated that that the work program will provide greater detail with respect to major milestones, public consultation and engagement and meetings with staff, stakeholders and agencies, once a consultant is retained and a strategic direction is established.

PURPOSE:

The purpose of this report is to provide information on the initiation of Markham's New Comprehensive Zoning By-law Project. This report also outlines and recommends a draft work program for the Project, including key initial steps required to commence the project, such as the retention of a consultant to prepare a Zoning Issues Analysis and Strategic Direction Report to guide the overall Project.

BACKGROUND:

Markham's Official Plan

The Official Plan (OP) is a key strategic document that contains Council approved land use designations and policies outlining Council's vision for a community. The Official Plan helps guide decisions with respect to planning and development with the intent to serve the current and future needs of the community, in the context of the Ontario Planning Act and Provincial and Regional policies.

Markham's Official Plan was adopted in 1976 and approved in 1978. A major update to the Official Plan was adopted in 1987 and approved in 1993. In 2011, the City initiated an Official Plan review process for the purpose of preparing a new City Official Plan that conforms with the new Region of York Official Plan (approved in September, 2010) and recent provincial plans and policy initiatives.

In September 2012, a new draft Official Plan for the City was released for comments. The new draft Official Plan is based on Council's endorsed (May 2010) growth alternative for Markham to 2031 and is consistent with City, Regional and Provincial policy initiatives. Staff continue to work on finalizing the new draft Official Plan and are targeting to bring it forward to Council for adoption in November of this year. Once the new draft Official Plan is adopted by Council, it will require approval by the Region of York which may take approximately six (6) months or longer. Following approval by the Region, the City's new Official Plan may be subject to Ontario Municipal Board (OMB) appeals.

Markham's Zoning By-laws

A zoning by-law regulates the use of land and buildings and provides specific standards for how development can occur on a property. The purpose of a zoning by-law is to implement the policies of the Official Plan in a manner that is legally enforceable.

There are approximately fifty (50) parent zoning by-laws in effect throughout the City. These zoning by-laws were adopted at various points in time, with a significant majority of the By-laws being adopted between the 1950's and 1980's (Figure 1). The parent zoning by-laws adopted between the 1950's and 1980's generally apply to lands in older, more established areas of the City such as Thornhill, Markham Village, Unionville, etc. The City's most current parent zoning by-laws were adopted in 1996 and in 2004 and apply to newer communities in the City; OPA 5 communities (Cornell, Box Grove, Wismer, etc.) and Markham Centre, respectively.

In addition to the City's parent zoning by-laws, there are four (4) infill zoning by-laws that are in effect for specific areas of the City within Markham Village, Thornhill and Unionville (Figure 1). These infill by-laws were adopted in the early-mid 1990's at a time when Markham was experiencing significant development pressure, in certain established residential neighbourhoods, for large dwellings often referred to as "monster homes." The purpose of Markham's infill zoning by-laws is to ensure that new dwelling construction is sympathetic to, and compatible with, the existing character of a neighbourhood.

Over the past fifty (50) to sixty (60) years there have been numerous zoning by-law amendments to the City's parent zoning by-laws to update them and make them more relevant to emerging building and planning standards. In addition, over the same time period there have been approximately 3,000 site specific zoning by-law amendments and approximately 6,000 minor variance approvals to facilitate development within the City.

Municipalities Required to Update Zoning By-law(s) to Conform with Official Plan The Planning Act [Section 26 (9)], requires that municipalities review and update, if necessary, their municipal zoning by-law(s) to conform with their Official Plan, no later than three (3) years after the Official Plan comes into effect. As discussed above, the City's parent zoning by-laws were adopted between the 1950's and 2004 and therefore, will need to be updated to be consistent with the new draft Official Plan, once adopted by Council and approved by the Region. In addition to fulfilling the Planning Act's requirement as discussed above, the City's parent zoning by-laws are in need of a major comprehensive review and update. Given the age of the majority of the City's parent zoning bylaws, combined with the significant number of amendments and minor variances approved over the years, it is evident that the by-laws are now out-dated, difficult to navigate, understand and administer, and in some cases, are no longer effective or efficient for managing land use and development in the City.

OPTIONS/ DISCUSSION:

Purpose & Objective of Markham's New Comprehensive Zoning By-law Project The fundamental purpose of Markham's New Comprehensive Zoning By-law Project is to review, consolidate and update (where appropriate) the City's parent zoning by-laws into one (1) comprehensive zoning by-law that conforms with, and implements, the City's new Official Plan.

A key objective of the Project is to develop an innovative, user-friendly and web-based zoning by-law that responds to current and emerging planning and development trends, to guide future development in Markham and improve service delivery to City residents and the development industry. A comprehensive zoning by-law that is relevant, clear, concise and readily accessible to the public is an effective and efficient tool for managing land use and development in the City with the potential to improve zoning compliance and reduce staff time spent on zoning inquiries.

Strategic Direction Critical to Project Success

Markham's New Comprehensive Zoning By-law Project is a multi-year project that will require a significant amount of time and resources to complete. The review, consolidation and updating of Markham's fifty (50) parent zoning by-laws into one (1) comprehensive zoning by-law that implements the new Official Plan (once approved) will be a challenge given the age of the respective by-laws and the significant number of site specific zoning amendments and minor variance approvals that require consideration. In addition, Markham is a diverse and evolving City with a variety of cultural, environmental and heritage resources that also need to be taken into consideration moving forward. As such, the strategic approach to the overall Project is critical to ensure that the end result is an

innovative, user-friendly and web-based zoning by-law that implements the future vision for Markham while effectively and efficiently managing land use and development.

Accordingly, staff will be seeking expert advice on the most appropriate direction for undertaking the overall Project given Markham's unique circumstances, as discussed in this report. Specifically, Staff will be preparing and issuing a Request for Quotation (RFQ) in January 2014, to pre-selected, qualified planning consultants, for a Zoning Issues Analysis and Strategic Direction Report. The purpose of the Zoning Issues Analysis and Strategic Direction Report is to identify and assess key issues associated with undertaking the project and to make recommendations on how to best address the issues, meet objectives and approach the overall project. Thoroughly assessing key issues and establishing the strategic direction for the project is an important and central aspect of Phase 1 of the Project which is discussed in greater detail further in this report. Following issuance of the RFQ in January 2014, Staff anticipate that a consultant will be immediately retained to commence work on the Zoning Issues Analysis and Strategic Direction Report. The retained consultant will work closely with a team of City Staff, as discussed further in this report, to ensure the City's needs and requirements with respect to the Project are being met.

Draft Work Program for Project

As part of Markham's New Comprehensive Zoning By-law Project, all of the City's parent zoning by-laws will be thoroughly reviewed with respect to definitions, zone categories and regulations (ie. general provisions, permitted uses, prohibited uses, development standards, etc). Where appropriate, by-law definitions, zone categories and regulations will be consolidated and updated, into a new comprehensive zoning by-law, to be consistent with and implement the new Official Plan (once approved). In addition, existing zoning permissions for properties throughout the City, including site specific zoning by-law amendments and minor variance approvals, will be reviewed to determine the best approach for recognizing these permissions moving forward. Other matters with respect to the layout, format and structure of the City's by-laws as well as the zoning methods used (traditional, form based, etc.) will also be evaluated.

Staff have prepared a draft work program for the project consisting of three (3) separate phases, as described below. Phase 1 of the Project consists mainly of background work and studies, issues analysis and most importantly, the establishment of a strategic direction for the overall Project. Staff note that the work program is in draft format and will be revised and finalized based on the recommendations of the Strategic Direction Report and issues that may arise as the project evolves. It is also anticipated that the work program will provide greater detail with respect to major milestones, public consultation and engagement, and meetings with staff, stakeholders and agencies. In addition, regular updates will be provided to Development Services Committee at key stages throughout the work program.

The draft work program is outlined in a flow chart attached to this report (Figure 2) and is summarized as follows:

PHASE 1- Zoning Analysis & Strategic Direction (approximately 2 years)

Phase 1 consists of the completion of background work, a zoning issues analysis, required studies/technical papers and a strategic direction report. Staff initiated work on Phase 1 in September 2013 and anticipate the completion of all Phase 1 work in approximately two (2) years. Phase 1 is described in greater detail below:

(i) Background Work:

Before commencing a major comprehensive review of Markham's zoning bylaws and general zoning framework, it is critical to fully understand and analyze the City's existing zoning circumstances. As a result, City staff have commenced some background work and research which involves the collection, review and verification of historical zoning information. This information will assist with the identification of issues, challenges and opportunities that the City may face with respect to the preparation of a new comprehensive zoning by-law. The identified issues, challenges and opportunities will be forwarded to the consultant retained for the Zoning Issues Analysis and Strategic Direction Report, for thorough assessment and evaluation, as discussed further in this report. The background work and research is considered the first component of Phase 1 of the Project (Figure 1), and includes, but is not limited to, the collection and verification of the following information:

- inventory of City's parent zoning by-laws and associated definitions, zone categories and development standards;
- inventory of all site specific zoning by-law amendments;
- inventory of all minor variance approvals;
- zoning for each property in Markham, including existing applicable permissions and development standards.

Staff have commenced the above work and all of the above information is anticipated to be available to the retained consultant early next year, to assist with the preparation of the Zoning Issues Analysis and Strategic Direction Report.

(ii) Zoning Issues Analysis:

As discussed earlier in this report, Staff will be seeking external assistance with the preparation of a Zoning Issues Analysis and Strategic Direction Report. The purpose of the Zoning Issues Analysis is to review and analyze pertinent information relating to Markham's planning and zoning framework (new Official Plan, zoning by-laws, background work, etc), to identify key issues that need to be addressed prior to drafting a new comprehensive zoning by-law for the City. Planning Staff have already identified a preliminary list of issues which will be forwarded to the retained consultant for their consideration. In addition, there will be opportunities for other City departmental staff, stakeholders, agencies and the public to provide their input with respect to issues. It is anticipated that most issues will generally fall into one or more of the following categories:

- ➤ Issues associated with existing by-laws (definitions, development standards, format, zoning method used, etc.);
- Issues associated with new zoning by-law (required technical studies to inform updating and drafting of new zoning by-law, etc.);
- > Issues associated with Official Plan conformity.

Potential options for addressing identified issues, including new and innovative approaches and best practices from other municipalities, will also be examined as part of the Zoning Issues Analysis and will be used to inform the Strategic Direction Report, as discussed further in this report.

The consultant's findings with respect to the Zoning Issues Analysis will be presented to DSC as an update on the Project, for information purposes.

(iii) Required Studies/Technical Papers:

Studies and technical papers required to inform the drafting of the new comprehensive zoning by-law will be identified in the Zoning Issues Analysis and will be completed as part of Phase 1, prior to drafting of the new comprehensive zoning by-law in Phase 2. For example, studies and/or technical papers may be required with respect to matters such as residential accessory structures, commercial vehicle parking in residential areas, private outdoor amenity space requirements, outdoor commercial storage, etc. Staff anticipate that required studies and technical papers will be prepared by specialty subconsultants, where required. Background studies prepared as part of the Official Plan review process will be utilized to inform the drafting of the new by-law, where appropriate.

(iv) Strategic Direction Report:

The Strategic Direction Report will also be prepared by an external consultant and will be largely informed by the Zoning Issues Analysis. The purpose of the Strategic Direction Report is to review all options for addressing identified issues, as outlined in the Zoning Issues Analysis, and to make recommendations on the most appropriate approach for addressing issues. The recommendations of the Strategic Direction Report will be reviewed by Staff with a Staff summary and recommendations presented to DSC for endorsement. Staff expect the Report to make recommendations on key matters, including but not limited to, the following:

- Resources required for the Project (City Staff, external consultants, budget, etc.);
- Detailed work program incorporating major milestones and consultation with Staff, public, agencies and stakeholders;

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• Format, structure and development standards for new by-law;

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- Zoning method (s) to be used in new zoning by-law;
- · Public consultation and engagement program.

A key recommendation of the Strategic Direction Report will relate to resources required to undertake Phase 2 of the Project. For example, the Strategic Direction Report may recommend that the drafting and processing of the new comprehensive zoning by-law (Phase 2) be completed entirely by City Staff or it may recommend that a consultant be retained to complete the work. Alternatively, a combination of both approaches may be recommended whereby Staff undertake Phase 2 (drafting & processing of new comprehensive zoning by-law) with a consulting firm proving input and guidance where necessary. All options have positive and negative implications that need to be thoroughly assessed by the retained consultant, prior to recommending the most appropriate approach for moving forward.

Similar to the Zoning Issues Analysis, there will be opportunities to receive input from City Staff, stakeholders, agencies and the public with respect to the Strategic Direction Report.

As described above in the Phase 1 work program, there is a significant amount of background work and studies as well as analysis and evaluation that needs to be completed prior to drafting the new comprehensive zoning by-law. Undertaking Phase 1 of the Project in tandem with the finalizing and processing of the City's new Official Plan provides the City with more time to thoroughly assess issues, consider options and engage the public while meeting the Planning Act's requirements.

PHASE 2 – Drafting & Processing of New Comprehensive Zoning By-law
Phase 2 work may be completed by an external consultant or by City staff, or a
combination of both, dependant on DSC's decision, after consideration of the
recommendations in the Strategic Direction Report and recommendations made by Staff.
The draft work program for Phase 2 includes:

- Preparation of first draft (and subsequent drafts, as necessary) of the new comprehensive zoning by-law. Drafts will be prepared with input from the public, stakeholders, agencies, City staff, etc.
- Public Consultation including statutory open house & public meeting, workshops, etc.
- Updates on the status of the project to Development Services Committee (DSC) via staff reports and presentations.
- Preparation of final draft of new comprehensive zoning by-law, prepared with input from the public, stakeholders, agencies and City Staff. Final draft will be presented to DSC for endorsement.
- Adoption of new comprehensive zoning by-law by Council.

PHASE 3 – Ontario Municipal Board (OMB) Appeals

This final phase of the Project deals with the processing of potential OMB appeals to the new comprehensive zoning by-law. It is difficult to estimate the total number and magnitude of potential appeals, and related City resources and timelines, at this point in time.

Staff Project Team to be Established

A Staff Project Team ("Project Team") will be established in the near future, consisting of staff representatives from City departments that work closely with the City's zoning by-laws. The composition of the Project Team may change in Phase 2, to accommodate the recommendations of the Strategic Direction Report, if necessary.

The Project Team will provide valuable input throughout the Project on matters including but not limited to:

- RFQ for Zoning Issues Analysis & Strategic Direction Report;
- Selection of consultant for Phase 1 & Phase 2, if required;
- Zoning Issues identification;
- Zoning Issues Analysis prepared by consultant;
- Strategic Direction Report prepared by consultant:
- Drafting of new comprehensive zoning by-law.

Project Team members (Staff) will provide input in Phase 1 on a part-time basis, in addition to their everyday tasks. However, should Staff undertake Phase 2 of the Project (drafting and processing of new comprehensive zoning by-law), the Project Team will be primarily responsible for the drafting and processing of the new comprehensive zoning by-law and therefore, staff will need to be seconded to temporary, full-time positions to work exclusively on this Phase of the Project. In addition to the required secondments, the resultant vacant Staff positions may also require back-filling.

In addition to the above, Staff from other City departments, as well as, representatives from agencies and stakeholder groups, will be called upon to provide input throughout the Project, where necessary.

Preliminary List of Issues Identified

Staff have identified a preliminary list of issues that need to be thoroughly assessed and addressed as part of Phase 1 of the Project. These preliminary issues include, but are not limited to:

- Official Plan Conformity
 - Review compatibility of new OP policies with current zone categories and associated permissions
 - > Identify new OP policies that require implementation in the new zoning by-law
- Zoning By-laws Out-dated, Inconsistent & Repetitive
- > Up-dating required to respond to emerging development trends

- Certain studies may be required to inform drafting of new by-law as it relates to permissions, regulations, zoning method etc.
- > By-laws require streamlining with respect to structure/format, definitions, general provisions, etc., to simplify administration and improve consistency
- Numerous Site Specific Zoning By-law Amendments & Minor Variance Approvals
 - Review required to determine the best approach to legally recognize existing permissions in new by-law
- Review required to identify development trends that warrant revised standards and/or use permissions in new by-law
- Legal Non-Conforming/Complying Uses and Structures
 - > Review required to determine best approach for zoning lands in new by-law
- Zoning By-laws & Zoning Information Not Easily Accessible to Public
 - > New zoning by-law to be web-based and user friendly, to enhance service delivery to City residents and the development community
- Zoning By-law Mapping
 - Must be reviewed and checked for accuracy. Over the years by-law mapping has gone from being hand drawn to GIS based
 - Existing schedules inconsistent with respect to format
 - Explore options for interactive mapping on City website with detailed zoning information provided based on address or legal description.

It is anticipated that additional issues will be identified as the project evolves, after thorough review of pertinent information by the retained consultant and following consultation with the public, agencies, stakeholders and other City departments.

Next Steps

The following is a list of next steps that Staff will be working on in the coming weeks to move forward with Markham's New Comprehensive Zoning By-law Project:

- Continue to work on and complete Phase 1 background work and research, as outlined in this report
- Research innovative planning consulting firms with extensive experience undertaking comprehensive zoning by-law reviews
- Establish Project Team
- Prepare and issue RFQ for Phase 1 Zoning Issues Analysis and Strategic Direction Report
- Meet with Corporate Communications to discuss communications and marketing program for Project including dedicated Project web-page on City's website
- Report back to DSC early next year to provide update on Project

FINANCIAL CONSIDERATIONS AND TEMPLATE: (external link)

Funds for this project have been provided for in the 2013 and proposed 2014 budget for staff resources and the retention of expert consultants to advise and assist with the project.

HUMAN RESOURCES CONSIDERATIONS

The Zoning By-law Project will be managed by a dedicated in house coordinator within the Zoning and Special Projects section of the Planning and Urban Design Department.

ALIGNMENT WITH STRATEGIC PRIORITIES:

This project will contribute to Markham's strategic priority of Growth Management by implementing Markham's new Official Plan.

BUSINESS UNITS CONSULTED AND AFFECTED:

Several City Departments will be consulted to provide input on this project as we move forward.

RECOMMENDED

BY:

Rino Mostacci, MCIP, RPP

Director, Planning & Urban Design

Jim Baird, MCIP, RPP

Commissioner, Development Services

ATTACHMENTS:

Figure 1: List of City Parent Zoning By-laws and Infill Zoning By-laws

Figure 2: Draft Work Program for Harmonized Zoning By-law

Project

CITY OF MARKHAM LIST OF PARENT ZONING BY-LAWS

OV 1 A317	VEAD	Ciditional Abisa Alegration
BY-LAW	YEAR ADOPTED	GENERAL AREA AFFECTED
1229	1965	Markham Village
1442	1953	Greentree (Sciberras/Hwy 7)
1507	1954	Hughson Drive/Lunar Crescent (Markham Township)
1767	1959	Thornhill (Bayview/John)
1914	1961	Thornhill (Bayview/Laurelleaf)
2053	1964	Yonge/Steeles
2150	1965	Thornhill Centre
2237	1966	Thornhill Centre
2284-68	1968	Thornhill Industrial Area/East of 404
2402	1968	14 th Ave/Warden
2489	1969	Thornhill North
2551	1970	Langstaff
2571	1970	John St/Hwy 404
2612	1970	Steeles Ave/Hwy 404
11-72	1972	Unionville West
122-72	1972	Varley Village/Unionville
77-73	1973	John St/Green Lane
83-73	1973	Victoria Square
119-73	1973	Warden/Steeles
151-75	1975	Thornhill (Willowbrook)
88-76	1976	Mount Joy
127-76	1976	Woodbine/Hwy 7
250-77	1977	Risebrough
145-78	1978	Main St Markham/Hwy 7
162-78	1978	Hwy 407/Ninth Line
163-78	1978	16 th Ave/Ninth Line
184-78	1978	Markville/Centennial
72-79	1979	Birchmount/Steeles
91-79	1979	Dickson Hill
118-79	1979	Town Centre North

134-79	1979	Unionville Northeast
153-80	1980	16 th Ave/McCowan Rd
165-80	1980	Woodbine/Buttonville
72-81	1981	Leslie St/Hey 404
90-81	1981	Milliken
108-81	1981	Esna Park Industrial Area
193-81	1981	Kennedy Rd/14 th Ave
221-81	1981	Montgomery/Fairburn
28-82	1982	14 th Ave/Hwy 404
194-82	1982	Box Grove Hamlet
196-82	1982	Locust Hill Hamlet
47-85	1985	Pacific Mall Area
304-87	1987	Rural Markham
19-94	1994	Buttonville North
177-96	1996	Urban Growth Area (OPA #5) Northeast
		Markham/Cornell
2004-196	2004	Markham Centre

CITY OF MARKHAM LIST OF INFILL ZONING BY-LAWS

BY- LAW	YEAR ADOPTED	GENERAL AREA AFFECTED
INFILL 99-90	1990	Amends 1229 – Markham Village
INFILL 100-90	1990	Amends 1767 and 122-72 – Thornhill and Unionville
INFILL 101-90	1990	Amends 2237 - Thornhill
INFILL 223-94	1994	Amends 2237 - Thornhill

