



Report to: Development Services Committee

Report Date: June 26, 2012

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**SUBJECT:** RECOMMENDATION REPORT  
Tribute (Unionville) Limited  
Zoning By-law Amendment application to permit a mixed-use, commercial-residential building at 20 Fred Varley Drive

File No. ZA 11 113101

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**RECOMMENDATION:**

- 1) That the report dated June 26, 2012 titled "RECOMMENDATION REPORT, Tribute (Unionville) Limited, Zoning By-law Amendment application to permit a mixed-use, commercial-residential building at 20 Fred Varley Drive (File No. ZA 11 113101)", be received;
- 2) That the record of the public meeting held on October 25, 2011 regarding the proposed Zoning By-law Amendment be received;
- 3) That the application as submitted by Tribute (Unionville) Limited be denied;
- 4) That Council endorse the Structuring Concept and resultant Alternative Development Option recommended by Staff in this report, to form the basis of the Town's position at the Ontario Municipal Board Hearing;
- 5) That Council direct the Town Solicitor and Staff to attend the second pre-hearing conference scheduled for July 10, 2012;
- 6) And that Council direct and authorize the Town Solicitor and Staff to attend the Ontario Municipal Board hearing, scheduled to commence on October 22, 2012, in opposition to the applicant's current proposal and present the Alternative Development Concept.

**EXECUTIVE SUMMARY:**

In March 2011, an application for Zoning By-law Amendment was submitted by Tribute (Unionville) Limited to permit a mixed-use, commercial-residential building at 20 Fred Varley Drive. The subject lands are situated on the south side of Fred Varley Drive, west of Main Street Unionville and contain a linear commercial plaza with seventeen (17) residential apartments on the second floor, which pre-date the Zoning By-law. At the time the application was submitted, a conceptual site plan accompanied the request for Zoning By-law amendment. The proposal consists of 113 units in a 5 & 4 storey building with ground floor commercial along Fred Varley Drive.

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At the time the Preliminary Report went forward in June 2011, Development Services Committee recommended that the applicant work with staff to address feedback from the community and consider making revisions prior to the scheduling of the public meeting. On October 25, 2011, Development Services Committee (DSC) held a statutory Public Meeting to consider a revised application proposed by Tribute (Unionville) Limited consisting of 113 residential units in a 3 & 4 storey mixed-use, commercial-residential building. A number of area residents attended the Public Meeting and expressed concerns relating to: height, density, scale/massing, traffic, heritage character, the safety of children attending Parkview Public School, and other matters.

On November 16, 2011, Tribute (Unionville) Limited appealed the application to the Ontario Municipal Board on the basis that the Town has failed to make a decision on the application within one hundred and twenty (120) days after it was received. The applicant's appeal is based on their original proposal, which consists of 113 units in a 5 and 4 storey building with ground floor commercial along Fred Varley Drive.

On November 25, 2011, a meeting was held with the Mayor, Councillor Hamilton, Town staff and representatives from each of the following: the Unionville Ratepayers Association (URA), Unionville Villagers Association (UVA) and Unionville Business Improvement Area (UBIA), Tribute (Unionville) Limited and its agent, Gatzios Planning + Development Consultants Inc. At the conclusion of the meeting, it was decided that a Working Group be formed consisting of representatives from each of the ratepayers groups to explore alternative development concepts for the site. A professional planner, Mr. John Gladki of Gladki Planning Associates, was retained to facilitate the working group sessions. A total of four working group meetings were held in February, 2012 wherein the working group discussed several topics as they relate to the proposed development and from which a series of development principles emerged that were subsequently reported out to DSC on May 22, 2012.

An OMB pre-hearing was held on March 22, 2012, where all parties agreed to explore mediation in pursuit of a settlement. Subsequently, a one-day OMB mediation session took place on June 13, 2012. No proposal to settle the appeal resulted from the mediation session.

Town staff built upon the principles identified through the Working Group sessions and developed a structuring concept which forms the basis of an alternative development option for the site. This structuring concept is based on two key site plan components: an inverted "L" massing of the building and circulation/site access aligned with Fonthill Boulevard. This structuring concept has evolved into a preferred development option that staff recommend Council endorse for consideration at the OMB hearing (Appendix A).

The subject property is designated "Special Policy Area" in the Town's Official Plan (OPA 153). A "Special Policy Area" is an area of land, located within the floodplain, on which there is an existing development that forms an integral part of an existing flood prone community. The subject property is located within the Regional Storm Floodplain

of the Fonthill Creek and within the limits of the Unionville Special Policy Area (SPA). Within SPAs, development and redevelopment, rehabilitation of and extension of existing structures may be permitted conditionally upon flood proofing measures satisfactory to the Toronto and Region Conservation Authority (TRCA).

TRCA staff have stated that the proposal on this flood-prone site represents a significant increase in population and potential risk to property and life, given the proposed shift from the existing commercial uses and small-scale residential use (17 units that pre-date the Zoning By-law), to a principally residential use (113 units) with ancillary retail. As such, the TRCA is concerned with the proposed number of residential units being introduced, which will result in a significant overall population increase and associated increased risk during emergencies and flood events. From their perspective, reducing the number of units would further mitigate the level of risk on this site.

The subject lands are designed "Neighbourhood Commercial" in the Unionville Core Secondary Plan (PD 1-12) for part of the Markham and Unionville Planning District (OPA No. 107). The planned function of the Neighbourhood Commercial designation is to provide locations for convenience commercial uses that primarily serve the surrounding residential area. Commercial uses are permitted in the "Neighbourhood Commercial" designation, along with residential uses subject to a location above the ground floor. The Secondary Plan also contains a site specific policy, which states that Council shall encourage initiatives for improvements to or redevelopment of the existing plaza that is more compatible with the historic image of Old Unionville and that provides for appropriate pedestrian linkages with Station Lane to the south.

The proposed high density development with 113 residential units at 5 and 4 storeys and an FSI of 1.93 is not compatible and consistent in scale, massing and siting with development on adjacent lands, which is comprised primarily of low-density residential uses, as contemplated in the Official Plan nor is it more compatible with the historic image of Old Unionville. In this regard, staff are of the opinion that the development, as currently proposed, does not comply with the intent of the Official Plan and therefore, would require an Official Plan Amendment.

Accordingly, staff recommend that the Zoning By-law Amendment application to permit a mixed-use commercial-residential building at 20 Fred Varley Drive, be denied. Further, staff recommend that Council endorse the alternative development option (Appendix A) for staff to present at the OMB hearing. It is felt that the alternative development concept recommended by staff would represent a reasonable and supportable redevelopment of the site, in keeping with the policies of the Official Plan and Secondary Plan.

**PURPOSE:**

Tribute (Unionville) Limited has submitted a Zoning By-law Amendment application to amend Zoning By-law 122-72, as amended, to permit a mixed-use commercial-residential building at 20 Fred Varley Drive. The purpose of this report is to discuss and

recommend denial of the application as it is presently proposed and recommend endorsement of an alternative development option prepared by Town Staff.

**BACKGROUND:****Subject property and area context**

The subject property is situated on the south side of Fred Varley Drive, west of Main Street Unionville (Figure 1). The subject property has an area of 0.76 ha (1.87 ac) and contains a 3,000 m<sup>2</sup> (32,300 ft<sup>2</sup>) linear commercial plaza with seventeen (17) residential apartments on the second floor which predate the Zoning By-law, with at-grade parking located in the front and rear yards. The site is served by two driveways that provide access to Fred Varley Drive, located on the east and west sides of the site. A landscape strip is located in the front yard, with street trees located within the municipal boulevard. There is a 4.57 m wide hydro easement along the south boundary of the property and an approximately 4.5 m wide municipally owned strip of land immediately to the west of the site identified for a future pedestrian connection between Eureka Street and Fred Varley Drive.

Surrounding uses include:

- To the north and west are single-detached dwellings;
- To the east, Millennium Square and associated park, containing the Unionville Millennium Bandstand, and the retail core along Main Street Unionville; and,
- To the south, single-detached dwellings and the Station Lane townhome project.

The Unionville Heritage Conservation District, a protected heritage property and cultural heritage landscape, is adjacent to the development site on the south and east boundaries and along a portion of the north boundary (Figure 4).

**Proposed Zoning By-law amendment to facilitate mixed-use, commercial-residential development (Figure 5)**

At the time the application was submitted, a conceptual site plan accompanied the request for Zoning By-law Amendment. The proposal consists of 113 units in a 5 storey building with ground floor commercial along Fred Varley Drive. The building continues along the western edge of the site and along the rear (south side) of the site where its height is reduced to 4 storeys for that portion. The 5<sup>th</sup> floor of the proposed building, along with a 6 m high mechanical penthouse located above a portion of the 5<sup>th</sup> floor, are stepped back on the north portion of the site (Figure 5).

The proposed redevelopment consists of approximately 13,510 m<sup>2</sup> (145,425 ft<sup>2</sup>) of residential Gross Floor Area (GFA) and 1,185 m<sup>2</sup> (12,755 ft<sup>2</sup>) of commercial GFA for a total GFA of approximately 14,695 m<sup>2</sup> (158,180 ft<sup>2</sup>). The total GFA translates into a Floor Space Index (FSI) of approximately 1.93 for all uses with a corresponding residential density of 148 units per hectare (60 units per acre).

In this proposal, the building is continuous along the Fred Varley Drive frontage, with the exception of the primary access to the site (for residential pick-up/drop off and underground parking), which would align opposite Fonthill Boulevard. The existing

western entrance would be retained and used as a service lane, as well as access for twelve (12) surface commercial parking spaces. Six (6) lay-by parking spaces are also shown along Fred Varley Drive. All parking for residential owners and visitors, along with the balance of the retail parking, is proposed to be accommodated within two levels of underground parking.

#### **Revised Conceptual Site Plan submitted following Preliminary Report to Development Services Committee (Figure 6)**

At the time the Preliminary Report went forward in June 2011, Development Services Committee recommended that the applicant work with staff to address feedback from the community and consider making revisions prior to the scheduling of the public meeting. The applicant subsequently filed a revised application in September 2011, accompanied with a revised conceptual site plan, consisting of 113 residential units in a 3 & 4 storey building with ground floor commercial uses oriented towards Fred Varley Drive (Figure 6). The courtyard style building is continuous along the perimeter of the site. The 4<sup>th</sup> floor of the proposed building is stepped back, presenting a three-storey façade to the street and adjacent properties. The proposed redevelopment consists of approximately 13,209 m<sup>2</sup> (142,185 ft<sup>2</sup>) of residential GFA and 1,320 m<sup>2</sup> (14,209 ft<sup>2</sup>) of commercial GFA for a total GFA of approximately 14,529 m<sup>2</sup> (156,394 ft<sup>2</sup>). The combined GFA translates into an FSI of approximately 1.90 for all uses with a corresponding residential density of 148 units per hectare (60 units per acre).

In this revised proposal, the existing eastern plaza driveway is maintained as the primary driveway, used to access the underground parking garage. The secondary western driveway is also maintained and used for residential pick-up/drop-off and service access. All surface parking has been eliminated. Eight (8) on-street parking spaces, along Fred Varley Drive, are also shown on the plan. All required parking is proposed to be accommodated within two levels of underground parking.

#### **Statutory Public Meeting held on October 25, 2011**

On October 25, 2011, Development Services Committee (DSC) held a statutory Public Meeting to consider the revised application proposed by Tribute (Unionville) Limited. A number of area residents attended the Public Meeting and expressed concerns relating to: height, density, scale/massing, traffic, heritage character, the safety of children attending Parkview Public School, and other matters. The resolution at the Public Meeting was that the application be referred back to staff for further review and a final recommendation.

#### **Application appealed to Ontario Municipal Board on November 16, 2011**

On November 16, 2011, Tribute (Unionville) Limited appealed the application to the Ontario Municipal Board on the basis that the Town has failed to make a decision on the application within one hundred and twenty (120) days after it was received. The applicant's appeal is based on their original proposal, which consists of 113 units in a 3 and 4 storey building with ground floor commercial along Fred Varley Drive. On November 25, 2011, a meeting was held with the Mayor, Local Councillor Hamilton, Town staff and representatives from each of the following: the Unionville Ratepayers Association (URA), Unionville Villagers Association (UVA) and Unionville Business

Improvement Area (UBIA), Tribute (Unionville) Limited and its agent, Gatzios Planning + Development Consultants Inc. At the conclusion of the meeting, it was decided that a Working Group be formed consisting of representatives from each of the ratepayers groups to explore alternative development concepts for the site. On December 6, 2011, DSC authorized staff to establish the Working Group and retain the services of a professional facilitator to guide and inform the Working Group sessions. While Tribute (Unionville) Limited did not participate in the Working Group, the facilitator did meet with the applicant at the outset of the process to better understand their position and development requirements.

**John Gladki retained to facilitate Working Group sessions**

In January 2012, John Gladki of Gladki Planning Associates was retained to facilitate the Working Group sessions. A total of four Working Group meetings were held in February, 2012 wherein the Working Group discussed several topics as they relate to the proposed development, including, but not limited to: the OMB hearing process, built form, massing, height, elevations/façade treatments, the historic image of Unionville, traffic, pedestrian/student safety, access to the site, environmental considerations and the planning policy framework as it relates to the site.

**Mediation agreed to at OMB Pre-Hearing Conference held on March 22, 2012**

At the March 6, 2012 DSC meeting, staff provided Committee with a status update on the application and advised of the OMB pre-hearing conference scheduled for March 22, 2012. At this meeting, Committee directed the Town Solicitor and Staff to request mediation at the OMB. At this pre-hearing conference, all parties agreed to explore mediation in pursuit of a settlement.

**Report on Facilitation of Fred Varley Working Group**

At the conclusion of the Working Group sessions, John Gladki summarized his findings in a memorandum that was brought forward to DSC on May 22, 2012. The findings highlight the discussions that took place around the following key issues: Policy and Legal, Transportation, Environmental, Urban Design and Mix of Uses. A number of principles emerged during the discussions that could form the basis of alternative development options for the site. These principles are detailed in Appendix A and discussed further in this report. At the conclusion of his findings, Mr. Gladki advises that it is his opinion that there is sufficient common ground to explore mediation.

**Settlement was not achieved at OMB mediation session held on June 13, 2012**

A one-day OMB mediation session took place on June 13, 2012 in pursuit of a settlement between the parties. The Town's outside Legal Counsel and Town staff attended this session along with the other parties including: the applicant, the Toronto and Region Conservation Authority (TRCA), and representatives from the URA, UVA and UBIA. No proposal to settle the appeal resulted from the mediation session.

A second pre-hearing conference has been scheduled for July 10, 2012. A four week hearing is scheduled to commence on October 22, 2012. A Council position on the

application is required in advance of the second pre-hearing conference, and is recommended in this report.

### **Official Plan and Zoning**

The subject property is designated "Special Policy Area" in the Official Plan (OPA No. 153). A "Special Policy Area" is an area of land, located within the floodplain, on which there is an existing development that forms an integral part of an existing flood prone community. The subject property is located within the Regional Storm Floodplain of the Fonthill Creek and within the limits of the Unionville Special Policy Area (SPA). Within SPAs, development and redevelopment, rehabilitation of and extension of existing structures may be permitted conditionally upon flood proofing measures satisfactory to the Toronto and Region Conservation Authority (TRCA). In 2005, the Province updated the definition of Special Policy Area to clarify the intent of redevelopment and intensification in Special Policy Areas. The TRCA's comments are discussed further in this report.

The subject property is also designated "Neighbourhood Commercial" in the Unionville Core Secondary Plan (PD 1-12) for part of the Markham and Unionville Planning District (OPA No. 107). The planned function of the Neighbourhood Commercial designation is to provide locations for convenience commercial uses that primarily serve the surrounding residential area. Commercial uses, including retail, offices, and banks and financial institutions are permitted in the "Neighbourhood Commercial" designation. Residential uses are also permitted in the "Neighbourhood Commercial" designation, subject to a location above the ground floor, or as otherwise specified in the Secondary Plan. Section 3.4.6.3. d) i) Development Requirements of the Town's Official Plan stipulates that "scale, massing, and siting of development shall be compatible and consistent with development on adjoining lands".

The Secondary Plan also contains a site specific policy (5.7.2. "Fred Varley Drive Shopping Plaza") for the subject property, which states that:

"Council shall encourage initiatives for improvements to or redevelopment of the existing shopping plaza on Fred Varley Drive, which is herein, designated NEIGHBOURHOOD COMMERCIAL CENTRE. In particular, Council shall encourage redevelopment that is more compatible with the historic image of Old Unionville and that provides for appropriate linkages with Station Lane to the south".

The subject property is zoned "General Commercial" (C1) by By-law 122-72, as amended and is within the boundaries of the Special Policy Area as shown in the Zoning By-law. The applicant has submitted a Zoning By-law Amendment application to rezone the property to "Community Amenity" (CA1), which permits both commercial and residential uses. Various site specific zoning provisions are required to facilitate the proposed development.

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**BROADER POLICY CONTEXT:****Provincial Policy Statement**

The Provincial Policy Statement (PPS 2005) provides policy direction on matters of provincial interest related to land use planning and development. The PPS provides for appropriate development while protecting resources of provincial interest, public health and safety, and the quality of the natural environment. As such, the PPS focuses growth within settlement areas and away from significant or sensitive resources and areas which may pose a risk to public health and safety. Policy 1.1.1 c) states that healthy, liveable and safe communities are sustained by avoiding development and land use patterns which may cause environmental or public health and safety concerns.

Per the PPS, intensification and redevelopment shall be directed in accordance with the policies of Section 2: “Wise Use and Management of Resources” and Section 3: “Protecting Public Health and Safety”. Policy 1.1.3.4 further states that appropriate development standards should be promoted which facilitate intensification and redevelopment and compact form, while maintaining appropriate levels of public health and safety.

**Provincial Policy Statement – Adjacent Lands Policy**

Policy 2.6.3 of the PPS addresses the issue of development and site alteration on lands adjacent to a protected heritage property. The Unionville Heritage Conservation District is a protected heritage property as defined by the PPS. The policy provides that mitigative measures or alternative development approaches may be required to conserve the heritage attributes of the protected heritage property. The PPS defines ‘heritage attributes’ as “...*the principal features, characteristics, context and appearance that contribute to the cultural heritage significant of a protected heritage property*”. The term ‘conserved’ is defined “...*the identification, protection, use and/or management of cultural heritage resources in such a way that their heritage values, attributes and integrity are retained*”. To conserve heritage attributes, a municipality can require a heritage impact assessment to evaluate the proposal and to demonstrate how the attributes will be conserved. A heritage impact assessment was identified at the pre-consultation meeting held on November 10, 2010, but not provided at time of application submission. Instead, a Planning Justification Report, prepared by Gatzios Planning and Development Inc. and Urban Design Opinion, prepared by Graziani + Corazza Architects Inc. were submitted to address the heritage context.

**Provincial Policy Statement – Natural Hazards**

Policy 3.1.2 of the PPS identifies locations where development and site alteration shall not be permitted, which includes areas that would be rendered inaccessible to people and vehicles during times of flooding hazards, erosion hazards and/or dynamic hazards, unless the site can demonstrate safe access which is appropriate for the nature of the development and the natural hazard. Notwithstanding this, Section 3.1.3 identifies locations where development and site alteration may be permitted in certain areas identified which includes exceptional situations where a Special Policy Area has been approved.

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For further clarification, the PPS defines a 'Special Policy Area' as:

*"...an area within a community that has historically existed in the flood plain, and where site-specific policies, approved by both the Ministers of Natural Resources and Municipal Affairs and Housing, are intended to provide for the continued viability of existing uses (which are generally on a small scale) and address the significant social and economic hardships to the community that would result from strict adherence to provincial policies concerning development. The criteria and procedures for approval are established by the Province."*

*A Special Policy Area is not intended to allow for new or intensified development and site alteration, if a community has feasible opportunities for development outside the floodplain."*

The PPS also defines 'development' as *"the creation of a new lot, a change in land use, or the construction of buildings and structures, requiring approval under the Planning Act..."* Notwithstanding the above, the SPA designation does provide opportunities for some development, subject to a number of technical requirements, such as the submission and review of a Risk Assessment Report, Engineering Report and Details Plans, Emergency Management Plan and Structural Integrity Report.

Policy 3.1.3 a) further states that the designation of a Special Policy Area, and any change or modification to the site specific policies or boundaries applying to a Special Policy Area, must be approved by the Ministers of Municipal Affairs and Housing and Natural Resources prior to the approval authority approving such changes of modifications.

#### **Growth Plan for the Greater Golden Horseshoe (2006)**

The Growth Plan for the Greater Golden Horseshoe (GGH) emphasizes accommodating growth by directing a portion of new development to existing built-up areas. The Growth Plan requires a minimum of 40% of all new residential development across each Region in the GGH to take place within built up areas and be achieved largely through intensification. Policy 2.2.2.1.b) states that population and employment growth will be accommodated by focusing intensification in intensification areas.

Policy 2.2.3.6. states that all municipalities will develop and implement through their official plans and other supporting documents, a strategy and policies to phase in and achieve intensification and the intensification targets. The strategy and policies will amongst other things, encourage intensification generally throughout the built-up area; recognize urban growth centres, intensification corridors and major transit station areas as a focus for development to accommodate intensification; facilitate and promote intensification; and identify the appropriate type and scale of development in intensification areas.

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**Markham Growth Alternative to 2031**

In May 2010, Council endorsed a growth alternative for Markham, which identified the amount and location of population and employment growth for the municipality to 2031. The growth alternative, in keeping with Council's preference, emphasizes intensification within the current settlement area and limits additional growth outwards. The Council endorsed preferred growth alternative includes a residential intensification target of 60% within the current built boundary.

Intensification within the Town's current settlement area is a key component of the Town's endorsed growth alternative. As such, the Town has completed principles and a framework for an intensification strategy to guide Markham's vision for intensification areas. The strategy is intended to address the policy requirements for intensification established by the Province and Region of York, in a Town context, and to guide further work in support of ensuring that intensification in Markham is directed to preferred locations, supportive of Town growth objectives, and is not directed to established residential areas, except in the case of compatible residential minor infill and second suites where permitted, consistent with Town policies.

The Town's intensification hierarchy established the overall context for residential and employment intensification by allotting density in a hierarchical manner to: i) Regional Centres (highest intensity of development), ii) Key Development Areas, iii) Major Corridors, and iv) Local Centres and Corridors. The subject lands are not situated within any of these identified intensification areas.

**York Region Official Plan**

The subject lands are designated "Urban Area" by the York Region Official Plan ("1994 ROP", as amended), which provides for a wide range of uses including residential, commercial and employment, the scale of which is deferred to local area municipalities to evaluate. The subject lands are also designated "Urban Area" by the new York Region Official Plan ("2010 ROP"), which was approved with modifications by the Ministry of Municipal Affairs on September 7, 2010, but is not yet in effect due to appeals to the OMB. The new 2010 ROP re-enforces the intensification in existing built-up area in accordance with the Growth Plan. Regional Centres and Regional Corridors will be the prime locations for infill and intensification; the most intensive of which being directed to Regional Centres and locally defined Key Development Areas within the Regional Corridors. Local Centres and Corridors, where identified by the local municipality, are also prime locations for infill and intensification, but at a smaller scale.

**AGENCY COMMENTS/TECHNICAL STUDIES:****Heritage Markham**

Heritage Markham, the Town's heritage advisory committee, reviewed the original five storey submission on April 13, 2011 and did not support the application. The committee indicated that upon review of the PPS – Cultural Heritage and Archaeology, Heritage Markham "is of the opinion that the proposed development will negatively impact the unique heritage attributes of the Unionville Heritage Conservation District, and that an alternative development approach should be pursued". On November 9, 2011, Heritage Markham reviewed the revised proposal and did not support the zoning amendment

application, but did provide comments and suggestions to improve the application, such as alterations to the overall massing and height, setbacks that address neighbouring dwellings, enhanced green space and a less repetitive design motif with a heritage character more reflective of historic Unionville.

**Comments from the Toronto and Region Conservation Authority**

In January 2012, staff received comments from the Toronto and Region Conservation Authority (TRCA) on the subject application. In their letter, the TRCA advises that they believe a decision on the application is premature, as it is unclear whether the proposed development constitutes “intensification” within a Special Policy Area and in the event that Official Plan Amendment is required, this would necessitate approvals from the Ministry of Municipal Affairs and Housing (MMAH) and the Ministry of Natural Resources (MNR).

The TRCA letter of January 2012 further states that redevelopment of the site should provide opportunities to improve current flood conditions, including providing an increase in flood storage capacity and improvements, conveyance and enhancement of the existing valley corridor. TRCA staff recognize that the current creek corridor is highly constrained, and recommends the implementation of a 10 m environmental buffer adjacent to the natural feature to the east of the site (no structures above or below ground would be permitted) and a restoration and enhancement plan. The TRCA also advises that once the issue regarding residential intensification has been satisfactorily resolved, that additional technical studies and reports will be required for review and approval.

Based on the conceptual site plan submitted with the zoning application, TRCA staff have identified concerns related to the location of the driveway access, location of the underground parking garage, setbacks to the TRCA Regulated Area, and flood proofing to the Regional flood elevation. As part of their review, TRCA technical staff have reviewed the Flood Hazard Assessment prepared by Stonybrook Consulting Inc. and generally concur that the proposed development could be technically floodproofed to a level consistent with TRCA policies. However, due to the flood water levels in the area, and with consideration for the additional risk given the level of development being proposed on this site, TRCA staff requested the applicant provide an assessment of safe access and an appropriate evacuation plan which demonstrates how the risk to life and property has been effectively managed. At this time, the applicant has yet to provide an adequate response with respect to emergency response and evacuation plans which demonstrates consistency with the municipal emergency program, to the satisfaction of the TRCA.

**Peer Review of Traffic Impact Study by Poulos and Chung Limited**

Nick Poulos, of Poulos and Chung Limited, has been retained by the Town to peer review the Transportation Considerations report prepared by BA Group, dated February 2011, which was submitted with the application. The report prepared by BA Group finds that the proposed development will have a modest impact on daily traffic volumes and have a minor impact on area intersections. Nick Poulos concurs with the findings in the BA

Group report. In addition, Nick Poulos also confirms that the best driveway location for this site is a controlled access aligned with Fonthill Boulevard.

### **Technical Studies**

In addition to the Traffic Considerations Report prepared by BA Group, the applicant has submitted the following technical studies in support of this application:

- Planning Justification Report, prepared by Gatzios Planning and Development Inc., dated February 2011;
- Functional Servicing Report, prepared by Cole Engineering, dated February 2011
- Flood Hazard Assessment, prepared by Stonybrook Consulting Inc., dated February 2011;
- Urban Design Opinion, prepared by Graziani + Corazza Architects Inc., dated February 18, 2011; and,
- Regional vs. > 350 flood event Opinion Letter prepared by Graziani + Corazza Architects Inc., dated February 18, 2011.

A pre-consultation meeting was held on February 27, 2012 with Staff, external agencies and the applicant to discuss the submission of a formal site plan application. At this meeting, additional and outstanding studies were identified as part of the site plan submission. Parkland dedication requirements and potential Section 37 contributions were also discussed with the applicant. A formal site plan application has not been submitted by the applicant to date and as such, the following studies remain outstanding:

- Tree Preservation Plan;
- Geotechnical Report;
- Noise Study;
- Sun/Shadow Study;
- Drainage Study (to map external drainage areas);
- Site Grading, Servicing & Stormwater Management Report;
- Second flow monitoring station results (as detailed in the Functional Servicing Report submitted with the Zoning By-law Amendment application); and,
- Foundation Shoring Details.

The submission of these studies is required to finalize the technical review of the proposed development, and assess potential impacts on adjacent residential properties and the natural feature to the east of the site.

### **OPTIONS/DISCUSSION:**

#### **Site is located within a Floodplain and designated Special Policy Area**

The property is located adjacent to the Fonthill Creek Valley Corridor within the Regional Storm Flood Plain and Unionville Special Policy Area (SPA). The entire property is within the floodplain and flood conveyance route and, as such, will be inundated by floodwaters during the Regional Storm Event. TRCA staff are of the opinion that the creek corridor (particularly at the culvert of Fonthill Boulevard) is highly constrained, and any redevelopment proposal should provide additional flood storage

capacity. TRCA staff have also stated that the proposal on this flood-prone site, represents a significant increase in population and potential risk to property and life, especially given the proposed shift from the existing commercial uses and small-scale residential use (17 units that pre-date the Zoning By-law), to a principally residential use (113 units) with ancillary retail. As such, the TRCA is concerned with the proposed number of residential units being introduced, which will result in a significant overall population increase and associated increased risk during emergencies and flood events. From their perspective, reducing the number of units would also further mitigate the level of risk on this site.

### **Surrounding Area Context and District Character of Old Unionville**

The subject lands are situated in a low-density residential community with a mix of single-detached and townhouse dwellings to the north, west and south ranging in height from 1 to 2½, with a few 3 storey dwellings located on E.J. Lennox Way. To the immediate east of the subject lands are Millenium Square and an associated park. The park space is an undulating green space through which Fonthill Creek transverses from north to southeast towards Main Street and beyond. Further east of this is an historic commercial Main Street (Main Street Unionville). Properties to the north, east and south of the site fall within the boundaries of the Unionville Heritage Conservation District. Properties to the west of the site, which are outside of the boundaries of the Unionville Heritage Conservation District, are comprised of bungalows and two-storey single-detached dwellings.

The Unionville Heritage Conservation District (herein referred to as “Old Unionville”) is characterized by many aspects of a 19<sup>th</sup> century village, with most buildings dating from the late 1800’s. Typically, Old Unionville is characterized by 1½ - 2 storey buildings, with the commercial Main Street component retaining a residential scale and ambiance, with the predominant building form being small to medium sized converted residential dwellings. A maximum height of 3 storeys with a third storey incorporated into the roof design has been permitted in past years. The majority of roofs are in a gable form with a steep pitch. The commercial street possesses a rhythm that emphasizes a compact arrangement of individual structures. The district buildings include both brick and wood claddings, with wood sidings the most prevalent. An integral part of the character of the commercial streetscape is the historic storefront design of a central, recessed entry with large divided glass windows on either side.

While Main Street acts as the commercial spine for the Heritage Conservation District, the area’s character is predominantly established by its residential community comprised of single family detached residential houses including bungalows, two and half storey townhomes and two- and three-storey single-detached dwellings. Along Fred Varley Drive, Sciberras Road, Fonthill Boulevard, and Eureka Street (as far south as Anna Russell Way), houses are afforded generous setbacks provided by the presence of landscaped front lawns.

The largest buildings by footprint or massing within 300 m of the subject site are the one-storey Parkview Public School located at the top of Fonthill Boulevard and the 3-storey

Wyndham Garden Apartments (part of Unionville Home Society, a seniors' residential complex located at the southwest corner of Eureka Street and Anna Russell Way). There is no building within a 300 m radius that approaches the 5 storey height proposed by the applicant. In this regard, if approved, the current proposal could result in the creation of an undesirable precedent in the area. As previously stated, Section 3.4.6.3. d) i) of the Town's Official Plan stipulates that "scale, massing, and siting of development shall be compatible and consistent with development on adjoining lands". Staff are of the opinion that proposed development does not meet this requirement.

### **Unionville Core Secondary Plan**

Section 5.7.2 "Fred Varley Drive Shopping Plaza" of the Secondary Plan states "Council shall encourage initiatives for improvements to or redevelopment of the existing shopping plaza on Fred Varley Drive, which is herein, designated NEIGHBOURHOOD COMMERCIAL CENTRE. In particular, Council shall encourage redevelopment that is more compatible with the historic image of Old Unionville and that provides for appropriate linkages with Station Lane to the south". Staff acknowledge that this policy supports redevelopment of this site and that "more compatible" does not mean "same as", but rather, harmonious or able to exist without conflict or jarring contrast. In this instance, it should be noted that Old Unionville is characterized by 1½ - 2 storey buildings with two 3-storey commercial buildings (with the 3<sup>rd</sup> floor incorporated into mansard roof). Staff note that the preferred height for a building adjacent to the heritage district would be 3 storeys at the street with possibly a recessed 4<sup>th</sup> floor.

Staff suggest that building style should be a product of its time, but reflective of prevalent Unionville historic architecture. The proposal does not meet this objective, as it has no connection to historic Unionville architecture. The building massing presents a large homogeneous façade uncommon to historic Unionville that would benefit from being broken up into smaller blocks or components. The proposal is inconsistent with Section 2.6.3 of the Provincial Policy Statement (Impact on Heritage District), as the heritage attributes of the protected heritage property (the Unionville Heritage Conservation District) are impacted by its extensive massing. Staff are of the opinion that the proposal, with heights of 5 and 4 storeys, is not "more compatible" with the historic image of Old Unionville and would not conform to this requirement of the Secondary Plan.

### **Planned function of "Neighbourhood Commercial" designation**

As noted previously, the subject property is designated "Neighbourhood Commercial" in the Secondary Plan. The planned function of the Neighbourhood Commercial designation is to provide locations for convenience commercial uses that primarily serve the surrounding residential area. Residential uses, subject to a location above the ground floor, are permitted subject to the review of a specific development proposal and rezoning. While the applicant is proposing retail/commercial uses along the Fred Varley frontage, staff are of the opinion that the planned function of the Neighbourhood Commercial designation is compromised by the introduction of primarily high density residential uses at a density of 148 units per hectare (60 units per acre) on the subject lands.

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**Proposal more reflective of “Community Amenity Area” designation**

The proposal, as submitted with a density of 148 units per hectare (60 units per acre), is more reflective of the policies found within the “Community Amenity Area” designation of the Official Plan, which provide for a multi-use, multi-purpose centre offering a diverse range of retail, service, community, institutional and recreational uses serving several nearby residential and/or business area. This designation is also intended to accommodate office development and medium and high density housing at appropriate locations. It should be noted that the applicant has requested that the subject lands be rezoned to an appropriate Community Amenity zone to reflect their proposal.

**Structuring Concept through Facilitated Working Group**

Town Staff built upon the principles identified through the facilitated Working Group sessions and developed a structuring concept which forms the basis of an alternative development option. This structuring concept is based on two key site plan components: an inverted “L” massing of the building and circulation/site access aligned with Fonthill Boulevard. The structuring concept is comprised of the following key elements, which are further illustrated in Appendix A of this report:

- 1) ***Consolidate vehicular access at intersection of Fred Varley Drive and Fonthill Boulevard*** – allowing for a controlled 4-way stop intersection thereby minimizing potential conflicts.
- 2) ***Increased building setback (from Fred Varley Drive) allows for preservation of street trees and improved pedestrian realm*** – allowing for improved unobstructed views for motorists, pedestrians and cyclists, the provision of an enhanced public realm in front of the commercial uses and the preservation of existing street trees.
- 3) ***Enhanced pedestrian link between Eureka Street and Fred Varley Drive*** - site redevelopment would coincide with a formalized pedestrian connection along the west side of the subject property linking Eureka Street to Fred Varley Drive.
- 4) ***Provide generous soft landscape buffer between park and building edge*** - soft landscaping along the east side of the property would act as an extension of park space to the east while helping to collect and absorb rain water and surface run-off. This also provides more flexibility in providing flood protection to the residential uses, as recommended by the TRCA, and enhanced residential amenity.
- 5) ***Building orientation minimizes encroachment on neighbouring residents*** – Primary building facades oriented towards Fred Varley Drive and open space block to the east minimize impacts on neighbouring residents (adequate separation distances to west and south; in the latter case, existing garages help provide additional buffering).

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- 6) ***Parking access located in area least impacted by potential flooding*** - surface parking and location of underground parking area located to the west side of the development away from area most likely impacted by flooding.
  - 7) ***High quality landscape provides visual benefits to both residents and surrounding neighbours*** - building configuration provides opportunity for generous landscaping that will serve to benefit both the project's residents and adjacent properties alike. Better responds to easement constraints along south property line (4.5 m hydro easement with limited opportunities for landscaping).

### **Alternative Development Option**

The structuring concept, as prepared by staff, has evolved into a preferred development option that staff recommend Council endorse for consideration at the OMB hearing. The site plan for this alternative development option, along with schematic commercial and residential floor plans and underground parking layout, is illustrated in Appendix A of this report and is summarized below:

- 3-storey massing across the entirety of the Fred Varley frontage with a 4<sup>th</sup> floor residential component along the east arm of the building with step back at southern extremity;
- Single access vehicular access point at intersection of Fred Varley Drive and Fonthill Boulevard;
- Surface parking accommodates a portion of the required commercial parking: if fully occupied, driver can continue to underground parking access at west side of development;
- Strong retail frontage reinforced by wider pedestrian realm;
- Access to residential units via corner of park block and Fred Varley Drive, as well as from internal drop-off;
- Garbage and other servicing can occur within the internal courtyard;
- Strong soft landscaping elements along west (pedestrian walk), south (buffer) and east sides (private terraces and greening of park edge) of development;
- Least visual impact with respect to neighbouring properties (view buffered by garages of Station Lane townhomes to the south);
- Single level of below grade parking accommodating just under 150 parking spaces;
- Total Gross Floor Area of 8,690 m<sup>2</sup> (93,541 ft<sup>2</sup>), FSI of 1.14, and total of 67 residential units and a corresponding residential density of 88 units per hectare (35.8 units per acre).

Staff are of the opinion that a development option based on a structuring concept of an inverted "L" massing of the building and circulation/site access aligned with Fonthill Boulevard and reduced height reflects a more sensitive approach to the redevelopment of this site, is more consistent with the policy framework and preferable based on the following reasons:

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- Better relationship to low-density residential neighbouring community with transition in height from west to east;
  - Building oriented to the north and east resulting in less visual impacts/privacy issues with residential uses to the south and west;
  - Reduced overlook into residential properties to the west and south and provides for enhanced buffers and landscaping opportunities;
  - Increased front yard setback allowing for improved pedestrian realm, enhanced landscaping opportunities and preservation of majority of existing street trees, and greater compatibility with properties to the west;
  - Increased east side yard setback in keeping with the TRCA's requirements;
  - Site circulation is internal to the site and is visually hidden from Fred Varley frontage;
  - Location to underground parking, surface retail parking, location of servicing and loading, and residential pick-up/drop-off are distributed over larger area;
  - Vehicular access consolidated at intersection of Fred Varley Drive and Fonthill Boulevard enhancing vehicular and pedestrian safety.
  - Additional surface parking spaces provided for retail/commercial uses;
  - Smaller building footprint allowing for increased landscape and buffer opportunities.

**CONCLUSION:**

Some development may be accommodated within an SPA, and the Official Plan and Secondary Plan provide guidance as to the appropriate character and scale of redevelopment in an area context. The PPS requires that development on SPA sites demonstrate safe access, which is appropriate for the nature of the proposed development and natural hazard. In this regard, TRCA staff have indicated the proposal as submitted represents a significant increase in population and potential risk to property and life, without a satisfactory evacuation plan or safe ingress and egress routes from the site during emergencies and flood events. From a TRCA perspective, reducing the number of units would further mitigate the level of risk on this site.

The Town's intensification hierarchy establishes an overall context for residential and employment intensification by allotting density in a hierarchical manner to: i) Regional Centres (highest intensity of development), ii) Key Development Areas, iii) Major Corridors, and iv) Local Centres and Corridors. The subject lands are not situated within any of these identified intensification areas. Staff are of the opinion there are more appropriate intensification sites within the Town to achieve the Town's growth objectives.

While the introduction of residential uses on the site is provided for in Section 3.4.6.3 c) of the Neighbourhood Commercial policies in the Town's Official Plan, the applicant is proposing a net site density of 148 units per hectare (60 units per acre), comparable with densities permitted within the High Density II Housing Category of the Town's Official Plan. This density is not compatible and consistent with surrounding low-density

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residential development, the local heritage context or the planned function of the Neighbourhood Commercial designation. In this context, the size and scale of any new development is to be governed largely by built form compatibility with neighboring low density residential, as well as within the context of the adjacent Unionville Heritage Conservation District. Section 3.4.6.3. d) i) Development Requirements of the Neighbourhood Commercial policies stipulates that “scale, massing, and siting of development shall be compatible and consistent with development on adjoining lands”.

The central issues at dispute with this proposal are height, density, number of residential units and massing. The proposed high density development with 113 residential units at 5 and 4 storeys and an FSI of 1.93 is not compatible and consistent in scale, massing and siting with development on adjacent lands, which is comprised primarily of low-density residential uses, as contemplated in the Official Plan nor is it more compatible with the historic image of Old Unionville as contemplated in the Secondary Plan. Therefore, the Zoning By-law Amendment application should be refused. In addition, staff are of the opinion that the development, as currently proposed, does not meet the intent of the Official Plan and Secondary Plan and therefore, would require an Official Plan Amendment.

Accordingly, staff recommend that the Zoning By-law Amendment application to amend Zoning By-law 122-72, as amended, to permit a mixed-use commercial-residential building at 20 Fred Varley Drive, be denied. Further, staff recommend that Council endorse the alternative development option for staff to present at the OMB hearing.

#### **FINANCIAL CONSIDERATIONS:**

To date, the Town retained and paid for the services of a Professional Planner, Mr. John Gladki, who facilitated four Working Group sessions; a third party Transportation & Traffic Consultant, Mr. Nick Poulos, who peer-reviewed the traffic impact study submitted by the applicant; as well as a solicitor, Mr. Bruce Ketcheson, who is representing the Town in the OMB proceedings.

#### **HUMAN RESOURCES CONSIDERATIONS**

Very significant staff resources have been applied to the file to date. Staff have attended a total of 4 Working Group meetings; one post Working Group meeting; several meetings with the applicant, external agencies, consultants, and the Mayor and members of Council; the pre-hearing conference held on March 22, 2012 and the OMB mediation session held on June 13, 2012. Planning and Urban Design staff have also dedicated significant effort in reviewing the proposal, consulting and preparing the emerging principles and the alternative development option.

#### **ALIGNMENT WITH STRATEGIC PRIORITIES:**

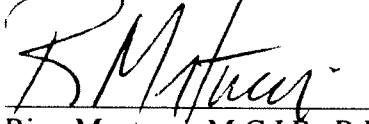
Not applicable.

#### **BUSINESS UNITS CONSULTED AND AFFECTED:**

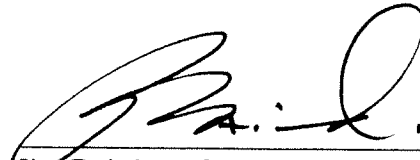
The application has been circulated to various Town departments and external agencies whose comments have been incorporated into this report.

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**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: Unionville Heritage Conservation District
- Figure 5: Site Plan (Original)
- Figure 6: Site Plan (Revised)

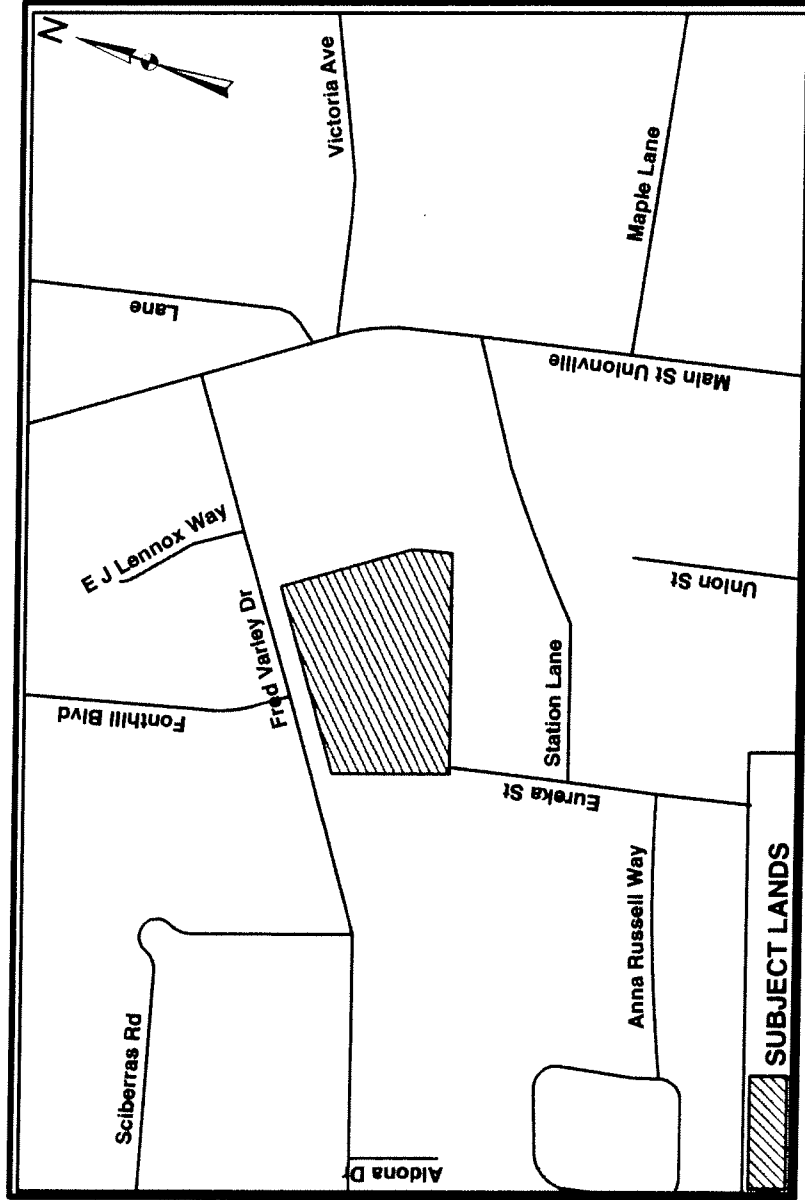
Appendix A: Urban Design Principles and Alternative Development Option

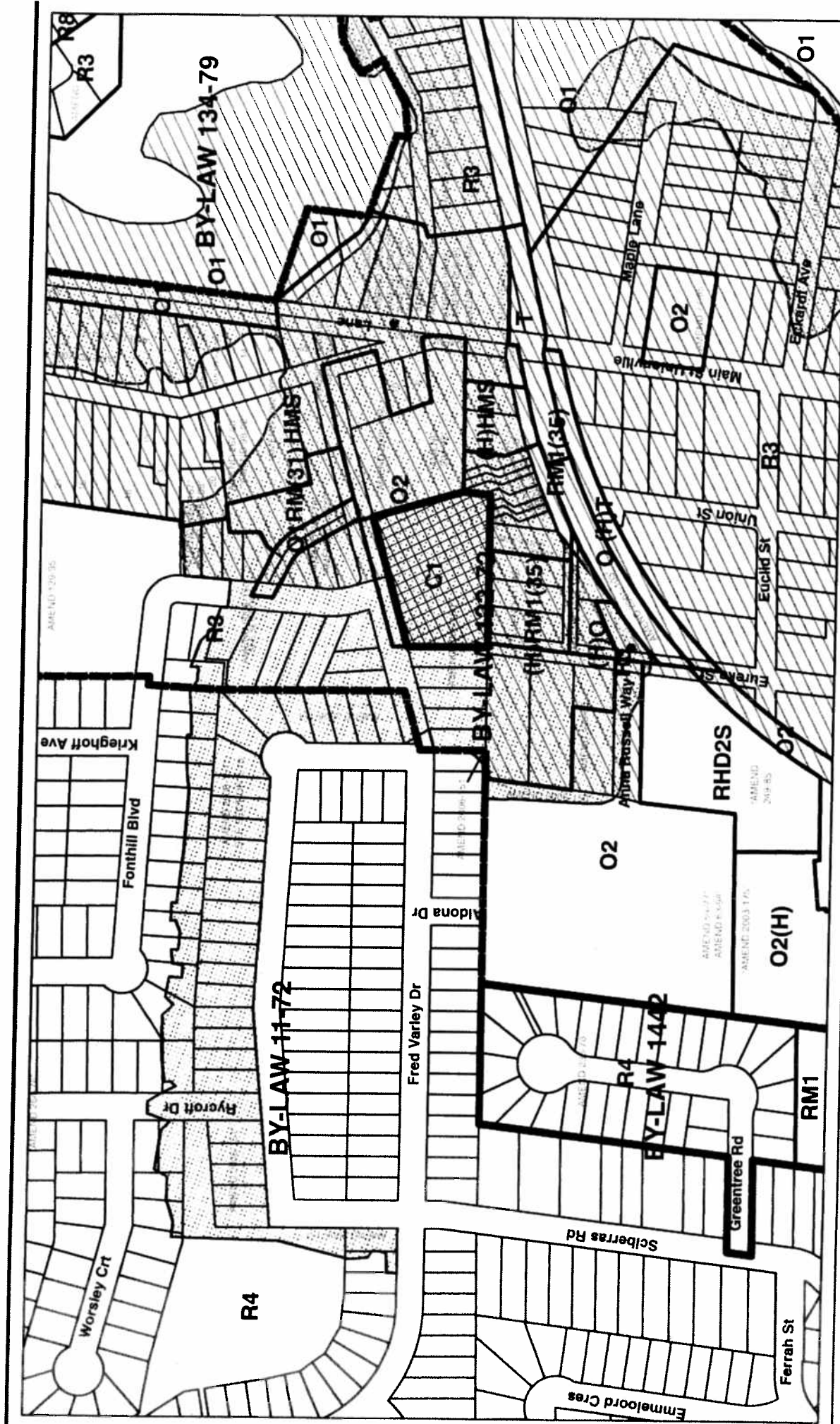
**AGENT:**

Ms. Maria Gatzios/Mr. Jeff Greene  
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Tel: (905) 475-9191  
Fax: (905) 475-8346

File path: Amanda\File 11 113101\Documents\Recommendation Report




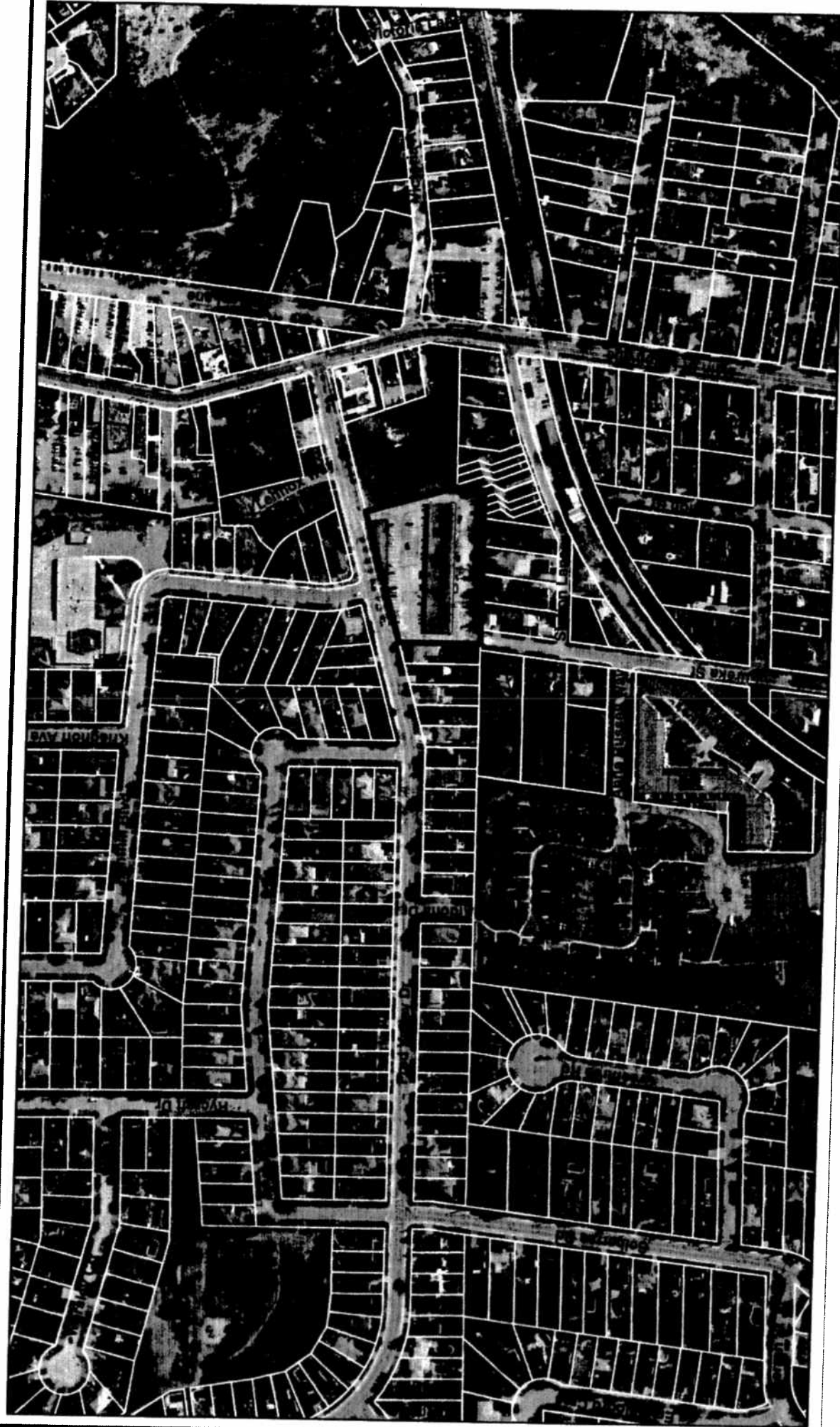


# AREA CONTEXT / ZONING

APPLICANT: TRIBUTE (UNIONVILLE) LIMITED  
20 FRED VARLEY DRIVE

FILE No. ZA. 11113101 (SB)

 SUBJECT LANDS



# AIR PHOTO (2011)

APPLICANT: TRIBUTE (UNIONVILLE) LIMITED  
20 FRED VARLEY DRIVE

FILE No. ZA. 11113101 (SB)

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**MARKHAM** DEVELOPMENT SERVICES COMMISSION

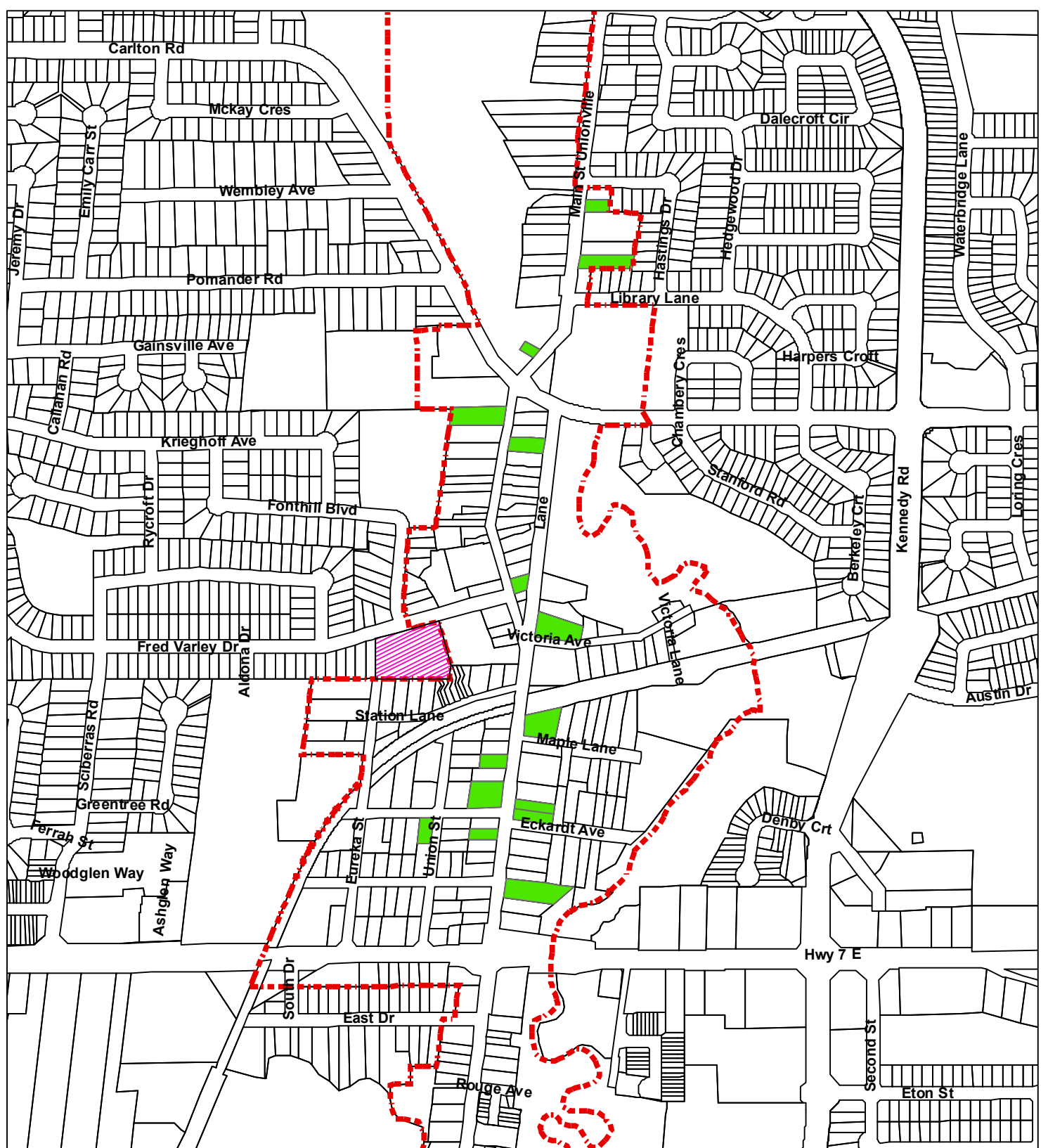
 SUBJECT LANDS

Drawn By: CPW

Checked By: SB

DATE: 05/14/2012

FIGURE No.3



# UNIONVILLE HERITAGE CONSERVATION DISTRICT

APPLICANT: TRIBUTE (UNIONVILLE) LIMITED  
20 FRED VARLEY DRIVE

FILE No. ZA. 11113101 (SB)

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- DISTRICT BOUDARY
- ONTARIO HERITAGE INDIVIDUALLY DESIGNATED PROPERTIES
- SUBJECT LANDS

DATE: 05/14/2012



DEVELOPMENT SERVICES COMMISSION

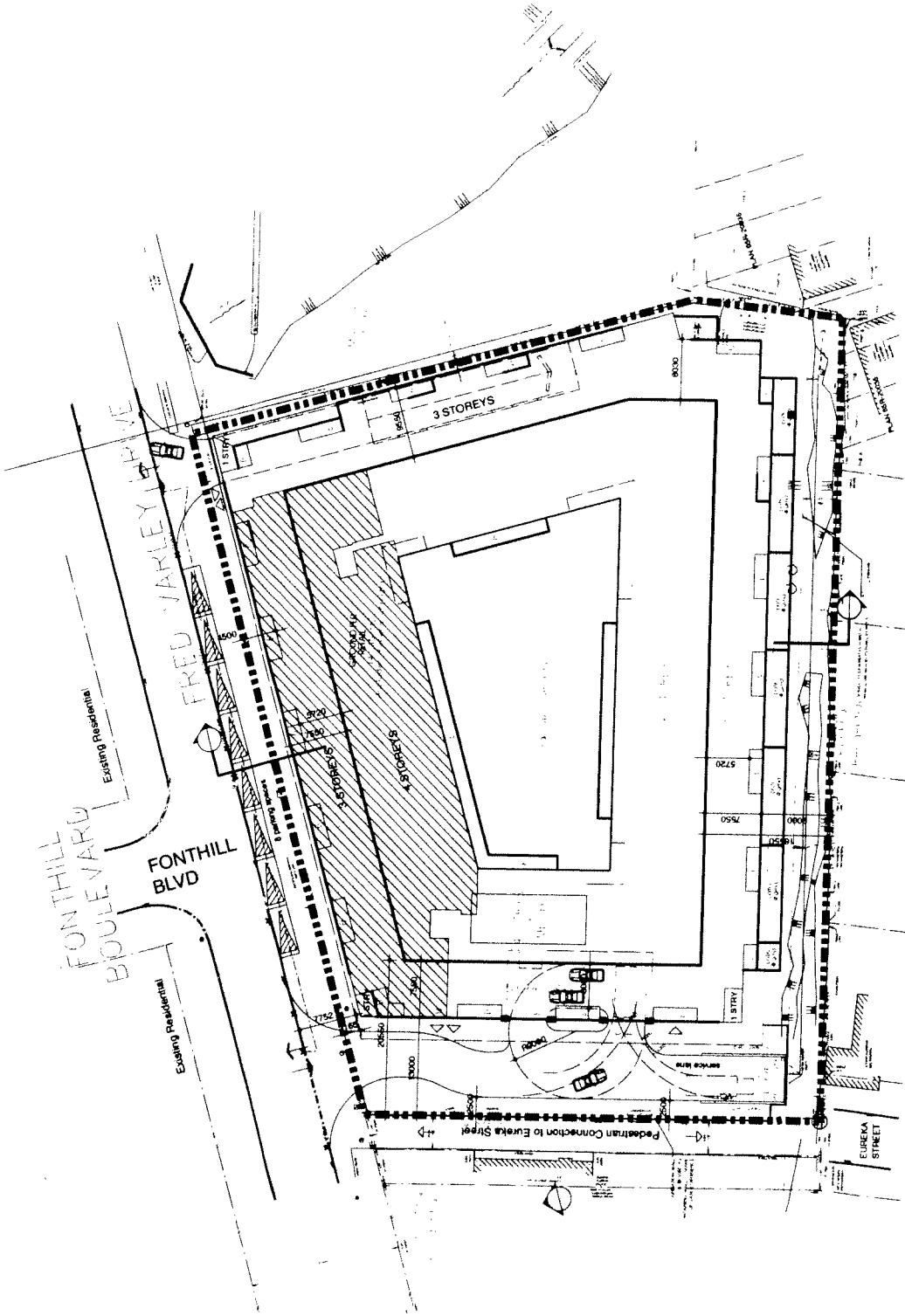
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Checked By: SB

FIGURE No.4



**FIGURE No.5**



# SITE PLAN (REVISED)

APPLICANT: TRIBUTE (UNIONVILLE) LIMITED  
20 FRED VARLEY DRIVE

FILE No. ZA. 11113101 (SB)