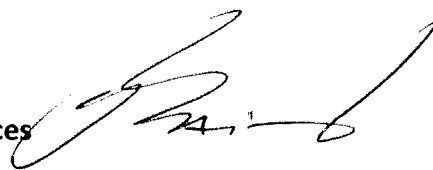




## MEMORANDUM

**TO:** Mayor and Members of Council

**FROM:** Jim Baird, Commissioner of Development Services 

**PREPARED BY:** Anna Henriques, Planner – Central District

**DATE:** February 8, 2011

**SUBJECT:** Update on proposed Zoning By-law amendments for the Hughson Drive, Lunar Crescent, Ankara Court, Polaris Drive & Athens Drive (west end) Study Area.

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### **PURPOSE:**

The purpose of this memorandum is to provide an update on the proposed Zoning By-law amendments for the Hughson Drive, Lunar Crescent, Ankara Court, Polaris Drive & Athens Drive (west end) Study Area, as discussed at the Development Services Committee meeting on Tuesday, February 1<sup>st</sup>, 2011.

### **BACKGROUND:**

#### **The Study Area**

The Hughson Drive, Lunar Crescent, Ankara Court, Polaris Drive and west end of Athens Drive study area (the “study area”), is a single detached residential neighbourhood located north of Highway 7 and east of Woodbine Avenue. The study area is characterized by large lots, generous setbacks, openness and mature trees. The area has remained relatively stable since its development in the 1950s and severances have not occurred within this neighbourhood, with the exception of 10 Hughson Drive.

#### **Severance and minor variance applications submitted for 10 Hughson Drive in 2009**

In December, 2009, the owner of 10 Hughson Drive submitted applications for severance and minor variance. The applicant was seeking to sever the existing 30.48m (100 ft) lot into two (2) 15.24m (50ft) lots. Minor variances were also requested to reduce the side yard setbacks from 3m (10ft) to 1.5m (5ft), to accommodate the proposed two (2) new single detached dwellings. These applications were denied by the Committee of Adjustment on February 17, 2010.

### **Interim Control By-law**

On February 9, 2010 Council passed an interim control by-law (2010-6) for the Study Area, and directed a study to be undertaken to review the land use policies and zoning standards as they relate to new residential development, redevelopment and severances. Meridian Planning Consultants were retained to undertake the study and have proposed new land use and development regulations for residential properties within the study area. The interim control by-law (2010-6) expires on February 9, 2011.

### **Severance, minor variance applications and Interim Control By-law appealed**

Subsequent to the adoption of the interim control by-law and the denial of the severance and minor variance applications, the owner of 10 Hughson Drive appealed these matters to the Ontario Municipal Board (OMB).

### **Final Recommendations of Land Use Study, June 2010**

The recommendations made by Meridian Planning Consultants include introducing new development standards for the area that are more modern and consistent with infill By-law standards applied elsewhere in the Town. The introduction of the proposed new zone standards will also help maintain and protect the unique character of the neighbourhood. Specifically, the Study recommends maintaining the existing lot fabric of the neighbourhood while providing standards for appropriate development and redevelopment on existing lots.

### **Public Meeting held November 2, 2010**

A statutory Public Meeting was held on November 2, 2010 to consider the proposed new development standards for the area. The Development Services Committee endorsed the staff recommendation to introduce new development standards for the neighbourhood and requested that staff address some concerns raised by area residents.

### **OMB decision issued August 13, 2010**

The OMB ruled in favour of the owner of 10 Hughson Drive and granted the severance and associated minor variance for reduced side yard setbacks of 1.5 metres (5 feet), in order to accommodate the proposed new dwellings. In addition, the Board deleted 10 Hughson Drive from the interim control by-law. The site plans submitted in conjunction with the severance application indicate a rear yard setback of approximately 18 metres, a front yard setback of approximately 10 metres and a ground floor area (building footprint) of approximately 207 square metres (2,228 square feet) for both proposed new dwellings. Although the owner did not provide renderings or elevations of the proposed new dwellings, they did provide photos to the Board of two dwellings in the community that they indicated were representative of what they desired to build. These photos are attached to this memo as Appendix 'A' and demonstrate two (2) similar, two (2) storey dwellings with double car garages.

### **Building permit issued in November 2010 for one new dwelling at 10 Hughson Drive**

The building permit drawings issued for the proposed new dwelling at 10 Hughson Drive are generally consistent with the plans submitted as part of the consent application and presented at the Board. The site plan demonstrates a two storey dwelling with a front yard setback of 9.1

metres, a west side yard setback of 1.5 metres, an east side yard setback of 16.8 metres (to accommodate future second dwelling once severance is complete), a rear yard setback of 14.9 metres and a ground floor area of 239.5 square metres (2,578.5 square feet). Furthermore, the elevation drawings and grading plans approved for the building permit indicate a two storey dwelling height of approximately 11.8 metres, measured from the crown of the road to the highest point of the roof. This method used for calculating height (from crown of road to the highest point of the roof) is consistent with the proposed by-law amendment for the area. The building permit (HP 10 128137) was issued in conformity with the provisions of By-law 1507, as amended, and the OMB decision.

#### **Staff recommendation report considered at Development Services Committee, February 2011**

Staff prepared a recommendation report and draft zoning by-laws for consideration of the Development Services Committee at its meeting on February 1<sup>st</sup>, 2011. The draft zoning by-laws incorporated the recommendations of Meridian Planning Consultants for the study area, as well as, minor revisions to address the concerns of residents' raised at the Public Meeting on November 2, 2010.

The Committee endorsed staff's recommendation to bring the proposed by-law amendments forward to Council for enactment. However, comments were raised by the Development Services Committee relating to the expiry of the interim control by-law and proposed development standards for 10 Hughson Drive. These comments, including staff's response, are discussed in detail below.

#### **DISCUSSION**

##### **Interim control by-law expires February 9, 2011**

The Development Services Committee raised some concerns with respect to the potential of the proposed new by-law, incorporating the recommended development standards for the study area, being appealed after the interim control by-law has expired. Notwithstanding that the proposed new by-law would be adopted by Council prior to the expiry of the interim control by-law, it is possible that the new by-law may be appealed within the 20 day appeal period following Council's adoption and will not come into full force and effect, until such appeal is heard by the Board. To address this concern, staff have prepared a by-law (attached as Appendix 'B') to extend the interim control by-law 2010-6 for a maximum of one (1) year, until by-law amendments to By-law 1507, as amended and 221-81, as amended, come into full force and effect.

Staff note that the by-law to extend interim control by-law 2010-6 does not apply to the following properties:

- **3130 and 3150 Highway 7 East** – these commercial properties are located at the northeast corner of Highway 7 and Lunar Crescent. Although these properties were part of the study area, the study and associated recommendations of the study pertained only to residential properties within the study area. Therefore, these

properties should not be subject to the extension of the interim control by-law.

- **10 Hughson Drive** – the OMB, in its decision issued August 13, 2010, ordered that this property be deleted from Schedule 'A' of interim control by-law 2010-6. Based on the Board's decision, this property should not be subject to the proposed extension to the by-law.
- **38 Hughson Drive** – the OMB, in its decision issued August 13, 2010, removed the interim control by-law's application to this property in order to permit the construction of an addition to the residence on the property. Accordingly, this property has also been excluded from the extension of the interim control by-law.

#### **Proposed development standards for 10 Hughson Drive**

The draft zoning by-law amendment, implementing new development standards for the study area, considered by the Development Services Committee on February 1<sup>st</sup>, 2011, incorporated a site specific exception for development standards at 10 Hughson Drive. The proposed site specific exception reflected the OMB's decision with respect to the severance and reduced side yard setback of 1.5 metres (5 feet) for the proposed new dwellings. The exception also proposed development standards similar to those found in By-law 1507, as amended, and introduced a height restriction of 13 metres which staff was trying to negotiate with the owner.

On February 1<sup>st</sup>, 2011, the Committee raised concerns with respect to achieving consistency between the development standards proposed in the by-law exception for 10 Hughson Drive, and those proposed for the balance of the neighbourhood. Committee expressed concern with 10 Hughson Drive having limited development standards and suggested that the new development standards for the area apply to 10 Hughson Drive, provided they were not inconsistent with the OMB's decision. As a result, staff have reviewed the proposed new zoning standards against the building permit drawings issued for the new dwelling at 10 Hughson Drive. Staff have determined that the dwelling under construction at 10 Hughson Drive does comply with the following provisions of the proposed by-law:

#### **Proposed By-law Provisions**

#### **10 Hughson Drive**

Minimum Rear Yard Setback – 10 m	14.9 m
Minimum Front Yard Setback – 9 m (consistent with By-law 1507, as amended)	9.1 m
Maximum Garage Projection – 2.1 m from main building wall	0.46 m
Maximum number of storeys – 2 within a single vertical plane	2 storeys within a single vertical plane

The following provisions of the proposed by-law do not comply:

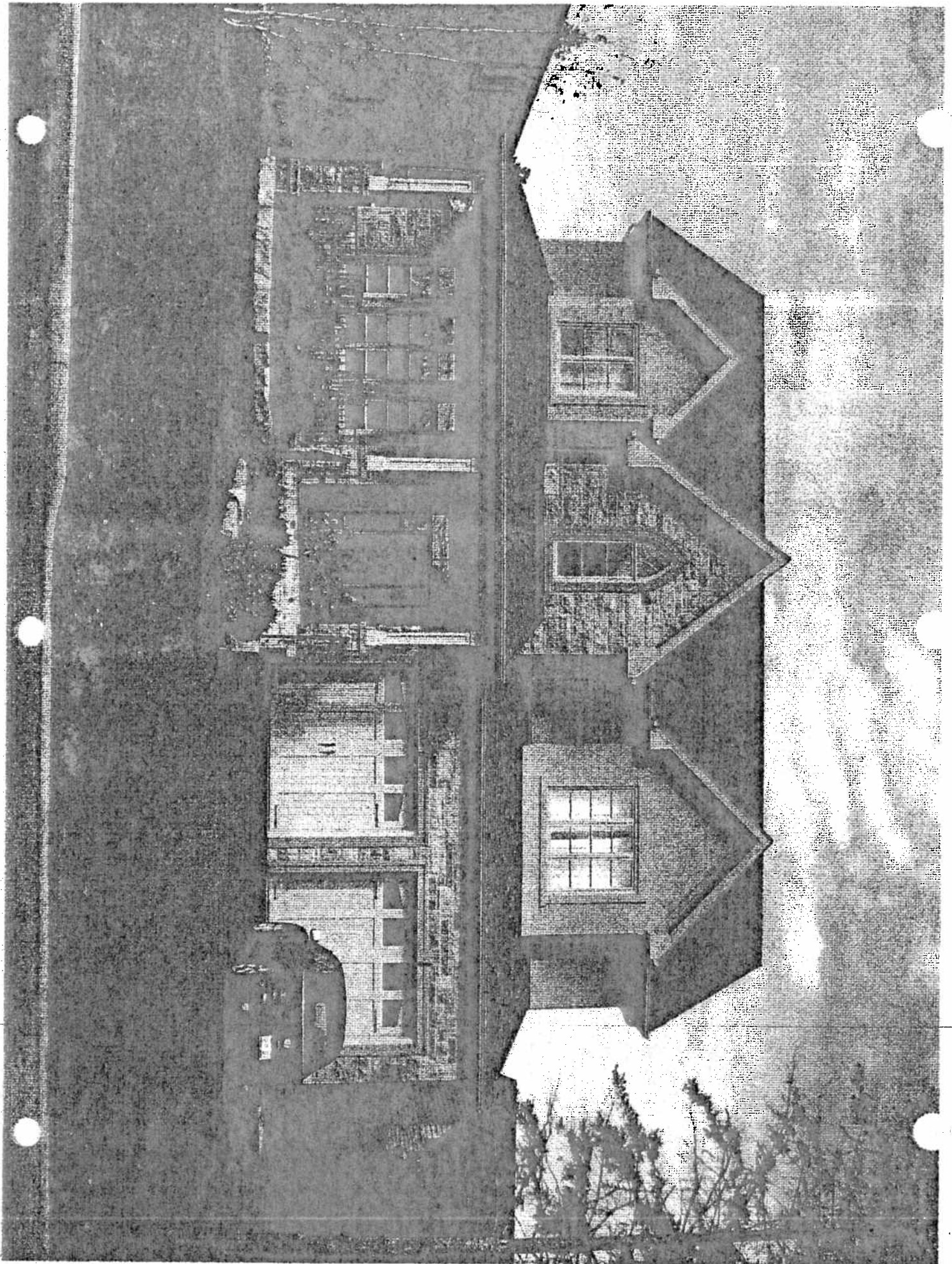
<b>Proposed By-law Provisions</b>	<b>10 Hughson Drive</b>
<u>Maximum Height</u> – 9.8m	11.8 m
<u>Maximum height within 4.8 m of side lot line</u> – 4.5 m and 1 storey	11.8 m and 2 storey
<u>Maximum building depth</u> –  16.8 m except that the depth may be increased to 18.9 m by rear extension provided extension does not exceed 1 storey, 4.6 m height and is not wider than one half (1/2) the width of the DWELLING at its widest point	18.3 m, 2 storey, 11.8 m height and entire width of dwelling

Consequently, exceptions to the proposed by-law provisions with respect to height, building depth and maximum height within 4.8 metres of the side lot line have been incorporated within the proposed by-law amendment for 10 Hughson Drive.

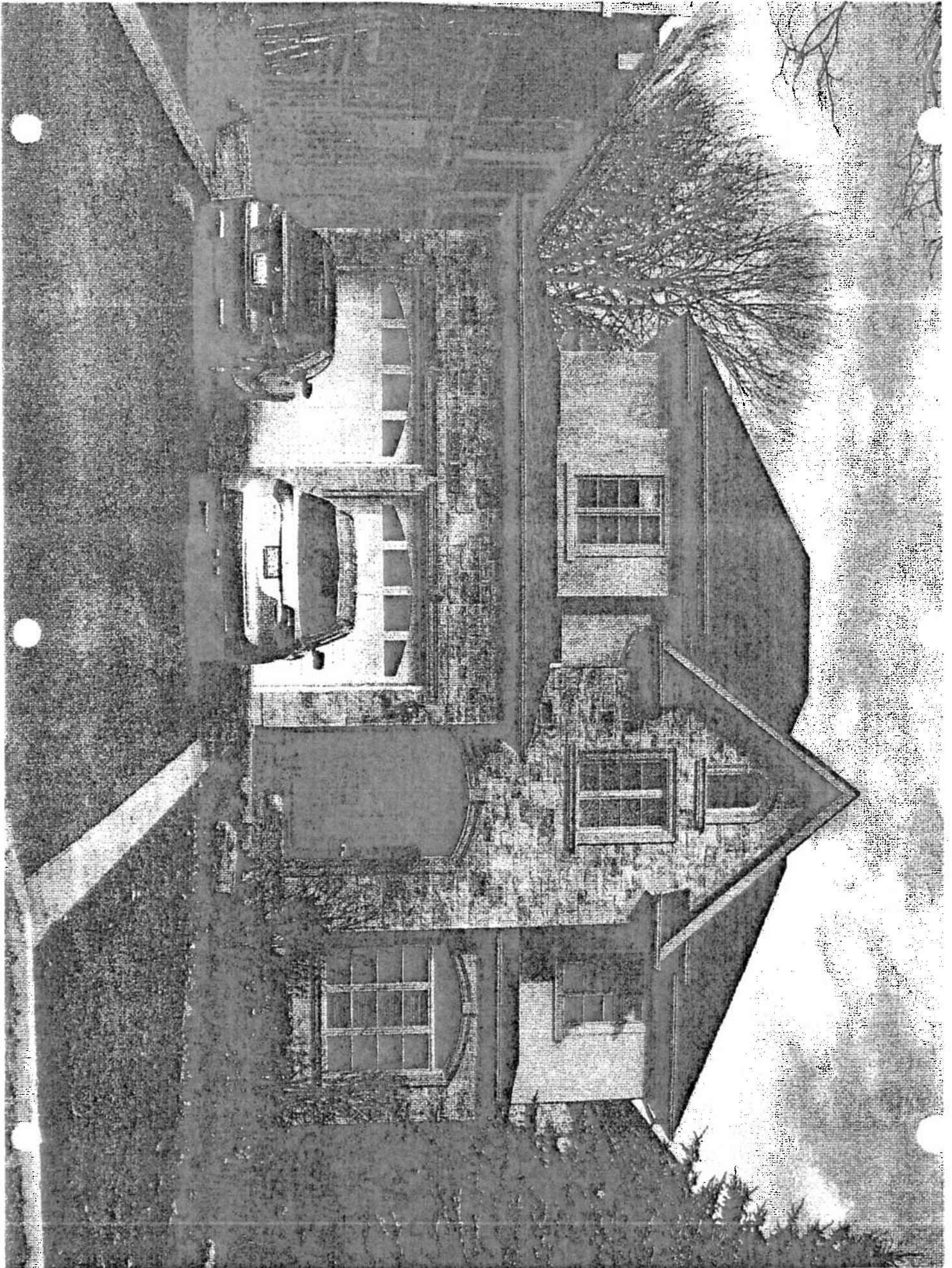
## **CONCLUSION**

Based on the review of the building permit and the plans and photos presented in conjunction with the severance applications and Board hearing, additional development standards recommended for the study area could be considered for 10 Hughson Drive. For example, the dwelling under construction complies with the minimum rear yard, maximum garage projection and maximum number of storeys proposed for the study area. In addition, photos were presented at the Board hearing to illustrate what the owner desired to build on the proposed new lots. These photos (attached as Appendix 'A') depict two very similar, two (2) storey dwellings. The dwelling under construction is approximately 11.8 metres in height, based on the definition of height in the proposed new by-law for the area. A maximum 13 metre height restriction will allow the owner to build a similar dwelling on the adjacent lot, once the severance is finalized, consistent with the materials provided by the owner at the Board hearing.

Staff note that the Board did not consider any other matters relating to 10 Hughson Drive other than the requested severance and associated reduction in side yard setbacks. Given that the Town has undertaken a recent land use study of the area with resultant recommended development standards for the area, consistent with the approach taken in other communities, revisions to the draft by-law as they relate to 10 Hughson Drive and as discussed in this memo, have been incorporated into a revised draft by-law which is attached as Appendix 'D' to this memo.









## APPENDIX B

### EXPLANATORY NOTE

#### BY-LAW NO: 2011-XX

A By-law to amend By-law 2010-6, as amended.

#### Land Use Study

Hughson Drive, Lunar Crescent, Ankara Court, Polaris Drive and Athens Drive (west end).

#### LANDS AFFECTED

This By-law applies to all residential properties on Hughson Drive, Lunar Crescent, Ankara Court, Polaris Drive and west end of Athens Drive (2 properties), as outlined on Schedule 'A'. This area is located north of Highway 7 and east of Woodbine Avenue. This By-law does not apply to 3130 Highway 7, 3150 Highway 7, 10 Hughson Drive and 38 Hughson Drive.

#### PURPOSE OF THE BY-LAW

The purpose of this By-law is to extend Interim Control By-law 2010-6 for a maximum of one (1) year until by-law amendments to By-law 1507, as amended, and 221-81, as amended, incorporating the lands within By-law 221-81, as amended, introducing new development standards for the area, is adopted by Council and comes into full force and effect.

#### EFFECT OF THE BY-LAW

The effect of the By-law is to prohibit development in the area until an amending By-law with new development standards for the area is adopted by Council and comes into full force and effect. This By-law exempts certain minor alterations, repairs and additions to existing buildings.

## **BY-LAW 2011 – XXX**

Extension of Interim Control By-law pursuant to Section 38 of the Planning Act, R.S.O, c. P.13, as amended

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WHEREAS Section 38 of the Planning Act, R.S.O. 1990. C. P.13, as amended provides that the Council of a municipality may amend an interim control by-law to extend the period of time during which it will be in effect, provided the total period of time does not exceed two years from the date of the passing of the interim control by-law;

AND WHEREAS the Council of The Corporation of the Town of Markham adopted Interim Control By-law 2010-6 on February 9, 2010, and the said by-law shall be in effect until February 9, 2011;

AND WHEREAS Council of the Corporation of the Town of Markham by resolution dated February 8, 2011, has directed that Interim Control By-law 2010-6 be extended for a period of a maximum of one (1) year until By-law amendments to By-law 1507, as amended and 221-81, as amended, incorporating the lands within By-law 221-81, as amended and introducing new development standards for the area, is adopted by Council and comes into full force and effect;

THE COUNCIL OF THE CORPORATION OF THE TOWN OF MARKHAM HEREBY ENACTS AS FOLLOWS:

1. By-law 2010-6 is hereby amended by extending the period of time during which By-law 2010-6 will be in effect from February 9, 2011 to February 9, 2012.
2. Schedule 'A' to By-law 2010-6 is hereby amended by deleting therefrom the following properties; 3130 Highway 7, 3150 Highway 7, 10 Hughson Drive and 38 Hughson Drive, as outlined on Schedule 'A' attached.
3. All other provisions of By-law 2010-6, as amended, that are not inconsistent with the provisions of this By-law shall continue to apply.

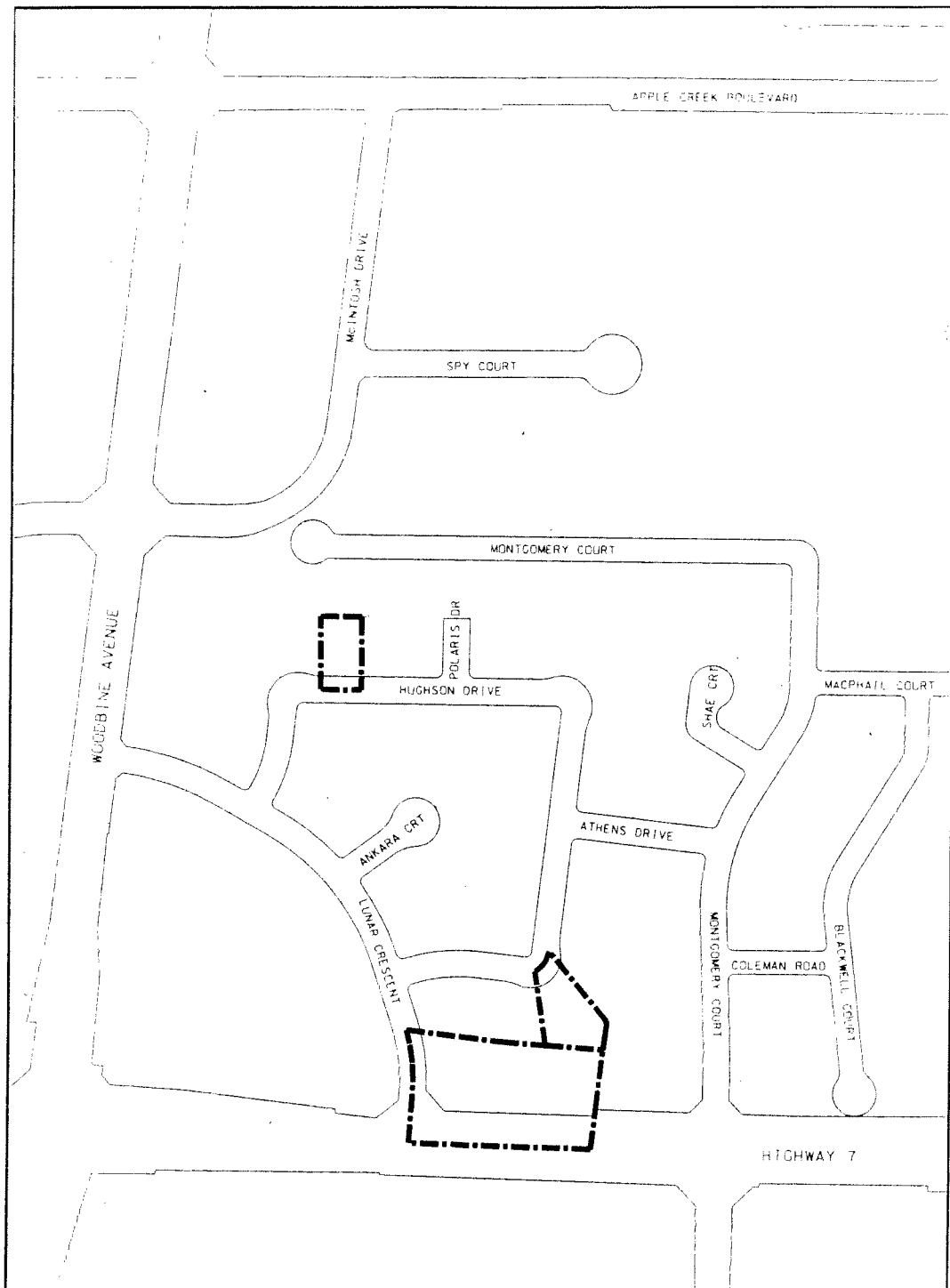
READ A FIRST, SECOND AND THIRD TIME AND PASSED ON THIS 8<sup>TH</sup> DAY OF FEBRUARY, 2011.

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KIMBERLEY KITTERINGHAM  
TOWN CLERK

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FRANK SCARPITTI  
MAYOR



DEVELOPMENT SERVICES COMMISSION

# INTERIM CONTROL BY-LAW A BY-LAW TO AMEND BY-LAW 2010-6

--- BOUNDARY OF AREAS NOT SUBJECT TO BY-LAW 2010-6

THIS IS SCHEDULE 'A' TO BY-LAW  
PASSED THIS DAY 2011

MAYOR

NOTE 1) DIMENSIONS ARE IN METRES  
2) REFERENCE SHOULD BE MADE TO  
THE ORIGINAL BY-LAW LODGED IN  
THE OFFICE OF THE CLERK

CLERK

SCALE 1: 4000

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## **APPENDIX C**

### **EXPLANATORY NOTE:**

By-law No. 2011-XXXX

A By-law to amend By-law 1507, as amended.

Land Use Study

Hughson Drive, Lunar Crescent, Ankara Court, Polaris Drive and west end of Athens Drive

### **LANDS AFFECTED**

The proposed zoning by-law amendment applies to the Hughson Drive, Lunar Crescent, Ankara Court, Polaris Drive and Athens Drive (west end). The homes on these streets are single detached residential and they are located north of Highway 7, east of Woodbine Avenue.

### **EXISTING ZONING**

The lands are zoned in By-law 1507, as amended.

### **PURPOSE AND EFFECT**

The purpose and effect of this By-law amendment is to delete the subject lands from By-law 1507, as amended. The lands will be incorporated within the area of By-law 221-81, as amended, with appropriate zone standards, as recommended by the Land Use Study dated June 2, 2010, prepared by Meridian Planning Consultants.

## **BY-LAW 2011-XXXX**

A by-law to amend By-law 1507, as amended.  
(To delete lands from the designated area of this By-law)

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THE COUNCIL OF THE CORPORATION OF THE TOWN OF MARKHAM HEREBY ENACTS AS FOLLOWS:

1. By-law 1507, as amended, is hereby further amended by deleting lands identified as Part of Lot 11, Concession 4, lots 1-46 inclusive, as shown on Schedule 'A' attached hereto, from the designated area of By-law 1507, as amended.
2. This By-law shall not come into effect until By-law 2011-XXXX amending By-law 221-81, as amended, comes into effect and the lands, as shown on Schedule 'A' attached hereto, are incorporated into the designated area of By-law 221-81, as amended.
3. All other provisions of By-law 1507, as amended, not inconsistent with the provisions of this By-law shall continue to apply.

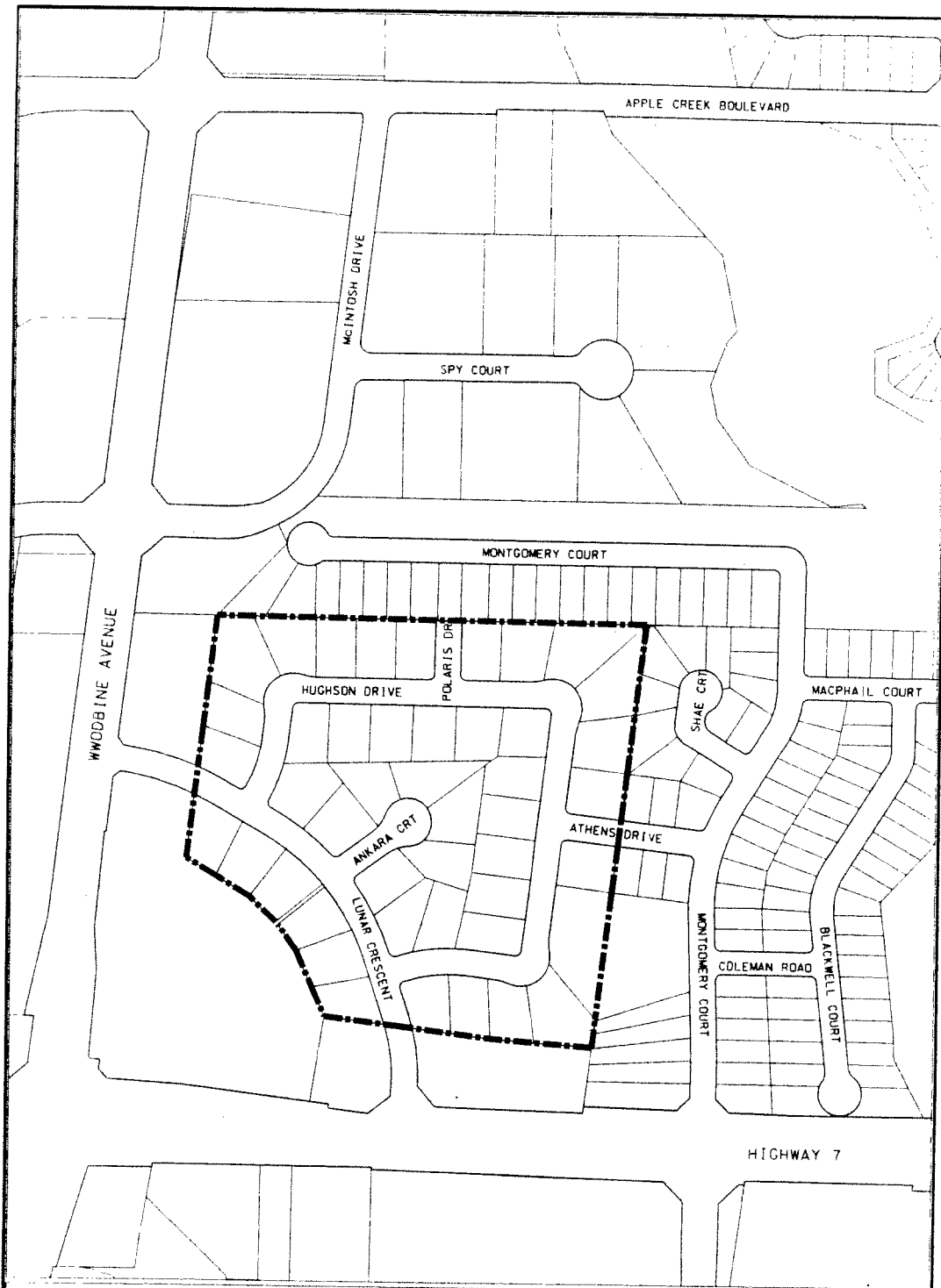
READ A FIRST, SECOND AND THIRD TIME AND PASSED THIS XX<sup>TH</sup> DAY OF XXXXXX, 2011.

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KIMBERLEY KITTINGHAM  
TOWN CLERK

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FRANK SCRAPITTI  
MAYOR



DEVELOPMENT SERVICES COMMISSION

# A BY-LAW TO AMEND BY-LAW 1507



BOUNDARY OF AREA COVERED BY THIS BY-LAW

THIS IS SCHEDULE 'A' TO BY-LAW .....  
PASSED THIS ..... DAY .....

..... MAYOR

..... CLERK

NOTE: 1) DIMENSIONS ARE IN METRES  
2) REFERENCE SHOULD BE MADE TO  
THE ORIGINAL BY-LAW LODGED IN  
THE OFFICE OF THE CLERK

SCALE 1: 4000

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## APPENDIX D

### EXPLANATORY NOTE

#### BY-LAW NO. XXXXX

A by-law to amend By-law 221-81, as amended.

#### Land Use Study

Hughson Drive, Lunar Crescent, Ankara Court, Polaris Drive and west end of Athens Drive

#### LANDS AFFECTED

The proposed by-law amendment applies to the Hughson Drive, Lunar Crescent, Ankara Court, Polaris Drive and Athens Drive (west end). The homes on these streets are single detached residential and they are located north of Highway 7, east of Woodbine Avenue.

#### EXISTING ZONING

The lands are zoned in By-law 1507, as amended.

#### PURPOSE OF BY-LAW

The purpose of the by-law amendment is to implement the recommendations in the Land Use Planning Report dated June 2, 2010, prepared by Meridian Planning Consultants, for the Hughson Drive, Lunar Crescent, Ankara Court, Polaris Drive and Athens Drive (west end) Study Area.

#### EFFECT OF THE BY-LAW AMENDMENT

The effect of the By-law amendment will be to introduce new zoning standards that are consistent with those applied to similar neighbourhoods in Markham and to help maintain the existing character of the study area.

# BY-LAW 2011-XXXX

A by-law to amend By-law 221-81, as amended.

THE COUNCIL OF THE CORPORATION OF THE TOWN OF MARKHAM HEREBY ENACTS AS FOLLOWS:

1. That By-law 221-81, as amended, be and the same is hereby further amended as follows:

1.1 By re-zoning the lands shown on Schedule 'A' attached hereto, to Single Family Residential – Third Density (R3).

1.2 By adding to section 3, the following new subsection:

“3.4 Where a Zone symbol on the attached schedule(s) is followed by one or more numbers following the asterisk (\*) symbol, such as R3\*2, the numbers following the asterisk (\*) symbol refers to the subsections in Section 7 – Exceptions of this By-law that apply to the lands noted.”

1.3 By adding to Section 7 – Exceptions the following new subsection:

“7.2 Notwithstanding any other provisions of this By-law, the provisions in this Section shall apply to Part of Lot 11, Concession 4, lots 1- 46 inclusive on Plan 4556, denoted by the symbol \*2 on the Schedules attached to this By-law. All other provisions of this By-law, unless specifically modified/amended by this section, continue to apply to the lands subject to this Section.”

**7.2.1 For the purpose of this exception, the following definitions shall apply:**

- (i) HEIGHT means the vertical distance of a building or structure measured between the level of the crown (i.e. high point) of the street at the mid-point of the FRONT LOT LINE, and;
  - (a) The highest point of the roof surface or the parapet, whichever is the greater, of a flat roof, or
  - (b) The highest point of the ridge of a gable, hip, gambrel or other type of pitched roof.

Notwithstanding (a) or (b) above, any ornamental roof construction features including towers, steeples or cupolas, and any mechanical features including skylights, vents or chimneys, shall be

disregarded, provided such features do not project more than two (2) metres above the highest point of the building.

- (ii) DEPTH means the shortest distance between two lines, both parallel to the FRONT LOT LINE, one passing through the point on the DWELLING which is nearest and the other through the point on the DWELLING which is the farthest from the FRONT LOT LINE.
- (iii) STOREY means the portion of a DWELLING, other than a CELLAR or an unfinished attic, located between the surface of any floor and the surface of the floor or roof above, and shall include a BASEMENT.
- (iv) BASEMENT means that portion of a DWELLING, between two (2) floor levels, which is located partly underground and which has more than one-half (1/2) of its height from floor to underside of floor joists of the STOREY next above, above the ESTABLISHED GRADE.
- (v) CELLAR means that portion of a DWELLING, between two (2) floor levels, which is located partly or entirely underground and which has more than one-half (1/2) of its height from floor to underside of floor joists of the STOREY next above, below the ESTABLISHED GRADE.
- (vi) ESTABLISHED GRADE means the finished surface elevation at the outside front walls of a building or structure, which is arrived at by taking the arithmetic means of the levels of the finished ground surface at every location of change of grade at those outside front walls of the building or structure.

#### **7.2.2 Development Standards**

- (i) Minimum required FRONT YARD – 9 metres
- (ii) Minimum SIDE YARD – 3 metres and in addition, the sum of the widths of both SIDE YARDS shall not be less than 30% of the LOT FRONTAGE
- (iii) Minimum required REAR YARD – 10 metres
- (iv) Minimum LOT FRONTAGE – as existing on the date of the passing of this By-law amendment by Council

- (v) Minimum LOT AREA – as existing on the date of the passing of this by-law amendment by Council
- (vi) Maximum HEIGHT - 9.8 metres
- (vii) Maximum number of STOREYS - two (2) within a single vertical plane.
- (xiii) Within 4.8 metres of an interior side lot line:
  - a) the maximum height is 4.5 metres; and,
  - b) the maximum number of storeys is one (1).
- (xiv) Maximum DEPTH of DWELLING - 16.8 metres, except that the DEPTH may be increased to 18.9 metres by an extension to the rear of the DWELLING provided such extension complies with all of the following criterion:
  - the extension does not exceed one (1) STOREY;
  - the extension does not exceed 4.6 metres in HEIGHT; and,
  - the extension is not wider than one-half (1/2) the width of the DWELLING at its widest point.
- (xv) Maximum garage projection – garage shall not be located closer than 2.1 metres to the FRONT LOT LINE than the main building

### **7.2.3 Special Site Provisions**

- (i) The provisions with respect to the following do not apply:
  - a) LOT COVERAGE

**7.3** “Notwithstanding any other provisions of this By-law, the provisions in this section shall apply to Lot 5 on Plan 4556, as shown on Schedule ‘B’ attached hereto. All other provisions of this By-law, unless specifically modified/amended by this section, continue to apply to the lands subject to this Section.

### **7.3.1 Development Standards**

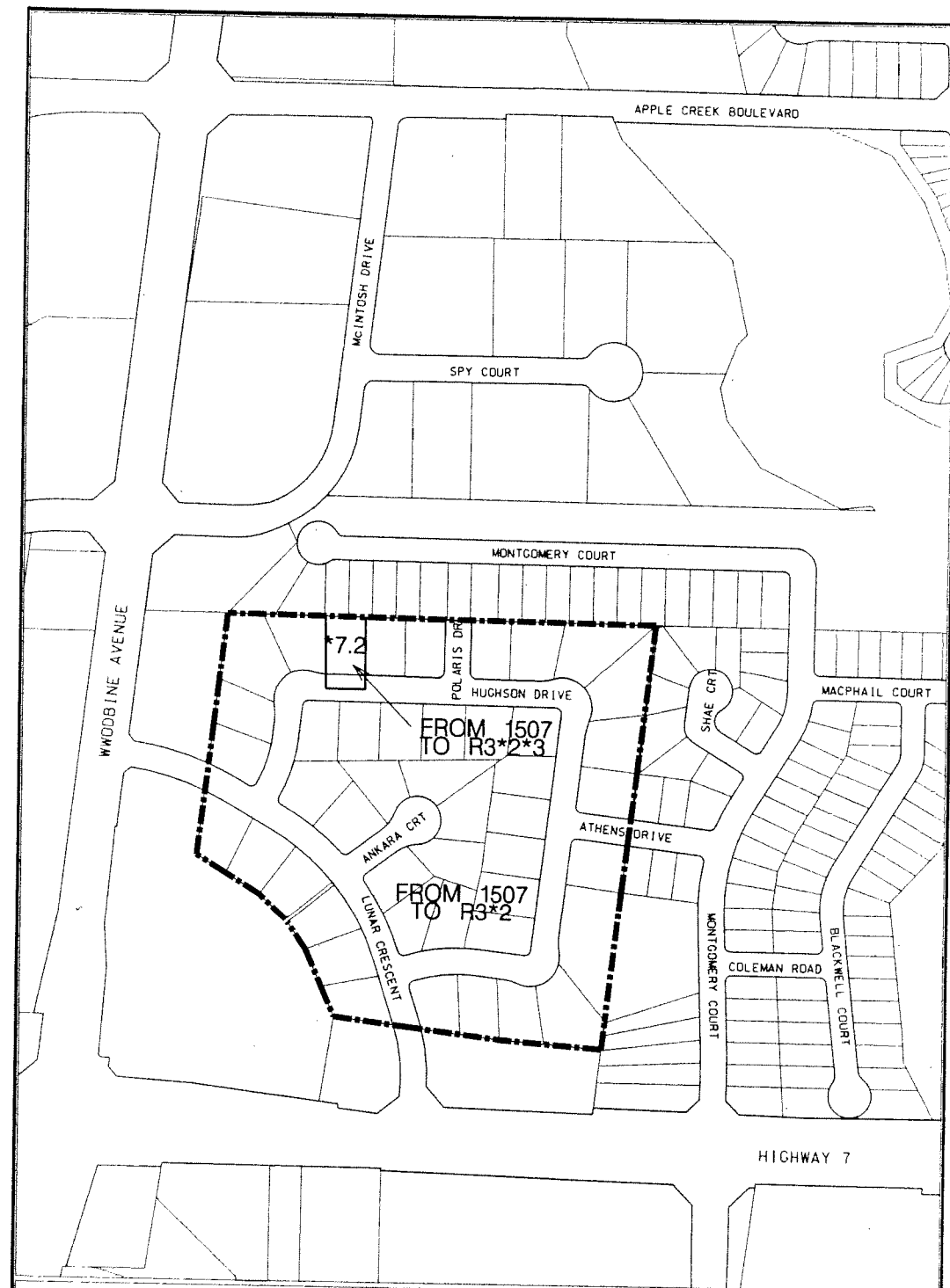
- (i) Minimum LOT FRONTAGE – 15 metres
- (ii) Minimum LOT AREA – 600 square metres
- (iii) Minimum SIDE YARD setback – 1.5 metres
- (iv) Maximum HEIGHT – 13 metres

### **7.3.2 Special Site Provisions**

- (ii) The provisions with respect to the following do not apply:
- a) maximum HEIGHT of 4.5 metres and one (1) storey within 4.8 metres of the interior side lot line
  - b) maximum DEPTH of DWELLING
  - c) LOT COVERAGE.”

1.4 By adding Schedule ‘A’, attached to By-law 2011-XXX, as Schedule ‘B’ to By-law 221-81, as amended.

2. All other provisions of By-law 221-81, as amended, not inconsistent with the provisions of this by-law shall continue to apply.



DEVELOPMENT SERVICES COMMISSION

# A BY-LAW TO AMEND BY-LAW 221-81



BOUNDARY OF AREA COVERED BY THIS BY-LAW

ZONE DESIGNATION

THIS SCHEDULE 'B' TO BY-LAW 221-81, AS AMENDED

R3

SINGLE FAMILY RESIDENTIAL-THIRD DENSITY

\*(No)

EXCEPTION NUMBER

THIS IS SCHEDULE 'A' TO BY-LAW .....  
PASSED THIS ..... DAY .....

..... MAYOR

..... CLERK

NOTE: 1) DIMENSIONS ARE IN METRES  
2) REFERENCE SHOULD BE MADE TO  
THE ORIGINAL BY-LAW LODGED IN  
THE OFFICE OF THE CLERK

SCALE 1:

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