



TO: Mayor and Members of Council

FROM: Jim Baird, Commissioner of Development Services
Valerie Shuttleworth, Director of Planning & Urban Design

DATE: February 14, 2006

RE: Behram and Anahita Farooqh (Radiant Way Montessori)
Zoning By-law to permit a Montessori pre-school
9718 McCowan Road
ZA – 05 015902

Handwritten signature and initials, including 'AB' and 'VS', with a date '1/13' written above.

Recommendation:

That the attached by-law to permit a Montessori pre-school at 9718 McCowan Road be enacted.

Background:

On November 8, 2005, Development Services Committee held a public meeting to consider a request to amend the Town's Zoning By-laws to permit a Montessori pre-school, located north of Bur Oak Avenue on the west side of McCowan Road, municipally known as 9718 McCowan Road. Committee resolved to enact the proposed by-law amendment without further notice. However, Staff was requested to report back to Council on site plan issues related to conveyance of buffer lands and the provision of access through the adjacent westerly property.

Conveyance of valley lands and associated environmental buffer

The TRCA has requested that the valley lands and 10 metre buffer lands located on the northeast portion of the subject property be rezoned to a Flood or Hazard Land Zoning Category and dedicated into public ownership. The attached zoning by-law amendment rezones the valley and buffer Open Space One (OS1), restricting development and permitting only public parks.

The applicants have no objection to the rezoning of the valley and buffer to Open Space and conveying the valley lands, however, they have expressed concern regarding the conveyance of the buffer lands into public ownership. They are concerned that dedication into public ownership could potentially create an unsafe circumstance by permitting public access adjacent to the pre-school's play area. The applicants have agreed to delineate the buffer lands from the remainder of the subject property by erecting a wood fence or planting a continuous cedar hedge adjacent to the buffer limits. This will allow the buffer lands to naturalize under the applicants ownership, while restricting access to the public and eliminating any potential conflicts with the pre-

school's play area. Dedication of buffer lands into public ownership cannot be required as a condition of approval under Section 41 of the Planning Act (Site Plan Control). The applicants have, however, agreed to dedicate the valley land now and the buffer lands in the future, should the subject site be redeveloped in the future. A clause to this effect will be included in the site plan agreement.

Access through the adjacent westerly property

Access to the proposed Montessori pre-school will be from McCowan Road. Committee requested further clarification regarding an integrated access provision that was incorporated into the subdivision agreement for the lands to the west of the subject property (Markham Trails – Block 75). The provision states that the future site plan agreement for Block 75 will contain conditions determined at the site plan approval stage regarding servicing and integrated access with the adjacent property (9718 McCowan Road). The plans for the proposed townhouse development on Block 75 have been revised to incorporate this proposed access, which has been protected by a 0.3 metre reserve that will restrict access between the two properties. Although integrated access between the two properties has been provided for, Town staff are of the opinion that access from the subject property to a public right-of-way (Mc Cowan Road) is preferred over access to a private condominium road. Should the subject site be redeveloped for compatible residential uses in the future, the Town has the option of lifting the 0.3 metre reserve to provide integrated access with the adjacent condominium townhouse block (Block 75) at that time.

Committee also requested clarification regarding possible relocation of the applicants existing McCowan Road access, to accommodate a joint driveway with the adjacent property to the south (9704 McCowan Road). The applicants have contacted the owner to the south in attempt to negotiate a shared access; however, the adjacent neighbour has declined the shared access due to liability concerns.

Conclusion

Staff have worked with the applicants to address the site plan issues that were identified at the November 8, 2005 public meeting.

Staff are prepared to allow the buffer lands to remain under private ownership for the time being, providing that the applicants adhere to their commitment provide delineation along the buffer limits and allow for these lands to naturalize. A condition will be incorporated into the site plan agreement stipulating that the buffer lands be conveyed to the Town, should the subject site be redeveloped in the future.

Staff remain of the opinion that the access from the subject property to a public right-of-way (McCowan Road) is preferred over access to a private condominium road that will be provided from the proposed townhouse development to the west of the subject property. However, should the subject site be redeveloped for compatible residential uses in the future, the Town will require integrated access with the adjacent condominium townhouse block. Despite attempts made by the applicants to secure a shared access off

of McCowan Road, the property owner to the south has declined this proposal due to liability issues.

In summary, staff are satisfied that the identified site plan issues have been addressed. Please find attached a draft by-law amendment for Council's enactment.

Should you have any questions, please contact Sabrina Bordone at ext. 8230.

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EXPLANATORY NOTE
TO BY-LAW 2006-XXX

A by-law to amend By-law 304-87, as amended.

BEHRAM AND ANAHITA FAROOGH (RADIANT WAY MONTESSORI)
9718 McCowan Road
Part of lot 19, Concession 6

LANDS AFFECTED

The proposed by-law amendment applies to an approximately 0.31 ha (0.77 acres) property, located north of Bur Oak Avenue on the west side of McCowan Road.

EXISTING ZONING

The lands subject to this by-law are presently zoned Agricultural (A1) by By-law 304-87, as amended.

PURPOSE

The purpose of this By-law is to delete the subject lands from the area covered by By-law 304-87, as amended, so that the lands can be incorporated into the designated area of By-law 177-96, as amended.

EFFECT OF BY-LAW

The effect of this by-law is to facilitate the rezoning of the subject lands to permit a day nursery and private school in the existing building.

BY-LAW 2006-XXX

A by-law to amend By-law 304-87, as amended

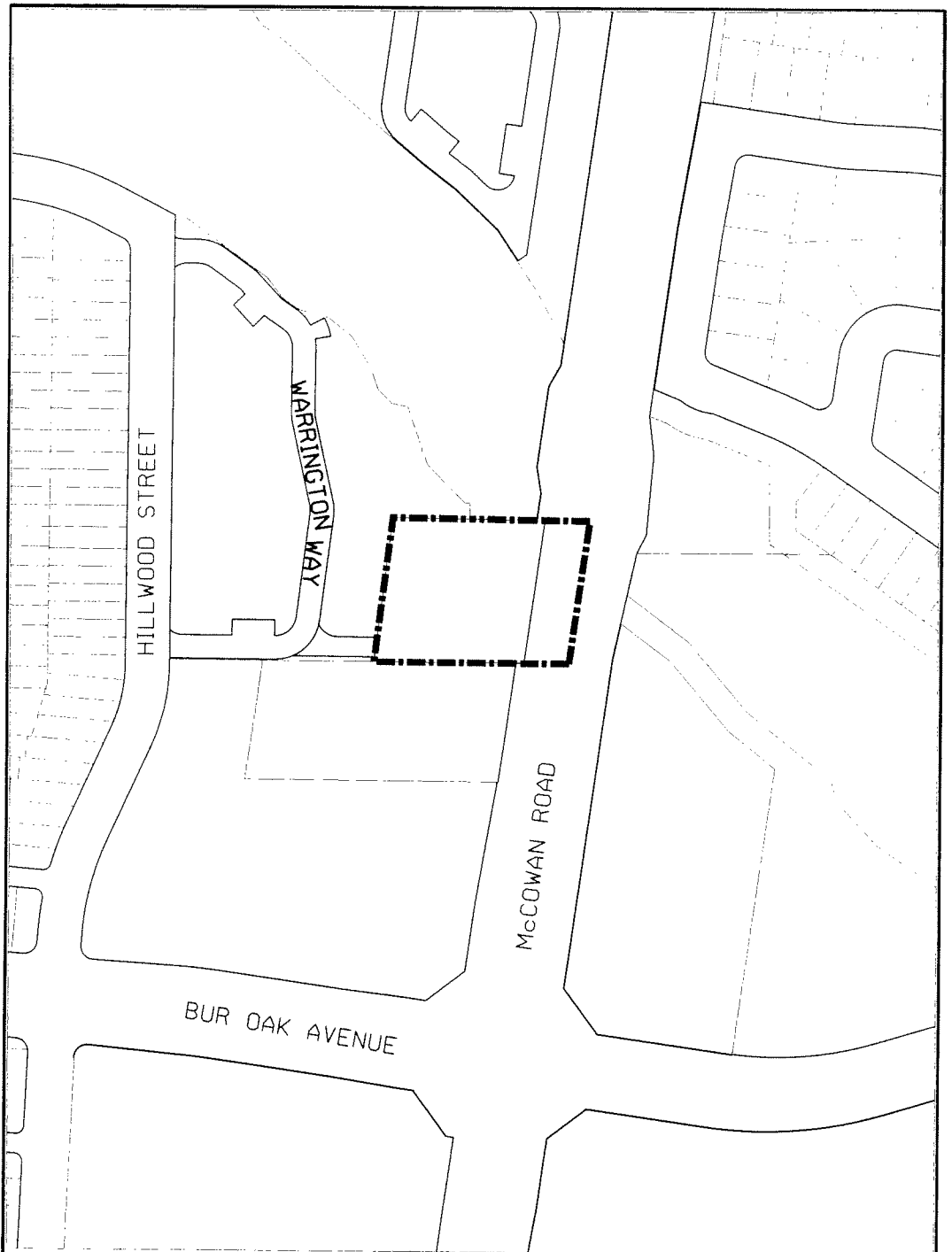
THE COUNCIL OF THE CORPORATION OF THE TOWN OF MARKHAM HEREBY ENACTS AS FOLLOWS:

1. By-law 304-87, as amended, be and the same is hereby further amended by deleting those lands shown on Schedule 'A' attached hereto from the designated area of By-law 304-87, as amended.
2. This By-law shall not come into force until amending By-law 2006-XXX, amending By-law 177-96, as amended, comes into force and the subject lands, shown on Schedule 'A' attached hereto, become incorporated into the designated area of By-law 177-96, as amended.
3. All other provisions of By-law 304-87, 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 14th DAY OF FEBRUARY, 2006.

SHIELLA BIRRELL, TOWN CLERK

DON COUSENS, MAYOR



DEVELOPMENT SERVICES COMMISSION

A BY-LAW TO AMEND BY-LAW 304-87



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: 2000

EXPLANATORY NOTE
TO BY-LAW 2006-XXX

A by-law to amend By-law 177-96, as amended.

BEHRAM AND ANAHITA FAROOGH (RADIANT WAY MONTESSORI)
9718 McCowan Road
Part of lot 19, Concession 6

LANDS AFFECTED

The proposed by-law amendment applies to an approximately 0.31 ha (0.77 acres) property, located north of Bur Oak Avenue on the west side of McCowan Road.

EXISTING ZONING

The subject lands are currently zoned Agricultural One (A1) by By-law 304-87, as amended. The lands are proposed to be incorporated into the Urban Expansion Area By-law 177-96, as amended, and zoned to Community Amenity Four (CA4) and Open Space One (OS1).

PURPOSE

The purpose of this By-law is to:

1. expand the designated area of By-law 177-96, as amended, to include those lands as outlined on Schedule 'A' to the By-law;
2. zone the lands to Community Amenity Four (CA4) and Open Spaces One (OS1) as outlined on Schedule 'A' to the By-law; and,
3. add a site specific exception to By-law 177-96, as amended, to restrict the use of the lands, within the Community Amenity Four (CA4) zone, to a day nursery and private school and to incorporate site specific development standards.

EFFECT OF BY-LAW

The effect of this by-law is to permit a day nursery and private school in the existing building and to restrict development within the environmental buffer and valley land to open space uses in accordance with the provisions of the Open Space One (OS1) zone.

BY-LAW 2006-XXX

A by-law to amend Zoning By-law 177-96, as amended

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

1. That By-law 177-96 be amended as follows:

1.1 By expanding the designated area of By-law 177-96, as amended, to include the lands shown on Schedule 'A' attached hereto and zoning said lands:

Community Amenity Four*302 (CA4*302)

Open Space One Zone (OS1)

2. By adding Section 7.302 as follows:

**“7.302 9718 McCOWAN ROAD – Behram and Anahita Farooq (Radiant Way
Montessori)**

Notwithstanding any other provision of this By-law, the provisions in this section shall apply to those lands denoted by the symbol *302 on the Schedules 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.

7.302.1 Only Uses Permitted

The following uses are the only uses permitted:

- a) *private school*;
- b) *day nursery*;

7.302.2 Zone Standards

The following specific *zone* standards apply:

- a) Minimum *lot area* – 0.30 ha
- b) Maximum *front yard* – 27 metres
- c) Minimum width of *landscaping* adjacent to the *front lot line* – 2 metres

7.302.3 Special Site Provisions

The following additional provisions apply:

- a) An *accessory building* not exceeding 15 square metres is permitted within *landscaping* required adjacent to the *interior* and *rear lot lines*, subject to the following:

- i) Minimum setbacks – 0.65 metres
 - b) The maximum *front yard* shall only apply to *buildings* which have a *gross floor area* of 464 square metres or less.
- 3. All other provisions of By-law 177-96, 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 14th DAY OF FEBRUARY, 2006.

SHIELLA BIRRELL, TOWN CLERK

DON COUSENS, MAYOR

FROM A1 (304-87)
TO OS1

HILLWOOD STREET

WARRINGTON WAY

FROM A1 (304-87)
TO CA4*302

McCOWAN ROAD

BUR OAK AVENUE



DEVELOPMENT SERVICES COMMISSION

A BY-LAW TO AMEND BY-LAW 177-96



BOUNDARY OF AREA COVERED BY THIS BY-LAW
ZONE BOUNDARY

A1 AGRICULTURE ONE
CA4 COMMUNITY AMENITY FOUR

OS1 OPEN SPACE ONE
*No. EXCEPTION SECTION 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
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SCALE 1: 2000

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