

**2205 Sheppard Avenue East
Official Plan Amendment and Zoning By-law
Amendment Application
Refusal Report**

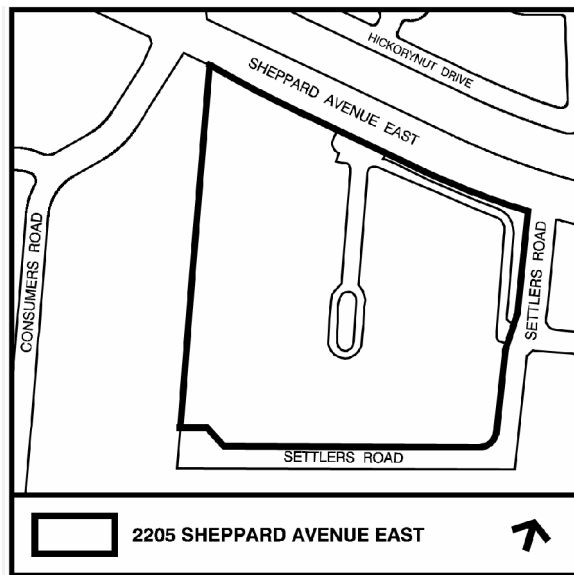
Date:	August 14, 2007
To:	Planning and Growth Management Committee
From:	Chief Planner and Executive Director, City Planning Division
Wards:	Ward No. 33 – Don Valley East
Reference Number:	File No. 06 199562 NNY 33 OZ

SUMMARY

An application has been submitted to amend the Toronto Official Plan and Zoning By-law No. 7625 for the former City of North York to permit a mixed use development through the conversion of employment lands to residential to accommodate 914 dwelling units in three residential towers, as well as commercial uses at the northwest corner of the property.

The proposal does not conform with the Province’s Growth Plan for the Greater Golden Horseshoe, nor the Toronto Official Plan, and is not consistent with the *Provincial Policy Statement 2005*. This report recommends refusal of the proposal.

Approval of the application without first undertaking a municipal comprehensive review which addresses the conversion criteria of the Growth Plan would be contrary to the *Places to Grow Act 2005* which requires that all municipal planning decisions conform with the Growth Plan. The City’s new Official



Plan has fulfilled the requirements of the comprehensive review by directing population and employment growth to appropriate priority locations.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council refuse the application to amend the Official Plan and Zoning By-law; and,
2. Should the Official Plan and Zoning By-law Amendment applications be appealed to the Ontario Municipal Board, the City Solicitor and the appropriate City staff be authorized to appear before the Ontario Municipal Board in support of Council's refusal.

Financial Impact

The recommendations in this report have no financial impact.

ISSUE BACKGROUND

Proposal

The applications were filed on December 21, 2006. The owners, Dorsay Development Corporation, are requesting their site located at 2205 Sheppard Avenue East be redesignated from *Employment Areas* to *Mixed Use Areas* to accommodate primarily residential uses.

The proposal is to develop the site with primarily residential uses with some commercial space along the Sheppard Avenue East frontage. The residential component comprises three point towers (2 towers at 38 storeys and 1 tower at 26 storeys) with a total of 914 dwelling units and a gross floor area of 77,500m². The commercial component comprises 1-storey commercial buildings (restaurants and retail uses) across the Sheppard Avenue frontage having a gross floor area of 3,285m² (35,365 sq.ft.). With a total proposed gross floor area of 80,785m², the resulting density is 3.2 FSI.

Access to this site is proposed from Lansing Square, a private road that connects to Sheppard Avenue East. A total of 1,386 parking spaces are proposed with 939 allocated for residents, 94 for residential visitors, and 353 for the proposed commercial uses. All but five of the parking spaces would be provided in an underground garage.

Site and Surrounding Area

The site is situated within the Consumers Road employment area which is bounded by Sheppard Avenue East to the north, Victoria Park Avenue to the east, Highway 401 to the south and Highway 404 to the west. The Consumers Road Business Park was one of several office parks established in the 1960's along the Don Valley/Highway 404 corridor. The business park comprises approximately 79 hectares (195 acres) of land and

has attracted companies seeking a central location with excellent access to Highways 401 and 404, and proximity to Pearson International Airport and downtown Toronto.

There are about 60 buildings in the area of which only 6 are industrial in nature. The business park is comprised primarily of office buildings, ranging in height from 1 to 18 storeys, surrounded by large surface parking lots. Office employment comprises over 93% of the total employment in the area. Between 1995 and 2005, office employment increased by 3.2%. The area has attracted many high profile companies including Shoppers Drug Mart, Enbridge Gas Distribution, Universal Studios Canada, Union Energy and Hallmark Cards. More recently, the area has attracted institutional uses including churches, a community centre, and private school. There are two hotels serving the business park and surrounding area.

The subject site has an area of approximately 24,775m² (266,678 sq.ft.) and forms part of larger landholding that comprise four development blocks/phases. Collectively, the lands are referred to as “Atria” and have a site area of 79,410m² (854,773 sq.ft.). This application deals with “Atria Phase 4” which is currently developed with a surface parking lot and an outdoor tennis court. Phases 1-3 are developed with a 4-storey and two, 17-storey office buildings at 2225, 2235 and 2255 Sheppard Avenue East.

Surrounding land uses include:

South: employment lands;

East: employment lands;

West: employment lands; and,

North: residential uses (semi-detached dwellings) on the north side of Sheppard Avenue East:

Provincial Policy Statement

The new *Provincial Policy Statement 2005* (PPS) applies to this proposal. The PPS provides policy direction on matters of provincial interest related to land use planning and development. The PPS is issued under Section 3 of the *Planning Act* and establishes the policy foundation for regulating the use and development of land. Section 3 of the *Planning Act* was amended on March 1, 2005 to ensure that all municipal planning decisions are required to be “consistent with” the PPS.

The PPS requires the City to promote economic development and competitiveness by:

- a) providing for an appropriate mix and range of employment (including industrial, commercial and institutional uses) to meet long-term needs;
- b) providing opportunities for a diversified economic base, including maintaining a range and choice of suitable sites for employment uses which support a wide range of economic activities and ancillary uses, and take into account the needs of existing and future businesses;

- c) planning for, protecting and preserving employment areas for current and future uses; and
- d) ensuring the necessary infrastructure is provided to support current and projected needs.

The PPS defines employment areas as those areas designated in an Official Plan for clusters of business and economic activities including, but not limited to, manufacturing, warehousing, offices, and associated retail and ancillary facilities.

Section 1.3.2 of the PPS states that the City may only give consideration to converting lands within employment areas to non-employment uses when a comprehensive review has met the following two-part test:

- (i) the land is not required for employment purposes over the long-term; and,
- (ii) that there is a need for the conversion.

Growth Plan for the Greater Golden Horseshoe

The Province's *Growth Plan for the Greater Golden Horseshoe* (Growth Plan), which has its basis under the *Places to Grow Act 2005*, applies to this proposal. The *Places to Grow Act* states that where there is conflict between the PPS and the Growth Plan, the Growth Plan will prevail.

The Growth Plan provides a framework for managing growth in the Greater Golden Horseshoe including: directions for where and how to grow; the provision of infrastructure to support growth; and protecting natural systems and cultivating a culture of conservation. City Council's planning decisions are required to conform, or not conflict with, the Growth Plan.

The Growth Plan requires the City to maintain an adequate supply of lands providing locations for a variety of appropriate employment uses in order to accommodate the employment growth forecasts of the Plan. The Plan requires municipalities to promote economic development and competitiveness by:

- a) providing for an appropriate mix of employment uses including industrial, commercial and institutional uses to meet long-term needs;
- b) providing opportunities for a diversified economic base , including maintaining a range and choice of suitable sites for employment uses which support a wide range of economic activities and ancillary uses, and take into account the needs of existing and future businesses;
- c) planning for, protecting and preserving employment areas for current and future uses; and,

- d) ensuring the necessary infrastructure is provided to support current and forecasted employment needs.

The definition of an employment area in the Growth Plan is the same definition used in the PPS.

Municipalities may permit conversion of lands within employment areas to non-employment uses only through a “municipal comprehensive review”. The Growth Plan clarifies and strengthens the application of the PPS as it applies to employment lands, in particular by clarifying the definition of “municipal comprehensive review” by defining it as: “an Official Plan review, or an Official Plan Amendment, initiated by a municipality that comprehensively applies the policies and schedules of the Growth Plan.” Consistent with the PPS, the Growth Plan limits such conversions only where it has been demonstrated through the municipal comprehensive review that it meets a number of criteria.

Section 14 of the Places to Grow Act 2005 requires that all decisions under the *Planning Act* made by a municipal council and the Ontario Municipal Board must conform to the Growth Plan.

Official Plan

The site is shown on Map 2 - Urban Structure, as an *Avenue* and adjacent to an *Employment District*. The underlying land use designation of the site is *Employment Areas* as shown on Land Use Plan, Map 19. There are no Secondary Plan or Site and Area Specific policies that apply to this area.

The land use policies of Section 4.6, *Employment Areas* state that *Employment Areas* are intended to be places of business and economic activity. Uses that support this function consist of offices, manufacturing, warehousing, distribution, research and development facilities, utilities, media facilities, parks, hotels, retail outlets ancillary to the preceding uses, and restaurants and small scale stores and services that serve area businesses and workers. The proposed residential use is not provided for within *Employment Areas*.

Policy 1 of Section 2.2.4, *Employment Districts: Supporting Business and Employment Growth* maintains that *Employment Districts* will be protected and preserved exclusively for economic activity in order to achieve a variety of identified city-building objectives. The proposed residential use is not provided for within *Employment Districts*.

Policy 4 of Section 2.2.3, *Avenues: Reurbanizing Arterial Corridors* states that the land use designation policies in Chapter 4 apply to and prevail on lands shown as *Avenues* on Map 2.

Sheppard Corridor Study

The City Planning Division is undertaking a study of the Sheppard Corridor from Don Mills Road in the west to McCowan Road in the east. The purpose of the study is to develop a planning framework for future growth and development in the Corridor which

establishes priorities for both public and private investment in the existing transportation, physical and community infrastructure which will support new growth. The study is intended to implement the Official Plan's policy directions and will also identify key initiatives that will allow the Sheppard Corridor to function as a strategic connector between the North York and Scarborough Centres and means by which established neighbourhoods and employment areas can be protected and enhanced.

The Study is being conducted in three phases: Phase 1 – Sheppard Corridor Profile; Phase II – Vision/Directions Report; and Phase III – Implementation Plan. The first part of the study has been completed and outlines the area profiles along the Corridor. The study notes that in terms of employment, the Consumers Road Employment Area accounts for almost half of all jobs in the Corridor and accounts for the majority of office sector jobs.

Zoning

The property is zoned Industrial-Office Business Park (MO) with an exception (5) in the former City of North York Zoning By-law. This zoning category permits a number of uses including industrial, office, retail, service and institutional uses at a maximum density of 1.5 FSI. Residential uses are not permitted.

The Zoning By-law exception allows for the additional use on the site for a club and communications and broadcasting facility and establishes various performance standards for four distinct development Parcels. The subject site is Parcel 2. The exception also includes a provision that the combined gross floor area of all buildings within Parcels 2, 3 and 4 is not to exceed 175% of the area of Parcels 2, 3 and 4.

Site Plan Control

No application for Site Plan Control approval has been submitted.

Reasons for the Application

An application for amendments to the Official Plan and Zoning by-law are required because the Official Plan and the North York Zoning By-law do not permit the proposed residential uses.

Agency Circulation

The applicant filed supporting documentation that meets the minimum requirements of the *Planning Act* in force on the date of the application.

The applicant has been asked to submit a planning rationale for their proposal as well as additional supporting documentation including a Transportation Impact Study, Loading and Parking Study, Community Services and Facilities Study, Arborist Report, Servicing Report and a Phase 1 and Phase 2 Environmental Assessment. To date, these studies have not been submitted.

Notwithstanding the above, the application was circulated to all appropriate agencies and City divisions for comment.

COMMENTS

Provincial Plans and Policy Statement (PPS)

To consider an application for conversion of employment lands to non-employment use, the PPS requires a comprehensive review to be conducted which is based on a review of growth projections, and which includes consideration of alternative directions for growth. Only after such a review can Council consider converting employment lands, and then only where the two-part test has been satisfied. That is, that the comprehensive review has demonstrated that the land is not required for employment purposes over the long-term and that there is a need for the conversion (for example, to meet the population and housing targets as determined through the comprehensive review).

The Growth Plan reiterates and clarifies the objectives of preserving and protecting employment lands from conversions to non-employment uses. Policy 5 of Section 2.2.6 clarifies that the City may permit a conversion of employment area lands to non-employment uses only through a municipal comprehensive review which is described as an Official Plan review, or an Official Plan Amendment, initiated by a municipality that comprehensively applies the policies and schedules of the Growth Plan. This review would need to demonstrate the following:

- a) there is a need for the conversion;
- b) the City will meet its employment forecasts allocated to the City pursuant to the Growth Plan;
- c) the conversion will not adversely affect the overall viability of the employment area and the achievement of the intensification target, density targets and other policies of the Growth Plan;
- d) there is existing and planned infrastructure to accommodate the proposed conversion;
- e) the lands are not required over the long term for the employment purposes for which they are designated; and,
- f) cross-jurisdictional issues have been considered.

Approval of an application to convert employment lands to non-employment uses would not conform to the Growth Plan without the City first undertaking a comprehensive review addressing the criteria set out in the Growth Plan. The City's new Official Plan has fulfilled the requirements of the comprehensive review by directing population and employment growth to appropriate priority locations.

Based on these reasons, this proposal is not consistent with the PPS, and it does not conform to the Growth Plan.

Official Plan

The principal issue raised by this application is the conversion of the subject lands from employment uses to residential uses.

The Official Plan states that “*Employment Districts* shown on Map 2 will be protected and promoted exclusively for economic activity” in order to (among other reasons) maintain and grow the tax base, attract new employment, foster competitiveness, nurture a diverse economic base, provide for balanced growth between population and employment, and provide job opportunities for Toronto residents.

The *Employment Districts* are large areas comprised exclusively of lands where the *Employment Areas* land use designation applies. They form part of the long term growth management and job intensification strategy of the Official Plan. Lands shown as *Employment Districts* on Map 2 are needed for employment purposes over the long term to accommodate part of the job growth projected to 2031 and to ensure the City’s fiscal health.

The needs of business should take priority in *Employment Districts*. The stability and certainty in which business can operate and make investment decisions is threatened when lands in *Employment Districts* are lost through incremental conversion. Conversions should only be given consideration in the context of a municipal comprehensive review when all the criteria set out in the Growth Plan are considered to determine whether conversion to non-employment uses is appropriate.

The Official Plan clearly identifies areas for intensification as contemplated by the Growth Plan and includes the *Downtown, Centres, Employment Districts* and *Avenues*. *Avenues* are considered major streets where reurbanization is anticipated and are intended to develop as important corridors where not only new housing will be created but also employment and new jobs. Where an *Avenue* is shown on the Urban Structure Map adjacent to an *Employment District*, as is the case in this application, and the land use designation underlying the *Avenue* is *Employment Areas*, the long term employment objective of the *Employment District* applies to that portion of the *Avenue*. That is, the *Avenue* is a signal that employment intensification, rather than residential use, is the appropriate land use.

As residential uses are not considered appropriate at this location, the application has not been evaluated against Official Plan policies that would otherwise apply if residential uses were being contemplated. Furthermore, the zoning by-law amendment prepared by the applicant has not been evaluated as it is staff’s view that the application fails to conform to the Official Plan or provincial policies.

Based on these reasons, the application to convert employment lands to residential is not consistent with the Toronto Official Plan.

Economic Development

The Business Development and Retention Section of the Economic Development Division have reviewed the application and advise the conversion does not support the City's policies on the provision of a range and number of employment opportunities and creating a viable environment for employment activities. Economic Development staff are opposed to residential uses on the site for a number of reasons including: the loss of commercial assessment and increase of the tax burden on other commercial assessed properties; eliminating any possible opportunities for job creation on site; potentially setting a precedent to convert adjacent properties to non-employment uses thus causing a destabilizing effect in the area and forcing businesses to relocate, potentially outside the City.

The Economic Development Division, together with City Planning and Toronto Economic Development Corporation (TEDCO), is working on a number of initiatives to realize the objectives of the Official Plan and has retained Hemson Consulting Ltd. to assist in the preparation of a long term strategy for retaining employment lands in the City of Toronto. The study is being done in three phases.

The findings of the first phase of the initiative was reported to City Council at its meeting held on June 14, 2006 in a joint staff report dated April 3, 2006, from City Planning, Economic Development Division, and TEDCO entitled "*Long Term Strategy for Retaining Employment Lands and Stimulating New Investment and Job Creation.*" The report recommended that staff be directed to:

- (1) develop and recommend growth strategies for the City's Employment Districts to support the City's efforts toward retaining a wide range of employment opportunities for Toronto; and,
- (2) assess mechanisms for increasing investment and job levels in the Employment Districts and report back to Council on policies and programs that may be required to realize the strategies along with the Official Plan's Employment Districts goals and objectives.

The Phase 2 report from the consulting team (dated January 2007) was received by City Council on June 11, 2007. The report, entitled "*Long Term Employment Land Strategy City of Toronto*", outlines a range of actions to achieve long term employment growth in the *Employment Districts* consistent with the objectives of the Official Plan. The report indicates the retention of employment lands and intensification of employment uses to increase employment density is required to meet Official Plan employment targets.

Conclusions

The PPS and the Growth Plan require municipalities to promote economic development and competitiveness by planning for, protecting and preserving employment areas for current and future employment uses. The Official Plan policies pertaining to *Employment Areas* and *Employment Districts* stipulates that retention of the site for employment uses

is vital to the long term economic growth and health of the City. The site should be protected from any non-employment use encroachments.

This application should not be supported as it does not conform to the Growth Plan and the Toronto Official Plan and is not consistent with the PPS. Approval of the application without first undertaking a municipal comprehensive review would be contrary to the *Places to Grow Act 2005* which requires that all municipal planning decisions conform with the Growth Plan. The City's new Official Plan has fulfilled the requirements of the comprehensive review by directing population and employment growth to appropriate priority locations.

This report recommends refusal of the application to amend the Official Plan and the Zoning By-law based on both provincial and municipal policy frameworks.

CONTACT

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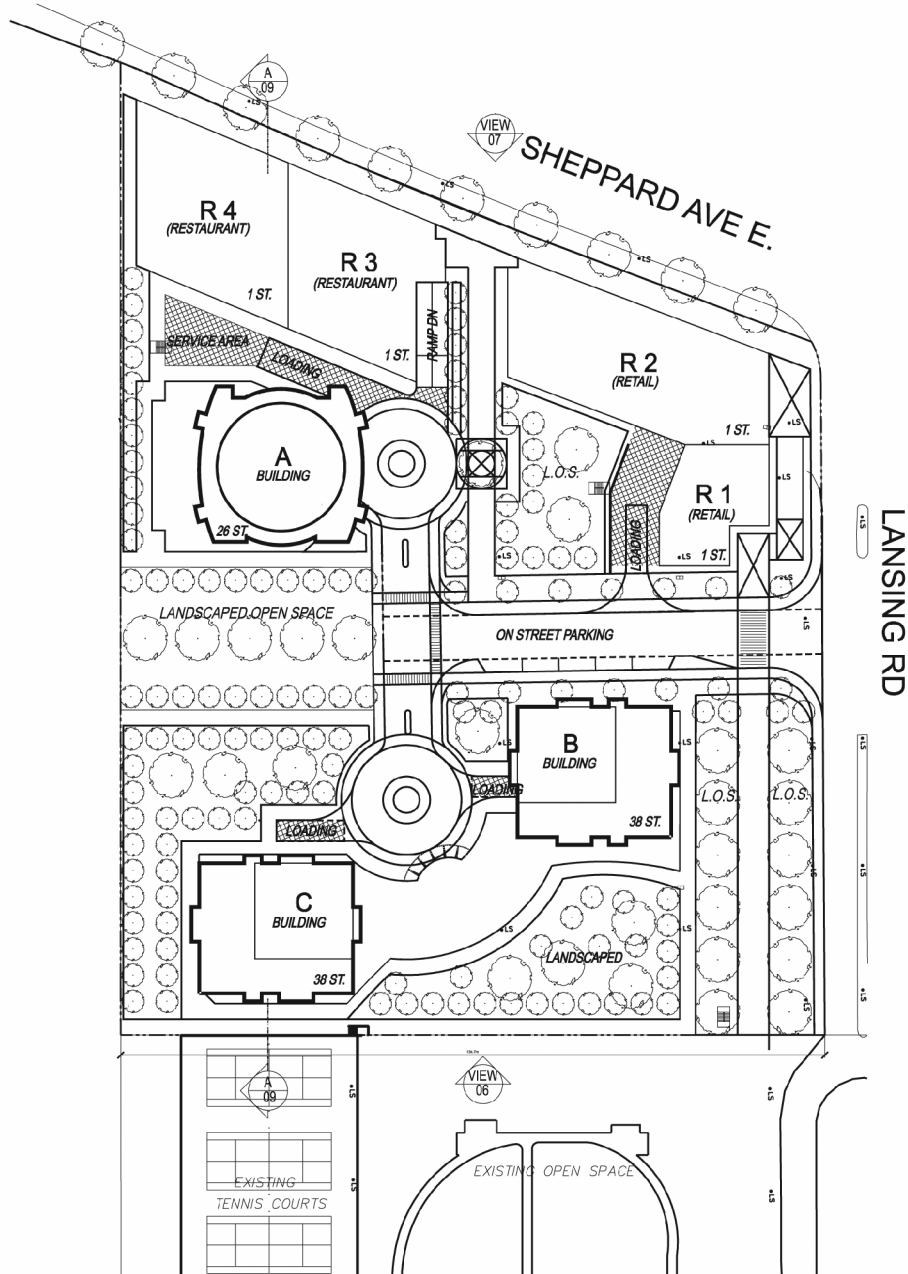
SIGNATURE

Ted Tyndorf, Chief Planner and Executive Director
City Planning Division

ATTACHMENTS

Attachment 1: Site Plan
Attachment 2: Zoning
Attachment 3: Official Plan
Attachment 4: Application Data Sheet

Attachment 1: Site Plan



Site Plan

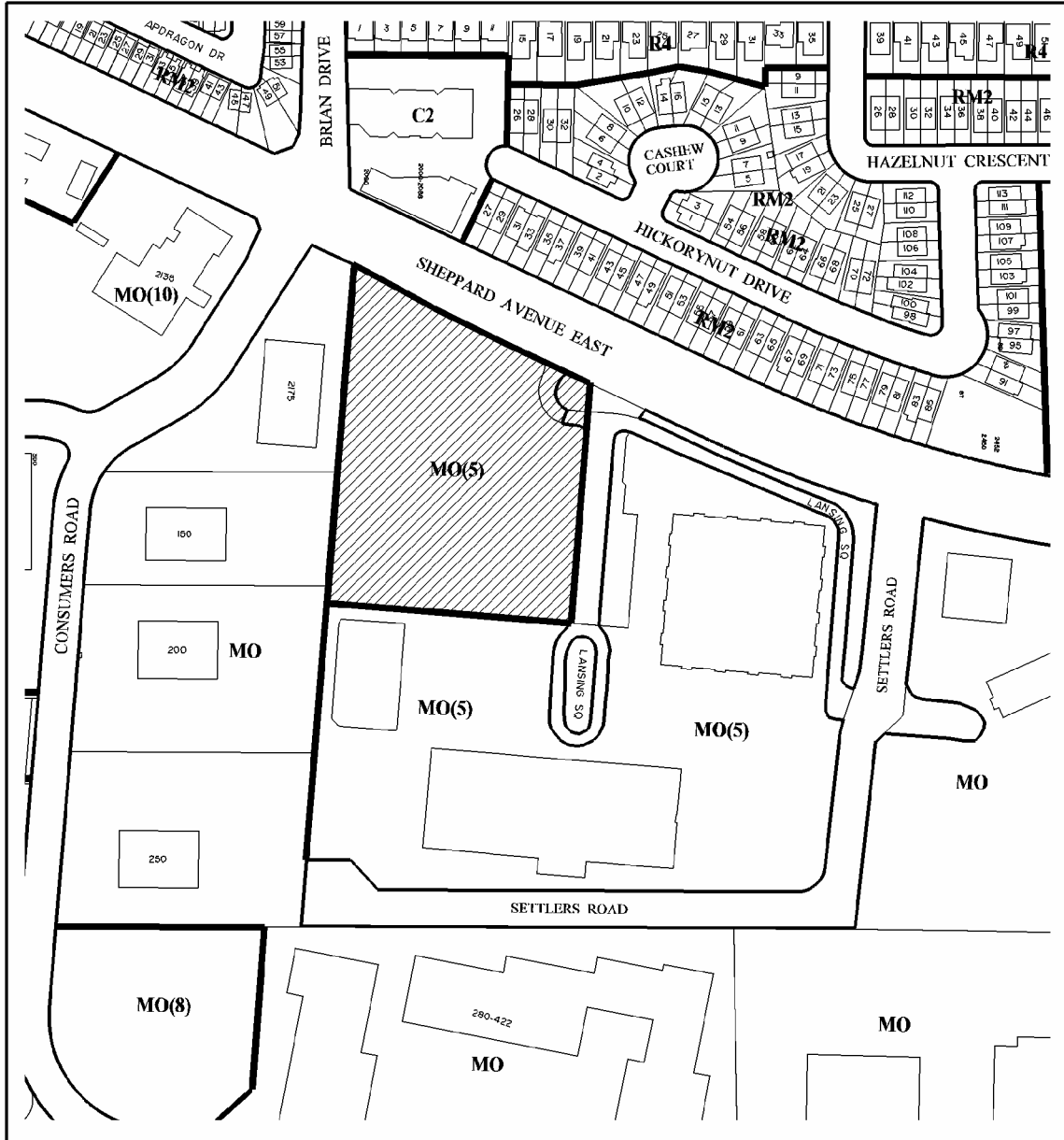
2205 Sheppard Avenue East

Applicant's Submitted Drawing

Not to Scale 

File # 06_199562

Attachment 2: Zoning



TORONTO City Planning
Zoning

2205 Sheppard Avenue East

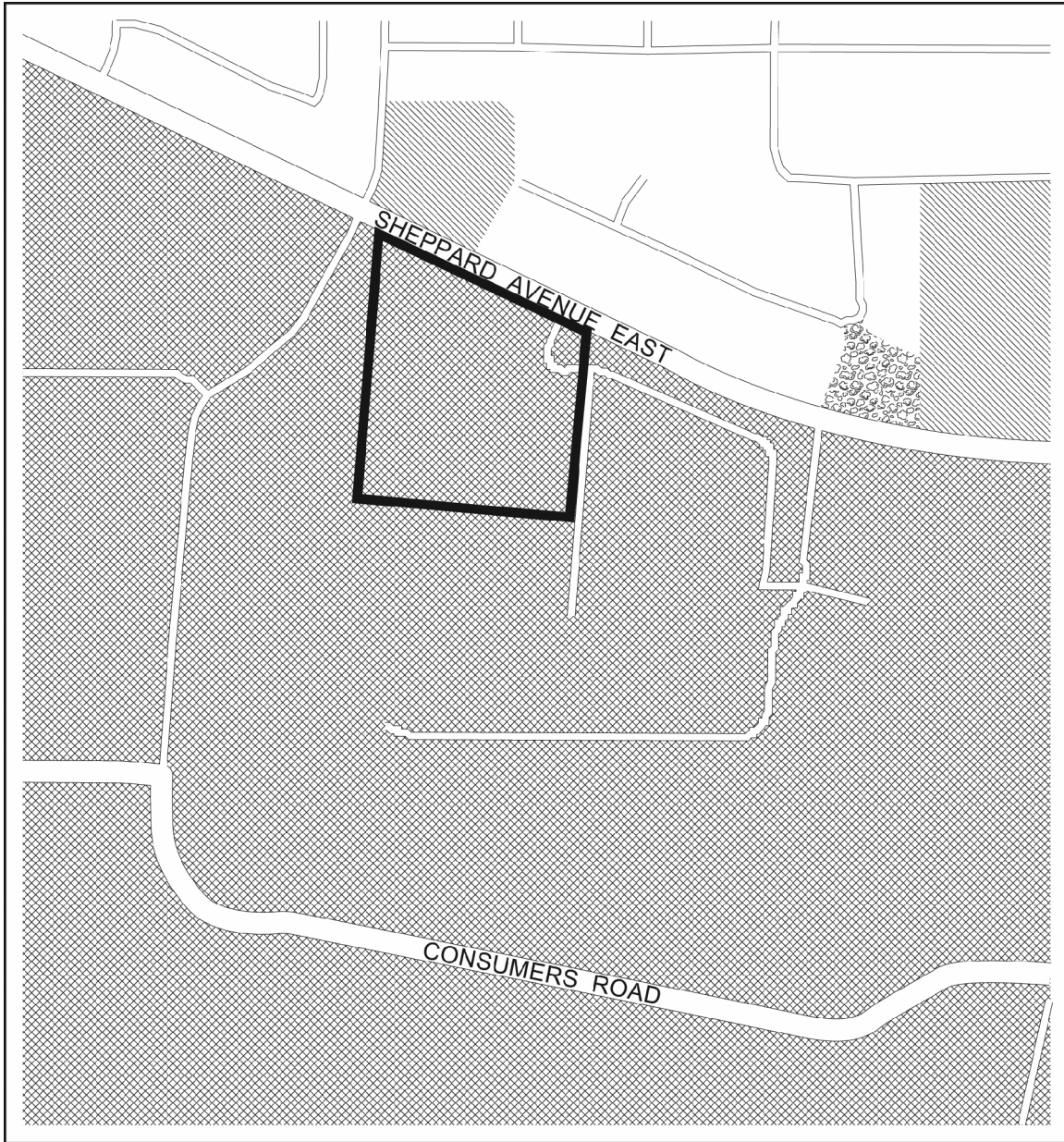
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- MO Industrial-Office Business Park Zone
- C2 Local Shopping Centre Zone
- RM2 Multiple-Family Dwellings Second Density Zone

NOTE: Numbers in Brackets Denote Exceptions to the Zoning Category

↑
 Not to Scale
 Zoning By-law 7625
 Extracted 02/01/07

Attachment 3: Official Plan



 **TORONTO** City Planning
Official Plan

2205 Sheppard Avenue East

File # 06_199562

-  Site Location
-  Neighbourhoods
-  Employment Areas
-  Mixed Use Areas
-  Parks



Not to Scale
June 2006

Attachment 4 APPLICATION DATA SHEET

Application Type	OPA & Rezoning	Application Number:	06 199562 NNY 33 OZ
Details	OPA & Rezoning, Standard	Application Date:	December 22, 2006
Municipal Address:	2205 SHEPPARD AVE E, TORONTO ON		
Location Description:	PLAN 66M2144 BLOCK 2 **GRID N3306		
Project Description:	Redesignate property from Employment Areas to Mixed Use to accommodate residential uses comprising 914 dwelling units in 3 residential towers on Phase 4 site. Restaurants and retail uses are proposed along the Sheppard Ave East frontage totalling 3,285 sq.m. of gross floor area. Phases 1 to 3 have been constructed with approximately 283,464 sq.m. of existing office and commercial uses.		

Applicant:	Agent:	Architect:	Owner:
DAVIES HOWE PARTNERS LAWYERS	BOUSFIELDS		DORSAY INVESTMENTS LIMITED

PLANNING CONTROLS

Official Plan Designation:	Employment Areas	Site Specific Provision:	
Zoning:	MO(5)	Historical Status:	
Height Limit (m):		Site Plan Control Area:	Yes

PROJECT INFORMATION

Site Area (sq. m):	24775	Height:	Storeys:	38
Frontage (m):	142.6		Metres:	116
Depth (m):	186			
Total Ground Floor Area (sq. m):	6460			Total
Total Residential GFA (sq. m):	77500		Parking Spaces:	1386
Total Non-Residential GFA (sq. m):	3285		Loading Docks	4
Total GFA (sq. m):	80785			
Lot Coverage Ratio (%):	30.4			
Floor Space Index:	3.2			

DWELLING UNITS

Tenure Type:	Condo
Rooms:	0
Bachelor:	58
1 Bedroom:	516
2 Bedroom:	340
3 + Bedroom:	0
Total Units:	914

FLOOR AREA BREAKDOWN (upon project completion)

	Above Grade	Below Grade
Residential GFA (sq. m):	77500	0
Retail GFA (sq. m):	3285	0
Office GFA (sq. m):	0	0
Industrial GFA (sq. m):	0	0
Institutional/Other GFA (sq. m):	0	0

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