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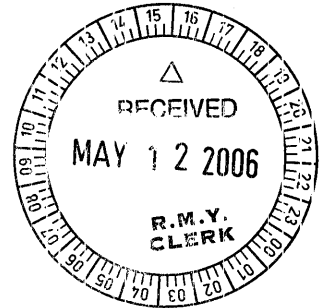
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In reply please quote:
Ref.: 06-WC#2(4)

May 1, 2006

Mr. Denis Kelly
Regional Clerk
Regional Municipality of York
P. O. Box 147
17250 Yonge Street
Newmarket, Ontario
L3Y 6Z1



Dear Mr. Kelly:

Subject: Works Committee Report 2, Clause 4
Request for Direction - Filing of Environmental Assessment Report -
Markham By-pass/Morningside Avenue Extension (Ward 42, Scarborough
Rouge River)

City Council on April 25, 26 and 27, 2006, considered this Clause, and directed that York Region and the Minister of the Environment be advised that it does not support the recommended alignment crossing the Rouge Valley, north and south of Steeles Avenue, and further that it prefers a version of Alignment C which does not entail eight lanes on Steeles Avenue East.

Yours truly,

for City Clerk

M. Toft/sb

Attachment

Sent to: Minister of the Environment, Province of Ontario
Regional Clerk, Regional Municipality of York
General Manager, Transportation Services
Chief Planner and Executive Director, City Planning
Jim Robb, Friends of the Rouge Watershed

c. Deputy City Manager Fareed Amin

Consolidated Clause in Works Committee Report 2, which was considered by City Council on April 25, 26 and 27, 2006.

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**Request for Direction - Filing of Environmental Assessment Report -
Markham By-pass/Morningside Avenue Extension
(Ward 42, Scarborough Rouge River)**

City Council on April 25, 26 and 27, 2006, adopted this Clause without amendment.

The Works Committee recommends that City Council:

- (1) adopt the staff recommendations in the Recommendations Section of the report (February 13, 2006) from the General Manager, Transportation Services and the Chief Planner and Executive Director, City Planning;**
- (2) advise York Region and the Minister of the Environment that it does not support the recommended alignment crossing the Rouge Valley, north and south of Steeles Avenue, and further that it prefers a version of Alignment C which does not entail eight lanes on Steeles Avenue East;**
- (3) request the Minister of Environment to deny approval for the proposed Markham By-pass route;**
- (4) direct staff to send a communication to the provincial Minister of the Environment outlining both the City Council and staff position on the proposed Markham By-pass/Morningside Avenue Extension, including the reasons to refuse the proposed By-pass; and**
- (5) request the provincial Minister of the Environment to require an Environmental Assessment hearing on the Markham By-pass, if the Minister does not deny the approval.**

Purpose:

To advise Council, as directed, on the legal and financial implications of the filing by York Region of the Environmental Assessment Report (EAR) for the preferred alignment for the Markham By-pass/Morningside Avenue Extension. Further, to obtain direction to staff to initiate the necessary Official Plan Amendment(s) to remove the policies protecting for the road extension from the appropriate Official Plans.

Financial Implications and Impact Statement:

There are no financial implications resulting from the adoption of this report. Financial implications of the project are discussed in this report. Staff resources for the recommended work program item are funded in the City Planning Division 2006 budget.

Recommendation:

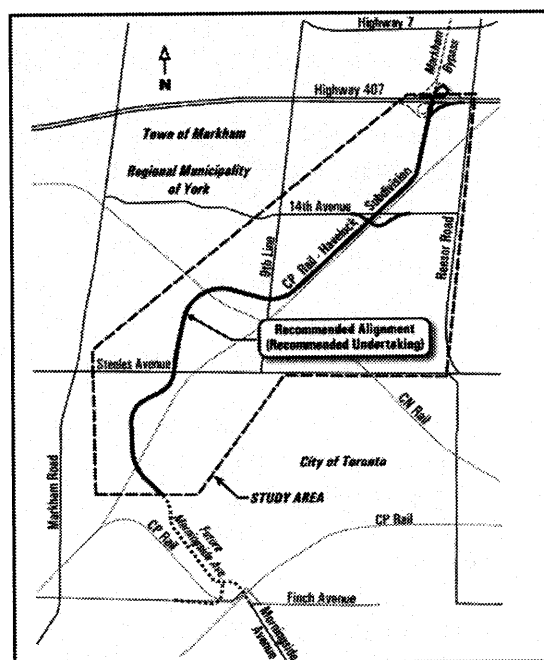
It is recommended that City Council direct the appropriate staff to commence a City-initiated Official Plan amendment process to remove the policies which protect for a variety of alignments for the Markham By-pass/Morningside Avenue extension from the Morningside Heights Secondary Plan and the November 2002 Toronto Official Plan.

Background:

In the Fall of 2001, York Region commenced its Individual Project Environmental Assessment (EA) Study for the extension of the Markham By-pass, south from Highway 407 into the City of Toronto to meet the Morningside Avenue Extension in Morningside Heights, in accordance with the York Region Official Plan (OP) which designates the extension beyond Steeles Avenue into the City.

On May 26, 2005, the Works Committee considered a comprehensive staff status report on the EA study and the study's finding at that time that the technically preferred alignment would run alongside the CP Rail Havelock line to 9th Line, cross the Rouge River within the Parkview Golf Course, cross Steeles Avenue just east of the Morningside Creek, then cross the Morningside Creek, Passmore Avenue and the CPR, and would finally connect to Morningside Avenue at the planned McNicoll Avenue Extension intersection. This is similar to the alignment shown on Attachment 3.

The report (Clause 5 of Report 6 of the Works Committee) was adopted by Council at its meeting of June 14, 15 and 16, 2005. Recommendation (1) of that report stated in part that Council advise York Region that it "strongly opposes and formally objects to the technically preferred alignment for the extension of Morningside Avenue south of Steeles Avenue East, as developed in the Environmental Assessment Study for Transportation Improvements in the Markham By-pass Corridor south of Highway 407."



Council in June 2005 also directed “the Acting General Manager of Transportation Services and the Chief Planner and Executive Director of City Planning, in consultation with the City Solicitor, to report back to the Works Committee on the legal and financial implications for the City of Toronto should York Region apply for and receive Environmental Assessment approval for the technically preferred alignment.” This report responds to that direction.

On October 18, 2005, the status report was further considered by Scarborough Community Council at a special evening meeting as directed by Council. Subsequently, at the Council meeting of December 5, 6 and 7, 2005, the Clause was reopened under Notice of Motion I(5) and Council strengthened its position on the extension by voting to inform York Region that “the City neither intends nor has budgeted any funds to construct the Alignment C south of Steeles Avenue East.” The full text of these resolutions is provided as Attachment 8.

The City Solicitor has been consulted in the preparation of this report.

Comments:

After identifying and publishing the technically preferred alignment, York Region conducted further public consultation with affected landowners in Markham and adjusted the alignment slightly in three locations north of Steeles Avenue to produce the final, Recommended Alignment. This alignment is shown on Attachment 3, with more details on the route south of Steeles Avenue shown on Attachment 5.

The final EAR was filed with the Ministry of the Environment on December 23, 2005. The Ministry is accepting comments until February 17, 2006. Staff have provided comments on the detailed contents of the draft EAR, and will comment further on the final EAR, to ensure it accurately reflects City policies and concerns. In addition, the Ministry is fully aware of Council’s position of June 2005. However, given the filing of the EAR, staff are reporting back, as directed, on the implications for the City.

Planning Context:

The Recommended Alignment would affect lands in the Morningside Heights Community and the Tapscott Employment District, where development of a significant amount of land in this area has been on hold to allow for the EA study of possible route alternatives. The Secondary Plan land use maps are shown on Attachments 1 and 2.

The Morningside Heights Extension is covered by policies in the Scarborough and Metro Official Plans, as ordered by the Ontario Municipal Board (OMB) in its Spring 2000 Order approving the planning applications for the Morningside Heights Community. The OMB Order provided for the EA study to be conducted within certain timeframes, and these timeframes have been incorporated into the Morningside Heights Secondary Plan Policies (as excerpted in Attachment 6).

As well, MetroPlan was amended to show a protected triangle on Maps 6 and 7 which deal with the road network. A short form of the Secondary Plan policies that protected for the Morningside Avenue extension was also added to the Roads Plan of the Scarborough OP, along

with a schematic representation of the potential range of alignments. When the new Toronto OP, as adopted by Council in November 2002, was before the Minister for approval, Schedule 2 (The Designation of Planned But Unbuilt Roads) was modified to include the same policy protecting for the Morningside Avenue extension. This modification is reproduced in Attachment 7.

Under all of these amended Plans, the EA Terms of Reference for the undertaking were to be submitted by December 31, 2004, or the Environmental Assessment (Report) for the undertaking was to be submitted by December 31, 2005. The Terms of Reference was approved by the Ministry of the Environment on July 13, 2004, and with the filing of the EAR on December 23, 2005, both of these deadlines have been met.

The OP policies also provide that, in the event that the deadlines are not met, Morningside Avenue may be extended to Steeles Avenue by way of plans of subdivision and the requirement to protect for a range of alignments shall lapse.

As of January 25, 2006, by Order of the OMB, the transportation policies and maps of the former Scarborough Official Plan and MetroPlan have been repealed, and the new Toronto OP transportation policies, schedules and maps are now in full force and effect. The Scarborough Secondary Plans are still in effect.

Despite the findings and recommendation of the York Region EA study, there is no proponent for the undertaking south of Steeles Avenue. Regardless of its desire to see the extension built, York Region has no jurisdiction south of Steeles Avenue and no power or ability to cause the road to be built. The City has made its opposition to the Recommended Alignment south of Steeles Avenue East known and will not be a proponent. EA approval gives permission for the undertaking to go ahead but does not oblige any party to implement the project.

Since the City does not wish to build the Morningside Avenue extension in accordance with the EAR prepared by York Region, and since the deadline dates in the relevant Official Plan policies have passed, the City should now take steps to remove those policies from its Plans. In this way, landowners in the affected areas will be freed from the uncertainty that has surrounded the protection for the Morningside Avenue extension, and will be able to proceed with any planning applications and development approvals that they may wish to consider.

Given that the City has previously supported an alignment with Morningside Avenue meeting Steeles Avenue in a T intersection (very similar to Alignment C as described in York Region's EAR and shown on Attachment 4), which could be provided as part of plans of subdivision for development of the vacant lands in the area, Council should now designate such an alignment which can be protected for and implemented through future development. In the absence of a road in this area, traffic is likely to infiltrate through rural and residential areas on streets and roads which were not designed to carry commuter traffic. Roads in Rouge Park like Beare and Sewells Roads will continue to carry commuter traffic. New routes like Oasis Boulevard and Staines Road within Morningside Heights will feel the pressure as well. Staff therefore recommend that a Morningside Avenue extension be designated, similar to what was designated prior to the approval of the Morningside Heights development, to relieve these routes and carry through traffic.

If Council so directs, City Planning staff will begin the process necessary to amend the appropriate planning documents to remove the policies holding development on lands in the Tapscott Employment District and Morningside Heights Community, and to designate a new road alignment.

Financial Implications:

As identified in the EAR, the cost estimate for the section of the Recommended Alignment within the City of Toronto is \$29.3 million, including bridges at the Morningside Creek and the CRP Havelock line but excluding property costs. This cost is expected to be borne solely by the City of Toronto. Affected lands in the Tapscott Employment District, if freed up for development, will bring jobs and tax assessment to the City. Economic Development staff estimate these at 3,300 and \$8.1 million respectively, as set out below.

Economic Implications:

Development of lands in the eastern portion of the Tapscott District has been held in abeyance due to the uncertainty over the location of the route. Staff look forward to working with developers, owners and other users in developing these lands, now that the issue of the Morningside Avenue extension has been resolved. City staff encourage the developers and owners associated with the lands to take advantage of the new opportunity and proceed with their plans to develop the lands in a timely manner.

The table below refers to the developable lands in the eastern portion of the Tapscott Employment District which are not yet serviced and which would have been directly impacted by the extension of Morningside Avenue, namely those owned by Manulife Financial, Tap-Steeles Investments Limited and Giffels Development.

The numbers are estimates and could vary slightly depending on types and widths of roads required, the nature of the commercial or industrial projects and the zoning allocated to each site. In developing these estimates, Economic Development staff used pro-rated ratios for the eastern portion of Tapscott based on and similar to those for the entire undeveloped land area as reported in the Economic Development and Parks Committee Report 4, Clause 16, adopted by Council in May 2003.

Table 1 – Estimated Economic Impact

	Industrial Land Uses	Commercial Land Uses	Total
Projected Land Area	110 acres	20 acres	130 acres
Estimated Building Area	2.15 million sq.ft.	420,000 sq.ft.	2.57 million sq.ft.
Estimated Tax Revenue	\$6.5 million	\$1.6 million	\$8.1 million
Estimated Job Creation	2,500	800	3,300

Key elements that will result from developing the eastern portion of the district include the potential creation of approximately 3,300 jobs and the generation of more than \$8 million in property tax revenues, including school board revenues. The estimates are based on industry standards for coverage ratios and land needed for services. Gross floor area, employment and property tax revenue will vary depending on intensity of use, value of construction and business activity.

Legal Implications:

The City has no obligation to build or protect for the EA alignment. The intention of the OMB decision on this matter and of the Board-approved wording of the Secondary Plan was to provide a window of time within which a proponent could be identified to fund and construct the road through the City of Toronto.

The time for identifying such a proponent has now lapsed without a proponent having come forward. As such, Council is now free to amend its official plan to delete all reference to the interregional road. Likewise Council is not obliged to fund, construct, take proponenty of or protect for the preferred alignment identified in the EAR. The absence of a declared proponent by December 31, 2005, frees the City to complete the road network to Steeles Avenue by way of subdivision roads as opposed to a large interregional highway, if that is Council's preference.

Conclusions:

York Region has completed its Environmental Assessment study for the Markham By-pass/Morningside Avenue Extension, and has filed its EA Report in compliance with the Official Plan timelines. However, City Council has no interest in constructing the section of the Recommended Alignment south of Steeles Avenue.

Since the policies in the Official Plans protecting a range of alignments are no longer required, it is appropriate for the City to take steps to remove the protection policies from its planning documents and to designate its preferred alignment. In this way, the affected landowners will be afforded certainty concerning the road and will be able to proceed to develop these important lands in the Tapscott Employment District.

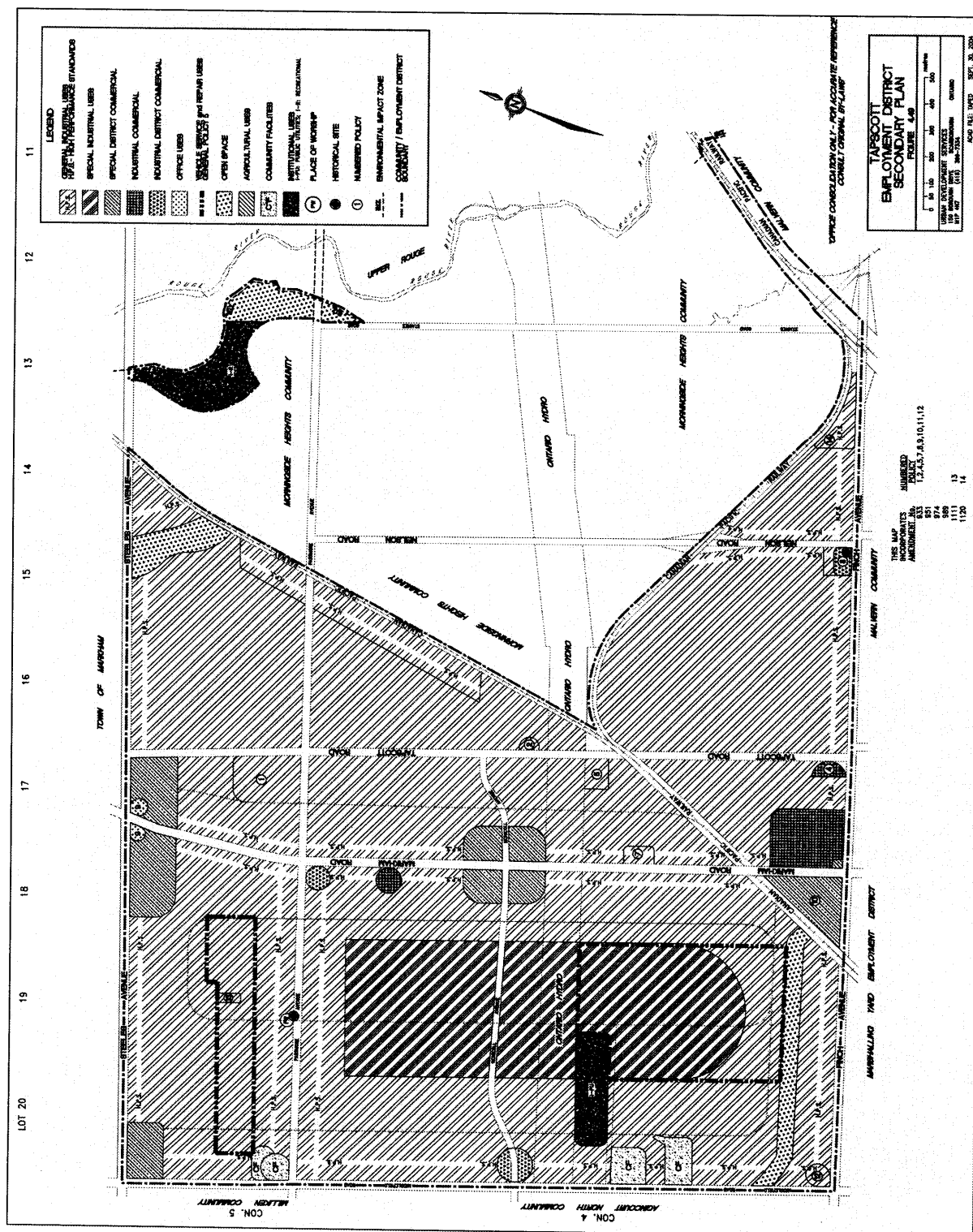
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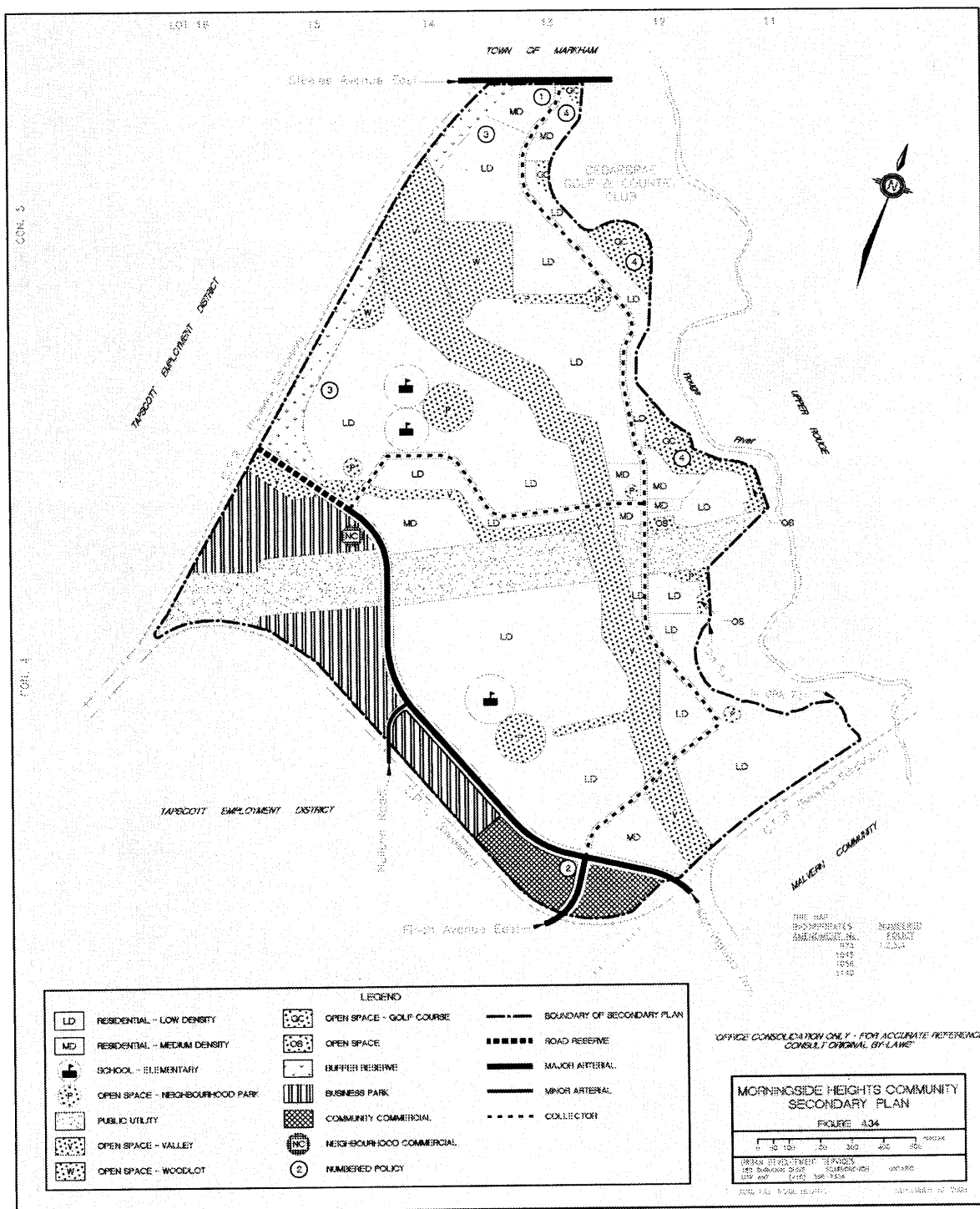
List of Attachments:

- (1) Official Plan – Tapscott Employment District
 - (2) Official Plan – Morningside Heights Community
 - (3) Recommended Alignment
 - (4) Alignment C
 - (5) Alignment South of Steeles Avenue
 - (6) Excerpt from Morningside Heights Community Secondary Plan
 - (7) Excerpt from Toronto Official Plan Schedule 2
 - (8) Council Resolutions
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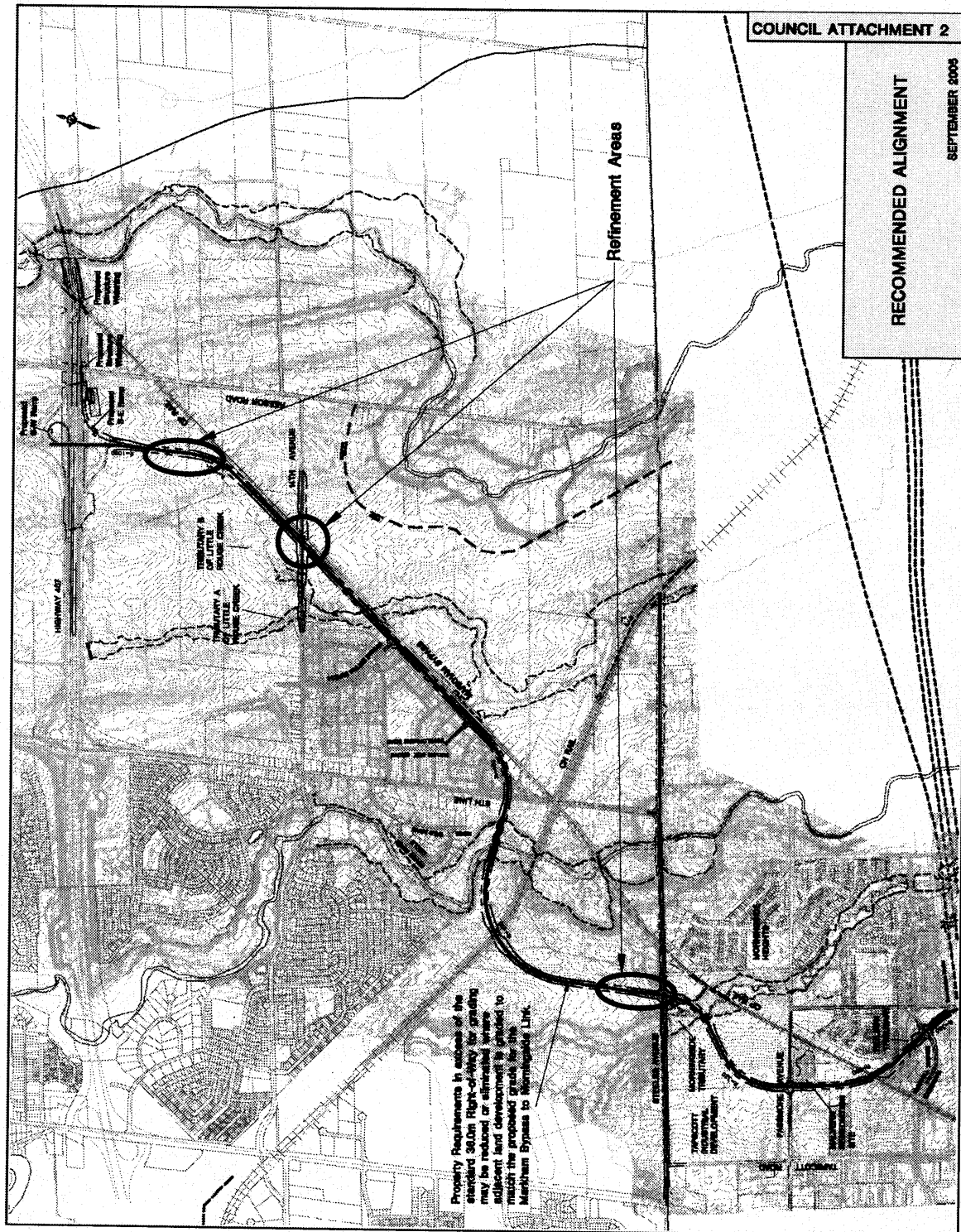


Attachment 2

Official Plan – Morningside Heights Community

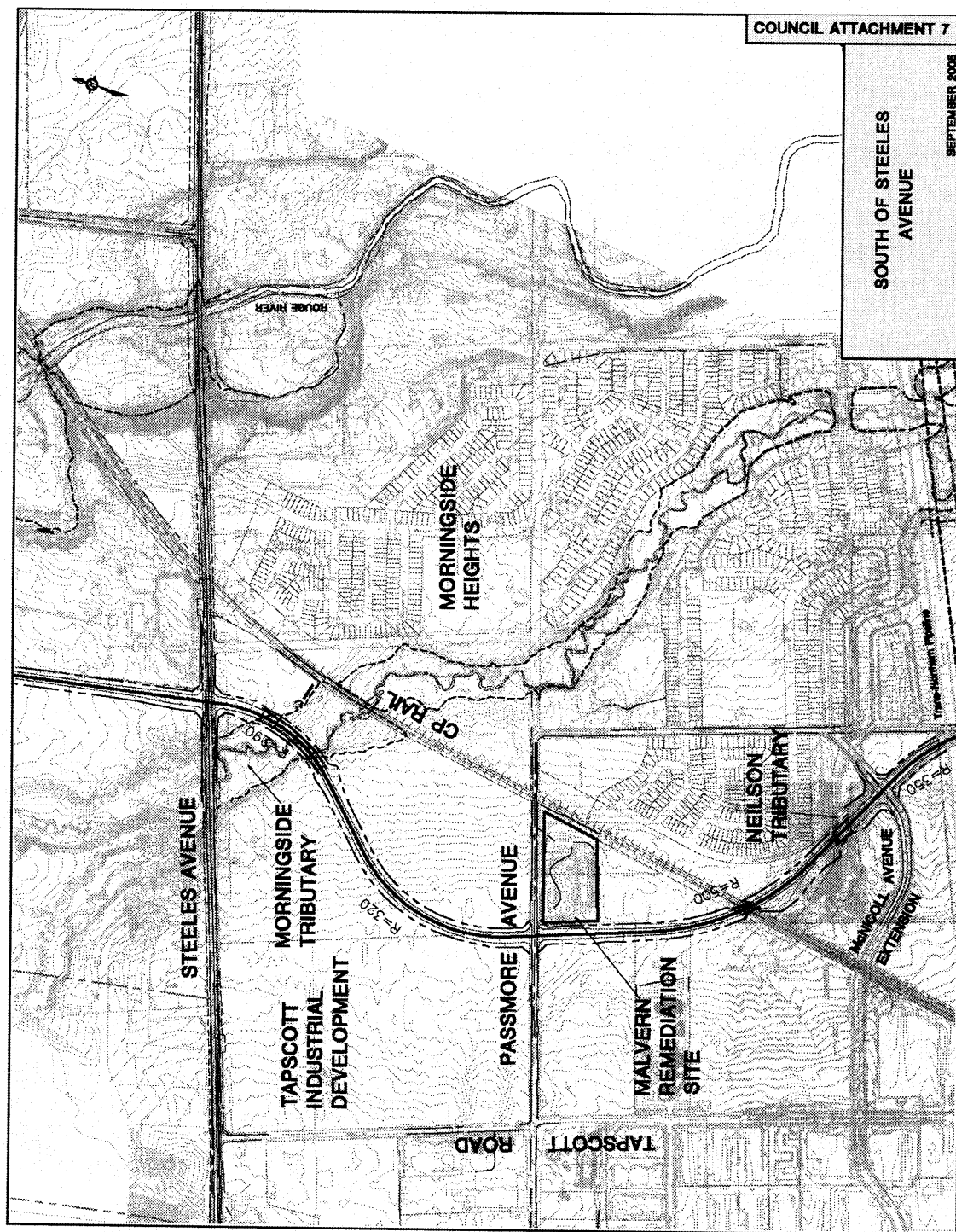


Attachment 3 Recommended Alignment



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Attachment 5
Alignment South of Steeles Avenue



Attachment 6

Excerpt from Morningside Heights Community Secondary Plan

Transportation

25. Morningside Avenue:

Morningside Avenue is to be extended in connection with the development of the Morningside Heights Community as an arterial road with reversed lots or other restricted access, as shown on the Road Plan, Schedule "C", to the point where it meets the east-west collector road, north of the Hydro right-of-way. Except where required for the design of intersections, access points or structures, its right-of-way width shall not be more than 36 metres. Notwithstanding Section 2.2.2 of the Scarborough Official Plan, the pavement width may be constructed initially to accommodate only 4 lanes of traffic and necessary turning lanes, with additional lanes to be added as required. Construction may be phased and may include a temporary cul-de-sac. Its alignment shall be designed to achieve a minimum design speed of 80 km per hour. Crossings of any of the tributaries within the Secondary Plan shall be sensitive to the environment and shall be established in consultation with the TRCA.

The need for future grade separations and/or adequate traffic storage capacity at the CPR Connector crossings at Neilson Road and Finch Avenue East shall be assessed at the time of subdivision approval and the potential for such improvements shall be protected if the future need is demonstrated. The need for such improvements shall be assessed on the assumption that Morningside Avenue will be further extended to Steeles Avenue and directly connected across Steeles Avenue to an arterial road in Markham.

The alignment of Morningside Avenue within the Secondary Plan area is intended to be at the interface between residential and other uses. The right-of-way for Morningside Avenue shall be located no closer than approximately 100 metres from the CPR Connector line, as measured from the easterly limit of the rail right-of-way. Refinements to the alignment at the subdivision approval stage to accommodate grade separations/storage capacity, access requirements or to achieve adequate separation distances shall not require an amendment to this Plan.

The further extension of Morningside Avenue to Steeles Avenue as a 36 metre arterial road with reversed lots or other restricted access is intended to be completed in a location to be determined by an environmental assessment pursuant to the *Environmental Assessment Act*. The environmental assessment process shall determine the alignment of Morningside Avenue to Steeles Avenue and the location of the intersection with Steeles Avenue. The environmental assessment shall be conducted in consultation with all interested parties, including adjacent municipalities. The proponent for this environmental assessment may be a public body or a private entity or a public/private partnership. The alternative alignments to be considered in the environmental assessment shall include potential alignments on the west side of the CPR Havelock Subdivision rail right-of-way and on the east side, in the Buffer Reserve.

The potential extension of Morningside Avenue as a 36-metre arterial road from its intersection with the east-west collector road north of the Hydro corridor to the CPR Havelock Subdivision

rail corridor is shown on Figure 4.34 as Road Reserve. The completion of this potential section of Morningside Avenue is subject to approval pursuant to the *Environmental Assessment Act* and shall not be completed until the environmental assessment process has been completed or the time for submission of the environmental assessment for approval has lapsed.

The east-west collector north of the Hydro corridor may be extended across the intersection with Morningside Avenue into and through the Business Park to the CPR Havelock Subdivision rail corridor in a location that the collector could be connected directly through to the intersection of Tapscott Road and McNicoll Avenue. Further extension of the collector across the rail corridor shall only occur if it would not in any way compromise potential alignment options for, or limit potential rail crossing to accommodate, the extension of Morningside Avenue to Steeles Avenue and potentially beyond, in accordance with the *Environmental Assessment Act* and the provisions of this Secondary Plan.

If the extension of the east-west collector is constructed prior to the environmental assessment being completed, it may utilize an at-grade crossing of the CPR Havelock Subdivision which may replace the existing Passmore Avenue at-grade crossing. However, in the event that it is determined by the environmental assessment that Morningside Avenue should be extended across the CPR Havelock Subdivision and that the at-grade crossing for the east-west collector should be closed, that crossing must be closed.

Should the environmental assessment not be submitted for approval by December 31, 2005, or if Terms-of-Reference for the environmental assessment have not been submitted for approval by December 31, 2004, the extension of Morningside Avenue to Steeles Avenue may instead be completed through the subdivision approval process, and the requirements of this Secondary Plan to:

- (i) assess the future need for grade separations and/or storage capacity at the Neilson and Finch crossings of the CPR Connector on the basis of an assumed continuous connection to an arterial road in the Town of Markham; and
- (ii) maintain the potential for an alignment through the Buffer Reserve,

shall both lapse.

The proponent of the extension of Morningside Avenue to Steeles Avenue shall, once it has submitted the environmental assessment for approval, pursue such approval in good faith and with due diligence, with the objective of minimizing the ultimate length of the approval process.

The finalization of the alignment for Morningside Avenue within the Secondary Plan area also depends upon the completion of the environmental assessment for the reconstruction of the Finch/Morningside intersection. The environmental assessment for that intersection shall be completed prior to or concurrent with the environmental assessment for the further extension of Morningside Avenue to Steeles Avenue and potentially beyond.

Should Morningside Avenue be extended across the Havelock Subdivision railway corridor, the road/rail crossing may be grade separated or, alternatively, it may be an at-grade crossing. This at-grade crossing may replace the existing at-grade crossing at Passmore Avenue or the at-grade crossing utilized by the extension of the east-west collector, as the case may be, upon closure of such crossing.

Should Morningside Avenue not be extended across the Havelock Subdivision railway corridor, services may be extended to the railway right-of-way.

Responsibility for the cost of future grade separations shall be determined during approval of draft plans of subdivision, in accordance with applicable planning and development charge legislation.

During the initial phasing of arterial road construction or reconstruction, interim access to Morningside Heights and to the residential and other development permitted by this Secondary Plan, will continue to be provided from existing Finch Avenue, Staines Road, Neilson Road, Passmore Avenue and Steeles Avenue.

Attachment 7

Excerpt from November 2002 Toronto Official Plan Schedule 2

Minister's Decision dated March 21, 2003, to approve, in part, the Official Plan for the City of Toronto as adopted by by-law 1082-2002:

F. Schedule 2, The Designation of Planned But Unbuilt Roads, is hereby modified by:

35. The insertion of a footnote attached to "Morningside Avenue" which shall read:

"The extension of Morningside Avenue from the point shown on Schedule "C" (of the former Scarborough Official Plan) up to Steeles Avenue as a 36 metre arterial road with reversed lots or other restricted access is intended to be completed in a location to be determined by an environmental assessment pursuant to the *Environmental Assessment Act*. The environmental assessment process shall determine the alignment of Morningside Avenue to Steeles Avenue and the location of the intersection with Steeles Avenue. The environmental assessment shall be conducted in consultation with all interested parties, including adjacent municipalities.

"The alternative alignments to be considered in the environmental assessment include potential alignments on the west and east sides of the C.P.R. Havelock Subdivision rail right-of-way. Reference should be made to the Transportation policies of the Morningside Heights Secondary Plan for further detail. Should the environmental assessment not be submitted for approval by December 31, 2005, or if Terms-of-Reference for the environmental assessment have not been submitted for approval by December 31, 2004, the extension of Morningside Avenue to Steeles Avenue may instead be completed through the subdivision approval process. Development proposals within the area potentially affected by this environmental assessment may proceed in advance of the environmental assessment only if they can demonstrate that they would not compromise potential alternative alignments for Morningside Avenue."

(A copy of Attachment 8, Works Committee Report 6, Clause 5, headed "Morningside Avenue/Markham By-pass Extension Individual Project Environmental Assessment Study Status Report (Ward 42 – Scarborough Rouge River)" adopted by City Council on June 14, 15 and 16, 2005, and Notice of Motion I(5) adopted by City Council on December 5, 6 and 7, 2005, was forwarded to all Members of Council with the agenda of the Works Committee for its meeting on March 7, 2006, and a copy is on file in the office of the City Clerk, City Hall.)

The Works Committee also considered a communication (February 17, 2006) submitted by Jim Robb, Friends of the Rouge Watershed, providing comments on the Markham By-pass EA.

Jim Robb, Friends of the Rouge Watershed, addressed the Works Committee, gave an overhead presentation, and filed a written submission.