
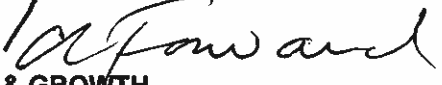

TO: GENERAL COMMITTEE


SUBJECT: ZONING BY-LAW 2009-141 – HOUSEKEEPING AMENDMENTS

WARD: ALL

PREPARED BY AND KEY CONTACT: K. BRISLIN , SENIOR POLICY PLANNER EXTENSION # 4440 and R. COTTON, POLICY PLANNER EXTENSION # 5135

SUBMITTED BY: S. NAYLOR, MES, M.C.I.P., R.P.P. DIRECTOR OF PLANNING SERVICES 

GENERAL MANAGER APPROVAL: R. FORWARD, MBA, M.Sc., P. ENG. GENERAL MANAGER OF INFRASTRUCTURE & GROWTH MANAGEMENT 

CHIEF ADMINISTRATIVE OFFICER APPROVAL: C. LADD, CHIEF ADMINISTRATIVE OFFICER 

RECOMMENDED MOTION

1. That the comprehensive Zoning By-law 2009-141 be amended in accordance with the zoning by-law amendment described in Appendix "A" to Staff Report PLN025-13.
2. That no further notice is required in accordance with Section 34(17) of the *Planning Act*. (PLN025-13, D14-HOU).

PURPOSE & BACKGROUND

Report Overview

3. The purpose of this report is to recommend a number of housekeeping amendments to the Comprehensive Zoning By-law 2009-141.
4. On June 17, 2013, City Council adopted motion 13-G-154 which directed a public meeting be held to consider a series of proposed housekeeping amendments to Zoning By-law 2009-141. These amendments were recommended and described in Staff Report PLN017-13 dated June 10, 2013 (File: D14-HOU).
5. A public meeting was held on September 19, 2013 to consider the housekeeping matters recommended in Staff Report PLN017-13 dated June 10, 2013, and this report will also address questions raised at the public meeting.
6. Further to Paragraph 12 of Staff Report PLN017-13, staff had advised General Committee and Council that some matters of a minor nature may arise between the receipt of the report by Council and the public meeting and provided that these matters were of a minor nature, they would be addressed through the public meeting and this final report. Paragraph 12 of Staff Report PLN017-13 reads as follows;
12. *Staff recognize that additional matters of a housekeeping nature may arise between Council consideration of this staff report and the scheduling of the public meeting. Staff will include any additional matters in the notice of the public meeting provided such matters are of minor nature and do not affect any specific property.*

7. After further review and analysis, staff are recommending four changes to the original recommendations of Staff Report PLN017-13 as follows:
 - a) The amendment to the definition of a Boarding Lodging and Rooming house is not being recommended based on further review of this issue.
 - b) An additional amendment to address the parking standards for residential use in the C3 Shopping Centre commercial zones is proposed;
 - c) The proposed changes dealing with setbacks and landscaped open space in the C1 and C2 Commercial zones are to be deferred pending further review by staff.
 - d) Staff are recommending that the outdoor amenity area be permitted to encroach in the rear and interior side yard, and not exterior side yards which face the street.

ANALYSIS

8. The City's Comprehensive Zoning By-law 2009-141 was passed in August of 2009 to replace the former Zoning By-law 85-95. In the four years since this by-law was approved, City staff and several property owners have identified minor issues with the by-law related to the map schedules and to the text of the by-law.
9. Staff Report PLN017-13 summarized the reasons for the proposed amendments and included 2 tables outlining a) proposed text amendments and b) proposed changes to the zoning map schedule and changes to Appendix "B" to the by-law.
10. The changes recommended are as follows:

Mapping Changes

- a) 10 Checkley Street – correct mapping error associated with property boundary adjustment by rezoning the lands from General Commercial C4 and Transition Centre Commercial C2-2 to C2-1 which is the same zone as the surrounding lands (see Figure 1).
- b) Change remnant parcels created by the realignment of Lakeshore Drive and Simcoe Street to City Centre Commercial (C1-1), Transition Centre Commercial (C2-1) and Open Space (OS) Zones (see Figure 1). These lands are all in City ownership and include:
 - i) 2115m² on the north side of Simcoe Street between Maple and Bayfield Streets, to be changed from un-zoned and open space to C1-1;
 - ii) 687m² located at the south east corner of Simcoe Street and Maple Street to be changed from un-zoned to C2-1; and
 - iii) 123m² to be changed from un-zoned to Open Space zone.
- c) 54 and 58 Clapperton Street – are proposed to be changed to address a typographical error resulting from inadvertent reversal of special provision numbers between the properties. Thus 54 Clapperton is to be changed from C2-1(SP-179) to C2-1 (SP-175) and vice versa for 58 Clapperton Street (See Figure 2).
- d) 42, 44 and 50 Anne Street – are proposed to change the Map Schedule from Multiple Residential First Density (RM1) to General Commercial Special Provision Holding Zone

C4(SP-419)(H-109) to reflect previous zoning of lands provided by By-law 2008-109. The Special Provision 13.2.75 relating to C4(SP-419)(H-109) is included in text of the by-law, yet not on the Map Schedule. In addition, a remnant parcel resulting from road widening of Anne Street is to be rezoned from RM1 to C4 (SP-419)(H-109) which is in conformity with adjacent lands (see Figure 3). An additional remnant Ministry of Transportation (MTO) owned parcel is to be changed from RM1 to Environmental Protection Zone (EP). The MTO and owner were contacted in regard to the changes proposed to 42, 44, and 50 Anne Street North (Figure 3). Correspondence has been received from Mr. Bell acting on behalf of the owner of 42, 44 and 50 Anne Street supporting this correction.

- e) City owned land to rear of 92 and 96 Ardagh Road – constituting approximately 2500m² is part of a larger property in City ownership, is proposed to change from Single Detached Residential First Density zone (R1) to Environmental Protection zone (EP) (see Figure 4). The lands are identified as Level 1 Natural Heritage Resource on Schedule H of the Official Plan, and the EP zone would be the same zone as the zoning of balance of this 4.8 hectare block of City owned land.
- f) 466 Mapleview Drive – is proposed to change from Agricultural zone (A) to Single Detached Residential Second Density zone (R2) to reflect an existing dwelling on lands (see Figure 5). This is a site specific rezoning, made at the request of the owner. Staff contacted the property owner and the adjacent property owners to advise of proposed amendment.
- g) City owned land to east of 8 and 10 Trotter Court – is proposed to change from R1 to EP to reflect floodplain boundary and lands which form part of a continuous EP area to the north and east (see Figure 6).
- h) Land located at the rear of 126 Penvill Trail – consisting of a larger parcel of approximately 500m² which is proposed to change from R2(SP-287) to EP; and a smaller remnant fronting on Penvill Trail which is proposed to change from EP to R2 (SP-287) (see Figure 6). These proposed changes reflect a property exchange with abutting owner and the City. A related text change is necessary to reflect the special provision R2 (SP-287) applicable to the residential parcel.
- i) City owned land to northeast of Molson Arena – is proposed to change from Service Industrial Special Provision Zone (EM3)(SP-408) to EM3 Storm Water Management (SWM) and from General Industrial Special Provision Zone (EM4)(SP-409) to EM4 SWM to reflect the existing stormwater management facility located on the lands (see Figure 7).
- j) 19 and 22 Herrell Avenue – is proposed to change from EP and OS respectively, to R2; in both cases to reflect existing single detached residences (see Figure 8). Since these are site specific changes staff have contacted the property owners and the adjacent property owners to advise of the proposed amendment. Staff have confirmed that current property taxes are based on the residential property class in both cases. Revision to Appendix "B" – the addition of TransCanada Pipeline (TCPL) right of way is proposed to provide a reference map identifying the location of the TCPL right of way (see Figure 9). Text changes introducing general setbacks from the TCPL right of way are also proposed.

11. Text Changes

a) Section 4.0 General Provisions:

- Change Sections 4.2.1.12 and 4.3.2 (b) to allow the temporary seasonal sale of fruit and vegetables on vacant commercially zoned properties, and to permit the use of trailers in association with these seasonal uses.
- Change Section 4.5.11 by adding general setback standards from the TransCanada Pipeline rights of way at being 7m from the main building and 3m from accessory buildings. This is based on the request of TransCanada Pipeline.
- Change Table 4.6, parking standards Data Processing Centre to be more reflective of the parking requirements for office and other uses associated with these facilities. The office component will require 1 space per 30m², and the non-office component will require 1 space per 1000m² of floor area.
- Change Section 4.6.2.6 to provide for standards related to parallel parking, which is currently identified as urban design guidelines. The standards propose a minimum parking space width of 2.7m; a minimum parking space length of 6.7m and 5.5m where there is no curb at the front or rear of end spaces and minimum aisle widths of 3.7m, and 6.4m respectively for one-way and two-way traffic.

b) Section 5.0 Residential Zone Provisions

- Change Section 5.2.5.2 b) to allow the required 12m² per unit for medium density multi-unit housing forms to be permitted in the required rear and interior side yard setback areas. The current provision results in inefficient use of space and the yard setbacks and the outdoor amenity areas in the yards that do not face the street can have overlapping functionality in these medium density housing forms.
- Add new items 5.2.5.2 d) and e) to require a minimum driveway length of 6m per unit for block and cluster townhouse development and a minimum internal roadway width of 6.4m for walk up apartments and/or block/cluster/stacked townhouse development. The changes are proposed to provide adequate driveway access to prevent overhang into internal roadways and provide for sufficient emergency vehicle access and winter snow storage.

c) Section 6.0 Commercial Zone Provisions:

- Add Section 6.3.4.4 h), standards for Residential uses in the Shopping Centre C3 Commercial Zone to require 1.5 parking spaces per unit. This was intended when the former comprehensive zoning by-law was amended in 2005 to permit residential uses in the C3 zone. This standard applies to residential uses when permitted in combination with other commercial zones. Without this change the general standard of 1 space per 18.6m² of gross leasable area applies, which is a standard for retail uses, and is excessive for residential uses.

d) Section 8 Institutional Zone Provisions

- Add to the general Institutional zone standards of Section "8.3.6 Additional Standards" and include a standard under 8.3.6.1 Major Institutional I-M-1 providing for a maximum height of 15 m as was in effect for the courthouse lands under the former comprehensive Zoning By-law 85-95.

- In addition add Section 8.3.6.2 to require a maximum height of 15m for lands zoned Institutional Educational Zone I-E-1, as was established in Zoning By-law 85-95. This standard is currently included in Section 13.4 Special Provisions of By-law 2009-141, and would be moved to the general provisions of the Institutional zone and removed from the Special Provisions section. The (I E-1) zone applies to 25 Burton Avenue – the Unity Christian School.
 - The property owners of both the affected sites were contacted to advise of these changes.
- e) Section 12.0 Agriculture Zone Provisions:
- Remove the Superscript (1) from the table under the row for “Dwelling Unit” and “Single Detached Dwelling”. The superscript (2) will remain. The effect is to provide clarity in that the Residential R1 zone standards would apply for residential dwelling units and single detached houses in the Agricultural zone.
- f) Section 13.0 Special Provisions
- Change subsection 13.1.113 R2(SP-287) to include block 180 Plan 51M-783 /Block 219 Plan 51R-32786 to provide the appropriate zone provision for the residential parcel as related to a land exchange and mapping change described in 10 h) of this report PLN025-13.
 - Add a Special Provision 13.5.1 OS (SP-118) applicable to 351 Townline Road and which is shown on the Zoning Map Schedule as OS(SP-118). The special provision is for a minimum front yard setback of 1.5m for a building which existed on June 16, 1996, which is as zoned when the special provision by-law was passed.
12. It is noted that Staff Report PLN017-13 proposed changing standards related to minimum landscaped buffer area and building setback requirements for apartments in the C1 and C2 zones to ensure consistency with other development standards in the Urban Growth Centre. However, staff have determined additional background is necessary before recommending changes in this regard. This proposed change was not presented at the public meeting.
13. As noted in 11 c) of this report, an additional change not discussed in Staff Report PLN017-13 relates to providing appropriate parking standards of 1.5 spaces per unit for residential uses permitted in the Shopping Centre C3 Commercial zone.

Public Meeting

14. **Boarding, Lodging and Rooming Houses Definition**

A question was raised by Councillor Ainsworth at the public meeting regarding the proposed change to the definition of Boarding, Lodging and Rooming Houses. The proposed Housekeeping Amendment outlined in Staff Report PLN017-13 recommends amending the definition of Boarding, Lodging and Rooming Houses by replacing the word “dwelling” with the words “a building or part of a building”.

The origins of the proposed amendment relate back to a successful court challenge of the definition of a Boarding, Lodging and Rooming House in the City of Orillia zoning by-law. Staff were originally recommending the change to ensure that a similar challenge could not be launched on the City of Barrie by-law.

However, staff have reviewed this matter further with Legal Services, By-law Enforcement and Zoning staff, and are now satisfied that the vulnerability identified in the City of Orillia by-law does not apply to By-law 2009-141.

In addition, it has been pointed out that the current definition for Boarding, Lodging and Rooming House is consistent with our licensing by-law and uses terminology that is aligned with the Building and Fire Code. Any changes in the definition would need to address these resultant inconsistencies.

Staff are therefore not recommending any housekeeping changes in this regard.

15. Setbacks for Accessory structures from the TransCanada Pipeline Right of Way

A question was raised at the public meeting from Councillor Ward regarding the proposed setback requirement for accessory structures from the TransCanada Pipeline. Specifically Councillor Ward was concerned as to how the proposed standard in the by-law would apply to existing accessory structures that do not comply and proposed accessory structures that do not require a building permit.

Staff have confirmed with TransCanada Pipeline that the request for the proposed setbacks is intended to apply to all structures to minimize third party damage and to provide access for ongoing operation and maintenance of the right of way.

Existing structures that were legally in compliance with the by-law prior to the approval of the proposed amendment would be considered legally non-conforming. Any proposed accessory structures regardless of whether they require a building permit or not would be required to comply with the proposed 3 metre setback. Implementation and enforcement of the proposed standard would occur through the building permit process or, in cases where no building permit is required, enforcement would be dealt with on a complaint driven process.

16. 42, 44 and 50 Anne Street North

Some questions were raised by the Mayor as to the circulation of notice to owners surrounding these lands as the change is from residential to commercial. The lands are owned by one owner and were re-zoned with a special commercial provision by By-law 2008-108. While the text provisions reflecting this zoning are in place in By-law 2009-141, the mapping change was inadvertently omitted. The change is being recommended because the zoning map does not reflect the correct zoning, which was previously approved. Therefore, staff did not consider it necessary to circulate adjacent owners.

ENVIRONMENTAL MATTERS

17. One of the effects of the proposed Housekeeping By-law is the addition of further Environmental Protection (EP) zoned City owned lands to the City's inventory of lands protected for environmental purposes. In total, approximately 0.3 additional hectares of land are being rezoned to Environmental Protection EP Zone.

ALTERNATIVES

18. The following alternatives are available for consideration by General Committee:

Alternative #1 General Committee could maintain the existing Zoning By-law 2009-141 (i.e. Status Quo).

This alternative is not recommended as it does not recognize the identified need for the revisions to the By-law.

FINANCIAL

19. One purpose of this Housekeeping Zoning By-law is to correct mapping and text inconsistencies. If these changes were not made, the City could potentially be subject to legal action resulting in costs being incurred by the City in terms of direct financial costs and redirection of staff time related to any legal actions.

LINKAGE TO 2010-2014 COUNCIL STRATEGIC PLAN

20. The recommendation(s) included in this Staff Report are not specifically related to the goals identified in the 2010-2014 City Council Strategic Plan.

Appendix "A" - Draft Housekeeping Zoning By-law amendment

APPENDIX "A"

Proposed Amendments to Zoning By-law 2009-141

1. That a new Section 4.2.1.12 be added after Section 4.2.1.11, as follows:

"4.2.1.12 Sale of Fruit and Vegetables

The sale of fruit and vegetables and other home-made/farm produce on a seasonal basis is permitted on vacant commercially zoned property."

2. That Section 4.3.2 b) be amended by adding the words "and 4.2.1.12". at the end of the sentence.

3. That a new Section 4.5.11 be added as follows:

"4.5.11. Minimum Setback from TransCanada Pipeline

No permanent building or structure shall be located within 7 metres of the pipeline right of way. Accessory structures shall have a minimum setback of at least 3m from the limit of the right of way unless otherwise provided for in this By-law."

4. That Table 4.6 be amended as follows:

<i>Data Processing Centre</i>	
a) <i>Office</i>	a) 1 space per 30m ² of gross floor area
b) <i>Non-office uses</i>	b) 1 space per 100m ² of gross floor area

5. That Section 4.6.2.6 be amended by adding the words "and parallel parking spaces" after the words "barrier free parking spaces".

6. That a new Section 4.6.6 be added as follows:

"4.6.6 Parallel Parking Spaces

Each parallel parking space shall be a minimum width of 2.7 metres and a minimum length of 6.7 metres. If there is no curb at the front or the back of the parking space, the minimum length of 5.5 metres is permitted. One way aisle width shall be a minimum of 3.7 metres and a 2 way aisle width shall be a minimum of 6.4 metres."

7. That Sections 5.2.5 be amended by adding a new subsection 5.2.5 d) and 5.2.5 e) as follows:

- "d) a minimum driveway length of 6 metres per unit is required for *block and cluster townhouse* development
e) a minimum 6.4 metre wide internal private roadway for *walk-up apartments and/or block/cluster/stacked townhouse* development"

8. That Section 5.2.5.2 b) be deleted in its entirety and replaced with the following:

- 'b) A minimum outdoor amenity area of 12m² per unit in a consolidated form is required for *walk-up apartments and/or block/cluster/stacked townhouse* development. That notwithstanding other provisions of this By-law such required area is permitted to encroach into the required *rear and/or interior side yard* area adjacent to each unit, and exclusive of any on site *community centre building(s)*.

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9. That a new Section 6.3.4.4 h) be added immediately following Section 6.3.4.4 g):
- "6.3.4.4 h) Notwithstanding Section 4.6.3.3, parking for residential uses shall be calculated at 1.5 spaces per dwelling unit."
10. That a new Section 8.3.6 be added:
- 8.3.6 Other Standards**
- 8.3.6.1 Major Institutional (I-M-1)**
- The lands zoned Major Institutional (I-M-1) shall have a maximum height of 15 m. (By-law 85-95).
- 8.3.6.2 Institutional Educational Zone (I-E-1)**
- The lands zoned Institutional Educational (I-E-1) shall have a maximum height of 15 m. (By-law 85-95)"
11. That Table 12.3 be amended by deleting the superscript ⁽¹⁾ from reference to "Dwelling Unit" and "Single Detached Dwelling".
12. That Section 13.1.113 be deleted in its entirety and replaced with the following:
- "13.1.113 "R2 (SP-287)**
- 126 Penvill Trail and 128 Penvill Trail** (Block 180 of Plan 51 M-783 and Block 219 Plan 51M-771 and Part 1, 51R-32786) shall be required to provide a minimum lot frontage of 15m and a minimum lot area of 750m²."
13. That Section 13.4.1 be deleted in its entirety and the remaining sections be renumbered accordingly.
14. That a new Section 13.5.1 be added as follows:
- "13.5.1 OS (SP-118)**
- 351 Town Line Road** (Parts 1 and 2 on Reference Plan 51-16987 and Part 1 on Reference Plan 51R-24998). Notwithstanding the requirements of Table 9.3, the property zoned OS (SP-118) shall provide a Front Yard minimum setback of 1.5 m for the building existing as of June 16, 1996."
- and the remaining sections be renumbered accordingly.
15. That the zoning map schedule be changed in accordance with changes shown on the maps shown on Schedule "A" attached.
16. That Appendix "B" to By-law 2009-141 be replaced with Appendix "B" attached.

Schedule "A" to By-law 2013-XX

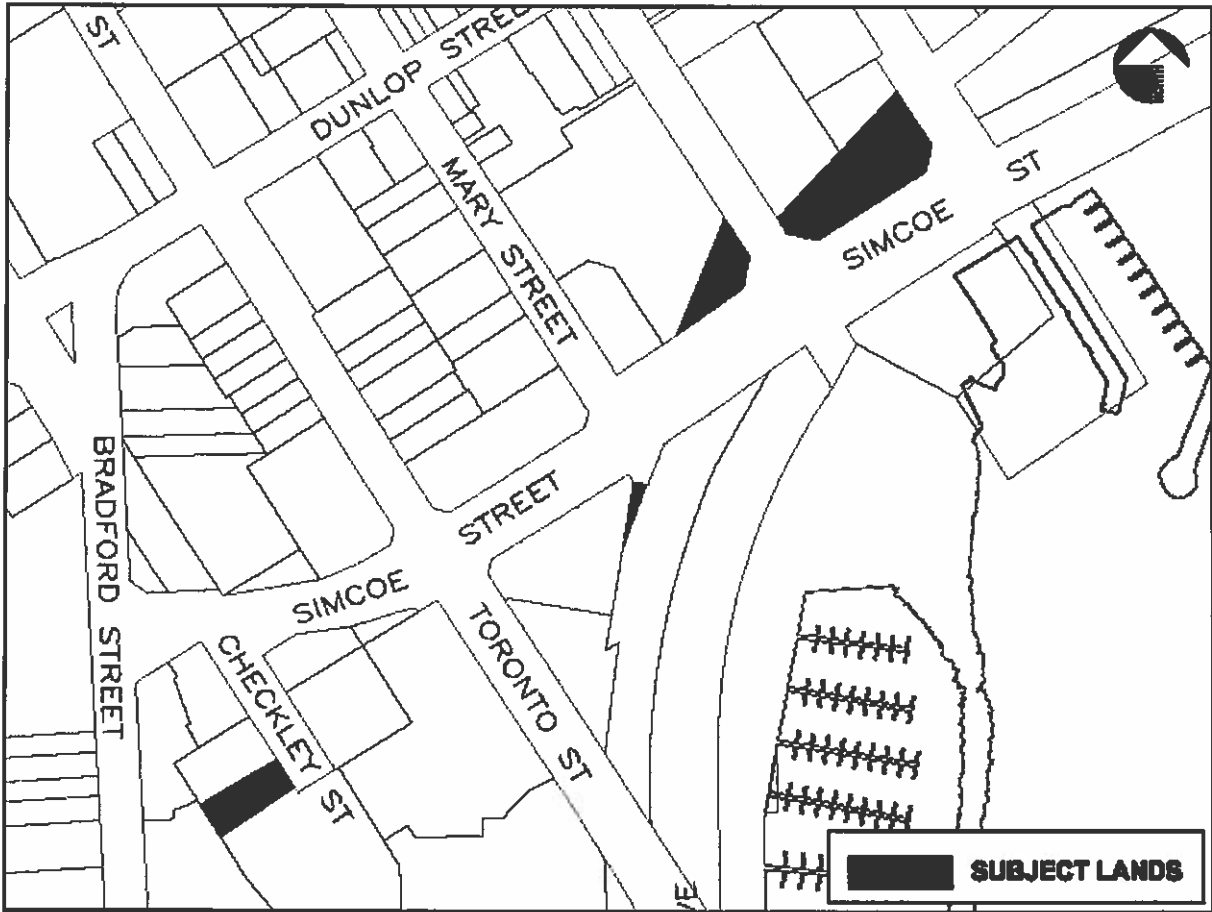


FIGURE 1

10 Checkley Street to be rezoned from General Commercial Zone C4 and Transition Centre Zone C2-2 to Transition Centre Zone C2-1

Former Parts of Simcoe Street and Lakeshore Drive to be rezoned from un-zoned and Open Space Zone OS to Central Area Zone C1-1, Transition Centre Zone C2-1 and Open Space Zone OS

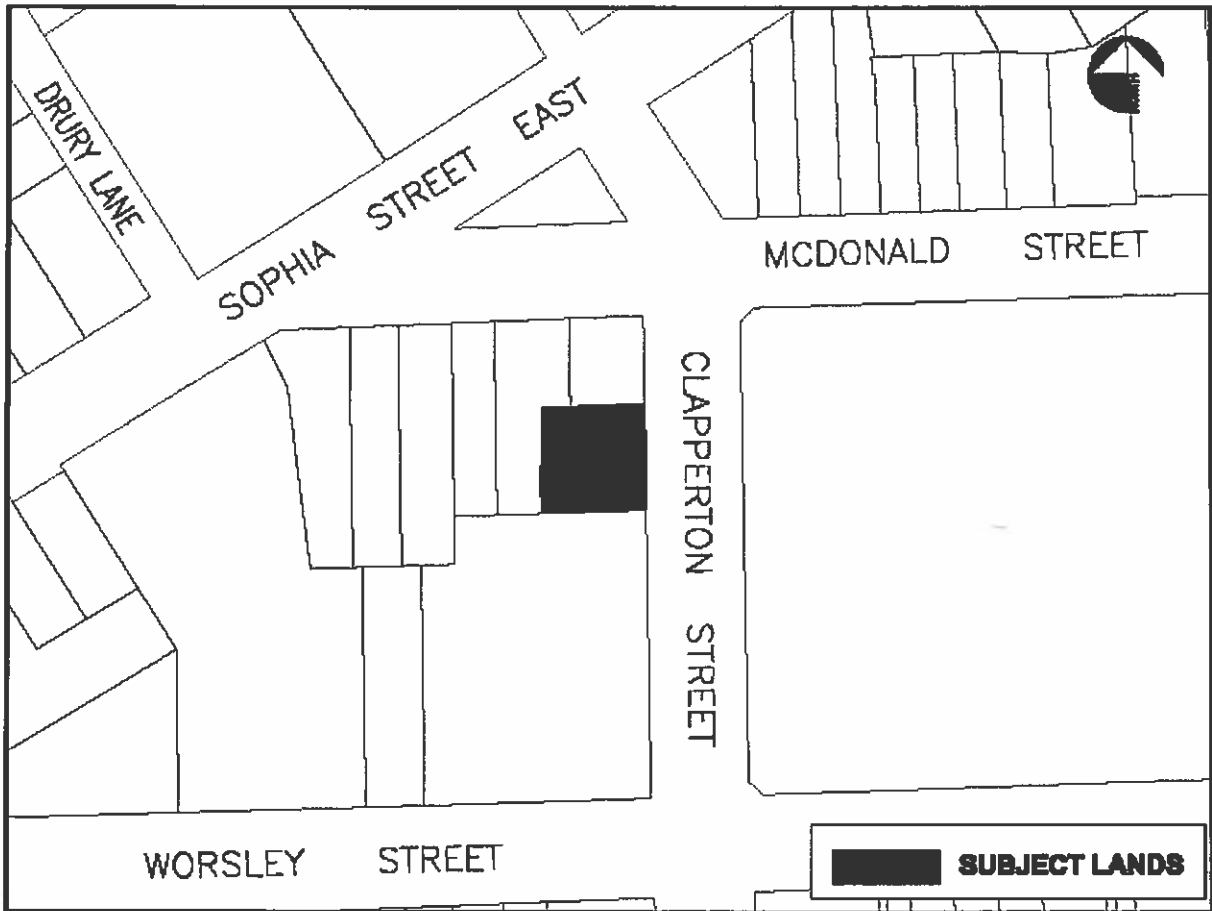


FIGURE 2

54 Clapperton Street to be rezoned from Transition Centre Zone C2-1(SP-179)
to Transition Centre Zone C2-1(SP-175)

58 Clapperton Street to be rezoned from Transition Centre Zone C2(SP-175)
to Transition Centre Zone C2-1(SP-179)

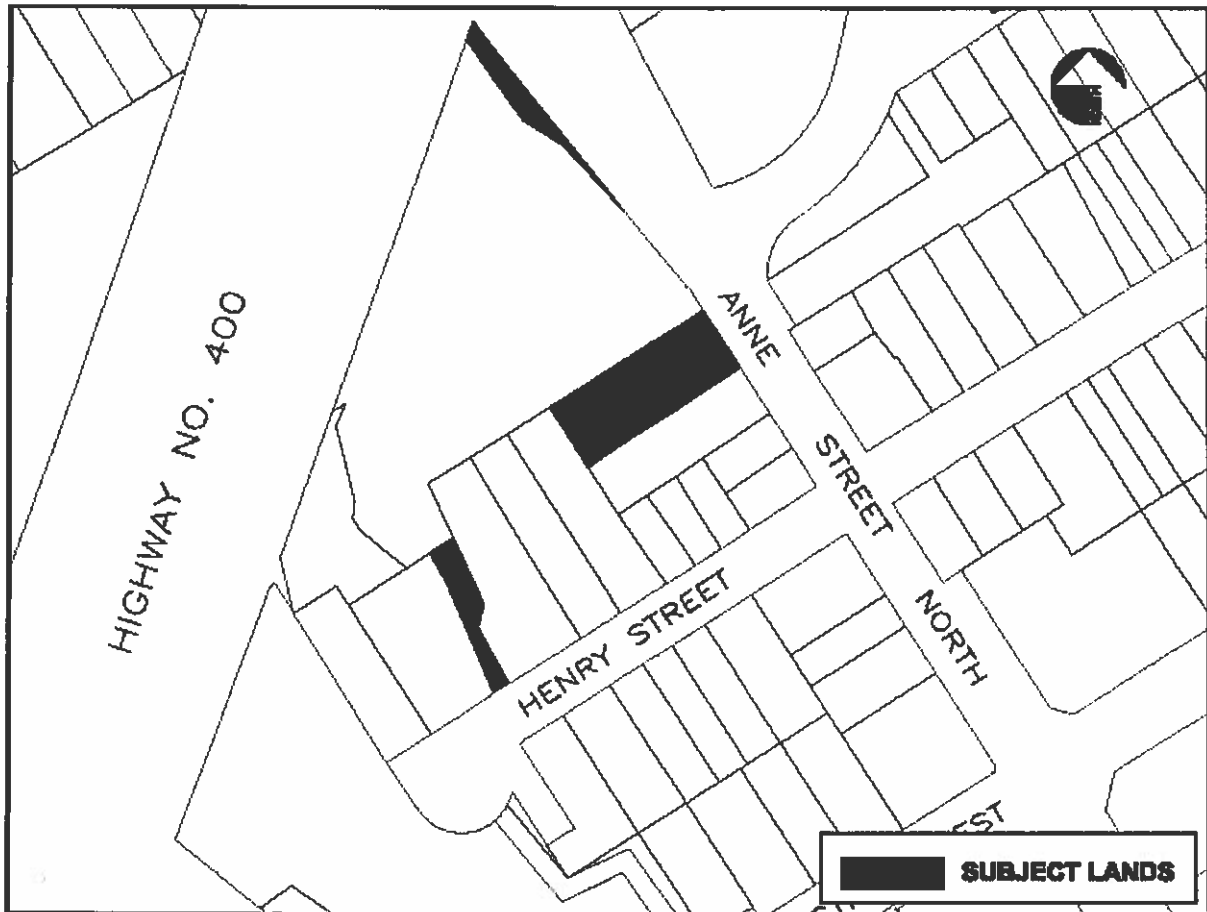


FIGURE 3

42, 44 and 50 Anne Street North to be rezoned from Multiple Residential Zone RM1
to General Commercial Zone C4 (SP-419)(H-109)

Lands in the south west corner of Part of Lot 8 on Plan 20 to be rezoned from Multiple Residential Zone RM1
to Environmental Protection Zone EP



FIGURE 4

92 and 96 Ardagh Road to be rezoned from Single Detached Residential Zone R1
to Environmental Protection Zone EP

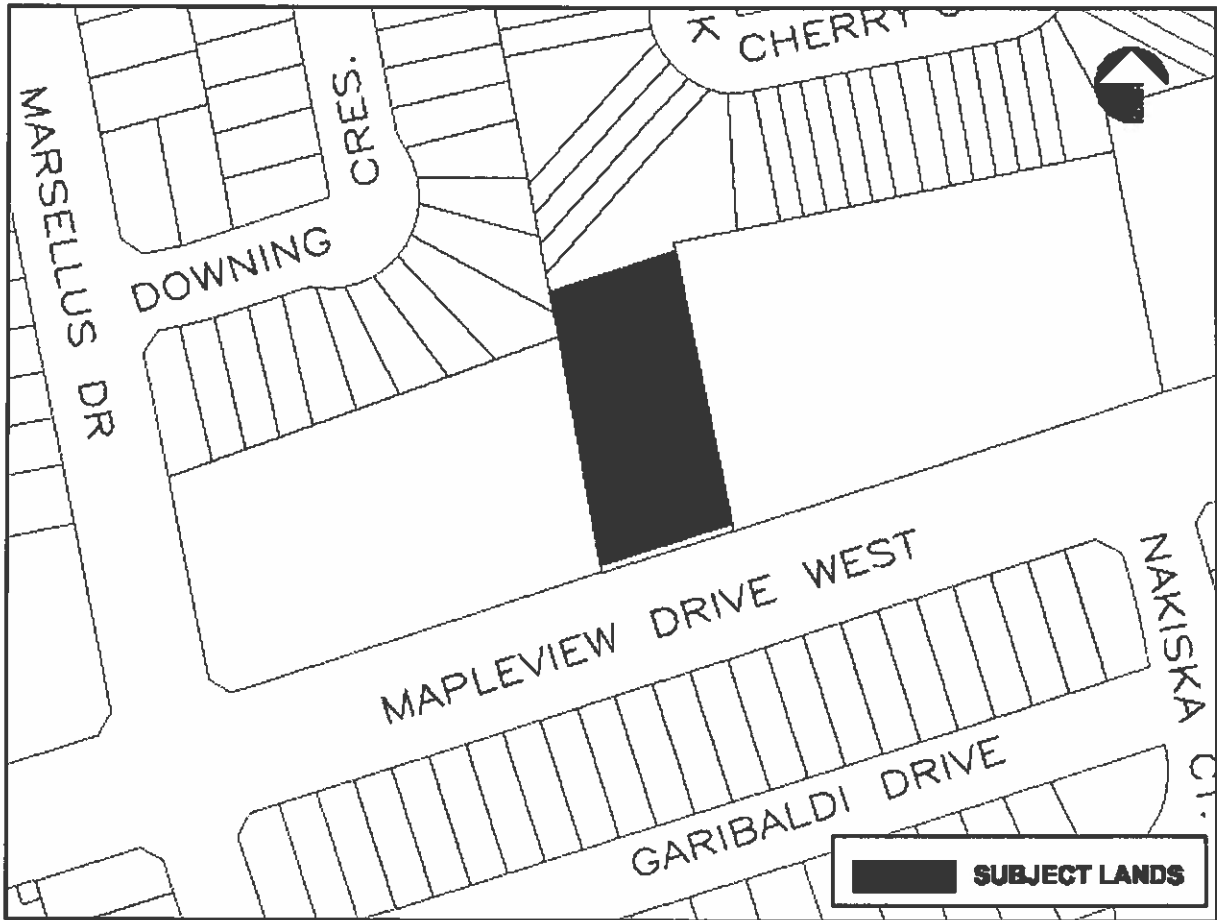


FIGURE 5

466 Maplevue Drive West to be rezoned from Agricultural Zone A
to Single Detached Residential Zone R2

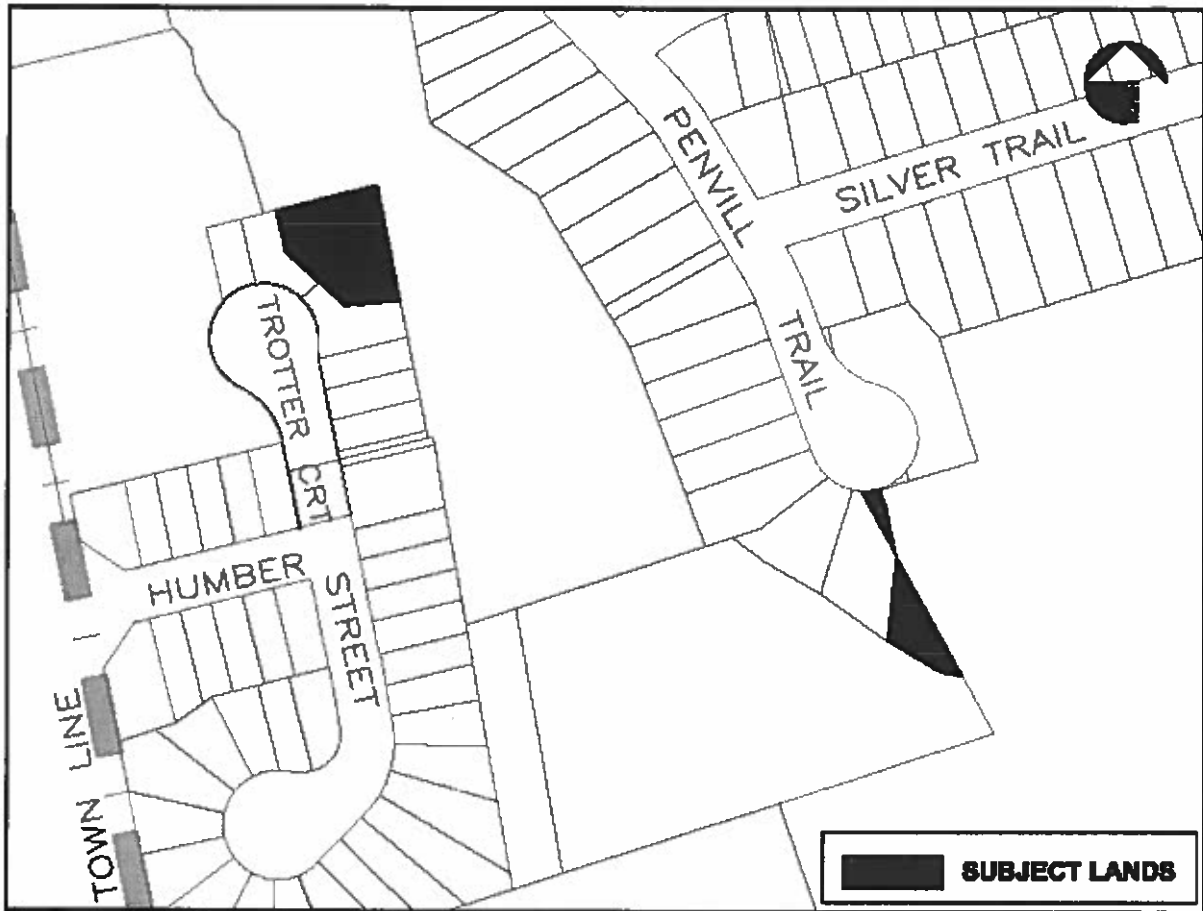


FIGURE 6

Lands to the East of 8 and 10 Trotter Court to be rezoned from Single Detached Residential Zone R1 to Environmental Protection Zone EP

Lands fronting on Penvill Trail and Adjacent to 126 Penvill Trail be rezoned from Environmental Protection Zone EP to Single Detached Residential Zone R2(SP-287)

Lands described as Plan 51M783 BLK 206 be rezoned from Single Detached Residential Zone R2(SP-287, to Environmental Protection Zone EP

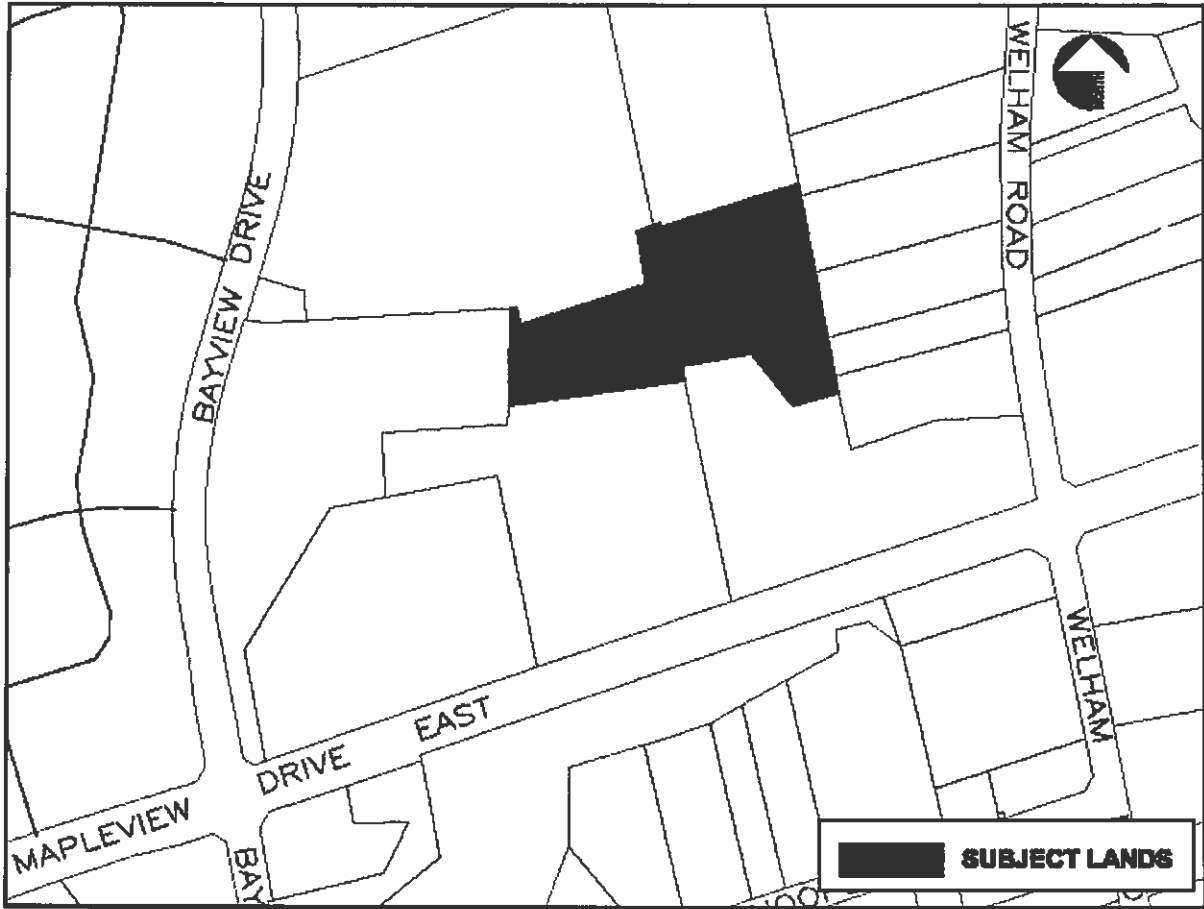


FIGURE 7

Part of Lot 9 Concession 12 to be rezoned from Service Industrial Zone EM3(SP-408) to Service Industrial Zone EM3(SWM) and General Industrial Zone EM4(SP409) to General Industrial Zone EM4(SWM)

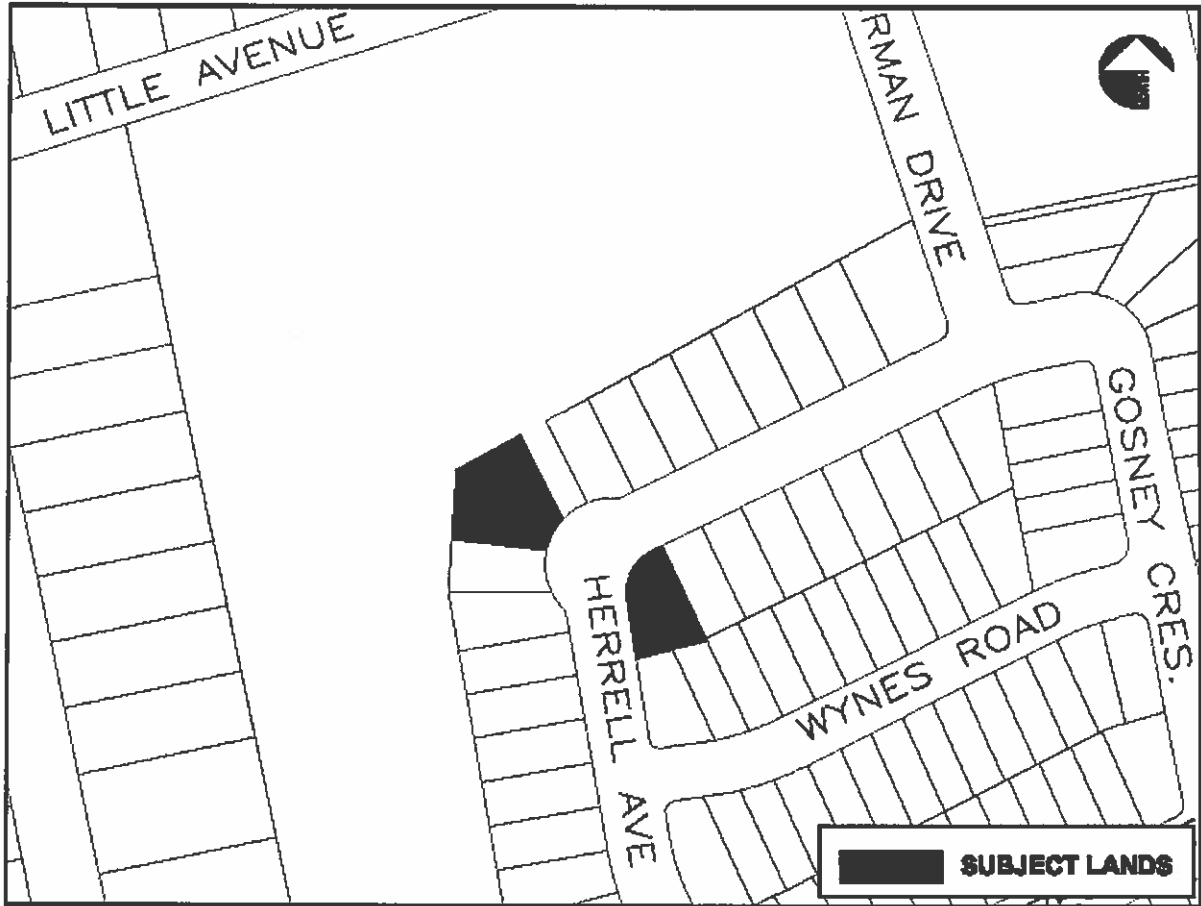


FIGURE 8

19 Herrell Avenue to be rezoned from Environmental Protection Zone EP to Single Detached Residential Zone R2
22 Herrell Avenue to be rezoned from Open Space Zone OS to Single Detached Residential Zone R2

