

TO: GENERAL COMMITTEE

SUBJECT: APPLICATION OF ZONING BY-LAW AMENDMENT
MOFAN HOLDINGS INC. 141-149 WELHAM ROAD

PREPARED BY AND KEY CONTACT: K. BRISLIN, M.C.I.P., SENIOR POLICY PLANNER
EXTENSION # 4440

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

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

CHIEF ADMINISTRATIVE OFFICER APPROVAL: E. ARCHER, CMA, ACTING CHIEF ADMINISTRATIVE OFFICER

RECOMMENDED MOTION

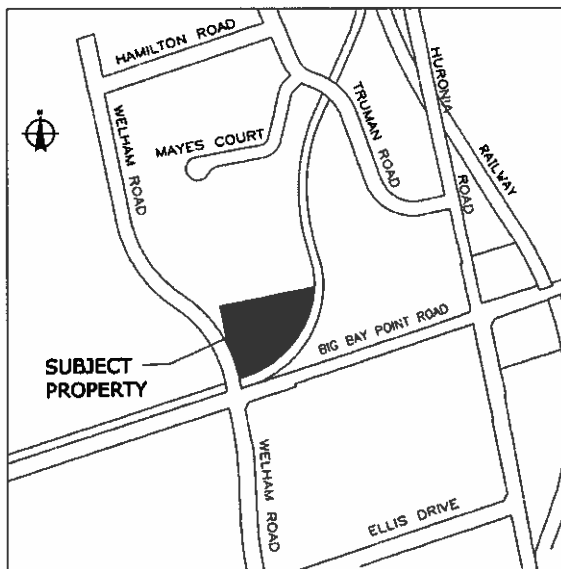
1. That the application submitted by Innovative Planning Solutions on behalf of Mofan Holding Inc. to rezone lands known municipally as 141 to 149 Welham Road from General Industrial EM4 zoning to General Industrial Special Provision EM4 (SP-X) zoning be denied.

PURPOSE & BACKGROUND

2. The purpose of this staff report is to consider an application to amend the City of Barrie Comprehensive Zoning By-law to rezone the subject site from General Industrial Zone EM4 to the **General Industrial Special Provision Zone EM4 (SP-X)** to permit the following additional commercial uses: bank, health club, medical office, photography studio, school or day care.
3. The current application is a revision to the original application to change the zoning from General Industrial Zone EM4 to Service Industrial Zone EM3.

Location

4. The property is located at the north east corner of Welham Road and Big Bay Point Road and is bounded on the east side by a rail line, and on the west by Welham Road which provides access to the site.



5. Existing land uses surrounding the subject property are as follows:
- North: General Industrial uses including warehousing and a proposed City transit maintenance facility to be located at 133 Welham Road in an existing 90,000ft² industrial building, in immediate proximity to the site.
 - South: General Industrial uses including Near North Pump Supplies on the south side of Big Bay Point Road, and some vacant EM4 lands.
 - West: General Industrial uses with some vacant land further west.
 - East: General Industrial uses including the rail line, GK Engineering Rail and National Training Rinks in immediate proximity.
6. The subject property is 1.68ha (4.15 acres) in size and consists of 3 multi-unit industrial buildings with a total floor area of 4,771m² (51,356ft²) of which 465m² (5,005 ft²) is currently vacant/unoccupied.

Existing Policy

7. The property is designated "General Industrial" within the City of Barrie Official Plan.
8. Sections 4.4.2.1(e) and (f) of the Official Plan which are general policies for industrial lands state: "(e) Commercial Uses such as retail stores not directly related to the function of industrial areas, or which are more appropriate in designated commercial areas are not permitted and, (f) Non-industrial ancillary uses will only be permitted where they will not interfere with or detract from the primary industrial function of the area."
9. Section 4.4.2.2 General Industrial policies of the Official Plan states "...the predominant use on lands designated General Industrial shall be for manufacturing, processing, servicing, storage of goods and raw materials, industrial warehousing and similar such uses."
10. The section goes on to state under section 4.4.2.2(b): "Commercial uses which serve the industrial area, or which are ancillary and or accessory to the industrial uses may also be permitted but the development of these uses must proceed by way of a site specific by-law which may address setbacks, parking lot coverage, site plan control matters or any other matters deemed appropriate. Automotive sales establishments shall not be located on lands serviced by rail and shall generally be 120m away from an existing industrial use."
11. Section 4.4.2.2 (c) adds that "industrial areas adjacent to residential lands shall be placed in a separate category in the zoning by-law and will permit a greater range of non-industrial, service based uses such as recreational uses, sports facilities and other service based industrial uses, while open storage activities would be prohibited in these areas."
12. While the foregoing General policies 4.4.2.1 (e) and (f) and the General Industrial policies in Section 4.2.2.2 of the Official Plan are currently under appeal and are not in effect, they are nevertheless relevant as to the intent of Council. It is also noted, policies expressing the same intent exist with very similar wording in the (2006) Official Plan, which is in effect. The intent of these Industrial Policies have been incorporated into Zoning By-law 85-95, as amended by By-law 2005-275, in addition to the updated comprehensive zoning by-law currently under appeal, where the Service Industrial EM3 zone category constitutes the separate zone category as described above in paragraph 11 of this report.
13. The table attached as Appendix "B" to this report shows the difference between the EM4 and EM3 zones. There are several common commercial uses permitted in both the existing EM4 and

the EM3 zones. The amended application would seek to add the following commercial uses from the EM3 zone into the EM4-Special zone. Under the *Commercial uses* these would include: bank, health club, medical office, photography studio. Under the *Institutional uses* these would include: (commercial) school, and day nursery.

Public Meeting

14. The public meeting, which was held on May 2, 2011, presented the application as initially proposed to change from EM4 to EM3.
15. There were no comments from the public submitted with respect to the proposal.

Departmental/Agency Comments

16. The Simcoe County District School Board indicated no objection to the proposed rezoning. Enbridge Gas Distributing Inc. advised that any future subdivision or severance would be required to keep gas service entirely on the property. In terms of internal review, the Engineering Department submitted a preliminary review noting that a detailed submission that addresses parking, access and circulation on the site would be reviewed at the time of application for the building permit.
17. Following the public meeting, Planning staff met with the applicant's consultant to explain the history and rationale for the creation of the EM4 and EM3 zones, and indicated that there was concern that the proposed application would be inconsistent with the underlying intent of the Official Plan and the creation of these zones.
18. The applicant's consultant subsequently submitted a letter on November 3, 2011 requesting consideration of a potential amended application which would retain the EM4 zone and permit an additional 6 specific commercial and institutional uses which are noted in paragraph 2 of this report. Staff expressed similar concerns with this proposed revised application. The applicant confirmed on January 12, 2012 that notwithstanding staff's comments, they would like to proceed with a revised application for a site specific EM4 Special Provision zone to permit the uses noted in the correspondence dated November 3, 2011.
19. In staff's view, the amended application would not affect the staff and agency comments pertaining to application as presented at the public meeting. The key land use planning concerns raised with the original application are essentially the same as those of the original submission.

ANALYSIS

20. The approval of the current application (as revised since the public meeting) would in essence permit a selection of additional commercial uses that are permitted in the EM3 zone, being a bank, health club, medical office, and photography studio, and two of the institutional uses permitted in the EM3 zone being a school or daycare. As such, the application is essentially seeking to include permissions to permit more commercially related service type uses on the site.
21. In this regard, the local Official Plan (OP) and provincial policy framework (Places to Grow) for conversion of employment lands to non-employment uses should be reviewed. Under the policy framework, the conversion of employment lands to non-employment uses is not permitted outside of a comprehensive review of all employment lands. In staff's view, regard should be had for this policy intent despite the fact that it was technically incumbent to process the application as a zone change from one industrial zone to another, or as a site specific zone change.

22. The subject site is centrally located within an area of approximately 200ha of designated and zoned General Industrial EM4 lands, which predominantly consist of traditional industrial uses, interspersed with some vacant parcels of varying size.
23. The entire site is situated more than 500 metres from the nearest residentially zoned areas, which would be considered a sensitive use. Refer to Appendix "A" attached showing the surrounding context and zoning.
24. The Bayview Rail Spur which forms the southern and western boundary of the subject site also transects this consolidated General Industrial EM4 area, north of Big Bay Point Road, and feeds into the Barrie Collingwood Rail Branch (BCR) short line service located to the east of the site.
25. In staff's view, the revised site specific application would have a similar impact on the consolidated EM4 zoned area as would a change to the EM3 zone. It is necessary to explain some background as to the evolution of the EM3 and EM4 zones to set the policy framework for consideration of the revised site specific application.
26. The Industrial section of the Comprehensive Zoning By-law (85-95) was amended with By-law 2005-275 which came into effect in 2007. This was the product of a lengthy and complete review of the industrial zones, undertaken over the course of 2000-2005. The original Zoning By-law 85-95 contained only three industrial zone categories, M1 Restricted Industrial, M2 Heavy Industrial and M3 Special Industrial. A Business Park zone category (BP) was added in 2004, and the EM3 Service Industrial zone was included in 2005-275. The effect of these updates was to expand the number of industrial zone categories, to group more compatible employment uses within these new zones, and thereby reduce land use conflicts within the City's employment lands. The subject site was previously zoned M2 Heavy Industrial zone category prior to By-law 2005-275.
27. In support of the revised application, the applicant's consultant Mr. Darren Vella of Innovative Planning Solutions states "the property was developed, and constructed approximately 10 years ago in the year 2001. At that time, the subject property was zoned M2 (Heavy Industrial) within the City of Barrie Zoning By-law 85-95. The M2 zoning permitted uses included: Private Clubs, Banks, Offices, Assembly Hall, Conference Centre, Recreational Establishments, Commercial School, Day Nurseries, Service Stores." The applicant goes on to state "All of the permitted uses listed above (potentially) to be sought in the EM4-SP zone were permitted when this development was created."
28. The above statements do not fully capture the M2 permitted uses and intent of changes in definitions introduced with By-law 2005-275, which is further clarified as follows:
 - a) *Professional offices* were permitted in the M2 zone, however *clinics* defined as having 5 or more medical practitioners were not permitted in the former M2 Industrial zones. Thus, while a medical office with 4 practitioners or less would have been permitted as a professional office in the M2 zone, larger medical offices were not permitted. Medical offices of any size are among the uses which were removed from the list of permitted uses in the EM4 zone because of the high turnover in non-industrial traffic generated by these uses.
 - b) The definition of *Recreational Establishments* prior to By-law 2005-275 included a *health club* whereas By-law 2005-275 redefined *Recreational Establishments* to exclude *fitness centres*. This too was considered to be an inappropriate use creating conflicts with the traditional manufacturing and heavier industrial type of activity and industrial traffic and was thus removed from the EM4 zone.

- c) *Commercial School*, as defined in By-law 85-95 and 2005-275, referred to schools such as *dance studios*, but did not include *private academic schools* which were not permitted in the M2 zone in By-law 85-95 nor by in Zoning By-law Amendment 2005-275.
29. Thus the proposed revised application is seeking to go somewhat beyond the range of permitted commercial service type uses in terms of schools and medical offices that were contemplated in the original M2 zone, and constitutes a reversion to uses permitted prior to updating the Industrial section of the zoning by-law through By-law 2005-275. This update was intended to offer a solution to the commercialization of Industrial zones and, in staff's opinion, approval of the subject application would result in a backward step.
30. Changes to the Industrial section of the zoning by-law through By-law 2005-275 were largely in response to the need to deal with land use conflicts that had emerged between the more traditional heavier industrial manufacturing type uses and the lighter service and commercially oriented uses occurring in the midst of these traditional industrial use areas.
31. In preparing By-law 2005-275, staff met with several representatives of traditional industries in November of 2004 to obtain feedback on the proposed by-law. A representative of a nearby industrial establishment which is located on Welham Road, located within walking distance of the subject site within the consolidated area of EM4 lands described in this report, attended this meeting. The feedback from this meeting, recently summarized in staff report PLN023-11, is noted below as follows:
- *"the traditional industries are not able to operate in as cost effective and efficient a manner as they would like to when other uses – for the most part commercial businesses, locate in close proximity to their operations;*
 - *the commercial businesses encourage non-industrial vehicular and pedestrian traffic into the industrial areas and can impede truck traffic;*
 - *conflicts can be created between industries that may generate noise, dust and fumes, and commercial uses;*
 - *traditional industries would like the list of permitted uses in industrial zones shortened to include the true industrial uses and eliminate the uses that have the opportunity to locate in other zones.*
 - *it was also observed that many of the uses which are most incompatible have the option of locating in a variety of other zoning categories and simply choose to locate on industrial lands because of the relative low cost of these lands by comparison. Traditional industry however has no other option but to locate on industrially zoned lands."*
32. In addition, staff report PLN030-05 (August 8, 2005) described the effects of infiltration of non-industrial uses within areas planned for traditional industrial uses such as manufacturing, processing and warehousing and noted in paragraphs 15 and 16 that areas that were originally planned for space extensive traditional manufacturing uses were being developed for smaller more commercially oriented uses which develop in a more compact urban form and generate significant amounts of non-industrial traffic. It was staff's opinion, and that of some stakeholders, that this affects operations and plans of the larger more traditional uses in a number of ways some of which are noted below:
- a) *Increased commercial business/non-industrial and pedestrian traffic conflicts with industrial traffic has implications in terms of pedestrian safety, impacts delivery schedules, and may necessitate additional security measures on some large industrial manufacturing sites.*

- b) *Conflicts can be created between industries that may generate noise, dust and fumes, and commercial uses, and potential complaints regarding environmental matters such as noise, vibrations and emissions could potentially inhibit expansion and growth of a particular industrial facility.*
- c) *When employment land is absorbed by commercial uses, it limits opportunities for industrial expansion in the same area.*
- d) *It was also observed that many of the uses which are most incompatible have the option of locating in a variety of other areas and simply choose to locate on industrial lands because of the relative low cost of these lands by comparison. Traditional industry, on the other hand, has no other option but to locate on industrially zoned lands.*
33. Prior to the amendments implemented in By-law 2005-275, incompatible uses were permitted to exist immediately adjacent to each other. For example, a recycling facility could locate immediately adjacent to an entertainment use such as movie theatre. Similarly, a computer microchip manufacturer may find a concrete products manufacturer locating next door. The range of commercial type uses permitted in the former M2 zone allowed for these incompatible uses to exist side by side in the same zone.
34. These issues were addressed by the update to the Industrial section of the by-law, specifically by creating the Service Industrial M3 zone, which in effect split the M2 zone into two zones. The EM4 – General Industrial zone being intended for more traditional heavier manufacturing type industrial uses and the EM3 Service Industrial zone permitting more service oriented and commercial type uses.
35. The Service Industrial EM3 zone was also proposed as a transitional industrial zone intended to be located closer to sensitive uses such as residential, and between more sensitive use areas such as residential, open space and institutional areas and the more traditional industrial uses of the EM4 General Industrial zone. The EM3 zoned areas are thus located on the periphery of other industrial zones, particularly the General Industrial EM4 zone, in keeping with the Official Plan policy noted in paragraph 11 of this report: *“Industrial areas adjacent to residential lands shall be placed in a separate category in the zoning by-law and will permit a greater range of non-industrial, service based uses such as recreational uses, sports facilities and other service based industrial uses...”*
36. The subject property is located more than 500m from the nearest residential zone and is centrally located within a consolidated EM4 zoned area of over 200ha, and which includes many traditional heavy industrial uses with approximately 41ha (103.5ac.) of vacant General Industrial land made up of several lots with a variety of sizes ranging from 3.6ha (9ac) to 22.6ha (56ac).
37. The closest Service Industrial EM3 zoned lands are located some 250 to 300 metres to the east of the subject property on the east side of Huronia Road, forming a transitional buffer between the open space and residential area to the east and the contiguous 200ha EM4 zoned lands west of Huronia Road (as shown on Appendix “A” attached to this report).
38. The revised application is proposing to add several of the lighter commercial service and institutional type uses on a site located in the centre of a General Industrial EM4 area, with the uses being sought consisting of a number of uses permitted in the EM3 zone. The effect of this would be similar to placing an EM3 zone in the middle of an EM4 zoned area, whereas the EM3 areas are intended to locate on the periphery of the EM4 areas.
39. Notwithstanding that there are existing buildings on the property that were built at a time when a greater variety of uses were permitted on the site, this is one of those properties that was rezoned

from M2 to EM4 with the intent of removing the types of uses that would create conflicts within an area that is planned and being used for more traditional heavier industrial uses.

40. In staff's opinion, both the original application submitted and the revised application including special provisions for commercially oriented uses would constitute the introduction of more commercially oriented, non-industrial uses into the centre of lands intended for more traditional industrial uses.
41. In addition, the site specific rezoning would allow once again for the possibility of land use conflicts as described in paragraph 32 that were previously a concern. This was one of the very reasons that By-law 85-95 was amended through By-law 2005-275.
42. The existence of conflicting uses could result in the need for existing industries to relocate, and if there are no viable options within the City, this could mean a loss of the industry, and along with that, the loss of jobs and assessment.
43. As noted, commercial uses are generally easier to accommodate and locate within a built environment than industrial uses, especially large scale manufacturing uses. It is therefore important for the long term needs of the City to retain a sufficient amount of existing EM4 designated industrial land for the more traditional uses to have options to locate and expand unimpeded by conflicts with commercial uses. Properties with rail access are limited in the City and should be preserved for uses that can take advantage of the rail line. The proximity of an active short line rail service and spur in the middle of this EM4 zoned area is an important planning consideration in maintaining the integrity of the EM4 zoned area for the more traditional type industrial uses.
44. Historically, the issue of conversion of industrial lands to commercial uses predates the employment lands update by many years. The incremental changes over time ultimately resulted in substantial net changes to overall land use patterns within the City. Examples recently referenced in staff report PLN023-011 include "historic and on-going re-designation of lands on the west side of Highway 400 and Mapleview Drive, the re-designation of lands west of Highway 400, east of Essa Road, re-designation of lands located at the intersection of Highway 400 and Duckworth Street, and the re-designation of the Park Place lands on the east side of Highway 400 and Mapleview Drive."
45. In staff's view, a rezoning to accommodate more commercial service type industrial uses in an area intended by By-law 2005-275 for more traditional heavier industrial uses permitted in the General Industrial EM4 zone, whether by rezoning to EM3 or to EM4-(Special) potentially sets the stage once again to undermine the integrity of this EM4 area through incremental adjustments. In staff's opinion, this will eventually undermine the very purpose of By-law 2005-275 in addressing the conflicts between commercial and more traditional industrial uses, and is further contrary to the intent of the proposed Official Plan policies to reserve lands in proximity to residential neighbourhoods for these more commercially based uses.
46. In staff's opinion, the stated need of the applicant to broaden the permitted uses to increase the marketability of the property is outweighed by the fact that the subject property is located centrally within an established EM4 area. The intended uses are inappropriate as there is potential for conflicts with operations of the type of uses permitted as of right in the EM4 zone. Furthermore, the intended uses are more appropriately located on the periphery of the EM4 area as envisaged in the Official Plan and Zoning By-law (as amended by Zoning By-law 2005-275).

ENVIRONMENTAL MATTERS

47. There are no environmental matters related to the recommendation.

ALTERNATIVES

48. There is one alternative available for consideration by General Committee:

Alternative #1

General Committee could approve the zoning amendment application to permit the subject site to be rezoned from General Industrial EM4 to Special Industrial EM3.

This alternative is not recommended as it creates a zone that was intended as a transitional zone to be located in the middle of one of the few remaining consolidated EM4 zones located within the built boundary. This alternative would result in more uses (than the subject revised application) which could be in conflict with the operational efficiencies of the more traditional industrial uses for which the area is zoned, and would in effect be a reversion to the problems associated with the M2 zone before By-Law 85-95 was amended by By-Law 2005-275. In addition, staff note that there are many more opportunities available for the types of uses that would be captured in the special provision, to locate throughout the City, whereas consolidated tracts of land available for traditional industries permitted in the EM4 zone are not as readily available.

FINANCIAL

49. There are no financial implications other than the costs of defending the recommendation should the applicant appeal the decision of Council.

LINKAGE TO 2010-2014 COUNCIL STRATEGIC PLAN

50. The recommendations included in this staff report support the following goals identified in the 2010-2014 City Council Strategic Plan:

Direct and Manage Economic Development

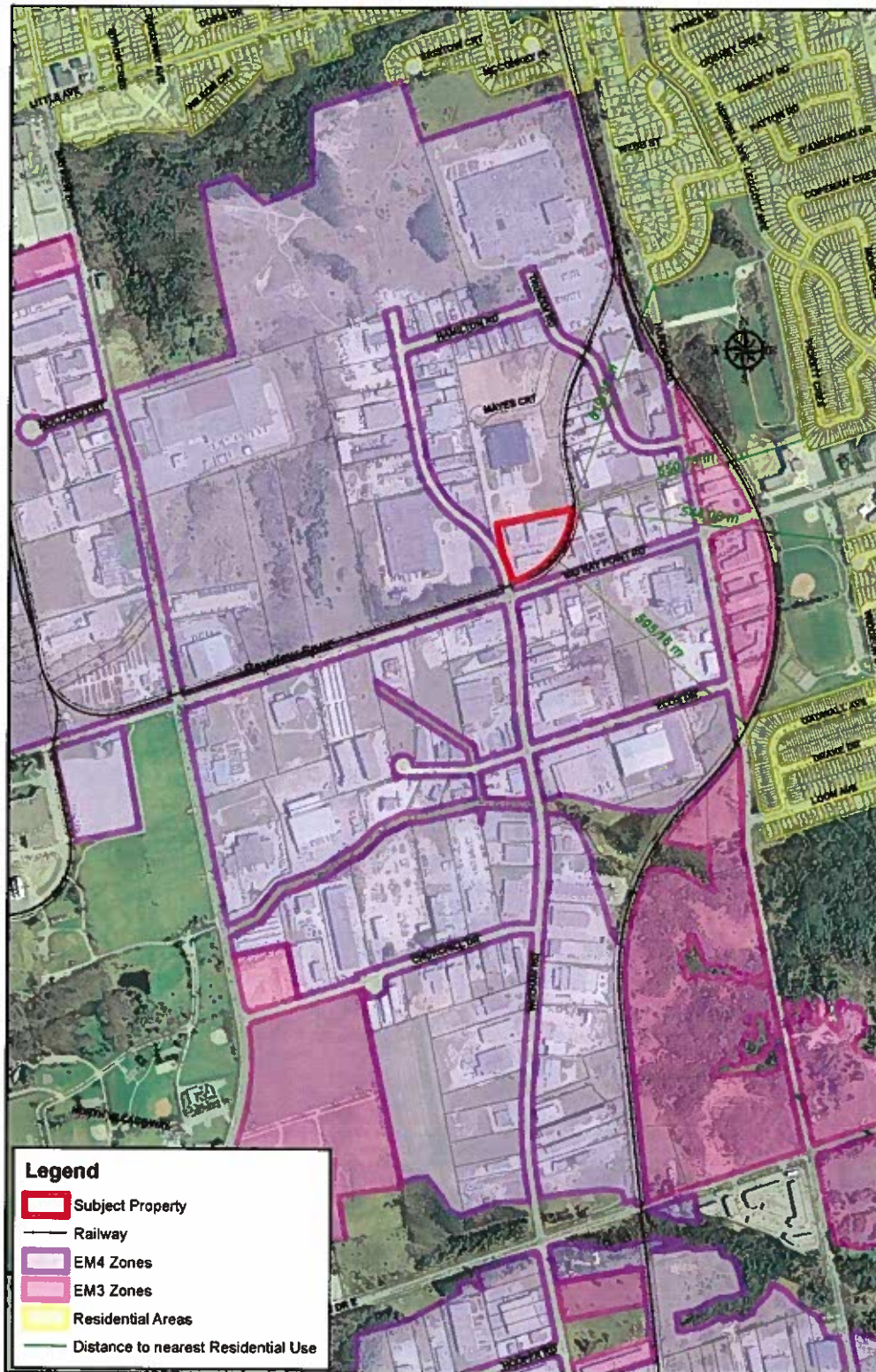
51. The recommendation proposes to preserve the integrity of one of the few remaining consolidated blocks of General Industrial EM4 lands within the built boundary, in keeping with the intent of By-law 2005-275, which in large part was intended to address land use conflicts between commercial and more traditional industrial uses.

52. In this regard, the recommendation may have site specific and short term financial disadvantages, however, in staff's view the recommendation preserves the integrity of a sizeable industrial area that caters to existing traditional Industrial uses and potential industrial uses that have the potential to provide better employment opportunities and will in the long term have benefit the economic health and resilience of the municipality.

Attachments: Appendix "A" – Surrounding Context and Zoning
Appendix "B" - Summary Comparison between EM3 and EM4 Permitted Uses

APPENDIX "A"

Surrounding Context and Zoning



APPENDIX "B"
Summary Comparison Between EM3 and EM4 Permitted Uses

Uses permitted in Service Industrial EM3 not permitted in EM4	Uses permitted in both EM3 and EM4	Uses permitted in General Industrial EM4 not permitted in EM3
<p>Industrial Uses None</p>	<p>Industrial Uses Animal Shelter Bakery Manufacturing and Processing in wholly enclosed building Printing and Publishing Rail Transfer Facility Rental Store (excluding video and electronic rentals) Research Development Facility Self Storage Warehousing in Wholly enclosed buildings (excluding Self Storage) Wholesale Establishment</p>	<p>Industrial Uses Concrete Product Manufacturing Foundry Material Recovery facility Outdoor Storage Recyclable Materials Transfer Station⁽¹⁾ Truck Terminal (1) Only within a fully enclosed building, no outdoor storage or accessory outdoor storage permitted in association with these uses</p>
<p>Commercial Uses Assembly Hall Bank Conference Centre Fitness or Health Club Hotel, Motel Miniature Golf Office, Medical Photography Studio Recreational Establishment Trade Centre</p>	<p>Commercial Uses Accessory Employee Use Accessory Retail Automotive Repair Establishment Building Supply Centre Car Wash Custom Workshop Data Processing centre Drive Through Facility Dry Cleaning Establishment Nursery or Garden Supply Centre Office Outdoor Display and Sales Area Restaurant as part of a multitenant Building Service Store Veterinary Clinic</p>	<p>Commercial Uses Adult Entertainment Parlour Golf Driving Range Transmission Establishment, Cellular and Electronic Accessory Retail: shall only be permitted in association with uses identified in table 7.2 and shall not exceed 15% of 300m² of the GFA in the EM4 zone: Total floor area =4,771m² 15%=715.6m² Vacant area: 465m²</p>
<p>Agricultural Uses Kennels in wholly enclosed buildings</p> <p>Institutional Uses Commercial School Day Nursery</p>	<p>Agricultural Uses None</p> <p>Institutional Uses Industrial School</p>	<p>Agricultural Uses Heavy Equipment Dealer Kennel</p> <p>Institutional Uses None</p>