

**OFFICIAL PLAN AMENDMENT FILE OP.05.002
SPRINGSIDE GARDENS ESTATES CORP.
TECHNICAL REPORT**

Recommendation

The Commissioner of Planning recommends:

1. THAT Official Plan Amendment File OP.05.002 (Springside Gardens Estates Corp.) BE APPROVED, on the following basis:
 - i) That the implementing Official Plan Amendment shall:
 - a) redesignate the northerly portion of the subject lands to "Medium Density Residential-Commercial"; and the southerly lands to "General Commercial in the manner shown on Attachment #2;
 - b) include specific policies to implement the proposed mixed-use commercial/residential and office uses and provide for a maximum of 59 residential units on the subject lands;
 - c) include the specific noise related clauses for the residential uses as imposed by the Ontario Municipal Board in site-specific OPA #626 and identified in this report;
 - d) require a minimum separation distance of 150m between the north rail of the pullback track and a residential use, consistent with the OMB decision which implemented OPA #626;
 - e) require that a 10m ecological buffer abutting the valley be provided in accordance with Council policy;
 - f) require that the open space (valley) lands be dedicated to the Toronto and Region Conservation Authority (TRCA) or the City free of all cost and encumbrance;
 - g) include urban design policies as outlined in this report to guide future development; and,
 - h) require that the noise warning clauses recommended in the final noise study be included in all agreements of purchase and sale or lease.
 - ii) The implementing Official Plan Amendment shall not be adopted until the Region of York has provided a final approval of the traffic study.
2. THAT the Ontario Municipal Board BE ADVISED THAT COUNCIL ENDORSES replacing the balance of OPA #607 with a site-specific Amendment, to implement Official Plan Amendment File OP.05.002 (Springside Gardens Estates Corp.).

Economic Impact

There are no requirements for new funding associated with this report.

Purpose

The Owner has submitted an Official Plan Amendment Application to redesignate the subject lands shown on Attachment #1 from "General Commercial (Special Policy)" under OPA #607 (adopted by Council and before the Ontario Municipal Board) to "Medium Density Residential – Commercial" and "General Commercial" as shown on Attachment #2, with the required site specific policies to implement the proposed plan.

The Owner has also submitted a corresponding Zoning By-law Amendment Application (File Z.05.007) to rezone the subject lands from A Agricultural Zone to RA3 Apartment Residential Zone and C4 Neighbourhood Commercial Zone with the required site-specific exceptions to implement the final approved site plan. The Zoning By-law Amendment Application will be considered at a future meeting of the Committee of the Whole.

The applications will facilitate the development of the subject lands having a lot area of approximately 4.873 ha with the following:

- six(6) two-storey, mixed-use buildings comprised of approximately 6,846m² ground floor commercial uses with a total of 59 residential dwelling units on the second floor; and
- a three-storey office/commercial building having a gross floor area of approximately 10,110m².

A proposed conceptual site plan is shown on Attachment #2.

Background - Analysis and Options

The 4.873ha site shown on Attachment #1 is located at the southeast corner of Jane Street and Springside Road, in Lot 17, Concession 4, City of Vaughan. The site is relatively flat and is currently undeveloped.

The Committee of the Whole, at a Public Hearing held on May 16, 2005, considered applications to amend the Official Plan and Zoning By-law to redesignate and rezone the subject lands to facilitate a development comprised of 3 eight-storey condominium buildings with approximately 450 units, and a three-storey mixed-use commercial/office building having a total gross floor area of approximately 13,500 m². The Owner subsequently amended the applications to reflect the current proposal.

The surrounding land uses are:

- North - Springside Drive; stormwater management pond (OS1 Open Space Conservation Zone) and Maple High School (R4 Residential Zone)
- South - CN pullback track (M3 Transportation Industrial Zone) and vacant land (C1 – H General Commercial Zone with the Holding Symbol "(H)" and RA3 Apartment Residential Zone)
- East - valleyland (OS1 Open Space Conservation Zone) and townhouses (RM2 Multiple Residential Zone)
- West - Jane Street; automobile dealership (C1 Restricted Commercial Zone and C1(H) Restricted Commercial Zone with the Holding Symbol "(H)"), and Paramount Canada's Wonderland (TPC Theme Park Commercial Zone)

On November 11, 2005, a Notice of Public Hearing was circulated to all property owners within 120 metres of the subject lands, and to the Maple Landing Ratepayers Association, Paramount Canada's Wonderland, CN Rail and those individuals on file having expressed interest in the applications. A letter has been received from CN providing the following comments:

"CN has strong concerns with respect to the introduction of residential uses in proximity to our MacMillan Yard pullback track, which is an integral part of the rail yard and is in fact the most important trackage in the entire 1,100 acre operation. MacMillan Yard is the largest rail yard in Canada and one of the busiest in North America. Approximately 1,000,000 cars per year are classified in the Yard, using the pullback track.

Residential uses are fundamentally incompatible with the rail yard operations. In accordance with Ministry of the Environment and CN Guidelines, residential uses should be separated a minimum of 300m from rail yards, which are classified as Class III industrial facilities.

The Province, with the updated Provincial Policy Statement and the proposed Greater Golden Horseshoe Plan, has become acutely aware of the need to protect significant transportation infrastructure from incompatible development and of the need to protect the integrity of such facilities for their goods movement function. There is stronger Provincial direction and policies in this regard.

CN strongly supported the City in their opposition to the development on the south side of the pullback track and strongly supported the City's comprehensive land use planning study for the area, which culminated in OPA #607, containing policies for commercial/industrial uses for the subject property. CN continues to strongly support the City's comprehensive planning analysis and the intent and policy direction established in OPA #607 for the subject property."

Planning Considerations

i) OPA #607 and Ontario Municipal Board (OMB) Decision

In February 2004, the City initiated the "North East Jane Rutherford Study", a Secondary Plan Study for the portion of Vaughan Centre lying east of Jane Street as required by OPA #600. The study area was approximately 20.3 ha in size and split into two halves by the CN pullback track. The study recommended that residential uses were generally not appropriate because the lands were isolated from the existing residential communities, the hostile pedestrian environment, and the impact of the pullback track. The study did allow for residential uses as an alternative use located at the southwest quadrant of the lands, subject to certain criteria.

Based on the Study recommendations, Council adopted OPA #607 on June 28 2004, and the Region of York on September 10, 2004, issued a Notice of Decision approving the Amendment. On September 23, 2004, Davis & Company, acting on behalf of Jane-Ruth Developments Inc. (lands on the south side of the CN pullback track) appealed OPA #607 to the Ontario Municipal Board stating that the Amendment is contrary to applications filed with the City respecting their lands. The Jane-Ruth applications proposed high-density residential uses on the portion of the OPA #607 lands lying south of the CN pullback track.

The Ontario Municipal Board issued Decision Order #1815 on November 23, 2004, following a lengthy hearing, which included evidence from three noise experts, three land use planners and other experts with respect to the appropriateness of high density residential uses on the Jane-Ruth lands. In its approval, the OMB concluded:

- there is no generally applicable planning principle, or characteristic inherent in the operation of a rail yard that renders all adjacent land uses subordinate to it in terms of planning;
- the high density residential and commercial uses proposed by Jane-Ruth conformed to the intent and vision of the Region of York Official Plan and Vaughan Official Plan;

- the high density residential uses on the Jane-Ruth lands are preferable to hotel or commercial uses proposed by OPA #607, in part because of the absence of residential uses which had developed in OPA #600 within Vaughan Centre;
- a maximum density of 2.7 times the lot area, 200 units per hectare, and a 16 storey building height is acceptable;
- that the Ministry of the Environment Guidelines are guidelines only, and are neither law, nor regulation, nor policy and should not be considered or treated as such;
- that the activities on the pullback track should be assessed independently of the rail yard;
- the minimum height for a commercial building adjacent to the pullback track should be 3-storeys and that a minimum 6m high berm and fence combination be constructed along the common property line;
- that a 150m separation distance between the residential uses and the pullback track is acceptable subject to the noise mitigation measures prescribed by the Board; and,
- that the Official Plan Amendment refer to Tables LU-131 of the Ministry of the Environment Guidelines, and that there will be no provision for a 5db (decibel) excess.

The OMB on April 19, 2005 issued an amending Decision Order (#0982) after hearing from the parties and one additional noise expert on behalf of the City, respecting certain matters requiring clarification. The amending OMB Order provides for the following:

- the 150m setback from the south rail of the CN pullback track applies to the residential buildings, not the residential zone boundary;
- that there must be a substantial intervening land use on the commercial lands and that development on the commercial lands must be configured so that the buildings can provide some shielding of the residential grounds from unacceptable levels of noise from the CN pullback track; and,
- the deletion of the requirement for a three-storey commercial building.

The OMB's decision was implemented by OPA #626, which was adopted pursuant to the OMB Order on April 28, 2005. OPA #626 includes the following policies with respect to noise on the Jane-Ruth lands:

- "i) Residential buildings shall be setback a minimum of 115.5m, measured perpendicular from the northerly property line of the Amendment area, which is the equivalent of 150m from the south track of the CN pullback track. Residential buildings within the Amendment area shall be air-conditioned and contain a warning clause on Title indicating possible disturbance of outdoor activities, in accordance with the recommendations of a noise report.

Notwithstanding the foregoing, underground parking structures may be located within the 115.5m setback.

- i) The proponent of development on the subject lands will be responsible for attenuating noise from the pullback track at residential receptors in the development.
- ii) Noise studies and design of noise attenuation measures shall be based on the noise criteria of MOE publication LU-131, "Noise Assessment Criteria in Land Use Planning", October 1997, including the Annex to LU-131, with the following supplementary clarifications:
 - i. the applicable noise criteria for Transportation Sources are contained in Section 3 of LU-131, including Tables 1, 2, 3 and 4;

- ii. the applicable noise criteria for Stationary Sources are contained in Section 4 of LU-131, including Tables 5, 6 and 7;
 - iii. the pullback track shall be treated as a "Stationary Source";
 - iv. the 5dba flexibility suggested in LU-131 shall not be permitted in the calculation of noise levels at the plane of window.
- iii) Where needed, for compliance with the stationary noise source criteria set out in LU-131, the construction of the apartment buildings will incorporate balconies that are enclosed to act as a barrier to the sound experienced on the balconies and at adjacent living room and bedroom windows.

The analysis and design for the architectural details shall take into account the full frequency spectrum characteristics of the diesel locomotive sound sources, in accordance with good engineering practice and the noise guidelines."

The Owner is proposing to incorporate the same policies into the implementing documents for the proposed development, if approved. In addition, the Owner is proposing to designate the lands closest to the pullback track "General Commercial", which does not permit residential uses.

The Ontario Municipal Board, by approving OPA #626 and By-law 277-2005, has formally changed and substantially altered the land use regime proposed by OPA #607 for the entirety of the lands lying south of the CN pullback track. Springside Gardens Estates Corp. owns the last undeveloped parcel within the OPA #607 Plan boundary. The Official Plan Amendment application and related zoning amendment application would facilitate the development of the subject lands with primarily office and commercial uses and 59 residential units consistent with the noise policies and criteria imposed by the OMB in OPA #626 and By-law 277-2005 for the high density residential development located south of the pullback track.

The OMB's decision weakens key assumptions in the "North East Jane Rutherford Study", particularly as it relates to the minimum separation distance requirement between a residential use and the pullback track. In addition, the subject lands are not isolated from the existing residential community to the north and east, but instead represent a logical extension and completion of the community lying north of the pullback track and east of Jane Street and an intensification opportunity to respond to applicable Provincial and Regional policy. As a result of the OMB approval, the only remaining developable parcel in OPA #607 is the subject land owned by Springside Gardens Corp.

In view of the considerable evidence considered by the OMB and its findings respecting the appropriateness of residential uses in the context of the pullback track, Provincial and Regional policy, and the surrounding land use context, which includes existing and approved residential development less than 300m from the pullback track, the Official Plan Amendment application to permit residential uses on the north side of the pullback track is considered appropriate subject to the implementing Amendment including the same noise policies as OPA #626 (identified above).

The proposed development includes 59 residential units located above the ground floor commercial uses in a two-storey built form. The residential component of this application is less intense than that approved on the Jane-Ruth lands both from a density and building form perspective and only marginally increases the number of residential units already existing or approved within 300m of the pullback track. Furthermore, the Owner is proposing to construct a substantial intervening land use in the form of a three-storey office commercial building.

ii) Policy Context

The review of existing provincial and regional policy context that indicates the proposed development form is appropriate in terms of location, form and density and responds to matters such as providing for a range/mix of residential uses and promoting transit supportive uses. The York Region Official Plan includes goals and policies that promote a mix of housing types, supports compact communities and establishes corridors to link urban centres. The proposed development will add to the mix of housing and assist to establish a compact and efficient community.

The Official Plan Amendment Application was commenced January 24, 2005, and therefore is subject to the Provincial Policy Statement (1997). The Provincial Policy Statement (PPS) encourages a mix of residential uses that promote cost-effective development standards to minimize land consumption. Development is to be directed to settlement areas, and land use patterns and densities that support public transit are promoted. The proposed development satisfies these policies.

iii) Land Use Context

The subject lands are bordered by a storm pond to the north; a valley and existing residential uses to the east; the CN pullback track, commercially designated lands and high density residential uses to the south; and, Jane Street, Paramount Canada's Wonderland and a developing auto park to the west. The proposed development is considered compatible with the surrounding land use context from a use and built form perspective given the applicable planning policy and the recent OMB decision outlined above. The proposed uses are also compatible with land uses that characterize the Jane Street frontage.

CN has advised that they do not support residential uses within 300m of the CN pullback track since the uses are fundamentally incompatible. As noted above, this exact position was tested at a lengthy OMB Hearing respecting the lands immediately south of the same CN pullback track. After considerable noise evidence was provided at the Hearing, the OMB concluded that the appropriate separation distance between the CN pullback track (south rail) and a residential use is 150m. The OMB further approved site-specific policies included in the implementing Official Plan Amendment (OPA #626) and Zoning By-law 277-2005 to guide the approved residential development.

CN has identified that the Province, with the updated Provincial Policy Statement (PPS) and the proposed Greater Golden Horseshoe Plan, have introduced stronger policies to protect significant transportation infrastructure from incompatible development and of the need to protect the integrity of such facilities for their goods movement function. The PPS 2005 applies to all applications, matters or proceedings commenced on or after March 1, 2005. As noted above, the subject Official Plan and Zoning Amendment applications were commenced on January 24, 2005, and therefore PPS 2005 is not applicable, however, the PPS 1997 is applicable. The Places to Grow (PTG) policy document is not in effect at this point in time, regardless, the proposal is considered consistent with the overall objectives of this document.

The proposed development will not impact on the integrity of the pullback track to a greater degree than already exists, given the surrounding existing and approved land use context. Residential uses exist on Parktree Drive, Larissa Court and Hollybush Drive and a residential condominium development (Villa Giardino) was recently constructed all located within 300m of the pullback track. The balance of development along the pullback track includes a sports complex, police station, municipal administration building and works yard, and approved high density residential and commercial uses.

iv) Zoning

The subject lands are zoned A Agricultural Zone by By-law 1-88. By-law 1-88 does not include a zoning category to facilitate mixed-use commercial/residential development of the nature proposed by this application. Consequently, a site-specific zoning amendment is required to implement the proposed plan. The applicant has submitted Zoning By-law Amendment File Z.05.007, which will be considered at a future Committee of the Whole meeting. If the zoning application is approved, the implementing by-law would be based on an approved site plan and would also incorporate site-specific standards to implement the policies of the Official Plan Amendment, if approved, in a fashion similar to By-law 277-2005. The detailed zoning provisions will be considered in a future Technical Report in association with a detailed site plan.

v) Urban Design

Urban design policies should be included in the implementing Official Plan Amendment, if the application is approved. The policies should be consistent with Section 4.2.2.2 of OPA #600, with additional policies included to address the specific form of development being proposed as follows:

- i) The development shall establish a distinctive high quality urban environment defined by architecture and landscape treatment. Buildings are encouraged to be sited to create an interesting and attractive streetscape along Jane Street with attention to integration of transit facilities and a high quality streetscape and open space.
- ii) Buildings should be sited to take advantage of the natural amenity of the valley. Private amenity space should be integrated with the valley and pedestrian areas.
- iii) Pedestrian access to buildings will be integrated with adjacent public streets to ensure access is convenient and safe.
- iv) The development shall establish a distinctive and co-ordinated landscape treatment internal to the site.
 - i) The development shall provide safe, efficient and convenient vehicular access in a pedestrian-friendly manner.
 - ii) The development shall be designed to visually screen and minimize the impact of on-site parking and service areas.
 - iii) Separate vehicular access and driveways shall be encouraged for the residential and commercial uses. Mutual or shared driveways shall be discouraged.

vi) Open Space

The subject lands abut a valley associated with a tributary of the Don River, which is located along the westerly limit of the site. The valley provides a natural feature that is to be protected and sensitively integrated with the proposed development and any stormwater management facility. A clause shall be included in the Official Plan Amendment requiring that the valley lands be dedicated to the Toronto and Region Conservation Authority (TRCA) or the City free of all cost and encumbrance.

The TRCA has reviewed the application and advises that the property is partially located within the Authority's Fill Regulated Area of the tributary of the Don River and is therefore, subject to a TRCA Permit. The Authority has requested that a 10m buffer from the staked features on the site be provided. The Authority is awaiting information from the applicant including a geotechnical study required to confirm the stable top-of-bank in two locations.

On February 13, 2006, Council adopted a recommendation from the Commissioner of Planning, which requires that all future official plan amendments provide a minimum 10m ecological buffer, outside of the development lot or block, adjoining a valley and stream corridor, as part of a public open space system. A clause in this respect shall be included in the implementing Official Plan Amendment, if approved.

vii) Noise Study

The Owner has submitted a preliminary noise study prepared by Jade Acoustics, dated March 2, 2006 in support of the proposed Official Plan Amendment Application. The noise study concludes that based on the preliminary analysis and taking into account the OMB decision for the residential development to the south of the pullback track, it is feasible to develop the subject lands for the intended uses. A series of noise mitigation measures including specific construction requirements, air conditioning, the requirement for enclosed balconies and warning clauses are recommended to mitigate noise and inform purchasers of the potential noise disturbance.

In order to mitigate the noise from the CN pullback tracks, the design of the east wall of the second storey residential units in Buildings "B", "C" and "G" as shown on Attachment #2, should incorporate enclosed balconies. In addition, the south wall of Buildings "B", "C" and "G" should not include second storey windows. The preliminary study also recommends that prior to final approval of the site plan, that a detailed noise analysis be prepared.

The Engineering Department has reviewed the Noise Study and has provided the following comments:

- The Owner shall satisfy all requirements with respect to noise attenuation and ensure that it is in accordance with the noise attenuation features recommended by the report.
- Mitigation measures are required for the noise exceedance at the north wall of Building "E" due to the existence of a Bell Canada switching hub air conditioning unit. Details shall be provided in the noise report based on the final plans.
- Warning clauses are to be registered on title and be included in Offers of Purchase and Sale for designated lots.
- A detailed noise analysis shall be submitted for review and comment at the final site plan stage as part of the approval process.

viii) Traffic Study

The Owner has submitted a traffic study, prepared by Sernas Transtech, and dated January 2006, in support of the proposed development. The study concludes that the proposed development will have a nominal traffic impact on local roadways and that additional roadway modifications are not required. The study has been forwarded to the Region of York for review and final approval. A condition of approval has been included requiring the Region to approve the traffic study prior to the adoption of the implementing Official Plan Amendment.

Servicing

The Engineering Department has advised that in accordance with the City's Servicing Capacity Distribution Protocol as adopted by Council on November 14, 2005, servicing allocation capacity for the residential units proposed in this development has not been committed nor assigned at this time and therefore, is not available to support the proposed development concept. The City intends to undertake an annual review of the status of the available and unused servicing capacity and related Distribution Protocol. The availability of servicing allocation capacity for this

development proposal may be revisited at that time based on the status of the subject development applications. A Functional Servicing Report must be submitted for review and comment in support of the proposed Official Plan and Zoning applications. The report must address and ensure that the proposed development may be serviced in accordance with all City Engineering Design Standards and Criteria.

If approved, the subject lands will be zoned with the Holding Symbol "(H)", which will be lifted upon the allocation of servicing capacity for the subject lands. It is noted, that serving capacity is available for the commercial and office components of the development.

Relationship to Vaughan Vision 2007

This report is consistent with the priorities set forth in Vaughan Vision 2007, particularly 'A-5', "Plan and Manage Growth".

Conclusion

The Development Planning Department has reviewed the Official Plan Amendment application to facilitate the development of the subject lands with mixed-use residential/commercial buildings and an office building. The subject lands are located within OPA #607, which is currently before the Ontario Municipal Board for final disposition. The Ontario Municipal Board approved OPA #626 and By-law 277-2005 that formally changed and substantially altered the land use regime proposed by OPA #607 for the entirety of the lands lying south of the CN pullback track. As a result, the subject land is the only undeveloped parcel within the OPA #607 Amendment Area.

The application has been reviewed in the context of applicable Provincial and Regional policies and is considered consistent with the overall policy objectives of each. The application is consistent with the Ontario Municipal Board decision, relating to the lands comprising the southerly portion of OPA #607 lying south of the pullback track, and the policies and standards included in the implementing documents (OPA #626 & By-law 277-2005) to address noise mitigation measures for the development. Finally, the application was considered in the context of the surrounding land uses and the proposed development is considered to be appropriate for the subject lands.

In light of the above, the Development Planning Department can support the approval of the Official Plan amendment subject to the conditions and comments in this report.

Attachments

1. Location Map
2. Conceptual Site Plan

Report prepared by:

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Respectfully submitted,

JOHN ZIPAY
Commissioner of Planning

MARCO RAMUNNO
Director of Development Planning

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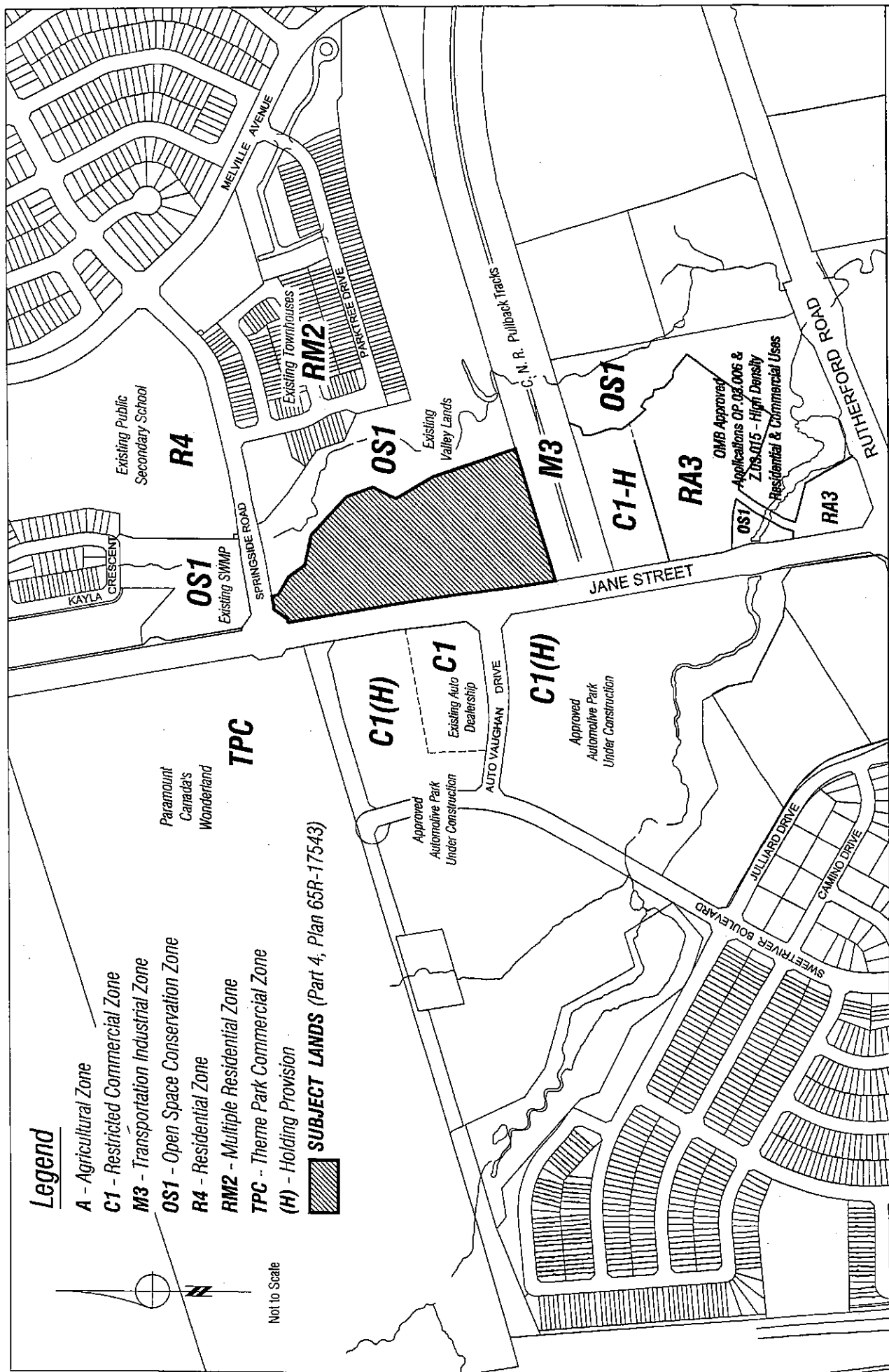
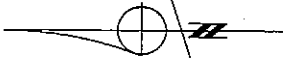
Legend

- A - Agricultural Zone
- C1 - Restricted Commercial Zone
- M3 - Transportation Industrial Zone
- OS1 - Open Space Conservation Zone
- R4 - Residential Zone
- RM2 - Multiple Residential Zone
- TPC - Theme Park Commercial Zone
- (H) - Holding Provision

SUBJECT LANDS (Part 4, Plan 65R-17543)



Not to Scale



Location Map

Part of Lot 17,
Concession 4
APPLICANT:
 SPRINGSIDE GARDENS ESTATES CORP.
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Development Planning Department

Attachment

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 FILE No.:
 OP.05.002
 RELATED FILE:
 Z.05.007
 April 3, 2006

SPRINGSIDE ROAD

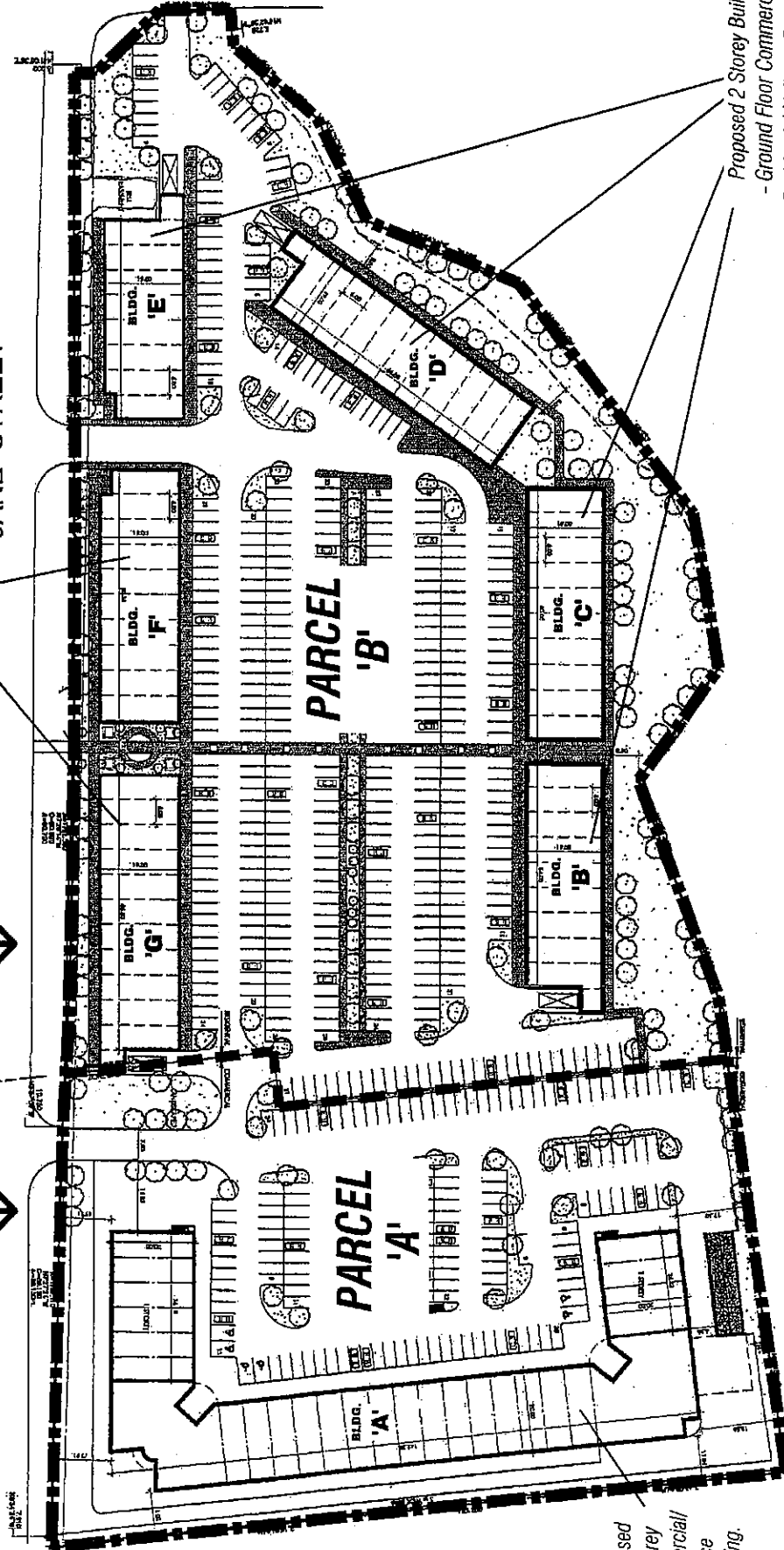


Not to Scale

JANE STREET

Redesignate PARCEL 'B' from
'General Commercial (Special Policy)'
to 'Medium Density Residential
Commercial.'

Redesignate PARCEL 'A' from
'General Commercial (Special Policy)'
to 'General Commercial.'



Proposed 2 Storey Buildings
- Ground Floor Commercial with
Residential Units on Second Floor.

Proposed
3 Storey
Commercial/
Office
Building.

C. N. R.

Legend

--- SUBJECT LANDS

Conceptual Site Plan

Part of Lot 17,
Concession 4

APPLICANT:
SPRINGSIDE GARDENS ESTATES CORP.

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Development Planning Department

Attachment 2

FILE No.:
OP_05.002
RELATED FILE:
Z.05.007

April 3, 2006