

COMMITTEE OF THE WHOLE – APRIL 16, 2007

ZONING BY-LAW AMENDMENT FILE Z.03.054 **CANADIAN NATIONAL RAILWAY COMPANY**

(Referred from the Council meeting of September 25, 2006)

Council, at its meeting of September 25, 2006, adopted the following:

The Committee of the Whole recommends that this matter be referred to the Committee of the Whole meeting of April 16, 2007, in accordance with the request contained in the written submission of Mr. Andrew E. Salem, Fraser Milner Casgrain LLP, 1 First Canadian Place, 100 King Street West, Toronto, M5X 1B2, dated August 30, 2006.

Council, at its meeting of April 10, 2006, adopted the following:

The Committee of the Whole recommends that this matter be referred to the Committee of the Whole meeting of September 18, 2006, in accordance with the request contained in the written submission of Mr. Andrew E. Salem, Fraser Milner Casgrain LLP, 1 First Canadian Place, 100 King Street West, Toronto, M5X 1B2, dated March 1, 2006.

Council, at its meeting of October 17, 2005, adopted the following:

That this matter be referred to the Committee of the Whole meeting of April 3, 2006, in accordance with the request contained in the written submission of Mr. Andrew E. Salem, Fraser Milner Casgrain LLP, 1 First Canadian Place, 100 King Street West, Toronto, M5X 1B2, dated September 16, 2005, and the memorandum from the Commissioner of Planning, dated September 21, 2005.

Council, at its meeting of June 15, 2005, adopted the following:

That this matter be referred to the Committee of the Whole meeting of October 11, 2005, in accordance with the written submission of Mr. Andrew E. Salem, Fraser Milner Casgrain LLP, 1 First Canadian Place, 100 King Street West, Toronto, M5X 1B2, dated June 7, 2005.

Report of the Commissioner of Planning dated June 8, 2005

Recommendation

The Commissioner of Planning recommends:

THAT Zoning By-Law Amendment File Z.03.054 (Canadian National Railway Company) BE APPROVED, subject to the following conditions:

- a) That the implementing zoning by-law shall:
 - i) rezone the subject lands adjacent to Regional Road #7 (3.79ha) and Highway #407 (0.99ha) from EM4 Employment Area Transportation Zone to EM1 Prestige Employment Area Zone in the manner shown on Attachment #2; and
 - ii) rezone the remaining interior lands (8.08ha) from EM4 Employment Area Transportation Zone to EM2 General Employment Area Zone in the manner shown on Attachment #2.

Economic Impact

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

Purpose

The Owner has submitted an application to amend the Zoning By-law to rezone 12.86 ha of surplus CN Rail lands from EM4 Employment Area Transportation Zone to EM1 Prestige Employment Area Zone (adjacent to Regional Road #7 and Highway #407) and EM2 General Employment Area Zone (internal) in the manner shown on Attachment #2, to facilitate future employment development.

Background - Analysis and Options

The 12.86ha site is located on the south side of Regional Road #7, through to Highway #407, between Keele Street and Jane Street, within the CN MacMillan Railway Yard, in Part of Lots 4 and 5, Concession 4, City of Vaughan.

The subject lands are designated "Rail Facilities" by OPA #450 (Employment Area Plan) and zoned EM4 Employment Area Transportation Zone by By-law 1-88. The surrounding land uses are:

- North - Regional Road #7; railway/employment (EM1 Prestige Employment Area Zone)
- South - Highway #407; railway/recycling (PB1S Parkway Belt Linear Facilities Zone)
- West - commercial/employment (C6 Highway Commercial Zone, EM2 General Employment Area Zone)
- East - CN Rail Yard (EM4 Employment Area Transportation Zone)

On December 22, 2003, a Notice of Public Hearing was circulated to all property owners within 120m of the subject lands. To date, one response has been received from the owner of an adjacent property to the west, with concerns related to water run-off and excess road dust due to truck traffic on the service road.

The application was initially scheduled for the January 19, 2004 Public Hearing, but was deferred at the request of the agent. On February 6, 2004, a Notice of Public Hearing was re-circulated to all property owners within 120m of the subject lands and those requesting notification. To date, no additional comments have been received. The recommendation of the Committee of the Whole on March 1, 2004, to receive the Public Hearing report and to forward a technical report to a future Committee meeting, was ratified by Council on March 8, 2004.

Official Plan

The Canadian National Railway Company deems the subject lands to be surplus to the needs of the CN Rail yard facility and has proposed that the lands be rezoned for employment uses. The lands are designated "Rail Facilities" by OPA #450 (Employment Area Plan). The "Rail Facilities" policies state that "should railway and related uses cease on lands at the periphery of this designation, the lands may be developed in accordance with the policies of the adjacent Employment Area land use designation where applicable, subject to a Block Plan being approved by Council".

The adjacent land use designations are "Prestige Area" along Regional Road #7 and Highway #407, and "Employment Area General" in the interior, consistent with the locations of the proposed zoning as shown on Attachment #2. The proposed rezoning of the lands abutting Regional Road #7 (3.79ha) and Highway #407 (0.99) to EM1 Prestige Employment Area Zone and the remaining interior lands to EM2 General Employment Area Zone would implement the land use designations in OPA #450 and conform to the Official Plan. The subject lands are not of

sufficient size, nor are there any need for public roads to traverse through the property, to warrant the preparation of a Block Plan.

Zoning

The subject lands are zoned EM4 Employment Area Transportation Zone by By-law 1-88, which permits a railway classification yard, including accessory office, warehousing, distribution and repair facilities, and is currently operating as such. CN Rail deems the subject lands to be surplus to the needs of the rail yard and has proposed that the lands be rezoned from EM4 Zone to EM1 Prestige Employment Area Zone and EM2 General Employment Area Zone, in the manner shown on Attachment #2. The proposed rezoning would implement OPA #450 (Employment Area Plan) and permit prestige industrial, office and civic uses with no outside storage along Regional Road #7 and Highway #407, and general employment uses with outside storage in the interior of the site.

Land Use/Compatibility

CN Rail does not have any users for the parcels to be zoned EM1 and EM2 Zone, and are requesting that their surplus property be pre-zoned to facilitate future use for employment development, in accordance with the uses permitted by the respective zones in By-law 1-88. On this basis, prestige employment uses with no outside storage would be located adjacent to Regional Road #7 and Highway #407, thereby providing up-graded employment development and attractive building facades along these major arterial roads and highways. The interior of the property, when developed, would be less visible from the adjacent roads, and may or may not require outside storage.

Staff has reviewed the concerns from the owner of an adjacent property (29-35 Killaloe Road) to the west, related to water run-off and excess road dust due to truck traffic on the service road within the subject lands.

The future development of the site would be reviewed through the site plan approval process which would address these issues. The review would also consider site layout, access, traffic management, landscaping, building elevations, storm water management, site servicing and grading, and treatment of all internal road surfaces. In addition, any necessary exceptions to the EM1 and EM2 Zone requirements to implement the approved site plan would be identified, and would require approval from the City.

Staff is satisfied that the proposed rezoning is appropriate and compatible with the surrounding employment and railway development, and in conformity with the Official Plan.

Region of York

The site will be served by two access points, a future right-in/right-out access onto Regional Road #7 as indicated below, and an existing driveway connection to a cul-de-sac at the eastern terminus of Freshway Drive that will be retained and upgraded. The Region of York has no objection to the proposal and requests that any future site plan applications be subject to the following conditions:

- Only a right-in/right-out vehicular access shall be permitted to Regional Road #7; and,
- The future Regional Road #7 rapid transitway shall be built through this area, and as such, a 5m wide buffer shall be planned in addition to the 45m road right-of-way along the frontage of Regional Road #7.

A traffic study was prepared on behalf of the applicant by Sernas Transtech, which considered the traffic impact of the redevelopment of the lands for employment uses, and to determine if any road improvements were necessary as a result of any additional traffic on the adjacent streets.

The study concluded that the proposed rezoning to facilitate redevelopment of the site would not impact the surrounding road network. The traffic volumes attributed to the subject development can be supported by the existing area road network without undue impacts. The Region of York Transportation and Works Department and the Vaughan Engineering Department have both approved the traffic study.

Ministry of Transportation (MTO)

The MTO has no objections to the proposal. All buildings and structures must be setback a minimum of 14m from the Highway #407 property line. The Ministry will require permits for all buildings located within 46m from their property line and 400m from the centre point of Highway #407.

Relationship to Vaughan Vision 2007

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

Conclusion

Staff has reviewed the proposed Zoning By-Law Amendment application in accordance with the policies of OPA #450, the requirements of By-Law 1-88, and the area context. Staff is satisfied that the proposed rezoning of the subject lands from EM4 Employment Area Transportation Zone along Regional Road #7 and Highway #407 to EM1 Prestige Employment Area Zone, and the remaining interior lands to EM2 General Employment Area Zone, is appropriate and compatible with the surrounding employment and railway development, and in conformity with the Official Plan.

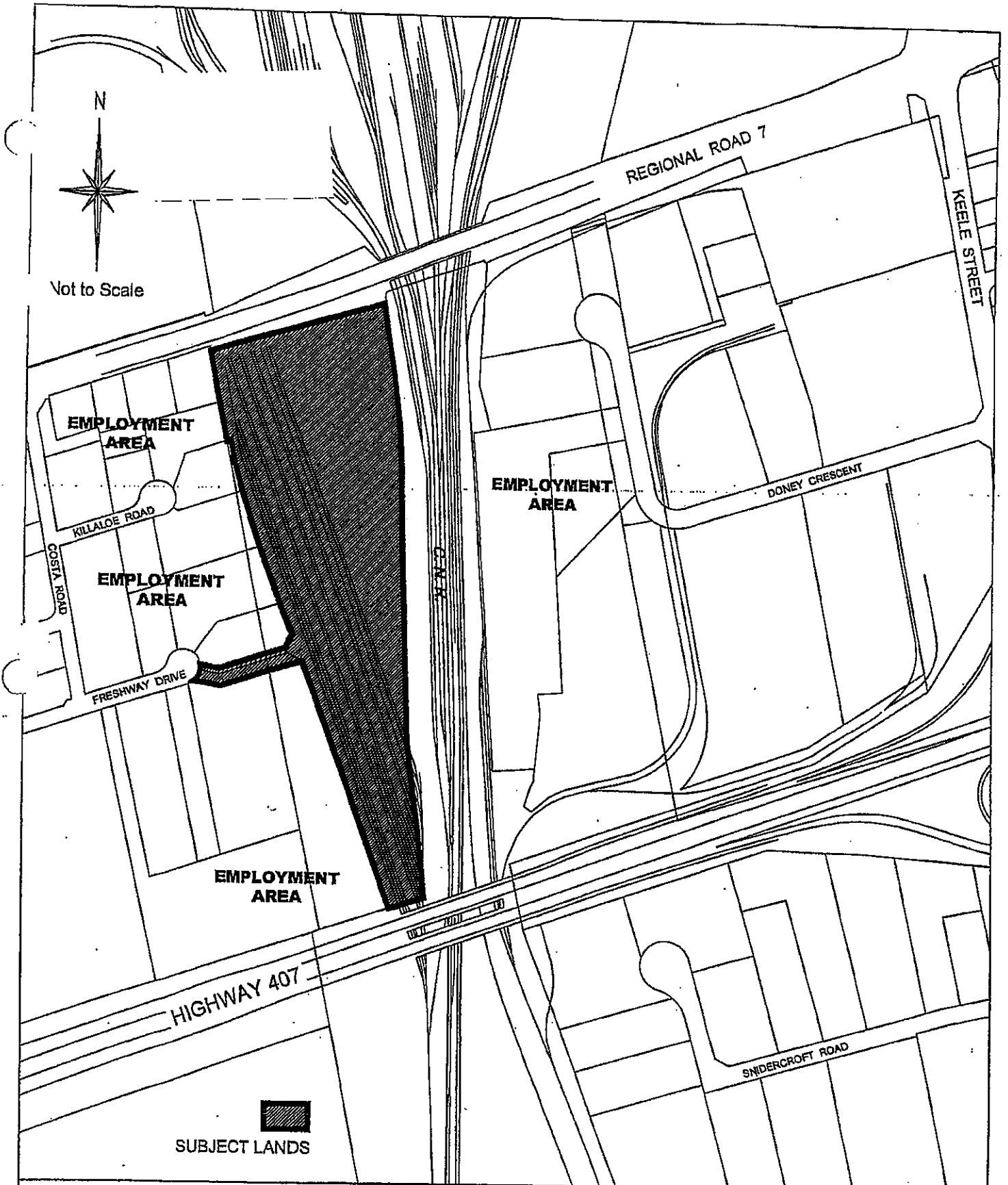
On this basis, Staff can support the approval of the proposed application to amend the Zoning By-law, subject to the conditions contained in this report.

Attachments

1. Location Map
2. Recommended Zoning
3. Written submission dated June 7, 2005
4. Written submission dated September 16, 2005
5. Memorandum dated September 21, 2005
6. Written submission dated August 30, 2006

Report prepared by:

Christina Napoli, Planner I, ext. 8483
Arto Tikiryan, Senior Planner, ext. 8212
Grant Uyeyama, Manager of Development Planning, ext. 8635



Location Map

Part Lots 4 & 5,
Concession 4

APPLICANT:
CANADIAN NATIONAL RAILWAY COMPANY

\\DPT\1 ATTACHMENTS\2\Z.03.054



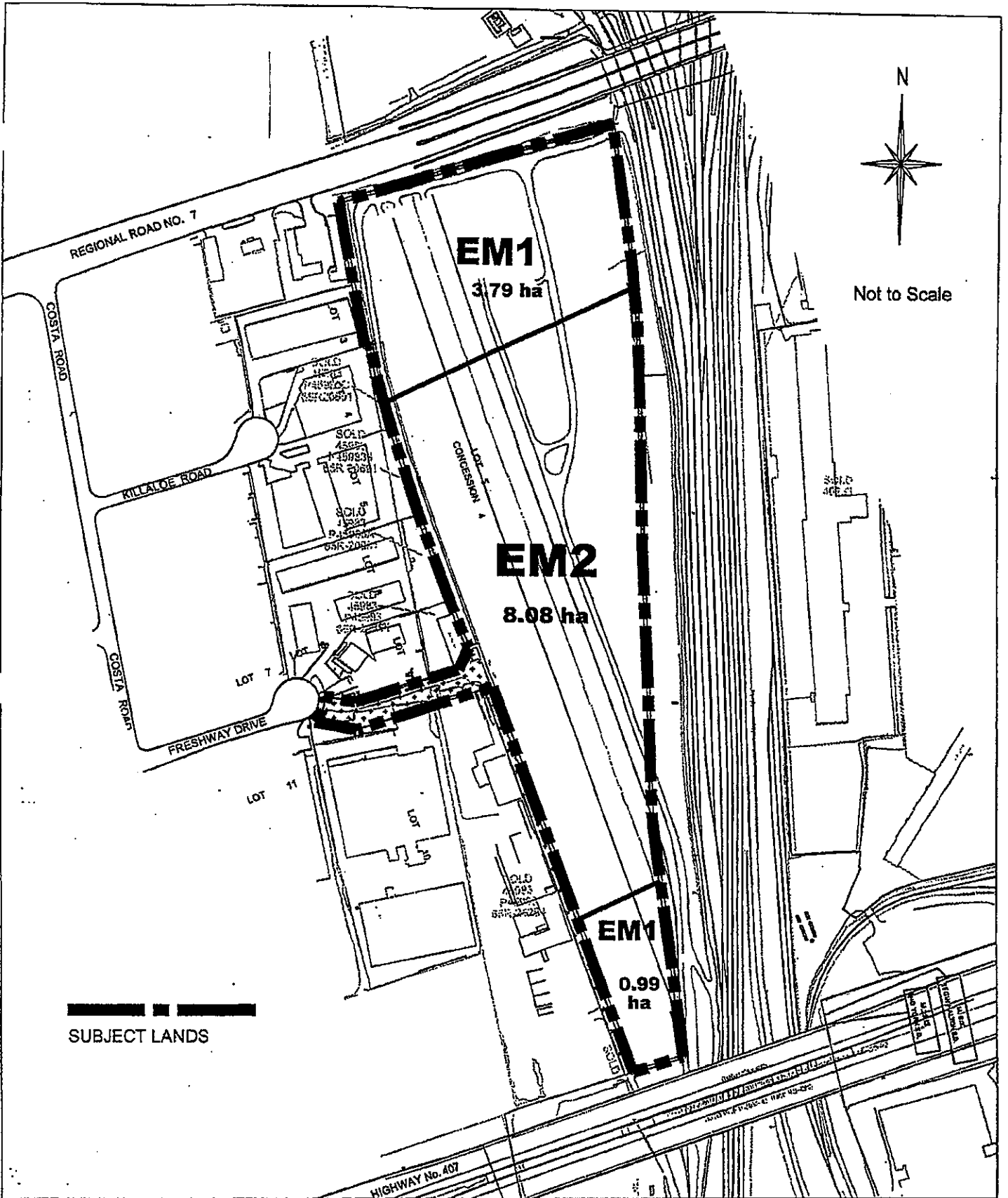
Development Planning Department

Attachment

FILE No.: Z.03.054

May 9, 2005

1



Recommended Zoning

APPLICANT: CANADIAN NATIONAL RAILWAY COMPANY

Part Lots 4 & 5, Concession 4



Development Planning Department

Attachment

FILE No.: Z.03.054

May 9, 2005

2

N:\DPT\1 ATTACHMENTS\2\Z.03.054



FRASER MILNER CASGRAIN LLP

Andrew E. Salem
Direct Line: 416-863-4728
andrew.salem@fmc-law.com

June 7, 2005

VIA FAX

City of Vaughan
Clerks Department
2141 Major Mackenzie Drive
Vaughan, Ontario
L6A 1T1

Attention: John Leach

Dear Sirs:

**Subject: Canadian National Railway Company
Application to Amend Zoning By-law - File Z03.054
Committee of the Whole Meeting scheduled for June 8, 2005
Agenda Item No. 36
Request for Deferral to October 17, 2005 Committee of the Whole Meeting**

**ADDITIONAL
INFORMATION**

ITEM # 36

CW June 8, 2005

We are the solicitors for Canadian National Railway Company ("CN") with respect to the above noted matter. We are writing to request that the item be deferred to the October 17, 2005 Committee of the Whole Meeting.

CN has submitted the Application to amend the Zoning By-law to rezone a portion of its lands having an area of approximately 12.86 hectares located north of Highway 407 and south of Regional Road No. 7 between Keele Street and Jane Street. The proposed amendment would rezone the property from EM4 Employment Area Transportation Zone to EM1 Prestige Employment Area Zone and EM2 General Employment Area Zone.

The Application was submitted in late 2003 and on March 1, 2004 the Committee of the Whole recommended to receive the public hearing report and to forward a technical report to a future Committee meeting. This was ratified by Council on March 8, 2004. The technical report has now been prepared, and the Commissioner of Planning recommends that the By-law amendment be approved in accordance with the conditions set out in the report. CN believes that the report accurately summarizes the proposal and CN is satisfied with the recommendation.

CN had submitted the Application to amend the By-law on the basis that the subject lands were to be deemed surplus to the needs of the CN railway facility. The rezoning would facilitate a future severance and conveyance of the subject lands to a new owner. However, we have been advised that CN is now reconsidering whether the subject lands will be considered surplus. If it is determined that the lands are required for continuing railway operations, it would not be appropriate to rezone the property from the existing EM4 zoning category.

For this reason, CN would like to request that the matter be deferred to the October 17, 2005 Committee of the Whole Meeting.

We apologize for any inconvenience this may cause, but in the circumstances this would appear to be the appropriate course of action, pending a determination by CN as to its intentions for the subject lands. We understand that a decision will be made by CN prior to mid-October and we are therefore requesting that the item be returned to the agenda for the October 17, 2005 meeting.

We trust this is satisfactory. If there are any questions or concerns, please contact the undersigned.

Yours truly,

FRASER MILNER CASGRAIN LLP



Andrew E. Salem

Encls.

cc: John Zipay, Commissioner of Planning, City of Vaughan
Marco Ramunno, Director of Development Planning, City of Vaughan
Grant Ucyama, Manager of Development Planning, City of Vaughan
Christina Napoli, Planner I, City of Vaughan
Canadian National Railway Company, Attention: Emic Longo

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Attachment 4

FRASER MILNER CASGRAIN LLP

Andrew E. Salem
Direct Line: 416-863-4728
andrew.salem@fmc-law.com

September 16, 2005

VIA FAX

City of Vaughan
Clerks Department
2141 Major Mackenzie Drive
Vaughan, Ontario
L6A 1T1

Attention: John Leach

Dear Sirs:

**Subject: Canadian National Railway Company ("CN")
Application to Amend Zoning By-law - File Z03.054
Request for Deferral from October 17, 2005
to April, 2006 Committee of the Whole Meeting**

We are writing to request that this item be deferred to the first Committee of the Whole Meeting in April, 2006.

As we noted in our correspondence of June 7, 2005 (copy attached), CN had submitted the Application on the basis that the subject lands were to be deemed surplus to the needs of the CN railway facility. The rezoning would facilitate a future severance and conveyance of the subject lands to a new owner. However, we have been advised that CN is reconsidering whether the subject lands will be considered surplus. If it is determined that the lands are required for continuing railway operations, it would not be appropriate to rezone the property from the existing EM4 zoning category.

Prior to the scheduled consideration of the matter on June 7, 2005, we requested that the matter be deferred to the October 17, 2005 Committee of the Whole Meeting. As CN has not yet determined its intentions for the property, we are writing to request that the matter be returned to the agenda at the first Committee of the Whole Meeting in April, 2006.

We trust this is satisfactory. If any further information is required, please contact the undersigned.

Yours truly,

FRASER MILNER CASGRAIN LLP



Andrew E. Salem

Encl.

cc: City of Vaughan Planning Department, Attn: Christina Napoli
Canadian National Railway Company, Attention: Emic Longo

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TO: MAYOR AND MEMBERS OF COUNCIL

FROM: JOHN ZIPAY, COMMISSIONER OF PLANNING

DATE: SEPTEMBER 21, 2005

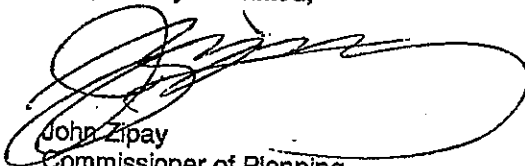
**SUBJECT: ADDITIONAL INFORMATION
COMMITTEE OF THE WHOLE MEETING – OCTOBER 11, 2005
ZONING BY-LAW AMENDMENT FILE -Z.03.054
CANADIAN NATIONAL RAILWAY COMPANY
SOUTH SIDE OF REGIONAL ROAD #7, THROUGH TO HIGHWAY #407,
WITHIN THE CN MAC MILLAN RAILWAY YARD
PART OF LOTS 4 AND 5, CONCESSION 4, CITY OF VAUGHAN**

On August 1, 2003, the owner submitted an application to amend the Zoning By-Law to rezone the subject lands (12.86ha) from EM4 Employment Area Transportation Zone to EM1 Prestige Employment Area (adjacent to Regional Road #7 and Highway #407) and EM2 Employment Area General (interior), to facilitate employment development.

The recommendation of the Committee of Whole on March 1, 2004, to receive a Public Hearing report and to forward a technical report to a future Committee meeting, was ratified by Council on March 8, 2004.

The technical report was scheduled for the June 8, 2005 Committee of the Whole meeting. On June 7, 2005 the applicant requested that the item be deferred to October 11, 2005. The application was submitted on the basis that the subject lands were deemed to be surplus to the needs of the CN Railway Facility and the proposed rezoning would facilitate a future severance and conveyance of the lands to a new owner. CN is currently reconsidering whether the subject lands are surplus or if they are required for continued railway operations. Accordingly, CN has requested (by letter dated September 16, 2005) that the item be deferred to the first Committee meeting in April 2006.

Respectfully submitted,


John Zipay
Commissioner of Planning

Attachment: Location Map

Copy to: Michael DeAngelis, City Manager
John Leach, City Clerk

memorandum

**Attachment 6****FRASER MILNER CASGRAIN LLP****ADDITIONAL INFORMATION****ITEM NO. 29**

CW Sept. 18, 2006

Andrew E. Salem
Direct Line: 416-863-4511
andrew.salem@fmc-law.com

August 30, 2006

VIA FAXCity of Vaughan
Clerks Department
2141 Major Mackenzie Drive
Vaughan, Ontario
L6A 1T1

Attention: John Leach

Dear Sirs:

**Subject: Canadian National Railway Company ("CN")
Application to Amend the Zoning By-law - File Z03.054
Request for Deferral from September 18, 2006
to the first Committee of the Whole Meeting of April, 2007**

Further to my discussions with Ms. Napoli of the Planning Department, we are writing to request that this item be deferred to the first Committee of the Whole Meeting scheduled for April, 2007.

As we have noted in previous correspondence, CN originally submitted the rezoning application on the basis that the subject lands were to be deemed surplus to the needs of the CN railway facility. The rezoning would facilitate a future severance and conveyance of the subject lands to a new owner. However, CN has been reconsidering whether the subject lands will be considered surplus. If it is determined that the lands are required for continuing railway operations, it would not be appropriate to rezone the property from the existing EM4 zoning category.

The matter is currently scheduled for consideration at the Committee of the Whole Meeting on September 18, 2006. Although a decision is expected in the near future, at this point CN has been unable to make a final determination as to its intentions for the property. We are therefore writing to request that the matter be deferred from consideration on September 18, 2006, and returned to the agenda at the first Committee of the Whole Meeting scheduled for April, 2007.

We trust this is satisfactory. If any further information is required, please contact the undersigned.

Yours truly,

FRASER MILNER CASGRAIN LLP


Andrew E. Salem

Encl.

cc: City of Vaughan Planning Department, Attn: John Zipay
City of Vaughan Planning Department, Attn: Marco Ramunno
City of Vaughan Planning Department, Attn: Christina Napoli
Canadian National Railway Company, Attention: Ernie Longo

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