

COMMITTEE OF THE WHOLE JUNE 17, 2002

**OFFICIAL PLAN AMENDMENT FILE OP.01.015
ZONING BY-LAW AMENDMENT FILE Z.01.072
CITY OF VAUGHAN (JARDIN DRIVE EMPLOYMENT AREA)
REPORT #P.2001.76**

Recommendation

The Commissioner of Planning recommends:

THAT NO FURTHER ACTION be taken in respect of Official Plan and Zoning By-law Amendment Files OP.01.015 and Z.01.072 (City of Vaughan - Jardin Drive Employment Area).

Purpose

On October 15, 2001, Council approved the recommendation of the Ward 4 Councillor that the City initiate an amendment to redesignate and rezone the employment properties on the north side of Jardin Drive to a commercial zone category. The review of additional uses to be included within the EM1 Zone, in lieu of a commercial zoning, was also to be considered.

Background - Analysis and Options

The subject lands are located southeast of Keele Street and Regional Road 7, along the north side of Jardin Drive, being Lots 44 to 52 on Registered Plan M-1811, (64, 110, 132, 150, 180, 214 and 226 Jardin Drive), in Lot 4, Concession 3, City of Vaughan. The subject lands are comprised of 9 lots, totaling 7 ha (17.4 ac), with a combined frontage of 575 m on Jardin Drive, and developed with 7 prestige employment use buildings.

The subject lands are designated "Prestige Area" by OPA #450 (Employment Area Plan) and zoned EM1 Prestige Employment Area Zone by By-law 1-88, subject to Exception 9(205). The surrounding land uses are:

- North - residential (R3 Residential Zone)
- South - Jardin Drive; prestige employment (EM1 Prestige Employment Area Zone)
- East - park (OS2 Open Space Park Zone)
- West - commercial (C1 Restricted Commercial Zone and C2 General Commercial Zone)

On November 29, 2001, the Ward 4 Councillor organized a community meeting, attended by the 37 residents (32 households) and 1 business. At the meeting, the residents indicated that they were being inconvenienced by the adjacent employment area with respect to noise from the loading doors being left open during summer months, noise from garbage and snow removal during sleep hours, truck idling, bakery odours, and 24 hour operations. Discussion centred on the aspects and implications of redesignating and zoning the lands, and the alternative approach of working with the businesses to resolve the problems.

On October 26, 2001, a notice of public hearing was circulated to all property owners within 120m of the subject lands. Prior to the meeting, 3 letters representing 6 of the 7 industrial buildings were received in opposition, and 2 letters were received from residents both for and against the proposal. The recommendation of the Committee of the Whole to receive the Public Hearing of December 3, 2001, and also that a Committee be formed with the Local Councillor, Staff, 3 area residents and 3 members of the Concord West Ratepayers Association, and 4 industrial landowners to address the residents' concerns, and the December 3, 2001 letter by the Ratepayers Association, was ratified by Council on December 18, 2001.

Official Plan

The subject lands are designated "Prestige Area" by OPA #450 (Employment Area Plan), which permits a wide range of industrial, business and civic uses, with no outside storage. The zoning by-law establishes the permitted uses and development standards. An amendment to the Official Plan would be required to facilitate a redesignation to commercial or to permit commercial uses on the properties.

Zoning

The subject lands are zoned EM1 Prestige Employment Area Zone by By-law 1-88, subject to Exception 9(205). The EM1 Zone permits a variety of employment uses with no outside storage. An amendment to the zoning by-law would be required to facilitate a rezoning to a commercial category or to permit commercial uses on the properties.

History

Both the Jardin Drive employment subdivision and the 43 abutting Southview Drive residential lots (15 m frontage by 44 m depth) were created by the same plan of subdivision. The draft plan of subdivision was approved by the Ontario Municipal Board on July 28, 1977 and registered as Plan M-1811 on June 12, 1978. Land use compatibility was considered when the residential and industrial developments were approved together. OPA #30 and the approved subdivision agreement required construction of a berm topped by a fence along the common lot line, with coniferous trees on the industrial side and deciduous trees on the residential side, to provide a buffer between the two uses.

Periodically, Southview Drive residents would advise the City of disruption of noise and hours of operation from the Jardin Drive businesses, particularly in the summer months when the loading doors are left open in the evenings. Noise complaints filed with the By-law Enforcement Division since 1993 are isolated to generally one resident for two industrial properties, broken down as follows: 5 complaints respecting 3 businesses at 150 Jardin, and 9 complaints respecting 4 businesses at 226 Jardin. Noise was usually resolved with the closing of the loading doors. Complaints respecting snow and garbage removal during sleep hours, and bakery odours at 214 Jardin, have also been received.

Jardin/Southview Drive Committee

In accordance with Council's resolution of December 18, 2001, a Committee was formed consisting of the Ward 4 Councillor, Staff from Community Planning, Building Standards and By-law Enforcement Departments, 4 residents/members of the Concord West Ratepayers Association, Metrus Properties Inc. (226 Jardin) and KLM Planning Partners Inc. representing both Rowhedge Construction Ltd. (150 and 180 Jardin) and Melrose Investments Inc. (110 and 214 Jardin), and representatives of Melrose. Meetings were held on January 30, March 5, April 10, and May 22, 2002, to address the problems experienced by the residents. The Owner at 132 Jardin and tenants with a history of complaints opted not to attend.

The residents preferred that the redesignation and rezoning of the employment lands for commercial uses not be pursued, and considered a more appropriate approach would be to work directly with the businesses to attempt to resolve the primarily enforcement-type issues, such as:

- noise from garbage and snow removal overnight;
- noise and odour from truck idling and drivers sleeping in their trucks;
- machinery and forklift noise from inside the businesses when loading doors are left open during summer months;

- no padding and noise flaps surrounding the opening of the loading door, which allows noise to escape from the building;
- noise from forklifts driving over the metal floor plate between the truck and loading door;
- loud radios;
- odours such as paint thinner and baked goods;
- garbage not being placed in containers; and,
- 24 hour business operations.

The Committee discussed various solutions and enforcement options to address the above concerns, which were also reflected in Staff's written response (dated March 5, 2002) to the December 3, 2001 letter from the Concord West Ratepayers Association, as follows:

a) Truck Deliveries/Pick-ups & Garbage Removal: The City's Model Noise By-law prohibits deliveries or pick-ups, including garbage removal, between 7 PM to 7 AM Monday to Saturday inclusive, and all day Sunday and Statutory holidays. By-law Enforcement Staff will investigate complaints received on a site-specific basis, and direct the owner or tenant. Failure to comply may result in charges being laid.

b) Snow Removal: There is no by-law that restricts snow plowing times. However, the City can enforce By-law 158-73, which is "a By-law to prohibit all noises likely to disturb the inhabitants of the Municipality". Any complaints of this nature are to be investigated by the By-law Enforcement Staff, on a site-specific basis and may lay a charge against the snow removal operator. It is suggested that the industries consider alternative snow plow practices, such as having the operator adjust their schedule to avoid plowing the lots on Jardin Drive overnight.

c) Air Quality: Air quality can change daily on the basis of a number of factors such as the velocity and direction of prevailing winds, humidity, and increased traffic on Highway 407 and Keele Street. Concerns respecting objectionable odours are to be forwarded to the Ontario Ministry of the Environment, which is equipped to respond to odour complaints and will investigate all calls received.

d) Cooling of Buildings: The businesses indicated that installing central air conditioning would be prohibitively expensive. They agreed to review alternative cooling options, such as fans and ceiling fans, and to open doors and windows in the front or side areas of the buildings. There is no authority to require the installation of air conditioning in buildings; accordingly, we will concentrate on the few problem sites to attempt to find mutually agreeable solutions. Should businesses decide to install central air conditioning, they will be requested to place the roof-top equipment on the front portion of their building with appropriate screening.

e) Loading Dock Bumpers/Noise Flaps/Floor Plates: There is no authority to require the installation of any of the following:

- i) bumpers and noise flaps around the loading door openings to reduce the escape of internal building noise;
- ii) automated (rather than manual) floor plates for the loading docks to reduce loading and unloading noise;
- ii) rubber (rather than steel) floor plates to reduce the noise of forklift movement between the truck and loading dock. We can attempt to deal with the few problem sites to find mutually agreeable solutions.

f) Garbage Bins: By-law Enforcement Staff conducted a site visit of all industrial properties on the north side of Jardin Drive, and found all bins to be sited adjacent to the buildings in a neat and orderly manner. The office/warehousing at the 63 Jardin Drive sited the bin adjacent to the landscaped berm in compliance with the approved building permit drawings, in a neat and orderly fashion.

The City does not control the waste products that are placed in the garbage bins by the businesses as this garbage is collected by private waste disposal firms. However, if the waste storage area is kept in an unsightly state or is causing odour, the City's Property Standards By-law would apply. Complaints are to be filed with the By-law Enforcement Division, and where appropriate, will be forwarded to the York Region Health Unit for investigation and appropriate action.

g) Truck Idling: By-law Enforcement Staff contacted the Region of York and confirmed that there is no Regional idling by-law. The City's Model Noise By-law would allow idling for a continuous period not exceeding 5 minutes, but includes several exceptions that would permit longer idling periods. Complaints (including truck drivers sleeping in their vehicles) are to be forwarded to the By-law Enforcement Division, who will investigate each site specifically, and deal directly with the Owner and/or Tenant. Failure to comply may result in a charge being laid against the suppliers.

The Industrial owners were receptive to posting signage on their properties directing trucks to park on the south side of the buildings if they require longer idling times. To date, Metrus has posted a sign on their property (226 Jardin Drive).

h) Newsletter

The Committee also acted on Staff's suggestion for an information newsletter from the Local Councillor to be created and delivered to each business (owner and tenant). The newsletter encourages the co-operation of the businesses to implement neighbourly business practices, which will assist to minimize the occurrence of problems with the adjacent residential community. The newsletter was hand-delivered to 30 businesses and mailed to the 5 landowners on the north side of Jardin Drive on March 22, 2002, and contained the following information:

- restrictions set out in the City's Model Noise By-law with respect to delivery and pick-up times and truck idling;
- posting of signs on the property directing all trucks to park on the south side of Jardin Drive, if longer idling times are required;
- considering alternative snow plow practices such as adjusting the schedules to avoid plowing of Jardin Drive lots overnight;
- keeping loading doors closed, and implementing alternative means to cool the building during summer months, such as fans and ceiling fans or opening side doors and windows;
- encouraging businesses to consider installing black bumpers with noise flaps and automatic floor plates (rubber rather than metal) around the loading doors;
- encouraging businesses to keep the garbage containment areas clean and odour-free at all times; and,
- encouraging the businesses to work with their staff and suppliers to ensure that the above matters are addressed.

In addition to the newsletter, By-law Enforcement Staff met with the 4 businesses identified as generating the main complaints to inform, educate and discuss alternative business practices that would address the residents concerns.

By-law Enforcement Staff will continue to investigate complaints received and take appropriate action on a site-specific basis. It is expected that the number of complaints will reduce as a result of the effort and actions of the Jardin/Southview Drive Committee. As progress on a number of issues was achieved at the May 22 meeting, the Committee was supportive of not proceeding with the Official Plan and Zoning By-law Amendment applications, and continuing dialogue to resolve matters at an upcoming meeting on June 25, 2002.

Commercial Land Use

On October 15, 2001, Council directed a review of the appropriateness of redesignating and rezoning the north side of Jardin Drive from employment to commercial, to encourage redevelopment or a change of use for each building as ownerships and leases end and existing employment uses are no longer permitted. During meetings, it was determined that the residents on the Jardin/Southview Committee preferred the current designation and zoning for employment use to the proposed commercial use. Given that the primary concerns related to by-law enforcement, the preferred approach was to work with the businesses to resolve the problems experienced by the residents.

Staff are of the opinion that co-operation between the businesses, the City and the residents to achieve mutually agreeable solutions on a site-specific basis, is the best approach in this instance. Amending the Jardin properties for commercial use should not be pursued, for the following reasons:

- some problems such as noise, snow/garbage removal and loading would not likely be eliminated under a commercial land use scenario;
- a change to a commercial land use would render the existing employment uses in a legal non-conforming situation, and such uses could continue to operate until they ceased to exist on the premises, which could be many years;
- viable commercial uses could attract substantially more vehicular and truck traffic to the site and create further inconvenience; commercial uses require prominent locations that are transit-supportive along arterial and collector roads, to attract a high volume of customers to prosper;
- attracting commercial uses to lease space on the north side of Jardin Drive appears unlikely, and could result in unleaseable buildings and undue financial hardship to the owners; this in turn, can result in the infiltration of less desirable uses usually associated with declining or lower lease/rent rates; and,
- the businesses could appeal the change in uses to the Ontario Municipal Board.

Employment Uses

During the initial meetings, the businesses on the Jardin/Southview Drive Committee suggested that the City consider adding uses to the current EM1 Zoning that would be compatible with residential uses, and to remove the more disruptive uses. The residents on the Committee favoured mitigation, but were also supportive of this suggestion.

Staff has reviewed the list of current EM1 Zone uses, which were found to be appropriate and compatible with residential uses. The permitted uses in the EM1 Zone (to be within a wholly enclosed building with no outside storage) include:

- Employment Use (warehousing, manufacturing and processing)
- Accessory Retail Sales to an Employment Use
- Accessory Office Uses to an Employment Use
- Banquet Hall, in a Single Unit Building
- Bowling Alley
- Business and Professional Offices, not including regulated health professional
- Club, Health Centre
- Convention Centre, Hotel, Motel
- Funeral Home in a Single Unit building
- Car Brokerage
- Office Building
- Recreational Uses, including a golf driving range and miniature golf course
- Service and Repair Shop
- Any Public Garage legally existing as of the date of enactment of By-law 80-95 (April 10, 1995)
- Uses permitted in all Employment Zones: Day Nursery, Technical or Commercial School, Parks and Open Space, Recreational Uses
- Eating Establishment (including convenience and take-out) restricted to one per multi-unit building to a maximum of 185 sq m GFA

During the latter meetings, the Committee reached a consensus to maintain the status quo of EM1 uses within the employment subdivision.

Conclusion

Staff has reviewed the potential for redesignation and rezoning in light of the policies in OPA #450 and By-law 1-88, and the comments provided by the public and the Jardin/Southview Drive Committee. The basis for consideration for such a proposal is the occasional concerns raised by residents regarding the operation of the adjacent businesses. Co-operation between the businesses, the City and the residents to achieve mutually agreeable solutions on a site-specific basis would be an effective measure to resolve these enforcement-type matters.

The proposal to redesignate and rezone the Jardin properties to commercial would not likely eliminate the problems (eg. noise, snow/garbage removal, loading) experienced by the residents. Likewise, the inclusion and reduction of uses within the EM1 Zone would not likely alter the co-existence of the business and residential uses, and the existing prestige employment uses are considered to be appropriate.

The City has sent an information newsletter to each business (owner and tenant) to encourage their co-operation in applying neighbourly business practices. This newsletter will periodically be sent to the businesses and should assist to minimize the occurrence of problems with the adjacent residential community. Staff has also met with the 4 businesses that generate the main complaints, as well as the Owners of these buildings, to provide information and gain cooperation.

The By-law Enforcement Department will continue to investigate complaints received and take appropriate action on a site-specific basis. It is expected that the number of complaints will reduce as a result of the effort and actions of the Jardin/Southview Drive Committee. As progress on a number of issues was achieved at the May 22 meeting, the Committee was supportive of continuing dialogue at an upcoming meeting on June 25, 2002.

Should the Committee concur, the recommendation to take no further action on the subject applications should be adopted.

Attachments

1. Location Map
2. Subdivision Plan M-1811

Report prepared by:

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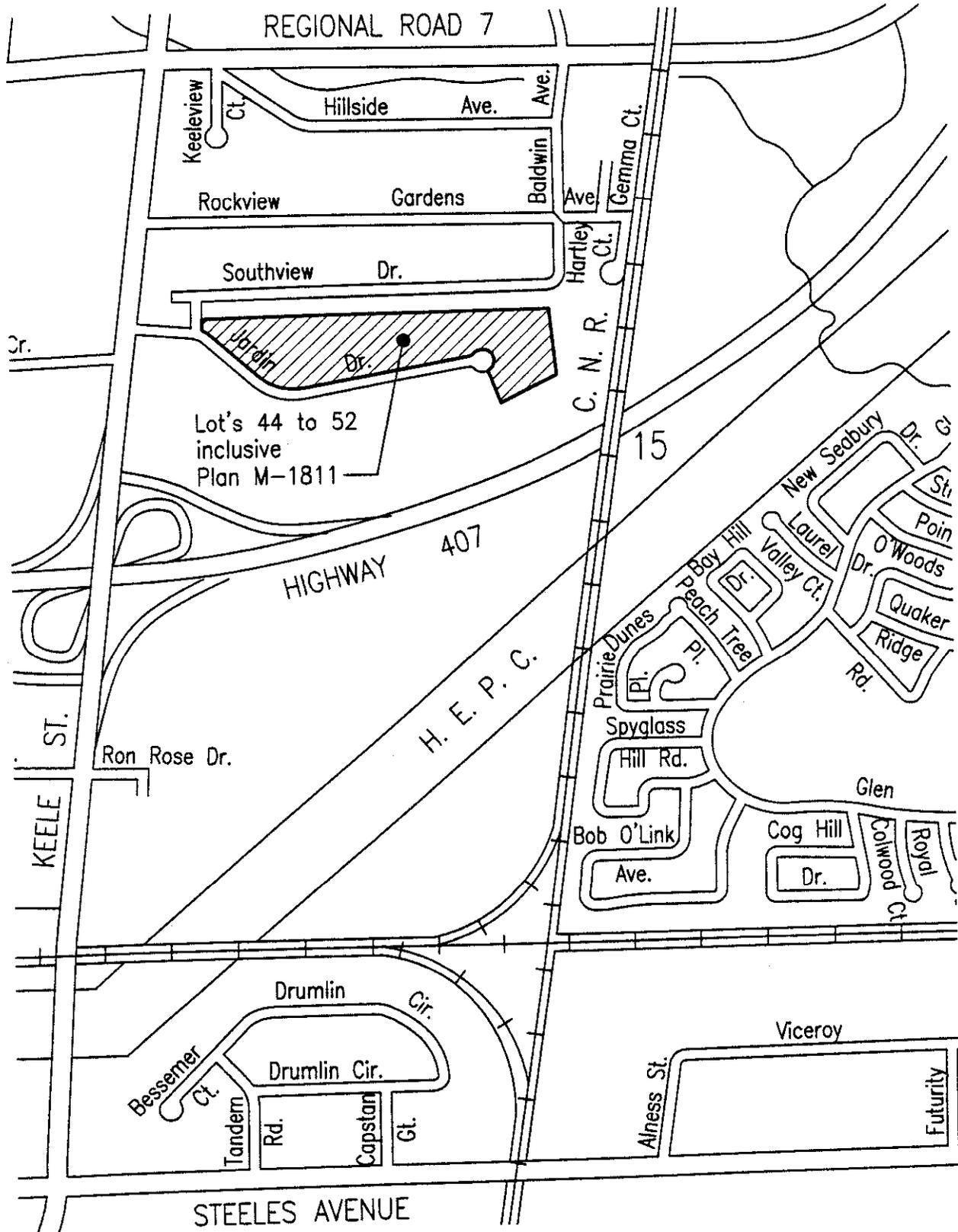
Respectfully submitted,

MICHAEL DeANGELIS,
Commissioner of Planning

JOANNE R. ARBOUR
Director of Community Planning

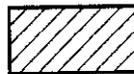
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ATTACHMENT "1"
LOCATION MAP

FILE #:	REPORT #:
Z.01.072 OP.01.015	LOCATION: PT. LT. 4, CONC. 3

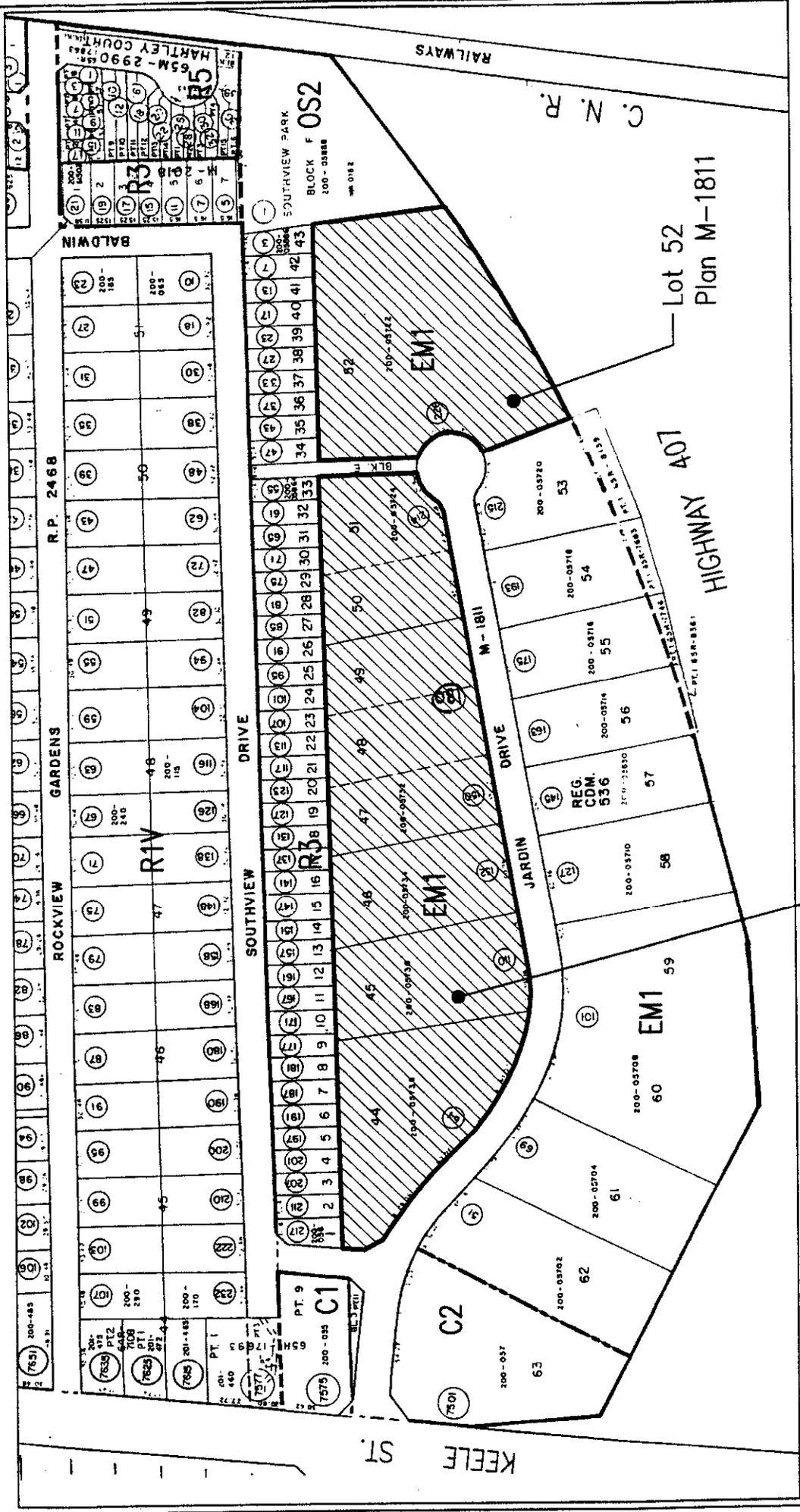


SUBJECT LANDS

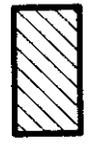
CITY OF VAUGHAN
PLANNING DEPARTMENT

APPLICANT:
CITY OF VAUGHAN

DATE: 10/23/2001
SCALE: NOT TO SCALE



Lot's 44 to 51
inclusive
Plan M-1811



SUBJECT LANDS

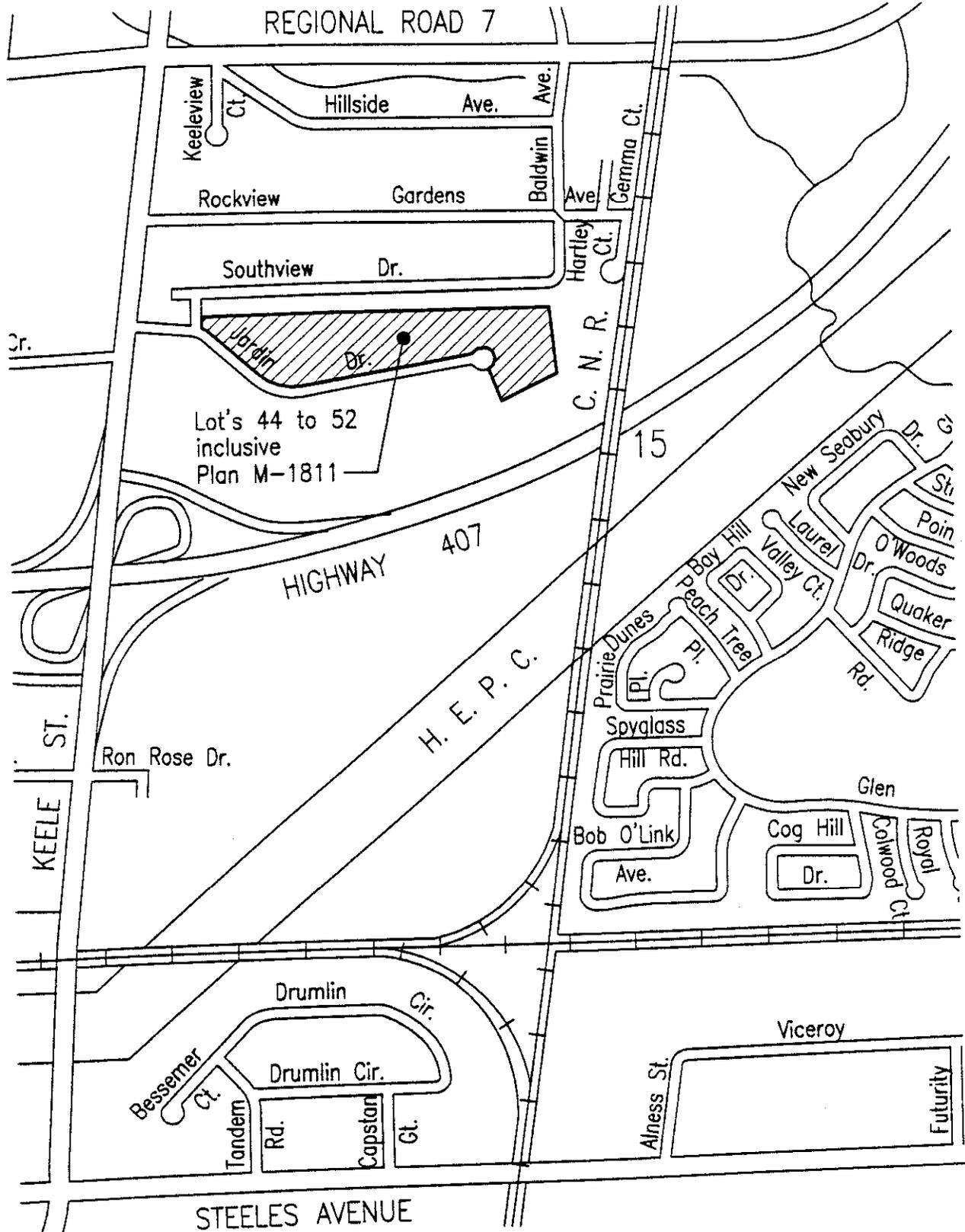
ATTACHMENT "2" SUBDIVISION PLAN	FILE #:	REPORT #:
	Z.01.072 OP.01.015	PT. LOT 4, CONC. 3

CITY OF VAUGHAN
PLANNING DEPARTMENT

APPLICANT:
CITY OF VAUGHAN

DATE: 10/25/2001
SCALE: NOT TO SCALE





 SUBJECT LANDS

ATTACHMENT "1"
LOCATION MAP

FILE #:	REPORT #:
Z.01.072 OP.01.015	LOCATION: PT. LT. 4, CONC. 3

CITY OF VAUGHAN
PLANNING DEPARTMENT

APPLICANT:
CITY OF VAUGHAN

DATE: 10/23/2001
SCALE: NOT TO SCALE