



Corporate Report

Clerk's Files

Originator's
Files OZ 05/044 W3

DATE: May 23, 2006

TO: Chair and Members of Planning and Development Committee
Meeting Date: June 12, 2006

FROM: Edward R. Sajecki
Commissioner of Planning and Building

SUBJECT: **Information Report**
Rezoning Application
To permit a broader range of retail uses, including recognition
of uses currently operating within the existing plaza
3643 and 3647 Dixie Road
East side of Dixie Road, south of Burnhamthorpe Road East
Owner: Orchard Garden Markets Ltd.
Applicant: Hugh Thompson, Golden Path International
Bill 20

Public Meeting **Ward 3**

RECOMMENDATION: That the Report dated May 23, 2006, from the Commissioner of Planning and Building regarding the application to change the Zoning from "DC-1792" (District Commercial) to "DC-Special Section" (District Commercial) to permit a broader range of retail uses on the subject lands under file OZ 05/044 W3, Orchard Garden Markets Ltd., 3643 and 3647 Dixie Road, be received for information.

BACKGROUND: In a decision dated October 25, 2005, the Ontario Municipal Board (OMB) refused a minor variance application filed by the owner to permit the retail optical store which was already operating within the plaza. The OMB was of the opinion, that the Zoning By-law

does not permit the use and therefore, the variance does not maintain the intent and purpose of the Zoning By-law.

Accordingly, the applicant has filed the subject rezoning application to request the following: a broadening of the range of uses permitted, including “shops in which goods are sold at retail” which incorporates a retail optical store; an expanded and relocated seasonal display area; and, the replacement of a Schedule “I” to reflect the as-built form on the lands (see Proposed Zoning By-law Amendment section below for additional details).

The purpose of this report is to provide preliminary information on the above-noted application and to seek comments from the community.

COMMENTS:

All site details below refer to existing buildings on the lands. No new buildings or additions are proposed as part of the application.

| Site Details | |
|------------------------|--|
| Application submitted: | December 13, 2005 |
| Gross Floor Area: | 1 080 m ² (11,625 sq. ft.) |
| Height: | One storey |
| Lot Coverage: | 28.5% |
| Landscaped Area: | 15.3% |
| Parking Required: | 57 spaces, based on a requirement of 5.4 spaces per 100 m ² (1,076 sq. ft.) |
| Parking Provided: | 57 spaces |

| Site Characteristics | |
|-----------------------------|---------------------|
| Frontage: | 36.4 m (119.4 ft.) |
| Depth: | 113.4 m (372.0 ft.) |
| Gross Lot Area: | 0.41 ha (1.0 ac.) |
| Existing Use: | Commercial plaza |

Additional information is provided in Appendices I-1 to I-7.

Neighbourhood Context

The subject lands form part of a grouping of commercial and office properties within the southeast quadrant of Burnhamthorpe Road East and Dixie Road which provide services to the surrounding residential communities. Several of these properties are interconnected and share access points to assist in area traffic movements. The primary business on the lands is the Burnhamthorpe Fruit Market which is located in the building closest to Dixie Road. The building to the rear of the property contains individual retail units, including an optical store. Information regarding the history of the site is found in Appendix I-1.

The surrounding land uses are described as follows:

- North: Aurora Meats (expansion currently under construction) and VGR Investments office building, with Rockwood Mall located beyond across Burnhamthorpe Road East;
- East: Condominium townhouse dwellings, municipally known as 1485 Gulleden Drive;
- South: Carriage Works (Tanson Properties) commercial plaza
- West: Burnhamthorpe Library and the historic Burnhamthorpe Cemetery.

Current Mississauga Plan Designation and Policies for the Applewood District (May 5, 2003)

"**General Commercial**" which permits establishments for the sale of goods and services, recreation, entertainment and accommodation to the general public. The application is in conformity with the land use designation, and no changes to the Official Plan are proposed.

There are other policies in the Official Plan which also are applicable in the review of this application including:

Notes

The subject lands are part of the Rockwood Node which is centred on Dixie Road at the intersection of Burnhamthorpe Road East and

Rathburn Road East. Within Mississauga Plan, nodes exist in order to create a focus of activity for the surrounding areas at locations which are afforded good accessibility, visibility and a relatively high level of existing and potential transit service. The following is encouraged within nodes: a high quality, compact and urban built form with a relationship to the streetline; retail uses, with direct access to the sidewalk; sufficiently high residential and employment density to support transit usage; and community, cultural and recreational facilities.

Existing Zoning

"DC-1792" (District Commercial), which permits a limited range of commercial uses including banks, barbershops, offices, tailoring shop, food store, laundromat, shoe repair, video store, tanning salon, convenience store, convenience restaurant, fruit market with an associated seasonal display area, and a funeral establishment, subject to a maximum gross floor area of 1 080 m² (11,625 sq. ft.). The built form including landscape, parking and seasonal display areas are specifically regulated by a Schedule "I".

Proposed Zoning By-law Amendment

The applicant has requested that the lands be rezoned to the following:

"DC-Special Section" (District Commercial), to permit the following additional uses on the lands: shops in which goods are sold at retail (which includes a retail optical store); bakery goods shop; drugstore; pharmaceutical agency; and a seasonal display area having a maximum area of 256 m² (2,755 sq. ft.). In addition, the applicant is requesting that the current Schedule "I" be replaced with one that reflects the building, landscape and parking areas as constructed. Some of these changes were previously approved by the Committee of Adjustment (see Appendix I-1 and I-7 for details). No changes are proposed to the current parking standard of 5.4 spaces per 100 m² (1,076 sq. ft.) that applies.

Draft Mississauga Zoning By-law

Arrangements are being made to finalize the new Mississauga Zoning By-law, which will result in the renaming of existing zone categories within the Applewood Planning District and zone categories proposed for the subject lands. In this particular instance, the proposed “DC-Special Section” (District Commercial) is being renamed to “C2” (Neighbourhood Commercial).

The timing of the site specific Zoning By-law to permit the proposed development is such that it may be affected by the passage of the new Mississauga Zoning By-law and potential appeals. A provision will be included in the Supplementary Report to address the new Mississauga Zoning By-law.

COMMUNITY ISSUES

A community meeting was held by Councillor Prentice on May 24, 2006. At the meeting, several questions were asked by those in attendance which pertained to the following: history of variance applications applied for; the planning process and how it functions; and, the definition of certain uses applied for by the applicant.

DEVELOPMENT ISSUES

Current By-law Enforcement and Zoning violations on the lands are listed in Appendix I-1. Agency comments are summarized in Appendix I-5.

OTHER INFORMATION

Site Plan Approval

A Site Plan Application under file SP 05/069 W3 has been submitted to the City in order to evaluate the location of the seasonal display area. The application is on hold pending review of the subject rezoning application.

FINANCIAL IMPACT: Development charges will be payable in keeping with the requirements of the applicable Development Charges By-law of the City as well as financial requirements of any other official agency concerned with the development of the lands.

CONCLUSION: Most agency and City department comments have been received and after the public meeting has been held and all issues are resolved, the Planning and Building Department will be in a position to make a recommendation regarding this application.

ATTACHMENTS:

- Appendix I-1 - Site History
- Appendix I-2 - Excerpt of Applewood District Land Use Map
- Appendix I-3 - Excerpt of Existing Land Use Map
- Appendix I-4 - Aerial Photograph
- Appendix I-5 - Agency Comments
- Appendix I-6 - Existing Site Plan
- Appendix I-7 - Existing and Proposed Schedule "I"
- Appendix I-8 - General Context Map

Edward R. Sajecki
Commissioner of Planning and Building

Prepared By: Rob Hughes, Development Planner

Orchard Gardens Market Ltd.

File: OZ 05/044 W3

Site History

- April 8, 1991 - Council adopted By-law 0164-1991 to rezone the lands from “AC2” and “R4” to “DC-1792”, under file OZ-013/83 W3, to permit a range of commercial uses, and the expansion of the existing fruit market and a separate freestanding retail commercial building at the rear, subject to a site layout shown on a Schedule “I”.
- October 17, 1991 - Consent application ‘B’ 126/91 to permit a right-of-way on the lands in favour of adjoining properties was approved by the Committee of Adjustment.
- December 31, 1991 - Site Plan application under file SP-176/88 W3 to permit the construction of the proposed fruit market expansion was approved.
- January 16, 1992 - Variance application ‘A’ 004/92 to permit a seasonal display area to expand westerly into a proposed road widening for Dixie Road was refused by the Committee of Adjustment.
- June 24, 1993 - Variance application ‘A’ 319/93 to permit a tent at the rear of the subject property for a temporary period of two months a year, from August 26 to October 26, to sell grapes was refused by the Committee of Adjustment. The application was appealed to the OMB which allowed the appeal.
- February 9, 1995 - Variance application ‘A’ 038/95 to permit the construction of additions to the fruit market building, subject to site plan approval was approved by the Committee of Adjustment.
- December 23, 1997 - Variance application ‘A’ 812/97 to permit the construction of a coffee shop at the front of the existing fruit market building with a reduced yard setback and a reduced parking standard was refused by the Committee of Adjustment. The decision was appealed to the OMB but later withdrawn.
- February 28, 2002 - Variance application ‘A’ 768/01 to permit building additions to the fruit market with reduced setbacks and an increased floor area beyond what was stipulated in the zoning was refused by the Committee of Adjustment. The decision was appealed to the OMB which allowed the appeal subject to conditions.
- December 15, 2004 - Site Plan application under file SP 01/414 W3 to permit additions to the front, side and rear of the existing fruit market, and a free standing retail building at the rear of the lands, in accordance with the variance approved in 1995 and the original zoning was approved.

Orchard Gardens Market Ltd.

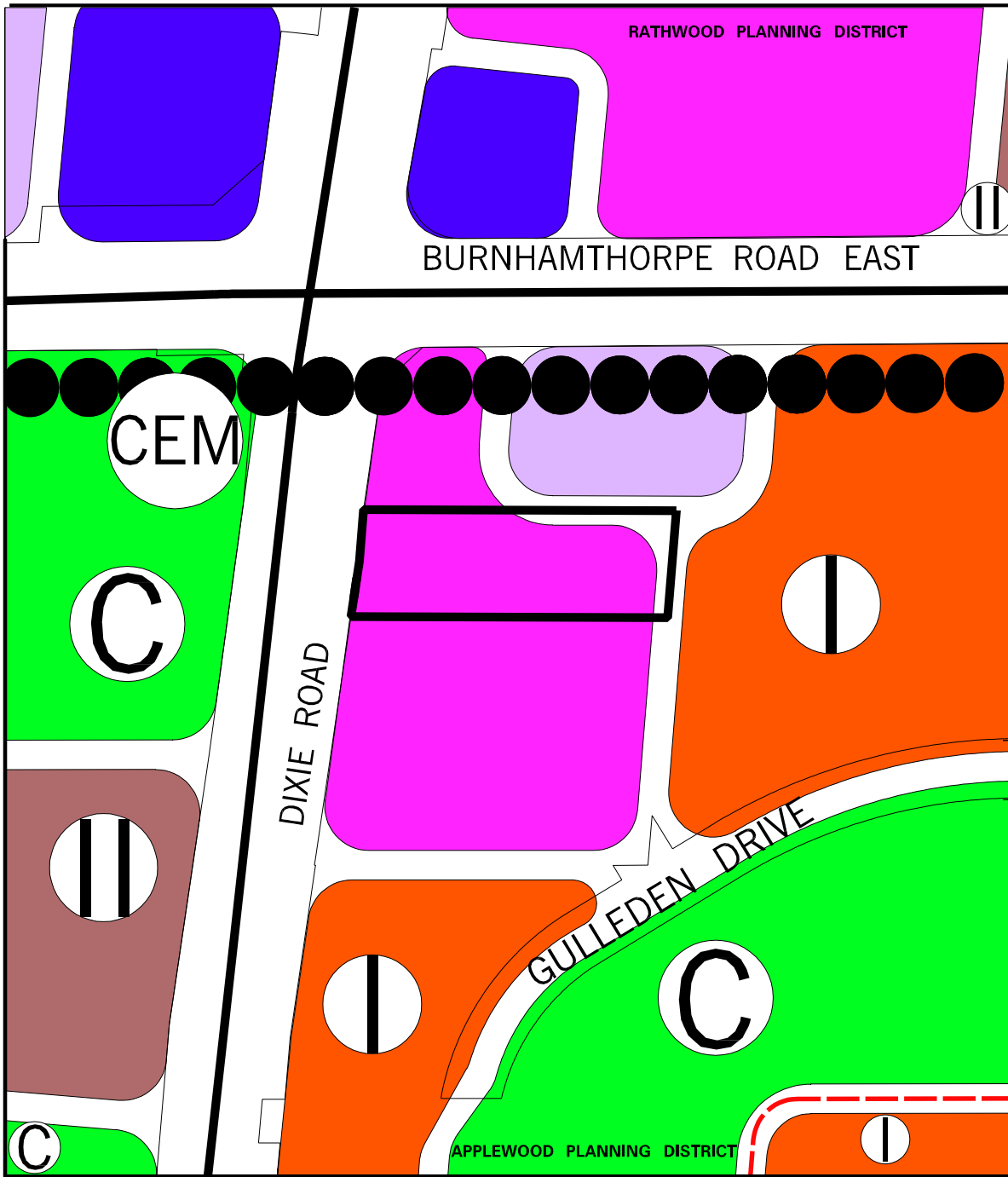
File: OZ 05/044 W3

Site History

- March 3, 2005 – Site Plan application SP 05/069 W3 to permit a garden centre at the rear of lands was submitted. The application was submitted in support of variance application ‘A’ 040/05 which follows but remains inactive pending review of the subject rezoning application
- April 21, 2005 - Variance application ‘A’ 040/05 to permit a seasonal outdoor display area, with an increase in size, subject to conditions on use, timing, and location was approved by the Committee of Adjustment. The decision was appealed by the applicant to the OMB respecting the conditions imposed. The appeal was dismissed.
- May 4, 2005 - Minor revisions to the previously approved site plan under file SP-01/414 W3 respecting modifications to the free standing retail building at the rear of the lands were approved.
- June 2, 2005 - Variance application ‘A’ 188/05 to permit a retail optical store within the new retail building was refused by the Committee of Adjustment on the basis that the matter did not meet the four tests of the *Planning Act*. The decision was appealed to the OMB which in a Decision dated October 25, 2005, upheld the Committee’s decision and dismissed the appeal. This has resulted in the applicant submitting the subject rezoning application.

Current Bylaw Enforcement and Zoning Violations

- 3643 Dixie Road: Order to Comply was issued on April 5, 2005 respecting interior building alterations to Unit 3 (Visla Photo) under Building Permit BP05 5379. The matter was forwarded to Legal Services for court action, in which a first appearance before the court took place on December 8, 2005. A trial date has been set for October 19, 2006.
- 3643 Dixie Road: Charges were laid respecting the operation of a retail optical store which is not a permitted use. A trial date has been set for October 19, 2006. A convenience store is also operating without zoning approval although charges have not been laid pending a decision on the subject zoning application.
- 3643 and 3647 Dixie Road: Four Orders to Comply have been issued respecting signage associated with the above addressed buildings on the lands.



**PART OF APPLEWOOD AND RATHWOOD DISTRICT
LAND USE MAPS
APPLEWOOD AND RATHWOOD DISTRICT
POLICIES OF MISSISSAUGA PLAN**

LAND USE DESIGNATIONS

- Residential - Low Density I
- Residential - Low Density II
- Residential - Medium Density I
- Residential - Medium Density II
- Residential - High Density I
- Residential - High Density II
- General Commercial
- Convenience Commercial
- Motor Vehicle Commercial
- Office
- Open Space
- Private Open Space
- Greenbelt
- Utility
- Subject Lands

TRANSPORTATION LEGEND

- Arterial
- Major Collector
- Minor Collector
- Local Road
- Major Transit Corridor

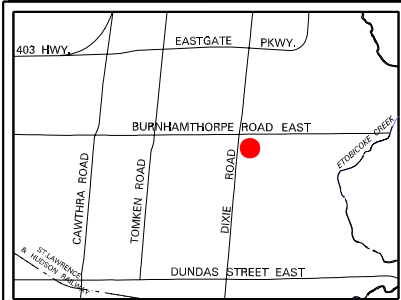
LAND USE LEGEND

- Node Boundary
- Community Park
- Cemetery
- 1996 NEP2000 NEF Composite Noise Contours
- Planning District

NOTE:
ANY PART OF THE ROAD NETWORK SHOWN
OUTSIDE THE CITY BOUNDARIES IS SHOWN
FOR INFORMATION PURPOSES ONLY.



SUBJECT:
ORCHARD GARDEN MARKETS LTD.



FILE NO:
OZ 05044 W3

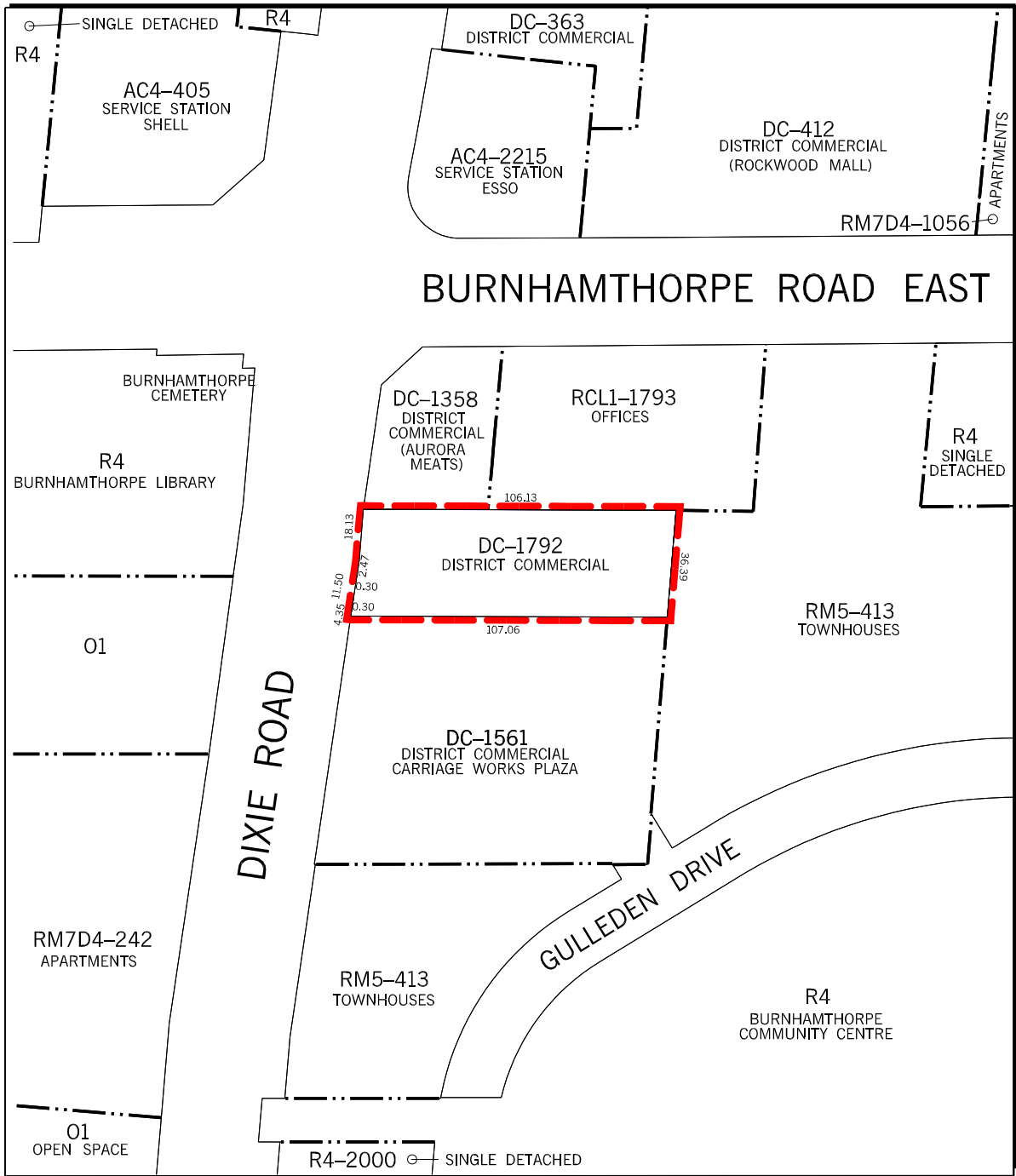
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05044L

SCALE:
1:2000


PDC DATE:
2006/06/12


DRAWN BY:
N.DUSZCZYSZYN

APPENDIX I-2

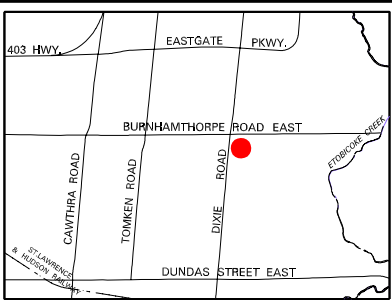


LEGEND:

 PROPOSED ZONING BY-LAW AMENDMENT FROM "DC-1792" (DISTRICT COMMERCIAL) TO "DC-SPECIAL SECTION" (DISTRICT COMMERCIAL) TO PERMIT A BROADER RANGE OF RETAIL USES, INCLUDING RECOGNITION OF USES CURRENTLY OPERATING, WITHIN THE EXISTING PLAZA.

NOTE: EXISTING ZONING DELINEATED ON THE PLAN 

SUBJECT:
ORCHARD GARDEN MARKETS LTD.



FILE NO:
OZ 05044 W3

DWG. NO:
05044R

SCALE:
1:2000

PDC DATE:
2006/06/12

DRAWN BY:
N.DUSZCZYSZYN

APPENDIX I-3

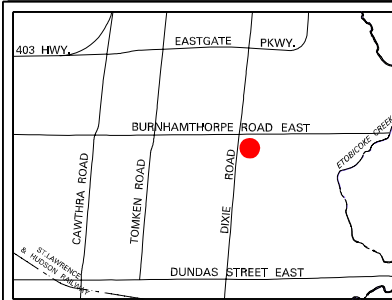


LEGEND:

 SUBJECT LANDS

NOTE: DATE OF AERIAL PHOTO 04/2005.

SUBJECT:
ORCHARD GARDEN MARKETS LTD.



FILE NO:
OZ 05044 W3

DWG. NO:
05044A

SCALE:
1:2000

PDC DATE:
2006/06/12

DRAWN BY:
N.DUSZCZYSZYN

Orchard Garden Markets Ltd.

File: OZ 05/044 W3

Agency Comments

The following is a summary of comments from agencies and departments regarding the application.

| Agency / Comment Date | Comment |
|---|--|
| Region of Peel (February 14, 2006) | Review of the application finds no significant concerns or issues from a land use planning or traffic perspective. The Region has no objection to the approval of the application |
| City Community Services Department – Planning and Administration Division (February 15, 2006) | There are no concerns or conditions regarding the subject application. |
| City Community Services Department – Fire and Emergency Services Division (April 28, 2006) | The application has been reviewed from an emergency response perspective and there are no concerns. Emergency response time to the site, and water supply available, are acceptable |
| City Transportation and Works Department (February 14, 2006) | The applicant is to submit a Phase I Environmental Site Assessment (ESA) for review. Comments on this report will be finalized prior to the preparation of a Supplementary Report. |
| Other City Departments and External Agencies | <p>The following City Departments and external agencies offered no objection to the application provided that all technical matters are addressed in a satisfactory manner:</p> <ul style="list-style-type: none"> - Bell Canada - Canada Post - Development Services, Planning and Building Department - Economic Development - Realty Services <p>The following City Departments and external agencies were circulated the application but provided no comments:</p> <ul style="list-style-type: none"> - Enbridge Gas Distribution Inc. - Enersource Hydro Mississauga - Hydro One Networks - Rogers Cable |

GENERAL NOTES

- All existing grades are based on the topographical elevations as per the approved Site Plan by Stephen Bennett Architect.
- The existing drainage pattern will be maintained.
- All newly excavated material will be removed from the site.
- Grades will be set within a 3% maximum slope at the property line and within the site.
- If any wells are found on the site, they will be decommissioned in accordance with the Ontario Water Resources Act, Regulation 625 (formerly 625-94) and any other applicable regulations and guidelines.
- If any underground or aboveground storage tanks are found on site, they will be decommissioned and removed in accordance with all applicable guidelines and regulations.
- The City of Mississauga requires that all working drawings submitted to the Building Division as part of an application for the issuance of a building permit shall be certified by the architect or engineer as being in conformity with the site development plan as approved by the City of Mississauga.
- All exterior lighting will be directed onto the site and will not shine upon the adjacent properties.
- All rooftop mechanical units shall be screened from view by the applicant.
- Parking spaces reserved for disabled persons must be identified by a sign, installed at the applicant's expense, in accordance with the design specifications of Figure 1 to Schedule 1 of By-law 194-93.

- The Applicant is responsible for ensuring that the protection boundaries maintained throughout all phases of construction and construction in the location and condition as approved by the Planning and Building Department. No asbestos building materials, soil, etc. may be stockpiled within the area of the property. Failure to maintain the boundaries or to originally approved or the storage of materials within the housing will be cause for the Letter of Credit to be held for two (2) years following completion of all site work.
- The structural design of any retaining wall over 0.60 m (2'0") in height or any retaining wall located on a property line, is to be shown on the Site Grading Plan for this project, made to be approved by the Consulting Engineer for the project.
- Signage shown on the site development plans is for informational purposes only. All signs will be subject to the provisions of Sign By-law 0054-2002, as amended and a separate sign application will be required through the Building Division.
- The fire access route will be designed to support a load of not less than 11,200 kg per sqm and have a change in gradient of not more than 1 in 12.5 over a minimum distance of 15 m.
- The fire route will be designated as per By-law 1006-01 as amended.

I hereby certify that this drawing conforms to all respects to the site development plan as approved by the City of Mississauga under File Number SP 01414 W3.

Stephen Bennett
Bennett Architect Ltd.

APR 22 2005
Vince Rossi, President
Orchard Garden Markets Ltd.

ZONING DC Sec. 1792

LOT AREA 4,129 SQ.M.

LOT COVERAGE (EXISTING) 781.75 SQ.M.
(PROPOSED) 1,176.49 SQ.M.

BUILDING HEIGHT ONE STOREY

GROSS FLOOR AREA (EXISTING) = 630.1 SQ.M. G.F.A.

A) ADDITION AT FRONT (RETAIL) = 107.82 SQ.M. G.F.A.

B) ADDITION G.F.A. (NEW KITCHEN) = 32.32 SQ.M. G.F.A.

C) MEZZANINE ADDITION = 68.29 SQ.M. G.F.A.

(EXECUTIVE OFFICE)

TOTAL G.F.A. OF ABOVE = 868.12 SQ.M. G.F.A.

(MAX. 888.15 SQ.M. G.F.A. PER DM9 ORDER 1678)

D) PROPOSED NEW BUILDING = 192.46 SQ.M. G.F.A.

TOTAL GROSS FLOOR AREA = 1060.58 SQ. M. G.F.A.

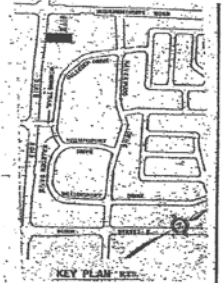
PARKING REQUIRED = 1000.58 x 5.4/100 SQ.M. G.F.A. = 57 SPACES

PARKING PROVIDED = 67 SPACES (INCL. 1 HANDICAPPED)

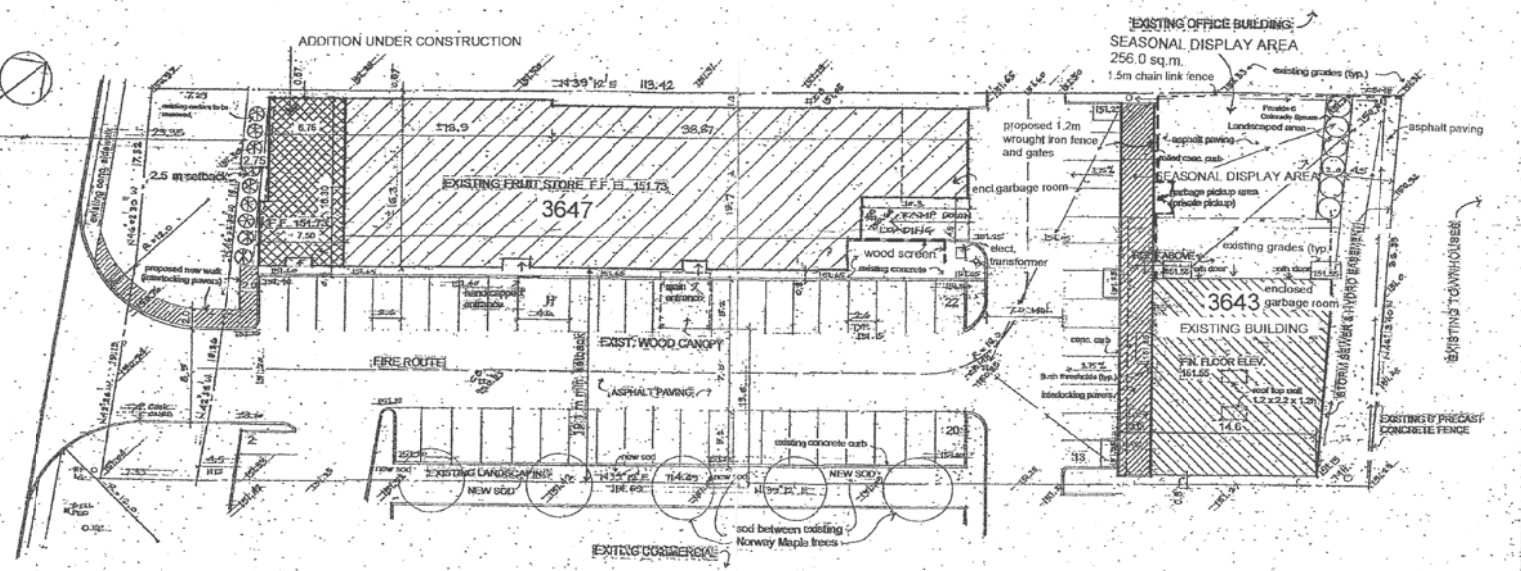
ONE LOADING SPACE PROVIDED

LANDSCAPED AREA = 630.51 SQ.M.

PAVED AREA = 2,396.00 SQ.M.



DIXIE ROAD



SITE PLAN
SCALE 1:250

November 15, 2005
Revised October 30, 2004
Revised March 26, 2004
Revised March 6, 2004
Revised February 28, 2004
Revised August 21, 2003
Revised July 8, 2003
REVISIONS APPROV. 24, 2005
JANUARY 2005
Mastivity 2, 2002

SP-01/414 W3
COMMERCIAL DEVELOPMENT
ORCHARD GARDEN MARKETS LTD.
3647 Dixie Road, Mississauga, Ontario
Tel: (905) 625-1692 Fax: (905) 238-5377
BERNATT ARCHITECT LTD.
40 Wynton Drive, Suite 312
Toronto, Ontario, M9C 4J5
Tel: (416) 449-8945



A1

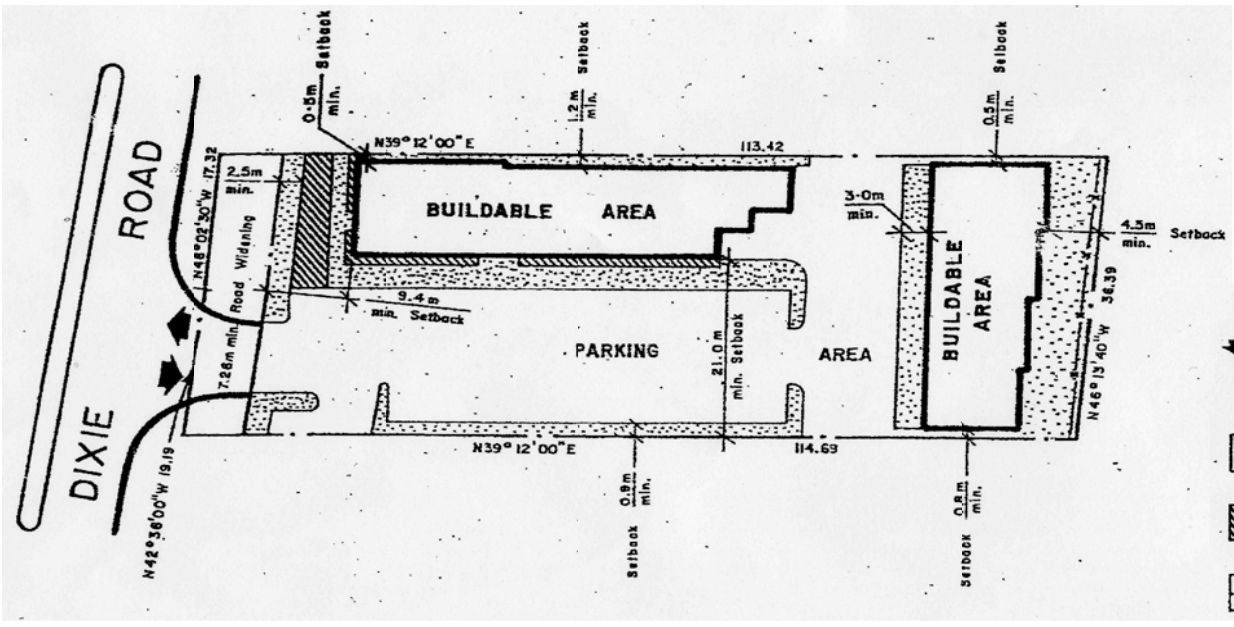
SITE PLAN

OZ 05044 W3

APPENDIX I-6



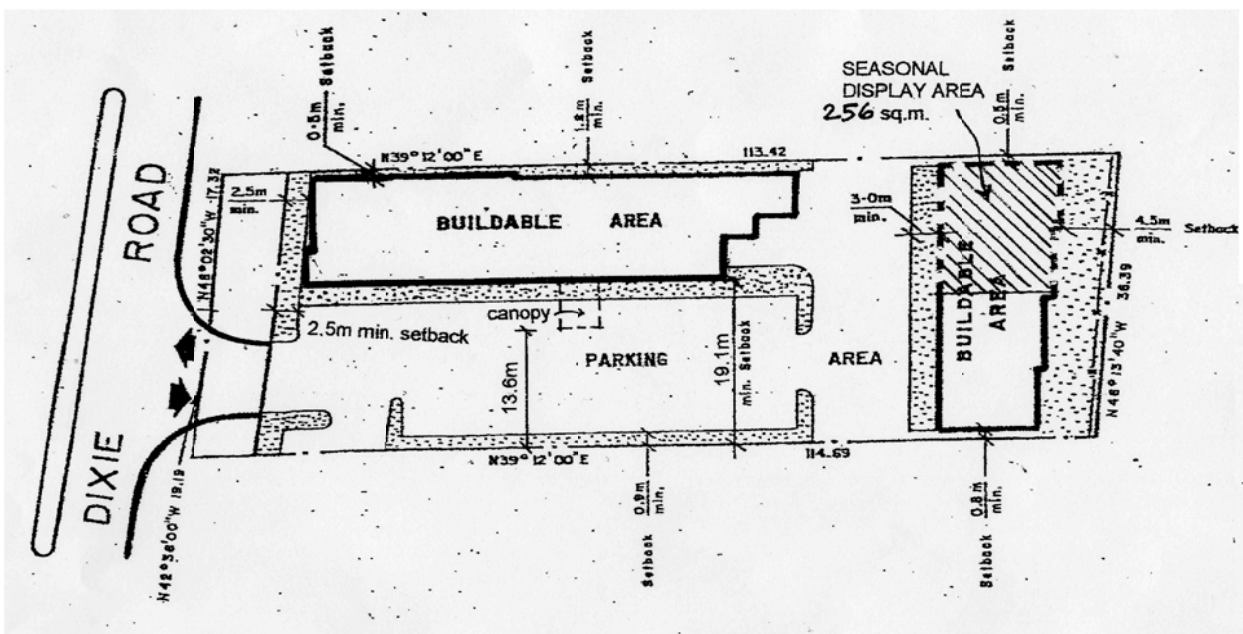
Existing Schedule "I" By-Law 164-91



LEGEND

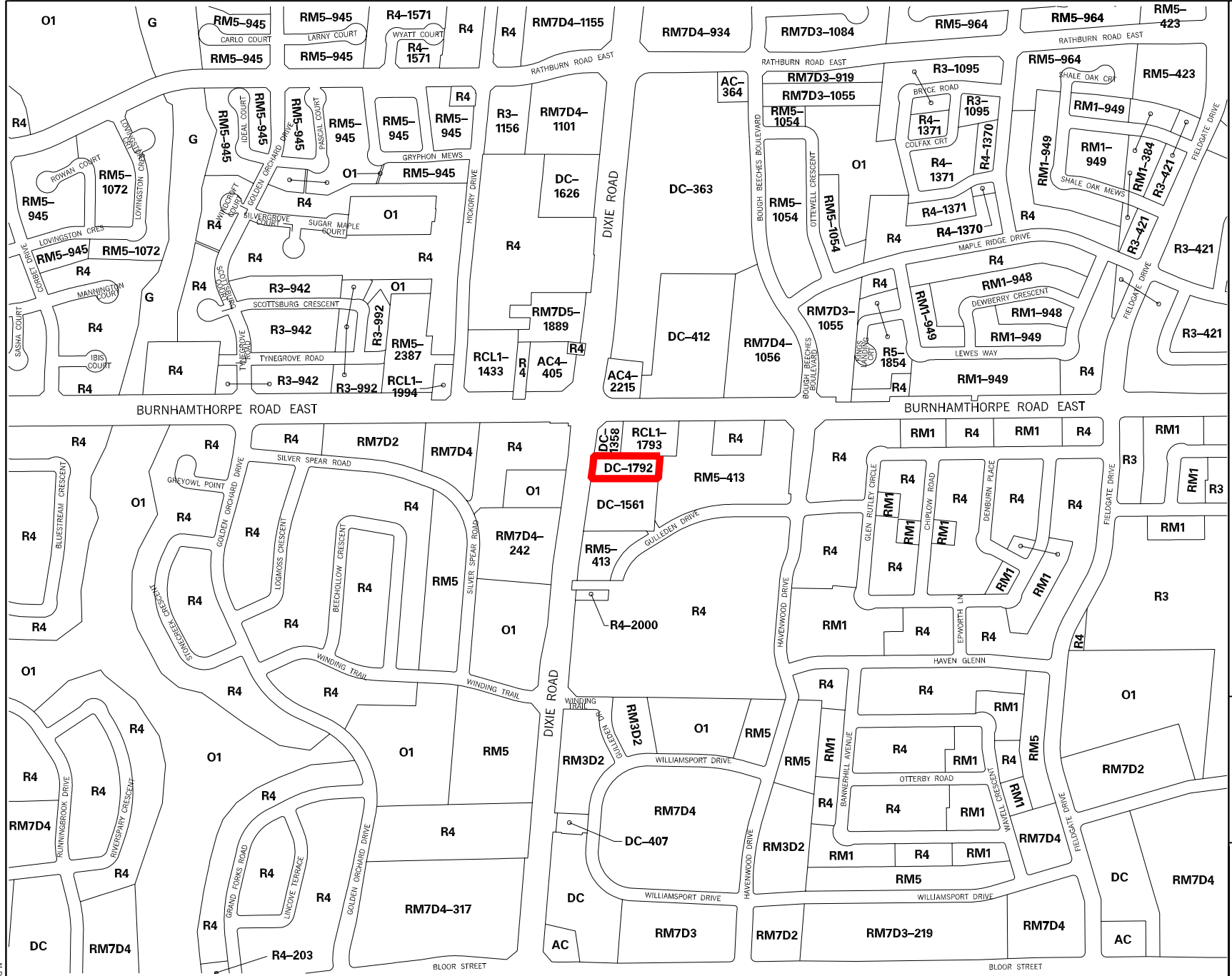
- RIGHT IN, RIGHT OUT, ACCESS ONLY
- MINIMUM LANDSCAPED AREA
- SEASONAL DISPLAY AREA ENCLOSED WITH WROUGHT IRON FENCING
- 1.8m HIGH MASONRY FENCE

Proposed Schedule "I" Submitted By Applicant



LEGEND

- RIGHT IN, RIGHT OUT, ACCESS ONLY
- MINIMUM LANDSCAPED AREA
- SEASONAL DISPLAY AREA
- 1.8m HIGH MASONRY FENCE



GENERAL CONTEXT MAP

OZ 05044 W3

APPENDIX I-8