

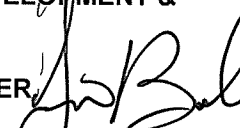

TO: GENERAL COMMITTEE

SUBJECT: ONTARIO MUNICIPAL BOARD APPEAL – 99-105 MAPLEVIEW DRIVE WEST & 133-147 MAPLEVIEW DRIVE WEST

PREPARED BY AND KEY CONTACT: M. KALYANIWALLA, M.C.I.P., R.P.P.,
MANAGER OF POLICY PLANNING, EXT 4314

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

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

CHIEF ADMINISTRATIVE OFFICER APPROVAL: JON M. BABULIC, CHIEF ADMINISTRATIVE OFFICER 

RECOMMENDED MOTION

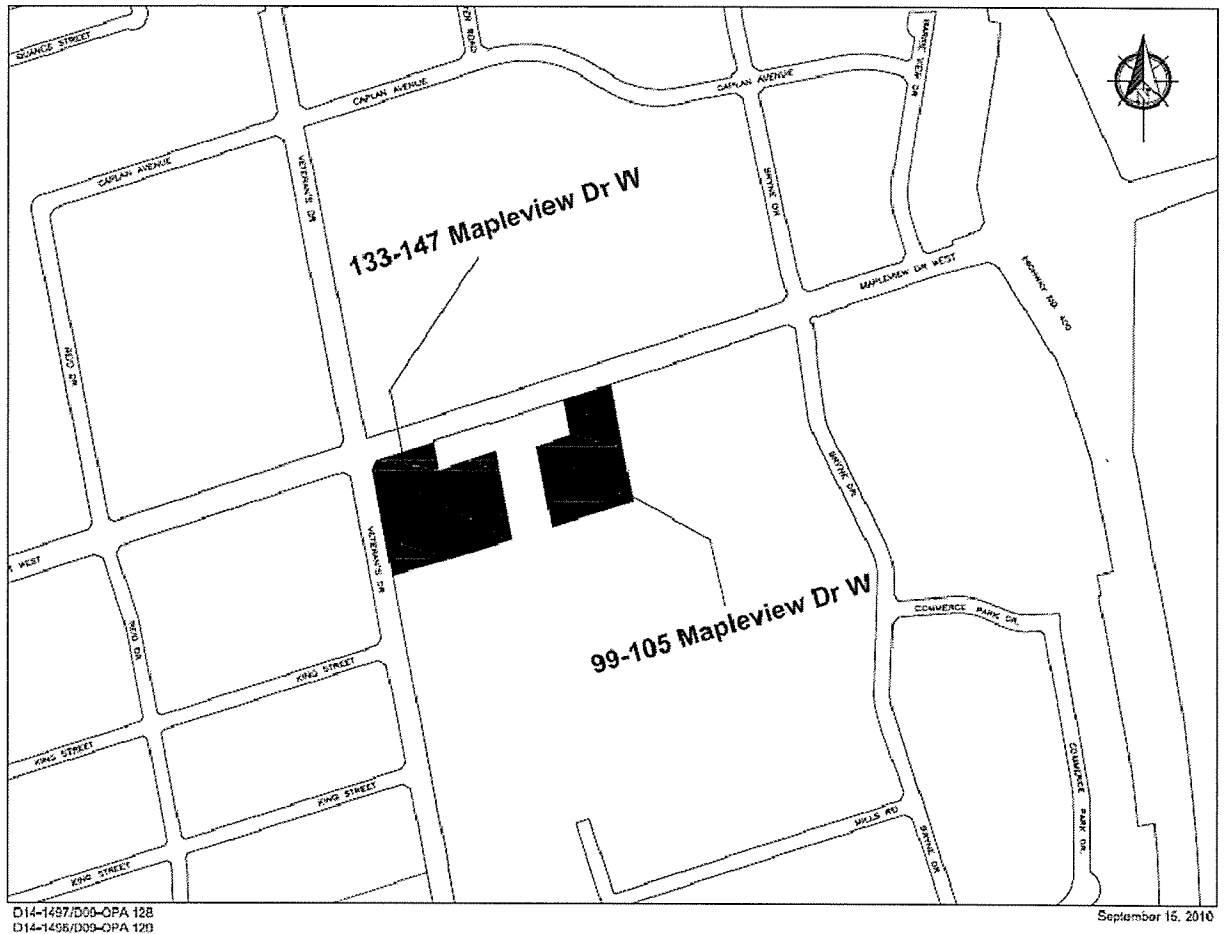
1. That an application for an Official Plan and Zoning By-law amendment submitted by Mapleview Veteran's Drive Investments to redesignate and rezone lands known municipally as 99-105 Mapleview Drive West from a General Industrial land use designation and a Service Industrial EM3 zoning to a General Commercial designation and General Commercial C4 zoning be denied.
2. That an application for an Official Plan and Zoning By-law amendment submitted by Veteran's Drive Holdings Inc. to redesignate and rezone lands known municipally as 133-147 Mapleview Drive West from a General Industrial land use designation and a Service Industrial Special EM3-SP zoning to a General Commercial designation and General Commercial C4 zoning be denied.

PURPOSE & BACKGROUND

3. The purpose of this staff report is to consider applications for Official Plan and Zoning By-law amendments for two properties located on the south side of Mapleview Drive West to redesignate and rezone both properties from their current industrial land use to a commercial land use. Both of these properties are currently under appeal before the Ontario Municipal Board on the basis that Council did not make a decision on the subject applications within the time frame prescribed under the Planning Act. The purpose of this staff report is to seek Council direction on both these applications in order to have a clear Council position for the OMB hearing.

Location

4. The lands which are the subject of these applications consist of 2 parcels known municipally as 99-105 Mapleview Drive West and 133-147 Mapleview Drive West. One of the properties is located on the southeast corner of Mapleview Drive West and Veteran's Drive, currently occupied by a number of restaurants (Cora's, A&W, Ling's Cuisine) as well as a strip plaza. The second property is also located on the south side of Mapleview Drive between an existing automotive sales use (the Acura Dealership) and a retail store (the Canadian Tire store). The second property is partly developed and contains a restaurant use and a bank (Mr. Sub and the Royal Bank). The rear of the property is largely vacant. (See attached map).



Surrounding Land Uses

5. Existing land uses surrounding the subject properties consist of the following:

North: Lands to the north of both properties include Maplevue Drive West, and further to the north, lands designated General Industrial and zoned General Industrial EM4 currently occupied by Yachiyo of Ontario Manufacturing (YOM).

South: Lands to the south of both properties consist of vacant lands designated General Industrial and zoned General Industrial EM4.

East: Lands to the east of 99-105 Maplevue Drive West are designated General Commercial and zoned General Commercial C4. These lands are currently occupied by a Canadian Tire Store.

Between: Lands in between the two subject properties, 99-105 and 133-147 Maplevue Drive West, are designated General Industrial and zoned Service Industrial – Special EM3-SP and are currently occupied by an Acura car dealership.

West: Lands to the west of 133-147 Maplevue Drive West include Veteran's Drive and further to the west, lands designated General Industrial and zoned Service Industrial – Special EM3-SP which are currently occupied by a Nissan car dealership and a Petro Canada gas bar.

Existing Policy

6. The subject properties are currently designated General Industrial in the City of Barrie Official Plan. The General Industrial designation is intended primarily for manufacturing, processing, servicing, storage of goods and raw materials, industrial warehousing, and similar uses. The lands located at 99-105 Maplevue Drive West are zoned Service Industrial EM3 and the lands located at 133-147 Maplevue Drive West are zoned Service Industrial - Special EM3-SP(359). The Special provision on these lands permits up to 4 freestanding restaurants and 2 additional restaurants in a single building.

Background

7. The City was initially contacted about this property by Ms. Celeste Phillips acting on behalf of the owners in May of 2010 with questions regarding the possible conversion of the subject properties to a Commercial land use designation and zoning. At this time, Ms. Phillips was advised of Council motions 09-G-379 and 09-G-398 (as amended by 09-A-445 and 09-A-452) which state, in part, that:

"That any applications for the conversion (redesignation) of Industrially designated lands to non-employment uses (including a Commercial, Residential or Institutional designation) be considered premature and held in abeyance until such time as the results of the municipal comprehensive review have been considered by Council and any amendments to the City's Official Plan, if required, have been adopted by Council, with the exception of:..."

8. The basis in part for this motion is that the Provincial Growth Plan directs municipalities to conduct a municipal comprehensive review of properties identified in its Official Plan as employment land prior to considering any conversions of employment lands. On June 2, 2010, Mr. James Taylor, former Director of Planning Services, received a letter from Mr. Joel Farber, solicitor for the property owner, stating that, in his opinion, his client's proposal for the conversion of the subject lands from General Industrial to General Commercial could not be considered a "conversion" of employment lands because it was not proposing to convert to "Major Retail" in accordance with the Growth Plan. The Growth Plan considers "Major Retail" to be a non-employment use, but does not define what "Major Retail" is.
9. Mr. Farber went on to state that, in light of the City's approval of the redesignation from General Industrial to General Commercial for lands located at 356 Bryne Drive (Princess Auto), his client would be submitting an application forthwith.
10. An application for an Official Plan Amendment and Rezoning for the subject lands to redesignate the two properties from General Industrial to General Commercial and to rezone them from Service Industrial EM3 to General Commercial C4 was received on August 12, 2010. On September 10, 2010, a letter was sent to Ms. Phillips from Ryan Windle, Manager of Development Control, indicating that the application was considered complete, however the City would not be processing the application in light of the Council resolution directing that all applications for the conversion of industrial lands be considered premature and held in abeyance until the completion of the Municipal Comprehensive Review (MCR), which was currently underway.

11. On October 22, 2010, Mr. Farber sent a letter to Eric Hodgins, Growth Management Coordinator, with regard to this application and the MCR. Mr. Hodgins replied in an e-mail dated January 28, 2011 that the MCR did not consider "built" employment lands and so did not specifically consider this property but that the MCR would provide the guiding principles and policies by which Council can consider requests for conversion.
12. On March 3, 2011, Mr. Farber filed an appeal on behalf of his clients on the basis of a non-decision on this matter. A pre-hearing was held on July 4, 2011. The pre-hearing was attended by the City, the appellants and a representative of Yachiyo of Ontario Manufacturing (YOM), an adjoining property owner who has an interest in this matter.
13. The July 4th pre-hearing served to identify the parties, establish the general scope of the appeals, and provided the Board with some background to the issues. The applicant has also appealed the new City of Barrie Official Plan, including employment land conversion policies. A motion for consolidation of these appeals has been scheduled for October 4, 2011 at which time the Board will likely set a date for a further pre-hearing conference to receive a detailed issues list, a list of anticipated witnesses, and establish the length and timing of the hearing.
14. Mr. Farber's appeal was triggered on the basis of a "non-decision" with regard to this application. Staff did not process this application, no public meeting was held, and the application was not circulated for review and comment by any other agency or department on the basis of Council direction to consider these types of applications to be premature and to be held in abeyance until the completion of the MCR and the implementation of any amendments to the Official Plan deemed necessary as outlined in Council motions 09-G-379 and 09-G-398.
15. In light of the upcoming litigation on this matter, and due to the necessity of the City having to prepare a defence, staff are seeking direction from Council with regard to this application. As such, notwithstanding Council's previous direction as outlined in the motions mentioned in the previous paragraph, staff have reviewed this application including circulating the application to appropriate departments and agencies for comment and the preparation of this staff report seeking direction from council with regard to this application.

Official Plan Appeals by Mapleview Veterans Drive Investments and Veterans Drive Holdings Inc.

16. Mapleview Veterans Drive Investments and Veterans Drive Holdings Inc. (the appellants) have filed several appeals to the City of Barrie Official Plan in addition to the appeals on his site specific application. These appeals are directly linked to their site specific appeals and appear to be intended to restrain the City or the OMB from using these policies to analyse their site specific application. The appeals to the Official Plan were filed before an application was submitted for the site specific rezoning.
17. The specific sections of the new Official Plan which Mr. Farber has appealed on behalf of his clients are Policy 3.1.2.1(b); Policies 4.4.2.1(e), (f); Policy 4.4.2.2; Policy 4.8.10. Schedule A – as it applies to 99-105 and 133 -147 Mapleview Dr. West.
18. Section 3.1.2.1 which deals with employment land conversion has also been appealed by a number of other appellants including the Town of Innisfil, Carson Road Development Inc., Midhurst Development Doran Road Inc. and Midhurst Rose Alliance Inc. The Township of Springwater has also sought participant status to these appeals.

19. Section 3.1.2.1(b) states:

(b) *Applications to redesignate employment lands to non-employment uses will be discouraged. The City may permit the conversion of lands within employment areas to non-employment uses only through a municipal comprehensive review, where it has been demonstrated that - (Mod D (c))*

- i) *there is a need for the conversion;*
- ii) *the City will meet the 2031 employment forecasts allocated to it in the Growth Plan;*
- iii) *the conversion will not adversely affect the overall viability of the employment area, and achievement of the intensification target in Policy 3.1.2.3 (b), density targets in Policies 3.1.2.3 (a) and (c) and 4.2.2.6 (g), and other policies of this Plan;*
- iv) *there is existing or planned infrastructure to accommodate the proposed conversion;*
- v) *the lands are not required over the long term (2031) for the employment purposes for which they were designated; and*
- vi) *cross-jurisdictional issues have been considered.*

For the purpose of this policy, retail uses are considered non-employment uses.

Applications for employment conversions cannot be appealed if the application is refused by Council or where Council has not made a decision. (Mod D (c))

20. On August 29, 2011, General Committee received a joint report from Legal Services and Planning Services recommending changes to this section which would address these appeals in part and assist the Board in scoping the appeals to only those matters that are still in dispute.

21. Section 4.4.2.1 and 4.4.2.2 relate specifically to permissions for commercial uses on lands which are designated and zoned Industrial. Section 4.8.10 relates to special provisions for the lands generally known as the Park Place lands. Mr. Farber has indicated that he has no specific issues with this section but has appealed it on the basis that his clients desire similar policies to be included in the Official Plan, specifically for their property.

Planning Justification Report Submitted by Meridian Planning Consultants

22. The applications filed by Maplevue Veteran's Drive Investments and Veteran's Drive Holdings Inc. propose to re-designate and rezone lands from General Industrial to General Commercial on the basis that the properties are suitably located within a "commercial corridor" (Maplevue Drive) and at the intersection of two major arterial roads. The applications were supported by a Planning Justification Report ("PJR"). Staff have undertaken a review of the PJR and have summarized (in point form) the reasons contained in that report as to why the conversion proposal should be supported by the City:

- Proposed conversion is supported by the policies of the Provincial Policy Statement as the change would accommodate a mix of land uses, and would permit additional commercial uses on the subject properties where municipal infrastructure exists, and based on market demands where there is a demonstrated interest in commercial use;
- The proposed conversion is also supported by the Provincial Growth Plan given that it has, as policy directions: that population and employment growth will be accommodated by

ensuring the availability of sufficient land for employment to accommodate forecasted growth; to direct development to settlement areas; to promote economic development and competitiveness by providing an appropriate mix of employment uses, opportunities for a diversified economic base, and planning for, protecting and preserving employment areas for current and future uses;

- The proposal does not constitute a conversion in terms of the Growth Plan which considers only major retail uses as non-employment uses, and has the intention to prevent the loss of large parcels of industrial lands for large format retail uses;
 - The PJR also uses the Simcoe Area: A Strategic Vision for Growth document and quotes several policies that is claimed supports the development of small businesses in Barrie and therefore lends support for the proposed re-designation;
 - The PJR also asserts that various policies from Official Plan Amendment 100 (the update to the City of Barrie Official Plan approved by Council on June 19, 2006 and by the OMB on April 2, 2010), support the proposed conversion, including Section 4.3.2.5 (e) which states that *“General Commercial areas will be permitted in suitable locations primarily at the intersection of arterial and collector roads and will be encouraged to establish in a nodal fashion.”*;
 - The PJR identifies recent actions by the City of Barrie which are purported as further justification for the proposed re-designations. Specifically By-law 2005-275 being the update to the Industrial section of the By-law, is referenced as permitting a number of service commercial uses on appropriately zoned lands;
 - Also referenced as support for the proposed re-designations is By-law 2008-041 which permitted the development of a medically oriented commercial development at 411 Huronia Road, and OPA 123, which relates to an application to re-designate and rezone industrial lands to commercial lands located at 356 Bryne Drive;
 - The PJR focuses some attention on Section 3.1.2.1 (b) (referenced earlier in this staff report) and notes that this section is under appeal;
 - The report also finds that *“allowing additional retail and service commercial uses on this site will not adversely impact the existing and likely function of the lands along the south side of Mapleview Drive”*, and points out that, though zoned industrial, the majority of the uses located along the south side of Mapleview are commercially oriented and that the lands immediately to the east of 99-105 Mapleview are designated and zoned Commercial;
 - The PJR also suggests that allowing expanded permissions on this site will assist the City achieve its 2031 employment forecasts.
23. Appendix D of this report provides a discussion outlining staff's opinions with respect to the position contained in the applicant's PJR.

ANALYSIS

24. The issue of land use conflicts between adjacent commercial and industrial developments (noise, traffic, vibrations, and emissions) is one which has been of some concern across many municipalities in the GGH and specifically in Barrie dating back to the late 1990's. It was this

issue which resulted in the update to the Industrial section of the Zoning By-law known as By-law 2005-275.

25. In reporting back to Council, staff outlined some of the issues facing the City's employment lands, specifically the impact on industrial lands. In staff report PLN030-05 (August 8, 2005) staff summarized the issues and provided an overview of the concerns that had been expressed by some of the stakeholders.
26. In this report, staff explained that the issues have arisen due to the increasing encroachment of non-industrial uses in areas planned for traditional industrial uses such as manufacturing, processing and warehousing. As a result, areas which were originally planned to accommodate space extensive traditional manufacturing uses which generate limited amounts of heavy industrial traffic are being developed for smaller, more commercially oriented uses which develop in a more compact urban form and generate significant amounts of non-industrial traffic. (*paras. 15 & 16*)
27. Furthermore, under Zoning By-law 85-95 prior to the amendments through 2005-275, incompatible uses were permitted to exist immediately adjacent to each other. For example, a recycling facility could locate immediately adjacent to an entertainment use such as movie theatre or a computer microchip manufacturer may find a concrete products manufacturer locating next door. The City's larger traditional manufacturing uses expressed concerns regarding the encroachment of non-industrial uses in close proximity because of the increase in traffic, the need for greater security and the potential for complaints regarding environmental matters such as noise, vibrations and emissions, which could potentially inhibit expansion and growth of a particular industrial facility. Also, industry has expressed concern over having a level of confidence necessary for investment and that a supply of industrial lands at suitable locations will be maintained for their future expansions.
28. It should be noted that commercial land is generally easier to designate and locate within a built environment than industrial uses, especially large scale manufacturing uses. It is therefore important for the long term needs of the City to retain a sufficient amount of existing designated industrial land.
29. As part of the update exercise, planning staff met with the following representatives of traditional industries on November 2, 2004:

Mr. Ron Sheardown – Barrie Welding Group
Mr. Terry Wilson, Mr. Fred Bilton and Mr. Rick Strouth - Yachiyo of Ontario Mfg.
Mr. John Byles – F. K. Machinery
Ms. Pamela Kraft – Lafarge Canada Inc.
Mr. Jeff Bayley – Canplas Industries Ltd.
30. In summary, the overriding messages which were delivered were as follows:
 - *the traditional industries are not able to operate in as cost effective and efficient a manner as they would like to when other uses – for the most part commercial businesses, locate in close proximity to their operations;*
 - *the commercial businesses encourage non-industrial vehicular and pedestrian traffic into the industrial areas and can impede truck traffic;*
 - *conflicts can be created between industries that may generate noise, dust and fumes, and commercial uses;*

- *traditional industries would like the list of permitted uses in industrial zones shortened to include the true industrial uses and eliminate the uses that have the opportunity to locate in other zones;*
 - *it was also observed that many of the uses which are most incompatible have the option of locating in a variety of other zoning categories and simply choose to locate on industrial lands because of the relative low cost of these lands by comparison. Traditional industry however has no other option but to locate on industrially zoned lands.*
31. These issues were addressed to some degree by the update to the Industrial section of the by-law however based on comments from developers and owners of industrial land who were seeking to maintain and even expand the permissive nature of the Industrial section. Council approved a by-law that was at best a compromise between the needs of these two competing groups.
32. The focus of this update was to address the permissive nature of the Industrial section when it comes to non-industrial uses. The current application is proposing to remove lands entirely from their current industrial designation into a commercial one, however many of the issues and concerns will remain the same. In fact, the issue of commercial redesignations of industrial lands predates this by-law update by many years and has resulted in some significant changes to land uses within the City. Some notable examples include the redesignation of lands located at the intersection of Highway 400 and Duckworth Street; the redesignation of the Park Place lands on the east side of Highway 400 and Mapleview Drive; the past and on-going redesignation of lands on the west side of Highway 400 and Mapleview Drive; the redesignation of lands west of Highway 400, east of Essa Road.
33. The following is an excerpt from staff report PD(P)098-01 which encapsulates the issues associated with this type of redesignation. This report deals with an application for a redesignation and rezoning from industrial to commercial for lands located on the south side of Mapleview Drive, west of Huronia Rd. It was considered by Council in 2001 and notwithstanding the recommendation for denial, it was redesignated and rezoned to commercial. It precipitated similar requests for redesignation along Huronia Road.
34. Staff report PD(P)098-01 (Fernbrook Properties) was also authored by the author of this report currently before General Committee and the issues and opinions expressed in this report are still held by the author of this report today;

Commercial Redesignations of Industrial Lands

13. *The City of Barrie has been facing increasing pressure for the redesignation of industrial lands for commercial and other land uses. The interchange at Highway 400 and Mapleview Drive which was originally designated for industrial uses is now almost completely developed for commercial uses with additional applications pending. Much of those lands which remain designated and zoned General Industrial are being utilized for the more commercially oriented uses permitted in the Industrial zone categories.*
15. *The changes which have occurred in the 400 West Planning Area have resulted in that area developing to date more for commercial uses than industrial uses. Lands which were originally anticipated to develop as industrial lots generating a minimal amount of industrial traffic have developed as both large commercial developments and as much smaller commercial uses generating much higher volumes of traffic during longer periods of the day. The nature of the traffic has been affected as well since commercial areas are used far more regularly by the general public than industrial areas. Such increased*

traffic volumes and congestion were identified by Yachiyo as a concern to their cost of business and potential for expansion.

16. *Planning staff appreciate the value of commercial development in terms of construction employment, sales of construction materials, commercial assessment and employment generation. Such benefits however will accrue to the City on whatever lands are developed for commercial purposes by the population that patronizes their products and services. The location of where such commercial development takes place can however compromise the desirability of industrial lands for existing and future industrial users because of the real or perceived impacts of commercial development on industrial type uses.*
18. *A further impact resulting from the commercial redesignation of industrial lands is that commercial lands which are located in more appropriate areas and have been planned to serve the needs of the residential communities in which they are located, remain undeveloped. In general, industrial lands have traditionally sold at a significantly lower per acre price than commercial lands. Consequently, a developer who purchases industrial lands and then converts them to commercial lands may have a competitive edge over commercially designated and zoned lands. This has resulted in planned commercial lands conveniently located within or adjacent to residential planning areas developing at a much slower rate than they otherwise might have (eg. The Holly Planning Area, Duckworth/Highway 400 etc).*

Industrial Employment and Commercial Employment

20. *The City of Barrie has seen tremendous growth in every sector, and with regard to non-residential development, commercial growth has certainly exceeded industrial growth. This of course has increased the City's assessment base and has provided much needed goods and services to the residents of the City. There are, however, a number of long-term planning reasons that Council should consider in making a determination to redesignate industrial land to commercial or another land use.*
21. *There are basically two types of economic growth: population based employment and non-population based employment. The first of these types of uses are dependent on the population they serve for their economic viability. These are typically uses such as movie theatres, retail stores, service stores, restaurants and other uses which are generally classified as "commercial uses". Without the continued growth in the residential sector, uses such as some of the big box retailers would not likely be locating in the Barrie area. The non-population based employment is derived from manufacturing uses or processing uses which are not dependent on local population growth to make them viable.*
22. *The important distinction between these two types of economic growth for the future of Barrie is that it is the non-population based employment that typically generates spin-off industries providing for both the expansion of an existing business and acting as an incubator for new businesses which develops to serve the parent industry. Furthermore, it is typically the non-population based employment which generates new wealth in a community. Commercial or service employment such as movie theatres and restaurants typically re-distribute the existing wealth in a community because the market they are serving is the local population. The non-population based employment uses are serving markets on a much broader scale and are bringing in wealth to the local community. Finally, non-population based employment typically generates a higher average income for its employees, creating a stronger local economy.*

23. *For the reasons listed above, it is becoming increasingly more important to give careful consideration to applications for the redesignation of industrial lands to commercial and other land uses.*
35. As stated earlier, the opinion expressed in the report above is still held by the author today and the impacts of this type of change are still as relevant.
36. The primary justification for these applications based on what staff have gleaned from the PJR submitted is that these applications should be granted because the surrounding lands immediately to the west and east of the properties have developed for commercially oriented uses, notwithstanding the fact that, with the exception of the Canadian Tire Store, they are all still zoned Service Industrial EM3. On Page 9 of the PJR it claims that the applicants have turned away a number of potential tenants in recent years and provides a summary list of interested tenants. These include the following:
- Additional restaurant uses on the Veteran's property;
 - Building supply centre;
 - Specialty and general retail stores; and
 - Personal service uses including a hair salon and aesthetician's clinic.
37. Council should note that the Veteran's property already enjoys permissions for additional restaurants beyond what would normally be permitted in an EM3 zone through a site specific zoning. Building Supply Centres are already a permitted use in the EM3 zone, which leaves essentially retail and personal service stores. Staff are of the opinion that these uses are more appropriate in existing planned commercial areas.
38. Staff are of the opinion that the property owner's alleged inability to attract tenants, notwithstanding the 38 general uses, 24 of which are commercially oriented, does not constitute a logical or land use planning based rationale for considering the conversion of these properties.
39. Council should note that there may be indirect costs associated with this matter as well. The pre-hearing on this matter which was held on July 4, 2011 was attended by a representative of Yachiyo of Ontario Manufacturing who has expressed a concern over the proposed change in land use. YOM is one of the largest employers in the City of Barrie, ranking tenth overall. YOM has previously expressed concern over the ongoing encroachment or commercial lands and commercially oriented uses along Maplevue Drive West. The financial implications of a major industry leaving Barrie in the future could be significant on the City's employment and assessment base. Furthermore, manufacturing represents the type of non-population based employment sector that the City and the Province are trying to protect.

Circulation Comments

40. Notwithstanding Council resolution 09-G-379 and 09-G-398 (as amended by 09-A-445 and 09-A-452) to hold all applications for the conversion of employment lands in abeyance until the completion of the MCR, staff have circulated the subject application to help inform our recommendation and to allow Council to establish a position on this application prior to the OMB pre-hearing scheduled for October 4, 2011.
41. Given that there was no supporting documentation submitted with this application, the majority of the parties circulated were not able to provide any significant comments. The following comments have been received to date.

Engineering Department

The Engineering Department is not able to comment since no technical information has been received to support this rezoning application. However, our standard comments would include the requirement of a Functional Servicing Report and a Traffic Impact Study that can clearly demonstrate the existing infrastructure and transportation system will be adequately sufficient to support the development of this property as result of the rezoning application.

Engineering Department – Parks Planning and Development

The Parks Planning and Development section, Engineering Department has reviewed the above submission and notes that, notwithstanding any changes to the zoning, it is anticipated that any redevelopment issues will be addressed through the Site Plan Application process.

SUMMARY

42. The subject applications propose to redesignate and rezone two properties located on the south side of Maplevue Drive West from their current industrial land use to a commercial land use. Both of these properties are currently under appeal before the Ontario Municipal Board on the basis that Council did not make a decision on the subject applications with the time frame prescribed under the Planning Act. The purpose of this staff report is to seek Council direction with regard to these matters prior to a scheduled pre-hearing on October 4, 2011.
43. The subject lands are currently zoned Service Industrial EM3 which already permits a wide variety of non-industrial, service commercial oriented uses. Retail uses are also permitted on these lands but restricted to no more than 25% of the gross floor area and must be associated with a permitted use. One of the properties, 133-147 Maplevue has already been granted a site specific zoning extending the range of permitted uses beyond what would normally be permitted in this zone category.
44. Staff are of the opinion that the PJR submitted with the applications does not provide a substantial basis for the proposed change in land use. The redesignation of industrial lands for commercial purposes has been a long standing issue in the City of Barrie. Council should continue to carefully consider these types of applications because of the potential impact on the City's industrial land base and in particular existing industries and the city's ability to attract new industry within the area.
45. The applicant has not provided evidence of any demonstrable need for additional commercial lands in this area other than in reference to alleged difficulty in securing tenants on this property which is not a land use planning based justification. The City's industrial zones already permit significant commercial uses which can be also developed on commercial lands but traditional industrial uses such as manufacturing cannot develop on lands other than industrially zoned lands.
46. Based on the above and the analysis provided in the main body of this report, staff are of the opinion that the applications for Official Plan and Zoning By-law amendments for 99-105 and 133-147 Maplevue Drive should be denied.

ENVIRONMENTAL MATTERS

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

ALTERNATIVES

48. There are two alternatives available for consideration by General Committee:

Alternative #1

General Committee could alter the proposed recommendation by granting the request for a land use change and approving the applications for Official Plan amendments and rezoning to permit the conversion of the subject properties from General Industrial to General Commercial.

Although this alternative is available, staff do not recommend this course of action as this would result in a further encroachment of commercially zoned lands in an area that was originally planned for industrial use. This alternative could have significant impacts on existing industries within the area and the City's ability to attract new industry to the area.

Alternative #2

General Committee could alter the proposed recommendation by not making a decision on this matter in light of the previous direction to hold all such applications in abeyance pending the completion of the Municipal Comprehensive Review.

This alternative is not recommended as it would impact the City's ability to effectively address the ongoing litigation on this matter.

FINANCIAL

49. The costs associated denying these applications will result in staff resources from both the Planning Services Department and the Legal Services Department being allocated to defend the City's position at the Ontario Municipal Board. These costs would not only include staff time but may require additional expenditures in the form of retention of expert witnesses and other matters arising from the legal proceedings. It is estimated that, on average, 2 hours of preparation time is required for every hour of one staff person's time spent at a hearing. No hearing time has been scheduled for this matter at the current time except for a one day pre-hearing in October. Assuming a one week hearing, a total of six weeks of staff time would be budgeted to defend this decision, estimated to be a monetary allocation of approximately \$13,000. A market consultant would also likely be required at an estimated cost of \$15,000. Therefore, staff estimate that there would be an approximate cost of \$28,000 required to defend the recommendation included in this report. It is anticipated that if this matter proceeds to a full hearing, it will take place in 2012 and the associated costs will be included in the 2012 Business Plan.

LINKAGE TO 2010-2014 COUNCIL STRATEGIC PLAN

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

Direct and Manage Economic Development

51. Retaining and expanding businesses is directly related to the Strategic Priority of Directing and Managing Economic Development. Staff are of the opinion that the focus of Economic Development in the City should be towards the non-population based employment typically characterized by industrial uses. Population based employment will obviously follow population growth and consequently will grow as the City grows.

APPENDIX "D"

Staff Comments on Applicant's Planning Justification Report

The applicant's Planning Justification Report has been reviewed by Staff, as outlined in this Report, and disagrees with the opinion that the proposed conversion is appropriate, as put forward by the PJR. The following comments and opinions are provided as Staff's general position regarding the statements made in the Planning Justification Report.

- (i) Section 22 and 34 of the Planning Act provides that if there are Official Plan policies respecting the removal of lands from employment areas, then the denial or non-decision of an application to remove lands from this employment area is not appealable. The City of Barrie's Official Plan contains policies regarding the conversion of employment lands which were approved by Council and would be in effect but for the appeal of those policies by the applicants prior to the submission of their application.
- (ii) Given that the statutory authority to rights of appeal are entrenched in the Planning Act, which defines employment areas as only permitting retail associated with manufacturing, warehousing or office, it is staff's opinion that no other type of retail would be contemplated as an employment use under the provisions of the Act.
- (iii) Staff are of the opinion that the policies of the Provincial Policy Statement that the PJR relies upon apply to the municipality as a whole and that the "settlement area" of Barrie is already well served by an appropriate range and mix of land uses. The presence of existing infrastructure does not justify a conversion of these lands as existing infrastructure can be utilized by industrial uses as readily as commercial ones and decisions on conversions of any sort should be based on sound land use planning and not on "market demands" or a "demonstrated interest" in one land use over another.
- (iv) In staff's opinion, the Places to Grow document is intended to provide municipalities with direction on managing growth across its jurisdiction and not to support individual applications for conversions.
- (v) The Planning Justification Report points out that the Growth Plan recognizes commercial uses as employment uses, but fails to point out that it also is referring to municipalities as a whole. The City of Barrie has an appropriate mix of lands designated for each of industrial, commercial and institutional employment uses and the PJR provides no demonstrable need for this conversion within the specific employment area in question.
- (vi) The PJR claims that the Growth Plan's references to conversions is not applicable to her clients' lands because, in her opinion, the intent of this policy is to prevent the loss of large parcels of industrial lands for major retail (i.e. large format retail uses) which the OMB has considered to be retail in excess of 125,000 square feet. Staff are of the opinion that there is no policy basis for this assumption in either the Growth Plan or the Provincial Policy Statement, and consider this application to be an employment land conversion.
- (vii) The policies of the Simcoe Area: A Strategic Vision for Growth, which is referred to in the PJR, are fairly generic and have only marginal relevance to this application. Staff do not agree that small business expansion can only be accommodated through a commercial zoning, as is asserted in the PJR. Staff are of the opinion that the Service Industrial EM3 zone is ideally designed to encourage and incubate small businesses in Barrie.

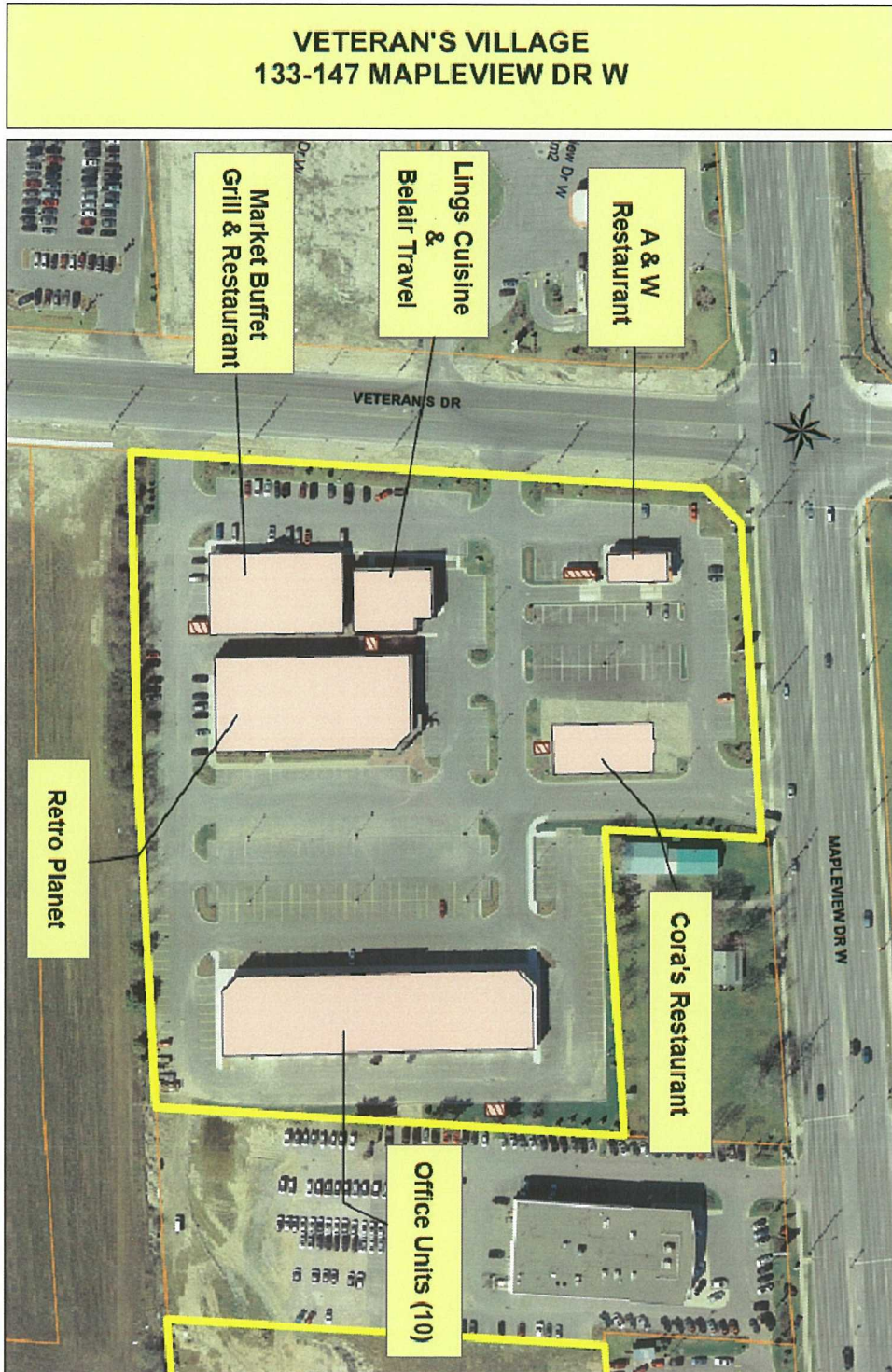
- (viii) Staff believe that many of the policies of Official Plan Amendment 100 (update Amendment) referred to by the Planning Justification Report in support of the conversion argument are fairly generic in nature and only marginally relevant to this application.
- (ix) Staff believe that not every intersection of an arterial and/or collector road is considered a suitable location for commercial uses, and staff are of the opinion that this particular intersection, in the heart of the 400 West Industrial Planning area and surrounded predominantly by lands designated and zoned for industrial purposes, is not suitable.
- (x) The PJR identifies recent actions by the City of Barrie which are used as further justification for the proposed redesignations. Specifically, By-law 2005-275 (being the update to the Industrial section of the By-law) is referenced as permitting a number of service commercial uses on appropriately zoned lands. The original purpose of this by-law was to address the issue of commercial uses encroaching into industrial areas. The by-law was the subject of significant controversy between industrial land developers and their advocates who wanted to expand permitted uses on their properties to realize the highest possible return on their investments and traditional industries who were concerned with the encroachment of non-industrial uses into industrial areas and the subsequent impacts on their businesses. The creation of the Service Industrial zone was intended to serve as a compromise between these two competing interests.
- (xi) The Justification Report refers to the recently adopted Official Plan and asserts that allowing expanded permissions on this site will assist the City achieve its 2031 employment forecasts. Given the fact that the majority of 133-147 Mapleview Drive is already developed and occupied, and that at least a portion of 99-105 Mapleview Drive is also already developed and occupied, staff are unclear how this proposal would assist the City anymore than maintaining the existing land use category. In fact, if this site is converted and introduces more commercial type uses into this area it could impact the existing manufacturing uses to the north, which in turn could potentially impact the City's ability to retain jobs and achieve its employment forecasts.

APPENDIX "A"
Existing Land Uses

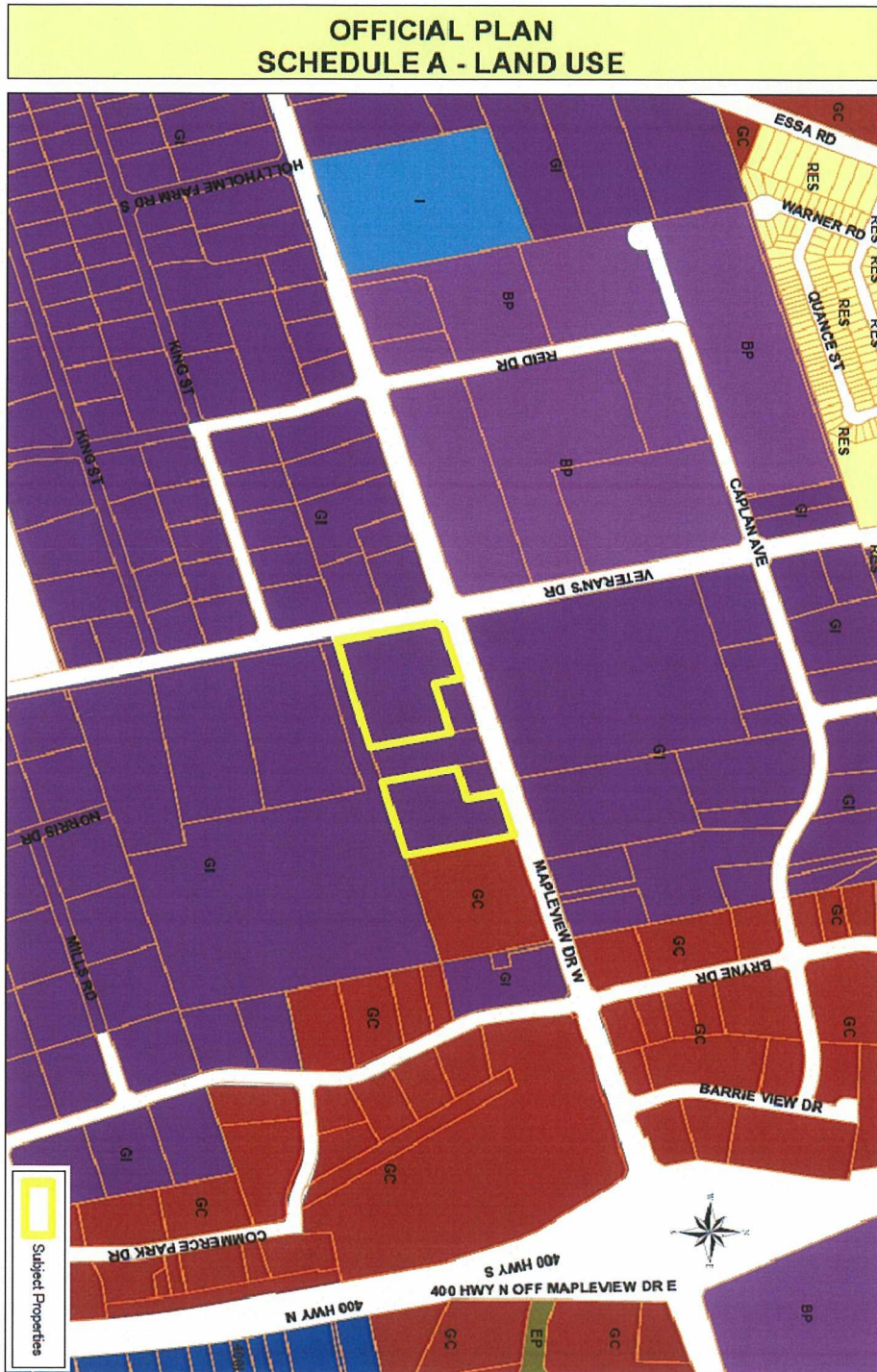
MAPLEVIEW CENTRE
99- 105 MAPLEVIEW DR W

Planning Services Department, August 2011





APPENDIX "B"
Official Plan Schedule



APPENDIX "C"
Zoning By-law Schedule

