

ISSUE DATE:

JUNE 28, 2007

DECISION/ORDER NO:

1811



Ontario

Ontario Municipal Board

Commission des affaires municipales de l'Ontario

RECEIVED JUL 03 2007

PL040341

PL040289

Loblaw Properties Limited has appealed to the Ontario Municipal Board under subsection 17(24) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, from a decision of the Town of Orangeville to approve Proposed Amendment No. 89 to the Official Plan for the Town of Orangeville

OMB File No. O040065

Loblaw Properties Limited has appealed to the Ontario Municipal Board under subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, against Zoning By-law 36-2004 of the Town of Orangeville

OMB File No. R040069

Loblaw Properties Limited has appealed to the Ontario Municipal Board under subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, against Zoning By-law 95-2003 of the Town of Orangeville

OMB File No. R030229

APPEARANCES:

Parties

Town of Orangeville

Loblaw Properties Limited

Counsel

R. Howe

A. Patton

MEMORANDUM OF ORAL DECISION DELIVERED BY D. R. GRANGER ON JUNE 18, 2007 AND ORDER OF THE BOARD

This is a hearing held by telephone conference call with the above noted parties connected.

The matter relates to appeals by Loblaw Properties limited (LPL) from decisions of the Council of the Town of Orangeville (Town) to approve Amendment No. 89 to the Town Official Plan (OPA 89) and to enact By-law 36-2004 (By-law) as they relate to a 2.46-hectare property of LPL bounded by Alder Street, Thompson Road, Cottonwood Street and C Line (subject property).

The appeals have been settled between the parties in accordance with a modified OPA 89 and amended By-law 36-2004.

J. E. Stiver, on behalf of the Town, provided expert land use planning evidence by affidavit presented as Exhibit No. 1, in support of the modified OPA 89 and amended By-law 36-2004. No other evidence was proffered.

The planner for the Town confirmed the modified OPA and amended By-law as representing good planning. He characterized the changes as providing appropriate flexibility and recognizing the existing permissions of LPL as approved by the Board otherwise constituted.

Having considered the evidence presented, that was not contradicted, the Board finds that the modified OPA 89 and amended By-law are appropriate, generally conform to the Town Official Plan, represent good planning and are in the overall public interest of the community.

With respect to OPA 89, the Board allows the appeal, in part, and OPA 89 is modified as set out in Attachment "1" to this decision, and as modified is approved.

With respect to By-law 36-2004, the Board allows the appeal, in part, and By-law 36-2004 is amended in the manner as set out in Attachment "2" to this decision.

In all other respects the appeals are dismissed.

LPL confirms, and the Board accepts, the withdrawal of its appeal against By-law 95-2003.

The Board congratulates the parties for efforts in settling this dispute.

The Board so Orders.

"D. R. Granger"

D. R. GRANGER
VICE-CHAIR

ATTACHMENT "1"

PL040341

PL040289

**THE OFFICIAL PLAN
FOR THE
TOWN OF ORANGEVILLE
AMENDMENT NO. 89**

The attached explanatory text and map, constituting Amendment Number 89 to the Official Plan for the Town of Orangeville, was adopted by the Council of the Corporation of the Town of Orangeville, under the provisions of Section 21 of the Planning Act, R.S.O., 1990, c. P.13 on April 5, 2004 and modified by the Ontario Municipal Board on XXXXXXXX, 2007 by Order no. XXXXXXXX.

Rob Adams,
Mayor

Cheryl Johns,
Clerk

**THE OFFICIAL PLAN
FOR THE
TOWN OF ORANGEVILLE
AMENDMENT NO. 89**

PART A - THE PREAMBLE

1. Purpose of the Amendment

The purpose of the amendment is to redesignate the lands at the northwest corner of C Line and Alder Street from "Neighbourhood Commercial" to a new "Neighbourhood Mixed Use" designation to permit a broad range of residential, commercial and mixed residential/office uses.

2. Location

This amendment applies to the lands on the northwest corner of C Line and Alder Street, described as Block 71, Registered Plan 338, municipally known as 65-93 C Line.

3. Basis of the Amendment

On October 27, 2003 Council passed Interim Control By-law No. 123-2003 for the subject lands and for the lands at the southwest corner of C Line and Alder Street so that a review or study could be undertaken in respect of the land use policies that applied to these lands. Subsequent to that, The Butler Group Consultants Inc. completed a report entitled "Interim Control By-law Study, C Line at Alder Street, Town of Orangeville" dated February 12, 2004. The recommendations of that study provided the rationale for this Official Plan Amendment.

In accordance with the recommendations of the above-noted study, this amendment redesignates the subject lands to permit a broad range of residential, commercial and mixed residential/office uses and applies guidelines with respect to the urban design of development on these lands. This amendment is necessary to achieve greater land use compatibility between the lands subject to this amendment and the established Montgomery Village residential area to the west, and to provide for the creation of an appropriate gateway and a mix of land uses on these lands, in keeping with the unique planning vision for that neighbourhood.

The amendment also recognizes the site plan approvals granted to Loblaw Properties Limited for these lands by the Ontario Municipal Board in Decision/Order No. 0399 issued on February 24, 2004.

The Zoning By-law will more precisely define the land uses that are to be permitted and provide development regulations for new construction on these lands to ensure that the intent of the recommendations of the Interim Control By-law Study is implemented.

PART B – THE AMENDMENT

The Official Plan for the Town of Orangeville is amended as follows:

1. Schedule "A" – "Land Use Plan" is hereby amended by changing the land use designation on the subject lands to "Neighbourhood Mixed Use" in the manner shown on Schedule "A" attached hereto.
2. Schedule "B" – "Policies for Specific Areas" is hereby amended by adding "Policy E8.56" to the subject lands as shown on Schedule "A" attached hereto.
3. Section "E" LAND USE POLICIES is amended by adding the following text thereto:

"E9 NEIGHBOURHOOD MIXED USE

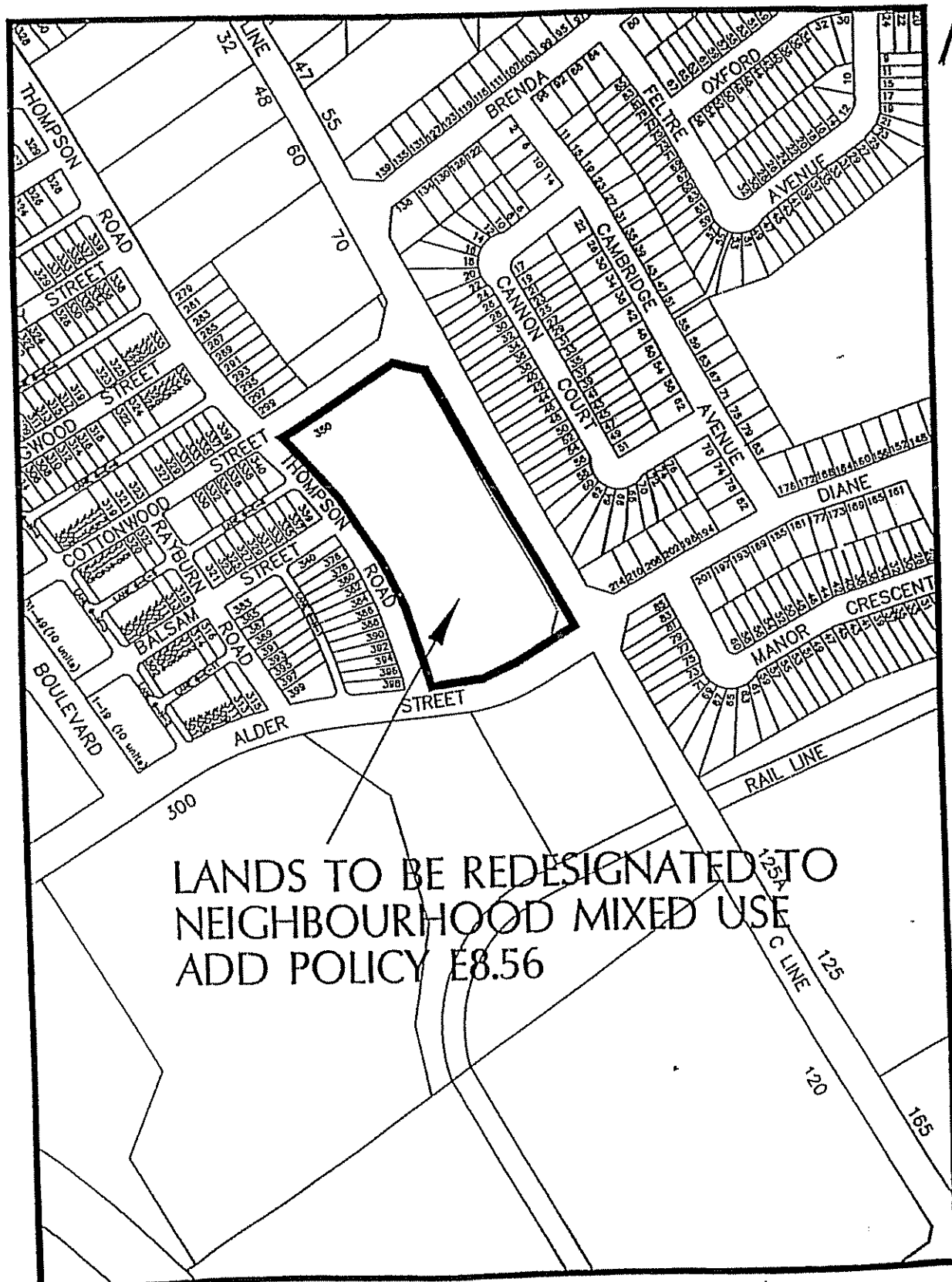
- E9.1 The Neighbourhood Mixed Use area applies to lands at the northwest corner of C Line and Alder Street. This area will be permitted to develop for a diverse range of housing types and commercial uses, and provide opportunities for live-work units, in keeping with the unique planning vision for Montgomery Village.
- E9.2 Permitted uses include grade oriented residential uses such as single and semi-detached, row house and townhouse dwellings, and a broad range of commercial uses to serve Montgomery Village, including retail uses of limited size. Mixed residential/office uses will also be permitted to support live-work relationships.
- E9.3 Notwithstanding the policies of this section, the northwest corner of C Line and Alder Street may develop with a food store, a retail store, a 5 pump gas bar with kiosk and associated parking areas, generally in accordance with the site plan approved by the Ontario Municipal Board in Decision/Order No. 0399, dated February 24, 2004.

4. Section E8 – Policies for Specific Areas is hereby amended by adding the following text thereto:

"E8.56 The following urban design guidelines shall apply to the development of the lands at the northwest corner of C Line and Alder Street:

- (a) As a "gateway" intersection, buildings shall be located to reinforce the corner:
- corner architecture and landscape elements should be coordinated to generate a sense of community entry;
 - where feasible, buildings should be located close to the corner; and,
 - where feasible, pedestrian access to buildings should be located close to the corner.
- (b) Buildings are to be designed to maximize the urban form impact of the entire development as a whole:
- buildings should be designed to complement each other in scale and architectural expression;
 - landscaping should reinforce the pedestrian qualities of the entire site; and,
 - parking lots should be designed as a unit with landscaped islands and peripheral landscaping treatment to soften any expansive parking areas.
- (c) Parking should be located at the interior of the lot where feasible:
- where parking is adjacent to the street, landscaping and architectural treatments should reinforce the sidewalks adjacent to the site; and,
 - wherever possible, built form elements such as pergolas, free standing walls and fences should be located adjacent to the sidewalk to reduce the visual impact and provide a separator between automobiles and pedestrians.
- (d) Signage should be designed on an area-wide basis:
- entry signage, major building signage and the signage of individual shops should be designed to reinforce a common image or theme for the site; and,
 - the lighting of all major building signage will be designed such that it complements the development, minimizes environmental impact, and is directed away from the surrounding residential areas."

SCHEDULE "A" TO OFFICIAL PLAN AMENDMENT NO. 89





THE CORPORATION OF THE TOWN OF ORANGEVILLE

BY-LAW NUMBER 36-2004

A BY-LAW TO REPEAL CERTAIN PROVISIONS OF BY-LAW 95-2003, AS AMENDED, AND TO AMEND BY-LAW 22-90, AS AMENDED (Town of Orangeville Official Plan and Zoning By-law Amendment OPZ 3/04,).

WHEREAS on March 29, 2004, the Public Consultation Committee held a public meeting with respect to Official Plan and Zoning By-law Amendment proposal OPZ 3/04, regarding the lands on the northwest and southwest corners of C Line and Alder Street;

AND WHEREAS on April 5, 2004 Council approved the proposals;

AND WHEREAS on February 5, 2007 Council reconsidered the zoning restrictions placed on the lands;

THEREFORE BE IT ENACTED by the Municipal Council of the Corporation of the Town of Orangeville as follows:

1. That the provisions of By-law 95-2003, as amended, insofar as they apply to the lands shown on Schedule "A" hereto are hereby repealed.
2. That Zoning map C2 to By-law 22-90, as amended, is hereby further amended in accordance with Schedule "A" hereto.
3. That Section 4.1 of By-law 22-90, as amended, is hereby further amended by adding the following text under the headings "Zone Symbol" and "Zone" respectively, immediately below "C5" and "Restricted Commercial Residential":

"NMU Neighbourhood Mixed Use"

4. That By-law 22-90, as amended, is hereby further amended by adding the following text thereto:

"SECTION 24A"

NEIGHBOURHOOD MIXED USE (NMU) ZONE

The following provisions shall apply to all buildings and structures to be erected in this zone:

24A.1 Permitted Residential Uses

a single detached dwelling
 a semi-detached dwelling
 a row house dwelling
 a townhouse dwelling

- a group home
- a nursing home
- a retirement home
- a home occupation in accordance with the provisions of Section 5

24A.2 Other Permitted Uses at a Distance Not Greater Than 30 metres from the Limits of Thompson Road

Business or professional offices in a residential building which are ancillary to the primary residential use and are limited to a maximum gross floor area of 93 square metres.

24A.3 Other Permitted Uses at a Distance Greater Than 30 metres from the Limits of Thompson Road

- a dwelling unit or units on upper floors
- a business or professional office
- a financial establishment
- a medical laboratory
- a nursery school
- a personal service shop
- a recreational establishment
- a restaurant
- a retail store
- a repair, service or rental establishment
- a veterinarian clinic

24A.4 Other Permitted Uses and Regulations

Notwithstanding any other provision of this by-law, the following uses shall be permitted:

- a food store, with a maximum gross floor area of 4,300 square metres, as expanded
- a retail store with a maximum gross floor area of 377 square metres
- a gas bar and kiosk, with a maximum of 5 pumps,

generally in accordance with the site plan approved by the Ontario Municipal Board by Decision/Order No. 0399, issued February 24, 2004.

- a crisis care facility
- a group home
- a public park or playground

24A.5 Regulations for Permitted Residential Uses for a Lot with a Rear Lot Line that is Adjacent to a Lane

- 1) Lot Area (minimum)

Single Detached Dwellings	240 sq. metres
Semi-Detached Dwellings	360 sq. metres
Row House Dwellings	570 sq. metres
Townhouse Dwellings	570 sq. metres
Other Residential Uses	240 sq. metres

- 2) Lot Frontage (minimum)

Single Detached Dwellings	8.0 metres
Semi-Detached Dwellings	12.0 metres
Row House Dwellings	19.0 metres
Townhouse Dwellings	19.0 metres
Other Residential Uses	8.0 metres

- 3) Front Yard (minimum) 3.0 metres

- 4) Rear Yard (minimum) 11.0 metres

- 5) Exterior Side Yard (minimum) 2.0 metres

- 6) Interior Side Yard (minimum) 1.2 metres

- 7) Building Height (maximum) 11.0 metres

- 8) Notwithstanding Section 5.17(7), a driveway, parking area, garage or carport is permitted only within:
 - (i) 9.0 metres of a rear lot line that is curved, or
 - (ii) 7.0 metres of a rear lot line that is not curved.

24A.6 Regulations for Permitted Residential Uses for a Lot with a Rear Lot Line that is not Adjacent to a Lane

- 1) Lot Area (minimum)

Single Detached Dwellings	270 sq. metres
Semi-Detached Dwellings	450 sq. metres
Row House Dwellings	570 sq. metres
Townhouse Dwellings	570 sq. metres
Other Residential Uses	270 sq. metres

2) Lot Frontage (minimum)

Single Detached Dwellings	9.0 metres
Semi-Detached Dwellings	15.0 metres
Row House Dwellings	19.0 metres
Townhouse Dwellings	19.0 metres
Other Residential Uses	9.0 metres

3) Front Yard (minimum) 5.0 metres

4) Rear Yard (minimum) 7.5 metres

5) Exterior Side Yard (minimum) 2.0 metres

6) Interior Side Yard (minimum) 1.2 metres

7) Building Height (maximum) 11.0 metres

8) All carports, garages and required parking spaces shall be located no closer to the front lot line than the front wall of the dwelling, or that of the foundation wall of a fully roofed porch or verandah, on any lot.

9) A maximum single-car width garage or carport is permitted:

- (i) on lots with a lot frontage of less than 10 metres containing a row house, townhouse or single detached dwelling;
- (ii) on lot with a lot frontage of less than 18 metres containing a semi-detached dwelling.

24A.7 Residential Yard Encroachments

In addition to the encroachments permitted by Section 5.22,

- 1) An unenclosed porch or deck may encroach up to 2.0 metres into a required front yard or rear yard;
- 2) An enclosed or unenclosed stair, deck, porch, or canopy associated with a side entrance may encroach up to 1.7 metres into a required exterior side yard; and,
- 3) An unenclosed stair and landing associated with a side entrance may encroach up to 1.0 metre into a required interior side yard.

24A.8 Regulations for Non-Residential Uses

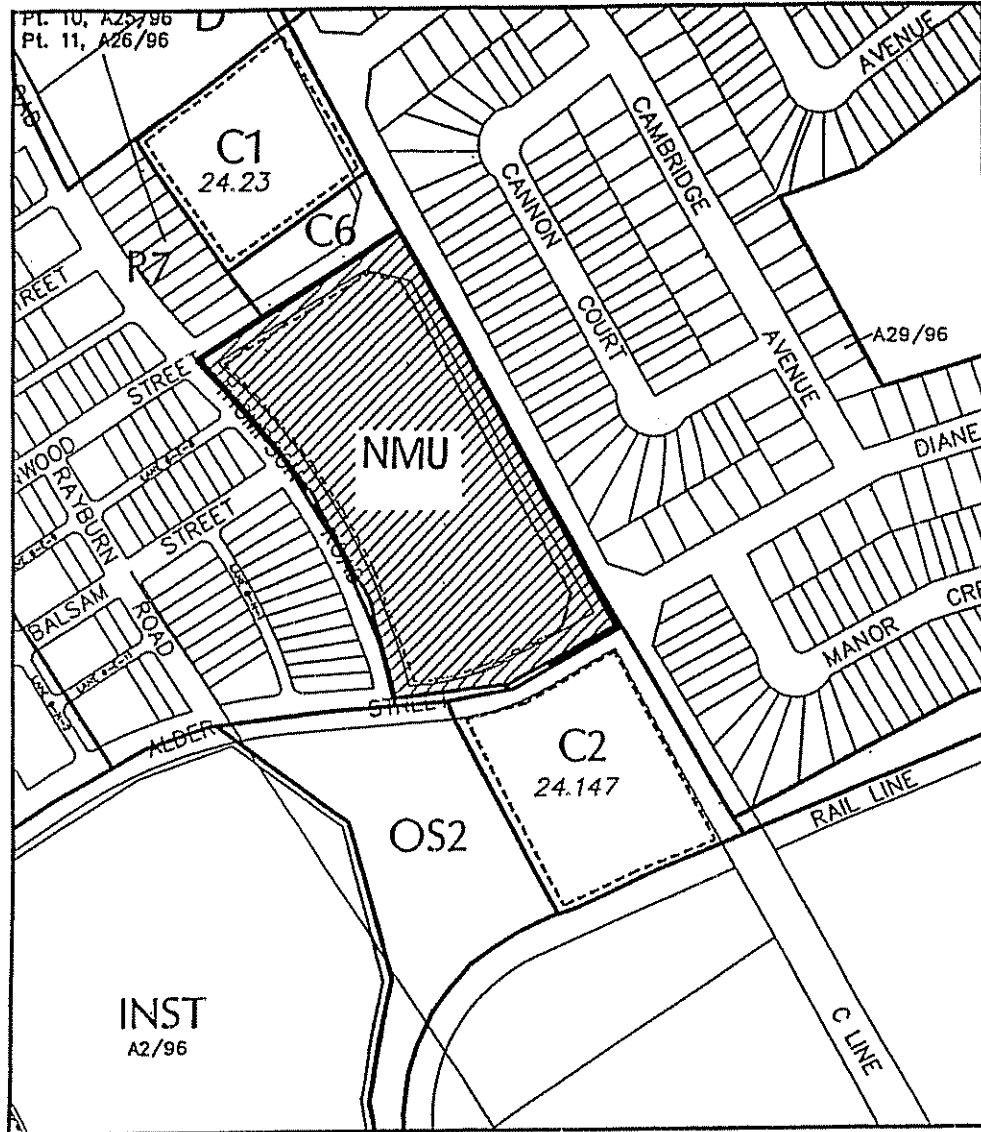
- 1) Lot Area (minimum) 800 sq. metres
- 2) Lot Frontage (minimum) 20.0 metres
- 3) Front Yard (minimum) 3.0 metres

- | | | |
|-----|--|-------------|
| 4) | Rear Yard (minimum) | 7.5 metres |
| 5) | Exterior Side Yard (minimum) | 3.0 metres |
| 6) | Interior Side Yard (minimum) | 2.0 metres |
| 7) | Building Height (maximum) | 14.0 metres |
| 8) | Coverage for all buildings and parking areas (maximum) | 70% |
| 9) | All parking spaces shall be located no closer to the front lot line than the exterior wall of the building, other than any food store referred to Section 24A.4, that is located closest to the front lot line on any lot. | |
| 10) | No parking areas are permitted in a minimum required front yard or exterior side yard. | |
| 11) | Other than those uses listed in 24A.4, the maximum gross floor area for a retail store shall be 929 square metres. | |

READ THREE TIMES AND FINALLY PASSED IN OPEN COUNCIL THIS 5TH DAY OF FEBRUARY, 2007.

ROB ADAMS, MAYOR

CHERYL JOHNS, CLERK



THE CORPORATION OF THE
TOWN OF ORANGEVILLE

SCHEDULE 'A'
TOWN OF ORANGEVILLE
ZONING BY-LAW 22-90

SCHEDULE "A" TO BY-LAW NO. _____

PASSED THE _____ DAY OF _____

MAYOR

CLERK

BY-LAW 95-2003 REPEALED FOR
SUBJECT LANDS AND SUBJECT
LANDS REZONED FROM COMMERCIAL
(C6) ZONE TO NEIGHBOURHOOD
MIXED USE (NMU) ZONE

ZONING MAP NO. C2

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Rob Adams,
Mayor



Susan Lankheit,
Deputy Clerk

**THE OFFICIAL PLAN
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SCHEDULE "A" TO OFFICIAL PLAN AMENDMENT NO. 89

