

# Revised Council Agenda

## Revised Items are Italicized.

Meeting Number: 7  
April 2, 2019, 6:00 PM  
Council Chamber

Alternate formats for this document are available upon request.  
Council meetings are live video and audio streamed on the City's website.

*Note: As per Section 7.1(h) of the Council Procedural By-Law, Council will take a ten minute recess after two hours have passed since the last break.*

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### Pages

#### 1. CALL TO ORDER

##### INDIGENOUS LAND ACKNOWLEDGEMENT

We begin today by acknowledging that we walk upon the traditional territories of Indigenous Peoples and we recognize their history, spirituality, culture, and stewardship of the land. We are grateful to all Indigenous groups for their commitment to protect the land and its resources and we are committed to reconciliation, partnership and enhanced understanding.

#### 2. DISCLOSURE OF PECUNIARY INTEREST

#### 3. APPROVAL OF PREVIOUS MINUTES

##### 3.1 COUNCIL MINUTES - MARCH 19, 2019

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1. That the Minutes of the Council Meeting held on March 19, 2019, be adopted.

#### 4. PRESENTATIONS

#### 5. DEPUTATIONS

##### 5.1 DEPUTATION - CONFIDENTIAL ITEM - INTEGRITY COMMISSIONER REPORT (16.23)

1. Mr. Christopher Zeppa will address Council on the Confidential item 14.2.1. - "Report of Integrity Commissioner Regarding Code of

Conduct Complaint about Ward 4 Councillor Karen Rea".

## 6. COMMUNICATIONS

### 6.1 10-2019 MEMORANDUM - DRAFT BY-LAW RE INDEMNIFICATION OF EMPLOYEES AND MEMBERS OF COUNCIL 34

Memorandum dated March 29, 2019 from the City Solicitor and Acting Director of Human Resources providing an update on the draft By-law on the Indemnification of Employees and Members of Council.

(Item 8.2.3, Report No. 15)

(By-law 2019-42)

1. That Council receive this communication.

## 7. PROCLAMATIONS

## 8. REPORT OF STANDING COMMITTEE

### 8.1 REPORT NO. 14 DEVELOPMENT SERVICES COMMITTEE (MARCH 18, 2019)

Please refer to your March 18, 2019 Development Services Committee Agenda for reports.

To the Mayor and Members of Council:

That the report of the Development Services Committee be received & adopted.  
(Items 1 to 5):

#### 8.1.1 RECOMMENDATION REPORT AMENDMENT TO DESIGNATION BY-LAW 4-78 ECKARDT-STIVER HOUSE, 206 MAIN STREET UNIONVILLE, WARD 3 (16.11.3) 42

1. That the staff report titled "Amendment to Designation By-law 4-78, Eckardt-Stiver House, 206 Main Street Unionville", dated March 18, 2019, be received; and,
2. That By-law 4-78 designating the Eckardt-Stiver House at 206 Main Street, Unionville under Part IV of the Ontario Heritage Act be amended as per Appendix "A" to this report, to update the Statement of Significance to include both exterior and interior architectural features; and,
3. That the Clerks Department serve upon the owner Council's Notice of Intention to Amend the Designation By-law as per the requirements of the Ontario Heritage Act; and,

4. That if there is no objection to the amendment by the owner in accordance with the provisions of the Ontario Heritage Act, the Clerk be authorized to place an amending by-law before Council for adoption; and,
5. That if there is an objection to the amendment by the owner in accordance with the provisions of the Ontario Heritage Act, the Clerk be directed to refer the proposed amendment to the Ontario Conservation Review Board; and further,
6. That Staff be authorized and directed to do all things necessary to give effect to this resolution.

8.1.2 RECOMMENDATION REPORT AMENDMENT TO DESIGNATION BY-LAW 211-79 BRIARWOOD FARM – JAMES MCLEAN HOUSE, 4031 SIXTEENTH AVENUE, WARD 3 (16.11.3)

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1. That the staff report titled “Amendment to Designation By-law 211-79, Briarwood Farm – James McLean House, 4031 Sixteenth Avenue”, dated March 18, 2019, be received; and,
2. That By-law 211-79 designating Briarwood Farm – James McLean House at 4031 Sixteenth Avenue under Part IV of the Ontario Heritage Act be amended as per Appendix “A” to this report, as the building will be relocated within the subject property and will have a new legal description, and to update the Statement of Significance to include interior architectural features; and,
3. That the Clerks Department serve upon the owner Council’s Notice of Intention to Amend the Designation By-law as per the requirements of the Ontario Heritage Act; and,
4. That if there is no objection to the amendment by the owner in accordance with the provisions of the Ontario Heritage Act, the Clerk be authorized to place an amending by-law before Council for adoption; and,
5. That if there is an objection to the amendment by the owner in accordance with the provisions of the Ontario Heritage Act, the Clerk be directed to refer the proposed amendment to the Ontario Conservation Review Board; and further,
6. That Staff be authorized and directed to do all things necessary to give effect to this resolution.

8.1.3 RECOMMENDATION REPORT INTENTION TO DESIGNATE A

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PROPERTY UNDER PART IV OF THE ONTARIO HERITAGE  
ACT THOMAS LOWNSBROUGH HOUSE 9392 KENNEDY  
ROAD, WARD 6 (16.11.3)

1. That the staff report entitled “Intention to Designate a Property Under Part IV of the Ontario Heritage Act, Thomas Lownsbrough House, 9392 Kennedy Road,” dated March 18, 2019, be received; and,
2. That as recommended by Heritage Markham, the Thomas Lownsbrough House at 9392 Kennedy Road be approved for designation under Part IV of the Ontario Heritage Act as a property of cultural heritage value or interest; and,
3. That the Clerk’s Department be authorized to publish and serve Council’s Notice of Intention to Designate as per the requirements of the Ontario Heritage Act; and,
4. That if there are no objections to the designation in accordance with the provisions of the Ontario Heritage Act, the Clerk be authorized to place a designation by-law before Council for adoption; and,
5. That if there are any objections in accordance with the provisions of the Ontario Heritage Act, the Clerk be directed to refer the proposed designation to the Ontario Conservation Review Board; and further,
6. That Staff be authorized and directed to do all things necessary to give effect to this resolution.

8.1.4 RECOMMENDATION REPORT F.J. HOMES LIMITED  
PROPOSED ZONING BY-LAW AMENDMENT AND DRAFT  
PLAN OF SUBDIVISION 19TM-17007 TO PERMIT 14 SINGLE  
DETACHED DWELLINGS

64

SOUTHWEST CORNER OF ROY RAINEY AVENUE AND  
COUNTRY RIDGE DRIVE (WARD 4) FILES ZA/SU 17 155326  
(10.5, 10.7)

1. That the report titled “RECOMMENDATION REPORT, F.J. Homes Limited, Proposed Zoning By-law Amendment and Draft Plan of Subdivision 19TM-17007 to permit 14 single detached dwellings. Southwest corner of Roy Rainey Avenue and Country Ridge Drive (Ward 4), Files ZA/SU 17 155326”, be received; and;
2. That the Zoning By-law Amendment application submitted



by F.J. Homes Limited, to amend Zoning By-law 177-96, as amended, be approved and that the draft by-law attached as Appendix 'A' be finalized and enacted without further notice; and,

3. That in accordance with the provisions of subsection 45(1.4) of the Planning Act, R.S.O. 1990, c.P.13, as amended, the owner shall, through this resolution, be permitted to apply to the Committee of Adjustment for a variance from the provisions of the zoning by-law (Appendix 'B') within two years of its approval by Council; and,
4. That Draft Plan of Subdivision 19TM-17007 submitted by F.J. Homes Limited, be approved subject to the conditions outlined in Appendix 'B'; and,
5. That the Director of Planning and Urban Design, or his designate be delegated authority to issue draft approval, subject to the conditions set out in Appendix 'B' and as may be amended by the Director of Planning and Urban Design; and,
6. That the draft plan approval for Plan of Subdivision 19TM-17007 will lapse after a period of three (3) years from the date of Council approval in the event that a subdivision agreement is not executed within that period; and,
7. That Council assign servicing allocation for up to 14 single detached dwellings; and further,
8. That Staff be authorized and directed to do all things necessary to give effect to this resolution.

8.1.5 RECOMMENDATION REPORT 2412371 ONTARIO LIMITED (WYVIEW GROUP) 4121 HIGHWAY 7 APPLICATION FOR ZONING BY-LAW AMENDMENT TO PERMIT A TEMPORARY AUTOMOBILE STORAGE LOT (WARD 3) FILE NO.: ZA 18 154593 (10.5)

100

1. That the report dated March 18, 2019 titled "Recommendation Report, 2412371 Ontario Limited (Wyview Group), 4121 Highway 7 Application for zoning by-law amendment to permit a temporary car storage lot, (Ward 3), File No. ZA 18 154593," be received; and,
2. That the record of the Public Meeting held on November 13, 2018 regarding the Zoning By-law Amendment application submitted by 2412371 Ontario Limited (Wyview Group), be

received; and,

3. That the Zoning By-law Amendment application submitted by 2412371 Ontario Limited (Wyview Group) to amend Zoning By-law 304-87, as amended, be approved, and that staff finalize the implementing zoning by-law amendment for enactment by Council; and further,
4. That Staff be authorized and directed to do all things necessary to give effect to this resolution.

## 8.2 REPORT NO.15 GENERAL COMMITTEE (MARCH 25, 2019)

Please refer to your March 25, 2019 General Committee Agenda for reports.

To the Mayor and Members of Council:

That the report of the General Committee be received & adopted. (Items 1 to 3):

### 8.2.1 042-T-15 CATHODIC PROTECTION OF IRON WATERMAINS – CONTRACT EXTENSION (7.12)

112

1. That the report entitled “042-T-15 Cathodic Protection of Iron Watermains – Contract Extension” be received; and,
2. That contract # 042-T-15 Cathodic Protection of Iron Watermains, awarded to 1460973 Ontario Limited O/A C.P. Systems (C.P. Systems), be extended for three (3) additional years at the same itemized pricing; and,
3. That the tendering process for the Cathodic Protection of Iron Watermains be waived in accordance with Purchasing By-Law 2017-8, Part II, Section 11.1 (c); which states that “when the extension of an existing Contract would prove more cost-effective or beneficial”; and,
4. That the annual amount of \$289,283.33, inclusive of HST, be awarded for 2019; and,
5. That a 8% contingency in the amount of \$23,142.67 be established to cover any additional construction costs and that authorization to approve expenditures of this contingency amount up to the specified limit be in accordance with the Expenditure Control Policy; and,
6. That the award in the amount of \$312,426.00 be funded from the capital project 053-6150-19241-005 “Cathodic Protection of Iron Watermains”; and,
7. That the remaining funds of \$65,374.00 in project #19241

“Cathodic Protection of Iron Watermains” be returned to the original funding source; and,

8. That the contract services award (inclusive of 8% contingency) for:
  - a. Year 2020 in the amount of \$328,900.12 (\$304,537.15 + \$24,362.97),
  - b. Year 2021 in the amount of \$443,098.05 (\$410,275.97 + \$32,822.08), be requested as part of the 2020 and 2021 capital budget process, subject to Council approval; and further,
9. That Staff be authorized and directed to do all things necessary to give effect to this resolution.

#### 8.2.2 AWARD OF CONTRACT 126-R-18 REAL ESTATE BROKERAGE SERVICES (7.12)

117

1. That the report entitled “Award of Contract 126-R-18 Real Estate Brokerage Services” be received; and,
2. That the contract for Real Estate Brokerage Services be awarded to the highest ranked/lowest priced bidder, Cushman & Wakefield Ltd.; and,
3. That Contract 126-R-18 for Real Estate Brokerage Services be awarded to the highest ranked bidder, Cushman & Wakefield Ltd., for a one (1) year term with the City having an option to renew for four (4) additional years, with the following commission rates payable to them upon closing of the property transaction for five years (exclusive of HST);\*When it is disclosed at the beginning of a transaction that the Vendor/Landlord will not pay a commission to the broker, the City shall pay the commission at the rate as outlined on the above chart; and,
4. That bidder Cushman & Wakefield Ltd. be designated as the preferred vendor of the City’s Real Estate Brokerage Services needs for a one year term with the City Solicitor having the authority to renew successive one year terms to a maximum of five years; and further,
5. That Staff be authorized and directed to do all things necessary to give effect to this resolution.

#### 8.2.3 INDEMNIFICATION OF EMPLOYEES AND MEMBERS OF

120

## COUNCIL (2.0)

1. That the report entitled “Indemnification of Employees and Members of Council”, dated March 25, 2019, be received; and,
2. That Attachment “A”, the proposed Indemnification of Employees and Members of Council By-law, be enacted; and,
3. That the contract for the City’s Integrity Commissioner be amended to include the responsibilities set out in the By-law attached as Attachment “A”; and,
4. That the Chief Administrative Officer and the City Clerk be authorized to enter into indemnification/reimbursement agreements with eligible persons where the Integrity Commissioner has authorized indemnity, in a form satisfactory to the City Solicitor; and further,
5. That Staff be authorized and directed to do all things necessary to give effect to this resolution.

(By-law 2019-42)

8.3 *REPORT NO. 16 DEVELOPMENT SERVICES COMMITTEE (APRIL 1, 2019)*

Please refer to your April 1, 2019 Development Services Committee Agenda for reports.

To the Mayor and Members of Council:

That the report of the Development Services Committee be received & adopted.  
(Items 1 and 2):

8.3.1 *BILL CROTHERS ARTIFICIAL TURF FIELD REPLACEMENT (6.0)*

133

1. That the report entitled “Bill Crothers Artificial Turf Field Replacement” be received; and,
2. That Staff be authorized to issue a purchase order to York Region District School Board (YRDSB) in the amount of \$1,339,365.00, inclusive of HST for the City’s portion (50%) of the Bill Crothers Secondary School artificial turf replacements; and,
3. That the purchase order in the amount of \$1,339,365.00, inclusive of HST be funded from project 18220 Replacement

of Artificial Turf Fields with available budget of \$814,100.00; and,

4. That shortfall in the amount of (\$525,265.00) (\$814,100.00 - \$1,339,365.00) be funded from the Life Cycle Replacement and Capital Reserve Fund; and,
5. That staff be directed to execute the Shared Use and Maintenance Agreement prior to proceeding with the project; and further,
6. That staff be authorized and directed to do all things necessary to give effect to this resolution.

8.3.2 *RECOMMENDATION REPORT 30TH WORLD HAKKA CONFERENCE, KUALA LUMPUR, MALAYSIA, OCTOBER 16 – 21, 2019 (10.16)*

152

1. That the report titled, “30th World Hakka Conference, Kuala Lumpur, Malaysia, October 16 – 21, 2019”, dated April 1, 2019, be received; and,
2. That Council approve business travel for Mayor Scarpitti, Regional Councillor Joe Li, and Sr. Business Devt. Officer Sandra Tam to attend the 30th World Hakka Conference in Kuala Lumpur Malaysia from October 16 - 21; and,
3. That the total cost of the business trip to attend the 30th World Hakka Conference in Kuala Lumpur Malaysia not exceed \$19,500.00 and be expensed from within International Investment Attraction account 610-9985811; and,
4. **That the cost of the pre-conference mission to China attended by Regional Councillor Joe Li be expensed from within International Investment Attraction account 610-9985811 to a maximum of \$2,500; and further,**
5. That Staff be authorized and directed to do all things necessary to give effect to this resolution.

9. MOTIONS

10. NOTICE OF MOTION TO RECONSIDER

11. NEW/OTHER BUSINESS

**Note: As per Section 2 of the Council Procedural By-Law, "New/Other Business would**

generally apply to an item that is to be added to the **Agenda** due to an urgent statutory time requirement, or an emergency, or time sensitivity."

## 12. ANNOUNCEMENTS

## 13. BY-LAWS - THREE READINGS

That By-laws 2019-38 to 2019-40 and 2019-42 be given three readings and enacted.

### Three Readings

- |      |   |     |
|------|---|-----|
| 13.1 | BY-LAW 2019-38 A BY-LAW TO AMEND TRAFFIC BY-LAW 106-71<br>(COMPULSORY STOPS)  | 155 |
|      | To add compulsory stops at specific intersections within the City of Markham.   |     |
| 13.2 | BY-LAW 2019-39 A BY LAW TO AMEND PARKING BY-LAW 2005-188  | 156 |
|      | To amend Schedule C of the Parking By-law pertaining to "Prohibited Parking".   |     |
| 13.3 | BY-LAW 2019-40 SARENA PROPERTIES LTD., 197 & 199 LANGSTAFF ROAD, ZONING BY-LAW AMENDMENT  | 157 |
|      | A By-law to amend By-law 2551, as amended, to permit outdoor storage.<br><br>(Item 8.4.1., Report No. 13, March 19, 2019 Council Meeting)   |     |
| 13.4 | <i>BY-LAW 2019-42 INDEMNIFICATION BY-LAW</i>  | 160 |
|      | A By-law to provide for the indemnification and defence of employees and Members of Council against loss or liability in certain circumstances arising out of acts or omissions done while acting on behalf of the Corporation. |     |

## 14. CONFIDENTIAL ITEMS

That, in accordance with Section 239 (2) of the Municipal Act, Council resolve into a private session to discuss the following confidential matters:

- |        |  |
|--------|--|
| 14.1   | COUNCIL - APRIL 2, 2019  |
| 14.1.1 | PERSONAL MATTERS ABOUT AN IDENTIFIABLE<br>INDIVIDUAL, INCLUDING MUNICIPAL OR LOCAL BOARD<br>EMPLOYEES (BOARD/ COMMITTEE APPOINTMENTS) (16.24)<br>[SECTION 239 (2) (b)] |
| 14.1.2 | <i>PERSONAL MATTERS ABOUT AN IDENTIFIABLE<br/>INDIVIDUAL, INCLUDING MUNICIPAL OR LOCAL BOARD</i>   |

*EMPLOYEES (BOARD/ COMMITTEE APPOINTMENTS) (16.24)*  
*[SECTION 239 (2) (b)]*

14.2 NEW/ OTHER BUSINESS

- 14.2.1 PERSONAL MATTERS ABOUT AN IDENTIFIABLE INDIVIDUAL, INCLUDING MUNICIPAL OR LOCAL BOARD EMPLOYEES (REPORT OF INTEGRITY COMMISSIONER REGARDING CODE OF CONDUCT COMPLAINT ABOUT WARD 4 COUNCILLOR KAREN REA) (16.23) [Section 239 (2) (b)]

**Note: At the March 25, 2019 General Committee meeting, this matter was referred directly to the April 2, 2019 Council meeting for consideration.**

- 14.2.2 A PROPOSED OR PENDING ACQUISITION OR DISPOSITION OF LAND BY THE MUNICIPALITY OR LOCAL BOARD (WARD 2) (8.6) [Section 239 (2) (c)]

**Note: At the March 25, 2019 General Committee meeting, the committee consented to place this item on the April 2, 2019 Council agenda for consideration.**

- 14.2.3 A PROPOSED OR PENDING ACQUISITION OR DISPOSITION OF LAND BY THE MUNICIPALITY OR LOCAL BOARD (WARD 6) (8.6) [Section 239 (2) (c)]

**Note: At the March 25, 2019 General Committee meeting, the committee consented to place this item on the April 2, 2019 Council agenda for consideration.**

15. CONFIRMATORY BY-LAW - THREE READINGS

That By-law 2019-41 be given three readings and enacted.

Three Readings

BY-LAW 2019-41 A BY-LAW TO CONFIRM THE PROCEEDINGS OF THE COUNCIL MEETING OF APRIL 2, 2019.

No attachment

16. ADJOURNMENT



## Council Minutes

**Meeting Number: 6**  
**March 19, 2019, 1:00 PM**  
**Council Chamber**

Roll Call	Mayor Frank Scarpitti	Councillor Reid McAlpine
	Deputy Mayor Don Hamilton	Councillor Karen Rea
	Regional Councillor Jack Heath	Councillor Andrew Keyes
	Regional Councillor Joe Li	Councillor Amanda Collucci
	Regional Councillor Jim Jones	Councillor Khalid Usman
	Councillor Keith Irish	Councillor Isa Lee
	Councillor Alan Ho	
Staff	Andy Taylor, Chief Administrative Officer	Christine Aguila-Wong, Assistant to Council/Committee
	Trinela Cane, Commissioner, Corporate Services	John Wong, Technology Support Specialist II
	Brenda Librecz, Commissioner, Community & Fire Services	Andrea Berry, Sr. Manager, Corp Comm & Community Engagement
	Arvin Prasad, Commissioner, Development Services	Andrea Tang, Senior Manager, Financial Services
	Catherine Conrad, City Solicitor & Acting Director, Human Resources	Tanya Lewinberg, Public Realm Coordinator
	Joel Lustig, Treasurer	Morgan Jones, Director, Operations
	Bryan Frois, Chief of Staff	Sandra Skelcher, Manager, Financial Reporting & Payroll
	Kimberley Kitteringham, City Clerk	Kishor Soneji, Senior Accountant
	Martha Pettit, Deputy City Clerk	Matthew Vetere, Senior Financial Analyst

**Alternate formats for this document are available upon request**

### 1. CALL TO ORDER

The meeting of Council convened at 1:10 PM on March 19, 2019 in the Council Chamber.

Mayor Frank Scarpitti presided.



Mayor Frank Scarpitti took the opportunity to remember the victims and families of the victims of the Christchurch Mosque shootings in New Zealand, the airplane crash in Ethiopia and the recent tragedy in the Netherlands.

**2. DISCLOSURE OF PECUNIARY INTEREST**

None disclosed.

**3. APPROVAL OF PREVIOUS MINUTES**

**3.1 COUNCIL MINUTES FEBRUARY 26, 2019**

Moved by Councillor Isa Lee

Seconded by Councillor Keith Irish

1. That the Minutes of the Council Meeting held on February 26, 2019, be adopted.

**Carried**

**4. PRESENTATIONS**

There were no presentations.

**5. DEPUTATIONS**

There were no deputations.

**6. COMMUNICATIONS**

**6.1 6-2019 LIQUOR LICENSE APPLICATION GO FOR TEA (WARD 3) (3.21)**

(New Liquor License for indoor and outdoor areas)

Moved by Councillor Khalid Usman

Seconded by Councillor Alan Ho

1. That the request for the City of Markham to complete the Municipal Information Form be received for information.

**Carried**

6.2 7-2019 SPECIAL OCCASION LIQUOR PERMIT APPLICATION - FASHION SHOW AND FILM FUNDRAISER (WARD 1) (3.21)

Moved by Councillor Khalid Usman

Seconded by Councillor Alan Ho

1. That the request for the City of Markham for a Special Occasion Liquor Permit be received and approved.

**Carried**

6.3 8-2019 LOCAL PLANNING APPEAL TRIBUNAL (LPAT) DECISION - VALLEYMEDE BUILDING AMA CORPORATION

5112 5122 AND 5248 14TH AVENUE AND 7768, 7778, 7788 AND 7798 MCCOWAN ROAD (13.13)

Summary from the City Solicitor:

On April 24, 2018, the Ontario Municipal Board (the OMB) approved and issued an order regarding the settlement between the City of Markham and Valleymede Building AMA Corporation (the “Appellant”) with respect to appeals by Valleymede Building AMA Corporation from the City’s failure to make a decision regarding applications for Official Plan and Zoning By-law Amendments for 5112, 5122 & 5248 14th Avenue and 7768, 7778, 7788 & 7798 McCowan Road, located on the northeast corner of 14th and McCowan Road.

The settlement permits the lands to be developed with ninety-six (96) townhouse dwellings. Each of the townhouse dwellings will be accessed from private condominium roads with building heights ranging from three (3) to four (4) storeys. The future public road access and proposed public park continue to straddle the boundary between the Appellant’s lands and the lands to the north, with the portion of the park on the Appellant’s lands proposed to have a site area of approximately 3,200 m<sup>2</sup>, which equates to Valleymede’s required parkland dedication under the Planning Act.

The OMB approved an Official Plan Amendment (1987 Revised) that redesignates the subject lands from “Local Commercial Centre” to “Urban Residential Low Density” and a Zoning By-law Amendment that deletes the subject lands from the designated area of By-law 90-81, as amended, and incorporates them into the designated area of By-law 177-96 (the New Urban Area By-law) and zones them to permit the development outlined above. As the OMB has issued its final decision and issued an order regarding the Official Plan Amendment and Zoning By-Law Amendment, those documents now require

assignment of amendment and by-law numbers for administrative and municipal tracking purposes.

(By-law 2019-33 and 2019-34)

Moved by Councillor Khalid Usman

Seconded by Councillor Alan Ho

1. That Council receive and consent to the disposition of this communication.

**Carried**

6.4 9-2019 COMMUNICATION REGARDING THE AUGUST 15, 2019  
LICENSING COMMITTEE HEARING RECOMMENDATION (50 LONG  
ISLAND CRESCENT) (2.0)

Moved by Councillor Khalid Usman

Seconded by Councillor Alan Ho

1. That Council refer this communication to Item 11.1 of New/ Other Business.

**Carried**

## 7. PROCLAMATIONS

### 7.1 PROCLAMATIONS AND FLAG RAISING REQUESTS (3.4)

Moved by Councillor Amanda Collucci

Seconded by Councillor Reid McAlpine

1. That the following proclamations, issued by the City Clerk in accordance with the City of Markham Proclamation Policy, be received for information purposes:
  - a. Pakistan National Day - March 23, 2019
  - b. Greek Independence Day - March 25, 2019
  - c. World Autism Awareness Day - April 2, 2019
  - d. National Volunteer Week - April 7-13, 2019
  - e. Multiple Sclerosis Awareness Day - May 22, 2019
2. That the following new request for proclamation, issued by the City Clerk in accordance with the City of Markham Proclamation Policy, be received and added to the Five-Year Proclamations List approved by Council:
  - a. ALS Double Play 5KM Intentional Walk - June 8-15, 2019
3. That the following new request for proclamation be approved and added to the Five-Year Proclamations List approved by Council:
  - a. Pulmonary Fibrosis Awareness Week - September 15-21, 2019

4. That the following requests for flag to be raised at the Anthony Roman Markham Civic Centre flagpole, approved by the City Clerk in accordance with the City of Markham Community Flag Raisings & Flag Protocol Policy, be received for information purposes:
  - a. Pakistan National Day - March 23-30, 2019 (Organized by Canadians of Pakistani Origin)
  - b. Greek Independence Day - March 25, 2019 (Organized by St. Panteleimon Greek Orthodox Church)
  - c. World Autism Awareness Day - April 2-9, 2019 (Organized by Autism Ontario York Chapter)
  - d. Multiple Sclerosis Awareness Day - May 22, 2019 (Organized by York Region Multiple Sclerosis Chapter)
  - e. ALS Double Play 5KM Intentional Walk - June 8-15, 2019 (Organized by ALS Double Play)

**Carried**

## **8. REPORT OF STANDING COMMITTEES**

### **8.1 REPORT NO.10 DEVELOPMENT SERVICES PUBLIC MEETING (FEBRUARY 19,2019)**

#### **8.1.1 PRELIMINARY REPORT APPLICATION BY KING SQUARE LIMITED FOR ZONING BY-LAW AMENDMENT TO PERMIT ADDITIONAL USES ON THE PHASE 1 LANDS KNOWN MUNICIPALLY AS 9390 WOODBINE AVENUE FILE NO. ZA 18 176569 (10.5)**

Moved by Regional Councillor Jim Jones

Seconded by Councillor Keith Irish

1. That the presentation by staff on the proposal be received; and,
2. That the deputation on the proposal be received; and,
3. That the written submission on the proposal be received; and,
4. That the report dated January 28, 2019, entitled "Preliminary Report, Application by King Square Limited for Zoning By-law Amendment to permit additional uses on the Phase 1 lands known municipally as 9390 Woodbine Avenue" be received; and,
5. That the record of the Public Meeting held on February 19, 2019, with respect to the proposed Zoning By-law Amendment application (File ZA 18 176569), be received; and,

6. That the Zoning By-law Amendment application (File ZA 18 176569) submitted by King Square Limited to amend Zoning By-law 165-80, as amended, to permit additional uses on the Phase 1 King Square Ltd. lands, be approved and that the by-law be finalized and enacted without further notice; and further,
7. That staff be authorized and directed to do all things necessary to give effect to this resolution.

(By-law 2019-35)

**Carried**

## 8.2 REPORT NO. 11 DEVELOPMENT SERVICES COMMITTEE (FEBRUARY 25, 2019)

Moved by Regional Councillor Jim Jones

Seconded by Councillor Keith Irish

To the Mayor and Members of Council:

That the report of the Development Services Committee be received & adopted.

(Items 1 to 3):

**Carried**

### 8.2.1 PRELIMINARY REPORT CONDOR PROPERTIES LTD. LANGSTAFF PHASE 1A DEVELOPMENT ZONING BY-LAW AMENDMENT AND DRAFT PLAN OF SUBDIVISION TO PERMIT A MIXED-USE HIGH RISE DEVELOPMENT FOR 910 UNITS AT 25, 11, 9 AND 5 LANGSTAFF ROAD, SOUTHWEST OF YONGE STREET AND HIGHWAY 407 FILE NOS: ZA/SU 18 162178, WARD 1 (10.5, 10.7)

Moved by Regional Councillor Jim Jones

Seconded by Councillor Keith Irish

1. That the report dated February 25th, 2019, titled “Preliminary Report, Condor Properties Ltd., Langstaff Phase 1A Development, Zoning By-Law Amendment and Draft Plan of Subdivision to permit a mixed-use high rise development for 910 units at 25, 11, 9 and 5 Langstasff Road, south west of Yonge Street and Highway 407, File Nos: ZA/SU 18 162178, Ward 1”, be received; and,
2. That the proposed Zoning By-law Amendment and Draft Plan of Subdivision applications be referred to the Thornhill Sub-Committee for comments prior to the statutory Public Meeting; and further,

3. That City Council direct the City Solicitor and Staff to oppose any appeal of the application for Zoning By-law Amendment and Draft Plan of Subdivision for 25, 11, 9 and 5 Langstaff Road, if an appeal(s) is/are made based on City Council's failure to make a decision within the statutory timeframe set out in the Planning Act, taking a position consistent with the planning comments set out in the report dated February 25th, 2019 and any further direction from the City Solicitor and the Commissioner of Development Services.

**Carried**

#### 8.2.2 STEELES AVENUE WIDENING UPDATE - EAST OF MARKHAM ROAD TO NINTH LINE (WARDS 7 & 8) (5.10)

Moved by Regional Councillor Jim Jones

Seconded by Councillor Keith Irish

1. That the memorandum titled “Steeles Avenue Widening Update – East of Markham Road to Ninth Line (Wards 7 & 8)” be received; and,
2. That Council reiterates to the Regional Municipality of York the importance of timely completion of Steeles Avenue East between east of Markham Road and Ninth Line; and further,
3. That Staff be directed to do all things necessary to give effect to this resolution.

**Carried**

#### 8.2.3 FEDERAL, PROVINCIAL AND REGIONAL AFFORDABLE AND RENTAL HOUSING INITIATIVES (10.0)

Moved by Regional Councillor Jim Jones

Seconded by Councillor Keith Irish

1. That the report entitled “Federal, Provincial and Regional Affordable and Rental Housing Initiatives” dated February 25, 2019 be received; and,
2. That the Federal Minister responsible for the Canada Mortgage and Housing Corporation be advised of Council’s support for the National Housing Strategy and the City of Markham’s interest in partnering with senior levels of government, non-profit housing organizations and rental cooperatives, and the private sector on a future eligible affordable and rental housing project in Markham; and,

3. That the report entitled “Federal, Provincial and Regional Affordable and Rental Housing Initiatives” dated February 25, 2019, be forwarded to:
  - a. The Assistant Deputy Minister of Municipal Affairs and Housing and that Council express its support for inclusionary zoning and request the Province to provide additional financial incentives such as the deferral of provincial education development charges and an allocation of a portion of the non-resident speculation tax collected in York Region, in support of future eligible affordable and rental housing projects in Markham; and
  - b. The Commissioner of Corporate Services and the Chief Planner of York Region in response to the request for comments on the draft Rental Housing Incentives Guideline for purpose built rental housing, and that Council express its support for the Guideline and request the Region to consider a 60 month Regional development charge deferral, and a tax increment equivalent grant program for the Regional portion of property taxes for up to 10 years, in support of future eligible affordable and rental housing projects in Markham; and,
4. That the updated Affordable and Rental Housing Strategy for the City of Markham, to be brought forward for Markham Council consideration, include options for inclusionary zoning and additional financial incentives in response to the Region’s draft Rental Housing Incentives Guideline, including a 60 month development charge deferral, a 48 month development application fee deferral, and an incentive equivalent to a 10 year tax increment equivalent grant on the Markham portion of the property taxes, for eligible affordable and rental housing projects in Markham; and further,
5. That Staff be authorized and directed to do all things necessary to give effect to this resolution.

**Carried**

### 8.3 REPORT NO.12 GENERAL COMMITTEE (MARCH 4, 2019)

Moved by Regional Councillor Jack Heath

Seconded by Councillor Andrew Keyes

To the Mayor and Members of Council:

That the report of the General Committee be received & adopted, except for Items 1 and 4. (See following items 1 and 4).

**Carried**

8.3.1 2018 SUMMARY OF REMUNERATION AND EXPENSES FOR COUNCILLORS AND APPOINTEES TO BOARDS (7.0)

Moved by Regional Councillor Jack Heath

Seconded by Councillor Andrew Keyes

1. That the report titled “2018 Summary of Remuneration & Expenses for Councillors and Appointees to Boards” be received; and
2. That Staff be authorized and directed to do all things necessary to give effect to this resolution.

**Carried**

8.3.2 OPERATIONS AND MAINTENANCE AGREEMENTS FOR MUNICIPAL HIGHWAYS (5.0)

Moved by Regional Councillor Jack Heath

Seconded by Councillor Andrew Keyes

1. That the staff report entitled, Operations and Maintenance Agreements for municipal highways, be received; and,
2. That the Director of Operations be authorized to execute agreements between the City and other government entities and agencies relating to the operation and maintenance of municipal highways in the City of Markham, provided that the form and content of such agreements are satisfactory to the Commissioner of Community and Fire Services and the City Solicitor; and further,
3. That staff be authorized and directed to do all things necessary to give effect to this resolution.

**Carried**

8.3.3 ANNUAL WATER QUALITY REPORT (JANUARY – DECEMBER 2018) (5.3)

Moved by Regional Councillor Jack Heath

Seconded by Councillor Andrew Keyes

1. That the report titled “Annual Water Quality Report (January-December 2018)” as required by Schedule 22 of Ontario Regulation 170/03, under the *Safe Drinking Water Act, 2002*, enclosed herein be received; and,



2. That the Annual 2018 Regulatory Water Quality Report (Attachment “A”), containing information for the Ministry of the Environment, Conservation and Parks (MECP) on water supply and quality as required by Section 11 of Ontario Regulation 170/03, under the *Safe Drinking Water Act, 2002*, be received; and,
3. That Council acknowledge that staff posted the Annual 2018 Detailed Regulatory Water Quality Report on the City’s website and that it has been made available electronically and in hard copy version since February 28, 2019 as per regulations; and further,
4. That Staff be authorized and directed to do all things necessary to give effect to this resolution.

**Carried**

#### 8.3.4 DIGITAL PAYMENT INITIATIVE (7.0)

Moved by Regional Councillor Jack Heath

Seconded by Councillor Andrew Keyes

1. That the memo entitled "Digital Payment Initiative" dated February 21st, 2019 be received; and,
2. That the correspondence from Gail Leet, Chair, Seniors Advisory Committee, on behalf of the Seniors Advisory Committee be received; and,
3. That Council approve discontinuing the acceptance of cash as a form of payment for property taxes effective January 1st, 2020; and,
4. That Staff report back in **late 2020** with the results and feedback of the initiative, along with possible future payment modification opportunities for Council consideration; and further,
5. That staff be authorized and directed to do all things necessary to give effect to this resolution.

**Carried as Amended**

#### **Amendment:**

#### **Council consented to amend clause #4 from:**

- 4) That Staff report back in 2021 with the results and feedback of the initiative, along with possible future payment modification opportunities for Council consideration; and further,  
**to**

- 4) That Staff report back in **late 2020** with the results and feedback of the initiative, along with possible future payment modification opportunities for Council consideration; and further,

#### 8.3.5 VENDOR MANAGEMENT AUDIT- FOLLOW UP (7.0)

Moved by Regional Councillor Jack Heath

Seconded by Councillor Andrew Keyes

1. That the presentation provided by Veronica Bila, CPA, CA, CIA, Auditor General Partner/Project Manager entitled “Vendor Management Audit-Follow Up” be received; and,
2. That the report prepared by Geoff Rodrigues, CPA, CA, CIA, CRMA, ORMP, MNP LLP, Auditor General, City of Markham, entitled “Vendor Management Audit-Follow Up” be received; and further,
3. That staff be authorized and directed to do all things necessary to give effect to the recommendations.

**Carried**

#### 8.3.6 RESIDENTIAL HOSPICE IN MARKHAM (12.2.6)

Moved by Regional Councillor Jack Heath

Seconded by Councillor Andrew Keyes

1. That the presentation by Mr. Andy Langer, Member of the Committee for an Age-Friendly Markham entitled “There is an Urgent Need for a Residential Hospice in Markham” be received; and,
2. That Regional Councillor Jack Heath facilitate a meeting with various stakeholders; and,
3. That the City of Markham express its support for a residential hospice in Markham; and further,
4. That the City request the Provincial Government assist in funding a residential hospice in Markham based on the Province's funding formula.

**Carried**

8.4 REPORT NO.13 DEVELOPMENT SERVICES PUBLIC MEETING (MARCH 5, 2019)

8.4.1 PRELIMINARY REPORT SARENA PROPERTIES LTD. ZONING BY-LAW AMENDMENT APPLICATION TO EXTEND PERMISSION FOR TEMPORARY USES AT 197 & 199 LANGSTAFF RD FILE NO.: ZA 18 257917, WARD 1 (10.5)

Moved by Regional Councillor Jim Jones

Seconded by Councillor Keith Irish

1. That the report dated February 25th, 2019, titled “PRELIMINARY REPORT, Sarena Properties Ltd., Zoning By-law Amendment application to extend permission for temporary uses at 197 & 199 Langstaff Road, File No.: ZA 18 257917, Ward 1”, be received; and,
2. That the record of the Public Meeting held on March 5th, 2019 with respect to the proposed Zoning By-law Amendment application, be received; and,
3. That the application submitted by Sarena Properties Ltd. for a proposed Zoning By-law Amendment to extend permission for temporary uses at 197 and 199 Langstaff Road, be approved and the draft Zoning By-law Amendment be finalized and enacted without further notice; and further,
4. That staff be authorized and directed to do all things necessary to give effect to this resolution.

**Carried**

8.5 REPORT NO. 14. DEVELOPMENT SERVICES COMMITTEE (MARCH 18, 2019)

To the Mayor and Members of Council:

That the report of the Development Services Committee be received and adopted (1 Item):

8.5.1 INTENTION TO DESIGNATE A PROPERTY UNDER PART IV OF THE ONTARIO HERITAGE ACT DOUGLAS-HEISE HOUSE 15 WALES AVENUE, WARD 4 (16.11.3)

Moved by Deputy Mayor Don Hamilton

Seconded by Regional Councillor Jim Jones

1. That the staff report entitled “Intention to Designate a Property Under Part IV of the Ontario Heritage Act, Douglas-Heise House, Address: 15 Wales Avenue,” dated March 18, 2019, be received.

(See following to bring the matter forward)

**Carried**

Moved by Deputy Mayor Don Hamilton  
Seconded by Regional Councillor Jim Jones

That Council consider the matter of "Intention to Designate a Property Under Part IV of the Ontario Heritage Act Douglas-Heise House, 15 Wales Avenue, Ward 4" immediately following the Approval of Previous Minutes with respect thereto.

**Carried**

## **9. MOTIONS**

There were no motions.

## **10. NOTICE OF MOTION TO RECONSIDER**

There were no notices of motions.

## **11. NEW/OTHER BUSINESS**

### **11.1 RECOMMENDATION FROM THE AUGUST 15, 2018 LICENSING COMMITTEE HEARING (50 LONG ISLAND CRESCENT) (2.0)**

Moved by Regional Councillor Jack Heath  
Seconded by Regional Councillor Jim Jones

That the following recommendation of the Licensing Committee from the Hearing held on August 15, 2018, be approved and adopted:

1. **That the communication dated March 15, 2019 from Mr. Ken Menezes be received; and,**
2. That the application to remove three Austrian Pine trees on 50 Long Island Crescent, Markham, be approved; and,

3. That the applicant provide for 8 replacement trees. With a minimum of 2 to 4 trees to be planted on their property, and a cash-in-lieu payment of \$300.00 per replacement tree to be provided for the remainder of the trees, which may be planted in a Markham park or natural area. The replacement trees must be of a size and native species deemed appropriate by staff, and, further,
4. That the recommendations are based on the unique characteristics of this case only and are neither intended to be precedent setting nor to be used as a basis for future cases.

**Carried as Amended**

**Amendment:**

Council consented to remove reference to 81 Long Island Crescent in the recommendation.

## 11.2 2019 OPERATING AND CAPITAL BUDGETS (7.4, 7.5)

Moved by Councillor Amanda Collucci

Seconded by Councillor Andrew Keyes

1. That the report dated March 19, 2019 entitled, “2019 Operating and Capital Budgets” be received; and,
2. That Council approve a 1.97% property tax rate increase to the City’s tax levy as follows:
  - a. 1.47% for day-to-day operations; and
  - b. 0.50% infrastructure investment; and,
3. That Council approve the 2019 Primary Operating Budget for City services of \$218,250,161 and Library of \$14,794,563 to a total of \$233,044,724 (excluding the 2018 surplus/deficit) which includes a 1.97% property tax rate increase, the principal components are detailed in Appendices 1 and 2; and,
4. That the gross operating expenditures of \$233,044,724, (excluding the 2018 surplus), be funded from the following sources:

**2019 Budget**

Taxation Levies	\$160,550,320
Payments-in-lieu of Taxes	\$1,209,007
Grant & Subsidy Revenues	\$1,956,197
General Revenues (Investment Income, Penalty & Interest, Fines, Licences & Permits)	\$33,007,873
User Fees & Service Charges, Rentals and Sales	\$30,941,364
Other Income/ Recoveries	\$5,379,963
<b><u>Total Revenues</u></b>	<b><u>\$233,044,724</u></b>

5. That Council approve the remaining 2019 Capital Budget of \$103,266,046 for a total of \$124,686,057 (\$103,266,046 + \$21,420,011 pre-approved), the projects are detailed in Appendix 3; and,
6. That Council authorize Staff to purchase US dollars (USD) for applicable capital budget projects and make any budget adjustments necessary due to a variance between the budgeted USD exchange rate and the actual USD exchange rate at the time the USD are purchased; and,
7. That Council approve the 2019 Planning & Design Operating Budget totalling \$11,863,445, (excluding the 2018 surplus), the principal components of which are detailed in Appendix 4; and,
8. That Council approve the 2019 Engineering Operating Budget totalling \$8,932,747, (excluding the 2018 surplus), the principal components of which are detailed in Appendix 5; and,
9. That Council approve the 2019 Building Standards Operating Budget totalling \$9,332,205, (excluding the 2018 surplus), the principal components of which are detailed in Appendix 6; and,
10. That Council approve the 2019 Waterworks Operating Budget totalling \$131,920,556 (excluding the 2018 surplus), the principal components of which are detailed in Appendix 7; and,
11. That upon finalization of the 2018 audited financial statements, the 2019 Operating, Planning & Design, Engineering, Building Standards, and Waterworks Operating Budgets be adjusted to reflect the 2018 operating results; and,

12. That a copy of the Budgets be made available to the public through the Clerk's Department, the City website and each of the Markham Public Libraries; and,
13. That the "Additional Financial Disclosure Requirements Pursuant to Ontario Regulation 284/09" be received for information purposes; and further,
14. That Staff be authorized and directed to do all things necessary to give effect to this resolution.

**Carried unanimously by recorded vote (13:0)**

(See following motion for a separate recorded vote on the John St. Multi-Use Pathway project (Project No. 19037))

(See following motion for a recorded vote on Recommendation No. 5 (excluding the John St. Multi-Use Pathway project (Project No. 19037))

(See following motion for a recorded vote on Recommendation Nos. 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13 and 14)

Council consented to vote on the John St. Multi-Use Pathway project (Project ID 19037) separately:

**Recorded Vote in support of the John St. Multi-Use Pathway project (Project No. 19037) (8:5):**

- **YEAS:** Councillor Alan Ho, Councillor Reid McAlpine, Deputy Mayor Don Hamilton, Mayor Frank Scarpitti, Regional Councillor Jack Heath, Councillor Amanda Collucci, Councillor Khalid Usman, Councillor Isa Lee **(8)**
- **NAYS:** Councillor Keith Irish, Councillor Karen Rea, Regional Councillor Jim Jones, Regional Councillor Joe Li, Councillor Andrew Keyes **(5)**

Council consented to vote on Recommendation No. 5 separately:

**Recorded Vote on Recommendation No. 5 (excluding the John St. Multi-Use Pathway project (Project No. 19037))(13:0):**

- **YEAS:** Councillor Keith Irish, Councillor Alan Ho, Councillor Reid McAlpine, Councillor Karen Rea, Regional Councillor Jim Jones, Deputy Mayor Don Hamilton, Mayor Frank Scarpitti, Regional Councillor Jack Heath, Regional Councillor Joe Li, Councillor Andrew Keyes, Councillor Amanda Collucci, Councillor Khalid Usman, Councillor Isa Lee **(13)**
- **NAYS: (0)**

Council consented to vote on Recommendation Nos. 1,2,3,4,6,7,8,9,10,11,12,13 and 14 by a recorded vote:

**Recorded Vote on Recommendation Nos. 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 12, 13 and 14) (13:0):**

- **YEAS:** Councillor Keith Irish, Councillor Alan Ho, Councillor Reid McAlpine, Councillor Karen Rea, Regional Councillor Jim Jones, Deputy Mayor Don Hamilton, Mayor Frank Scarpitti, Regional Councillor Jack Heath, Regional Councillor Joe Li, Councillor Andrew Keyes, Councillor Amanda Collucci, Councillor Khalid Usman, Councillor Isa Lee **(13)**
- **NAYS: (0)**

## **12. ANNOUNCEMENTS**

There were no announcements.



### 13. BY-LAWS - THREE READINGS

Moved by Councillor Karen Rea

Seconded by Councillor Alan Ho

That By-laws 2019-32 and 2019-35 to 2019-36 be given three readings and enacted.

**Carried**

#### **Three Readings**

#### 13.1 BY-LAW 2019-32 ARISTA HOMES (UPPER UNIONVILLE) INC., PART LOT CONTROL EXEMPTION BY-LAW

A by-law to designate part of a certain plan of subdivision not subject to Part Lot Control, Blocks 35 and 36, Registered Plan 65M-4429, located on the east side of Ivanhoe Drive and Nipigon Avenue in the Upper Unionville community.

**Carried**

#### 13.2 BY-LAW 2019-33 VALLEYMEDE BUILDING AMA CORPORATION, 5112, 5122 AND 5248 14TH AVENUE AND 7768, 7778 AND 7798 MCCOWAN ROAD, AMENDMENT TO THE IN FORCE OFFICIAL PLAN (REVISED 1987), AS AMENDED, APPROVED BY THE LOCAL PLANNING APPEAL TRIBUNAL (LPAT)

A by-law to adopt Amendment 253 to the Markham Official Plan (Revised 1987), as amended, to provide for a condominium townhouse development.  
(Communication No. 8-2019)

**(By-law 2019-33 approved by LPAT)**

**(For information only to facilitate the assignment of a By-law number)**

#### 13.3 BY-LAW 2019-34 VALLEYMEDE BUILDING AMA CORPORATION, 5112, 5122 AND 5248 14TH AVENUE AND 7768, 7778 AND 7798 MCCOWAN ROAD, ZONING BY-LAW AMENDMENT APPROVED BY THE LOCAL PLANNING APPEAL TRIBUNAL (LPAT)

A by-law to amend By-law 90-81, as amended, to delete lands from the designated area, and By-law 177-96, as amended, to incorporate lands into the designated area.

(Communication No. 8-2019)

**(By-law 2019-34 approved by LPAT)**

**(For information only to facilitate the assignment of a By-law number)**

13.4 BY-LAW 2019-35 KING SQUARE LIMITED, 9390 WOODBINE AVENUE,  
ZONING BY-LAW AMENDMENT

A By-law to amend By-law 165-80, as amended by By-law 2009-116, to permit additional uses on the subject property.

(Report No. 10, Item 8.1.1)

**Carried**

13.5 BY-LAW 2019-36 ROAD DEDICATION BY-LAW (KIRKHAM DRIVE)

A by-law to dedicate certain lands as part of the highways of the City of Markham (Part Lot 4, Concession 8, designated as Parts 1, 2 and 3, Plan 65R-38094 - Kirkham Drive)

**Carried**

**14. CONFIDENTIAL ITEMS**

Council consented to not resolve into confidential session.

14.1 COUNCIL - MARCH 19, 2019

14.1.1 PERSONAL MATTERS ABOUT AN IDENTIFIABLE INDIVIDUAL,  
INCLUDING MUNICIPAL OR LOCAL BOARD EMPLOYEES  
(BOARD/COMMITTEE APPOINTMENTS MAIN STREET  
UNIONVILLE BIA (UBIA)) (16.24)

Moved by Councillor Reid McAlpine  
Seconded by Deputy Mayor Don Hamilton

1. That Council appoint the following individuals as Directors of the Board of Management for the Main Street Unionville Business Improvement Area for a term to expire November 14, 2022:

Natasha Usher  
Niina Felushko  
Sarah Gratta  
Roger Kanda  
Tom Vasilovsky  
Shibani Sahney  
Sylvia Morris  
Rob Kadlovski  
Tony Lamanna

**Carried**

14.1.2 PERSONAL MATTERS ABOUT AN IDENTIFIABLE INDIVIDUAL,  
INCLUDING MUNICIPAL OR LOCAL BOARD EMPLOYEES  
(BOARD/ COMMITTEE APPOINTMENTS, MAIN STREET  
MARKHAM VILLAGE BIA (MVBIA)) (16.24) [Section 239 (2) (b)]

Moved by Councillor Karen Rea

Seconded by Councillor Andrew Keyes

1. That Council appoint the following individuals as Directors of the Board of Management for the Main Street Markham Business Improvement Area for a term to expire November 14, 2022:

Carolina Billings

Brian Rowsell

Linda Tsang

Daniel Imbrogno

Anthony Paul

Paul Cicchini

**Carried**

14.1.3 PERSONAL MATTERS ABOUT AN IDENTIFIABLE INDIVIDUAL,  
INCLUDING MUNICIPAL OR LOCAL BOARD EMPLOYEES  
(COUNCIL APPOINTMENTS TO UNIONVILLE BIA (UBIA) AND  
MARKHAM VILLAGE BIA (MVBIA)) (16.24) [Section 239 (2) (b)]

Moved by Councillor Reid McAlpine

Seconded by Deputy Mayor Don Hamilton

1. That the following appointment of Members of Council to the Boards and Committees of the City of Markham be adopted, for a term ending November 14, 2022, to take effect immediately:

Business Improvement Areas

**Markham Village Business Improvement Area (MVBIA)**

1. Councillor Karen Rea

2. Councillor Andrew Keyes

**Unionville Business Improvement Area (UBIA)**

1. Deputy Mayor Don Hamilton

2. Councillor Reid McAlpine

**Carried**

## 14.2 NEW/ OTHER BUSINESS

### 14.2.1 GENERAL COMMITTEE CONFIDENTIAL MINUTES - FEBRUARY 4, 2019 (16.0) [Section 239 (2) (c)]

Moved by Councillor Andrew Keyes

Seconded by Councillor Khalid Usman

1. That the General Committee confidential minutes dated February 4, 2019 be confirmed.

**Carried**

### 14.2.2 BUDGET COMMITTEE CONFIDENTIAL MINUTES - JANUARY 29, 2019 (16.0) [Section 239 (2) (c)]

Moved by Councillor Amanda Collucci

Seconded by Councillor Andrew Keyes

1. That the confidential minutes of the January 29, 2019 Budget Committee meeting be received for information purposes.

**Carried**

### 14.2.3 PERSONAL MATTERS ABOUT AN IDENTIFIABLE INDIVIDUAL, INCLUDING MUNICIPAL OR LOCAL BOARD EMPLOYEES (NAMING OF NEW PARKS AND FACILITIES) (6.3) [Section 239 (2) (b)]

Moved by Deputy Mayor Don Hamilton

Seconded by Regional Councillor Jim Jones

1. That the confidential report "Naming New Parks and Facilities" be received; and,
2. That the confidential memo dated March 14, 2019 "Confidential Park Naming" be received; and,
3. That Council approve the following park and facility names:
  - a. Tony Murphy Park- 4 Chambery Crescent
  - b. Harmony Park- 209 Rizal Avenue
  - c. Alex Chiu Pool at Milliken Mills Community Centre & Library- 7600 Kennedy Road; and futher,
4. That Staff be authorized and directed to do all things necessary to give effect to this resolution.

**Carried**

### 14.3 DEVELOPMENT SERVICES COMMITTEE - MARCH 18, 2019

#### 14.3.1 ADVICE THAT IS SUBJECT TO SOLICITOR-CLIENT PRIVILEGE, INCLUDING COMMUNICATIONS NECESSARY FOR THAT PURPOSE - [Section 239 (2) (f)] – ADDENDUM TO INTENTION TO DESIGNATE A PROPERTY UNDER THE ONTARIO HERITAGE ACT, 15 WALES AVENUE (WARD 4) (8.0)

Moved by Regional Councillor Jim Jones

Seconded by Councillor Khalid Usman

1. That the confidential report named “Addendum to Intention to Designate a Property under Part IV of the Ontario Heritage Act, Douglas-Heise House, 15 Wales Avenue, Ward 4” be received; and further,
2. That Staff be authorized and directed to do all things necessary to give effect to this resolution.

**Carried**

### 15. CONFIRMATORY BY-LAW - THREE READINGS

Moved by Regional Councillor Joe Li

Seconded by Councillor Keith Irish

That By-law 2019-37 be given three readings and enacted.

Three Readings

BY-LAW 2019-37 A BY-LAW TO CONFIRM THE PROCEEDINGS OF THE COUNCIL MEETING OF MARCH 19, 2019.

**Carried**

### 16. ADJOURNMENT

Moved by Councillor Isa Lee

Seconded by Councillor Keith Irish

That the Council meeting be adjourned at 3:13 p.m.

**Carried**

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Kimberley Kitteringham  
City Clerk

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Frank Scarpitti  
Mayor




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## **MEMORANDUM**

**To:** Mayor and Members of Council  
**From:** Catherine Conrad, City Solicitor and Acting Director of Human Resources  
**Date:** March 29, 2019  
**Subject:** **Draft By-law re Indemnification of Employees and Members of Council**

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Further to the General Committee's comments on the above noted draft by-law at its meeting of March 25, 2019, attached a revised by-law that addresses the following issues raised by members of the committee (amendments to the previous version of the by-law are in **bold type**):

1. A new clause 3.7 has been added that provides indemnification for Employees and Members of Council in respect of charges under:
  - a. the Criminal Code
  - b. provincial legislation and regulations; and
  - c. municipal by-laws;
  - provided that the charge relates to acts done in the performance in good faith of their duties; and
  - provided that the charges are withdrawn or the Employee or Member of Council is acquitted.
2. Clause 3.8 (old 3.7) has been amended to clarify the conditions under which an Employee or Member of Council may be required to repay monies paid for a defence provided under clause 3.6 – where there has been a conviction under the Criminal Code, provincial legislation or regulation or under a municipal by-law. This excludes recapture of indemnity for other types of actions, including civil suits, administrative proceedings or profession association complaints.

Several additional edits (also in bold) have been made to ensure consistency of language and correction of a cross-reference section number.

Catherine Conrad  
 City Solicitor and Acting Director of Human Resources

ATTACHMENT 'A'

# The Corporation of the City of Markham

## By-law 2019-XX

A By-law to provide for the indemnification and defence of employees and Members of Council against loss or liability in certain circumstances arising out of acts or omissions done while acting on behalf of the Corporation.

WHEREAS section 279 of the *Municipal Act, 2001*, SO 2001, c 25, as amended, provides that a municipality may, subject to certain limitations, act as an insurer and protect present and former members of council, board members, employees and officers from risks that may involve pecuniary loss or liability on the part of those individuals;

And whereas Council has deemed it advisable to enact an indemnification by-law for this purpose.

Therefore be it enacted by the Council of The Corporation of the City of Markham as follows:

### 1. Definitions:

In this By-law:

"Action or Proceeding" includes all civil actions, provincial offences, administrative proceedings including but not limited to tribunals such as the Human Rights Tribunal, complaints to a professional association and third party proceedings, except any proceeding brought under the *Municipal Elections Act, 1996*, S.O. 1996, c. 32, Sched., the *Highway Traffic Act*, R.S.O. 1990, c.H.8, as amended, the *Criminal Code*, R.S.C. 1985, c.C.46, as amended (**the "Criminal Code"**), or municipal parking and traffic by-laws;

"Chief Administrative Officer" means the Chief Administrative Officer of the City of Markham or his/her designate;

"City" means The Corporation of the City of Markham; and

"City Clerk" means the City Clerk of the City of Markham or his/her designate;

"City Solicitor" means the City Solicitor of the City of Markham or his/her designate;

"Corporation" means The Corporation of the City of Markham;

"Council" means the Council of the City;

"Covered Action or Proceeding" means an Action or Proceeding arising out of alleged acts or omissions done or made by the Employee or Member acting in their capacity as an Employee, Member or officer of the City, including acts or omissions done or made by the Employee or Member in the performance of a statutory duty imposed by any general or special act and duties arising out of an appointment to a Statutory Board or Committee and having been determined by the Integrity Commissioner as entitled to indemnification;

"Department Head" means the Manager, Director, Commissioner or Chief Administrative Officer directly responsible for overseeing the work of the

Employee. The City Clerk is the "Department Head" for Members of Council and the Chief Administrative Officer;

"Director of Human Resources" means the Director of Human Resources of the City of Markham or his/her designate;

"Employee" means any salaried officer or any other person employed by the Corporation and any former employee or salaried officer and includes appointees and volunteers acting under the direction of a person in the employ of the City;

"Indemnified Person" means an Employee or a Member approved for indemnification under this By-law; (CMC: or use Eligible Person?)

"Integrity Commissioner" means any person or corporation appointed by the City of Markham to perform the functions assigned by Section 223.3 of the *Municipal Act*, 2001, S.O. 2001, c. 25 as amended, or by the Code of Conduct for Council, Local Boards, and Adjudicative Boards, as amended from time to time, or any person acting under the instructions of the Integrity Commissioner.

"Member" means a Member of the Council of the City of Markham and any former Member of Council;

"Statutory Board or Statutory Committee" means any board or committee of Council established or required by any Act of the Province of Ontario or whose members are appointed by City By-law;

## 2. Former Employees, Officers and Members

Subject to subsection 3.4(x), this By-law also applies to any person who was an Employee or Member at the time the cause of Action or other Proceeding arose but who, prior to judgment or other settlement of the Action or Proceeding, has ceased to be an Employee or Member.

## 3. Indemnification of Employees and Members:

- 3.1 Subject to the provisions of this By-law, the City shall, in respect of any Covered Action or Proceeding against an Employee or Member or in which the Employee or Member is a party and in which their conduct is called into question, indemnify the Employee or Member and his or her heirs and legal representatives in the manner and to the extent provided for in this By-law.
- 3.2 Where an Employee or Member becomes aware that an Action or Proceeding has been threatened against them, for which they may seek indemnification, the Employee or Member shall provide immediate and confidential written notice of the Action or Proceeding to their Department Head.
- 3.3 Where an Employee or Member is served with any document which commences an Action or Proceeding for which they seek indemnification, the Employee or Member shall provide the document or a copy thereof and a written request for indemnification, immediately and confidentially to the Integrity Commissioner, through the City Clerk. A copy of the confidential documents submitted to the Integrity Commissioner shall also be provided to the Employee's or Member's Department Head.
- 3.4 At any time prior to the conclusion of **an Action or Proceeding or any other matter for which indemnification is requested**, the Integrity Commissioner shall, exercising its own discretion, determine whether an Employee or Member is entitled to indemnification pursuant to this By-law. The Integrity Commissioner may authorize indemnity where it is determined, in the Integrity Commissioner's sole discretion, acting reasonably, that:
  - a) the Employee or Member acted honestly and in good faith with a view to the best interests of the City and with no improper,



immoral or objectionable purpose; and

- b) the act or omission was done while acting on behalf of the Corporation or done or made by them in good faith in their capacity as Employees or Members; and
- c) in the case of a criminal, quasi-criminal or administrative action or proceeding that is enforced by a monetary penalty, the Employee or Member had reasonable grounds for believing that his/her conduct was lawful; and
- d) the interests of the City and the Employee or Member are not adverse to each other; and
- e) the actions of the Employee were not of a nature as to provide grounds for immediate dismissal; and
- f) indemnification is not prohibited by statute or court order.

- 3.5 The Integrity Commissioner shall provide a written decision in respect of a request made under Subsection 3.3, within twenty (20) business days of receipt of the request. Notwithstanding Subsections 7.1 and 7.4, the decision of the Integrity Commissioner shall be final.
- 3.6 Where an Employee or Member is the subject of an investigation in a matter which may result in charges being laid against the Employee or Member under **the Criminal Code**, a provincial statute or regulation, or municipal by-law, **in relation to** any act done or any failure to act or allegations of same in the attempted performance or performance **in good faith** of his/her duties, the Employee or Member may be entitled to receive payment from the City for a retainer and/or interim payment of legal costs, up to \$15,000.00, to obtain legal representation during the investigation, at the discretion of the **Integrity Commissioner**.
- 3.7 **Notwithstanding any other provision of this By-law, where an Employee or Member is charged with an offence under the *Criminal Code*, as amended, a provincial statute or regulation, or municipal by-law, in relation to any act done or any failure to act or allegations of same in the attempted performance or performance in good faith of his/her duties, and where such charges have been withdrawn or where an Employee or Member is subsequently acquitted, the Employee or Member may be indemnified for the necessary and reasonable legal costs incurred in the defence of such charges or allegations.**
- 3.8 As a condition precedent to the City making any payment in respect of the costs of or representation of any Employee or Member pursuant to this By-law, the Employee or Member must agree in writing to comply with the provisions of this by-law and such other terms and conditions as are determined to be appropriate by the City Solicitor, and shall agree to repay the City on demand, in the event that the Employee or Member is convicted of an offence **under the Criminal Code, a provincial statute or regulation, or municipal by-law**, in respect of the Covered Action or Proceeding, all sums paid by the City in respect of the costs of defence or representation as to such charges, including the retainer referred to in Subsection 3.6 and must execute an indemnity agreement or other documentation required by the City to secure such repayment to the City. No retainer shall be **paid to or** on behalf of an Indemnified Person and/or no money shall be paid by the City with respect to any Action or Proceeding until an indemnity agreement has been executed. The Chief Administrative Officer and the Clerk are hereby authorized to execute such indemnity agreements on behalf of the City upon recommendation of the City Solicitor.

#### 4. Excluded Actions and Proceedings

4.1 This By-law does not apply to an Action or Proceeding:

- a) which relates to a grievance filed under the provisions of a collective agreement or any action taken by the City with respect to an Employee;
- b) under the Council Code of Conduct where the Member has been found by the Integrity Commissioner to have been in breach of any provision of the Council Code of Conduct;
- c) where the conduct or incident alleged in the Action or Proceeding also gives rise to a complaint or request for inquiry or investigation under the Council Code of Conduct and where the disposition of that complaint remains outstanding.
- d) where the Employee or Member acted in bad faith;
- e) where the Employee has been terminated as a result of the actions or omissions that gave rise to the Action or Proceeding;
- f) in any proceeding against a Member or Employee prosecuted by or on behalf of the City or in which the City was the complainant;
- g) where the Employee or Member was performing his or her duties otherwise than in good faith and honestly or with malice;
- h) where, in committing an alleged wrong, the Employee or Member was clearly acting on his or her own behalf and not that of the City.
- i) where adverse parties in civil proceedings would each be entitled to funding for defence costs under this by-law, it being the policy of the City that it shall not finance both sides of an Action or Proceeding and the neither party should receive indemnification in such circumstances;
- j) In third party claims or cross claims brought against Employees or Members where such third party claims or cross claims are for relief over against such Employees or Members in a proceeding commenced by the City;
- k) the subject actions or omissions were not within the Employee or Member's good faith performance of his or her duties.

4.2 Where the Integrity Commissioner has determined that an Employee or Member is not entitled to indemnification, the Employee or Member shall be responsible for all costs, damages, penalties and legal fees in connection with representation in the Action or Proceeding.

**5. Manner and Extent of Indemnification:**

Where an Employee or Member is entitled to indemnification under this By-law, in a Covered Action or Proceeding, the City shall:

- a) pay the costs of defending such Employee or Member; and
- b) pay any award of damages or costs, including any monetary penalty or award against such Employee or Member; and
- c) pay, either by direct payment or reimbursement, any expenses reasonably incurred by the Employee or Member; and
- d) pay any sum required in connection with the settlement of a Covered Action or Proceeding, provided that, as a condition

precedent, the City Solicitor and the Chief Administrative Officer have approved the terms of the settlement.

to the extent that such costs, damages, expenses, monetary penalty, other award or other sums related to the Covered Action or Proceeding are not assumed, paid or reimbursed under any provision of the City's insurance program for the benefit and protection of such person against any liability incurred by him or her.

## **6. City's Right to Select Legal Counsel:**

- 6.1 Subject to Section 12, the City shall have the right to select and retain legal counsel to represent an Indemnified Person and the City Solicitor shall advise the Employee or Member of the legal counsel selected to represent him/her.
- 6.2 An Indemnified Person may retain their own legal counsel for their defence or representation in a Covered Action or Proceeding in lieu of the legal counsel provided by the City, provided that the City shall not be obliged to pay for the services of the Indemnified Person's legal counsel at a rate in excess of the rates the City pays for legal counsel on insurable claims. If the Indemnified Person's choice of legal counsel charges in excess of the rates the City pays for insurable claims, the Indemnified Person shall be responsible for the difference in the legal costs.
- 6.3 Where an Indemnified Person seeks approval of legal counsel under Subsection 6.2, the Indemnified Person shall advise the City Solicitor through the written request in Subsection 3.3, and shall provide sufficient information to support the City Solicitor's decision, acting reasonably, to approve the Indemnified Person's choice of legal counsel, which may include the hourly rate charged by the legal counsel, as well as the experience of such legal counsel in dealing with similar claims.

## **7. Limits to Indemnification:**

- 7.1 The Integrity Commissioner shall have the authority at any time during or after the commencement of the Action or Proceeding, upon the request of the Employee or Member, to review its decision to not provide indemnity and may provide indemnity where additional facts become available, that demonstrate that the Employee or Member is entitled to indemnification pursuant to this By-law.
- 7.2 The City Solicitor, acting reasonably, may require one or both of the following:
  - a) Periodic Budgets for anticipated legal costs, which may be revised from time to time as circumstances require; and
  - b) Status Updates in respect of the progress of the proceedings;
  - c) Detailed invoices including details of docketed time; and
  - d) Work plans and any other documents deemed appropriate by the City Solicitor.
- 7.3 The City Solicitor may require that any account for legal costs for which reimbursement is sought, be assessed by Court Assessment Officer prior to payment by the City.
- 7.4 Notwithstanding any other provision of this By-law, the Council may, by resolution of Council, choose not to indemnify an Indemnified Person, or may cease to indemnify an Indemnified Person if it has commenced to do so, if:
  - a) the Indemnified Person breaches any provision of this By-law or any agreement for indemnification or reimbursement entered into by the Indemnified Person, at any time;

- b) the Indemnified Person or their legal counsel took a step which was unnecessary or otherwise prejudicial to the conduct of the Covered Action or Proceeding;
- c) the Indemnified Person initiated a counterclaim, cross claim, third party claim, appeal, or other proceeding related to the Covered Action or Proceeding for which the indemnity or reimbursement was sought, without first obtaining approval from the City Solicitor; or
- d) the Covered Action or Proceeding arises out of the Indemnified Person's bad faith acts or omissions, or their intentional or malicious wrongful conduct.

## **8. Third Party Actions and Counterclaims:**

An Indemnified Person may not commence a third party action or Counterclaim unless such Action or Counterclaim is part of the proper defence of the Indemnified Person in a Covered Action or Proceeding under this By-law, and only if such Action or Counterclaim has been approved by the City Solicitor.

## **9. Duty to Cooperate**

- 9.1 An Indemnified Person shall co-operate fully with the City in the management of any Covered Action or Proceeding including the requirements of section 7.2.
- 9.2 An Indemnified Person shall cooperate fully with any legal counsel retained by the City to defend any Covered Action or Proceeding and shall make available to such legal counsel all information and documentation relevant to matter as are within his or her knowledge, possession or control, and shall attend at all proceedings when requested to do so by such legal counsel.

## **10. Failure to Comply With By-law**

If an Indemnified Person fails or refuses to comply with the provisions of this By-law, or any agreement entered into by the Indemnified Person for indemnification or reimbursement, the Council shall have authority to determine whether to assume or pay or continue to pay any of the costs, damages, expenses or sums mentioned in Sections 5 or 6 of this By-law. Prior to the Council making a decision to terminate or rescind indemnity, the Indemnified Person shall be provided with the opportunity to make submissions to the Council in support of the Indemnified Person's indemnification.

## **11. Appeal**

- 11.1 Where a person seeks to appeal a judgment or decision in a Covered Action or Proceeding, the Indemnified Person shall first consult with the Integrity Commissioner, and the Integrity Commissioner shall have sole discretion to determine indemnification eligibility for the appeal. If an Indemnified Person pursues an appeal, or participates as a party in an appeal, without first seeking indemnification approval from the Integrity Commissioner and is successful in that appeal, the Integrity Commissioner shall have sole discretion to determine whether the Indemnified Person shall be indemnified for his or her legal costs in the appeal.
- 11.2 Where the Integrity Commissioner determines that it is not in the City's interest to commence an appeal and the Indemnified Person elects to proceed with an appeal, all costs of the appeal, including any awards of damages or costs, shall be at his or her own expense.

**12. Conflict**

12.1 The City maintains various policies of insurance for both the City and its Employees and Members. The provisions of this By-law are intended to supplement the protection provided by such policies of insurance. In the event of conflict between this By-law and the terms of any such policy of insurance in place from time to time, the terms of such policy or policies of insurance shall prevail.

**13. Reimbursement**

Where the Employee or Member is to be indemnified by the City, the amount of the indemnity shall be reduced by the amount of any costs recovered by the Employee or Member and where the indemnity has been paid, any costs recovered by the Employee or Member shall be paid or assigned to the City up to the amount of the indemnity.

**14. Severability**

If any sections, section or part of a section of this By-law are found by any Court to be illegal or beyond the power of Council to enact, such sections or section or part of a section shall be deemed to be severable and all other sections or parts of sections of this By-law shall be deemed to separate and independent and shall continue in full force and effect.

Enacted and passed this                      day of                      2019.

\_\_\_\_\_  
Mayor Frank Scarpitti

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Clerk Kimberley Kitteringham

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Report to: Development Services Committee

Meeting Date: March 18, 2019

**SUBJECT:** **Recommendation Report**  
 Amendment to Designation By-law 4-78  
 Eckardt-Stiver House, 206 Main Street Unionville, Ward 3

**PREPARED BY:** George Duncan, CAHP, Senior Heritage Planner, ext.2296

**REVIEWED BY:** Regan Hutcheson, MCIP, RPP, CAHP  
 Manager of Heritage Planning, ext.2080

### RECOMMENDATION:

- 1) That the staff report titled "Amendment to Designation By-law 4-78, Eckardt-Stiver House, 206 Main Street Unionville", dated March 18, 2019, be received;
- 2) That By-law 4-78 designating the Eckardt-Stiver House at 206 Main Street, Unionville under Part IV of the Ontario Heritage Act be amended as per Appendix "A" to this report, to update the Statement of Significance to include both exterior and interior architectural features;
- 3) That the Clerks Department serve upon the owner Council's Notice of Intention to Amend the Designation By-law as per the requirements of the Ontario Heritage Act;
- 4) That if there is no objection to the amendment by the owner in accordance with the provisions of the Ontario Heritage Act, the Clerk be authorized to place an amending by-law before Council for adoption;
- 5) That if there is an objection to the amendment by the owner in accordance with the provisions of the Ontario Heritage Act, the Clerk be directed to refer the proposed amendment to the Ontario Conservation Review Board;
- 6) And that Staff be authorized and directed to do all things necessary to give effect to this resolution.

### PURPOSE:

The purpose of the report is to amend the existing designation by-law to update the Statement of Significance to include both exterior and interior architectural features.

### BACKGROUND:

#### **The property is designated under Part IV of the Ontario Heritage Act**

The subject property was individually designated pursuant to the Ontario Heritage Act (the Act) in 1978 by By-law 4-78, along with a number of other properties. The Reasons for Designation (now referred to as the Statement of Significance as per the current legislation) specific to this property forms Schedule H of the by-law. The property is also designated under Part V of the Ontario Heritage Act as part of the Unionville Heritage Conservation District.

**Protection of significant interior features is a condition of development approval**

The amendment of the designation by-law to include significant interior features has been negotiated with the property owner as part of the development approval process for a new residential building on the subject property and an addition to the existing commercial building (the heritage building). Including interior features of a heritage building is done in special circumstances when the building is found to be of exception cultural heritage value. The Eckardt-Stiver House c.1829 is the oldest building in Unionville and one of the oldest in Markham. It contains interior trimwork that demonstrates a high degree of design value and craftsmanship. The proposed revised Reasons for Designation - Statement of Significance is attached as Appendix "A".

**Heritage Markham has been consulted**

As per the requirements of the Act, Heritage Markham has been consulted and at their meeting of April 11, 2018, when considering the overall development proposal, recommended that the designation by-law be amended to include interior features.

**OPTIONS/ DISCUSSION:****The Ontario Heritage Act has a process to amend designation by-laws**

The Act recognizes that over time, municipal councils may need to update different parts of an existing designation by-law. As of April 2005, for minor amendments, the Act includes an abbreviated process for amending designation by-laws that does not require the public notice required for designation. By-laws can be amended under section 30.1(2) to (10) to:

- Clarify or correct the Statement of Cultural Heritage Value or Interest or the Description of Heritage Attributes;
- Correct the Legal Description of the property;
- Revise the language of the by-law to make it consistent with the current requirements of the Act or its regulations.

**Owner is given notice of amendment**

The Owner is aware of the heritage designation process through the Site Plan Control application and approval for the proposed development on the subject property. Notice of the proposed amendment will be sent to the owner of the property who has the opportunity to object. If there is no objection within 30 days then Council can pass the amending by-law. If there is an objection, the proposed amendment will be referred to the Conservation Review Board (CRB) in a process similar to the objection process for designation. Once Council is in possession of the CRB report, it can proceed with the amendment or withdraw its intention to amend. However, Council is not bound to follow the recommendations of the CRB.

**The City Solicitor advises to amend by-laws rather than repeal**

The Ministry of Culture's guidebook on property designations recommends that a municipality seek the advice of its solicitor when considering the options for amending a by-law. The City Solicitor has advised that it is unnecessary to repeal a by-law for a

change to the Statement of Significance. Instead, the by-law's schedule should be amended to reflect the revised wording.

**FINANCIAL CONSIDERATIONS AND TEMPLATE: (external link)**

Not applicable

**HUMAN RESOURCES CONSIDERATIONS**

Not applicable


**ALIGNMENT WITH STRATEGIC PRIORITIES:**

Not applicable

**BUSINESS UNITS CONSULTED AND AFFECTED:**

Reviewed with Legal Services and the Heritage Markham Committee.

**RECOMMENDED BY:**

  
Biju Karumanchery, MCIP, RPP  
Director of Planning & Urban Design

  
Arvin Prasad, MCIP, RPP  
Commissioner of Development Services.

**ATTACHMENTS:**

Figure 1: Location Map  
Figure 2: Building Photograph  
Appendix "A": Revised Reasons for Designation/Statement of Significance

**File path:**

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**Property Owner:** Stiver Lane Inc.

**Figure 1: Location Map**



**Figure 2: Buildign Photograph**



**The Eckardt-Stiver House, c.1829, 206 Main Street Unionville**

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## **Eckardt-Stiver House**

### **c.1829**

### **206 Main Street, Unionville**

The Eckardt-Stiver House is recommended for designation under Part IV of the Ontario Heritage Act as a property of cultural heritage value or interest, as described in the following Statement of Significance.

#### Description of Property

The Eckardt-Stiver House is a one storey adobe brick building on the west side of Main Street, Unionville, within the commercial core of the village.

#### Historical and Associative Value

The Eckardt-Stiver House has historical and associative value as the oldest remaining building in the village of Unionville, constructed c.1829 for Frederick Eckardt, one of the sons of Berczy settler Philip Eckardt. Frederick Eckardt created a plan of village lots in the 1840s that in time became the centre of the village. He was primarily a farmer that resided north of the village and only lived in this dwelling for a short time. In William Berczy's original plan for his settlement of German immigrants, this property was earmarked for a doctor. In 1874, the property was sold to Daniel Burkholder, who was married to Agnes Jenkins, granddaughter of Reverend William Jenkins, the well-known Presbyterian clergyman. The house was named "Fern Cottage." Daniel and Agnes Burkholder's daughter Marein married Charles Howard Stiver, Township clerk and local entrepreneur. They built a new house next door at 202 Main Street. Marein Stiver gifted the house at 206 Main Street to her son Ewart Jenkins Stiver, and it remained in the Stiver family's ownership until 2008. During the time when Unionville was the self-proclaimed "antique capital of Ontario" the Stiver House became a popular retail store selling antiques and other merchandise relating to country decorating.

#### Design or Physical Value

The Eckardt-Stiver House has design or physical value as an excellent example of an Ontario Regency Cottage. It is also of particular note as a rare example of an adobe brick structure. Brick cladding was added to the front and portions of the side walls in the 1850s. The front entrance, with a Neo-classical style wood door surround and sidelights, is a fine example of the style and period. The entrance is flanked by multi-paned Venetian windows. The interior retains early wood trim reminiscent of the designs of American architect Asher Benjamin, who published architectural pattern books that were widely distributed throughout the 1820s and 1830s.

#### Contextual Value

The Eckardt-Stiver House has contextual value as one of a grouping of 19<sup>th</sup> and early 20<sup>th</sup> century buildings that define the character of Unionville's historic commercial core. Some of these buildings were constructed as commercial structures. Others, such as the Eckardt-Stiver House, are former residences converted to commercial use.

Significant Architectural Attributes to be Conserved

Exterior, character-defining elements that embody the cultural heritage value of the Eckardt-Stiver House include:

- One-storey form, rectangular plan, on a raised fieldstone foundation;
- Adobe brick construction with brick and stucco cladding;
- Low-pitched hipped roof with wide overhanging eaves, wood soffits and trim;
- Brick chimney on the south wall;
- Front doorcase with its Neo-classic style wood surround, sidelights, and modified 8-panelled wood door;
- Six-panelled south side wood door.
- Front three-part Venetian windows with multi-paned wood sash;
- Side windows with multi-paned wood sash.

Interior, character-defining elements that embody the cultural heritage value of the Eckardt-Stiver House include:

- Early pine moulded wood trim around door and window openings;
- Early pine panelled doors;
- Early pine moulded baseboards;
- Early pine fireplace mantel and brick fireplace in the south room;
- Early pine panelled wainscoting in the south room;
- Early pine plank floors underlying modern floor coverings.



Report to: Development Services Committee

Meeting Date: March 18, 2019

**SUBJECT:** **Recommendation Report**  
 Amendment to Designation By-law 211-79  
 Briarwood Farm – James McLean House,  
 4031 Sixteenth Avenue, Ward 3

**PREPARED BY:** George Duncan, CAHP, Senior Heritage Planner, ext. 2296

**REVIEWED BY:** Regan Hutcheson, MCIP, RPP, CAHP Manager of Heritage Planning, Ext 2080

**RECOMMENDATION:**

- 1) That the staff report titled “Amendment to Designation By-law 211-79, Briarwood Farm – James McLean House, 4031 Sixteenth Avenue”, dated March 18, 2019, be received;
- 2) That By-law 211-79 designating Briarwood Farm – James McLean House at 4031 Sixteenth Avenue under Part IV of the Ontario Heritage Act be amended as per Appendix “A” to this report, as the building will be relocated within the subject property and will have a new legal description, and to update the Statement of Significance to include interior architectural features;
- 3) That the Clerks Department serve upon the owner Council’s Notice of Intention to Amend the Designation By-law as per the requirements of the Ontario Heritage Act;
- 4) That if there is no objection to the amendment by the owner in accordance with the provisions of the Ontario Heritage Act, the Clerk be authorized to place an amending by-law before Council for adoption;
- 5) That if there is an objection to the amendment by the owner in accordance with the provisions of the Ontario Heritage Act, the Clerk be directed to refer the proposed amendment to the Ontario Conservation Review Board;
- 6) And that Staff be authorized and directed to do all things necessary to give effect to this resolution.

**PURPOSE:**

The purpose of the report is to amend the existing designation by-law to reflect the new legal description of the property and to update the Statement of Significance to include significant interior features.

**BACKGROUND:**

**The property is designated under Part IV of the Ontario Heritage Act**

The subject property was individually designated pursuant to the Ontario Heritage Act (the Act) in 1979 by By-law 211-79, along with several other properties. The Reasons for Designation (now referred to as the Statement of Significance as per the current legislation) specific to this property forms Schedule E of the by-law.

**The heritage building is proposed to be relocated within the subject property**

As part of the proposed development of the subject property for a small subdivision of single detached dwellings on a private road, the heritage building will be relocated slightly to a new parcel, Block 7, Draft Plan 19TM-16004. The heritage building will be placed upon a new foundation, restored, and an addition will be built to face a new internal street. As the result of negotiations with the applicant relative to the preservation of the heritage building, the amendment of the designation by-law to include significant interior features was agreed to. Including interior features of a heritage building is done in special circumstances when the building is found to be of exceptional cultural heritage value. Briarwood Farm – James McLaren House, c.1855, is a very well preserved example of a mid-19<sup>th</sup> century farmhouse. It contains interior woodwork that demonstrates a high degree of design value and craftsmanship. The proposed revised Reasons for Designation/Statement of Significance is attached as Appendix “A”.

**Heritage Markham has been consulted**

As per the requirements of the Act, Heritage Markham has been consulted and at its meeting of November 8, 2017, when considering the overall development proposal, the committee recommended that the designation by-law be amended to include interior features.

**OPTIONS/ DISCUSSION:****The Ontario Heritage Act has a process to amend designation by-laws**

The Act recognizes that over time, municipal councils may need to update different parts of an existing designation by-law. As of April 2005, for minor amendments, the Act includes an abbreviated process for amending designation by-laws that does not require the public notice required for designation. By-laws can be amended under section 30.1(2) to (10) to:

- Clarify or correct the Statement of Cultural Heritage Value or Interest or the Description of Heritage Attributes;
- Correct the Legal Description of the property;
- Revise the language of the by-law to make it consistent with the current requirements of the Act or its regulations.

**Owner is given notice of amendment**

The property owner is aware of the heritage designation process through the development application process for the proposed development on the subject property. Notice of the proposed amendment will be sent to the owner of the property who has the opportunity to object. If there is no objection within 30 days then Council can pass the amending by-law. If there is an objection, the proposed amendment will be referred to the Conservation Review Board (CRB) in a process similar to the objection process for designation. Once Council is in possession of the CRB report, it can proceed with the amendment or withdraw its intention to amend. However, Council is not bound to follow the recommendations of the CRB.

**City Solicitor advises to amend by-laws rather than repeal**

The Ministry of Culture's guidebook on property designations recommends that a municipality seek the advice of its solicitor when considering the options for amending a by-law. The City Solicitor has advised that it is unnecessary to repeal a by-law for a relocated building. Instead, the by-law's schedule should be amended to reflect its new legal description. The by-law as amended will then be registered against the new land parcel and the old by-law will be deleted against the now incorrect parcel. We would only repeal a by-law in the case of demolition or loss.

**FINANCIAL CONSIDERATIONS AND TEMPLATE: (external link)**

Not applicable

**HUMAN RESOURCES CONSIDERATIONS**

Not applicable

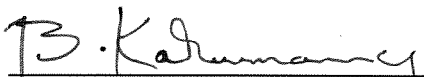
**ALIGNMENT WITH STRATEGIC PRIORITIES:**

Not applicable

**BUSINESS UNITS CONSULTED AND AFFECTED:**

Reviewed with Legal Services and the Heritage Markham Committee.

**RECOMMENDED BY:**

  
Biju Karumanchery, MCIP, RPP  
Director of Planning & Urban Design

  
Arvin Prasad, MCIP, RPP  
Commissioner of Development Services.

**ATTACHMENTS:**

Figure 1: Location Map  
Figure 2: Building Photograph  
Appendix "A": Revised Statement of Significance

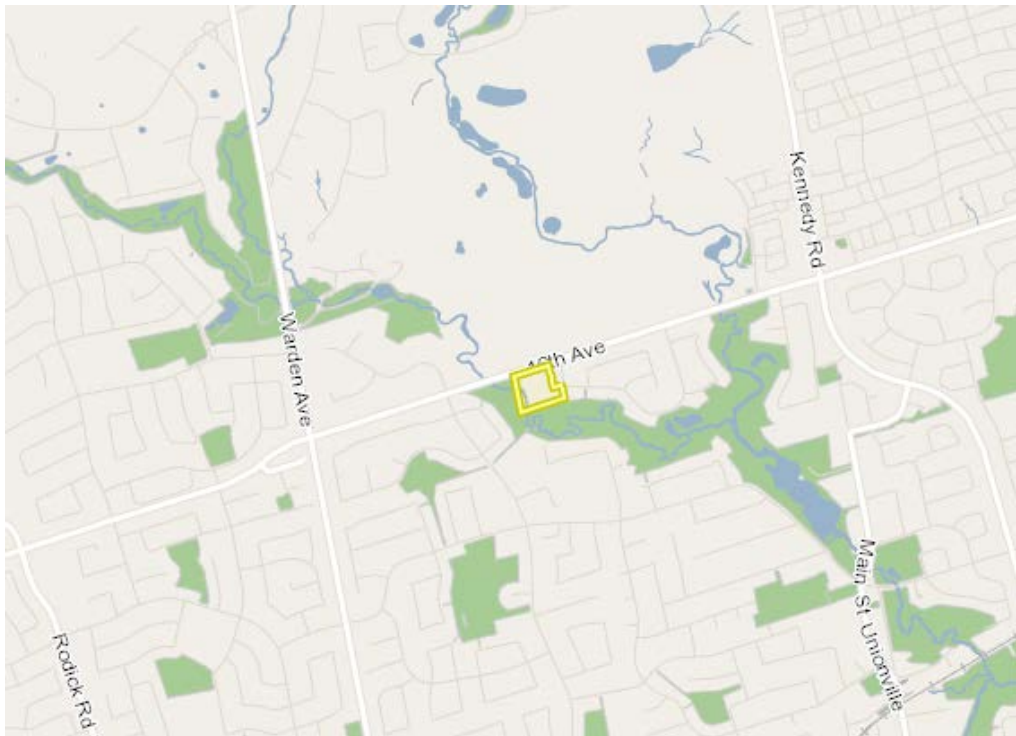
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**Property Owner:** 4031 Sixteenth Avenue (Unionville) Inc./Livante Developments

**Figure 1: Location Map**





**Figure 2: Building Photograph**



**Briarwood Farm – James McLean House, c.1855**

**Appendix “A”: Revised Reasons for Designation/Statement of Significance****Briarwood Farm – James McLean House**

c.1855

4031 Sixteenth Avenue

Briarwood Farm – James McLean House is recommended for designation under Part IV of the Ontario Heritage Act as a property of cultural heritage value or interest, as described in the following Statement of Significance.

Description of Property

Briarwood Farm – James McLean House is a one and a half storey patterned brick farmhouse located on the south side of 16<sup>th</sup> Avenue, east of Warden Avenue, bounded by a river valley on the west side and late 20<sup>th</sup> century houses fronting on Normandale Avenue on the east side.

Historical and Associative Value

Briarwood Farm – James McLean House has historical and associative value as the former home of James McLean, a Scottish immigrant that received the Crown patent for Lot 15, Concession 5, a former Clergy Reserve Lot, in 1845. McLean was a tenant on the land prior to becoming the owner. At the time of the 1851 census, James and Flora (McKinnon) McLean resided in a log house. By 1861, the log house had been replaced by a fine brick farmhouse. In 1875, the west half of the farm, including this dwelling, were willed to John Patterson, a labourer who had resided with the family for a considerable time and was married to Flora, the McLeans' daughter. The property is also of significance for its more recent history. In 1945, the farm was purchased by Aubrey Dean Hughes and Dora Evelyn Hughes. The Hughes family named the farm “Briarwood.” Dean Hughes wrote about life on this farm north of Unionville in two books, *And So They Bought a Farm* and *Along the Sideroad*. He also used the farm as the basis of a radio show on the CBC that ran for 25 years, titled “The Craigs,” and had a column in the Toronto Star.

Design and Physical Value

Briarwood Farm – James McLaren House has design and physical value as an excellent example of a mid-19<sup>th</sup> century farmhouse in patterned brick, with a Georgian Tradition form and Classic Revival details. It is a type of substantial farmhouse that reflects a period of agricultural prosperity in the 1850s when wheat was selling for good prices, enabling many Markham Township farmers the means to replace older log and frame dwellings. This house is exceptional for its excellent state of preservation both on the exterior and interior.

Contextual Value

Briarwood Farm – James McLean House has contextual value as a remnant of the former agricultural community that historically existed to the north of Unionville, now transformed to a suburban community in the City of Markham.

Significant Architectural Attributes to be Conserved

Exterior, character-defining elements that embody the cultural heritage value of Briarwood Farm – James McLean House include:

- One-and-a-half storey main block of the building, and its one storey rear kitchen wing;
- Exterior walls of red brick with buff brick accents in the form of quoining, ground floor door and window arches, and frieze;
- Gable roof with its wood cornice and eave returns;
- Gable-end single-stack brick chimneys with limestone copings;
- Six over six sash-style wood windows with operable louvered wood shutters and projecting window sills;
- Single-leaf front door with a single panel in the Classic Revival style, with multi-paned wood transom and sidelights and wood panels below the sidelights;

Interior, character-defining elements remaining from the 1850s that embody the cultural heritage value of Briarwood Farm – James McLean House include:

- Pine plank floors;
- Staircase with turned newel posts, oval handrail and square pickets;
- Pine, single-panelled front door with rim lock;
- Four panelled pine doors with period hardware;
- Pine baseboards;
- Pine door and window architrave trim, and panelled window aprons;
- Brick fireplace and pine fireplace mantel in the west room
- Brick cooking fireplace, iron crane and wood mantel in the rear wing.



Report to: Development Services Committee

Meeting Date: March 18, 2019

**SUBJECT:** **Recommendation Report**  
 Intention to Designate a Property under  
 Part IV of the Ontario Heritage Act  
 Thomas Lownsbrough House  
 9392 Kennedy Road, Ward 6

**PREPARED BY:** George Duncan, CAHP, Senior Heritage Planner, ext. 2296

**REVIEWED BY:** Regan Hutcheson, MCIP, RPP, CAHP,  
 Manager of Heritage Planning, ext.2080

**RECOMMENDATION:**

- 1) That the staff report entitled "Intention to Designate a Property Under Part IV of the Ontario Heritage Act, Thomas Lownsbrough House, 9392 Kennedy Road," dated March 18, 2019, be received;
- 2) That as recommended by Heritage Markham, the Thomas Lownsbrough House at 9392 Kennedy Road be approved for designation under Part IV of the Ontario Heritage Act as a property of cultural heritage value or interest;
- 3) That the Clerk's Department be authorized to publish and serve Council's Notice of Intention to Designate as per the requirements of the Ontario Heritage Act;
- 4) That if there are no objections to the designation in accordance with the provisions of the Ontario Heritage Act, the Clerk be authorized to place a designation by-law before Council for adoption;
- 5) That if there are any objections in accordance with the provisions of the Ontario Heritage Act, the Clerk be directed to refer the proposed designation to the Ontario Conservation Review Board;
- 6) And that Staff be authorized and directed to do all things necessary to give effect to this resolution.

**PURPOSE:**

The purpose of this report is to recommend to Council that the "Thomas Lownsbrough House" be designated under Part IV of the Ontario Heritage Act in accordance with the conditions of draft approval associated with the Kylemore Communities (Yorkton) Limited Phase 2 subdivision.

**BACKGROUND:**

**The property is listed on the City of Markham Register**

The subject property is located at 9392 Kennedy Road. It is included in the Markham Register of Property of Cultural Heritage Value or Interest. The Register is the City's inventory of non-designated properties identified as having cultural heritage value or interest, as well as Part IV properties (individual designations) and Part V properties (district designation).

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**The Thomas Lowsbrough House, c.1845 is one of the last remaining heritage buildings marking the location of Hunter's Corners**

The Thomas Lowsbrough House, c.1845, is one of the last remaining heritage buildings marking the location of Hunter's Corners, an historic crossroads community to the north of Unionville. It is a representative example of a modest tradesman's dwelling in the form of a Classic Ontario centre gable cottage.

The Statement of Significance is attached as Appendix 'A'.

**The building has been assessed using the Ministry of Culture's Designation Criteria**

The Government of Ontario on January 25, 2006 passed a regulation (O.Reg. 9/16) which prescribes criteria for determining a property's cultural heritage value or interest for the purpose of designation. Municipal councils are permitted to designate a property to be of cultural heritage value or interest if the property meets the prescribed criteria.

The purpose of the regulation is to provide an objective base for the determination and evaluation of resources of cultural heritage value. The prescribed criteria help ensure the effective, comprehensive and consistent determination of value or interest by all Ontario municipalities. The criteria are essentially a test against which properties can be judged; the stronger the characteristics of the property compared to the standard, the greater the property's cultural heritage value. The property may be designated if it meets one or more of the criteria.

The subject property has cultural heritage value or interest as it meets the following criteria:

- The property has design value or physical value because it:
  - Is a rare, unique, representative or early example of a style, type expression, material or construction method (the Lowsbrough House is a representative example of a tradesman's dwelling in the form of a Classic Ontario centre gable cottage),
- The property has historical value or associative value because it:
  - Has direct associations with a theme, event, belief, person, activity, organization or institution that is significant to a community (this was the home of Thomas Lowsbrough, an English-born shoemaker who was part of the Hunter's Corners community);
- The property has contextual value because it:
  - Is important in defining, maintaining or supporting the character of an area (the Lowsbrough House, is one of the last remaining heritage buildings marking the location of the historic community of Hunter's Corners).

**Heritage Markham has recommended designation**

The designation process under the Ontario Heritage Act requires a municipal council to consult with its municipal heritage committee when properties are considered for designation. The cultural heritage value of this Group 2 cultural heritage resource was

considered by Heritage Markham on February 5, 2015 and the committee recommended that the resource be designated as a property of cultural heritage value or interest as a condition of draft approval for the Kylemore Yorkton Phase 2 subdivision.

**OPTIONS/ DISCUSSION:****The heritage designation of the heritage resource is consistent with City policies**

The City of Markham Official Plan 2014 contains Cultural Heritage policies related to the protection and preservation of heritage resources and how they are to be treated within the development process. The preservation of buildings of cultural heritage value on their original sites and their integration into new development, as the City has achieved in this case, is consistent with the policies of the Markham Official Plan 2014.

**The owner is aware of the City's intention to designate this property under the Ontario Heritage Act through the development approval process.**

Heritage Designation, a Heritage Easement Agreement, and a Site Plan Control application that includes a restoration plan for the heritage building are conditions of draft approval for the Kylemore Communities Yorkton Phase 2 development. The owners are aware of these requirements as a condition of draft approval for the subdivision. The Heritage Easement Agreement and Site Plan Control application are outstanding items that will be addressed this year by staff, working in cooperation with the applicant.

**Designation acknowledges the importance of the heritage resource**

Designation signifies to both the owner and the broader community that the property contains a significant resource that is important to the community. Designation doesn't restrict the use of the property. However, it does require the owner to seek approval for property alterations that are likely to affect the heritage attributes described in the designation by-law. Council can also prevent, rather than just delay, the demolition of a resource on a designated heritage property.

The designation of this cultural heritage resource is supported by staff.

**FINANCIAL CONSIDERATIONS AND TEMPLATE:**

Not Applicable

**HUMAN RESOURCES CONSIDERATIONS**

Not Applicable

**ALIGNMENT WITH STRATEGIC PRIORITIES:**

Heritage designation aligns with the strategic priorities of Managed Growth and Environment. Designation recognizes, promotes and protects heritage resources, which strengthens the sense of community. The preservation of heritage buildings is environmentally sustainable because it conserves embodied energy, diverts sound construction materials from entering landfill sites, and reduces the need to produce and transport new construction materials.

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**BUSINESS UNITS CONSULTED AND AFFECTED:**

Acceptance of this recommendation to designate the property located at 9392 Kennedy Road under Part IV of the Ontario Heritage Act will require the Clerk's Department to initiate the following actions:

- publish and serve on the property owner, the Ontario Heritage Trust and the public through newspaper advertisement, Council's notice of intention to designate the property as per the requirements of the Act: and
- prepare the designation by-law for the property

**RECOMMENDED BY:**

Biju Karumanchery, MCIP, RPP  
Director of Planning & Urban Design



Arvin Prasad, MCIP, RPP  
Commissioner of Development Services

**ATTACHMENTS**

Figure 1 - Location Map

Figure 2 - Building Photograph

Appendix 'A' - Statement of Significance

**FILE PATH:**

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Kylemore Communities (Yorkton) Limited c/o  
Michael Montgomery

9400 St. Philip's On-The-Hill Anglican Church

Bethesda Lutheran Cemetery 9423

Creekvalley Lane

Beaufort Way

Island Green Lane

Woodbrook Way

Kennedy Rd

Fierheller Crt

Beckett Ave

New Yorkton Ave

House numbers shown include: 28, 30, 32, 34, 36, 38, 40; 25, 27, 29; 6, 8, 10, 12; 11, 9, 7, 5, 3, 1; 26, 28, 30, 32, 34, 36; 16, 14, 12, 10, 8, 6, 4, 2; 9392, 9390, 9388, 9386, 9384, 9380, 9378, 9376, 9374, 9372, 9370, 9368, 9366; 19, 17, 15, 13, 11; 2, 4, 6, 8, 10; 9365.



**Figure 2: Building Photograph**



**Thomas Lowsbrough House, c.1845.**

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**Appendix 'A'****STATEMENT OF SIGNIFICANCE****Thomas Lownsbrough House**  
**9392 Kennedy Road**  
**c.1845**

The Thomas Lownsbrough House is recommended for designation under Part IV of the Ontario Heritage Act as a property of cultural heritage value or interest, as described in the following Statement of Significance.

**Description of Property**

The Thomas Lownsbrough House is a one and a half storey frame house located on the west side of Kennedy Road, an area under urban development, a short distance north of 16<sup>th</sup> Avenue. The house faces east and is on its original site.

**Historical or Associative Value**

The Thomas Lownsbrough House is of historical or associative value as the c.1845 home of Thomas Lownsbrough, an English-born shoemaker who was part of the Hunter's Corners community north of Unionville while a tenant of John Hunter, and later his daughter, Ada Naomi Hunter, from c.1845 to 1891. In 1892, Miss Hunter sold the property to Reverend Henry B. Owen, Rector of St. Philip's Anglican Church, next door to the north. The Reverend Owen served the church from 1891 until his death in 1899.

**Design or Physical Value**

The Thomas Lownsbrough House is of design or physical value as a representative example of a tradesman's dwelling in a vernacular version of the Gothic Revival style commonly referred to as a Classic Ontario centre gable cottage. It is also a representative example of an evolved building, which started as a modestly-scaled one storey vernacular tradesman's dwelling in the mid-19<sup>th</sup> century that was later raised to one and a half storeys, perhaps in the 1870s.

**Contextual Value**

The Thomas Lownsbrough House is of contextual value as one of a few cultural heritage features remaining from the historic community of Hunter's Corners.

**Significant Architectural Attributes**

Exterior character-defining attributes that embody the cultural heritage value of the Thomas Lownsbrough House include:

- Overall form of the one and a half storey, rectangular plan main block;
- Fieldstone foundation;
- Historic cladding, if present, under modern siding materials;
- Medium-pitched gable roof with projecting, open eaves, and steep centre gable on the front wall;

- Asymmetrical placement of the front door and window openings;
- Size and placement of existing door and window openings;
- Former window opening in front gable, currently covered by modern siding materials.



Report to: Development Services Committee

Report Date: March 18, 2019

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**SUBJECT:** RECOMMENDATION REPORT  
F.J. Homes Limited  
Proposed Zoning By-law Amendment and Draft Plan of Subdivision 19TM-17007 to permit 14 single detached dwellings. Southwest corner of Roy Rainey Avenue and Country Ridge Drive (Ward 4).

Files ZA/SU 17 155326

**PREPARED BY:** Stephen Corr, MCIP, RPP, ext. 2624  
Senior Planner, East District

**REVIEWED BY:** Sally Campbell, MCIP, RPP, ext. 2645  
Manager, East District

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**RECOMMENDATION:**

- 1) That the report titled "RECOMMENDATION REPORT, F.J. Homes Limited, Proposed Zoning By-law Amendment and Draft Plan of Subdivision 19TM-17007 to permit 14 single detached dwellings. Southwest corner of Roy Rainey Avenue and Country Ridge Drive (Ward 4), Files ZA/SU 17 155326", be received;
- 2) That the Zoning By-law Amendment application submitted by F.J. Homes Limited, to amend Zoning By-law 177-96, as amended, be approved and that the draft by-law attached as Appendix 'A' be finalized and enacted without further notice;
- 3) That in accordance with the provisions of subsection 45(1.4) of the Planning Act, R.S.O. 1990, c.P.13, as amended, the owner shall, through this resolution, be permitted to apply to the Committee of Adjustment for a variance from the provisions of the zoning by-law (Appendix 'B') within two years of its approval by Council
- 4) That Draft Plan of Subdivision 19TM-17007 submitted by F.J. Homes Limited, be approved subject to the conditions outlined in Appendix 'B';
- 5) That the Director of Planning and Urban Design, or his designate be delegated authority to issue draft approval, subject to the conditions set out in Appendix 'B' and as may be amended by the Director of Planning and Urban Design;
- 6) That the draft plan approval for Plan of Subdivision 19TM-17007 will lapse after a period of three (3) years from the date of Council approval in the event that a subdivision agreement is not executed within that period;

Report to: Development Services Committee

Report Date: March 18, 2019

Page 2

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- 7) That Council assign servicing allocation for up to 14 single detached dwellings; and,
  - 8) That Staff be authorized and directed to do all things necessary to give effect to this resolution.

**EXECUTIVE SUMMARY:**

This report recommends approval of applications submitted by F.J Homes Limited for a draft plan of subdivision (19TM-17007) and an implementing zoning by-law amendment for the subject lands located at the southwest corner of Country Ridge Drive and Roy Rainey Avenue in Wismer (Figures 1 – 3). Approval of the applications will permit a residential development comprised of 14 two-storey single detached dwellings. The draft plan also includes blocks to be conveyed to the City to widen the Country Ridge Drive boulevard for utilities and street tree plantings and, to expand a City-owned natural heritage buffer to accommodate a new trail along the south edge of the subject property (behind the proposed residential lots).

Staff are satisfied with the lot pattern, and are of the opinion that the Draft Plan of Subdivision and implementing Zoning By-law amendment are consistent with City policy, Regional and Provincial Policy and therefore recommend approval of the applications.

**BACKGROUND:**

The 7,400 m<sup>2</sup> (1.8 ac) subject lands are located at the southwest corner of Roy Rainey Avenue and Country Ridge Drive in the Wismer Commons community (Figures 1 to 3), which is north of 16<sup>th</sup> Avenue and east of McCowan Road. The site is currently undeveloped.

Subject lands were previously reserved as a potential place of worship site

The subject lands were created as a development block through the registration of Plan of Subdivision 65M-3490 in 2001. At the time, this block was reserved as a potential place of worship site, identified in the former Wismer Commons Secondary Plan, which designated the subject lands 'Institutional'. The Wismer Commons Secondary Plan required such sites to be reserved for a period of five years from the date of subdivision registration. This was further secured through a clause in the subdivision agreement. Additionally, the approved zoning to implement Plan of Subdivision 65M-3490 in 2001 zoned the subject lands Open Space Two (OS2) under By-law 177-96, as amended, to permit a place of worship, and other institutional uses. The five-year reservation period expired in 2006 which now allows the subject lots to be released for consideration of residential land uses.

Surrounding Uses

The subject lands are surrounded by single detached dwellings to the north and east, across Roy Rainey Avenue and Country Ridge Drive. Robinson Creek and the associated City-owned 10 m wide buffer abut the site to the southwest. Bruce Boyd Parkette is

located west of the subject lands, and Ross Brown Park is located southeast of the subject lands, across Roy Rainey Avenue.

## **PROPOSAL**

The applications propose 14 freehold single detached dwellings with frontages ranging between 12.19 m (40 ft) and 22.59 m (74.1 ft). The proposed draft plan of subdivision is shown in Figure 4, and a conceptual siting plan is shown in Figure 5. Six of the proposed lots front and access onto Country Ridge Drive (Lots 1 to 6) and eight of the proposed lots front and access Roy Rainey Avenue (Lots 7 to 14). Each home will be two-storeys in height. The maximum height limit for the Residential Two (R2) zone category under By-law 177-96, as amended is 11 m (36.0 ft). Each dwelling will have a private garage for 2 vehicles, as well as a private driveway to accommodate another 2 vehicles (i.e. 4 spaces per dwelling).

### *Application Process and Next Steps:*

- The applications were submitted on December 15, 2017 and deemed complete on February 5, 2018. (Note the original applications proposed 15 single detached lots and dwelling units, which has since been reconfigured to 14);
- Following the preliminary Report to DSC on May 14, 2018, the Statutory Public Meeting was held on June 11, 2018.
- Three deputations were made by residents at the Public Meeting citing concerns over traffic congestion; lot frontage, building height and building setback/compatibility; protection of the adjacent Robinson Creek, and concerns with amenities and maintenance of public parks and boulevards within the Wismer Commons community. Similar written concerns from residents were received following the Public Meeting. These comments are discussed further in the Options/Discussion subsection of this report.
- If the Draft Plan of Subdivision and Zoning By-law amendment applications are approved, the proponent will be required to enter into a subdivision agreement with the City and clear conditions of draft approval (Appendix 'B') prior to registration of the plan.
- In accordance with City's Site Plan Control Area By-law (By-law 2002-94) the proposed development is not subject to site plan approval. The architectural design of the homes will need to comply with the approved architectural control guidelines for the Wismer Commons community prior to building permit submission – discussed later in the report.

## **POLICY FRAMEWORK, OFFICIAL PLAN AND ZONING**

Provincial Policy Statement, 2014 (PPS, 2014) provides overall direction

The PPS, 2014 provides direction on matters of Provincial interest including land use planning and development. The PPS, 2014 provides the direction for the efficient use of land and development patterns, which supports sustainability by promoting strong, livable, healthy and resilient communities; protecting the environment and public health and encouraging safety and economic growth.

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Growth Plan for the Greater Golden Horseshoe, 2017 (Growth Plan, 2017) provides a framework for implementing the Province's vision

The Growth Plan, 2017 provides a framework for implementing the Province's vision for building strong, prosperous communities within the Greater Golden Horseshoe to 2041. The premise of the Growth Plan, 2017 is building compact, vibrant and complete communities, developing a strong competitive economy, protecting natural resources and optimizing the use of existing and new infrastructure to support growth in a compact, efficient form.

Given the infill nature of the proposed development, staff are of the opinion the proposed draft plan of subdivision and zoning by-law amendment applications conform to the Provincial Growth Plan policies. While policies within both the noted Provincial Plans include direction to support a range of housing typologies, unit sizes and configurations, shared housing, secondary suites and rental housing; one of the key concerns raised through the Public Consultation process was ensuring the proposed development has consistent built form to surrounding existing housing. Staff are satisfied the proposed development meets the intent of the Provincial Policy Statement (2014) and Growth Plan for the Greater Golden Horseshoe (2017).

#### **Region of York Official Plan**

The subject lands are designated 'Urban Area' in the Region of York Official Plan, 2010 (ROP) which permits residential, commercial, industrial and institutional uses. The proposed lands uses conform to the Region of York Official Plan 2010.

#### **2014 Official Plan as partially approved on November 24, 2017 and further updated on April 9, 2018 (the "2014 Official Plan")**

The site is designated 'Residential Low Rise' in the 2014 Official Plan which provides for single detached dwellings, semi-detached dwellings, townhouses and small multiplex buildings containing 3-6 units. Residential development within established neighbourhoods are to comply with the Infill Development Criteria policies of the 2014 Official Plan, to ensure that new development is compatible with existing development. These policies include, but are not limited to the following:

- Having consistent lot frontages and lot areas with lots on both sides of the street;
- Ensuring an appropriate and consistent building scale and mass situated on the same street;
- Ensuring consistent building setbacks situated on the same side of the street;
- Having a complimentary relationship with existing dwellings;
- Ensuring streetscapes are not dominated by garages;
- Mitigating impacts on existing development with respect to grading, drainage, access, circulation, privacy and microclimatic conditions such as shadowing;
- Preserve significant views and vistas; and,
- Minimizing tree loss,

The proposal complies with these criteria, as set out later in the report.

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**Current and Proposed Zoning**

The subject lands are zoned Open Space Two\*94 (OS2\*94) under by-law 177-96, as amended. The OS2 zone permits art galleries, day nurseries, libraries, museums, community centres, public parks, public schools and a place of worship.

To permit the proposed single detached dwellings, the proponent is requesting a zoning by-law amendment to rezone the subject lands to a Residential Two (R2) zone in by-law 177-96, as amended. Approval of the zoning by-law will implement the same zone standards applicable to the surrounding area, including building and driveway setbacks, maximum driveway and garage widths and maximum building height. The only exception is to permit reduced rear yards of 6 m (19.7 ft), whereas 7.5 m (24.6 ft) is required, for Lots 1 and 2 (Figures 4 and 5). This is a result of the irregular shaped lot lines along this section of the site abutting the City-owned 10 m buffer and additional lands to be conveyed to the City to enhance this buffer.

**OPTIONS/ DISCUSSION:****Comments Made at the Statutory Public Meeting and Additional Correspondence**

At the June 11, 2018 Statutory Public Meeting three residents cited concerns over traffic congestion; lot frontage, building height and building setback compatibility; protection of the adjacent Robinson Creek; community amenities and maintenance of public parks and boulevards within the Wismer Commons community. A member of DSC recommended reducing the number of proposed lots resulting in lot frontages more compatible with the existing surrounding lot pattern. The concerns were also provided in writing in one submission prior to the public meeting and in four subsequent emails.

**Compatibility – Building Types, Lot Frontage, Setbacks and Heights.**

The surrounding area is characterized by single detached dwellings on lots with frontages ranging between 10.7 m (35 ft) to 6.7 m (55 ft). The proposed 14 single detached dwellings will have lot frontages ranging between 12.19 m (40 ft) and 22.59 m (74.1 ft). By rezoning the subject lands to an R2 zone under By-law 177-96, as amended, the same zone standards that apply to the existing neighbouring homes will apply to the proposed development. Consequently, the proposed homes will be compatible in built form and lot pattern with the surrounding neighbourhood.

With respect to building heights, the applicant initially proposed some 3-storeys dwellings. Notwithstanding that the 2014 Official Plan provides for buildings up to 3-storeys in the 'Residential Low Rise' designation, this was a concern to residents and some members of Committee. The applicant is now proposing 2-storey dwellings, shown in the conceptual elevations in Figure 6. The proposed development is compatible with the surrounding context and meets the 2014 Official Plan criteria for infill residential development.

**Number of Lots**

The proposed number of single detached units/lots has been reduced from 15 to 14. This was done in part to address Toronto Region Conservation Authority (TRCA) and Ministry of Natural Resources and Forestry (MNRF) comments and ensures that no



dwelling or rear yards are located within 30 m of the Robinson Creek meander belt. Consequently, MNRF permits and approvals are not required.

Staff have no concerns with the number of proposed lots on the draft plan of subdivision and consider the proposed lot pattern compatible with surrounding development and appropriate for the site.

#### Traffic Comments

A Traffic Brief was submitted in support of the development applications which concluded that “traffic generated by the proposed development is not expected to measurably affect the surrounding road system or nearby intersections.” The findings of the brief have been reviewed and accepted by the City’s Transportation Engineering section. Staff also note that the as-of-right zoning for the subject lands, which permits a place of worship and other institutional uses, would likely result in more traffic impact at certain times of the week, than the proposed residential development.

Concern was raised about the proximity of the proposed dwellings on Roy Rainey to an existing bridge south of the subject lands. Transportation Engineering staff do not identify this as a concern. Outstanding comments related to the Transportation Planning review are:

- Determining the appropriate interface and connection of the existing walkway in the park to the west, to an extension along the south edge of the subject site (required as part of any approval of the applications - See Pedestrian Connectivity subsection of this report below); and
- Ensuring the driveway proposed on Lot 12 (Figure 4 and 5) does not interfere with the existing crosswalk on Ray Rainey Avenue.

These items will be addressed through the technical design review following draft approval and are required as conditions of draft subdivision approval (Appendix ‘B’).

#### General Comments on the Wismer Commons Community

Other comments made, by a resident, at the Statutory Public Meeting related to the overall maintenance and appearance of the Wismer Commons community, including maintenance of privately owned front yards, public boulevards and parks, gateway fencing into the neighbourhood and other amenities in parks such as clock-towers. These comments are outside of the scope of the development application review. The By-law and Licensing Department and Parks Operations Group have been notified of these concerns.

#### **Former Wismer Commons Secondary Plan & Place of Worship Reservation Policy**

As noted, the subject lands were identified as a potential place of worship site in the Wismer Commons Secondary Plan, and reserved when the site was zoned and registered on a plan of subdivision in 2001. The place of worship reservation period for the site expired in 2006. With the 2014 Official Plan in effect, as it applies to the subject lands, the Wismer Commons Secondary Plan is repealed and its policies no longer apply. Consequently, the lands are designated ‘Residential Low Rise’ which permits the

proposed form of development. There are a number of place of worship sites within the Wismer Commons community and surrounding area, as described below. Consequently staff are not concerned with the subject lands being removed from the place of worship inventory. Places of Worship within the Wismer Commons community include:

- Wismer Baptist Church at 180 Mingay Avenue;
- St. Mary & St. Samuel Coptic Orthodox Church at 9377 McCowan Road; and
- The Bridge Community Church at 5466 16<sup>th</sup> Avenue.

Places of Worship within the vicinity of Wismer Commons:

- Markham Missionary Church at 5438 Major Mackenzie Drive; and
- Islamic Centre of Markham at 1330 Castlemore Avenue.

**Pedestrian Connectivity – trail connection provided to the south of subject property**

Country Ridge Road was created in 2001 with a 15 m wide right-of-way (ROW). This ROW accommodates the roadway, as well as a boulevard and public sidewalk on the north side of the street. The Engineering department initially requested an additional 3.5 m wide strip be conveyed to the City to expand the existing Country Ridge Road ROW to provide a 2.0 m wide boulevard and 1.5 m wide public sidewalk on the south side of the street (in front of the proposed dwellings).

The applicants can accommodate a 2.0 m ROW widening for a municipal boulevard. However the additional 1.5 m ROW widening for a new sidewalk could not be provided because:

- It would limit the development potential of the subject lands by reducing the lot depths of Lots 1 and 2 (Figure 4) to a point where buildings could not be sited with appropriate setbacks;
- The new sidewalk would terminate as a dead end at the west side of the subject lands, adjacent to the parkette;
- And a suggested option to connect the new sidewalk to the existing park trail to the west (See Figure 3) would be an issue because there different levels of service for snow removal on public sidewalks and for park pathways and trails, where snow is cleared as a priority on public sidewalks.

Instead of a public sidewalk along the south side of the street, the existing park trail will be extended along the south edge of the subject lands within the environmental buffer connecting to the existing sidewalk on Roy Rainey Avenue. This results in a pedestrian connection linking Roy Rainey Avenue via the proposed trail to the south of the subject lands and through the park to the west and ultimately connecting to Bur Oak Avenue further northwest. The proposed trail extension is shown conceptually on Figure 5, and will be located within the lands to be conveyed to the City and added to the existing buffer. The conveyed lands are shown as Blocks 15 and 16 on the proposed draft plan (Figure 4). As conditions of draft subdivision approval, the applicant will be responsible for building a trail and conveying these lands, including provision for additional landscaping to enhance the natural heritage buffer (Appendix 'B'). The detailed design will be finalized through the technical engineering review following draft plan of subdivision approval. The trail extension is supported by City staff and the TRCA. The

benefits of this option include improving pedestrian connectivity and enhancing the buffer edge with a naturalized trail along Robinson Creek, without significantly impacting the applicant's ability to develop the site, and does not conflict with differing service levels for snow removal.

**Toronto Region Conservation Authority**

In a letter dated February 20, 2019 the TRCA advised that the majority of their comments from the 1<sup>st</sup> two circulations of the Draft Plan of Subdivision had been satisfactorily addressed. The TRCA also advised that outstanding technical comments related to erosion and sediment control, water balance and obtaining necessary permits from the TRCA will be addressed at the detailed design stage following draft subdivision approval, and have recommended draft conditions which are included in Appendix 'B'.

**Region of York has no objection**

In a letter dated February 5, 2019 the Region of York indicated there is no objection to the proposed draft plan of subdivision, subject to the Region's conditions, included in Appendix 'B'.

**Municipal Servicing is available**

There is sufficient servicing allocation available from Council's current allocation reserve to accommodate the proposed development. However, the City reserves the right to revoke or reallocate the servicing allocation should the development not proceed in a timely manner.

The proponent is working with the Engineering and Water Works department to finalize the servicing configuration for the subject lands. Final approval of the servicing configuration is an aspect of the technical submission to the Engineering Department following draft approval, including final acceptance of the Functional Servicing Report. The Engineering Department has provided draft conditions, which are incorporated into Appendix 'B', to ensure all outstanding technical matters are satisfied prior to registration of the plan of subdivision.

**Wismer Commons Developers Group Obligations**

The applicant is required to join the Wismer Commons Developers Group and will participate in the Wismer Commons Cost Sharing Agreement. While the availability of servicing allocation from Council's current allocation reserve has been confirmed, the Developers Group tracks servicing allocation amongst group members. The City will require clearance from the Trustee of the Wismer Commons Landowners Group confirming the availability of servicing allocation, as well as other group obligations, such as contributions towards parkland, school sites and other shared infrastructure. This is a condition of draft plan approval (Appendix 'B').

**Parkland/Open Space Considerations**

The applicant will be conveying Blocks 15 and 16 (Figure 4) to be added to the City owned natural heritage buffer abutting the site to the south. While these additional lands will be used for the construction of a trail, the conveyance will not be credited as

parkland dedication. The overall delivery of parkland for Wismer Commons is a developers group obligation provided in accordance with the Wismer Commons Master Parks Agreement. As noted, the applicant is required to become a member of the Developers Group. Accordingly, the applicant will be required to satisfy certain financial obligations through the group, including a cost-sharing requirement for the delivery of community parks. This is a condition of draft plan approval (Appendix 'B').

### **Architectural Control**

The conceptual elevations (Figure 5) are generally acceptable to planning and urban design staff. These elevations may be subject to minor modifications to ensure compliance with the approved Wismer Commons Architectural Control Guidelines, which will ensure the elevations are designed in a manner that incorporates the requirements and criteria of the approved Wismer Commons Community Design Plan. This practice ensures that physical elements within the private realm contribute to the development of character and a sense of place for the community, and address components such as location of main entrances and porches, roof slopes, corner lot architecture and materials.

### **Sustainability Features**

F.J. Homes Limited has indicated that sustainable design features will be incorporated into the proposed development, including:

#### Energy Performance:

- High efficiency HVAC system with HRV (Heat Recovery Ventilation) will be utilized in the new building. The furnaces will have an annual fuel efficiency of 94% or higher. The HRV will recover about 75% heat from the exhaust air.
- High efficiency lighting system (e.g. LED lights, timing / occupancy sensor lighting control) will be specified in the construction documents.

#### High Efficiency Water Fixtures:

- To reduce water use, high efficiency water fixtures, e.g. dual flushing water closets and low flow showerheads, will be utilized.

#### Low Impact Power:

- To reduce environmental impact of power used for vehicles and households, electrical car and renewable energy system are encouraged. Conduits from the electrical box to garage and roof are provided for the future installation of charging stations or roof top solar panels by homeowners.

A full list of the proposed features provided by F.J Homes Limited is attached as Appendix 'C' and will be required as part of the draft plan of subdivision conditions (Appendix 'B').

### **Section 37 Contributions including Public Art**

As part of the zoning by-law amendment approval to intensify the subject lands with residential development the applicant will be required to provide a financial contribution public art as a Section 37 Community Benefit. This is included within the draft zoning

Report to: Development Services Committee

Report Date: March 18, 2019

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by-law, attached as Appendix 'A' and required to be secured through the subdivision agreement (Appendix 'B').

**CONCLUSION**

Based on the discussion above staff are of the opinion that the Draft Plan of Subdivision and implementing Zoning By-law amendments are consistent with City, Regional and provincial policy. Staff therefore recommend approval of the Zoning By-law Amendment (Appendix 'A') and Draft Plan of Subdivision subject to the conditions provided in Appendix 'B'.

**FINANCIAL CONSIDERATIONS:**

Not Applicable.

**HUMAN RESOURCES CONSIDERATIONS**

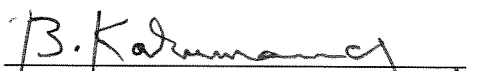
Not Applicable.


**ALIGNMENT WITH STRATEGIC PRIORITIES:**

The proposed applications have been reviewed in the context of the City's Strategic Priorities of Growth Management, Transportation and Municipal Services.

**BUSINESS UNITS CONSULTED AND AFFECTED:**

These applications have been circulated to various departments and external agencies and their comments have been addressed. Where necessary the requirements of the City and external agencies have been incorporated into draft plan conditions.

  
Biju Karumanchery, M.C.I.P., R.P.P.  
Director of Planning and  
Urban Design

  
Arvin Prasad, M.C.I.P., R.P.P.  
Commissioner of Development  
Services

**ATTACHMENTS:**

- Figure 1 – Location Map
- Figure 2 – Area Context/Zoning
- Figure 3 – Air Photo
- Figure 4 – Proposed Draft Plan of Subdivision
- Figure 5 – Conceptual Siting Plan
- Figure 6 – Conceptual Elevations
- Appendix 'A' – Zoning By-law Amendment
- Appendix 'B' – Draft Plan of Subdivision Conditions
- Appendix 'C' – Sustainable Features

Report to: Development Services Committee

Report Date: March 18, 2019

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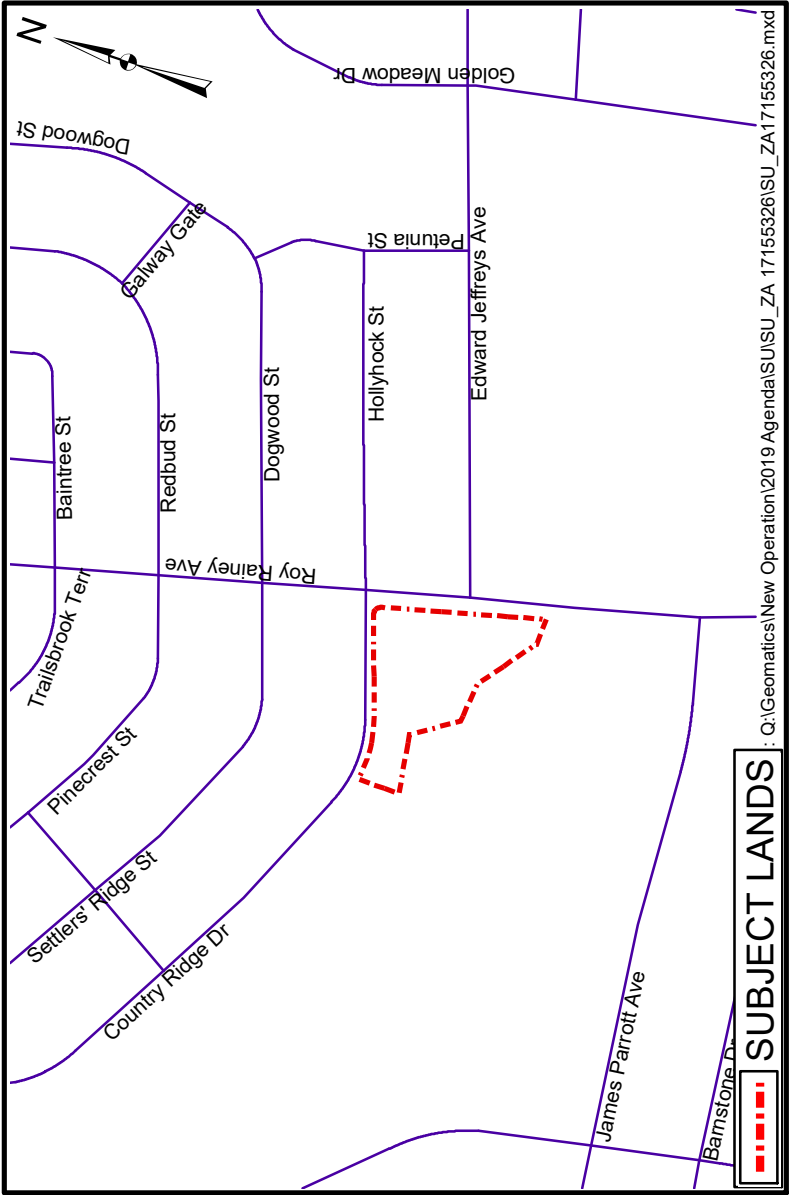
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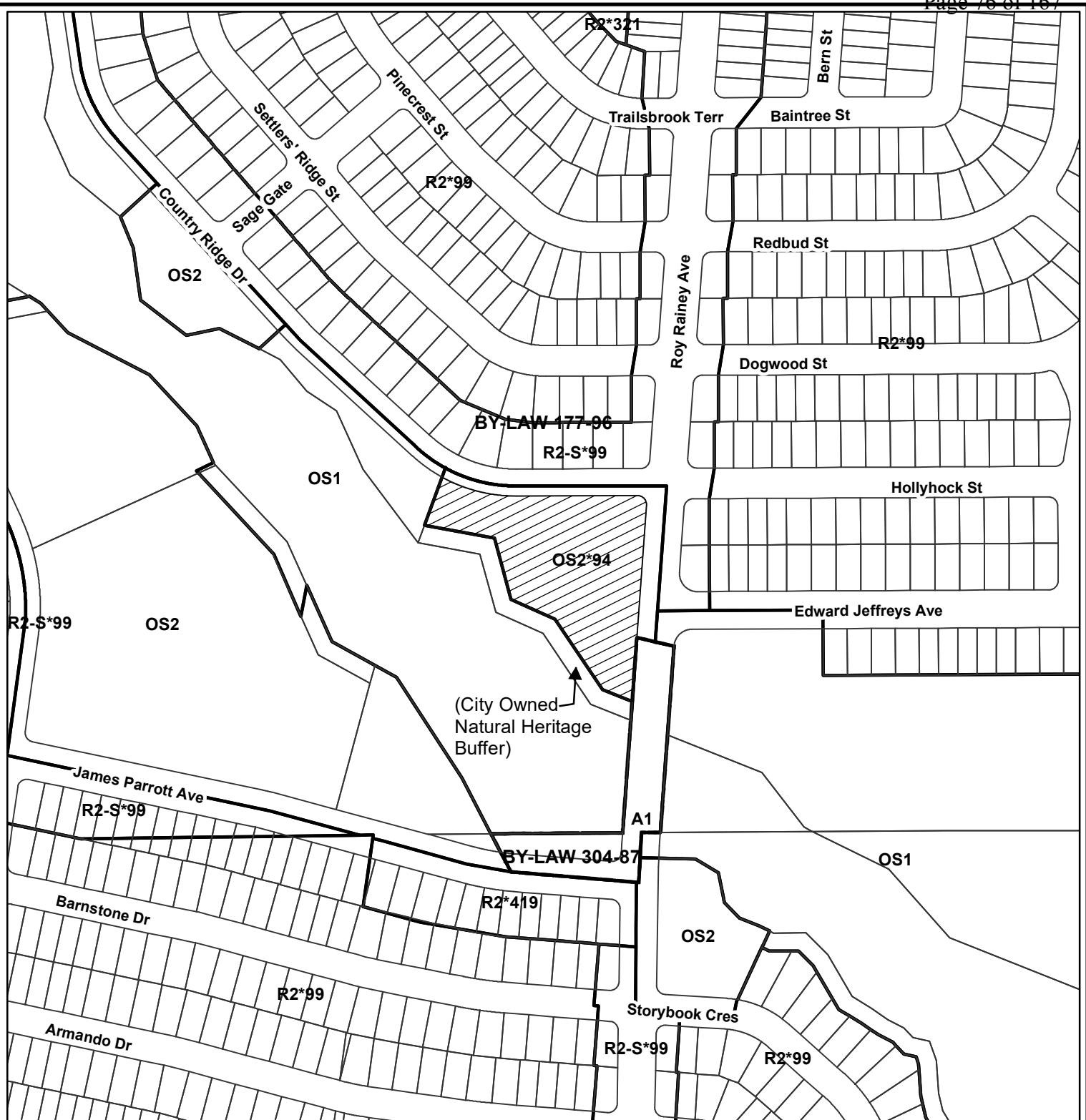
**OWNER/AGENT:**

**AGENT:**           **The Biglieri Group**  
Melissa Holland, Planner  
20 Leslie Street, Unit 121  
Toronto, ON M4M 3L4  
[mholland@thebiglierigroup.com](mailto:mholland@thebiglierigroup.com)

**OWNER:**           **F.J. Homes Ltd.**  
Erica Feng  
29 Manilla Avenue  
Markham ON L6C 0W1  
[Ericafeng79@hotmail.com](mailto:Ericafeng79@hotmail.com)

File path: Amanda\File 17 155326\Documents\Recommendation Report





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# AREA CONTEXT/ZONING

APPLICANT: F.J. HOMES LIMITED

FILE No: SU\_ZA17155326 (SC)

 SUBJECT LANDS

DATE: 01/31/19





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# AIR PHOTO 2018

APPLICANT: F.J. HOMES LIMITED

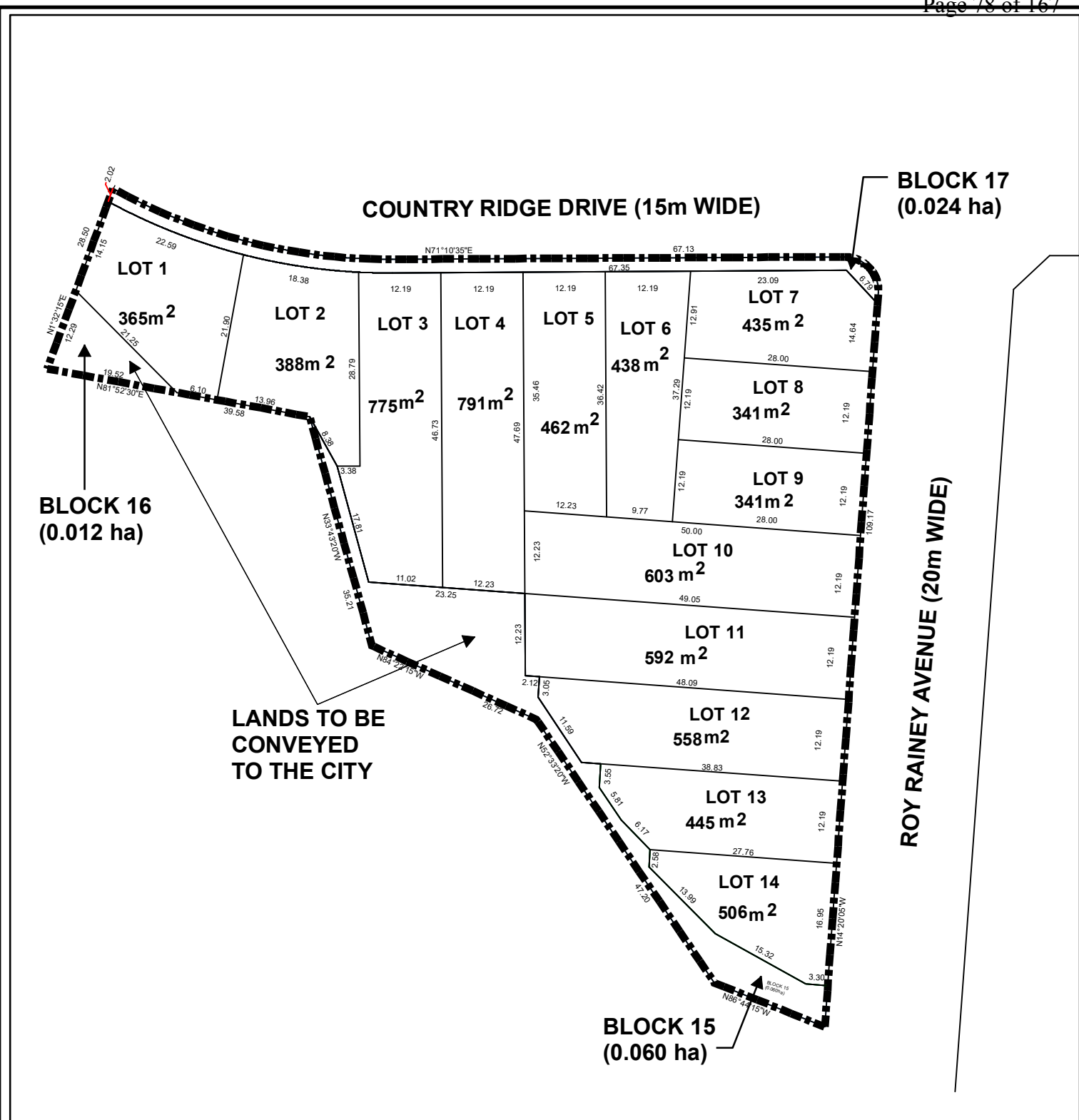
FILE No: SU\_ZA17155326 (SC)

 SUBJECT LANDS

DATE: 01/31/19







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# PROPOSED DRAFT PLAN OF SUBDIVISION

APPLICANT: F.J. HOMES LIMITED

FILE No: SU\_ZA17155326 (SC)

--- SUBJECT LANDS

DATE: 01/31/19

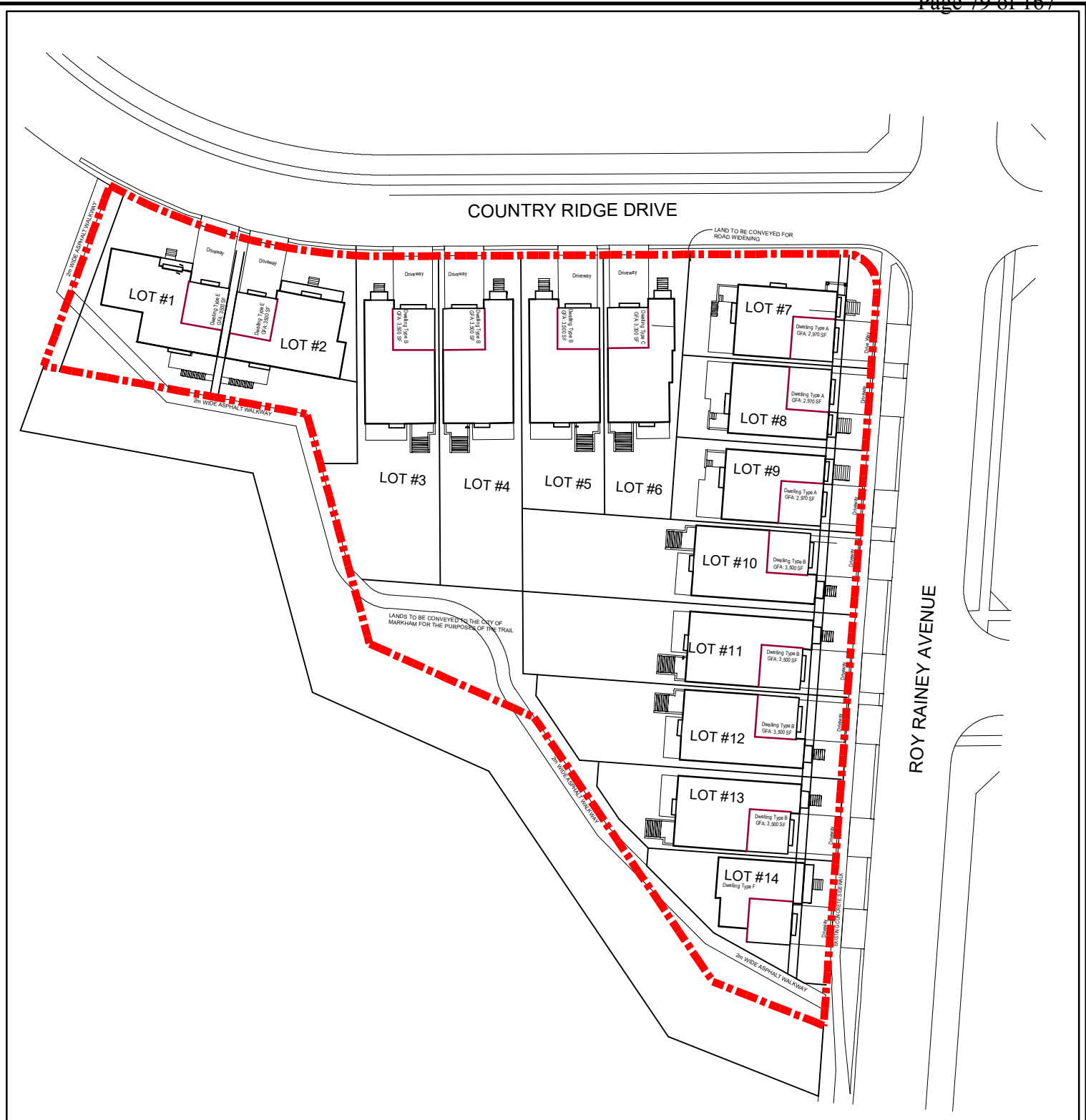


DEVELOPMENT SERVICES COMMISSION

Drawn By: DD

Checked By: SC

FIGURE No. 4



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# CONCEPTUAL SITE PLAN

APPLICANT: F.J. HOMES LIMITED

FILE No: SU\_ZA17155326 (SC)

 SUBJECT LANDS

DATE: 01/31/19



COUNTRY RIDGE DRIVE ELEVATIONS



ROY RAINEY AVENUE ELEVATIONS

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# CONCEPTUAL ELEVATIONS

APPLICANT: F.J. HOMES LIMITED

FILE No: SU\_ZA17155326 (SC)

DATE: 01/31/19



BY-LAW 2019-\_\_\_\_\_

A By-law to amend By-law 177-96, as amended

The Council of the Corporation of the City of Markham hereby enacts as follows:

1. That By-law 177-96, as amended, is hereby further amended by zoning the lands outlined on Schedule ‘A’ attached hereto as follows:

Residential Two (R2) Zone and  
Residential Two\*ZYX (R2\*624) Zone  
Open Space One (OS1) Zone

3. By adding the following subsection to Section 7- EXCEPTIONS

Exception 7.624	F.J. Homes Limited West side of Roy Rainey Avenue, south side of Country Ridge Drive	Parent Zone R2
File ZA 17 152211		Amending By-law 2019-
Notwithstanding any other provisions of this By-law, the provisions in this Section shall apply to the land denoted by the symbol *624 on the schedule to this By-law.		
7.624.1 Special Zone Standards		
The following special zone standards shall apply:		
a)	Minimum required rear yard – 6.0 m	

4. SECTION 37 CONTRIBUTION

- 4.1 A contribution by the Owner to the City for the purposes of public art, in the amount of \$32,200.00 in 2019 dollars, to be indexed to the Ontario rate of inflation as per the consumer price index (CPI), in accordance with Section 37 of the Planning Act, as amended, shall be required. Payments shall be collected in accordance with the terms of an agreement to secure for the Section 37 contribution. Nothing in this section shall prevent the issuance of a building permit as set out in Section 8 of the Building Code Act or its successors.

Read a first, second and third time and passed on \_\_\_\_\_,  
2019

Kimberley Kitteringham  
City Clerk

Frank Scarpitti  
Mayor



## EXPLANATORY NOTE

**BY-LAW 2019-\_\_\_\_\_**

**A By-law to amend By-law 177-96, as amended**

**F.J. Homes Limited**

**West side of Roy Rainey Avenue and south side of Country Ridge Drive.  
File No. ZA 18 155326**

### **Lands Affected**

The proposed by-law amendment applies to a parcel of land with an approximate area of 0.74 hectares (1.8 acres) located on the west side of Roy Rainey Avenue and south side of Country Ridge Drive, within the Wismer Commons community.

### **Existing Zoning**

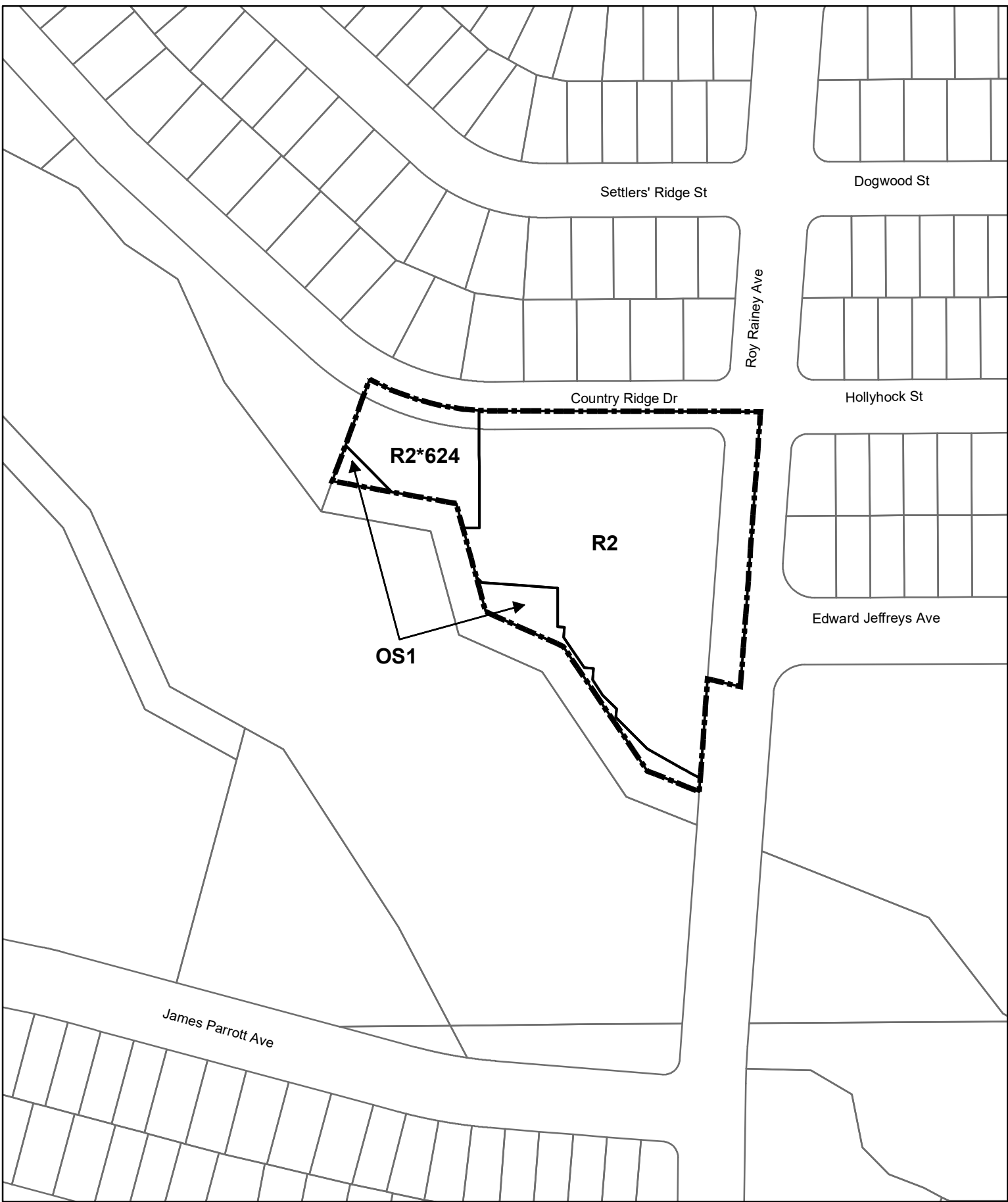
The subject lands are zoned Open Space Two\*94 (OS2\*94) under By-law 177-96, as amended.

### **Purpose and Effect**


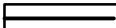


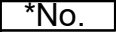
The purpose and effect of this By-law is to rezone the lands from the “Open Space Two\*94 (OS2\*94)” zone to a “Residential Two (R2)” and “Residential Two\*624 (R2\*624)” zone under By-law 177-96, as amended, to permit the development of 14 single detached dwellings. It will also zone portions of the site to an Open Space One (OS1) zone under By-law 177-96, as amended, for lands intended to be conveyed to the City and added to an adjacent natural heritage buffer.

### **Notice Regarding Further Planning Applications on this Property**

In accordance with Section 45(1.3) and 45(1.4) of the Planning Act, R.S.O. 1990, c.P.13, as amended on July 1, 2016 through the enactment of Bill 73, no person shall apply for a minor variance from the provisions of the by-law in respect of land, building or structure before the second anniversary of the day on which the by-law was amended, unless Council has declared by resolution that such an application is permitted.



# SCHEDULE " A " TO BY-LAW AMENDING BY-LAW 177-96 DATED

-  BOUNDARY OF AREA COVERED BY THIS SCHEDULE
-  BOUNDARY OF ZONE DESIGNATION(S)
-  Residential Two
-  Open Space One
-  Exception Section Number



THIS IS NOT A PLAN OF SURVEY. Zoning information presented in this Schedule is a representation sourced from Geographic Information Systems. In the event of a discrepancy between the zoning information contained on this Schedule and the text of zoning by -law, the information contained in the text of the zoning by -law of the municipality shall be deemed accurate.

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NOTE: This Schedule should be read in conjunction with the signed original By-Law filed with the City of Markham Clerk's Office



**THE CONDITIONS OF THE CITY OF MARKHAM TO BE SATISFIED PRIOR TO  
RELEASE FOR REGISTRATION OF PLAN OF SUBDIVISION 19TM-17007  
(F.J. Homes Limited)**

1. General
  - 1.1 Approval shall relate to a draft plan of subdivision prepared by The Biglieri Group Limited, identified as Project Number 17454, Drawing No. DP-01, dated December 8, 2017 and Revised on November 1, 2018.
  - 1.2 This draft approval shall apply for a maximum period of three (3) years from date of approval by the Council of the City of Markham, and shall accordingly lapse on March XX, 2022 unless extended by the City upon application by the Owner.
  - 1.3 The Owner shall enter into a subdivision agreement with the City agreeing to satisfy all conditions of the City and Agencies, financial and otherwise, prior to final approval.
  - 1.4 The Owner acknowledges and understands that prior to final approval of this draft plan of subdivision, amendments to Zoning By-law 177-96, as amended, shall have come into effect in accordance with the provisions of the Planning Act.
  - 1.5 The Owner shall agree in the Subdivision Agreement to design all municipal infrastructure in accordance with the City's and/or Region's standards, guidelines, and specifications.
  - 1.6 Prior to the release for registration of this draft Plan of Subdivision, the Owner shall prepare and submit to the satisfaction of the City of Markham, all technical reports, studies, and drawings, including but not limited to, traffic study, functional traffic design, stormwater management report, functional servicing report, design brief, detailed design drawings, noise study, streetlighting design and photometric analysis, etc., to support the draft Plan of Subdivision. The Owner agrees to revise the draft plan of subdivision as necessary to incorporate the design and recommendations of the accepted technical reports, studies, and drawings.
  - 1.7 The Owner shall implement the designs and recommendations of the accepted technical reports/studies submitted in support of the draft plan of subdivision including but not limited to, traffic study, functional traffic design study, stormwater management report, functional servicing report, design brief, detailed design drawings, noise study, streetlighting design and photometric analysis, to the satisfaction of the City, and at no cost to the City. The Owner agrees to revise the draft plan of subdivision as necessary to



## Appendix 'B'

incorporate the recommendations, to implement or integrate any recommendations from the above technical reports/studies.

- 1.8 The Owner shall design and construct all required relocations of, and modifications to existing infrastructure, including but not limited to, sanitary and storm sewers, watermain, light standards, utilities, stormwater management facilities, traffic signage and roads to the satisfaction of, and at no cost to, the City.
- 1.9 The Owner shall restore all disturbed areas external to the plan of subdivision to its original condition or better, to the satisfaction of the City.
- 1.10 The Owner shall agree in the subdivision agreement to pay to the City, all required fees, in accordance with the City's Fee By-Law 211-83, as amended by Council from time to time.
- 1.11 The Owner shall agree in the subdivision agreement or pre-servicing agreement, whichever comes first, to submit financial security for the draft plan of subdivision as required by the City prior to the construction of municipal infrastructure required to service the development.
- 1.12 The Owner covenants and agrees to enter into a construction agreement and/or encroachment agreement or any other agreement deemed necessary to permit construction of services, roads, stormwater management facilities or any other services that are required external to the plan of subdivision and that are required to service the proposed development, to the satisfaction of the Director of Engineering and the City Solicitor.
- 1.13 The Owner shall covenant and agree in the subdivision agreement to provide the Building Standards Department all mitigation recommendations from the Geotechnical Consultant to waterproof basements which are below the ground water table, on a lot specific basis for each building permit application, to the satisfaction of the Chief Building Official. The Owner shall further covenant and agree that the acceptance of these measures will be subject to approval from the Chief Building Official.

2. Roads/Walkways

- 2.1. The Owner acknowledges that a trail/walkway is required within Blocks 15 and 16 in the Owner's plan of subdivision (the "Owner's Lands") and, within City lands described as Block 195, Plan 65M-3487 and Block 3, Plan 65M-3490 (the "City Lands"). The Owner shall agree in the subdivision agreement to construct the above trail/walkway in the Owner's Lands and City Lands at the Owner's cost to the satisfaction of the City.

## Appendix 'B'

3. Tree and Woodlot Preservation

- 3.1 The Owner shall submit for approval a tree inventory and tree preservation plan to the satisfaction of the Director of Planning and Urban Design in accordance with the City of Markham Streetscape Manual dated 2009, as amended from time to time.
- 3.2 The Owner shall submit a site grading plan showing the trees to be preserved based on the approved Tree Preservation Plan prior to the issuance of a Top Soil Stripping Permit to the satisfaction of the Director of Planning and Urban Design.
- 3.3 The Owner shall obtain written approval from the Director of Planning and Urban Design prior to the removal of any trees or destruction or injury to any part of a tree within the area of the draft plan.
- 3.4 The Owner shall submit for approval, as part of the tree inventory and tree preservation plan, in accordance with the City of Markham Streetscape Manual a tree compensation schedule detailing replacement and enhancement planting or the replacement value based on the following:
  - a) Trees between 20cm and 40cm diameter at breast height (DBH) shall be replaced at a ratio of 2:1
  - b) All trees over 40cm DBH shall have an individual valuation submitted to the City by an ISA certified Arborist in accordance with the Council of Tree and Landscape Appraisers (CTLA) Guide for Plant Appraisal (2000)
  - c) Where a site does not allow for the 2:1 replacement, the City will negotiate a credit for tree planting on alternate sites
  - d) The requirement for the replacement or equivalent economic value following unauthorized tree removal or damage shall be determined by the City.

4.0 Community Design

- 4.1 The Owner shall implement and incorporate all requirements of the approved Wismer Commons Open Space Master Plan and Community Design Plan into all landscape plans, architectural control guidelines, engineering plans and any other required design documents.
- 4.2 The Owner shall retain a design consultant to prepare architectural control guidelines to be submitted to the Director of Planning and Urban Design for approval prior to execution of the subdivision agreement
- 4.3 The Owner shall retain a design consultant to implement the Architectural Control Guidelines.
- 4.4 Plans submitted for model home permits for any building within the plan of subdivision shall bear an approval stamp identifying the architectural company retained for architectural control and the signature of the control architect. The approval stamp shall

## Appendix 'B'

certify that the floor plans, building elevations and site plans are designed in accordance with the approved architectural control guidelines.

- 4.5 The Owner shall ensure that the design architect for any buildings within the plan of subdivision shall not also assume the role of control architect for the plan of subdivision.

5.0 Parks and Open Space

- 5.1 The Owner shall provide a specialized depth of topsoil in the entire municipal boulevard to appropriately plant boulevard trees to the satisfaction of the Director of Planning and Urban Design.

- 5.2 The Owner shall provide a Trustee Release Letter stating that they have paid their contribution towards parkland dedication to the Developers Group for the Wismer Commons Community.

6.0 Landscaping Works

- 6.1 Prior to execution of the subdivision agreement, the Owner shall submit landscape plans based on the approved Wismer Commons Open Space Master Plan and Community Design Plan into all landscape works, to the satisfaction of the Director of Planning and Urban Design

- a) Street tree planting in accordance with the City of Markham Streetscape Manual dated June 2009;
- b) Rear lot and side yard fencing on private property along the trail;
- b) 1.8m high wood screen corner lot fencing;
- c) Streetscape plan including street trees or any other landscaping as determined by the Community Design Plan and the Environmental Master Drainage Plan.

- 6.2 The Owner shall construct all landscaping in accordance with the approved plans at no cost to the City.

- 6.3 The Owner shall not permit their builders to charge home purchasers for the items listed in Condition 6.1.

- 6.4 The Owner shall include in all agreements of purchase and sale the following clause:

“PURCHASERS ARE ADVISED THAT AS A CONDITION OF APPROVAL OF THE SUBDIVISION WITHIN WHICH THIS LOT IS LOCATED, THE CITY OF MARKHAM HAS REQUIRED THE DEVELOPER TO UNDERTAKE AND BEAR THE COST OF THE FOLLOWING ITEMS:

- STREET TREES (TREES PLANTED IN THE CITY BOULEVARD or IN ADJACENT PUBLIC LANDS OR PRIVATE LOTS TO MEET 4.1a)
- CORNER LOT FENCING

## Appendix 'B'

- REAR LOT LINE FENCING AT LANES (IF SPECIFICALLY REQUIRED BY THE CITY)
- TREE PLANTING IN REAR YARDS ADJOINING THE LANES (IF SPECIFICALLY REQUIRED BY THE CITY)
- FENCING OF SCHOOL, PARK, WALKWAY AND STORMWATER MANAGEMENT POND BLOCKS
- BUFFER PLANTING FOR OPEN SPACE, WALKWAY AND STORMWATER MANAGEMENT POND BLOCKS AND SINGLE LOADED STREET ALLOWANCES
- SUBDIVISION ENTRY FEATURES AND DECORATIVE FENCING AS IDENTIFIED ON LANDSCAPE PLANS APPROVED BY THE CITY.

THE DEVELOPER HAS BORNE THE COST OF THESE ITEMS AND THE HOME PURCHASER IS NOT REQUIRED TO REIMBURSE THIS EXPENSE.”

#### 7.0 Financial – Urban Design

- 7.1 Prior to execution of the subdivision agreement, the Owner shall provide a letter of credit, in an amount to be determined by the Director of Planning and Urban Design, to ensure compliance with applicable tree preservation, fencing, streetscape, buffer and other landscaping requirements.

#### 8. Municipal Services

- 8.1 The Owner shall agree in the subdivision agreement to not apply for any building permits until the City is satisfied that adequate municipal water supply, sanitary sewers, and storm drainage facilities are available to service the proposed development.
- 8.2 The Owner shall agree in the subdivision agreement to revise and/or update the functional servicing and stormwater management reports, if directed by the City in the event that the Director of Engineering determines that field conditions are not suitable for implementation of the servicing and stormwater strategy recommended in the functional servicing and stormwater management reports.

#### 9. Lands to be Conveyed/City Easements

- 9.1 The Owner shall grant required conveyances to the appropriate authority for road widening, public utilities or trail/walkway purposes, upon registration of the plan of subdivision. The Owner shall also provide for any works external to the draft plan of subdivision necessary to connect watermain, storm and sanitary sewers to the existing sewers and watermain abutting to the site and/or trail/walkway facilities satisfactory to, and dedicated to, the City.
- 9.2 The Owner shall convey Blocks 17, 16 and 15 to the City, for road widening, public utilities or trail/walkway purposes, free of all costs and encumbrances, to the satisfaction of the City and the TRCA, upon registration of the plan of subdivision.

## Appendix 'B'

10. Utilities

- 10.1 The Owner shall agree in the subdivision agreement that hydro-electric, telephone, gas and television cable services, and any other form of telecommunication services shall be constructed at no cost to the City as underground facilities within the public road allowances or within other appropriate easements, as approved on the Composite Utility Plan, to the satisfaction of the City and authorized agencies.
- 10.2 The Owner shall agree in the subdivision agreement to enter into any agreement(s) required by any applicable utility companies, including Powerstream, Enbridge, telecommunications companies, etc.
- 10.3 The Owner covenants and agrees that it will permit any telephone or telecommunication service provider to locate its plant in a common trench within the proposed subdivision prior to registration provided the telephone or telecommunications services provider has executed a Municipal Access Agreement with the City. The Owner shall ensure that any such service provider will be permitted to install its plant so as to permit connection to individual dwelling units within the subdivision as and when each dwelling unit is constructed.

11. Canada Post

- 11.1 The Owner shall agree in the subdivision agreement to facilitate the construction of Canada Post facilities at locations and in manners agreeable to the City in consultation with Canada Post, and that where such facilities are to be located within public rights-of-way they shall be approved on the Composite Utility Plan and be in accordance with the Community Design Plan.
- 11.2 The Owner shall agree in the subdivision agreement to include on all offers of purchase and sale a statement that advises prospective purchasers that mail delivery will be from a designated Community Mailbox. The Owners will further be responsible for notifying the purchasers of the exact Community Mailbox locations prior to the closing of any home sale.
- 11.3 The Owner shall covenant and agree in the subdivision agreement to provide a suitable temporary Community Mailbox location(s), which may be utilized by Canada Post until the curbs, sidewalks and final grading are completed at the permanent Community Mailbox locations. This will enable Canada Post to provide mail delivery to new residents as soon as homes are occupied.
- 11.4. The Owner acknowledges that standard community mailbox installations are to be done by Canada Post at locations approved by the municipality and shown on the Composite Utility Plan. The Owner agrees that should it propose an enhanced community mailbox installation, any costs over and above the standard installation must be borne by the Owner, and be subject to approval by the City in consultation with Canada Post.

## Appendix 'B'

12. Environmental Clearance

- 12.1 The Owner shall agree in the subdivision agreement to retain a "Qualified Person" to prepare all necessary Environmental Site Assessments (ESA) and file Record(s) of Site Condition with the Provincial Environmental Site Registry for all lands to be conveyed to the City. The "Qualified Person" shall be defined as the person who meets the qualifications prescribed by the Environmental Protection Act and O. Reg. 153/04, as amended. The lands to be conveyed to the City shall be defined as any land or easement to be conveyed to the City, in accordance with the City's Environmental Policy and Procedures for Conveyance of Land to the City Pursuant to the Planning Act.
- 12.2 Prior to the earlier of any construction, including site alteration, the execution of a pre-servicing agreement or subdivision agreement, the Owner agrees to submit Environmental Site Assessment (ESA) report(s) prepared by a Qualified Person, in accordance with the Environmental Protection Act and its regulations and all applicable standards, for all lands to be conveyed to the City for peer review and concurrence.
- 12.3 Prior to the earlier of any construction including site alteration, the execution of a pre-servicing agreement or subdivision agreement, the Owner agrees to submit environmental clearance(s) and Reliance Letter(s) from a Qualified Person to the City for all lands or interests in lands to be conveyed to the City to the satisfaction of the City. The Environmental Clearance and Reliance Letter will be completed in accordance with the City's standard and will be signed by the Qualified Person and a person authorized to bind the Owner's company. The City will not accept any modifications to the standard Environmental Clearance and Reliance Letter, except as and where indicated in the template.
- 12.5 The Owner agrees that if, during construction, contaminated soils or materials or groundwater are discovered, the Owner shall inform the City immediately, and undertake, at its own expense, the necessary measures to identify and remediate the contaminated soils or groundwater, all in accordance with the Environmental Protection Act and its regulations, to the satisfaction of the City and the Ministry of the Environment, Conservation and Parks.
- 12.6 The Owner shall agree in the subdivision agreement to assume full responsibility for the environmental condition of the lands comprising the draft plan of subdivision. The Owner shall further agree in the subdivision agreement to indemnify and save harmless the City, its directors, officers, Mayor, councilors, employees and agents from any and all actions, causes of action, suits, claims, demands, losses, expenses and damages whatsoever that may arise either directly or indirectly from the approval and assumption by the City of the municipal infrastructure, the construction and use of the municipal infrastructure or anything done or neglected to be done in connection with the use or any environmental condition on or under lands comprising the draft Plan of Subdivision, including any work undertaken by or on behalf of the City in respect of the lands comprising the draft Plan of Subdivision and the execution of this Agreement.

## Appendix 'B'

13. Development Charges

- 13.1 The Owner covenants and agrees to provide written notice of all development charges related to the subdivision development, including payments made and any amounts owing, to all first purchasers of lands within the plan of subdivision at the time the lands are transferred to the first purchasers.

14. Heritage

- 14.1 Prior to final approval of the draft plan of subdivision or any phase thereof, the Owners shall carry out a cultural heritage resource assessment for the lands within the draft plan to ensure the assessment and identification of appropriate treatment of built heritage and archaeological resources; and to mitigate any identified adverse impacts to significant heritage resources, to the satisfaction of the City (Commissioner of Development Services) and the Ministry of Tourism Culture and Sport. The Owner shall submit a letter issued by the Ministry of Tourism Culture and Sport that the Heritage Resource Assessment has been entered into the Ontario Public Register of Archaeology Reports prior to registration of the draft plan and prior to any demolition, grading, filling or any form of soil disturbances on lands within the draft plan.
- 14.2 The Owner shall covenant and agree in the subdivision agreement to implement any measures recommended by the heritage resource assessment, to the satisfaction of the City and the Ministry of Tourism, Culture and Sport.

15. Other City Requirements

- 15.1 The Owner shall include the following clauses in all offers of purchase and sale for units with a single-car garage:

“PURCHASERS/TENANTS ARE ADVISED THAT THE CITY’S PARKING BY-LAW REQUIRES A MINIMUM OF TWO PARKING SPACES, ONE IN THE DRIVEWAY AND ONE IN THE GARAGE. OUTSIDE A PRIVATE GARAGE, PARKING IS ONLY PERMITTED ON A DRIVEWAY.

PURCHASERS/TENANTS ARE ADVISED THAT THE CITY’S ZONING BY-LAW RESTRICTS DRIVEWAY WIDTHS, WHICH MAY NOT ALLOW TWO CARS TO PARK SIDE BY SIDE.

PURCHASERS/TENANTS ARE ADVISED THAT OVERNIGHT STREET PARKING WILL NOT BE PERMITTED UNLESS AN OVERNIGHT STREET PARKING SYSTEM IS IMPLEMENTED BY THE CITY.”

- 15.2 The Owner shall covenant and agree in the subdivision agreement that no building permits will be issued for part blocks until said blocks have been combined with abutting

## Appendix 'B'

lands to create building lots in conformity with the zoning by-law and all applicable fees have been paid. The Owner acknowledges and agrees that contiguous part lots will be registered as one block in the final plan, and that future lots will be created through part lot control.

- 15.3 The Owner shall provide and post display plans in all sales offices which clearly indicate the location of the following facilities in relation to the lot being purchased, prior to any Agreements of Purchase and Sale being executed by the Owner, a builder, or their real estate agents:

Parks by type, including Park and Open Space Concept Plans and Streetscape Plans; stormwater management ponds and related facilities; schools by type; place of worship sites; other institutional sites by type; commercial sites by type; other surrounding land uses and facilities as specified by the City; existing or future: rail facilities, provincial highways, arterial and collector roads, transit routes and stops; City approved sidewalks, walkways and bike route locations; City approved postal box and utility furniture locations or possible locations if prior to approval; and City lot grading standards.

All display plans shall be submitted the City for review and approval by City staff, prior to the opening of the sales office.

- 15.4 The Owner covenants and agrees to implement sustainable design features within the single detached dwellings, including, but not limited to:

Improvement of Energy Performance:

- High efficiency HVAC system with HRV (Heat Recovery Ventilation) will be utilized in the new building. The furnaces will have an annual fuel efficiency of 94% or higher. The HRV will recover about 75% heat from the exhaust air.
- High efficiency lighting system (e.g. LED lights, timing / occupancy sensor lighting control) will be specified in the construction documents.

High Efficiency Water Fixtures:

- To reduce water use, high efficiency water fixtures, e.g. dual flushing water closets and low flow shower heads, will be utilized.

Low Impact Power:

- To reduce environmental impact of power used for vehicles and household, electrical car and renewable energy system are encouraged. Conduits from the electrical box to garage and roof are required for the future installation of charging stations or roof top solar panels by home owners.

- 15.5 That the Owner covenants and agrees to enter into a Section 37 Agreement to secure the provision of Public Art by the City for the lands zoned Residential Two (R2) and Residential Two\*624 (R2\*624), as required by implementing zoning by-law 2019-\_\_\_\_.



## Appendix 'B'

- 15.6 The Owner shall covenant and agree that fire hydrants on streets are to be spaced at intervals not exceeding 120 metres for single detached dwellings. The Owner acknowledges an additional fire hydrant is required off Roy Rainey Avenue.
- 15.7 The Owner acknowledges and agrees that firebreak lots within the draft plan shall be designated in the subdivision agreement, to the satisfaction of the Fire Chief or his designee. The Owner shall provide a letter of credit in an amount to be determined by the Fire Chief or his designee at the subdivision agreement stage to ensure compliance with this condition.
- 15.8 The Owner acknowledges and agrees that the adequacy and reliability of water supplies for firefighting purposes are subject to the review and approval of the Fire Chief or his designee.
- 15.9 The Owner shall acknowledge and agree in the subdivision agreement that building permits will not be issued for lands in any stage of development within the draft plan of subdivision until the Director or Building Services has been advised by the Fire Chief that there is an adequate water supply for firefighting operations and that two remote accesses for firefighting equipment is available.
- 15.10 The Owner covenants and agrees to purchase from the City two recycling containers, one green bin and one kitchen collector per residence so that each purchaser may participate in the City's waste diversion program. Furthermore, the Owner shall ensure that the recycling containers, green bins, kitchen collectors and educational materials are deposited in each home on or before the date of closing.
- 15.11 The Owner covenants and agrees to contact the City at least four weeks prior to unit occupancy to arrange an appointment time in which the recycling containers, green bins, kitchen collectors and educational materials are to be collected by the owner.
- 15.12 The Owner covenants and agrees to pay to the City the cost for recycling containers, green bins and kitchen collectors and to provide said recycling containers, green bins and kitchen collectors to purchasers at the same cost as paid to the City.
- 15.13 The Owner covenants and agrees that during the construction phase of the development, unobstructed roadway access to a width no less than 6 metres will be provided for the safe passage of municipal waste and recycling collection vehicles on the designated collection day. Furthermore, if required, the Owner shall provide vehicle turning space that meets the City's engineering design standards. The Owner agrees that at times when the above defined access cannot be provided, the Owner shall be responsible for moving all residential waste, recyclables and organics from the occupied units to an agreed upon centralized location at the Owner's expense, for collection by the City.

## Appendix 'B'

15.14 The Owner acknowledges that all waste and recyclable materials will be collected municipally.

16. Toronto and Region Conservation Authority (TRCA)

16.1 That prior to any development, pre-servicing or site alteration, or registration of this plan or any phase thereof, the applicant shall submit, provide and/or attain the approval from the TRCA for:

- a. a detailed engineering report stamped by a professional engineer that in addition to describing the storm drainage system for the proposed development of the subject lands, includes:
  - i. The functional servicing report and the stormwater management report should include all location and description of all outlets and other facilities, grading, site alterations or development which may require a permit pursuant to Ontario Regulation 166/06, the Authority's Development, Interference with Wetlands and Alterations to Shorelines and Watercourse Regulation;
  - ii. Confirmation that all of TRCA's stormwater management criteria and the criteria requirements for water balance have been met or exceeded;
  - iii. Water balance measures with supporting calculations;
  - iv. That confirmation of the infiltration facility and the seasonally high water table is separated a minimum of 1 metre before the finalization of the infiltration facility location;
  - v. Detail drawings, locations and plans for proposed water balance and LID measures on the appropriate drawings;
  - vi. Detailed grading plans and site servicing plans;
- b. A detailed and comprehensive Erosion and Sediment Control Plan and Report, which complies with the TRCA's Erosion and Sediment Control Guidelines for Urban Construction (available at [www.sustainabletechnologies.ca](http://www.sustainabletechnologies.ca));

16.2 That the applicant attain all Ontario Regulation 166/06 permits from the TRCA for all works proposed on the subject property for which permits would be required, and those related to any associated infrastructure or stormwater management works required to support this development that may be located off the subject property;

16.3 That the owner agrees in the subdivision agreement, in wording acceptable to the TRCA:

## Appendix 'B'

- a. to carry out, or cause to be carried out, to the satisfaction of the TRCA, the recommendations of the technical reports and analyses to be approved by TRCA, including water balance and infiltration measures identified in the engineering report;
- b. to agree to, and implement, the requirements of the TRCA's conditions in wording acceptable to the TRCA;
- c. to design and implement on-site erosion and sediment controls in accordance with current TRCA standards;
- d. to maintain all stormwater management and erosion and sedimentation control structures operating in good repair during the construction period, in a manner satisfactory to the TRCA;
- e. to obtain all necessary TRCA permits pursuant to Ontario Regulation 166/06 (as amended) from the TRCA;
- f. that all buffer blocks associated with the future trail has been gratuitously conveyed into public ownership;
- g. to provide and install the LID measures identified in the engineering report for the purchaser prior to occupancy, including but not limited to increased topsoil depth to the satisfaction of the City and TRCA;
- h. to provide for planting, restoration and enhancement within or adjacent to all natural areas and buffer in accordance with planting and restoration plans to be approved by the TRCA. And, that monitoring and replanting of these areas be completed for a minimum warrantee period in accordance with City of Markham standards, with sufficient funds being secured through a letter of credit in favor of the City of Markham or other appropriate measure;
- i. to erect a permanent fence to the satisfaction of the TRCA on all lots and blocks abutting lands to be conveyed to the public authority, prior to occupancy of any homes within lots 1 to 4 and 11 to 14 inclusive.
- j. that a warning clause be included in all agreements of purchase and sale, and information is to be highlighted on all community information maps and promotional sales materials for lots with infiltration measures which identifies the following:

"The infiltration galleries located on the subject property form an integral part of the stormwater management infrastructure for the community. It is the owner's responsibility to maintain this system and to ensure that proper drainage is maintained."

## Appendix 'B'

- k. That a warning clause be included in all agreements of purchase and sale, and information is to be highlighted on all community information maps and promotional sales materials for all private lots or blocks abutting the proposed rear walk-way which identifies the following:

“The lands abutting the rear property line is a municipally maintained walk-way adjacent to environmental protected lands. The buffer block is considered to be part of the publically owned environmental protection area and will be maintained by the City. The installation of private gates to access the lands and any encroachment such as private picnic, barbeque or garden areas, storage of materials and/or the dumping of refuse or ploughed snow is prohibited.

- 16.4 That the draft plan be red-line revised (if necessary), to meet the requirements of TRCA's conditions, or to meet current established standards in place as of the date of a request for registration of the Plan or any phase thereof.

17. Region of York

**Conditions to be Included in the Subdivision Agreement**

- 17.1 The Owner shall save harmless York Region from any claim or action as a result of water or sanitary sewer service not being available when anticipated.

**Conditions to be Satisfied Prior to Final Approval**

- 17.2 The road allowances included within the draft plan of subdivision shall be named to the satisfaction of the City of Markham and York Region.
- 17.3 York Region shall confirm that adequate water supply and sewage capacity are available and have been allocated by the City of Markham for the development proposed within this draft plan of subdivision or any phase thereof.
- 17.4 The Owner shall provide an electronic set of the final engineering drawings showing the watermains and sewers for the proposed development to the Community Planning and Development Services division and the Infrastructure Asset Management Branch for record.
- 17.5 The Owner shall provide a copy of the Subdivision Agreement to the Corporate Services Department, outlining all requirements of the Corporate Services Department.
- 17.6 The Owner shall enter into an agreement with York Region, agreeing to satisfy all conditions, financial and otherwise, of the Regional Corporation; Regional Development Charges are payable in accordance with Regional Development Charges By-law in effect at the time that Regional development charges, or any part thereof, are payable.

## Appendix 'B'

17.7 The Regional Corporate Services Department shall advise that Conditions 1 to 6 inclusive, have been satisfied.

#### 18.0 Developers Group Agreement and Clearance

18.1 Prior to final approval of the draft plan, the Owner shall enter into a Developers Group Agreement to ensure the provision of community and all common facilities such as school sites, municipal services, parks and public roads, etc, in the Wismer Commons community are completed to the satisfaction of the City (Commissioner of Development Services and City Solicitor). A certificate confirming the completion of such agreement(s) shall be provided to the City by the Developers Group Trustee to the satisfaction of the City Solicitor.

18.2 The Owner shall covenant and agree in the subdivision agreement that the plan of subdivision shall not be released for registration by the City until the Owner delivers a release to the City from the Trustee of the Developers Group to the effect that all conditions of the Group Agreement have been met to the satisfaction of the Trustee.

#### 19.0 Ministry of Natural Resources

19.1 The Owner covenants and agrees to comply with the requirements of the Endangered Species Act, 2007, S.O. 2007, c. 6. (the "ESA"), and the Species at Risk Act, S.C. 2002, c. 29. (the "SARA"), with respect to any species identified in accordance with the ESA and the SARA. The Owner acknowledges and agrees that, notwithstanding this Agreement and any approvals made or given by the City in respect of the Subdivision, the onus is on the Owner to comply with the provisions of the ESA and the SARA. The Owner covenants and agrees to indemnify and save harmless the City, its directors, officers, Mayor, councillors, employees and agents from any and all actions, causes of action, suits, claims, demands, losses, penalties, fines, expenses and damages whatsoever that may arise either directly or indirectly from the approval and registration of the Subdivision and the Assumption of Subdivision, the construction and use of the Works or anything done or neglected to be done in connection with the ESA and the SARA.

#### 22. External Clearances

22.1 Prior to final approval of the draft plan of subdivision, clearance letters, containing a brief statement detailing how conditions have been met, will be required from authorized agencies as follows:

- a) Canada Post shall advise that Conditions 11.1 to 11.45 have been satisfied.
- b) The Toronto and Region Conservation Authority shall advise that Conditions 16.1 to 16.4 inclusive, have been satisfied.
- c) The Regional Municipality of York Planning Department shall advise that Conditions 17.1 to 17.7 inclusive, have been satisfied.

## Appendix 'B'

- d) The Trustee of the Cornell Developers Group provide clearance that all obligations, financial or otherwise have been satisfied in accordance with Conditions 18.1 and 18.2;
- e) That the Owner submits a letter from the Ministry of Tourism Culture and Sport that the Heritage Resource Assessment has been entered into the Ontario Public Register of Archaeology Reports in accordance with Condition 14.1

ISSUED: April XX, 2019

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Ron Blake, M.C.I.P., R.P.P.  
Senior Development Manager



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## SUSTAINABLE DEVELOPMENT BRIEFING

To reduce environmental impact of the development, Sustainable development principles will be incorporated into the design and construction, including:

### 1. Sustainable Site Management

The project site is located on the Robinson Creek. A stormwater management plan will be conducted, that was included in the Functional Servicing Report that is submitted with the Zoning Bylaw Amendment (ZBA) application, to control both quality and quantity of rainwater runoff. After the development, the proposed overland flow route remains the same as the existing overland flow route for the roadways.

### 2. Improvement of Energy Performance

High efficiency HVAC system with HRV (Heat Recovery Ventilation) will be utilized in the new building. The furnaces will have an annual fuel efficiency of 94% or higher. The HRV will recover about 75% heat from the exhaust air.

High efficiency lighting system (e.g. LED lights, timing / occupancy sensor lighting control) will be specified in the construction documents.

### 3. High Efficiency Water Fixtures

To reduce water use, high efficiency water fixtures, e.g. dual flushing water closets and low flow shower heads, will be utilized.

### 4. Low Impact Power

To reduce environmental impact of power used for vehicles and household, electrical car and renewable energy system are encouraged. Conduits from the electrical box to garage and roof are required for the future installation of charging stations or roof top solar panels by home owners.



Report to: Development Services Committee

Report Date: March 18, 2019

**SUBJECT:** **Recommendation Report**  
 2412371 Ontario Limited (Wyview Group)  
 4121 Highway 7  
 Application for zoning by-law amendment to permit a  
 temporary automobile storage lot (Ward 3)  
 File No.: ZA 18 154593

**PREPARED BY:** Scott Heaslip, MCIP, RPP,  
 Senior Development Coordinator, Central District  
 ext. 3140

**REVIEWED BY:** Ron Blake, MCIP, RPP,  
 Senior Development Manager  
 Ext. 2600

**RECOMMENDATION:**

That the report dated March 18, 2019 titled "Recommendation Report, 2412371 Ontario Limited (Wyview Group), 4121 Highway 7 Application for zoning by-law amendment to permit a temporary car storage lot, (Ward 3), File No. ZA 18 154593," be received;

That the record of the Public Meeting held on November 13, 2018 regarding the Zoning By-law Amendment application submitted by 2412371 Ontario Limited (Wyview Group), be received;

That the Zoning By-law Amendment application submitted by 2412371 Ontario Limited (Wyview Group) to amend Zoning By-law 304-87, as amended, be approved, and that staff finalize the implementing zoning by-law amendment for enactment by Council;

That Staff be authorized and directed to do all things necessary to give effect to this resolution.

**EXECUTIVE SUMMARY:**

Not applicable.

**PURPOSE:**

This report recommends that Council approve a zoning by-law amendment to permit a temporary automobile storage lot at 4121 Highway 7. The temporary storage lot will be used by the Audi dealership on the north side of Highway 7, directly opposite the subject property, while the dealership is being reconstructed.

**BACKGROUND:**

**Subject property and area context (Figures 1 and 2)**



The subject property is located on the south side of Highway 7, east of Birchmount Road. The property is occupied by a vacant dwelling and a garage, both of which are in poor condition. The rear portion of the property is within the floodplain of the Rouge River. The property contains a number of mature trees, primarily in the rear portion. To the west is Sheridan Nurseries. To the east is a property occupied by an older vacant dwelling. The Audi dealership on the north side of Highway 7 is currently illegally storing cars in the north portion of this property. To the north across Highway 7 are a townhouse development, currently under construction and the Volvo/Audi dealerships.

**Official Plan and Zoning (Figure 3)**

The front portion of the subject property (the location of the proposed temporary automobile storage lot) is designated "Community Amenity Area General" by Amendment No. 21 to the 1987 Official Plan (the Markham Centre Secondary Plan). The rear portion (the Rouge River valleyland) is designated "Hazard Land." Lands in the "Community Amenity Area General" designation are intended to develop with a mix of residential, commercial, employment and community uses in a pedestrian friendly manner. This designation permits a limited range of automotive uses such as automobile service stations, but does not permit "suburban style" automobile dealerships (dealership building surrounded by an extensive car storage area), which fall under the category of "retail uses involving accessory outdoor accessory storage and/or display of merchandise," a prohibited use in this designation.

The front portion is designated "Mixed Use Mid Rise" in the 2014 Official Plan (as partially approved on November 24, 2017 and updated on April 9, 2018). The policy direction for lands in the "Mixed Use Mid Rise" designation is for a mix of residential, retail, restaurant and service uses in multi-storey street related buildings ranging up to 8 storeys unless otherwise specified in a secondary plan or site specific policy. The rear portion is designated "Greenway." The zoning does not permit automotive uses or the storage of vehicles.

The 2014 Official Plan provides that until approval of an updated secondary plan for Markham Centre pursuant to the policies of the new Official Plan, the policies of OPA 21 (the current Markham Centre secondary Plan) continue to apply.

The north portion of the subject property is zoned "Rural Residential One" (RR1) under By-law 304-87 (the City's Rural Area Zoning By-law). This zoning permits one single detached dwelling on a lot having a minimum area of 1 acre. The south portion is zoned "Agricultural" (A1) and "Open Space" (O1).

**Proposal**

The applicant has applied for a temporary use by-law to permit the northerly portion of the subject property to be used for the temporary storage of automobiles for the Audi dealership on the north side of Highway 7, directly opposite the subject property. The proposed parking area would accommodate approximately 39 cars.

**OPTIONS/ DISCUSSION:**

**Council can approve temporary uses for periods of up to three years.**

The Planning Act allows municipalities to pass temporary use by-laws to permit lands to be used for purposes not normally permitted by the Official Plan and zoning by-laws for temporary periods of time not exceeding three years. Municipalities may renew temporary use by-laws, upon application by the landowner, for periods of time not exceeding three years. Uses authorized by temporary use by-laws do not gain legal non-conforming status upon expiry of the by-law, and therefore become illegal uses.

**Audi dealership is proposing off-site car storage while dealerships are being reconstructed.**

On June 25, 2018, Development Services Committee endorsed site plan approval for the redevelopment of the existing Volvo and Audi dealerships. This development involves the demolition of the existing buildings and their replacement with new buildings accommodating Volvo, Audi and Jaguar/Land Rover dealerships. The new dealerships will provide a total of 588 parking spaces underground, within the buildings, on the rooftops and at grade around the buildings. The existing Volvo and Audi dealerships provide a total of approximately 165 parking spaces.

Construction is proposed to be in two stages, as follows:

- In the first stage the Volvo dealership is relocating to the former Perkins Home Hardware property on the west side of Woodbine Avenue, north of Highway 7. The Audi dealership will remain in its existing building. The existing Volvo dealership will be demolished and a new Audi dealership will be constructed in its place.
- In the second stage, once the new Audi dealership is complete and Audi has moved into the building, the existing Audi dealership will be demolished and the new Volvo and Jaguar/Land Rover dealerships will be constructed. The Volvo dealership will then move back onto the property from the temporary location, and the Jaguar/Land Rover dealership will open.

The overall project is expected to take a minimum of two years to complete.

The manager of the Audi dealership has explained to staff that they require an off-site parking area in close proximity to the dealership to support the operations of the dealership during reconstruction because there will be limited space on-site to accommodate the sales, service and employee parking requirements of the dealership. The Audi dealership is proposing to lease the subject lands from the applicant for this purpose while the dealership is being reconstructed.

**Applicant has responded to concerns expressed by City Councilors at the Public Meeting**

A statutory public meeting was held on November 13, 2018 to consider the requested zoning by-law amendment. No written submissions were received and no members of the general public spoke at the public meeting. Members of Development Services Committee discussed the following concerns:

Report to: Development Services Committee

Report Date: March 18, 2019

Page 4

- 
- That the automobile storage lot would not be temporary.
  - That staff investigate a lease agreement involving the City to ensure that the use will cease.
  - That there would be a loss of trees.
  - That the cars could be stored at another location, with specific reference to the existing car storage facilities on the east side of Rodick Road, south of Highway 7.

The owner of the property (The Wyview Group) has submitted a letter (attached as Appendix 'A') responding to the concerns discussed at the public meeting. The letter advises as follows:

- The applicant is requesting a three year term to accommodate the anticipated construction period of the reconstruction of the Audi dealership (any extension beyond 3 years would be subject to further review and Council approval of a new temporary use By-Law).
- The parking will be used for both employee parking and for the storage of new vehicles in close proximity to the dealership so they can have product in proximity for customers to view and test drive.
- The Audi dealership only rents space on Rodick Road.
- Wyview is a residential developer/builder.
- Wyview is more interested in developing this land for residential purposes as opposed to the storage of automobiles.
- Wyview has no interest in seeing this use extend beyond the temporary use period.
- The subject lands will be developed for residential purposes in the near future and any vegetation that is not being protected will ultimately be removed. As part of this application care will be taken to reduce the number of trees that need to be removed to accommodate the temporary parking of automobiles.

If Committee is satisfied that the letter submitted by the applicant's planning consultant addresses the concerns discussed at the public meeting, staff recommend that Committee approve the application and direct staff to finalize the implementing zoning by-law amendment for enactment by Council.

The proposed temporary automobile storage lot is subject to site plan approval. Staff will work with the applicant to maximize tree preservation and to ensure that the temporary automobile storage lot has an appropriate appearance when viewed from Highway 7.

#### **FINANCIAL CONSIDERATIONS AND TEMPLATE: (external link)**

Not applicable.

#### **HUMAN RESOURCES CONSIDERATIONS**

Not applicable.

**ALIGNMENT WITH STRATEGIC PRIORITIES:**

Not applicable.

**BUSINESS UNITS CONSULTED AND AFFECTED:**

The application has been circulated to various City departments and external agencies for review. The requirements of City departments and external agencies will be secured in the site plan agreement.

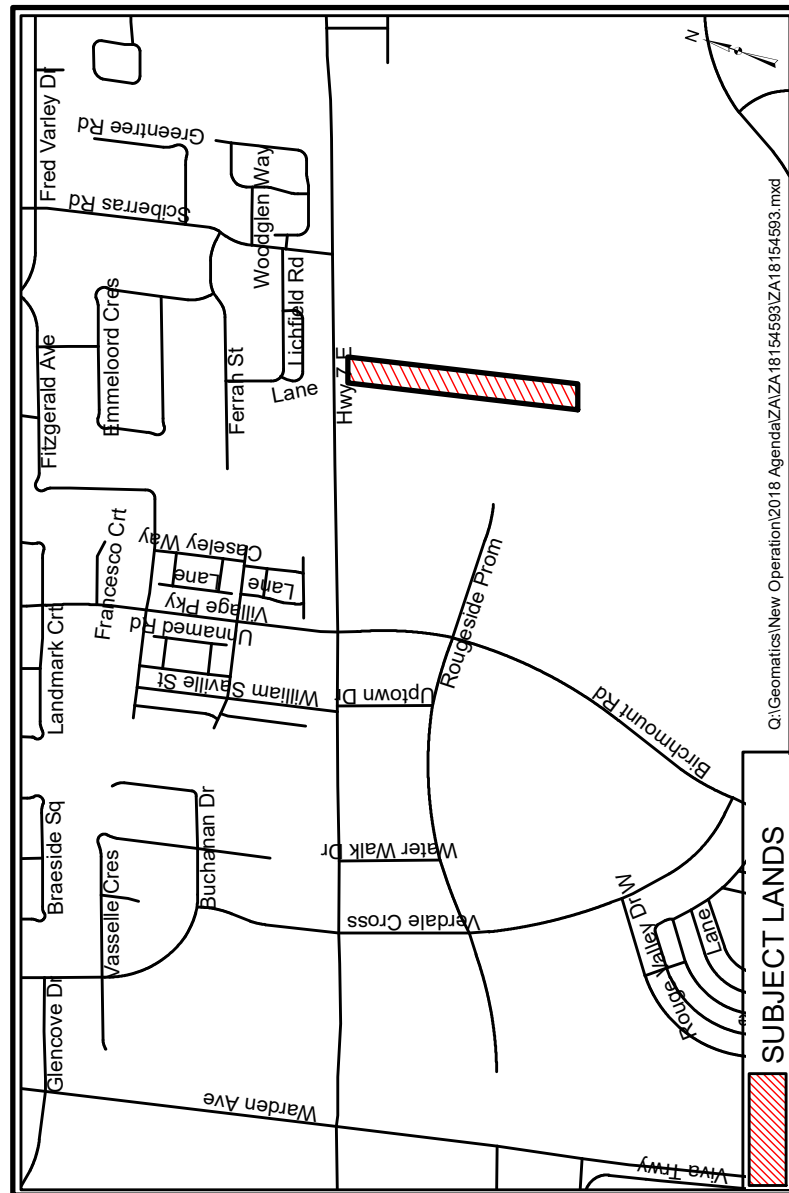
	
<b>Biju Karumanchery, M.C.I.P., R.P.P.</b>	<b>Arvin Prasad, M.C.I.P., R.P.P.</b>
<b>Director, Planning and Urban Design</b>	<b>Commissioner, Development Services</b>

**ATTACHMENTS:**

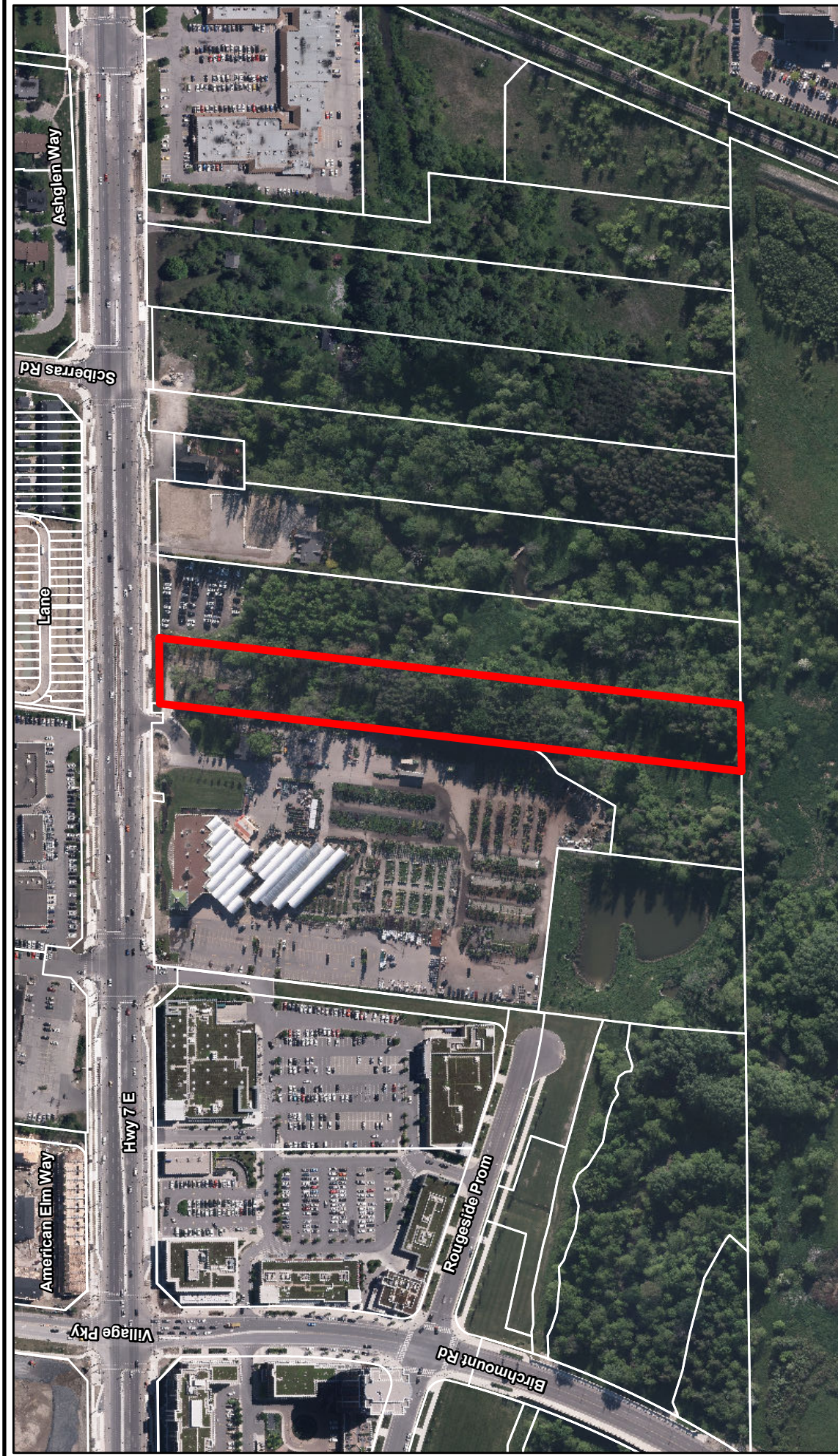
Figure 1: location Map  
Figure 2: Aerial Photo  
Figure 3: Area context/Zoning  
Figure 4: Site plan

Appendix 'A' – Letter dated January 22, 2019 from KLM Planning Partners Inc.

Applicant: Eric Zou  
Wyview Group Inc.  
4151 Highway 7  
Markham, Ontario  
L3R 1L5  
905-604-8077  
[eric@wyviewgroup.com](mailto:eric@wyviewgroup.com);








# AIR PHOTO

2412371 ONTARIO LIMITED (WYVIEW GROUP)  
4121 HIGHWAY 7

FILE No. ZA\_18154593 (SC)

Q:\Geomatics\New Operation\2018 Agenda\ZA\ZA18154593\ZA\_18154593.mxd



 SUBJECT LANDS



Date: 25/07/2018

Checked By: SH

Drawn By: LW

**FIGURE No. 2**





**FIGURE No. 4**





Appendix 'A'  
Page 10 of 18  
64 Jardin Drive, Unit 1B  
Concord, Ontario  
L4K 3P3  
T. 905.669.4055  
F. 905.669.0097  
klmplanning.com

P-2918

January 22, 2019

City of Markham  
Planning and Development Services  
101 Town Centre Boulevard  
Markham, ON  
L3R 9W3

**Attention: Mayor Scarpitti and Members of Council**

**Re: City of Markham File ZA 18 154593  
Applications for Temporary Use Zoning By-law Amendment  
Proposed Temporary Automobile Storage  
2412371 Ontario Limited  
Part of Lot 10, Concession 5  
4121 Highway 7  
City of Markham**

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Dear Mayor Scarpitti and Members of Council,

On behalf of our client, 2412371 Ontario Limited, owner of the above noted lands and further to our public meeting held on November 13, 2018, we are pleased to provide this letter to respond to some of the comments and questions that were raised at the public meeting.

As noted at the public meeting, the Temporary Use Zoning By-law Amendment Application was filed in order to permit the temporary parking of 39 vehicles in association with the Audi Dealership across the road, which is undergoing a significant renovation/construction project. The parking of the vehicles will be used for both employee parking and for the storage of new vehicles in close proximity to the dealership so they can have product in proximity for customers to view and test drive. The staff report provided a concise description of the magnitude of works that are being undertaken at the dealership.

The expansion/construction project has been approved by Council via a site plan application and in order to maintain business operations while under construction is important not only for the parking of employee vehicles but also to have new vehicles in close proximity for customers. As well, the dealership is expanding to include the Jaguar and Land Rover brands which will in turn bring with it an estimated 50 additional jobs. The fact that an existing good corporate citizen of the City of Markham is expanding and will provide additional employment opportunities, should be viewed as a positive attribute to the City of Markham.

In order to address some of the comments/concerns that were expressed at the meeting, we offer the following:

**1. Concern this application will not be temporary**

As noted, our application for a temporary use Zoning By-law Amendment application would be for the full three (3) years which is the maximum time allotted under the Planning Act for such an application. We would like to keep the maximum three (3) years given the substantial construction project for the Audi dealership and potential delays that inevitably happen.

Should there be any need to extend the use, we will be required to file a new application, have a new public meeting and it will be Council's decision on whether to approve or deny the application. Council has the authority to determine how long this use will continue.

Most importantly though, my client is a residential developer/builder whom has absolutely no interest in seeing this use extend beyond the temporary use time period. This land is much too valuable for residential purposes than the proposed short-term parking of automobiles. My client is merely doing this to be a good neighbor in order to assist an existing business.

**2. Why not use the Rodick Road Location?**

As noted at the public meeting, my client does not own land on Rodick Road. It is also our understanding that Audi (amongst other dealerships) only rents space from Zoom Zoom Storage whom are the owners of the land.

My client is trying to assist an existing, successful business in the City of Markham while they undertake a significant renovation/construction project which will add more jobs to the City of Markham. The Temporary Use application is merely to allow for the parking of 39 vehicles which will consist of a combination of staff and new vehicle parking.

### 3. Concern with removal of existing vegetation

The subject lands will be developed for residential purposes in the near future and therefore any vegetation that is not being protected will ultimately be removed. However, as part of this application, care will be taken to reduce the number of trees that need to be removed in order to accommodate the temporary parking of automobiles.

In closing, my client is more interested in developing this land for residential purposes as opposed to the storage of automobiles and it is their intent this use will not continue past the three-year window permitted by the Planning Act. We hope the above appropriately addresses the concerns raised at our public meeting to allow this temporary use to proceed in order to assist a good corporate citizen for the City of Markham.

Yours truly,

**KLM PLANNING PARTNERS INC.**

A handwritten signature in black ink, appearing to read 'K MacKinnon', written over a horizontal line.

Keith MacKinnon, BA, MCIP, RPP  
Partner

cc. Eric Zou, 2412371 Ontario Limited  
cc. Scott Heaslip – City of Markham



Report to: General Committee

Meeting Date: March 25, 2019

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**SUBJECT:** 042-T-15 Cathodic Protection of Iron Watermains – Contract Extension

**PREPARED BY:** Prathapan Kumar, Senior Manager, Environmental Services, Ext. 2989  
Flora Chan, Senior Buyer, Ext. 3189

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**RECOMMENDATIONS:**

- 1) THAT the report entitled “042-T-15 Cathodic Protection of Iron Watermains – Contract Extension” be received;
- 2) AND THAT contract # 042-T-15 Cathodic Protection of Iron Watermains, awarded to 1460973 Ontario Limited O/A C.P. Systems (C.P. Systems), be extended for three (3) additional years at the same itemized pricing;
- 3) AND THAT the tendering process for the Cathodic Protection of Iron Watermains be waived in accordance with Purchasing By-Law 2017-8, Part II, Section 11.1 (c); which states that “when the extension of an existing Contract would prove more cost-effective or beneficial”;
- 4) AND THAT the annual amount of \$289,283.33, inclusive of HST, be awarded for 2019;
- 5) AND THAT a 8% contingency in the amount of \$23,142.67 be established to cover any additional construction costs and that authorization to approve expenditures of this contingency amount up to the specified limit be in accordance with the Expenditure Control Policy;
- 6) AND THAT the award in the amount of \$312,426.00 be funded from the capital project 053-6150-19241-005 “Cathodic Protection of Iron Watermains”;
- 7) AND THAT the remaining funds of \$65,374.00 in project #19241 “Cathodic Protection of Iron Watermains” be returned to the original funding source;
- 8) AND THAT the contract services award (inclusive of 8% contingency) for:
  - (a) Year 2020 in the amount of \$328,900.12 (\$304,537.15 + \$24,362.97),
  - (b) Year 2021 in the amount of \$443,098.05 (\$410,275.97 + \$32,822.08),
 be requested as part of the 2020 and 2021 capital budget process, subject to Council approval;
- 9) AND THAT Staff be authorized and directed to do all things necessary to give effect to this resolution.

**PURPOSE:**

The purpose of this report is to seek Council’s authorization to extend the contract for cathodic protection of iron watermains (042-T-15) with the current contractor, C.P. Systems, for an additional three (3) years from 2019 to 2021, at the same itemized pricing.

**BACKGROUND:**

External corrosion of iron watermain is the leading cause of municipal watermain breaks. Cathodic protection of iron watermain program is an annual preventative maintenance program for controlling the corrosion rate in cast iron and ductile iron watermain, which reduces costly watermain breaks and extends pipe service life. As part of the program, magnesium anodes are installed using an auger drilling device or a vacuum excavation machine, and are wired to the iron pipe to inhibit the electrochemical corrosion process in the pipe. This protects the pipe itself from corrosion. Anodes are estimated to last for 18 - 20 years, depending on surrounding soil conditions.

Since 1992, Markham has been implementing the cathodic protection preventive maintenance program. The watermain breaks has been significantly reduced from 153 in 1991 to an average of 31 in the last 5 years.

Proposed Program (refer to Attachment A):

2019 – 10.4 km

2020 – 11.0 km

2021 – 15.0 km

Cast iron and ductile iron watermain at the end of their lifecycle are further assessed, planned and replaced as required.

**OPTIONS/ DISCUSSION:**

Staff considered re-tendering the project but do not recommend due to the following rationale:

Niche Market

As reflected in City's previous tender results in 2009, 2014 and 2015 as well as recent market tender result, there are only a small number of companies who perform this type of work.

Efficiency, Cost and Time Savings

In 2015, the awarded supplier and the recommended supplier under this report was 47% lower in price than the 2nd bidder.

Price competitiveness is further confirmed upon detailed price comparison with current market rates from other municipalities. The City's rate is significantly lower than three local municipalities who tendered this work in 2018. Therefore, for economic reasons, and to mitigate the potential risk of doubling the cost to the City by issuing a new tender, Staff recommend extending the existing contract as per the City's Purchasing By-Law 2017-8, Part II, Section 11.1 (c); which states that "when the extension of an existing Contract would prove more cost-effective or beneficial"

Proven Track Record

C.P. Systems have been working with the City on the cathodic protection program since 2002 and staff are satisfied with their performance.

**FINANCIAL CONSIDERATIONS AND TEMPLATE:****Contract Services for 2019:**

The following table summarizes the financial considerations for 2019 - 2021:

Budget Allocation (A)	\$377,800.00	053-6150-19241-005 "Cathodic Protection of Iron Watermains"
Less: Construction Cost (B)	\$289,283.33	} Awarded to 1460973 Ontario Limited O/A C.P. Systems (042-T-15)
Less: Construction Contingency (8%) (C)	\$ 23,142.67	
<b>Total Cost (D) = (B) + (C)</b>	<b>\$312,426.00</b>	
Budget Remaining (E) = (A) – (D)	\$ 65,374.00	*

\*The remaining funds in project #19241 "Cathodic Protection of Iron Watermains" in the amount of \$65,374 will be returned to the original funding source.

**Future Contract Services for 2020 and 2021:**

The Purchase Order will not be issued until 2020 and 2021, subject to Council approval of the respective year's Capital Budgets. Under this award, Staff are able to lock in pricing for these years.

<b>2020 Budget</b>		Subject to Council approval of the 2020 Capital budget
Contract Award (F)	\$304,537.15	
Contingency (8%) (G)	\$ 24,362.97	
<b>Total Cost for 2020 (H) = (F) + (G)</b>	<b>\$328,900.12</b>	
<b>2021 Budget</b>		Subject to Council approval of the 2021 Capital budget
Contract Award (I)	\$410,275.97	
Contingency (8%) (J)	\$ 32,822.08	
<b>Total Cost for 2021 (K) = (I) + (J)</b>	<b>\$443,098.05</b>	
<b>Total Cost for 2020 &amp; 2021 (Q) = (O) + (P)</b>	<b>\$771,998.17</b>	

**OPERATING BUDGET AND LIFE CYCLE RESERVE IMPACT**

The Waterworks life cycle reserve study will be updated based on this award. There is no incremental operating budget impact.

**ALIGNMENT WITH STRATEGIC PRIORITIES:**

The proposed cathodic protection program is aligned with City's goal to provide better quality services to the public and is consistent with the Building Markham's Future Together strategic priority on the "Growth Management" and "Environment" as it considers sustainability on the built environment.

**BUSINESS UNITS CONSULTED AND AFFECTED:**

Finance department has been consulted and their comments have been incorporated.

**RECOMMENDED BY:**

2019-02-11

A handwritten signature in black ink, appearing to read 'Phoebe Fu', with a large 'X' to its left.

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Phoebe Fu  
Director, Environmental Services  
Signed by: cxa

2019-02-11

A handwritten signature in black ink, appearing to read 'Brenda Librecz', with a large 'X' to its left.

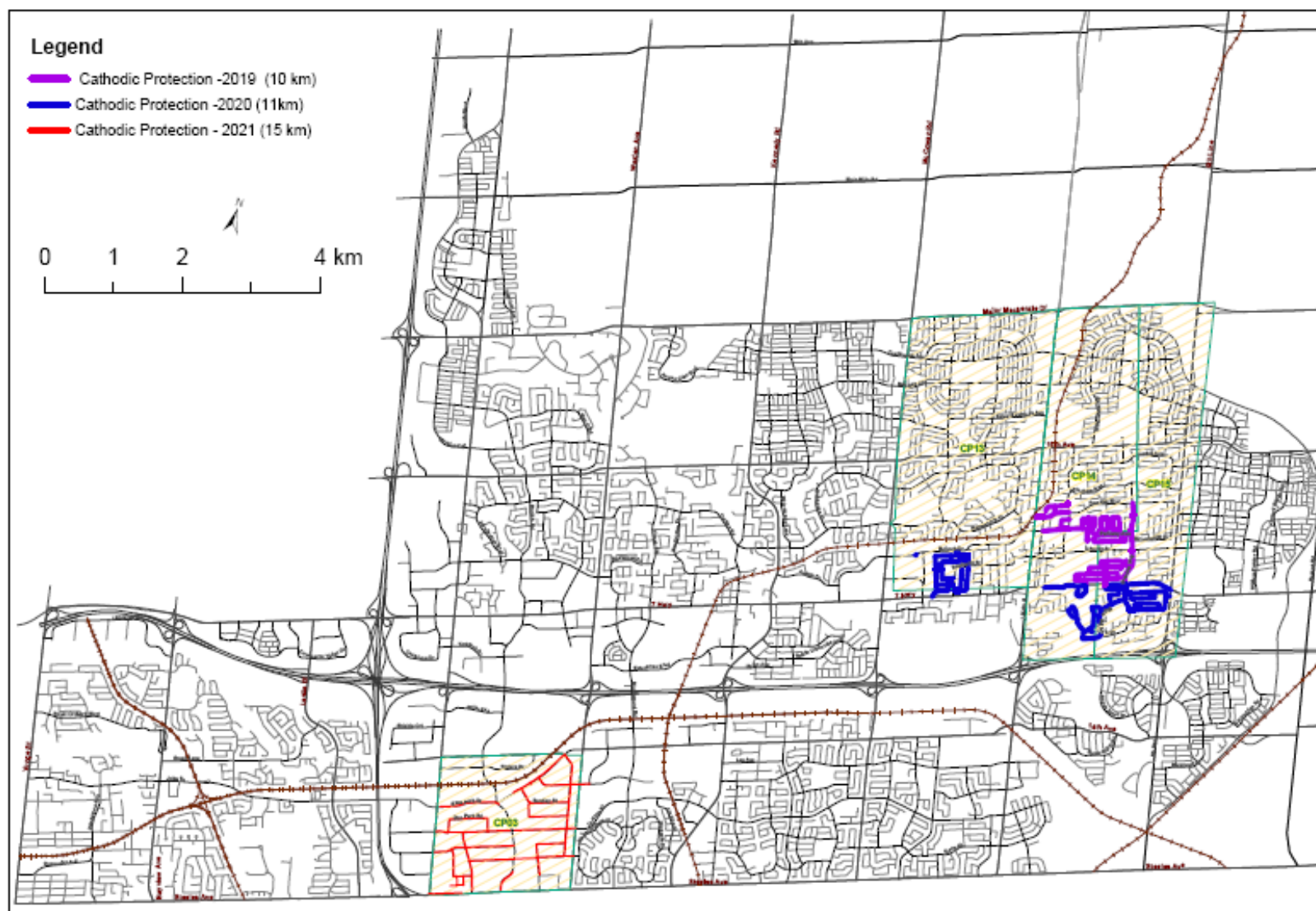
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Brenda Librecz  
Commissioner, Fire a& Community Services  
Signed by: cxa

**ATTACHMENTS:**

Attachment "A" - 2019/ 2020/ 2021 Cathodic Protection Areas

**MARKHAM** Attachment "A" : Location Map - 2019/2020/2021 Cathodic Protection Areas







Report to: General Committee

Meeting Date: March 25, 2019

**SUBJECT:** Award of Contract 126-R-18 Real Estate Brokerage Services

**PREPARED BY:** Hersh Tencer, Senior Manager Real Property, Ext. 5988  
Rosemarie Patano, Senior Construction Buyer, Ext. 2990

**RECOMMENDATION:**

- 1) THAT the report entitled "Award of Contract 126-R-18 Real Estate Brokerage Services" be received;
- 2) THAT the contract for Real Estate Brokerage Services be awarded to the highest ranked/lowest priced bidder, Cushman & Wakefield Ltd.;
- 3) THAT Contract 126-R-18 for Real Estate Brokerage Services be awarded to the highest ranked bidder, Cushman & Wakefield Ltd., for a one (1) year term with the City having an option to renew for four (4) additional years, with the following commission rates payable to them upon closing of the property transaction for five years (exclusive of HST);

<b>Years 1 - 5</b>	<b>Commission rates</b>
Sale of property	1.00%
Purchase of property*	1.00%
Lease of property	
a) Residential (% of 1-month rent)	50.00%
b) Industrial (% of 1 <sup>st</sup> year net rent)	1.00%
c) Industrial (% of each of the remaining years of the initial lease term)	1.00%
d) Office (\$ per square foot)	\$0.20

\*When it is disclosed at the beginning of a transaction that the Vendor/Landlord will not pay a commission to the broker, the City shall pay the commission at the rate as outlined on the above chart.

- 4) THAT bidder Cushman & Wakefield Ltd. be designated as the preferred vendor of the City's Real Estate Brokerage Services needs for a one year term with the City Solicitor having the authority to renew successive one year terms to a maximum of five years;
- 5) THAT Staff be authorized and directed to do all things necessary to give effect to this resolution.

**PURPOSE:**

The purpose of this report is to obtain Council approval to award the contract for real estate brokerage services.

**BACKGROUND:**

The core responsibilities of the scope of work shall include (but are not limited to) the following:

- Work closely with the City's Real Property Manager;
- Represent the City as landlord or tenant in the leasing of real property;
- Provide advice and guidance on various real estate opportunities (i.e., opinions of value, market data, competitive properties, reported sales, leases, trends, annual reports etc.);
- Provide marketing strategies that would net the greatest exposure and gain in any sale of property;
- Provide regular standardized reporting on the status and action items for various transactions.

**OPTIONS/ DISCUSSION:****Bid Information**

Bids closed on	January 30, 2019
Number of Bidders picking up bid document	6
Number of Bidders responding to Bid	4

**PROPOSAL EVALUATION**

This Request for Proposal ("RFP") was released using a two-stage approach whereby the Bidders provided a technical proposal in envelope 1 and a price proposal in envelope 2. The technical proposal (Stage 1) was evaluated with 70 points and 30 points assigned for price in stage two (2).

The Evaluation Team for this RFP was comprised of the Senior Manager of Real Property, and Property Appraiser & Negotiator, with Procurement staff acting as the facilitator. Under Stage 1, a Bidder must achieve a technical score of 75% (or 52.5 points out of 70) to proceed to Stage 2 and be included in the overall results.

**Overall Scoring (Combined Stage 1 & II)**

<b>Bidders</b>	<b>Score (out of 100)</b>
Cushman & Wakefield ULC	86.90
Colliers Macaulay Nicolls Inc.	66.20
CBRE	62.10

One Bidder did not attain the technical score of 75% under Stage 1 and therefore, did not move forward to Stage 2.

Compared to the current contract RFP 186-R-13 (Year 5) to RFP 126-R-18 (Year 1), the incumbent (C&W) overall fees have reduced. The sale of property commission rate decreased from 1.75% to 1.00% (-0.75); the purchase of property commission rate decreased from 1.5% to 1.00% (-0.50); industrial lease of property commission rate decreased from 2.00% to 1.00% (-1.00); and, office lease of property decreased from \$0.60 per sq. ft. to \$0.20 per sq. ft. (-0.40 per sq. ft.). The remaining area, residential lease of property (% of 1-month rent), remains unchanged from the

current contract. All rates are firm and fixed for the duration of the contract, with no escalation from year 1 to year 5.

### **FINANCIAL CONSIDERATIONS**

The following outlines the commission rates payable to Cushman & Wakefield Ltd. Upon closing of a sale, purchase and/or lease of property transactions, for a one (1) year term with an option to renew for four (4) additional years:

<b>Year 1 - 5</b>	<b>Commission rates</b>
Sale of property	1.00%
Purchase of property*	1.00%
Lease of property	
a) Residential (% of 1-month rent)	50.00%
b) Industrial (% of 1 <sup>st</sup> year net rent)	1.00%
c) Industrial (% of each of the remaining years of the initial lease term)	1.00%
d) Office (\$ per square foot)	\$0.20

There is no incremental operating budget impact and no incremental life cycle impact over the next 25 years.

### **HUMAN RESOURCES CONSIDERATIONS**

Not applicable

### **ALIGNMENT WITH STRATEGIC PRIORITIES:**

Not applicable

### **BUSINESS UNITS CONSULTED AND AFFECTED:**

Not applicable

### **RECOMMENDED BY:**

Catherine Conrad  
City Solicitor

Andy Taylor  
Chief Administrative Officer



Report to: General Committee

Meeting Date: March 25, 2019

**SUBJECT:** Indemnification of Employees and Members of Council  
**PREPARED BY:** Catherine M. Conrad, City Solicitor and Acting Director of  
 Human Resources  
 Ext. 4737

**RECOMMENDATION:**

- 1) THAT the report entitled “Indemnification of Employees and Members of Council”, dated March 25, 2019, be received;
- 2) AND THAT Attachment “A”, the proposed Indemnification of Employees and Members of Council By-law, be enacted;
- 3) AND THAT the contract for the City’s Integrity Commissioner be amended to include the responsibilities set out in the By-law attached as Attachment “A”;
- 4) AND THAT the Chief Administrative Office and the City Clerk be authorized to enter into indemnification/reimbursement agreements with eligible persons where the Integrity Commissioner has authorized indemnity, in a form satisfactory to the City Solicitor; and
- 5) AND THAT Staff be authorized and directed to do all things necessary to give effect to this resolution.

**PURPOSE:**

The purpose of this report is to recommend a by-law that provides for indemnification and defence of employees and Members of Council against loss or liability arising out of acts or omissions that occur while acting on behalf of the City.

**BACKGROUND:**

**Legislated Legal Protection**

The Municipal Act, 2001 (the “Act”) contains several immunity provisions that protect the municipality, municipal councillors, officers and employees from personal liability in legal actions in certain circumstances: neglect from “any act done in good faith” (section 448); nuisance from water or sewage works (section 449); negligence for policy decisions (section 450) in the performance of their public duty; damages for highway and bridges (section 45); sale of land for tax arrears (section 386). The Building Code Act contains immunity provisions that specifically protect Chief Building Officials. This legislation provides protection from legal liability for municipal councillors and employees in the stated circumstances, as long as the acts are done in “good faith” and in “performance of their duty.”

The general immunity provision reads as follows:

### **Immunity**

**448** (1) No proceeding for damages or otherwise shall be commenced against a member of council or an officer, employee or agent of a municipality or a person acting under the instructions of the officer, employee or agent for any act done in good faith in the performance or intended performance of a duty or authority under this Act or a by-law passed under it or for any alleged neglect or default in the performance in good faith of the duty or authority.

### **Liability for Torts**

(2) Subsection (1) does not relieve a municipality of liability to which it would otherwise be subject in respect of a tort committed by a member of council or an officer, employee or agent of the municipality or a person acting under the instructions of the officer, employee or agent.

However, these provisions do not protect municipalities or Councillors from other legal actions, such as a tort (a civil legal action involving a wrongful act that results in injury to another), see subsection (2) above, or misfeasance, which is a knowingly/deliberate unlawful act. Former or retired employees and former or retired Members of Council are not specifically addressed in these provisions.

Furthermore, the legislation does not require a municipality to undertake a defence or pay legal costs on behalf of an employee or Councillor, even in circumstances where the municipality is also named as a defendant.

Finally, the Act does not require the municipality to pay any costs associated with any legal action (although legal costs may be ‘awarded’ to a successful defendant and ordered to be paid by the plaintiff, those costs rarely, if ever, fully indemnify a successful defendant for all of their costs). Consequently, an employee or Councillor who is sued undertakes the defence at their own expense.

### **Insurance**

The City’s insurance policies provide coverage to Councillors, employees, members of Committees of Council and volunteers against claims for bodily injury, personal injury, and property damage caused while performing their City duties during the policy term, subject to limits of liability, exclusions, conditions and other terms of the policy. The areas of coverage relevant to this report include; General Liability, Errors and Omissions, and Legal Expense & Conflict of Interest.

### **Indemnity By-law**

Section 279 of the Municipal Act, 2001 (the “Act”) permits a municipality to act as an insurer for current and former employees and Councillors against any risk that may involve pecuniary loss or liability, subject to certain limitations. One such limitation is contained in section 14 of the Municipal Conflict of Interest Act (the “MCIA”), which

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provides that a municipal council may only reimburse a Councillor's legal expenses if that Councillor has been found not to have contravened sections 5, 5.1, and 5.2 of the MCLIA.

The Act authorizes councils to pass indemnification by-laws or adopt policies to defend or reimburse Councillors and employees for legal expenses they may incur while acting "in their capacity as members of council" or in the course of their public duties, respectively.

Presently, the City does not have an indemnity policy or by-law in effect. The City has relied on the provisions of the Municipal Act to determine indemnification eligibility.

The purpose of a legal indemnification by-law would be to:

- establish a framework for indemnifying employees and Councillors for defence and other costs;
- extend protection into additional types of legal disputes or actions;
- extend protection for legal fees to employees and municipal Councillors, including former employees and Councillors; and
- establish a process to determine when such indemnification applies and how litigation is managed.

Indemnification by-laws are relatively common among mid to large sized municipalities. In 2018, Richmond Hill surveyed municipalities in the GTA and 19 out of 22 municipalities have an indemnification by-law, including York Region, Vaughan, Newmarket, Mississauga and Brampton.

#### **OPTIONS/ DISCUSSION:**

##### **Proposed Markham Legal Indemnification By-law**

A proposed Indemnification By-law (the "By-law") for City employees and Members of Council is attached as Attachment 'A'. The proposed By-law includes the following provisions:

#### **1. Indemnification for present and former:**

- a. Councillors
- b. Employees
- c. Contract employees
- d. Volunteers

#### **2. Indemnifiable Employee and Councillor actions:**

- a. acts done in performance of duty and statutory duties
- b. acts done honestly and in good faith with a view to the best interests of the City and with no improper, immoral or objectionable purpose;
- c. the act or omission was done while acting on behalf of the Corporation or done or made by them in good faith in their capacity as Employees or Members;
- d. in cases involving monetary penalties, the conduct was believed to be lawful.

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**3. Covered Proceedings:**

- a. any civil or administrative proceeding before any court or tribunal, subject to certain exclusions.

**4. Excluded Conduct or Proceedings:**

- a. proceedings relating to a grievance filed under the provisions of a collective agreement;
- b. complaints made pursuant to the Council Code of Conduct where the Integrity Commissioner has found that the Member breached the Code;
- c. proceedings in which the interests of the Councillor or Employee are adverse in interest or in conflict with the City's interests;
- d. *Municipal Elections Act* (coverage available under insurance subject to limits);
- e. *Highway Traffic Act*;
- f. the *Criminal Code*; and
- g. municipal parking and traffic by-laws.

**5. Extent of Indemnification:**

- a. legal fees;
- b. fines;
- c. damages;
- d. settlements; and
- e. reasonable expenses incurred.

**5. Process:**

- a. by written request, forwarded to the Integrity Commissioner, via the City Clerk;
- b. determination of eligibility for indemnification is made by Integrity Commissioner, taking into consideration the criteria in the By-law;
- c. Indemnified Person must execute Indemnification Agreement.

**6. Limits to Indemnification:**

- a. reasonable defence costs;
- b. City to be reimbursed by any award of costs (but not damages awards to the employee or Councillor) paid to employee or Councillor;
- c. Council may, where the employee or Councillor breaches any provision of the Indemnification By-law, or acts in bad faith or with intentional or malicious wrongful conduct, discontinue indemnification with notice to the employee or Councillor

**7. Process for Approval of Lawyer**

- a. City selects and retains lawyer;
- b. Employee or Councillor may retain their own lawyer, in lieu of the City's choice of lawyer, provided that the fees are billed at not more than the rate charged by the City's lawyer in insurable claims;
- c. approval of lawyer must be by written request.

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**8. Investigation costs:**

- a. Up to \$15,000 may be provided to assist an employee or Councillor with the costs of representation during an investigation which may lead to charges (criminal, provincial or municipal)

**Approval Process and Delegated Authority**

Section 3 of the proposed By-law sets out the approval process to determine when indemnification is applicable. The City's Integrity Commissioner, an independent and impartial arbiter, will evaluate requests for indemnification and respond within a reasonable time, with his/her decision based on the criteria for indemnification and the exclusions set out in the By-law. The Integrity Commissioner will ensure that persons assigned to this work will not also work on or have access to any other Markham files, so that the decision is made independently.

**FINANCIAL CONSIDERATIONS**

The Integrity Commissioner's work related to the By-law will be included within the scope (and fee structure) of their existing contract.

**HUMAN RESOURCES CONSIDERATIONS**

N/A

**ALIGNMENT WITH STRATEGIC PRIORITIES:**

This By-law aligns with the provision of exceptional services by exceptional people: fostering a safe and healthy work environment, embracing an organizational culture and adopting management systems that empower and inspire our employees to be champions of excellent service delivery and innovative practices.

**BUSINESS UNITS CONSULTED AND AFFECTED:**

Legislative Services and Financial Services were consulted in the preparation of this Report.

**RECOMMENDED BY:**

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Catherine M. Conrad, City Solicitor  
And Acting Director of Human Resources



**ATTACHMENTS:**

Attachment "A" - Proposed Indemnification By-law

ATTACHMENT 'A'

# The Corporation of the City of Markham

## By-law 2019-XX

A By-law to provide for the indemnification and defence of employees and Members of Council against loss or liability in certain circumstances arising out of acts or omissions done while acting on behalf of the Corporation.

WHEREAS section 279 of the *Municipal Act, 2001*, SO 2001, c 25, as amended, provides that a municipality may, subject to certain limitations, act as an insurer and protect present and former members of council, board members, employees and officers from risks that may involve pecuniary loss or liability on the part of those individuals;

And whereas Council has deemed it advisable to enact an indemnification by-law for this purpose.

Therefore be it enacted by the Council of The Corporation of the City of Markham as follows:

### 1. Definitions:

In this By-law:

**"Action or Proceeding"** includes all civil actions, provincial offences, administrative proceedings including but not limited to tribunals such as the Human Rights Tribunal, complaints to a professional association and third party proceedings, except any proceeding brought under the *Municipal Elections Act, 1996*, S.O. 1996, c. 32, Sched., the *Highway Traffic Act*, R.S.O. 1990, c.H.8, as amended, the *Criminal Code*, R.S.C. 1985, c.C.46, as amended, or municipal parking and traffic by-laws;

"Chief Administrative Officer" means the Chief Administrative Officer of the City of Markham or his/her designate;

"City" means The Corporation of the City of Markham; and

"City Clerk" means the City Clerk of the City of Markham or his/her designate;

"City Solicitor" means the City Solicitor of the City of Markham or his/her designate;

"Corporation" means The Corporation of the City of Markham;

"Council" means the Council of the City;

"Covered Action or Proceeding" means an Action or Proceeding arising out of alleged acts or omissions done or made by the Employee or Member acting in their capacity as an Employee, Member or officer of the City, including acts or omissions done or made by the Employee or Member in the performance of a statutory duty imposed by any general or special act and duties arising out of an appointment to a Statutory Board or Committee and having been determined by the Integrity Commissioner as entitled to indemnification;

"Department Head" means the Manager, Director, Commissioner or Chief

Administrative Officer directly responsible for overseeing the work of the Employee. The City Clerk is the "Department Head" for Members of Council and the Chief Administrative Officer;

"Director of Human Resources" means the Director of Human Resources of the City of Markham or his/her designate;

"Employee" means any salaried officer or any other person employed by the Corporation and any former employee or salaried officer and includes appointees and volunteers acting under the direction of a person in the employ of the City;

"Indemnified Person" means an Employee or a Member approved for indemnification under this By-law; (CMC: or use Eligible Person?)

"Integrity Commissioner" means any person or corporation appointed by the City of Markham to perform the functions assigned by Section 223.3 of the *Municipal Act*, 2001, S.O. 2001, c. 25 as amended, or by the Code of Conduct for Council, Local Boards, and Adjudicative Boards, as amended from time to time, or any person acting under the instructions of the Integrity Commissioner.

"Member" means a Member of the Council of the City of Markham and any former Member of Council;

"Statutory Board or Statutory Committee" means any board or committee of Council established or required by any Act of the Province of Ontario or whose members are appointed by City By-law;

## **2. Former Employees, Officers and Members**

Subject to subsection 3.4(x), this By-law also applies to any person who was an Employee or Member at the time the cause of Action or other Proceeding arose but who, prior to judgment or other settlement of the Action or Proceeding, has ceased to be an Employee or Member.

## **3. Indemnification of Employees and Members:**

- 3.1 Subject to the provisions of this By-law, the City shall, in respect of any Covered Action or Proceeding against an Employee or Member or in which the Employee or Member is a party and in which their conduct is called into question, indemnify the Employee or Member and his or her heirs and legal representatives in the manner and to the extent provided for in this By-law.
- 3.2 Where an Employee or Member becomes aware that an Action or Proceeding has been threatened against them, for which they may seek indemnification, the Employee or Member shall provide immediate and confidential written notice of the Action or Proceeding to their Department Head.
- 3.3 Where an Employee or Member is served with any document which commences an Action or Proceeding for which they seek indemnification, the Employee or Member shall provide the document or a copy thereof and a written request for indemnification, immediately and confidentially to the Integrity Commissioner, through the City Clerk. A copy of the confidential documents submitted to the Integrity Commissioner shall also be provided to the Employee's or Member's Department Head.
- 3.4 At any time prior to the conclusion of the Action or Proceeding, the Integrity Commissioner shall, exercising its own discretion, determine whether an Employee or Member is entitled to indemnification pursuant to this By-law. The Integrity Commissioner may authorize indemnity where it is determined, in the Integrity Commissioner's sole discretion, acting reasonably, that:
  - a) the Employee or Member acted honestly and in good faith with a

view to the best interests of the City and with no improper, immoral or objectionable purpose; and

- b) the act or omission was done while acting on behalf of the Corporation or done or made by them in good faith in their capacity as Employees or Members; and
- c) in the case of a criminal, quasi-criminal or administrative action or proceeding that is enforced by a monetary penalty, the Employee or Member had reasonable grounds for believing that his/her conduct was lawful; and
- d) the interests of the City and the Employee or Member are not adverse to each other; and
- e) the actions of the Employee were not of a nature as to provide grounds for immediate dismissal; and
- f) indemnification is not prohibited by statute or court order.

- 3.5 The Integrity Commissioner shall provide a written decision in respect of a request made under Subsection 3.3, within twenty (20) business days of receipt of the request. Notwithstanding Subsections 7.1 and 7.4, the decision of the Integrity Commissioner shall be final.
- 3.6 Where an Employee or Member is the subject of an investigation in a matter which may result in charges being laid against the Employee or Member under a, provincial statute or regulation, or municipal by-law, because of any act done or any failure to act or allegations of same in the attempted performance or performance of his/her duties, the Employee or Member may be entitled to receive payment from the City for a retainer and/or interim payment of legal costs, up to \$15,000.00, to obtain legal representation during the investigation, at the discretion of the .
- 3.7 As a condition precedent to the City making any payment in respect of the costs of or representation of any Employee or Member pursuant to this By- law, the Employee or Member must agree in writing to comply with the provisions of this by-law and such other terms and conditions as are determined to be appropriate by the City Solicitor, and shall agree to repay the City on demand, in the event that the Employee or Member is convicted of an offence in respect of the Covered Action or Proceeding, all sums paid by the City in respect of the costs of defence or representation as to such charges, including the retainer referred to in Subsections 5.2 and must execute an indemnity agreement or other documentation required by the City to secure such repayment to the City. No retainer shall be made on behalf of an Indemnified Person and/or no money shall be paid by the City with respect to any Action or Proceeding until an indemnity agreement has been executed. The Chief Administrative Officer and the Clerk are hereby authorized to execute such indemnity agreements on behalf of the City upon recommendation of the City Solicitor.

#### **4. Excluded Actions and Proceedings**

- 4.1 This By-law does not apply to an Action or Proceeding:
- a) which relates to a grievance filed under the provisions of a collective agreement or any action taken by the City with respect to an Employee;
  - b) under the Council Code of Conduct where the Member has been found by the Integrity Commissioner to have been in breach of any provision of the Council Code of Conduct;
  - c) where the conduct or incident alleged in the Action or Proceeding

also gives rise to a complaint or request for inquiry or investigation under the Council Code of Conduct and where the disposition of that complaint remains outstanding.

- d) where the Employee or Member acted in bad faith;
- e) where the Employee has been terminated as a result of the actions or omissions that gave rise to the Action or Proceeding;
- f) in any proceeding against a Member or Employee prosecuted by or on behalf of the City or in which the City was the complainant;
- g) where the Employee or Member was performing his or her duties otherwise than in good faith and honestly or with malice;
- h) where, in committing an alleged wrong, the Employee or Member was clearly acting on his or her own behalf and not that of the City.
- i) where adverse parties in civil proceedings would each be entitled to funding for defence costs under this by-law, it being the policy of the City that it shall not finance both sides of an Action or Proceeding and the neither party should receive indemnification in such circumstances;
- j) In third party claims or cross claims brought against Employees or Members where such third party claims or cross claims are for relief over against such Employees or Members in a proceeding commenced by the City;
- k) the subject actions or omissions were not within the Employee or Member's good faith performance of his or her duties.

4.2 Where the Integrity Commissioner has determined that an Employee or Member is not entitled to indemnification, the Employee or Member shall be responsible for all costs, damages, penalties and legal fees in connection with representation in the Action or Proceeding.

## **5. Manner and Extent of Indemnification:**

Where an Employee or Member is entitled to indemnification under this By-law, in a Covered Action or Proceeding, the City shall:

- a) pay the costs of defending such Employee or Member; and
- b) pay any award of damages or costs, including any monetary penalty or award against such Employee or Member; and
- c) pay, either by direct payment or reimbursement, any expenses reasonably incurred by the Employee or Member; and
- d) pay any sum required in connection with the settlement of a Covered Action or Proceeding, provided that, as a condition precedent, the City Solicitor and the Chief Administrative Officer have approved the terms of the settlement.

to the extent that such costs, damages, expenses, monetary penalty, other award or other sums related to the Covered Action or Proceeding are not assumed, paid or reimbursed under any provision of the City's insurance program for the benefit and protection of such person against any liability incurred by him or her.

## **6. City's Right to Select Legal Counsel:**

- 6.1 Subject to Section 12, the City shall have the right to select and retain legal counsel to represent an Indemnified Person and the City Solicitor shall advise the Employee or Member of the legal counsel selected to represent him/her.
- 6.2 An Indemnified Person may retain their own legal counsel for their defence or representation in a Covered Action or Proceeding in lieu of the legal counsel provided by the City, provided that the City shall not be obliged to pay for the services of the Indemnified Person's legal counsel at a rate in excess of the rates the City pays for legal counsel on insurable claims. If the Indemnified Person's choice of legal counsel charges in excess of the rates the City pays for insurable claims, the Indemnified Person shall be responsible for the difference in the legal costs.
- 6.3 Where an Indemnified Person seeks approval of legal counsel under Subsection 6.2, the Indemnified Person shall advise the City Solicitor through the written request in Subsection 3.3, and shall provide sufficient information to support the City Solicitor's decision, acting reasonably, to approve the Indemnified Person's choice of legal counsel, which may include the hourly rate charged by the legal counsel, as well as the experience of such legal counsel in dealing with similar claims.

## **7. Limits to Indemnification:**

- 7.1 The Integrity Commissioner shall have the authority at any time during or after the commencement of the Action or Proceeding, upon the request of the Employee or Member, to review its decision to not provide indemnity and may provide indemnity where additional facts become available, that demonstrate that the Employee or Member is entitled to indemnification pursuant to this By-law.
- 7.2 The City Solicitor, acting reasonably, may require one or both of the following:
  - a) Periodic Budgets for anticipated legal costs, which may be revised from time to time as circumstances require; and
  - b) Status Updates in respect of the progress of the proceedings;
  - c) Detailed invoices including details of docketed time; and
  - d) Work plans and any other documents deemed appropriate by the City Solicitor.
- 7.3 The City Solicitor may require that any account for legal costs for which reimbursement is sought, be assessed by Court Assessment Officer prior to payment by the City.
- 7.4 Notwithstanding any other provision of this By-law, the Council may, by resolution of Council, choose not to indemnify an Indemnified Person, or may cease to indemnify an Indemnified Person if it has commenced to do so, if:
  - a) the Indemnified Person breaches any provision of this By-law or any agreement for indemnification or reimbursement entered into by the Indemnified Person, at any time;
  - b) the Indemnified Person or their legal counsel took a step which was unnecessary or otherwise prejudicial to the conduct of the Covered Action or Proceeding;
  - c) the Indemnified Person initiated a counterclaim, cross claim, third party claim, appeal, or other proceeding related to the Covered Action or Proceeding for which the indemnity or reimbursement was sought, without first obtaining approval from the City Solicitor; or

- d) the Covered Action or Proceeding arises out of the Indemnified Person's bad faith acts or omissions, or their intentional or malicious wrongful conduct.

**8. Third Party Actions and Counterclaims:**

An Indemnified Person may not commence a third party action or Counterclaim unless such Action or Counterclaim is part of the proper defence of the Indemnified Person in a Covered Action or Proceeding under this By-law, and only if such Action or Counterclaim has been approved by the City Solicitor.

**9. Duty to Cooperate**

- 9.1 An Indemnified Person shall co-operate fully with the City in the management of any Covered Action or Proceeding including the requirements of section 7.2.
- 9.2 An Indemnified Person shall cooperate fully with any legal counsel retained by the City to defend any Covered Action or Proceeding and shall make available to such legal counsel all information and documentation relevant to matter as are within his or her knowledge, possession or control, and shall attend at all proceedings when requested to do so by such legal counsel.

**10. Failure to Comply With By-law**

If an Indemnified Person fails or refuses to comply with the provisions of this By-law, or any agreement entered into by the Indemnified Person for indemnification or reimbursement, the Council shall have authority to determine whether to assume or pay or continue to pay any of the costs, damages, expenses or sums mentioned in Sections 5 or 6 of this By-law. Prior to the Council making a decision to terminate or rescind indemnity, the Indemnified Person shall be provided with the opportunity to make submissions to the Council in support of the Indemnified Person's indemnification.

**11. Appeal**

- 11.1 Where a person seeks to appeal a judgment or decision in a Covered Action or Proceeding, the Indemnified Person shall first consult with the Integrity Commissioner, and the Integrity Commissioner shall have sole discretion to determine indemnification eligibility for the appeal. If an Indemnified Person pursues an appeal, or participates as a party in an appeal, without first seeking indemnification approval from the Integrity Commissioner and is successful in that appeal, the Integrity Commissioner shall have sole discretion to determine whether the Indemnified Person shall be indemnified for his or her legal costs in the appeal.
- 11.2 Where the Integrity Commissioner determines that it is not in the City's interest to commence an appeal and the Indemnified Person elects to proceed with an appeal, all costs of the appeal, including any awards of damages or costs, shall be at his or her own expense.

**12. Conflict**

- 12.1 The City maintains various policies of insurance for both the City and its Employees and Members. The provisions of this By-law are intended to supplement the protection provided by such policies of insurance. In the event of conflict between this By-law and the terms of any such policy of insurance in place from time to time, the terms of such policy or policies of insurance shall prevail.

**13. Reimbursement**

Where the Employee or Member is to be indemnified by the City, the amount of the indemnity shall be reduced by the amount of any costs recovered by the Employee or Member and where the indemnity has been paid, any costs recovered by the Employee or Member shall be paid or assigned to the City up to the amount of the indemnity.

**14. Severability**

If any sections, section or part of a section of this By-law are found by any Court to be illegal or beyond the power of Council to enact, such sections or section or part of a section shall be deemed to be severable and all other sections or parts of sections of this By-law shall be deemed to separate and independent and shall continue in full force and effect.

Enacted and passed this                    day of                    2019.

\_\_\_\_\_  
Mayor Frank Scarpitti

\_\_\_\_\_  
Clerk Kimberley Kitteringham

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Report to: Development Services Committee

Meeting Date: April 1, 2019

**SUBJECT:** Bill Crothers Artificial Turf Field Replacement  
**PREPARED BY:** David Plant, Manager Parks Operations X4893

**RECOMMENDATION:**

- 1) That the report entitled "Bill Crothers Artificial Turf Field Replacement" be received;
- 2) And that Staff be authorized to issue a purchase order to York Region District School Board (YRDSB) in the amount of \$1,339,365.00, inclusive of HST for the City's portion (50%) of the Bill Crothers Secondary School artificial turf replacements;
- 3) And that the purchase order in the amount of \$1,339,365.00, inclusive of HST be funded from project 18220 Replacement of Artificial Turf Fields with available budget of \$814,100.00;
- 4) And that shortfall in the amount of (\$525,265.00) (\$814,100.00 - \$1,339,365.00) be funded from the Life Cycle Replacement and Capital Reserve Fund;
- 5) And that staff be directed to execute the Shared Use and Maintenance Agreement prior to proceeding with the project.
- 6) And further that staff be authorized and directed to do all things necessary to give effect to this resolution.

**PURPOSE:**

The purpose of this report is to seek Council approval to issue a purchase order to YRDSB and for additional funding in the amount of \$525,265.00 for 50% of the artificial turf fields replacement costs, which will be recovered through reduced lifecycle costs as a result of changes to the turf system. There are financial risks to the City on this project, as the assumption of the increased life expectancy of the turf system were provided by the YRDSB consultant and the system has not been used in the Canadian market long enough for the 15 year cycle to be validated.

**BACKGROUND:**

The artificial sports fields and related outdoor facilities at Bill Crothers Secondary School resulted from a recommendation by City staff in a General Committee report on March 19, 2007 (Attachment A). In that report, Council approved funding of \$2 million for the following: to upgrade two natural turf sports fields to artificial turf; to provide lights for all three fields; to increase the size of the maintenance and washroom building and equipment purchases. This work would be conducted in partnership with YRDSB at Bill Crothers Secondary School. This was proposed to address recommendations within the existing Parks, Recreation, Culture and Library Master Plan that identified the need for additional outdoor soccer fields. In exchange for the City's contribution to the upgrade to

the fields, the City would have the right to permit out these fields to community user groups evening and weekends during the school year and full access during non-school times. The major user of this outdoor sport campus is Unionville Milliken Soccer Club. During the discussion with Council in 2007, it was mentioned that the turf fields at Bill Crothers Secondary School would be built on a flood plain, which is a potential risk. At that time, there had not been any significant flooding in the area, so Council decided to move forward with the proposal. The City entered into a 10 year Shared Use and Maintenance Agreement with the York Region District School Board (YRDSB) on September 2, 2008 following the construction of the two artificial fields at Bill Crothers Secondary School located at 44 Main Street Unionville. On April 3, 2018, Council authorized the renewal of the 10 year Shared Use and Maintenance Agreement for a further 10 year term pursuant to the report attached as Attachment B and the Council resolution attached as Attachment C.

On September 4, 2012 and again on June 28, 2013, the Unionville area experienced severe storm occurrences which left the fields flooded and the artificial turf fabric saturated with fine silt. The City and the YRDSB equally shared the costs of repairs in order to realign the artificial turf fabric and make reasonable efforts to remove the excess silt. The end result of the silt contamination of the crumb rubber infill materials (the fine rubber particles which holds the fabric upright and provides the shock absorption) was a playing surface which did not perform as designed with respect to injury prevention.

The City and YRDSB both agreed that the artificial turf fields needed to be replaced. The decision to replace the artificial fields was based on the results of independent testing and a condition assessment identifying risk to both parties as a result of unfavorable drop testing results (safety measurement which calculates acceptable risk or head injuries) on existing artificial fields. Based on this condition assessment, the fields had reached the end of their useful life.

In preparation for budget cycle in 2017, it was agreed that both parties, based on the terms of the Shared Use Agreement would seek approval from their respective Councils to move forward with the design of the replacement of the artificial turf fields, and ensure that the drainage issues were addressed.

Council supported the project and that drainage strategies were included as part of the scope of the project to be developed by an external consultant in an effort to mitigate future flooding concerns. The result of this direction was the Operations – Parks capital project #17145 (Bill Crothers Turf Replacement – Design) to be undertaken first to explore the feasibility of replacing the fields.

In order to explore all options available, staff were also asked to report on options to relocate the fields because of flood plain issues. Staff met with YRDSB to review options which included: 1) relocation of the 2 artificial turf fields to an alternative

secondary school site; and 2) relocation of the 2 artificial turf fields to an alternative City park site.

YRDSB indicated that because Bill Crothers Secondary School is the designated regional sports school and that they need to have fields located at this facility to ensure that they meet their mandate.

Staff reviewed City park sites to identify if within our existing inventory we had capacity to build artificial turf fields with lights. The challenge is that to recognize the benefits of artificial turf you must install lights, which allow you to play two games an evening on the turf. All of our existing parks are within built-out neighborhoods, and the installation of lights would not be acceptable to residents.

### **OPTION/DISCUSSION:**

#### Field Replacement

It was agreed by both parties that the YRDSB would be the lead on the replacement of the artificial turf fields as they are the subject matter experts having recently constructed artificial turf fields at Denison High School in Newmarket in 2018. YRDSB confirmed that construction and safety standards for artificial turf fields have changed significantly since 2008 when the Bill Crothers fields were constructed and as such the reconstruction of the 2 fields at Bill Crothers would reflect the new standards.

Following meetings with staff from the City, YRDSB and consultants, specifications for construction were completed and reviewed by both parties. YRDSB then prepared tender documents which were released to qualified bidders for pricing.

The tender result came in at \$2,678,730.00 (inclusive of HST) as compared to original budgeted cost of \$1,628,200 for the 2 artificial turf replacements, resulting in a total shortfall of (\$1,050,530.00). The City's portion of this shortfall is \$525,265.00 (50% x \$1,050,530.00), which represents 50% share of costs for the replacement of the 2 artificial fields.

	a	b = a x 50%
	Total Cost	City's Share
Total Artificial Turf Replacement Costs (A)	2,678,730.00	1,339,365.00
Budget Available (B)	1,628,200.00	814,100.00
Budget Shortfall (C=B-A)	(1,050,530.00)	(525,265.00)

The total project shortfall of (\$1,050,530.00) is attributed primarily to the revised Federation of International Football Association (FIFA) specifications for artificial field

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construction relating to drop test thresholds required to address reduction of head injuries (\$543,000) and costs of additional drainage works (\$329,000).

Specifications for construction of artificial fields have changed since the two artificial fields were first constructed in 2008 specifically with respect to the method in which shock is absorbed for the purposes of injury prevention.

FIFA changed their standards in 2015 based on years of research and testing. In order for artificial turf to be FIFA certified, the following criteria are evaluated:

- Interaction between the players and the surface
- Interaction between the ball and the surface
- Product composition
- Weather resistance
- Seam strength
- Service life

As fields get replaced across Canada the new standards are being upgraded. The YRDSB has installed this new standard at Denison High School in Newmarket. As well, Hershey Sports Complex and the City of Burlington have installed artificial turf fields to the new standards.

Current construction method require the use of compacted aggregate as the base material on which the artificial turf fabric is laid.

Replacement of the existing artificial turf involves removing and disposing of all of the turf fabric along with large quantities of crumb rubber material and replacing most of these elements with a new shock pad system. The existing artificial turf fabric strands are approximately 70mm in length and held upright with granular or crumb rubber infill for shock absorption placed in between the grass strands. As previously noted, this crumb rubber infill from the existing turf fields has been contaminated with silt and is not performing as required resulting in unfavorable drop testing results (safety measurement).

In the 2019 specifications for construction, a shock pad artificial field system is being used which forms an integral part of the shock absorption of the fields, in addition to the infill materials. Unlike the crumb rubber infill, this shock pad is not at risk of external contamination. It is similar to the under pad used with carpet to add additional absorption.

With the shock pad system proposed for the new fields, only the 25mm turf fabric and a greatly reduced amount of crumb rubber infill is replaced based on condition assessment. This top layer of turf fabric can now last 15 years as compared to the previous design, which lasts 10 years. In addition, the shock pad component itself will remain in place and is covered by a manufacturer's warranty for 30 years which should last for at least 1 additional cycle of turf replacement. Although the cost of the drainage work is higher than anticipated, it has been designed to last for several replacements of the turf fabric.

Despite the additional costs of \$525,625 for the new standards, the lifecycle savings of \$718,333 as a result of a longer life will provide \$193,068 in reduced cash flow.

Included in this tender process, YRDSB is undertaking further replacement of the running track and additional works at the football field, which are clearly separated in the tender and are not shared costs with the City resulting in additional costs to the YRDSB of \$1,664,177.58.

#### Shared Use Agreement

The artificial fields at Bill Crothers Secondary School is an integral part of Recreation Service's sport field allocation to community sports groups, particularly Unionville Milliken Soccer Club. If the City decided not to replace the artificial fields, the City does not have the inventory to meet this need and community groups would not have access to the fields, which they heavily rely on.

At this time, the new Shared Use and Maintenance Agreement between the City and YRDSB has not been signed and the previous Shared Use and Maintenance Agreement has expired. However, staff at the City and YRDSB have been working cooperatively on the replacement of the artificial fields based on the shared understanding that the new Shared Use and Maintenance Agreement will be signed and that the City will be responsible for 50% of the cost of replacing the artificial fields. If the City decided not to share in the cost of replacing the artificial fields, community sports groups would lose access to the artificial fields at Bill Crothers Secondary School. To fill the service void for these community groups, the City may potentially need to construct and operate its own fields at 100% of the cost. In addition, the cooperative relationship that the City has built with YRDSB over many years may suffer, which may negatively impact other shared arrangements between the City and YRDSB. There are shared use arrangements between the City and YRDSB relating to the Thornlea Pool, the Outdoor Sport Field Agreement and Markham Theatre and Unionville High School. For these reasons, staff recommends that the increased costs for the artificial fields be approved by Council.

YRDSB has indicated in writing that they have their funding in place and are prepared to proceed as soon as they obtain City approval of its share. With respect to the tender process, delays in the award of this project will likely result in the delay to the start of the project as well as potential price increases. The project has been planned to be completed by the end of Q4 with any delays potentially impacting planned revenue opportunities.

Since the Shared Use and Maintenance Agreement between the City and YRDSB is the agreement that provides the City with use of the turf fields at Bill Crothers Secondary School, staff recommend that the Shared Use and Maintenance Agreement with YRDSB be executed before the purchase order to YRDSB the amount of \$1,339,365.00, inclusive of HST for the City's portion (50%) of the Bill Crothers Secondary School artificial turf replacements is issued.

## FINANCIAL CONSIDERATIONS

Staff recommend the budget for project 18220 Replacement of Artificial Turf Field be increased by \$525,265 from \$814,100 to \$1,339,365.00, to be funded from the Life Cycle Replacement and Capital Reserve Fund.

### Operating and Life Cycle Impact

As discussed previously, the existing artificial turf system has a different replacement cycle as compared to the proposed artificial turf system:

1. Current turf fabric and crumb rubber infill material has a life of 10 years as compared to a life of 15 years with the new turf fabric and rubber/sand infill material. Furthermore, the new turf fabric is more advanced in construction and shorter strand length requiring less infill materials when combined with the shock pad system installation.
2. The shock pad is a relatively new component in artificial turf field construction and is more widely used now as the price has become more affordable. The shock pad has a 30 year warranty and will require replacement at the end of 30 year cycle.
3. Drainage life cycle of 30 years remains the same in both scenarios.

The City has not had any experience with this type of artificial turf. Hence, the validity of the cost analysis is contingent on the life expectancies and future replacement costs as provided by the YRDSB consultant, based on certification by FIFA.

The table below provides a comparison of the cash outlay for the current artificial turf system as compared to the upgraded system over a 25 year period:

	a	b	c	d = b / c	e = d x 25	f = a + e
	Year 0	Future Replacement Cost	Life Cycle	Annualized Replacement Cost	Yr 1 - 25 Total	Yr 0 to 25 Total
<b>Current Artificial Turf System</b>						
Turf Fabric and Infill	654,100	654,100	10	65,400	1,635,000	2,289,100
Drainage Replacement	160,000	80,000	30	2,667	66,667	226,667
<b>Total Current Artificial Turf System Cost (A)</b>	<b>814,100</b>	<b>734,100</b>		<b>68,067</b>	<b>1,701,667</b>	<b>2,515,767</b>
<b>Proposed Artificial Turf System</b>						
i) Turf Fabric and Infill		495,000	15	33,000	825,000	825,000
ii) Drainage Replacement		80,000	30	2,667	66,667	66,667
iii) Shockpad Replacement		110,000	30	3,667	91,667	91,667
Total Turf Upgrade Cost (incl. i, ii, iii above)	1,339,365					1,339,365
<b>Total Proposed Turf System Cost (B)</b>	<b>1,339,365</b>	<b>685,000</b>		<b>39,333</b>	<b>983,333</b>	<b>2,322,698</b>
<b>Fav/(Unfav) Variance (C=A-B)</b>	<b>(525,265)</b>			<b>28,733</b>	<b>718,333</b>	<b>193,068</b>

Costs in the above table are in today's dollars and have not been adjusted for inflation.

Explanation of each column in the above table:

- a: Year 0 or current year cash outlay – City will need to spend \$525,265 more with the proposed artificial turf system as compared to the current turf system
- b: Future Replacement Cost – Future cost of replacement in current dollars
- c: Life Cycle – Life of asset or year when asset will require replacement
- d: Annualized Replacement Cost (b / c) – Annual cash required to be set aside in order to have sufficient funds in year of replacement
- e: Year 1 to 25 Total (d x 25) – Total cash required over 25 years for replacement cost

f: Year 0 to 25 Total (a + d) – Total cash required over 25 years, including initial cost outlay to upgrade/repair the artificial turf fields

The table shows that despite an initial higher cash outlay of \$525,625 to upgrade the artificial turf fields to the new FIFA specifications, the City will have reduced cash outlay of \$28,733 per year or \$718,333 over 25 years when comparing the proposed artificial turf system to the existing system, netting to an overall reduced cash outflow of \$193,068 (\$718,333 - \$525,625).

The favourable net cash flow in this analysis is based on:

- a) The new turf fabric and infill lasting 50% longer (from 10 years to 15 years)
- b) The turf fabric and infill costing less to replace after 15 years (from \$654,100 to \$495,000). The installation of the shock pad in the new system allows for a thinner turf fabric with less infill, resulting in potentially lower future replacement costs.
- c) The shock pad has a life expectancy for 30 years.

The life expectancies and replacement costs were provided by the YRDSB consultant. The first generation of turf product had a projected service life of 10 years but had an actual service life of 12 years based on YRDSB experience. The manufacturer estimates this new fourth generation turf product will last 15 years. The product has not been used in the Canadian market long enough for the 15 year life cycle to be validated.

In addition, staff are aware that the change in FIFA specifications for artificial turf fields will have an impact on the other 2 City owned artificial turf fields (located in Mount Joy and St. Robert's Catholic High School). Staff will complete full assessments of the changes in standards and update the Life Cycle Reserve Study accordingly. There are no incremental operating budget impact.

#### **HUMAN RESOURCES CONSIDERATIONS**

Not applicable.

#### **ALIGNMENT WITH STRATEGIC PRIORITIES:**

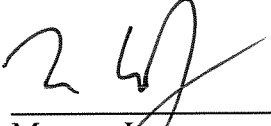
Not applicable.

#### **BUSINESS UNITS CONSULTED AND AFFECTED:**


Finance and Recreation departments have reviewed this report and their comments have been incorporate.

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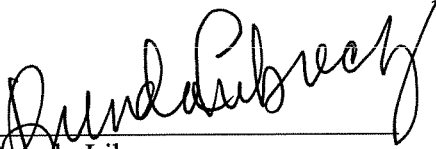
**RECOMMENDED BY:**



Morgan Jones  
Director, Operations



Mary Creighton  
Director, Recreation Services



Brenda Librecz,  
Commissioner, Community &  
Fire Services

**ATTACHMENTS:**

**Attachment A** - March 19, 2007 General Committee report: York Region District School Board – Markham Centre Secondary School for Athletics & Healthy Active Living – Outdoor Sports Field

**Attachment B** - January 25, 2018 General Committee report: Bill Crothers Secondary School Outdoor Sports Field Joint Use and Maintenance Agreement

**Attachment C** – April 3, 2018 Council resolution: Bill Crothers Secondary School Outdoor Sports Field Joint Use and Maintenance Agreement



Report to: General Committee

Report Date: March 19, 2007

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**SUBJECT:** York Region District School Board – Markham Centre Secondary School for Athletics & Healthy Active Living – Outdoor Sports Fields

**PREPARED BY:** Allan Seabrooke, Director, Strategic Services ext. 7522

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**RECOMMENDATION:**

THAT the report titled York Region District School Board (YRDSB) – Markham Centre Secondary School for Athletics & Healthy Active Living – Outdoor Sports Fields be received;

AND THAT funds be approved to an upset limit of \$2million to upgrade two planned natural turf sports fields to artificial turf, to provide lights for all three fields, increases in size of the maintenance and washroom building and equipment, in partnership with YRDSB at the School for Athletics & Healthy Active Living.

AND THAT the \$2 million required for this project be funded from Development Charges, 90% of \$1.8 million, and the Ramp-Up Reserve, 10% or \$0.2 million.

AND THAT the Director, Strategic Services be authorized to negotiate a Joint Use & Maintenance Agreement for the sports fields with YRDSB;

AND THAT Staff be authorized and directed to do all things necessary to give effect to this resolution.

**FINANCIAL CONSIDERATIONS:**

Staff recommends that the \$2 million required for this project be funded from Development Charges (DC), \$1.8 million (90%) and the Ramp-Up Reserve, \$0.2 million (10%).

Development Charges are controlled by Provincial legislation and is a funding source used to help pay for select growth-related capital costs in a municipality. DC's are collected for growth-related facilities in the areas of parks, recreation and library services, and pay for 90% of the qualified capital costs with the municipality responsible for the remaining 10%.

In order to smooth the operating impact of new facility openings, such as new community centres, libraries and fire stations, the Town ramps-up the personnel costs of the new facilities over several years prior to the facility opening. The budgeted ramp-up funds included in the operating budget are transferred to the Facility Ramp-Up Reserve in the years before the facility is opened.

In the proposed 2007 Operating Budget there are ramp-up funds proposed for the East Markham Community Centre and Library and two additional fire stations. It is recommended that the \$0.2 million, which is the 10% non-DC position of this project, be funded from the Facility Ramp-Up Reserve in 2007.

The DC funds for this specific project are being allocated from the Urban Design Parks DC. In order to accommodate these fields, it should be noted that a substitution to components of the overall parks development plans will be made to complete this project. These adjustments will not affect service levels.

### **PURPOSE:**

To recommend approval of expenditures to an upset limit of \$2 million to upgrade two planned natural turf sports fields to artificial turf; to provide lights for all three fields, to increase the size of the maintenance and washroom building and equipment purchases, in partnership with YRDSB at the School for Athletics and Healthy Active Living. In addition, approval is sought to negotiate a Joint Use & Maintenance Agreement for the sports fields with YRDSB.

### **BACKGROUND:**

#### Parks, Recreation, Culture & Library Master Plan – Need for Additional Outdoor Soccer Fields

The Parks, Recreation, Culture & Library Master Plan establishes priorities and policies to guide the delivery of facilities and services to the year 2021. Contained in this plan, in the Parks & Outdoor Facilities section, is a recommendation to increase the supply of outdoor soccer fields. The addition of soccer fields over the planning horizon is projected as a result of dramatic population increases and increased participation rates in the sport. The plan has projected the need for an additional 27 fields; however, more may be required as demand continues higher than projected in recent years.

The Town has been steadily increasing our existing supply of soccer fields as construction of parks occur; however, the temporary loss of four soccer fields at Milliken Mills Park in 2009 prompted the need to investigate options to mitigate the loss of these fields.

Phase 1 of the Angus Glen Community Park has been accelerated through advance approval in the 2007 budget. This will provide one full size lit soccer field which will be constructed in 2007 and should be ready for use in spring of 2008.

#### Milliken Pumping Station & Reservoir Expansion – Milliken Mills Park

The City of Toronto has identified that an expansion of the Milliken Reservoir and Pumping Station is needed to enhance the supply and security of drinking water and to service future demands for the approved growth in Toronto and York Region.

The existing inground reservoir is located in the Town of Markham – Milliken Mills Park and is owned and operated by the City of Toronto. The expansion of the reservoir and pumping station

is to occur on City of Toronto land, within Milliken Park, that the Town of Markham presently leases for use of four soccer fields and one baseball diamond. The construction will commence at the conclusion of the 2008 soccer and baseball season (approximately October 31) and will result in the loss of these fields for a period of at least three to four seasons.

There is significant impact on the soccer clubs that use Milliken Park and the 12 major tournaments that are hosted annually at this facility. The most significant impact is for the Unionville-Milliken Soccer Club (UMSC) that is the main user of Milliken Mills Park.

A Unionville-Milliken Soccer Working Group Committee of Council was organized in November 2006 to work with staff and the Unionville-Milliken Soccer Club representatives to discuss potential solutions. The working group has held a number of meetings since to look at options. In January 2007, Council approved a staff recommendation to investigate a partnership opportunity with the YRDSB with respect to the three outdoor sports fields planned for construction at the new School for Athletics & Healthy Active Living and report back to General Committee.

#### York Region District School Board Partnership Opportunity

The YRDSB is in the process of constructing a Secondary School for Athletics & Healthy Active Living on a 30 acre site in Markham Centre, west of Main Street Unionville and north of Highway 407. This unique school will focus on the total integration of academic and sports excellence, and is designed to attract students who are high performance athletes in Canada, as well as those who are interested in sports and recreation related disciplines as a career option. The school is scheduled to open in September 2008, initially for Grade 9 and 10 students, and expanding to other grades each year thereafter.

Within the athletic campus, exterior facilities include an eight lane synthetic 400 metre track circuit, an artificial turf playing field, two natural turf playing fields for soccer, football and rugby, hard surface outdoor play courts, and walking trails. (Attachment A)

Following up on a meeting with YRDSB and members of Council on February 21, 2007, staff met with YRDSB staff on the technical aspects of the proposal to “upgrade” soccer fields on the new school site. Viability is confirmed and from a staff perspective they support our initiative and have requested a proposal for the School Board to endorse.

The basis premise of the partnership proposal being recommended by staff for Council approval is as follows:

- The Town will pay for all “upgrade” costs to improve two proposed natural turf fields to artificial turf.
- The Town will further pay for lighting to be installed in all three fields.
- The Town will pay for additional costs that may be incurred in a maintenance facility and washroom beyond the original scope as required by school usage.
- The Town will negotiate a Joint Use & Maintenance Agreement for the sports fields with YRDSB.

- Residents would have an opportunity to play soccer on three artificial turf fields five nights a week and through an extended season. Two games per field, per evening would be possible with the use of lights. Weekends would also be available for programmed usage.
- The upset limit for this total arrangement is estimated at \$2 million which would be supported through 90% D.C. funds and 10% tax funded.

A meeting was held on March 8, 2007, with the Unionville-Milliken Soccer Working Group and a representative from the Unionville-Milliken Soccer Club where usage and support of the proposed partnership with YRDSB was received. The representative from the UMSC will assist to provide technical advice on the facility to ensure the needs of the soccer community are met.

The artificial turf fields are engineered to perform like natural grass with a number of obvious advantages:

- Outstanding durability, withstands many times the level of wear and tear compared to natural grass fields.
- Provides the athlete optimum range of movement and surface quality that is unaltered over time.
- Reduced maintenance costs. The cost of maintenance is estimated at 1/3 that of natural grass fields.
- No down time regarding field use after yearly seeding or re-sodding of natural fields.
- Ability to accommodate an unlimited number of activities that often conflict on natural grass; including football, soccer, rugby, physical education classes, etc.
- Potential for additional revenue generation from the extended season that occurs on artificial turf and hosting of high level playoffs and tournaments.
- Environmentally friendly construction materials used (i.e. consumer recycled tires for the infill)

Of particular importance to our soccer associations is the ability to extend their season length. This is desirable to enable the soccer clubs to continue to compete at the “rep” level, similar to communities such as Mississauga and Vaughan who have installed artificial turf fields.

#### **BUSINESS UNITS CONSULTED AND AFFECTED:**

Financial Services

Urban Design

#### **RECOMMENDED**

**BY:** \_\_\_\_\_

Allan Seabrooke,  
Director, Strategic Services

Jim Sales, Commissioner,  
Community & Fire Services

**ATTACHMENTS:**

Attachment A      Conceptual Site Plan – Markham Secondary School for Athletics &  
Healthy Active Living

Q:\Strategic Services\Members\Allan Seabrooke\Report YRDSB Athletic School.doc

Attachment A



Report to: General Committee

Meeting Date: January 25, 2018

**SUBJECT:** Bill Crothers Secondary School Outdoor Sports Field Joint Use and Maintenance Agreement

**PREPARED BY:** Mary Creighton, Director, Recreation Services Ext. 7515

**RECOMMENDATION:**

- 1) That the report titled "Bill Crothers Secondary School Outdoor Sports Field Joint Use and Maintenance Agreement" be received; and
- 2) That Council authorize the Mayor and Clerk to execute the "Bill Crothers Secondary School Outdoor Sports Field Joint Use and Maintenance Agreement" to the satisfaction of the Commissioner of Community and Fire Services and the City Solicitor; and
- 3) That Staff be authorized and directed to do all things necessary to give effect to this resolution.

**PURPOSE:**

The purpose of this report is to request Council authority for the Mayor and Clerk to execute the renewal of the "Bill Crothers Secondary School Outdoor Sports Field Joint Use and Maintenance Agreement" with the York Region District School Board for a 10 year period.

**BACKGROUND:**

At the March 19, 2007 General Committee Meeting, Council approved expenditure of \$2 million to upgrade planned facilities at the Bill Crothers Secondary School, in terms of artificial turf, lights for three fields, increase in the size of the maintenance and washroom building and equipment, in partnership with the York Region District School Board (YRDSB.)

In 2007, a 10 year Joint Use and Maintenance Agreement was developed and executed. The key elements of the joint use and maintenance agreement are as follows:

- A term of 10 years with renewal provisions
- Confirmation of City use of the fields during weekday evenings and equal use on weekends by the City and the Board, if required.
- The city is responsible for all maintenance and minor repairs of the fields, during the term of the agreement (this is the same arrangement presently in place for other Board owned sport fields at secondary schools)
- Formation of an executive committee with equal City and Board representation, that will meet at least (2) times per annum to consider matters related to use and maintenance of the fields.
- The cost of effecting major repairs and/or replacement to the sports fields, lightening, fencing, security systems, and driveways are shared equally by the Board and the City during the term of this agreement.

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**OPTIONS/ DISCUSSION:**

The YRDSB and City have enjoyed a cooperative relationship at Bill Crothers Secondary School through the original Sports Field Joint Use and Maintenance Agreement for the past 10 years, which is up for renewal.

The agreement provides access to Community sport groups to two artificial turf fields and one natural field. Annually 4,204 hours are permitted to our local sport groups for league play, tournaments and special events.

The Community has access to the fields during school days 6:00pm to 11:00pm and on weekend and non-school days 6:00am to 11:00pm. Recreation-Allocation office is responsible for permitting the fields during this time. In addition, the City and the school board can request time for special events at the beginning of each year.

The Bill Crothers Secondary School Field Campus is an important amenity in our outdoor sports field inventory. Currently it is the only location in the City that has the capacity to host soccer tournaments, with having three fields, two of which are artificial. The benefit of artificial turf is that they can be played on for extended periods of time in a weekend, without causing damage. In many cases when natural turf fields are damaged they need to be taken out of commission for a week or more to allow for proper rehabilitation. This creates tremendous disruption to our local outdoor sports groups, who are left scrambling to find other locations.

A working committee consisting of representatives from YRDSB and the City have met a number of times to review the agreement and make any necessary amendments to the satisfaction of both parties. From the City's perspective, we adjusted the field access time for community groups from 6:30pm to 6:00pm, which the board agreed to. Language was included to clarify opening and closing dates, which both parties agreed.

As per the 2007 agreement, the key elements of the Sports field Joint Use and Maintenance agreement are as follows:

- A term of 10 years with renewal provisions
- Confirmation of City use of the fields during weekday evenings and equal use on weekends by the City and the Board, if required.
- The city is responsible for all maintenance and minor repairs of the fields, during the term of the agreement (this is the same arrangement presently in place for other Board owned sport fields at secondary schools)
- Formation of an executive committee with equal City and Board representation, that will meet at least (2) times per annum to consider matters related to use and maintenance of the fields.
- The cost of effecting major repairs and/or replacement to the sports fields, lightening, fencing, security systems, and driveways are shared equally by the Board and the City during the term of this agreement.



Concerns were raised during the capital lifecycle discussion regarding the investment of money into the fields that are located in the flood plain and have flooded twice with a total cost of \$ 39,000, 50% of this cost as per the agreement was the responsibility of the City. There was also an impact to revenue of \$6,000 due to field closures for a estimated total of 7 weeks lost. Staff were asked to follow up with YRDSB to indicate that the City is interested in renewing the Joint Use Agreement; however, in the agreement the Board would be responsible for 100% of repair cost, as a result of flooding.

During discussion with YRDSB, the City staff had identified concerns related to the locations of the fields, an identified flood plain, and whether the YRDSB would consider relocation of the Artificial Turf field to other school locations. The YRDSB staff team agreed to discuss with their executive leadership. It was determined that although the YRDSB also had concerns with the location and the cost to repair the fields as a result of flooding, that Bill Crothers Secondary School had been built as a specialty sport school and that the Artificial Sports Field(s) were integral to meeting its intended mandate.

The YRDSB also identified that both parties in agreeing to this partnership in 2007 were aware of the risks, and designed the fields to accommodate for the flood plain and therefore, that both parties should take on the risk.

Staff were also asked to investigate the inclusion of water storage tanks under the field to help deal with water disbursement as a result of flooding. Upon further review of this and follow up with YRDSB, who managed the project, it was confirmed that storage tanks were included in the design. What was discussed is that during the replacement of the fields we will also investigate whether the tanks were performing properly.

Staff are recommending that the City renew the Sport Field Joint Use and Maintenance Agreement with the Board to ensure we continue to provide this level of service to our community field sport users.

#### Capital Replacement Project

The 2018 Capital Budget program included a request for the replacement of Bill Crothers Artificial Turf fields at a cost of \$814k to be funded from the Lifecycle Replacement and Capital Reserve Fund. This is the City's contribution of 50% to the total project to replace the fields, which are now 10 years old, as per the Joint Use and Maintenance Agreement.

Artificial Turf field Lifecycle depending on the location, climate and type of play has a lifecycle of 10-12 years. In this case, these fields are heavily used and because they are located on a flood plain, the lower field has been susceptible to flood twice in this 10 year period.

#### **FINANCIAL CONSIDERATIONS**

Operating costs are included in the base budget; therefore there is no incremental impact to the Operating Budget.

The Lifecycle Reserve Study will be updated to include replacement cost at \$814k per field with a revised useful life from 10 years to 9 years.

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**HUMAN RESOURCES CONSIDERATIONS**

**ALIGNMENT WITH STRATEGIC PRIORITIES:**

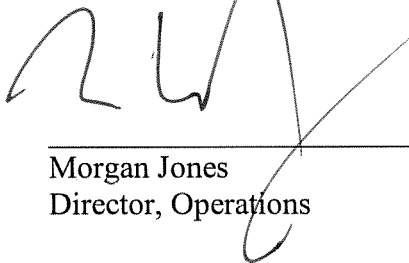
**BUSINESS UNITS CONSULTED AND AFFECTED:**

**RECOMMENDED BY:**



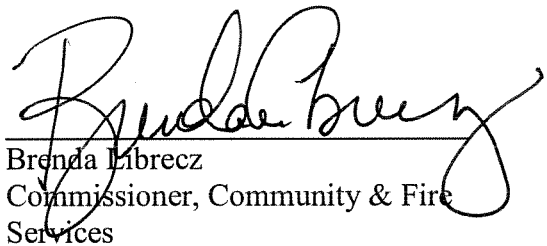
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Mary Creighton  
Director, Recreation Services



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Morgan Jones  
Director, Operations



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Brenda Librecz  
Commissioner, Community & Fire  
Services

**ATTACHMENTS:**  
Not Applicable



RESOLUTION OF COUNCIL MEETING NO.6 DATED APRIL 3, 2018

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**REPORT NO. 12 – GENERAL COMMITTEE**

**(5) BILL CROTHERS SECONDARY SCHOOL  
OUTDOOR SPORTS FIELD JOINT USE  
AND MAINTENANCE AGREEMENT (6.0)**

[Report](#)

- 1) That the report titled “Bill Crothers Secondary School Outdoor Sports Field Joint Use and Maintenance Agreement” be received; and,
- 2) That Council authorize the Mayor and Clerk to execute the “Bill Crothers Secondary School Outdoor Sports Field Joint Use and Maintenance Agreement” to the satisfaction of the Commissioner of Community and Fire Services and the City Solicitor; and further,
- 3) That Staff be authorized and directed to do all things necessary to give effect to this resolution.

A handwritten signature in black ink, appearing to read 'Kimberley Kitteringham'.

Kimberley Kitteringham  
City Clerk

Copy to: Brenda Librecz  
Mary Creighton  
Morgan Jones



Report to: Development Services Committee

Meeting Date: April 1, 2019

**SUBJECT:** **Recommendation Report**  
 30<sup>th</sup> World Hakka Conference, Kuala Lumpur, Malaysia,  
 October 16 – 21, 2019.

**PREPARED BY:** Sandra Tam, Sr. Business Devt. Officer, ext. 3883

**REVIEWED BY:** Stephen Chait, Director, Economic Growth, Culture &  
 Entrepreneurship, ext. 4871

**RECOMMENDATION:**

- 1) That the report titled, “30<sup>th</sup> World Hakka Conference, Kuala Lumpur, Malaysia, October 16 – 21, 2019”, dated April 1, 2019, be received;
- 2) That Council approve business travel for Mayor Scarpitti, Regional Councillor Joe Li, and Sr. Business Devt. Officer Sandra Tam to attend the 30<sup>th</sup> World Hakka Conference in Kuala Lumpur Malaysia from October 16 - 21;
- 3) That the total cost of the business trip to attend the 30<sup>th</sup> World Hakka Conference in Kuala Lumpur Malaysia not exceed \$19,500.00 and be expensed from within International Investment Attraction account 610-9985811;
- 4) And That Staff be authorized and directed to do all things necessary to give effect to this resolution.

**PURPOSE:**

In October 2017 the “Hakka Canadian Association” supported by the City of Markham was awarded the hosting rights for the 31<sup>st</sup> World Hakka Conference to be held in Markham in October 2021. The purpose of this report is to request Council’s approval for business travel for Mayor Scarpitti, Regional Councillor Joe Li, and Sr. Business Devt. Officer Sandra Tam to attend the 30<sup>th</sup> World Hakka Conference in Kuala Lumpur Malaysia from October 16 – 21. The City of Markham representatives, accompanied by members of the “Hakka Canadian Association” will meet with and make a formal presentation to the conference delegates (estimated 2,500+) to invite them to attend the 2021 World Hakka Conference in Markham.

The business trip is an integral part of the City’s 10-Year Economic Strategy “Markham 2020”. It addresses the objective of building Global Markham and Branded Markham.

**BACKGROUND:**The World Hakka Conference

The World Hakka Conference is a prestigious global event for the international Hakka community. The conference has been successful in building a platform for global Hakka

leaders to meet and network, and to promote greater awareness of Hakka culture, especially amongst the younger generation.

The conference is held every two years in different countries and has been successful in attracting thousands of Hakka from around the world. Recent conferences held in Jakarta, Indonesia (2013), Hsinchu, Taiwan (2015) and Hong Kong (2017) were attended by 3,000 (Hong Kong) to over 6,000 (Jakarta and Hsinchu) delegates who were representatives of global Hakka organizations. Hosting cities benefit from the surge in visitors and media attention and related cultural and economic impacts.

#### Markham to host the 31<sup>st</sup> World Hakka Conference

On September 26, 2017, Council passed the resolution to support the “Hakka Canadian Association” in the bidding for hosting rights for the 31<sup>st</sup> World Hakka conference in Markham in October 2021.

Council further approved the attendance of then Deputy Mayor Jack Heath, Regional Councillor Joe Li and Senior Economic Development Officer Sandra Tam to join the Hakka Canadian Association at the 29<sup>th</sup> World Hakka Conference in Hong Kong in October 2017. During the conference, Markham was successfully showcased to the 3,400 Conference participants as a vibrant, inclusive and welcoming community. Markham achieved its goals in supporting the Hakka Canadian Association and was awarded the hosting rights for the 31<sup>st</sup> World Hakka Conference in Markham in 2021. The strong support demonstrated by the City of Markham was essential to winning the bid.

The Mayor and Regional Councillor Joe Li will represent Markham as part of the Hakka Canadian Association delegation at the 30<sup>th</sup> World Hakka Conference in Kuala Lumpur, Malaysia, to promote attendance at the 31<sup>st</sup> World Hakka Conference.

#### **DISCUSSION:**

Markham, being the most diverse community in Canada and with a Hakka population of more than 15,000 residents will benefit from the hosting of this signature international Hakka event both economically and socially. To ensure success of the 31<sup>st</sup> World Hakka Conference in Markham in October 2021, it is essential for Markham to join the Hakka Canadian Association at the 30<sup>th</sup> World Hakka Conference to be held at Kuala Lumpur, Malaysia. It is customary for the organizer and host city representative of the next World Hakka Conference to attend the Conference Flag Handover Ceremony during which conference programs are presented.

The City of Markham is participating at the 30<sup>th</sup> World Hakka Conference as the host city of the 31<sup>st</sup> World Hakka Conference. As the rights-holder, the Hakka Canadian Association is taking the sole responsibility of planning and hosting of the 31<sup>st</sup> World Hakka Conference including meeting its financial and all other obligations.

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**Recommended Itinerary:**

October 16	Departure
October 17-18	Business meetings in Kuala Lumpur
October 18-20	Attend 30 <sup>th</sup> World Hakka Conference in Kuala Lumpur
October 21	Return to Toronto

**FINANCIAL CONSIDERATIONS**

Economic Development staff estimate the costs for the business travel plans as follows:

**October 16 – 21: Attend World Hakka Conference in Kuala Lumpur, Malaysia**

Travel, meals and accommodations:

Mayor Frank Scarpitti, Regional Councillor Joe Li and

Sr. Bus. Devt. Officer Sandra Tam @\$6,500.00

\$19,500.00

The total travel cost of \$19,500.00 to be expensed from within International Investment Attraction account 610-9985811.

**HUMAN RESOURCES CONSIDERATIONS**

Not applicable.

**ALIGNMENT WITH STRATEGIC PRIORITIES:**

This initiative is an integral part of Markham's 10-Year Economic Strategy "Markham 2020". The program addresses the objective of building Global Markham and Branded Markham.

**BUSINESS UNITS CONSULTED AND AFFECTED:**

Legal and Financial Services.

**RECOMMENDED BY:**

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Stephen Chait, MPA, CMC  
Director, Economic Growth, Culture  
& Entrepreneurship



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Arvin Prasad, MPA, RPP, MCIP  
Commissioner,  
Development Services



By-law 2019-xxxxx

A BY-LAW TO MEND BY-LAW 106-71

BE IT ENACTED BY THE COUNCIL OF THE CORPORATION OF THE CITY OF MARKHAM THAT BY-LAW NUMBER 106-71 BE AND THE SAME IS HEREBY AMENDED AS FOLLOWS:

1. By adding to Schedule 12 – Compulsory Stops – at the following named intersections:

COLUMN 1 INTERSECTION	COLUMN 2 FACING TRAFFIC	COLUMN 3 LOCATION OF STOP
Greenwater Gate at South Unionville Avenue	Northbound on Greenwater Gate	East side of Greenwater Gate, on the south side of South Unionville Avenue
Ian Baron Avenue at Unity Gardens Drive North	Westbound on Ian Baron Avenue	North side of Ian Baron Avenue, on the east side of Unity Gardens Drive North
Unity Gardens Drive South at Helen Avenue	Southbound on Unity Gardens Drive South	West side of Unity Gardens Drive South, on the north side of Helen Avenue
Unity Gardens Drive North at Castan Avenue	Northbound on Unity Gardens Drive North	East side of Unity Gardens Drive North, on the South side of Castan Avenue
South Unionville Avenue at Harry Cook Dr.	Westbound on South Unionville Avenue	North side of South Unionville Avenue, on the east side Harry Cook Dr.
South Unionville Avenue at Harry Cook Dr.	Easttbound on South Unionville Avenue	South side of South Unionville Avenue, on the west side Harry Cook Dr.

2. The By-Law shall come into force and effect upon receiving the third reading by the Council of the City of Markham and also when authorized signs have been erected.

Read a first, second, and third time and passed April 2, 2019.

Kimberley Kitteringham  
City Clerk

Frank Scarpitti  
Mayor



By-law 2019-xx

A BY-LAW TO AMEND PARKING BY-LAW 2005-188

BE IT ENACTED BY THE COUNCIL OF THE COPORATION OF THE CITY OF MARKHAM THAT Parking By-Law 2005-188 be and the same is hereby amended as follows:

1. That Schedule C of Parking By-Law 2005-188 pertaining to “Prohibited Parking” be amended by adding the following:

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4
<u>LOCATION</u>	<u>SIDE(S)</u>	<u>BETWEEN</u>	<u>PROHIBITED TIME OR DAY</u>
South Unionville Avenue	North	50m east of Unity Gardens Drive and Kennedy Road	Anytime
South Unionville Avenue	South	Kennedy Road and Greenwater Gate	Anytime
Unity Gardens Drive North	East	South Unionville Avenue and 50m north of South Unionville Avenue	Anytime
Unity Gardens Drive North	East	Ian Baron Avenue and 20m south of Ian Baron Avenue	Anytime
Unity Gardens Drive North	West	South Unionville Avenue and Ian Baron Avenue	Anytime
Unity Gardens Drive South	West	Helen Avenue and South Unionville Avenue.	Anytime
Unity Gardens Drive South	East	40m south of South Unionville Avenue and South Unionville Avenue	Anytime
Unity Gardens Drive South	East	25m north of Helen Avenue and Helen Avenue	Anytime

2. The By-Law shall come in and force and effect upon receiving the third reading by the Council of the City of Markham and also when authorized signs have been erected.

Read a first, second, and third time and passed April 2, 2019.

Kimberley Kitteringham  
City Clerk

Frank Scarpitti  
Mayor





# By-law 2019-xx

A By-law to amend By-law 2551, as amended

The Council of The Corporation of the City of Markham hereby enacts as follows:

1. That By-law 2551, as amended, is hereby further amended as it applies to the lands outlined on Schedule ‘A’ as follows:
  - 1.1 Notwithstanding any other provisions of By-law 2551, as amended, the provisions in this By-law shall apply to those lands shown on Schedule ‘A’, attached hereto
    - 1.1.1 Permitted Uses  
The following additional uses are permitted on those lands shown on Schedule ‘A’:
      - a) Outdoor storage
    - 1.1.2 Special Parking Provisions  
The following parking provisions apply:
      - a) Parking is not required for the uses permitted in this By-law
    - 1.1.3 Special Site Provisions  
The following additional provisions apply:
      - a) Additions to existing building are not permitted;
      - b) Construction of new buildings is not permitted;
      - c) Outdoor storage shall be screened from Langstaff Road East; and
      - d) The installation of additional impermeable surface material is not permitted
  2. All other provisions of By-law 2551, as amended, not inconsistent with the provisions of this By-law, shall continue to apply.
  3. This By-law shall expire on June 15, 2021, in accordance with the provisions of Section 39 of the Planning Act, R.S.O. 1990.

Read a first, second, and third time and passed on April 2, 2019.

\_\_\_\_\_  
Kimberley Kitteringham  
City Clerk

\_\_\_\_\_  
Frank Scarpitti  
Mayor



**EXPLANATORY NOTE**

**BY-LAW 2019-\_\_\_\_**  
**A By-law to amend By-law 2551, as amended**

**Sarena Properties Ltd.**

**LOT 84, PLAN 2386**  
**197 & 199 Langstaff Road**  
**ZA 18 257917**

**Lands Affected**

The proposed by-law amendment applies to the lands noted above within the Langstaff Gateway community.

**Existing Zoning**

The subject lands are presently zoned Residential (R1) by By-law 2551, as amended.

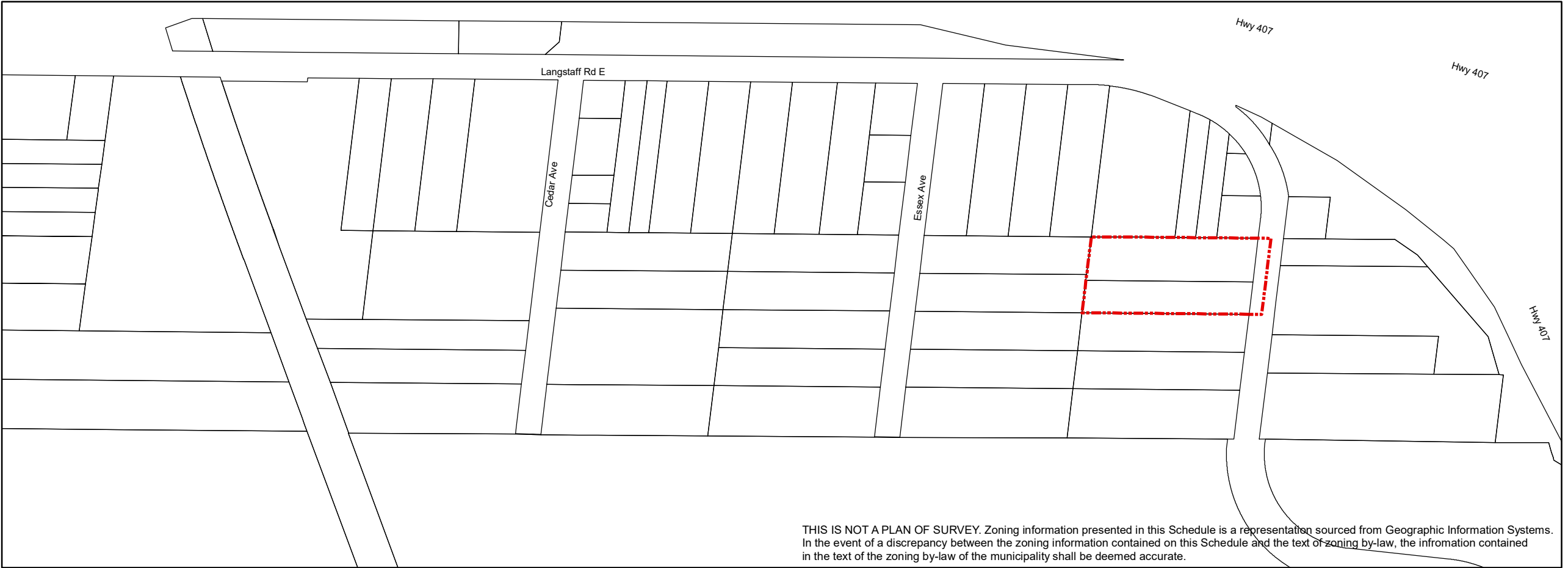
**Purpose and Effect**

The purpose of the by-law amendment is to permit outdoor storage on the lands noted above.

The effect of the by-law amendment is to permit the uses until June 15, 2021 as permitted under Section 39 of the Planning Act. The intent is to allow the use for a temporary period until redevelopment occurs within the Langstaff community.

**Note Regarding Further Planning Applications on this Property**

The *Planning Act* provides that no person shall apply for a minor variance from the provisions of this by-law before the second anniversary of the day on which the by-law was amended, unless the Council has declared by resolution that such an application is permitted.



THIS IS NOT A PLAN OF SURVEY. Zoning information presented in this Schedule is a representation sourced from Geographic Information Systems. In the event of a discrepancy between the zoning information contained on this Schedule and the text of zoning by-law, the information contained in the text of the zoning by-law of the municipality shall be deemed accurate.

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# BY-LAW SCHEDULE "A" TO BY-LAW 2019-xx

## AMENDING BY-LAW 2551 DATED April XX, 2019

 BOUNDARY OF AREA COVERED BY THIS BY-LAW SCHEDULE





## By-law 2019-xx

A By-law to provide for the indemnification and defence of employees and Members of Council against loss or liability in certain circumstances arising out of acts or omissions done while acting on behalf of the Corporation.

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WHEREAS section 279 of the *Municipal Act, 2001*, SO 2001, c 25, as amended, provides that a municipality may, subject to certain limitations, act as an insurer and protect present and former members of council, board members, employees and officers from risks that may involve pecuniary loss or liability on the part of those individuals;

And whereas Council has deemed it advisable to enact an indemnification by-law for this purpose.

Therefore be it enacted by the Council of The Corporation of the City of Markham as follows:

### 1. Definitions:

In this By-law:

"Action or Proceeding" includes all civil actions, provincial offences, administrative proceedings including but not limited to tribunals such as the Human Rights Tribunal, complaints to a professional association and third party proceedings, except any proceeding brought under the *Municipal Elections Act, 1996*, S.O. 1996, c. 32, Sched., the *Highway Traffic Act*, R.S.O. 1990, c.H.8, as amended, the *Criminal Code*, R.S.C. 1985, c.C.46, as amended (**the "Criminal Code"**), or municipal parking and traffic by-laws;

"Chief Administrative Officer" means the Chief Administrative Officer of the City of Markham or his/her designate;

"City" means The Corporation of the City of Markham; and

"City Clerk" means the City Clerk of the City of Markham or his/her designate;

"City Solicitor" means the City Solicitor of the City of Markham or his/her designate;

"Corporation" means The Corporation of the City of Markham;

"Council" means the Council of the City;

"Covered Action or Proceeding" means an Action or Proceeding arising out of alleged acts or omissions done or made by the Employee or Member acting in their capacity as an Employee, Member or officer of the City, including acts or omissions done or

made by the Employee or Member in the performance of a statutory duty imposed by any general or special act and duties arising out of an appointment to a Statutory Board or Committee and having been determined by the Integrity Commissioner as entitled to indemnification;

"Department Head" means the Manager, Director, Commissioner or Chief Administrative Officer directly responsible for overseeing the work of the Employee. The City Clerk is the "Department Head" for Members of Council and the Chief Administrative Officer;

"Director of Human Resources" means the Director of Human Resources of the City of Markham or his/her designate;

"Employee" means any salaried officer or any other person employed by the Corporation and any former employee or salaried officer and includes appointees and volunteers acting under the direction of a person in the employ of the City;

"Indemnified Person" means an Employee or a Member approved for indemnification under this By-law; (CMC: or use Eligible Person?)

"Integrity Commissioner" means any person or corporation appointed by the City of Markham to perform the functions assigned by Section 223.3 of the *Municipal Act*, 2001, S.O. 2001, c. 25 as amended, or by the Code of Conduct for Council, Local Boards, and Adjudicative Boards, as amended from time to time, or any person acting under the instructions of the Integrity Commissioner.

"Member" means a Member of the Council of the City of Markham and any former Member of Council;

"Statutory Board or Statutory Committee" means any board or committee of Council established or required by any Act of the Province of Ontario or whose members are appointed by City By-law;

## **2. Former Employees, Officers and Members**

Subject to subsection 3.4(x), this By-law also applies to any person who was an Employee or Member at the time the cause of Action or other Proceeding arose but who, prior to judgment or other settlement of the Action or Proceeding, has ceased to be an Employee or Member.

## **3. Indemnification of Employees and Members:**

3.1 Subject to the provisions of this By-law, the City shall, in respect of any Covered Action or Proceeding against an Employee or Member or in which the Employee or Member is a party and in which their conduct is called into question, indemnify the Employee or Member and his or her heirs and legal representatives in the manner and to the extent provided for in this By-law.

3.2 Where an Employee or Member becomes aware that an Action or Proceeding has been threatened against them, for which they may seek indemnification, the Employee or Member shall provide

immediate and confidential written notice of the Action or Proceeding to their Department Head.

- 3.3 Where an Employee or Member is served with any document which commences an Action or Proceeding for which they seek indemnification, the Employee or Member shall provide the document or a copy thereof and a written request for indemnification, immediately and confidentially to the Integrity Commissioner, through the City Clerk. A copy of the confidential documents submitted to the Integrity Commissioner shall also be provided to the Employee's or Member's Department Head.
- 3.4 At any time prior to the conclusion of **an** Action or Proceeding **or any other matter for which indemnification is requested**, the Integrity Commissioner shall, exercising its own discretion, determine whether an Employee or Member is entitled to indemnification pursuant to this By-law. The Integrity Commissioner may authorize indemnity where it is determined, in the Integrity Commissioner's sole discretion, acting reasonably, that:
- a) the Employee or Member acted honestly and in good faith with a view to the best interests of the City and with no improper, immoral or objectionable purpose; and
  - b) the act or omission was done while acting on behalf of the Corporation or done or made by them in good faith in their capacity as Employees or Members; and
  - c) in the case of a criminal, quasi-criminal or administrative action or proceeding that is enforced by a monetary penalty, the Employee or Member had reasonable grounds for believing that his/her conduct was lawful; and
  - d) the interests of the City and the Employee or Member are not adverse to each other; and
  - e) the actions of the Employee were not of a nature as to provide grounds for immediate dismissal; and
  - f) indemnification is not prohibited by statute or court order.
- 3.5 The Integrity Commissioner shall provide a written decision in respect of a request made under Subsection 3.3, within twenty (20) business days of receipt of the request. Notwithstanding Subsections 7.1 and 7.4, the decision of the Integrity Commissioner shall be final.
- 3.6 Where an Employee or Member is the subject of an investigation in a matter which may result in charges being laid against the Employee or Member under **the Criminal Code**, a provincial statute or regulation, or municipal by-law, **in relation to** any act done or any failure to act or allegations of same in the attempted performance or performance **in good faith** of his/her duties, the Employee or Member may be entitled to receive payment from the City for a retainer and/or interim payment of legal costs, up to \$15,000.00, to obtain legal representation during the investigation, at the discretion of the **Integrity Commissioner**.

- 3.7 **Notwithstanding any other provision of this By-law, where an Employee or Member is charged with an offence under the *Criminal Code*, as amended, a provincial statute or regulation, or municipal by-law, in relation to any act done or any failure to act or allegations of same in the attempted performance or performance in good faith of his/her duties, and where such charges have been withdrawn or where an Employee or Member is subsequently acquitted, the Employee or Member may be indemnified for the necessary and reasonable legal costs incurred in the defence of such charges or allegations.**
- 3.8 As a condition precedent to the City making any payment in respect of the costs of or representation of any Employee or Member pursuant to this By-law, the Employee or Member must agree in writing to comply with the provisions of this by-law and such other terms and conditions as are determined to be appropriate by the City Solicitor, and shall agree to repay the City on demand, in the event that the Employee or Member is convicted of an offence **under the Criminal Code, a provincial statute or regulation, or municipal by-law**, in respect of the Covered Action or Proceeding, all sums paid by the City in respect of the costs of defence or representation as to such charges, including the retainer referred to in Subsection 3.6 and must execute an indemnity agreement or other documentation required by the City to secure such repayment to the City. No retainer shall be **paid to or** on behalf of an Indemnified Person and/or no money shall be paid by the City with respect to any Action or Proceeding until an indemnity agreement has been executed. The Chief Administrative Officer and the Clerk are hereby authorized to execute such indemnity agreements on behalf of the City upon recommendation of the City Solicitor.

#### **4. Excluded Actions and Proceedings**

- 4.1 This By-law does not apply to an Action or Proceeding:
- a) which relates to a grievance filed under the provisions of a collective agreement or any action taken by the City with respect to an Employee;
  - b) under the Council Code of Conduct where the Member has been found by the Integrity Commissioner to have been in breach of any provision of the Council Code of Conduct;
  - c) where the conduct or incident alleged in the Action or Proceeding also gives rise to a complaint or request for inquiry or investigation under the Council Code of Conduct and where the disposition of that complaint remains outstanding.
  - d) where the Employee or Member acted in bad faith;
  - e) where the Employee has been terminated as a result of the actions or omissions that gave rise to the Action or Proceeding;
  - f) in any proceeding against a Member or Employee prosecuted by or on behalf of the City or in which the City was the complainant;

- g) where the Employee or Member was performing his or her duties otherwise than in good faith and honestly or with malice;
- h) where, in committing an alleged wrong, the Employee or Member was clearly acting on his or her own behalf and not that of the City.
- i) where adverse parties in civil proceedings would each be entitled to funding for defence costs under this by-law, it being the policy of the City that it shall not finance both sides of an Action or Proceeding and the neither party should receive indemnification in such circumstances;
- j) In third party claims or cross claims brought against Employees or Members where such third party claims or cross claims are for relief over against such Employees or Members in a proceeding commenced by the City;
- k) the subject actions or omissions were not within the Employee or Member's good faith performance of his or her duties.

4.2 Where the Integrity Commissioner has determined that an Employee or Member is not entitled to indemnification, the Employee or Member shall be responsible for all costs, damages, penalties and legal fees in connection with representation in the Action or Proceeding.

## **5. Manner and Extent of Indemnification:**

Where an Employee or Member is entitled to indemnification under this By-law, in a Covered Action or Proceeding, the City shall:

- a) pay the costs of defending such Employee or Member; and
- b) pay any award of damages or costs, including any monetary penalty or award against such Employee or Member; and
- c) pay, either by direct payment or reimbursement, any expenses reasonably incurred by the Employee or Member; and
- d) pay any sum required in connection with the settlement of a Covered Action or Proceeding, provided that, as a condition precedent, the City Solicitor and the Chief Administrative Officer have approved the terms of the settlement.

to the extent that such costs, damages, expenses, monetary penalty, other award or other sums related to the Covered Action or Proceeding are not assumed, paid or reimbursed under any provision of the City's insurance program for the benefit and protection of such person against any liability incurred by him or her.



**6. City's Right to Select Legal Counsel:**

- 6.1 Subject to Section 12, the City shall have the right to select and retain legal counsel to represent an Indemnified Person and the City Solicitor shall advise the Employee or Member of the legal counsel selected to represent him/her.
- 6.2 An Indemnified Person may retain their own legal counsel for their defence or representation in a Covered Action or Proceeding in lieu of the legal counsel provided by the City, provided that the City shall not be obliged to pay for the services of the Indemnified Person's legal counsel at a rate in excess of the rates the City pays for legal counsel on insurable claims. If the Indemnified Person's choice of legal counsel charges in excess of the rates the City pays for insurable claims, the Indemnified Person shall be responsible for the difference in the legal costs.
- 6.3 Where an Indemnified Person seeks approval of legal counsel under Subsection 6.2, the Indemnified Person shall advise the City Solicitor through the written request in Subsection 3.3, and shall provide sufficient information to support the City Solicitor's decision, acting reasonably, to approve the Indemnified Person's choice of legal counsel, which may include the hourly rate charged by the legal counsel, as well as the experience of such legal counsel in dealing with similar claims.

**7. Limits to Indemnification:**

- 7.1 The Integrity Commissioner shall have the authority at any time during or after the commencement of the Action or Proceeding, upon the request of the Employee or Member, to review its decision to not provide indemnity and may provide indemnity where additional facts become available, that demonstrate that the Employee or Member is entitled to indemnification pursuant to this By-law.
- 7.2 The City Solicitor, acting reasonably, may require one or both of the following:
- a) Periodic Budgets for anticipated legal costs, which may be revised from time to time as circumstances require; and
  - b) Status Updates in respect of the progress of the proceedings;
  - c) Detailed invoices including details of docketed time; and
  - d) Work plans and any other documents deemed appropriate by the City Solicitor.
- 7.3 The City Solicitor may require that any account for legal costs for which reimbursement is sought, be assessed by Court Assessment Officer prior to payment by the City.
- 7.4 Notwithstanding any other provision of this By-law, the Council may, by resolution of Council, choose not to indemnify an Indemnified Person, or may cease to indemnify an Indemnified Person if it has commenced to do so, if:

- a) the Indemnified Person breaches any provision of this By-law or any agreement for indemnification or reimbursement entered into by the Indemnified Person, at any time;
- b) the Indemnified Person or their legal counsel took a step which was unnecessary or otherwise prejudicial to the conduct of the Covered Action or Proceeding;
- c) the Indemnified Person initiated a counterclaim, cross claim, third party claim, appeal, or other proceeding related to the Covered Action or Proceeding for which the indemnity or reimbursement was sought, without first obtaining approval from the City Solicitor; or
- d) the Covered Action or Proceeding arises out of the Indemnified Person's bad faith acts or omissions, or their intentional or malicious wrongful conduct.

**8. Third Party Actions and Counterclaims:**

An Indemnified Person may not commence a third party action or Counterclaim unless such Action or Counterclaim is part of the proper defence of the Indemnified Person in a Covered Action or Proceeding under this By- law, and only if such Action or Counterclaim has been approved by the City Solicitor.

**9. Duty to Cooperate**

- 9.1 An Indemnified Person shall co-operate fully with the City in the management of any Covered Action or Proceeding including the requirements of section 7.2.
- 9.2 An Indemnified Person shall cooperate fully with any legal counsel retained by the City to defend any Covered Action or Proceeding and shall make available to such legal counsel all information and documentation relevant to matter as are within his or her knowledge, possession or control, and shall attend at all proceedings when requested to do so by such legal counsel.

**10. Failure to Comply With By-law**

If an Indemnified Person fails or refuses to comply with the provisions of this By-law, or any agreement entered into by the Indemnified Person for indemnification or reimbursement, the Council shall have authority to determine whether to assume or pay or continue to pay any of the costs, damages, expenses or sums mentioned in Sections 5 or 6 of this By-law. Prior to the Council making a decision to terminate or rescind indemnity, the Indemnified Person shall be provided with the opportunity to make submissions to the Council in support of the Indemnified Person's indemnification.

**11. Appeal**

- 11.1 Where a person seeks to appeal a judgment or decision in a Covered Action or Proceeding, the Indemnified Person shall first

consult with the Integrity Commissioner, and the Integrity Commissioner shall have sole discretion to determine indemnification eligibility for the appeal. If an Indemnified Person pursues an appeal, or participates as a party in an appeal, without first seeking indemnification approval from the Integrity Commissioner and is successful in that appeal, the Integrity Commissioner shall have sole discretion to determine whether the Indemnified Person shall be indemnified for his or her legal costs in the appeal.

- 11.2 Where the Integrity Commissioner determines that it is not in the City’s interest to commence an appeal and the Indemnified Person elects to proceed with an appeal, all costs of the appeal, including any awards of damages or costs, shall be at his or her own expense.

**12. Conflict**

- 12.1 The City maintains various policies of insurance for both the City and its Employees and Members. The provisions of this By-law are intended to supplement the protection provided by such policies of insurance. In the event of conflict between this By-law and the terms of any such policy of insurance in place from time to time, the terms of such policy or policies of insurance shall prevail.

**13. Reimbursement**

Where the Employee or Member is to be indemnified by the City, the amount of the indemnity shall be reduced by the amount of any costs recovered by the Employee or Member and where the indemnity has been paid, any costs recovered by the Employee or Member shall be paid or assigned to the City up to the amount of the indemnity.

**14. Severability**

If any sections, section or part of a section of this By-law are found by any Court to be illegal or beyond the power of Council to enact, such sections or section or part of a section shall be deemed to be severable and all other sections or parts of sections of this By-law shall be deemed to separate and independent and shall continue in full force and effect.

Read a first, second, and third time and passed in April 2, 2019.

\_\_\_\_\_  
Kimberley Kitteringham  
City Clerk

\_\_\_\_\_  
Frank Scarpitti  
Mayor