

Ontario Land Tribunal

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Tribunal ontarien de l'aménagement du territoire

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June 29, 2023

TO: All recipients of the Ontario Land Tribunal Decision and Order issued on
June 09, 2023

RE: OLT CASE NO.: OLT-22-003956, ORDER ISSUED JUNE 09, 2023

On June 09, 2023, the Ontario Land Tribunal issued its Order ("Order") on the above noted case.

Rule 24.4 of the Ontario Land Tribunal's *Rules of Practice and Procedure* states that the Tribunal may at any time correct a technical or typographical error made in a Decision or Order.

The Tribunal has amended **Attachment 2** to the Order under the authority of this Rule by attaching the current/most recent version of the Zoning By-law Amendment (Mr. Flowers, February 27, 2023), and noting the following updates and corrections to this Attachment:

1) Section 2.3, Table:

– the parent zone was revised from "RR1" to "R4"

2) Section 3, First Paragraph – "om Schedule 'A'" was revised to "on Schedule 'A'"

Enclosed with this communication please find a corrected version of the Order issued on June 09, 2023. This enclosed Order replaces the Order issued on June 09, 2023.

Thank you.

"Euken Lui"

EUKEN LUI
REGISTRAR

Encl.

Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: June 09, 2023

CASE NO(S):

OLT-22-003956

PROCEEDING COMMENCED UNDER subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:	Digram Developments Helen Inc.
Subject:	Request to amend the Official Plan – Failure to adopt the requested amendment
Description:	To permit the development of a 10-storey residential building
Reference Number:	PLAN 19 137397
Property Address:	55, 63 and 83 Helen Avenue
Municipality/UT:	Markham/York
OLT Case No.:	OLT-22-003956
OLT Lead Case No.:	OLT-22-003956
OLT Case Name:	Digram Developments Helen Inc. v. Markham (City)

PROCEEDING COMMENCED UNDER subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant/Appellant:	Digram Developments Helen Inc.
Subject:	Application to amend the Zoning By-law – Refusal or neglect to make a decision
Description:	To permit the development of a 10-storey residential building
Reference Number:	SU/ZA 17 135415
Property Address:	55, 63 and 83 Helen Avenue
Municipality/UT:	Markham/York
OLT Case No.:	OLT-22-003957
OLT Lead Case No.:	OLT-22-003956

PROCEEDING COMMENCED UNDER subsection 51(34) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:	Digram Developments Helen Inc.
Subject:	Proposed Plan of Subdivision – Failure of Approval Authority to make a decision
Description:	To permit the development of a 10-storey residential building
Reference Number:	SU/ZA 17 135415
Property Address:	55, 63 and 83 Helen Avenue
Municipality/UT:	Markham/York
OLT Case No.:	OLT-22-003958
OLT Lead Case No.:	OLT-22-003956

Heard: February 27, 2023 by Video Hearing

Parties

Counsel

Digram Developments Helen Inc.	Mark Flowers
City of Markham	Maggie Cheung-Madar
The Regional Municipality of York	Samantha Whalen

MEMORANDUM OF DECISION DELIVERED BY GREGORY J. INGRAM AND SIMRANJEET MANN ON FEBRUARY 27, 2023 AND ORDER OF THE TRIBUNAL

[Link to Final Order](#)

INTRODUCTION

[1] This Settlement Hearing relates to an appeal brought pursuant to s. 22(7), s. 34(11) and s. 51(34) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended (“Act”), from the failure of the City of Markham (“City”) to make a decision within the statutory timeframes of the Act with respect to applications for an Official Plan Amendment, Zoning By-law Amendment and Plan of Subdivision. The appeal has been filed by Digram Developments Helen Inc. (“Appellant”) regarding lands located at 55, 63 and 83 Helen Avenue (“Subject Property”), in the City.

[2] The Owner owns four parcels of land known municipally as 55, 63, and 83 Helen Avenue and 7987 Kennedy Road. The Applications do not apply to the entirety of the lands owned by the Owner. The Applications apply to an area consisting of approximately 1.179 hectares (2.913 acres) on part of 55, 63 and 83 Helen Avenue, with approximately 112.07 metres of frontage on Helen Avenue and 23.39 metres on Greenberg Gate located approximately 180 metres east of Kennedy Road and 50 metres north of Highway 407 in the City of Markham, Regional Municipality of York ("Subject Lands"). Other lands within the Owner's ownership are located to the south and west of the Subject Lands consisting of 0.549 hectares (1.35 acres) and are identified as "Other lands owned by Applicant not part of this application" on the Draft Plan of Subdivision ("DPS")-(?). The Appellant intends to redevelop the Subject Property with a 10-storey-high residential building, an extension of Peshawar Avenue, and a park block.

[3] On October 27, 2022, the Tribunal held its first CMC ("1st CMC"), at which it consolidated the OPA, ZBA and Subdivision appeals and granted Party status to The Regional Municipality of York.

[4] On December 14, 2022, the Tribunal held the second CMC ("2nd CMC"), during which the Parties advised that they remained confident that a settlement would be reached and that some additional time would be required to work through one remaining issue and to allow the City of Markham Council ("Council") meetings to take place. The Parties anticipated that they would be in position to file the required materials and present a settlement to the Tribunal for consideration at the end of February 2023.

[5] The Tribunal scheduled a third CMC ("3rd CMC"), with the direction that Parties be prepared either to present the terms of the settlement of the appeal, or, in the event a settlement had not been reached, have a final draft Procedural Order and Issues List ready for review and approval by the Tribunal.

[6] On February 13, 2023, the Tribunal was notified by the City of Markham that the Parties would like to proceed with a settlement Hearing on February 27th, 2023, and confirmed that representatives for Digram Developments Helen Inc. would provide the Tribunal with a Joint Affidavit of a proposed settlement.

DESCRIPTION OF THE SETTLEMENT PROPOSAL

[7] The proposed development is for the creation of one (1) block within the proposed Draft Plan of Subdivision (“proposed DPS”) for Residential High Rise consisting of 0.616 hectares that will accommodate approximately 295 apartment units with a maximum height of 10 storeys and a gross floor area of 3.3 times the lot area based on the Concept Site Plan submitted.

[8] It is proposed that the Concept Site Plan provide for an appropriate transition to a height of three storeys at the east side of Block 1 within the proposed DPS where the proposed building is set back approximately 10.6 metres (“m”) from the existing low-rise development. The proposed residential building is set close to Helen Avenue in order to promote active transportation and transit in the area and to support a strong urban design presence.

[9] The documentation also proposes that vehicular access for the residential development is from the proposed extension of Peshawar Avenue through the proposed DPS, which, in addition to facilitating the creation of the proposed development block, will complete the planned local street pattern which is currently terminated in a temporary turning circle east of the Subject Lands. The majority of parking is proposed to be located underground within two levels.

[10] Parties submitted a Joint Affidavit indicating that a Traffic Impact Study and Functional Traffic Design Study confirming that site access and sight lines are satisfactory and that improvements recommended will address network intersection operations within the planned horizon. The Parking Utilization Study confirms that the

proposed parking supply which has informed the parking requirements of the proposed ZBA are appropriate to accommodate the anticipated parking demand.

[11] The proposed development will be serviced using full municipal services and will rely on existing community facilities in the surrounding area to the east. A Functional Servicing Report submitted confirms that the proposed development can be serviced with a combination of existing municipal services and upgrades to municipal services within the Helen Avenue right-of-way.

[12] In addition, the proposed development and extension of Peshawar Avenue allow the existing temporary turning circle on the existing Peshawar Avenue to be removed from the lands east of the Subject Lands, which will facilitate the use of existing City-owned land for a neighbourhood park and the opportunity to develop and expand the planned park including lands within Block 2 of the proposed DPS, and the opportunity to expand further to the south.

[13] The proposed settlement requests that the Tribunal provide the following:

- a. a Decision and Order approving the proposed Official Plan Amendment in the form contained in the proposed Official Plan Amendment ("proposed OPA"). The proposed OPA is for an amendment to the Markham OP 2014, to add a new site-specific policy to Section 9.19 as Subsection 9.19.14 to designate the Subject Lands as High-Rise Residential to allow a maximum permitted building height of 10 storeys and a maximum floor space index ("FSI") of 3.3, applying to the Subject Lands only;
- b. a Decision and Order approving the Amending Zoning By-law. The proposed ZBA is to remove the lands from the designated area of By-law 304-87, as amended, to incorporate the lands into the designated area of By-law 177-96, as amended, and to rezone the lands from RR1 in By-law 304-87 to Residential Four*724 (R4*724) Zone in By-law 177-96. Several site-specific exceptions are proposed in order to facilitate the

development of a 10-storey residential building with associated parking and vehicular circulation; and

- c. a Decision and Order approving the proposed Draft Plan of Subdivision . The proposed DPS proposes to create one (1) block for Residential High Rise use, 1 block for public park use, 1 block for road widening and 1 proposed public road right-of-way.

ISSUES

[14] The issues that the Tribunal must address when adjudicating an OPA, ZBA and DPS settlement concern whether the proposed instruments:

- a. are consistent with Policy Statements issued by the Minister (in this case, the Provincial Policy Statement, 2020 ["PPS"]);
- b. conform with applicable Provincial, regional and municipal plans (in this case, Growth Plan for the Greater Golden Horseshoe 2020(?), York Region Official Plan, Markham Official Plan);
- c. conform with the nature and intent of applicable Zoning By-laws;
- d. represent good planning.

[15] The Tribunal must have regard to the matters of Provincial interest set out in s. 2 of the Planning Act and have regard to the information and materials that the City of Markham Council received in relation to the matters under s. 2.1(2) of the Planning Act.

EVIDENCE AND SUBMISSIONS

[16] The Appellant filed an Affidavit affirmed by Mark Yarranton and Alistair Shields dated February 21, 2023 in support of the proposed settlement. Mr. Yarranton and Mr. Shields are land use planners retained by the Appellant. Mr. Shields provided oral testimony at the settlement hearing. The Tribunal qualified him to provide opinion

evidence in the area of land use planning.

[17] The witness noted that the Appellant prepared for and/or made representations at community and municipal committee meetings. In addition, the Appellant also met with City staff to refine the proposal, and as part of settlement discussions with the City participated in the finalization of the instruments now being put forward to the Tribunal through this settlement Affidavit.

[18] The Tribunal received and marked the following document as Exhibit 1:

- Joint Affidavit of Mark Yarranton, B.E.S., M.C.I.P, R.P.P., KLM Planning Partners Inc. and Alistair Shields, Planner at KLM Planning Partners Inc.

[19] In support of the Applications, the following supporting material was also submitted to the City and is available to the Tribunal:

- a description of the Development Proposal;
- applications for Draft Plan of Subdivision, Zoning By-law Amendment and Official Plan Amendment, and
- a draft Official Plan Amendment.

[20] The Region of York and the City of Markham support the Affidavit.

[21] Mr. Shields submitted that the application has appropriate regard for all relevant matters of the Provincial interest found in Section 2 of the Planning Act as per his specific examples below:

- The proposed DPS is not premature as it relies on existing available municipal services, transit and community facilities.
- The Subject Lands are suitable for purposes of roads, parks and residential use, as evidenced through the Environmental Site Assessment.
- The proposed DPS, subject to the approval of the proposed OPA, conforms to the Official Plan and adjacent plans with respect to the extension of

existing roads and development of City-owned land for parks.

Provincial Policy Statement (PPS)

[22] Mr. Shields indicated that through their process they reviewed and considered the PPS, and submit that the proposed OPA, ZBA and DPS are consistent with the PPS. In particular, he submitted that the OPA, ZBA and DPS respects the efficient use of land and infrastructure and the provision of appropriate density and housing types that are compatible with surrounding land uses. He further noted that the plan is consistent with supporting transit use, as the development is within an emerging Major Transit Station Area. Mr. Shields further offered that the Subject Lands are located within the existing urban boundary of the City of Markham. Finally, he referred to the results of a Traffic Impact Study and Functional Traffic Design Study which confirmed adequate sight lines and stopping distances for the safe access of vehicles to the development.

A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2020

[23] Mr. Shields submitted that, on behalf of the Appellant, he reviewed and considered the entire Growth Plan in forming planning opinion, and concluded that the proposed OPA, ZBA, DPS and proposed conditions ("Conditions") conform to the objectives of the Growth Plan.

[24] In his testimony, Mr. Shields suggested that the guiding principles of the Growth Plan align with the proposed plan submitted by Digram Developments Helen Inc., in that the proposed development is within the delineated Built-up Area and within a strategic growth area as part of an emerging Major Transit Station Area identified within the YROP 2022. He noted that, should the development be permitted to proceed, the Subject Lands are serviced by existing water and wastewater systems.

[25] Mr. Shields opined that the proposed ZBA provides for appropriate performance

standards to implement the proposed changes and would create a complete community through the provision of residential uses that contribute to a greater range and mix of housing options within an existing settlement area of a density and form that support all forms of safe transportation, including walking and cycling.

York Region Official Plan (YROP) 2022 and 2010

[26] The new York Region Official Plan 2022 (“YROP 2022”) was adopted by Regional Council on June 30, 2022 and approved with modifications by the Minister of Municipal Affairs and Housing on November 4, 2022.

[27] In speaking to the issue of the YROP, Mr. Shields confirmed that the Subject Lands are designated as Urban Area – Regional Structure and Community Area – Land Use Designations. He noted that Urban Areas and Community Areas are identified as primary locations for growth and development within York Region. Community Areas are intended to be where the majority of residents, personal services, retail, arts, culture, recreational facilities and human services needs will be located and shall contain a wide range and mix of housing types, sizes, tenures that include options that are affordable to residents at all stages of life.

[28] Mr. Shields submitted as evidence that the Subject lands are located within a Major Transit Station Area, which meets the priorities identified in the ROP 2022 and its predecessor ROP 2010.

[29] Further, Mr. Shields referred to Section 7.4.13 of ROP 2022, and noted that development applications which have not been deemed complete by the date of the Plan’s approval shall be subject to the policies of the Plan. He submitted that, given that the Applications were deemed complete on December 19, 2019, prior to the approval of ROP 2022, the intent is that the Applications are transitioned and not strictly subject to the policies of ROP 2022.

[30] In addition to his reference to the ROP 2022, Mr. Shields made reference to the

ROP 2010 and submitted that the Proposals align with its principles as well. Specifically, he suggested that the Proposal promotes intensification in strategic locations in the Built-up Area to maximize efficiencies in infrastructure delivery, human services provision and transit ridership, which are priorities in the ROP 2010.

City of Markham Official Plan, 2014

[31] Mr. Shields referred to Section 8.2.1.3 of the Markham OP 2014, which states:

In considering an application for *development approval* on lands designated 'Residential', Council shall ensure that development has adequate transportation and water and wastewater infrastructure, and adequate community infrastructure such as public schools and parks and open spaces, and has regard for the Urban Design and Sustainable Development policies outlined in Chapter 6 of this Plan.

[32] He confirmed in his testimony that the proposed development will be serviced by existing transportation and municipal services. A park block is included as part of the proposed development and a number of existing public parks are located in close proximity to the Subject Lands. He also emphasized that the Subject Lands are adequately serviced by other community infrastructure such as open space, schools and public transit. It was his opinion that the proposed development is in conformity with the Urban Design and Sustainable Development policies.

[33] Mr. Shields also referred to Section 8.2.5.1 of the Markham OP 2014 with respect to building design, residential intensification, opportunities for infilling, responsiveness to transportation infrastructure, and, which states that the policy of Council is that new buildings "provide a transition in height and massing to adjacent 'Residential Low Rise' and 'Residential Mid Rise' areas". It was his opinion that the proposed development strongly meets the expectations of the Markham OP 2014 and through the proposed ZBA will regulate the height and massing of the proposed development by virtue of other provisions, including minimum yards and maximum heights at set distances from the existing residential uses to the proposed use.

City of Markham Zoning By-law 304-87

[34] It was noted by Mr. Shields that the Subject Lands are zoned Rural Residential (RR1) within Zoning By-law 304-87, and the proposed uses are not permitted. As a result, an amendment to By-law 304-87 is required to implement and regulate the proposed development on the Subject Lands.

[35] Mr. Shields explained that the purpose and effect of the proposed ZBA is to remove the lands from the designated area of By-law 304-87, as amended, to incorporate the lands into the designated area of By-law 177-96, as amended, and to rezone the lands from RR1 in By-law 304-87 to Residential Four*724 (R4*724) Zone in By-law 177-96. Several site-specific exceptions are proposed in order to facilitate the development.

[36] Mr. Shields made the Tribunal aware of the various site-specific exceptions that would be included in the ZBA that are proposed through the Residential Four *724 (R4*724) zone. The site-specific exceptions include permitted uses, setbacks, maximum heights, and architectural and mechanical features.

Summary Comments by Witness

[37] Mr. Shields closed by stating that the proposed OPA, proposed ZBA, proposed DPS and proposed Conditions satisfy the applicable provisions of the Planning Act, are consistent with the PPS, and conform with the Growth Plan, the ROPs (2010 and 2022) and the Markham OP 2014, as proposed to be amended by the proposed OPA.

[38] He also stated that the proposed development, as set out in the proposed OPA, proposed ZBA, proposed DPS and proposed Conditions, constitutes good planning and is in the public interest.

[39] Chair confirmed that no further evidence was going to be presented.

TRIBUNAL FINDINGS

[40] Based on Mr. Shields' opinion evidence, the Tribunal finds that the proposed OPA, ZBA and DPS are consistent with the PPS and conform with the Growth Plan and the YROP and City of Markham Official Plan, and that the ZBA is appropriate to implement the municipal, regional and Provincial policy directions.

[41] The Tribunal has had regard to the applicable policies and guidelines and the matters of Provincial interest in s. 2 of the *Planning Act* as well as the information and materials that City Council received in relation to the matter. The Tribunal finds that the proposed OPA and ZBA constitute good planning.

ORDER

[42] **THE TRIBUNAL ORDERS** that the appeal is allowed, and:

1. the Official Plan for the City of Markham is amended as set out in Attachment 1 to this Order;
2. By-law 304-87 and By-law 177-96 of the City of Markham are hereby amended as set out in Attachment 2 to this Order and the Tribunal authorizes the Municipal Clerk of the City of Markham to assign a number to this By-law for record-keeping purposes;
3. the draft plan (Attachment 3 to this Order) is approved as shown on the plan prepared by KLM Planning Partners Inc. dated October 14, 2022, with a Surveyor's Certificate from Schaeffer Dzaldov Bennett Ltd. dated November 11, 2020 and identified as Project No. P-2849 and DWG, and is approved subject to the fulfillment of the conditions set out in Attachment 4 to this Order;
4. that, pursuant to subsection 51(56.1) of the *Planning Act*, the City of Markham shall have the authority to clear the Conditions of draft plan Approval and to administer Final Approval of the Plan of Subdivision for the purposes of subsection 51(58) of the *Act*. In the event that there are any difficulties

implementing any of the Conditions of draft plan Approval, or if any changes are required to be made to the draft plan, the Tribunal may be spoken to.

“Gregory J. Ingram”

GREGORY J. INGRAM
MEMBER

“S. Mann”

S. MANN
MEMBER

Ontario Land Tribunal

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The Conservation Review Board, the Environmental Review Tribunal, the Local Planning Appeal Tribunal and the Mining and Lands Tribunal are amalgamated and continued as the Ontario Land Tribunal (“Tribunal”). Any reference to the preceding tribunals or the former Ontario Municipal Board is deemed to be a reference to the Tribunal.

Attachment 1

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PART I - INTRODUCTION

(This is not an operative part of Official Plan Amendment No. XXX)

PART I - INTRODUCTION

1.0 GENERAL

- 1.1** PART I - INTRODUCTION, is included for information purposes and is not an operative part of this Official Plan Amendment.
- 1.2** PART II - THE OFFICIAL PLAN AMENDMENT, constitutes Official Plan Amendment No. XXX to the City of Markham Official Plan 2014, as amended. Part II is an operative part of this Official Plan Amendment.

2.0 LOCATION

This Amendment applies to 1.18 hectares (2.91 acres) of land generally located east of Kennedy Road, north of Highway 407 municipally known as 55, 63, and 83 Helen Avenue (the “Subject Lands”).

3.0 PURPOSE

The purpose of this Official Plan Amendment is to re-designate the Subject Lands from ‘Residential Low Rise’ to ‘Residential High Rise’ to provide for a residential building with a maximum building height of 10 storeys. The amendment will also modify Section 9.19 to add a new site-specific policy applicable to the Subject Lands.

4.0 BASIS OF THIS OFFICIAL PLAN AMENDMENT

This amendment will provide for a 10 storey residential building (the “Proposed Development”) that steps down to eight, six and three-storeys at the east end in order to maintain a 45 degree angular plane to the existing single-detached dwellings to the east of the Subject Lands. The Proposed Development accommodates growth where existing infrastructure and services are available while providing a transition between the existing single-detached residential uses to the east and the anticipated higher density, mixed-use, developments to the west, along Kennedy Road. The Subject Lands are located within the Enterprise BRT Major Transit Station Area (“MTSA”), which is located on a priority transit corridor per Schedule 5 in the Growth Plan for the Greater Golden Horseshoe, 2019. MTSA’s are part of a regional strategy to align transit with growth and must be planned to achieve specified minimum density targets. The updated York Region Official Plan adopted by Regional Council in June 2022, and approved with modifications by the Province in November 2022, identifies a minimum planned density for the Enterprise BRT MTSA of 250 people and jobs per hectare. The Subject Lands are also close to a mix of commercial uses and community facilities including, but not limited to, Langham Square, Markham Pan AM Centre, YMCA, and the future York University Campus. The Proposed Development would be serviced by existing York Region Transit routes and the nearby Unionville GO station.

PART II - THE OFFICIAL PLAN AMENDMENT

(This is an operative part of Official Plan Amendment No. XXX)

PART II - THE OFFICIAL PLAN AMENDMENT

1.0 THE OFFICIAL PLAN AMENDMENT

- 1.1 Map 3 – Land Use of the Official Plan 2014, as amended, is hereby amended by re-designating the Subject Lands from ‘Residential Low Rise’ to ‘Residential High Rise’, as shown on Schedule “A” attached hereto.
- 1.2 Section 9.19 of the Official Plan 2014, as amended, is hereby amended by:
 - a) Amending Section 9.19.1 to add a reference to a new section 9.19.14 in Figure 9.19.1 as follows:

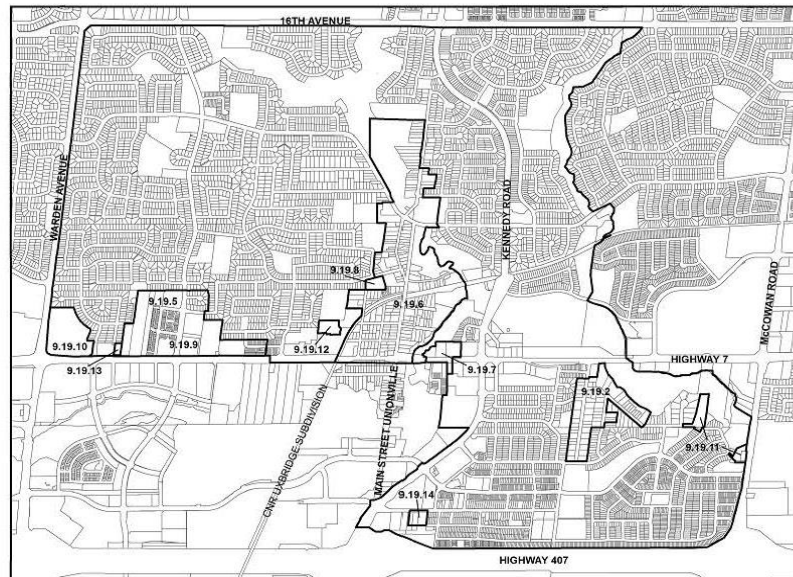


Figure 9.19.1

- b) Add a new subsection 9.19.14 and Figure 9.19.14 as follows:

“9.19.14 55, 63 and 83 Helen Avenue

The following height and density provisions shall apply to the ‘Residential High Rise’ lands located at 55, 63 and 83 Helen Avenue as shown in Figure 9.19.14:

- a) The maximum building height shall be 10 storeys; and,
- b) The maximum *floor space index* is 3.3.

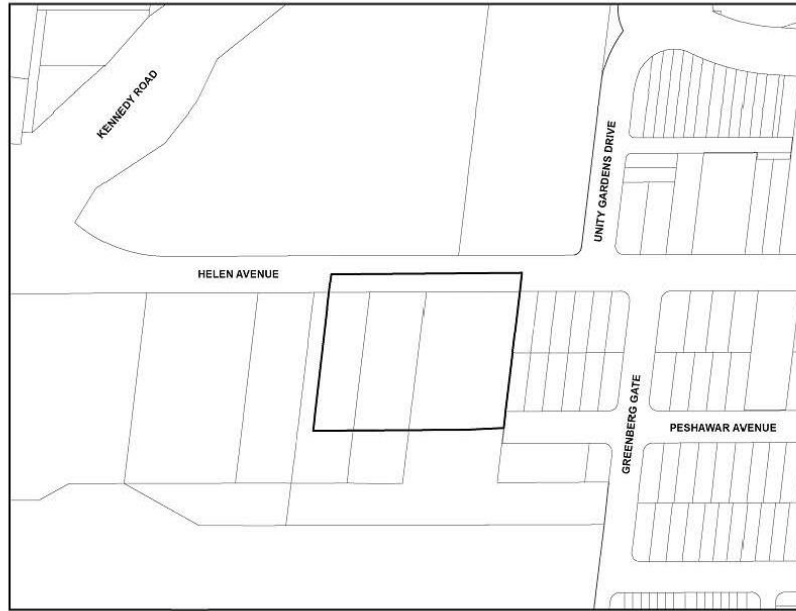
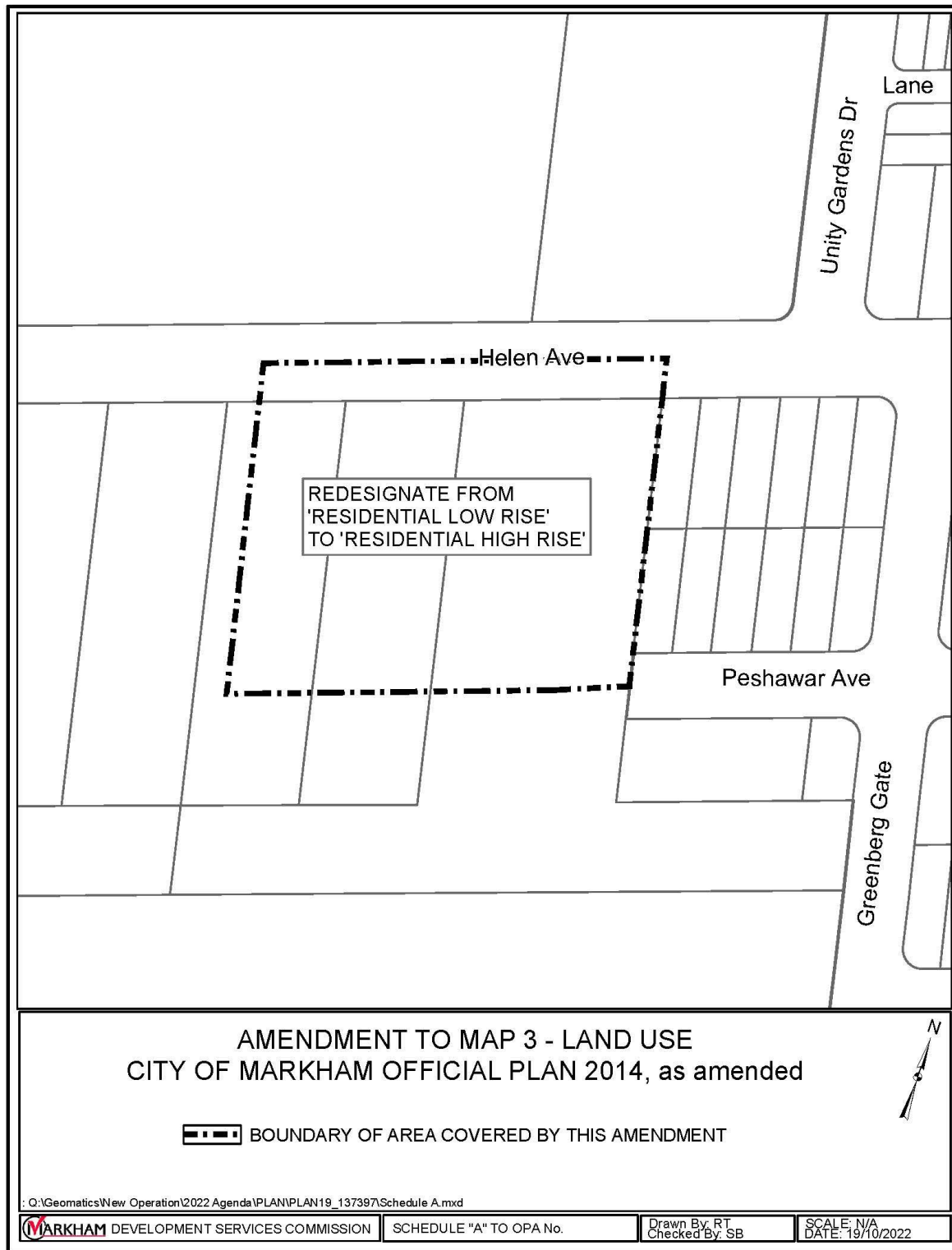


Figure 9.19.14”

2.0 IMPLEMENTATION AND INTERPRETATION

The provisions of the Official Plan, as amended, regarding the implementation and interpretation of the Plan, shall apply in regard to this Amendment, except as specifically provided for in this Amendment.

This Amendment shall be implemented by an amendment to the Zoning By-law and Site Plan approval and other Planning Act approvals, in conformity with the provisions of this Amendment.



Attachment 2



BY-LAW 2023-_____

A By-law to amend By-law 304-87, as amended
(to delete lands from the designated area of By-law 304-87)
and to amend By-law 177-96, as amended
(to incorporate lands into the designated area of By-law 177-96)

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

1. That By-law 304-87, as amended, is hereby further amended as follows:
 - 1.1 By deleting the lands shown on Schedule 'A' attached hereto from the designated area of By-law 304-87, as amended.
2. That By-law 177-96, as amended, is hereby further amended as follows:
 - 2.1 By expanding the designated area of By-law 177-96, as amended, to include additional lands as shown on Schedule 'A' attached hereto.
 - 2.2 By zoning the lands outlined on Schedule 'A' attached hereto:

from:

Rural Residential One (RR1) Zone

to:

Residential Four Provision*724 (R4*724) Holding Zone
Open Space (OS1) Zone
 - 2.3 By adding the following subsections to Section 7 – EXCEPTIONS:

Exception 7.724	Digram Developments Helen Inc. 55, 63, and 83 Helen Avenue	Parent Zone R4
File ZA 17 135415		Amending By-law 2023 - _____
Notwithstanding any other provisions of this By-law, the following provisions shall apply to the land denoted by the symbol *724 on Schedule "A" to this By-law. All other provisions, unless specifically modified/amended by this section, continue to apply to the lands subject to this section.		
7.724.1 Only Permitted Uses		
The following are the only permitted uses:		
a)	<i>Apartment Dwellings</i>	
b)	<i>Home Occupations</i>	
c)	<i>Home Child Care</i>	
7.724.2 Special Zone Standards		
The following special zone standards shall apply:		
a)	Minimum required <i>front yard</i> – 1.4 m	
b)	Minimum <i>exterior side yard</i> : a) Abutting Helen Avenue – 2.75 m b) Abutting Peshawar Avenue Extension – 1.75 m	
c)	Minimum <i>rear yard</i> – 10.55 m	
d)	Maximum number of dwelling units – 300	
e)	The provisions of Table B6(G) shall not apply	
f)	Maximum <i>height</i> of main wall within 6 metres of the front lot line – 35.25 m	
g)	Maximum <i>height</i> – 35.25 m	

h)	Maximum height of main wall within 10.6 m of rear lot line – 13.2 m
i)	Maximum height of main wall within 18.1 m of rear lot line – 22 m
j)	Maximum height of main wall within 24.7 m of rear lot line – 29 m
k)	Architectural features such as sills, belt courses, cornices, eaves, chimney breasts, pilasters, roof overhangs, and balconies may encroach: <ul style="list-style-type: none"> i) into the required front yard and may be located 0.0 m to the front lot line ii) into the required <i>rear yard</i> a distance of no more than 3.0 metres iii) into the required exterior side yard a distance of no more than 1.0 m
l)	The required rate of parking for <i>apartment dwellings</i> shall be 1.0 parking spaces per dwelling unit plus 0.2 spaces per unit for visitors
m)	Notwithstanding Section 3.55, mechanical features, such as <i>structures</i> containing the equipment necessary to control an elevator, are permitted to project a maximum of 5.9 metres above the highest point of the roof surface, regardless of the <i>height</i> of the <i>building</i> .
n)	The minimum setback for a <i>Private Garage</i> or <i>Parking Garage</i> located completed below grade shall be 0.3 m. This shall also apply to ventilation shafts and housings, stairways, and other similar facilities above <i>established grade</i> that are associated with below grade <i>Parking Garages</i> .

3. HOLDING PROVISION

For the purposes of this By-law the Holding Provision (H) is hereby established and is identified on Schedule 'A' attached hereto by the letter (H) in parenthesis following the zoning symbol.

No person shall hereafter erect or alter any building or structure on lands subject to the Holding Provision (H) for the purposes permitted under this By-law until an amendment to this By-law to remove the letter (H) has come into effect pursuant to the provisions of Section 36 of the *Planning Act*. Prior to removing the Holding Provision (H), the following conditions must be met to the satisfaction of the City of Markham:

- i) The Owner shall prepare and submit a Water Supply Analysis to determine what is required to provide water services for the development of the lands without causing adverse impacts in the water supply system.
- ii) The Owner shall identify the recommendations and the necessary works to mitigate any impacts identified in the Water Supply Analysis.
- iii) The Owner shall execute an agreement with the City securing the provision of, water service infrastructure improvements identified by the above-noted Water Supply Analysis related to the development of the lands.
- iv) The Owner shall prepare and submit a Storm Capacity Analysis to determine what is required to provide storm services for the development of the lands without causing adverse impacts in the storm sewer system.
- v) The Owner shall identify the recommendations and the necessary works to mitigate any impacts identified in the Storm Capacity Analysis.
- vi) The Owner shall execute an agreement with the City securing the provision of, storm service infrastructure improvements identified by the above-noted Storm Capacity Analysis related to the development of the lands.

Read and first, second and third time and passed on MONTH XX, 2023.

By-law 2023-____
Page 3

Kimberley Kitteringham
City Clerk

Frank Scarpitti
Mayor

Amanda File No. ZA 17 135415

By-law 2023-____
Page 4



EXPLANATORY NOTE

BY-LAW 2023-____
A By-law to amend By-laws 304-84 and 177-96, as amended

Digram Developments Helen Inc.
55, 63 and 83 Helen Avenue
South side of Helen Avenue, east of Kennedy Road
ZA 17 135415

Lands Affected

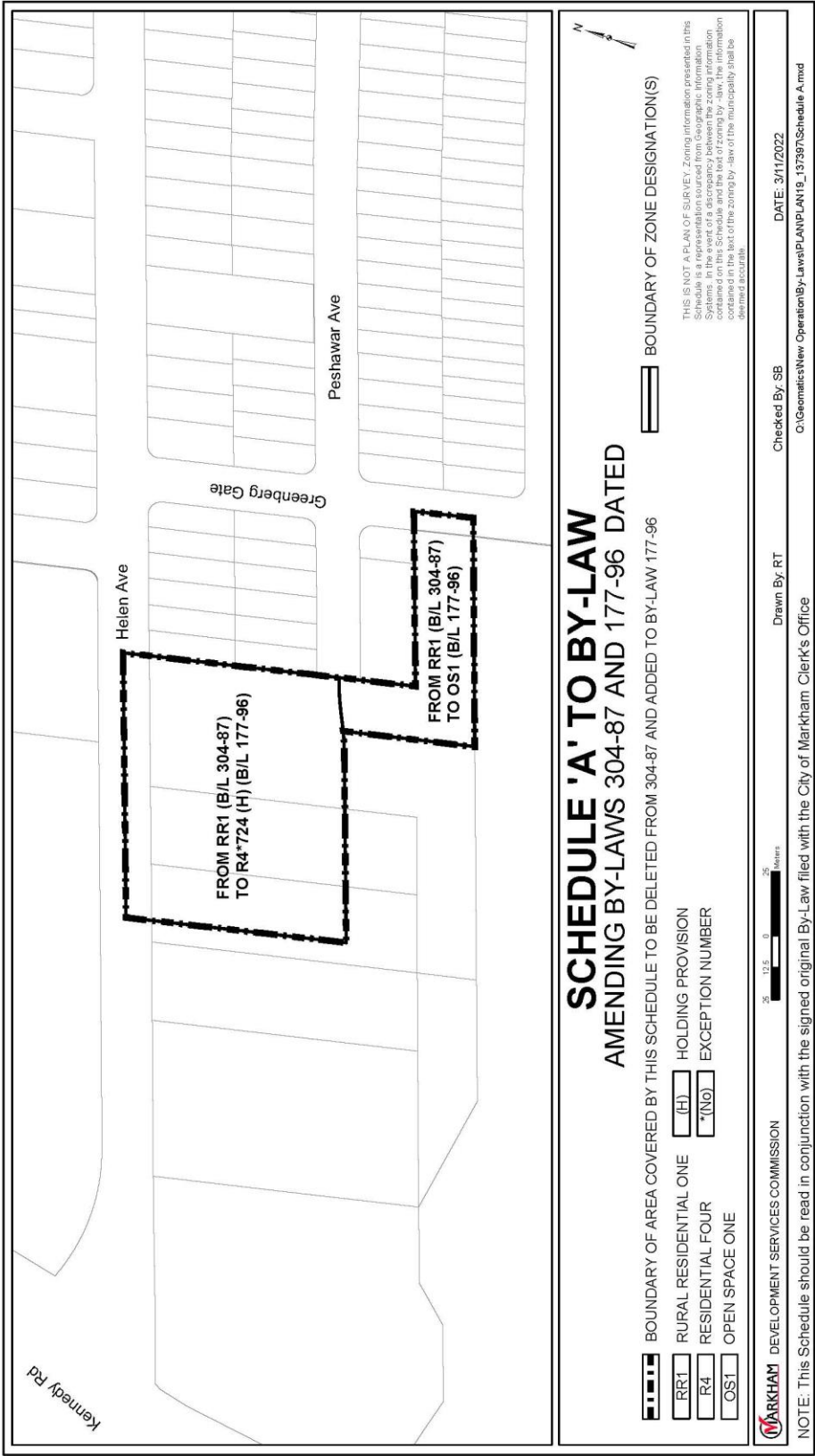
The by-law amendment applies to a parcel of land with an approximate area 1.18 ha (2.91 ac), which is generally located east of Kennedy Road, north of Highway 407 and are municipally known as 55, 63, and 83 Helen Avenue.

Existing Zoning

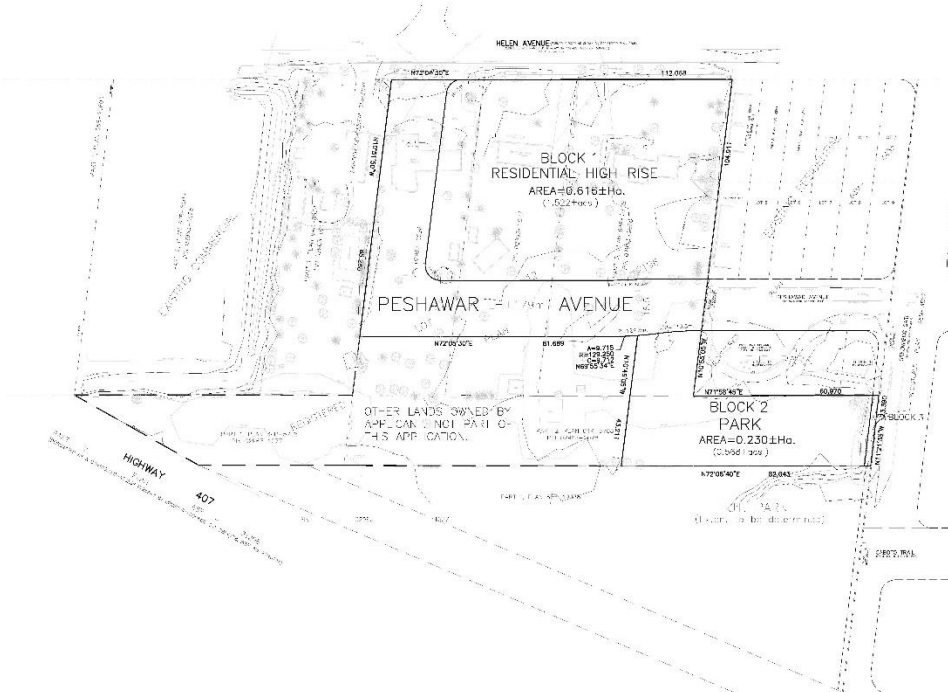
The subject lands are zoned "Rural Residential One (RR1) Zone" by By-law 304-87, as amended.

Purpose and Effect

The purpose and effect of this By-law is to permit the development of a residential apartment building with a maximum building height of 10-storeys and a partial park block to be combined with an existing park block previously secured by the City.



DRAFT PLAN OF SUBDIVISION
PART OF LOT 12, REG. PLAN 2196
CITY OF MARKHAM
REGION OF YORK
SCALE 1:500



SECTION 51, PLANNING ACT,
ADDITIONAL INFORMATION

- A. AS SHOWN ON DRAFT PLAN
- B. AS SHOWN ON DRAFT PLAN
- C. AS SHOWN ON DRAFT PLAN
- D. SEE SCHEDULE OF LAND USE
- E. AS SHOWN ON DRAFT PLAN
- F. AS SHOWN ON DRAFT PLAN
- G. AS SHOWN ON DRAFT PLAN
- H. MINORIAL PAVED WATER AVAILABLE AT TIME OF DEVELOPMENT
- I. EAT-DRINK
- J. AS SHOWN ON DRAFT PLAN
- K. SANITARY AND STORM SEWERS, SEWAGE COLLECTION, FIRE PROTECTION
- L. AS SHOWN ON DRAFT PLAN

I HEREBY CERTIFY THAT THE BOUNDARIES OF THE LAND TO BE SUBDIVIDED AS SHOWN ON THIS PLAN AND THEIR RELATIONSHIP TO THE ADJACENT LAND ARE ACCURATELY AND CORRECTLY SHOWN.

DATE NOVEMBER 11, 2020

OWNER'S CERTIFICATE

I AUTHORIZE C.M. PLANNING PARTNERS INC. TO PREPARE AND SUBMIT THIS DRAFT PLAN OF SUBMISSION TO THE CITY OF ANIMAH FOR APPROVAL

I AUTHORIZE KJM PLANNING PARTNERS INC. TO PREPARE AND SUBMIT THIS DRAIN PLAN OF DRAINAGE TO THE CITY OF MINNEAPOLIS FOR APPROVAL.

OWNER
DIGRAM DEVELOPMENTS HELEN INC.
327 EDVIEW DRIVE
SUITE 201
NAPAH, CA
ALBUQUERQUE, NM 87102-5500

TOTAL AREA OF LAND TO BE SUBPONDED = 1.179Hq. (2.913±Acp)

APARTMENT	DWELL	NGS	B	BOOKS	LOTS	UNITS	FTH	TAAC
BLOCK 1			1			285	0.618	1.322
SUBTOTAL						285	0.618	1.322
BLOCK 2	WALK		1			0.229	0.518	
BLOCK 3	WALK	WALKING	1			0.004	0.811	
STREETS	1917-1918	1917-1918				0.330	0.815	
TOTAL			3			285	1.179	2.915

NOTE - ELEVATIONS RELATED TO CANADIAN GEODETIC DATUM

NOTE - " SUBJECT TO FINAL CALCULATION



Attachment 4

DRAFT PLAN CONDITIONS

THE CONDITIONS OF THE COUNCIL OF THE CITY OF MARKHAM (THE "CITY") TO BE SATISFIED PRIOR TO RELEASE FOR REGISTRATION OF PLAN OF SUBDIVISION 19TM-17001 [DIGRAM DEVELOPMENTS HELEN INC.] (THE "OWNER") ARE AS FOLLOWS:

1. General

- 1.1 Approval shall relate to a draft plan of subdivision prepared by KLM Planning Partners Inc. dated October 14, 2022, with a Surveyor's Certificate from Schaeffer Dzaldov Bennett Ltd. dated November 11, 2020, and identified as Project No. P-2849 and DWG. No. – 22:3.
- 1.2 This draft approval shall apply for a maximum period of three (3) years from date of issuance by the City, and shall accordingly lapse on MONTH, DATE, 2025, unless extended by the City upon application by the Owner.
- 1.3 The Owner shall enter into a Subdivision Agreement with the City with terms and conditions satisfactory to the City of Markham.
- 1.4 The Owner acknowledges and understands that prior to final approval of this draft plan of subdivision, an amendment to the City's zoning by-laws to implement the plan shall have come into effect in accordance with the provisions of the *Planning Act*.
- 1.5 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 studies, functional traffic designs, stormwater management reports, functional servicing reports, design briefs, detailed design drawings, noise studies, servicing and infrastructure phasing plan, etc., to support the draft Plan of Subdivision. The Owner agrees to revise the draft Plan(s) of Subdivision as necessary to incorporate the design and recommendations of the accepted technical reports, studies, and drawings.
- 1.6 The Owner shall implement the designs and recommendations of the accepted technical reports/studies submitted in support of the draft Plans of Subdivision including but not limited to, traffic studies, functional traffic design study, stormwater management reports, functional servicing reports, design briefs, detailed design drawings, noise studies, to the satisfaction of the City of Markham, and at no cost to the City.

The Owner agrees to revise the draft plan of subdivision as necessary to incorporate the recommendations to implement or integrate any recommendations from the above studies, and drawings.

- 1.7 The Owner shall design and construct all required relocations of, and modifications to existing infrastructure, including but not limited to, watermain, light standards, utilities, stormwater management facilities and roads to the satisfaction of, and at no cost to, the City of Markham.
- 1.8 Prior to final approval of the draft plan, the Owner acknowledges and agrees to obtain required approvals from the Regional Municipality of York ("York Region") and any other applicable public agencies to the satisfaction of the Commissioner of Developments Services.
- 1.9 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.
- 1.10 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 of Markham prior to the construction of municipal infrastructure required to service that phase of development.
- 1.11 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 draft plan of subdivision (or site plan) and that are required to service the proposed development, to the satisfaction of the Director of Engineering and the City Solicitor.

2. Roads

- 2.1 The road allowances within the draft plan shall be named to the satisfaction of the City and Regional Municipality of York ("Region").
- 2.2 The Owner shall covenant and agree to design and construct all municipal roads in accordance with City standards and specifications.
- 2.3 The Owner shall agree in the subdivision agreement as part of the Peshawar Avenue extension to make arrangements with Sunrise Acquisitions (Unionville) Inc. to remove the existing turning circle at the west end of Peshawar Avenue, to the satisfaction of the Director of Engineering. The Owner further covenants and agrees not to apply for any building permits for Block 1 or initiate any construction work for Block 1 until such time as the Turning Circle is removed, the area restored to the satisfaction of the Director of Engineering.
- 2.4 The Owner shall covenant and agree to design and construct the sidewalk on the south side of Helen Avenue across the frontage of the subject property and connecting to Kennedy Road, all to the satisfaction of the Director of Engineering.

- 2.5 As the adjacent subdivision to the west has not yet been assumed by the City, the Owner shall covenant and agree in the subdivision agreement to obtain a permission to enter from Sunrise Acquisitions (Unionville) Inc. for any engineering work required within their lands.
 - 2.6 The City acknowledges that the design and construction of the sidewalks required in Condition 2.4 (the Helen Avenue sidewalk) are eligible for partial Development Charge credits and, subject to Council approval, agrees to reimburse the Owner through City Wide Hard Development Charge credits and/or reimbursement, in accordance with the terms of the City's Development Charge Credit and Reimbursement Policy. The maximum Development Charge credits available to the Owner shall be the lesser of the Actual Capital Cost of the sidewalk or, the cost as established in the 2022 Development Charge Background Study or any succeeding Background Study. The total cost included in the 2022 Development Charges Background Study for the Helen Avenue sidewalk is \$172,484.70 of which \$112,115.06 is eligible for development charge credits. The remaining \$60,369.64 is to be funded from other City reserves and can be reimbursed to the Owner subject to Councils approval on the amount and timing of disbursement
3. Tree Inventory and Tree Preservation Plans
- 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 Inventory and Tree Preservation Plan, and Arborist Report prior to the issuance of a Top Soil Stripping Permit, Site Alteration Permit, or Pre-Servicing Agreement 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 As part of the Tree Inventory and Tree Preservation Plan, and in accordance with the City of Markham Streetscape Manual, the Owner shall submit to the satisfaction of the Director of Planning and Urban Design, a tree compensation schedule detailing replacement and enhancement planting, or the replacement value, of any injured or destroyed trees based on the City's Streetscape Manual.
4. Parks and Open Space
- 4.1 The Owner covenants and agrees that the lands shall be conveyed at the subdivision agreement stage in a physical condition which is satisfactory to the

City's Director of Planning and Urban Design, including but not limited being free of debris, excess soil or other refuse.

- 4.2 Prior to the execution of the pre-servicing agreement or subdivision agreement, whichever comes first, the Owner acknowledges and agrees to provide grading, servicing and utility plans for the park block, showing sanitary, storm and water and electrical servicing connections, by a qualified person(s) for Block 2 Park, and to the satisfaction of the Director of Planning and Urban Design.
- 4.3 The Owner agrees to provide the following services and utilities for each park block to the satisfaction of the Director of Planning and Urban Design:
- i) A water main connection to the park block property line (minimum 200mm), with reducer and valve chamber, in accordance with 100 mm service and MW15 valve chamber.
 - ii) A 110/240 volt, single phase, three wire electrical service;
 - iii) A storm water connection (minimum 300mm) and park storm drainage system, incorporating a catch basin/catch basin manhole at the low end of the park block and for each additional drainage area
 - iv) A sanitary service connection (minimum 200mm) and inspection manhole;
- 4.4 The Owner agrees to provide a 2-5% slope across the park block for each park block to the satisfaction of the Director of Planning and Urban Design.
- 4.5 The Owner agrees to rough grade using clean non-organic fill, and to supply and install 300mm topsoil (soil reports to be completed and approved by the City prior to topsoil installation), sod and maintain, free of stock piles, debris, including removal of all boulders larger than 100mm, within the subdivision to the satisfaction of the Director of Planning and Urban Design. The park blocks shall be maintained by the Owner until such time as the parks have been formally assumed by the City.
- 4.6 The Owner agrees that prior to placement of topsoil on the park block(s), topsoil testing shall be completed, identifying at a minimum, levels of nitrogen, phosphorus, potassium, micro nutrients, atrazine, and any contaminants and its textural class and organic content (minimum 4%) to the satisfaction to the Director of Planning and Urban Design. Should the results of the topsoil testing not meet the soil requirements of the Trees for Tomorrow Streetscape Manual, the Owner agrees to amend topsoil as required to the satisfaction of the Director of Planning and Urban Design.
- 4.7 The Owner acknowledges and agrees to complete and provide a geotechnical borehole report by a qualified person for Block 2 Park, verifying the quality of the topsoil confirming bearing capacity of subsoil, and their textural class, with a bore hole log report including a minimum of two (2) boreholes per acre following completion of the rough grading of the park; to the satisfaction of the Director of Planning and Urban Design. Should the results of the sub-soils not meet suitable park land soil requirements the Owner shall, at the direction of the City's

Director of Planning and Urban Design, excavate and remove soils to an appropriate depth and supply and install suitable soils at the Owners expense with soils to an appropriate depth and supply and install suitable soils at the Owners expense.

- 4.8 The Owner agrees to provide temporary fencing around entire Block 2 Park at property line, complete with construction gate, in accordance with OPSD 971.101.
- 4.9 The Owner agrees that stockpiles or storage of construction materials are not permitted on lands conveyed or to be conveyed for park purposes unless approved in writing by the Director of Planning and Urban Design.

5. Landscape Works (Streetscape Works)

- 5.1 Prior to execution of the Subdivision Agreement, the Owner shall submit landscape plans based on the approved design plans for all landscape/streetscape works, to the satisfaction of the Director of Planning and Urban Design, as follows:
 - a) Street tree planting in accordance with the City of Markham Streetscape Manual, dated June 2009;
 - b) Provide noise attenuation fencing as required;
 - c) Provide 1.5 m high black vinyl chain link fence on the property line installed prior to occupancy for all lots backing or flanking onto an Open Space Block, Greenway, Park Block, School Block or SWM Block, as determined appropriate by the Director of Planning and Urban Design
 - d) Any other landscaping as required.
- 5.2 The Owner shall covenant and agree in the Subdivision Agreement to provide a 300mm depth of Topsoil in the entire municipal boulevard including a continuous planting trench to appropriately plant boulevard trees and provide submit a soil report demonstrating compliance with the City's Streetscape Manual to the satisfaction of the City's Director of Planning and Urban Design.
- 5.3 The Owner shall construct all landscaping in accordance with the approved plans at no cost to the City.
- 5.4 The Owner shall not permit their builders to charge home purchasers for the items listed in Condition 5.1.
- 5.5 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 5.1a)
- NOISE ATTENUATION FENCING AS IDENTIFIED IN THE NOISE IMPACT STUDY
- FENCING OF SCHOOL, PARK, WALKWAY AND STORMWATER MANAGEMENT POND BLOCKS

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

6. Parkland Dedication

- 6.1 The Owner and the City acknowledge and agree that Block 2 represents the entirety of the parkland dedication required within this Draft Plan of Subdivision.

7. Financial

- 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, landscape works and base park requirements.

8. Municipal Services – Development Engineering

- 8.1 The Owner shall covenant and agree to design and construct all municipal services in accordance with City standards and specifications.
- 8.2 Prior to the release for registration of the Draft Plan of Subdivision, the Owner shall demonstrate to the satisfaction of the City of Markham that two independent water supply points for adequate redundancy and looping for domestic and fire protection purposes will be provided.
- 8.3 The Owner agrees not to apply for any building permits until the City is satisfied that adequate road access, municipal water supply, sanitary sewers, and storm drainage facilities are available to service the proposed development as required by the City's By-law 2005-104, as amended.
- 8.4 The Owner shall agree in the Subdivision Agreement to revise and/or update the accepted 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 previously accepted functional servicing and stormwater management reports.
- 8.5 The Owner shall covenant and agree in the Subdivision Agreement that if the proposed sewers connect to existing downstream sewers that are not assumed by the City, to undertake and pay for a sewer video inspection program for the existing sewers to the satisfaction of the Director of Engineering. The Owner

further agrees to do the sewer video inspection:

- a) Prior to the connection being made;
- b) Upon the removal of the temporary bulkhead as directed by the Director of Engineering
- c) Upon all roads, parking lots, driveway in the Owner's subdivision having been paved to the final grades, sidewalk, walkways, multi-use paths constructed and boulevards sodded.

The Owner further agrees to provide securities for the video inspection and for flushing and cleaning the existing downstream sewers to the satisfaction of the Director of Engineering.

- 8.6 The Owner acknowledges that the existing 450mm dia. downstream municipal storm sewer on Helen Avenue that eventually discharges to the existing 1390mm diameter by 970mm diameter culvert crossing Helen Avenue East of Kennedy Road will be required to be upgraded to accommodate the subdivision development (the "Storm Upgrades").
- 8.7 The Owner acknowledges that the existing 150mm diameter watermain on Helen Avenue from the proposed Peshawar Avenue to Kennedy Road will be required to be upgraded to accommodate the subdivision development (the "West Watermain Upgrade). The Owner further acknowledges that the existing 150mm dia. watermain on Peshawar Avenue and the existing 200mm dia. watermain on Greenberg Gate between Caboto Trail and Peshawar Avenue will need to be upgraded to accommodate the subdivision development (the East Watermain Upgrade).

9. Lands to be Conveyed to the City/Easements – Development Engineering

- 9.1 The Owner shall grant required easements to the appropriate authority for public utilities, drainage purposes or turning circles, upon registration of the plan of subdivision. The owner shall also provide for any easements and works external to the draft Plan of Subdivision necessary to connect watermain, storm and sanitary sewers to outfall trunks and stormwater management facilities to the satisfaction of the City.

10. Utilities - Development Engineering

- 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 of Markham and authorized agencies.
- 10.2 The Owner shall agree in the Subdivision Agreement to enter into any agreement or agreements required by any applicable utility companies, including

Powerstream, Enbridge, telecommunications companies, etc.

- 103 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 of Markham 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.
- 104 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. Environmental Clearance – Environmental Engineering

- 11.1 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.
- 11.2 Prior to the earlier of 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.
- 11.3 Prior to the earlier of the execution of a pre-servicing agreement or Subdivision Agreement of a phase within the draft Plan of Subdivision, 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 of Markham. 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.
- 11.4 The Owner agrees that if, during construction of a phase within the draft Plan of Subdivision, contaminated soils or materials or groundwater are discovered, the

Owner shall inform the City of Markham 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 of Markham and the Ministry of the Environment, Conservation and Parks.

- 11.5 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, councillors, employees and agents from any and all actions, causes of action, suite, 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.
- 11.6 Prior to the conveyance lands to the City, the Owner shall agree to provide to the City, a Letter of Acknowledgement of the Record of Site Condition from the Ministry of Environment, Conservation and Parks (MECP) for the lands to be conveyed to the City.
- 11.7 The Owner shall covenant and agree in the subdivision to include in the building permit application all mitigation recommendation from the geotechnical consultant to waterproof basements which are below the ground water to the satisfaction of the Chief Building Official on a lot specific basis. The Owner shall further covenant and agree that the acceptance of these measures will be subject to approval from the Chief Building Official.

12. Heritage

- 121 Prior to final approval of the draft plan of subdivision or any phase thereof, the Owner shall carry out a cultural heritage resource assessment for the lands within the draft plan to ensure the assessment and identification of archaeological resources, and further to mitigate any identified adverse impacts to significant heritage resources to the satisfaction of the City (Director of Planning and Urban Design) and the Ministry of Tourism, Culture and Sport. No demolition, grading, filling or any form of soil disturbances shall take place on the lands within the draft plan prior to the issuance of a letter from the Ministry of Tourism, Culture and Sport to the City indicating that all matters relating to heritage resources have been addressed in accordance with licensing and resource conservation requirements.
- 122 The Owner shall covenant and agree in the Subdivision Agreement to

implement any measures recommended by the archaeological assessment, to the satisfaction of the City and the Ministry of Tourism, Culture and Sport.

13. Development Charge (DC) Credits – Capital / Finance

- 13.1 The City acknowledges that the proposed sidewalk on Helen Avenue is eligible for Development Charge Credits and agrees to reimburse the Owner, in accordance with the terms of the City's Development Charge Credit and Reimbursement Policy. The Owner acknowledges and agrees that the maximum Development Charge Credits available to the Owner shall be the lesser of the actual capital costs of the works or the costs as established in the Development Charge Background Study (2022 update). Overall, the Development Charges Background Study (2022 update) will provide the basis for determining the costing in the Subdivision Agreement.

14. Streetlight Types – Municipal Engineering

- 14.1 The Owner shall agree in the Subdivision Agreement to contact the City of Markham prior to commencing the design for streetlighting to confirm the type(s) of poles and luminaires to be provided for different streets and/or lanes.

15. Other City Requirements

- 15.1 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 of Building Services has been advised by the Fire Services that there is an adequate water supply for firefighting operations and two remote accesses for fire fighting equipment is available.
- 15.2 The Owner shall acknowledge and agree that the adequacy and reliability of water supplies for firefighting purposes are subject to review and approval of the Fire Services.
- 15.3 To ensure reliability of access for Fire Services vehicles under all conditions, two means of street access and independent of one another shall be provided into the development. The following access into the development shall be:
- **Fire Services Access #1 – Helen Avenue to Peshawar Avenue**
 - **Fire Services Access #2 – Greenberg Gate to Peshawar Avenue**

Each access into the subdivision shall be completed prior to commencing any construction and left unobstructed at all times during construction; including

afterhours, weekends and holidays. Gates, fencing, concrete barriers, etc. are not permitted at these designated accesses. The Owner shall secure the site by other means approved by the Fire Services. The Owner shall provide a letter of credit in an amount determined by the Fire Services at the subdivision agreement stage to ensure compliance with this condition.

16. York Region

- 16.1 The Owner shall agree to include the following clauses in the subdivision agreement:
 - a. 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.
 - b. The Owner shall agree to implement the recommendations of the revised Transportation Study, including TDM measures and incentives, as approved by the Region.
- 16.2 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.
- 16.3 The Owner shall provide to York Region the following documentation to confirm that water and wastewater services are available to the subject development and have been allocated by the City of Markham:
 - a) A copy of the Council resolution confirming that the City of Markham has allocated servicing capacity, specifying the specific source of the capacity, to the development proposed within this draft plan of subdivision.
 - b) A copy of an email confirmation by City of Markham staff indicating that the allocation to the subject development remains valid at the time of the request for regional clearance of this condition.
- 16.4 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 branch and the Infrastructure Asset Management branch for record.
- 16.5 The Owner shall agree to advise all potential purchasers of the existing and future introduction of transit services in this development. The Owner/consultant is to contact YRT Centre (tel. 1-866-668-3978) for route maps and the future plan maps.
- 16.6 The Owner shall submit a Transportation Demand Management (TDM) letter that addresses the comments provided, to the satisfaction of the Region.
- 16.7 The Owner shall provide a copy of the executed Subdivision Agreement to the

Regional Corporate Services Department, outlining all requirements of the Corporate Services Department.

- 168 For any applications (Site Plan or Zoning By-Law Amendment) completed after January 1, 2020 the Owner shall enter into a Development Charge Rate Freezing Agreement with York Region to freeze/lock in the Development Charge rate at the time the site plan application or Zoning By-law Amendment is deemed complete submission, satisfy all conditions, financial and otherwise, and confirm the date at which Regional development charge rates are frozen; 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. Please contact Fabrizio Filippazzo, Manager, Development Financing Administration to initiate a Development Charge Agreement with York Region.
- 169 The Regional Corporate Services Department shall advise that condition 2.1 and conditions 16.1 to 16.8 inclusive, have been satisfied.
- 17. Ministry of the Environment Conservation and Parks ("MECP")
 - 17.1 The Owner shall agree in the Subdivision Agreement to satisfy all requirements of the MECP with respect to the endangered species and any potential impacts on the draft plan of subdivision, and to provide written confirmation that it has consulted with the MECP in this respect, to the satisfaction of the Commissioner of Development Services.
- 18. Ministry of Transportation ("MTO")
 - 18.1 Prior to final approval, the owner shall submit to the Ministry of Transportation for review and approval a copy of Stormwater Management Report, Site Grading and Servicing Plan, addressing the intended treatment of the calculated runoff.
 - 18.2 The Owner covenants and agrees that once MTO's conditions are addressed to the Ministry's satisfaction, a Clearance Letter will be issued to the City and then the Owner can register the plan and apply for Ministry permits.
- 19. Enbridge Gas Distribution
 - 19.1 The Owner shall covenant and agree in the Subdivision Agreement:
 - a) To contact Enbridge Gas Distribution's Customer Connections department by emailing for service and metre installation details and to ensure that gas piping is installed prior to the commencement of site landscaping (including, but not limited to: tree planting, silva cells and/or

soil trenches) and/or asphalt paving.

- b) If the gas main needs to be relocated as a result of changes in the alignment or grade of the future road allowances or for temporary gas pipe installations pertaining to phase construction, all costs are the responsibility of the Owner.
- c) In the event that easement(s) are required to serve this development, the applicant will provide the easement(s) to Enbridge Gas Distribution at no cost.
- d) In the event that a pressure reducing regulator station is required, the applicant will provide a 3 metre by 3 metre exclusive use location that is within the municipal road allowance. The final size and location of the regulator station will be confirmed by Enbridge Gas Distribution's Customer Connections department.
- e) The Owner will grade all road allowances to as final elevation as possible, provide necessary field survey information and all approved municipal road cross-sections, identifying all utility locations prior to the installation of the gas piping.

20. Canada Post

20.1 The Owner shall covenant and agree in the Subdivision Agreement to comply with the following conditions:

- a) To provide a secure, rear-fed mailroom for any building with more than 100 units.
- b) That should the mailroom not be accessible directly from the exterior to the building, the Owner/Developer will be required to install an electronic override mechanism for the main door so that the mail delivery person may access the mailbox panel/mailroom inside the building. This electronic micro switch must be fit-up with a Canada Post Abloy lock (provided by Canada Post) allowing Canada Post Staff access to the building.
- c) That there are specific requirements for the deadbolt lock to any dedicated mailroom door. The deadbolt type must be Abloy (CP455), Schlage (B660) or Weiser (older than 9000 series). The Owner/Developer will have to coordinate with Canada Post to obtain and install the appropriate Abloy Cylinder thus limiting access to the area to Canada Post personnel.

21. Bell

- 21.1 The Owner covenants and agrees in the Subdivision Agreement, in words satisfactory to Bell Canada, that it will grant to Bell Canada any easements that may be required, which may include a blanket easement, for communication/telecommunication infrastructure. In the event of any conflict with existing Bell Canada facilities or easements, the Owner shall be responsible for the relocation of such facilities or easements.

22. Rogers

- 22.1 The Owner shall covenant and agree in the Subdivision Agreement to comply with the following conditions:
- a) To permit all CRTC-licensed telecommunications companies intending to serve the Subdivision (the "Communications Service Providers") to install their facilities within the Subdivision and provide joint trenches for such purpose.
 - b) To grant, at its own cost, all easements required by the Communications Service Providers to serve the Subdivision, and will cause the registration of all such easements on title to the property.
 - c) To coordinate construction activities with the Communications Service Providers and other utilities, and prepare an overall composite utility plan that shows the locations of all utility infrastructure for the Subdivision, as well as the timing and phasing of installation.
 - d) That, if the Owner requires any existing Rogers facilities to be relocated, the Owner shall be responsible for the relocation of such facilities and provide where applicable, an easement to Rogers to accommodate the relocated facilities.

23. External Clearances

- 23.1 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) The York Region Planning Department shall advise that Conditions 16.1 to 16.8 have been satisfied.
 - c) The MECP shall advise that Condition 17.1 has been satisfied.
 - d) The MTO shall advise that Conditions 18.1 and 18.2 have been satisfied.

- e) Enbridge Gas Distribution shall advise that Condition 19.1 has been satisfied.
- f) Canada Post shall advise that Condition 20.1 has been satisfied.
- g) Bell Canada shall advise that Condition 21.1 has been satisfied.
- h) Rogers shall advise that Condition 22.1 has been satisfied.

Dated: XXXXXX

Stephen Lue, Senior Development Manager