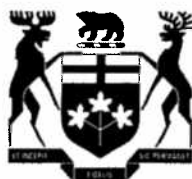


ISSUE DATE:

May 06, 2013



Ontario

Ontario Municipal Board

Commission des affaires municipales de l'Ontario

RECEIVED

MAY 08 2013

CITY OF MARKHAM
CLERKS DEPT.

PL130010

C: Rick Cefano
Lucy

Gemini Urban Design Corporation has appealed to the Ontario Municipal Board under subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from Council's neglect to enact a proposed amendment to Zoning By-law 1229 of the City of Markham to rezone lands known municipally as 11 & 15 Houghton Boulevard and 55 Joseph Street from Residential R1 to Special Exception Residential to permit the development of 10 single detached dwellings, a private condominium road, an environmental buffer block and a valley land block
OMB File No. PL130010

Gemini Urban Design Corporation has appealed to the Ontario Municipal Board under subsection 51(34) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from the failure of the City of Markham to make a decision respecting a proposed plan of subdivision on lands known municipally as 11 & 15 Houghton Boulevard and 55 Joseph Street

Approval Authority File No.: SU-12-131249

OMB File No. PL130011

Gemini Urban Design Corporation has appealed to the Ontario Municipal Board under subsection 51(34) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from the failure of the City of Markham to make a decision respecting a proposed plan of condominium on lands known municipally as 11 & 15 Houghton Boulevard and 55 Joseph Street

Approval Authority File No.: CU-12-131249

OMB File No. PL130012

APPEARANCES:

Parties

Gemini Urban Design (Houghton) Corp.

City of Markham

Counsel

M. Flowers

A. Wilson-Peebles

MEMORANDUM OF ORAL DECISION DELIVERED BY M. CARTER-WHITNEY ON APRIL 22, 2013 AND ORDER OF THE BOARD

[1] There are three matters before the Board concerning a property known municipally as 11 & 15 Houghton Boulevard and 55 Joseph Street ("subject property") in

the City of Markham (the "City"): an appeal from City Council's neglect to enact a proposed amendment to the City's Zoning By-law 1229 to rezone the subject property; an appeal from the failure of the City to make a decision respecting a proposed plan of subdivision on the subject property; and an appeal from the City's failure to make a decision respecting a proposed plan of common elements condominium on the subject property. Gemini Urban Design (Houghton) Corp. ("Gemini"), the applicant and appellant in all three matters, proposed a development consisting of ten single detached dwellings, a private condominium road, and environmental buffer and hazard land blocks.

[2] At the outset of this proceeding, the Board was advised that a settlement between Gemini and the City had been reached, by which Gemini has agreed to revise its proposed development by eliminating one lot for a maximum of nine lots. Gemini called James Levac to testify in support of the settlement. Mr. Levac was qualified to give opinion evidence on land use planning.

[3] Mr. Levac stated that the subject property is in a well-established residential neighbourhood. There were formerly two large houses on the subject property, which have been demolished. The developable area of the subject property is small, and more than half of the subject property will be conveyed to the City as environmental buffer and hazard lands that are adjacent to Mount Joy Creek. The Toronto and Region Conservation Authority delineated the buffer.

[4] The planner described the history of Gemini's development application, noting that there has been extensive consultation with the community, including statutory public and other community meetings. In December 2012, Council deferred a decision on the application to its February 2013 meeting to allow the Ward Councillor to consult further with residents. On December 21, 2012, Gemini filed its appeals. In February 2013, Council approved the application but limited the development to nine lots.

[5] A zoning by-law amendment is required to rezone the buffer and hazard lands from Residential One (R1) zone to Open Space zone, modify the R1 zone development standards as they relate to the subject property and allow specified lots to front or abut a private road. No official plan amendment is required.

[6] Mr. Levac provided his opinion that the proposed development is consistent with the Provincial Policy Statement 2005 ("PPS") because it contributes to efficient development and land use pattern that mitigates impacts on significant environmental features and makes efficient use of an underutilized site with existing infrastructure and community and commercial facilities. He said that the proposed development conforms to the policies of the Growth Plan for the Greater Golden Horseshoe ("Growth Plan") by directing development and intensification within existing built up areas.

[7] The planner further testified that the proposed development conforms to the current Region of York Official Plan, particularly because it intensifies an underutilized and fully serviced site, makes efficient use of land and existing services and infrastructure, and considers the natural features on the property. He stated that the proposal also conforms to the new Region of York Official Plan, which is under appeal and not yet in force, and to the Town of Markham Official Plan, which predates the change in Markham's status to "City" but remains in effect.

[8] Mr. Levac was the only witness to testify. The Board accepts and relies on his uncontradicted opinion evidence and finds that the revised zoning by-law amendment, draft plan of subdivision and draft plan of common elements condominium are consistent with the PPS, and conform to the Growth Plan and the applicable official plans. The Board is satisfied that the revised draft plan of subdivision and draft plan of common elements condominium meet the criteria in s. 51(24) of the *Planning Act*. The Board therefore allows the appeals.

ORDER

[9] The Board orders that:

1. Gemini's appeal from City Council's neglect to enact a proposed amendment to the zoning by-law is allowed, in accordance with s. 34(26) of the *Planning Act*, and the amendment to Markham Zoning By-law 1299, as amended, in the form of the draft zoning by-law amendment filed as Exhibit 3 and attached to this order as Attachment 1, is approved.
2. Gemini's appeal from the City's failure to make a decision respecting the draft plan of subdivision is allowed, and, in accordance with s. 51(56) of the *Planning*

Act, the draft plan of subdivision filed as Exhibit 4 and attached to this order as Attachment 2, subject to the conditions filed as Exhibit 5 and attached to this order as Attachment 3, is approved.

3. In accordance with s. 51(56.1) of the *Planning Act*, final approval of the plan of subdivision for the purpose of s. 51(58) of the *Planning Act* is to be given by the City of Markham.
4. Gemini's appeal from the City's failure to make a decision respecting the draft plan of common elements condominium is allowed, and, in accordance with s. 9 of the *Condominium Act, 1998* and s. 51(56) of the *Planning Act*, the draft plan of common elements condominium filed as Exhibit 6 and attached to this order as Attachment 4, subject to the conditions filed as Exhibit 7 and attached to this order as Attachment 5, is approved.
5. In accordance with s. 51(56.1) of the *Planning Act*, final approval of the plan of common elements condominium for the purpose of s. 51(58) of the *Planning Act* is to be given by the City of Markham.
6. The Board may be spoken to by the parties if any problems arise with respect to the implementation of this order.

"M. Carter-Whitney"

M. CARTER-WHITNEY
MEMBER

BY-LAW 2013-XX

A By-law to amend By-law 1229
To rezone the land to permit the development of single detached dwellings fronting on a private condominium road, and to expand the O - Open Space Zone

THE COUNCIL OF THE CORPORATION OF THE CITY OF MARKHAM HEREBY ENACTS AS FOLLOWS:

1.0 By-law 1229, as amended, is hereby further amended as follows:

1.1 By rezoning the lands within the designated area of this By-law as shown on Schedule 'A' attached hereto from Residential One (R1) Zone to Open Space (O) Zone.

1.2 To modify the Residential One (R1) Zone development standards, insofar as they relate to the subject lands, as outlined in Section 1.4 to this By-law.

1.3 The provisions of Markham Infill Zoning By-law 99-90 with respect to maximum NET FLOOR AREA RATIO shall not apply.

1.4 For the purposes of this By-law, the following definition shall apply:

PRIVATE ROAD: shall mean a privately owned right-of-way through which vehicular access may be provided from a STREET to one or more abutting LOTS. A private road is not owned, or maintained by the City of Markham.

1.5 By adding the following new sub-section 12.33 to Section 12 – EXCEPTIONS:

12.33 The following provisions shall apply to the lands municipally known as 11 and 15 Houghton Boulevard, and 55 Joseph Street as outlined on Schedule 'A' attached to By-law 2013-XX.

Notwithstanding any other provisions of this By-law, the provisions in this section shall apply to those lands subject to By-law 2013-XX, as shown on Schedule 'A' attached hereto.

12.33.1 ZONE STANDARDS

The following specific zone standards apply to the lands shown on Schedule 'A':

a) Lot 1

- i. Maximum BUILDING HEIGHT – 11.0 m
- ii. Maximum BUILDING DEPTH – 19 m
- iii. Maximum GROSS FLOOR AREA – 425 m²

b) Lot 2

- i. Minimum FRONT YARD – 5.0 m
- ii. Minimum INTERIOR SIDE YARD – 1.8 m
- iii. Minimum REAR YARD – 7 m
- iv. Maximum BUILDING HEIGHT – 11.9 m
- v. Maximum BUILDING DEPTH – 19 m
- vi. Maximum GROSS FLOOR AREA – 460 m²

c) Lot 3

- i. Minimum FRONT YARD – 5.0 m
- ii. Minimum INTERIOR SIDE YARD – 1.8 m
- iii. Minimum REAR YARD – 7 m
- iv. Maximum BUILDING HEIGHT – 11.9 m
- v. Maximum BUILDING DEPTH – 19 m
- vi. Maximum GROSS FLOOR AREA – 460 m²

d) Lot 4

- i. Minimum FRONT YARD – 5.0 m
- ii. Minimum INTERIOR SIDE YARD – 1.8 m
- iii. Minimum REAR YARD – 7 m
- iv. Maximum BUILDING HEIGHT – 11.9 m
- v. Maximum BUILDING DEPTH – 19 m
- vi. Maximum GROSS FLOOR AREA – 510 m²

e) Lot 5

- i. Minimum FRONT YARD – 5.0 m
- ii. Minimum INTERIOR SIDE YARD – 1.8 m
- iii. Minimum REAR YARD – 7 m
- iv. Maximum BUILDING HEIGHT – 11.9 m
- v. Minimum BUILDING DEPTH – 19 m
- vi. Maximum GROSS FLOOR AREA – 585 m²

f) Lot 6

- i. Minimum FRONT YARD – 5.0 m
- ii. Minimum INTERIOR SIDE YARD – 1.8 m
- iii. Minimum REAR YARD – 6.5 m
- iv. Maximum BUILDING HEIGHT – 11.9 m
- v. Maximum BUILDING DEPTH – 19 m
- vi. Maximum GROSS FLOOR AREA – 450 m²

g) Lot 7

- i. Minimum LOT AREA – 565 m²
- ii. Minimum FRONT YARD – 5.0 m
- iii. Minimum INTERIOR SIDE YARD – 1.8 m
- iv. Minimum REAR YARD – 6.0 m
- v. Maximum BUILDING HEIGHT – 11.9 m
- vi. Maximum BUILDING DEPTH – 19 m
- vii. Maximum GROSS FLOOR AREA – 430 m²

h) Lot 8

- i. Minimum FRONT YARD – 5.0 m
- ii. Minimum INTERIOR SIDE YARD – 1.8 m
- iii. Minimum REAR YARD – 6.5 m
- iv. Maximum BUILDING HEIGHT – 11.9 m
- v. Maximum BUILDING DEPTH – 19 m
- vi. Maximum GROSS FLOOR AREA – 370 m²

i) Lot 9

- i. Maximum BUILDING HEIGHT – 11.0 m
- ii. Maximum BUILDING DEPTH – 19.0 m
- iii. Minimum WEST SIDE YARD for a DETACHED GARAGE - 0.65 m
- iv. Minimum REAR YARD for a DETACHED GARAGE - 1.50 m.
- v. Maximum GROSS FLOOR AREA – 345 m²

12.33.2 Special Site Provisions:

a) Lots 1 to 9 inclusive

- i. Porches and balconies and steps may encroach a maximum of 2.0 m into the required FRONT YARD.
- ii. A minimum setback of 6.0 m shall be provided to the front wall of an attached garage.

b) Lots 2 to 8 inclusive

- i. A LOT may front or abut a PRIVATE ROAD.

2.0 All other provisions of By-law 1229, as amended, not inconsistent with the provisions of this by-law shall continue to apply.

READ A FIRST, SECOND, AND THIRD TIME AND PASSED THIS
** DAY OF ***, 2013.

KIMBERLEY KITTERINGHAM
CITY CLERK

FRANK SCARPITTI
MAYOR



EXPLANATORY NOTE

BY-LAW 2013-XXX

A By-law to amend By-laws 1229, as amended

**Gemini Urban Design (Houghton) Corp.
11 & 15 Houghton Boulevard & 55 Joseph Street
CON 8 PT LT 11 65R15825 PTS 1-5**

Lands Affected

The proposed by-law amendment applies to approximately 2.17 hectares (5.36 acres) of land east of Albert Street at the terminus of Houghton Boulevard, and also the south side of Joseph Street.

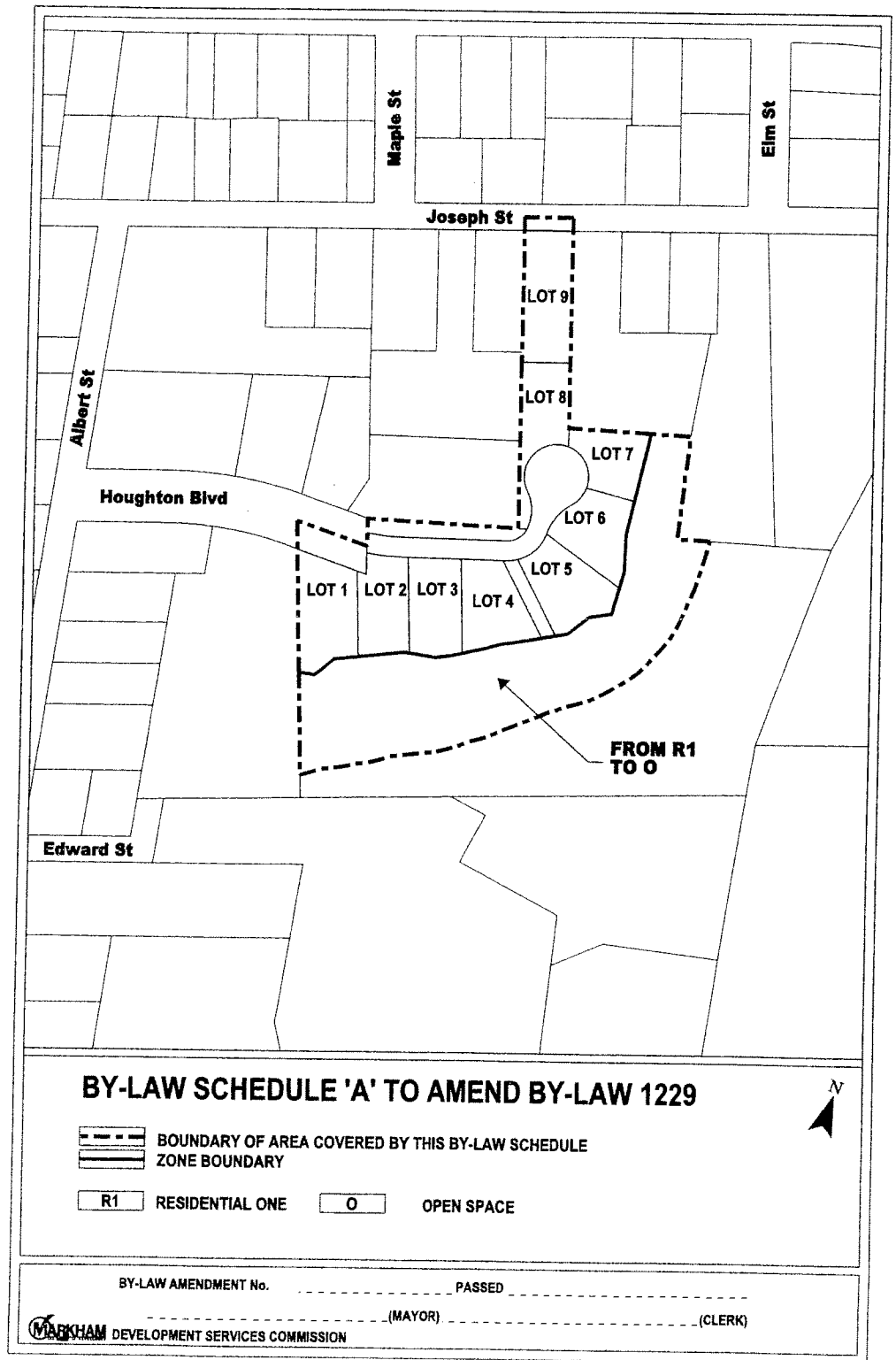
Existing Zoning

The lands are zoned Residential One (R1) Zone and Open Space (O) under By-law 1229, as amended.

Purpose and Effect

The purpose of this By-law is to amend the Zoning By-law to permit the development of single detached dwellings fronting on to a private road, and to rezone certain areas of the property from Residential (R1) to Open Space (O).

The effect of the By-law is to permit the construction of nine (9) single detached dwellings on the subject lands with site specific provisions, and restrict development from occurring within the environmental buffer area.



ONTARIO MUNICIPAL BOARD

CASE # PL130010

EXHIBIT #

FILE # PL130010

PL130011

PL130012

DRAFT PLAN OF SUBDIVISION

PART OF LOT 11 CONCESSION 8
(GEOGRAPHIC TOWNSHIP OF MARKHAM)
PART OF LOT 5 AND 1 FOOT RESERVE
REGISTERED PLAN 4608
TOWN OF MARKHAM
REGIONAL MUNICIPALITY OF YORK

WESTON CONSULTING GROUP INC.

MEYERMAN



SUBJECT PROPERTY

OWNER'S CERTIFICATE

I, **Weston Consulting Group Inc.**, in prepare and submit this plan for draft approval.

ORIGINAL SIGNED BY OWNER

DATE: **JAN 17, 2012**

SUBDIVISION CERTIFICATE

I hereby certify that the boundaries of the lands being subdivided and their correct relationship to the adjacent lands are accurately and correctly shown on this plan.

ORIGINAL SIGNED BY SUBDIVIDER

DATE: **JAN 17, 2012**

ADDITIONAL INFORMATION

- a) Sencos 5.1(7) of the Planning Act, R.S.O. 1990, c. P.19, as amended to April 2, 2013.
- b) a), b), g), & h) - on plan
- c) - on plan
- d) - on plan
- e) - on plan
- f) - on plan
- g) - on plan
- h) - on plan
- i) - on plan
- j) - on plan
- k) - on plan
- l) - on plan
- m) - on plan
- n) - on plan
- o) - on plan
- p) - on plan
- q) - on plan
- r) - on plan
- s) - on plan
- t) - on plan
- u) - on plan
- v) - on plan
- w) - on plan
- x) - on plan
- y) - on plan
- z) - on plan

DEVELOPMENT STATISTICS

Residential - Greenfield Developments (Lot 1-2): 0.1758 ha
Residential - Greenfield Developments (Lot 3-4): 0.2411 ha
Greenfield Buffer (Block 6): 1.1020 ha
Common Elements: 0.1554 ha
TOTAL: 2.1707 ha

FILE NUMBER	DATE	DESCRIPTION
12-000-0001	2012	Original Plan
12-000-0002	2012	Original Plan
12-000-0003	2012	Original Plan
12-000-0004	2012	Original Plan
12-000-0005	2012	Original Plan
12-000-0006	2012	Original Plan
12-000-0007	2012	Original Plan
12-000-0008	2012	Original Plan
12-000-0009	2012	Original Plan
12-000-0010	2012	Original Plan
12-000-0011	2012	Original Plan
12-000-0012	2012	Original Plan
12-000-0013	2012	Original Plan
12-000-0014	2012	Original Plan
12-000-0015	2012	Original Plan
12-000-0016	2012	Original Plan
12-000-0017	2012	Original Plan
12-000-0018	2012	Original Plan
12-000-0019	2012	Original Plan
12-000-0020	2012	Original Plan
12-000-0021	2012	Original Plan
12-000-0022	2012	Original Plan
12-000-0023	2012	Original Plan
12-000-0024	2012	Original Plan
12-000-0025	2012	Original Plan
12-000-0026	2012	Original Plan
12-000-0027	2012	Original Plan
12-000-0028	2012	Original Plan
12-000-0029	2012	Original Plan
12-000-0030	2012	Original Plan
12-000-0031	2012	Original Plan
12-000-0032	2012	Original Plan
12-000-0033	2012	Original Plan
12-000-0034	2012	Original Plan
12-000-0035	2012	Original Plan
12-000-0036	2012	Original Plan
12-000-0037	2012	Original Plan
12-000-0038	2012	Original Plan
12-000-0039	2012	Original Plan
12-000-0040	2012	Original Plan
12-000-0041	2012	Original Plan
12-000-0042	2012	Original Plan
12-000-0043	2012	Original Plan
12-000-0044	2012	Original Plan
12-000-0045	2012	Original Plan
12-000-0046	2012	Original Plan
12-000-0047	2012	Original Plan
12-000-0048	2012	Original Plan
12-000-0049	2012	Original Plan
12-000-0050	2012	Original Plan
12-000-0051	2012	Original Plan
12-000-0052	2012	Original Plan
12-000-0053	2012	Original Plan
12-000-0054	2012	Original Plan
12-000-0055	2012	Original Plan
12-000-0056	2012	Original Plan
12-000-0057	2012	Original Plan
12-000-0058	2012	Original Plan
12-000-0059	2012	Original Plan
12-000-0060	2012	Original Plan
12-000-0061	2012	Original Plan
12-000-0062	2012	Original Plan
12-000-0063	2012	Original Plan
12-000-0064	2012	Original Plan
12-000-0065	2012	Original Plan
12-000-0066	2012	Original Plan
12-000-0067	2012	Original Plan
12-000-0068	2012	Original Plan
12-000-0069	2012	Original Plan
12-000-0070	2012	Original Plan
12-000-0071	2012	Original Plan
12-000-0072	2012	Original Plan
12-000-0073	2012	Original Plan
12-000-0074	2012	Original Plan
12-000-0075	2012	Original Plan
12-000-0076	2012	Original Plan
12-000-0077	2012	Original Plan
12-000-0078	2012	Original Plan
12-000-0079	2012	Original Plan
12-000-0080	2012	Original Plan
12-000-0081	2012	Original Plan
12-000-0082	2012	Original Plan
12-000-0083	2012	Original Plan
12-000-0084	2012	Original Plan
12-000-0085	2012	Original Plan
12-000-0086	2012	Original Plan
12-000-0087	2012	Original Plan
12-000-0088	2012	Original Plan
12-000-0089	2012	Original Plan
12-000-0090	2012	Original Plan
12-000-0091	2012	Original Plan
12-000-0092	2012	Original Plan
12-000-0093	2012	Original Plan
12-000-0094	2012	Original Plan
12-000-0095	2012	Original Plan
12-000-0096	2012	Original Plan
12-000-0097	2012	Original Plan
12-000-0098	2012	Original Plan
12-000-0099	2012	Original Plan
12-000-0100	2012	Original Plan

WESTON CONSULTING GROUP INC.

Head Office: 1000 Highway 7 East, Unit 10, Richmond Hill, Ontario L4B 1N2
Phone: (905) 709-1111
Fax: (905) 709-1112
Email: info@westoncg.com

FILE NUMBER

DATE: 27 JAN 2012

SCALE: 1:500

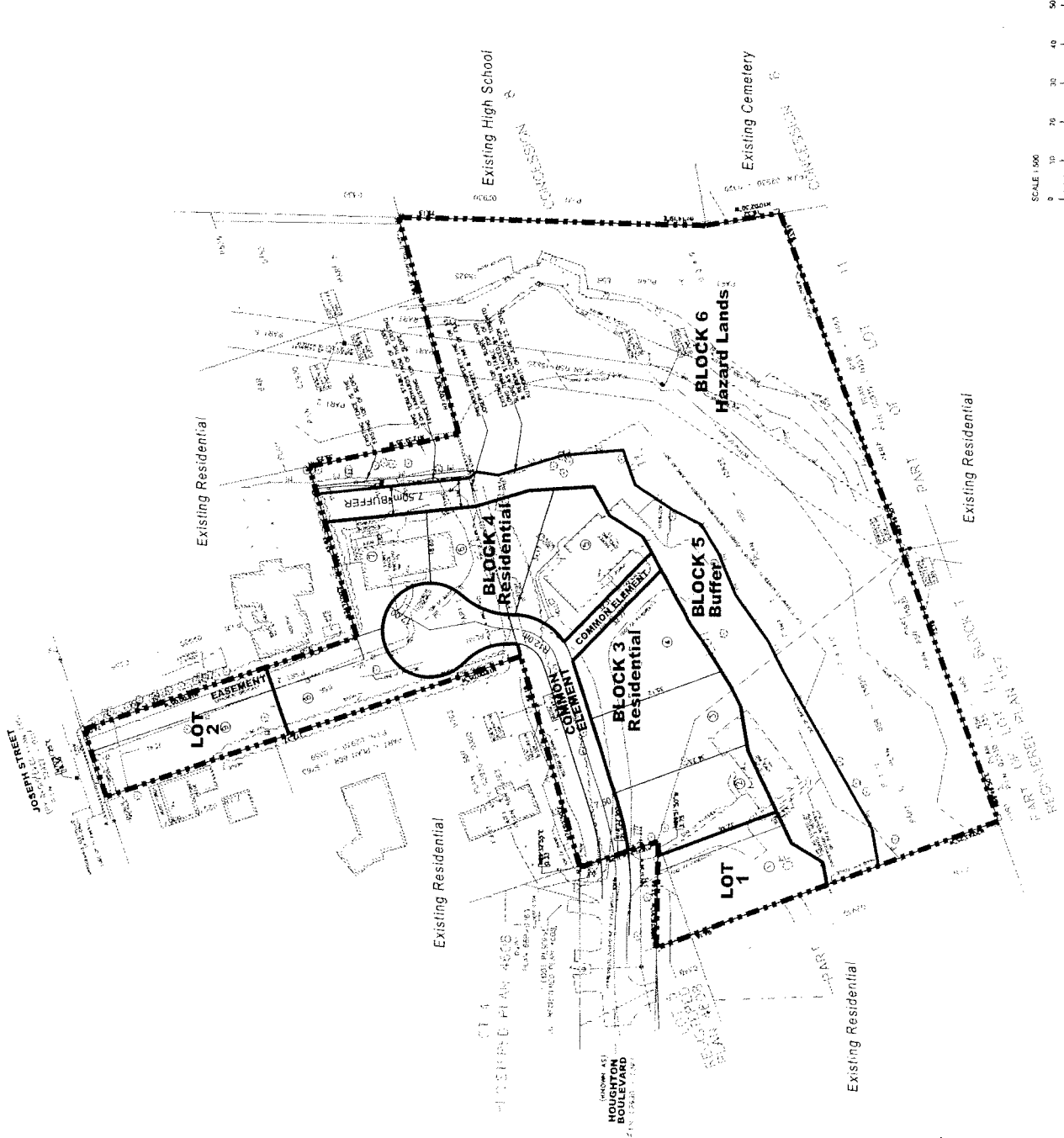
0 10 20 30 40 50 METERS

SCALE: 1:500

0 10 20 30 40 50 METERS

0 10 20 30 40 50 METERS

0 10 20 30 40 50 METERS



**THE CONDITIONS OF THE CITY OF MARKHAM TO BE SATISFIED PRIOR TO
RELEASING DRAFT PLAN OF SUBDIVISION 19TM-12001 GEMINI URBAN DESIGN
(HOUGHTON) CORP. FOR REGISTRATION, ARE AS FOLLOWS:**

1.0 General

- 1.1 Approval shall relate to a draft plan of subdivision prepared by Weston Consulting Group Inc., identified as Project Number 5722, Drawing Number D5, dated April 17, 2013.
- 1.2 The Owner acknowledges and agrees that the draft plan of subdivision and associated conditions of draft approval may require revisions, to the satisfaction of the City, to implement or integrate any recommendations from studies required as a condition of draft approval, including, but not limited to, Stormwater Management Study, Internal Servicing Study, Noise Impact Study, confirmation of alignment of roads with the locations shown in the draft approved plans, as well as any comments and conditions received from municipal departments and external agencies after draft approval is granted.
- 1.3 This draft approval shall apply for a maximum period of three (3) years from date of approval granted by the Ontario Municipal Board, unless extended by the City or Ontario Municipal Board upon request by the Owner.

2.0 Roads

- 2.1 The common element road within the draft plan shall be named to the satisfaction of the City and the Region of York.
- 2.2 The Owner shall covenant and agree in the subdivision agreement that the common element road shall be designed and constructed in accordance with established municipal standards to the satisfaction of the City (Commissioner of Development Services).

3.0 Noise Impact Study

- 3.1 Prior to final approval of the draft plan, the Owner shall submit a Noise Impact Study, prepared by a qualified noise consultant, with recommended mitigation measures for noise generated by road traffic on Joseph Street and by any other identified noise sources, to the satisfaction of the City. The Owner further agrees to make any revisions to the draft plan that may be required to achieve the recommendations of the Noise Impact Study.
- 3.2 The Owner shall covenant and agree in the subdivision agreement to implement noise control measures and warning clauses as recommended by the approved

Noise Impact Study, to the satisfaction of the City (Commissioner of Development Services).

4.0 Tree Inventory and Tree Preservation Plans

- 4.1 The Owner shall submit for approval an updated 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.
- 4.2 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.
- 4.3 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.
- 4.4 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; and,
 - d) The requirement for the replacement or equivalent economic value following unauthorized tree removal or damage shall be determined by the City.

5.0 Community Design

- 5.1 The Owner shall implement and incorporate all requirements of the City's Generic Architectural Design Guidelines, June 2001 into architectural control guidelines and other required design documents.
- 5.2 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
- 5.3 The Owner shall retain a design consultant to implement the Architectural Control Guidelines.

- 5.4 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 certify that the floor plans, building elevations and site plans are designed in accordance with the approved architectural control guidelines.
- 5.5 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.

6.0 Parks and Open Space

- 6.1 The Owner acknowledges and agrees in the subdivision agreement to provide cash-in-lieu of parkland dedication.

7.0 Community Landscaping

- 7.1 Prior to execution of the subdivision agreement, the Owner shall submit landscape plans based on the City's Streetscape Manual, June 2009, as amended from time to time into all landscape works, to the satisfaction of the Director of Planning and Urban Design, which shall include but not be limited to:
- a) Street tree planting in accordance with the City of Markham Streetscape Manual dated June 2009;
 - b) 1.8m high wood screen corner lot fencing, rear yard fencing, exterior side yard fencing;
 - c) Buffer Block planting;
 - d) Planting and or fencing to reinforce and enhance existing hedgerows and property lines between existing residential properties and the proposed development; and,
 - e) any other landscaping as determined by the Storm Drainage Plan.
- 7.2 The Owner shall construct all landscaping in accordance with the approved plans at no cost to the City.
- 7.3 The Owner shall not permit their builders to charge home purchasers for the items listed in Condition 7.1.
- 7.4 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 AND LANDSCAPING ON PRIVATE LAND / LOTS OR ADJACENT PUBLIC LANDS
- CORNER LOT FENCING
- 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)
- NOISE ATTENUATION FENCING AS IDENTIFIED IN THE NOISE IMPACT STUDY
- 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.”

7.5 The Owner shall include in the agreement of purchase and sale for Lot 2 of the Draft Plan the following clause:

- MOTOR VEHICLE PARKING SHALL NOT BE PERMITTED ON ANY PORTION OF THE ACCESS EASEMENT IN FAVOUR OF 57 JOSEPH STREET

8.0 Financial

8.1 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.

9.0 Stormwater Management

9.1 Prior to final approval of the draft plan, the Owner shall submit a stormwater management study, prepared by a qualified engineer, detailing the provision of water quality and quantity management facilities, hydraulic gradelines, overland flow routes, and erosion and siltation controls for the draft plan for approval by the City and the Toronto and Region Conservation Authority. The Owner acknowledges and agrees that they will be required to construct the proposed stormwater management facilities and overland routes, provide any easements or

lands for stormwater and overland flow purposes, and to revise the draft plan accordingly, as may be required.

- 9.2 The Owner shall acknowledge and agree in the subdivision agreement that all quality and quantity controls of stormwater will be the responsibility of the Owner. The City is not responsible for any of the stormwater control structures and their operation and maintenance. Furthermore, all stormwater control structures shall be installed within Blocks 3 and 4 and shall outlet into Block 5 (Buffer) and Block 6 (Hazard Lands).
- 9.3 The Owner shall convey Blocks 5 and 6 to the City, as Buffer and Hazard Lands, free of all costs and encumbrances, to the satisfaction of the City and the TRCA, upon registration of the plan of subdivision.
- 9.4 The Owner shall covenant and agree in the subdivision agreement to undertake the monitoring of watercourse temperatures which may be affected by storm drainage from its development, subject to consultation with, and to the satisfaction of the City.
- 9.5 The Owner shall covenant and agree in the subdivision agreement to obtain approval of Site Alteration Plans in accordance with the City's Standards prior to proceeding with any on-site works and more particularly topsoil stripping.

10.0 Other Services

- 10.1 Prior to final approval of the draft plan, the Owner shall prepare, to the satisfaction of the City (Commissioner of Development Services), a Functional Servicing Report to determine the infrastructure required for all municipal services internal to the subdivision. Any requirements resulting from this Report shall be incorporated into the draft plan and provided for in the subdivision agreement.
- 10.2 The Owner shall covenant and agree in the subdivision agreement that they shall be required to construct, or pay for the construction of, roads, curbs, gutters, underground and above ground services, street lights, street signs, utilities, stormwater management facilities, etc., to the satisfaction of the City (Commissioner of Development Services).
- 10.3 The Owner shall construct a municipal sanitary sewer along Houghton Boulevard, from Albert Street to the limit of Lot 1, & Blocks 3 and 4.
- 10.4 The sanitary and water services within Lot 1, & Blocks 3 & 4 shall connect to municipal sewer and watermain along Houghton Boulevard. The sanitary and water services within Lot 2 shall connect to Joseph Street.

- 10.5 The Owner shall acknowledge and agree in the subdivision agreement that all services within Blocks 3 & 4 will be the responsibility of the condominium corporation. The City is not responsible for any of these services and their maintenance.
- 10.6 Prior to final approval of the draft plan, detailed engineering drawings shall be provided by the Owner which will include, but not be limited to grading control plans, plan and profile drawings of all underground and aboveground services, general plans, drainage plans, composite utility plans, stormwater management detail plans, etc. to the satisfaction of the City (Commissioner of Development Services).

11.0 Easements

- 11.1 The Owner shall grant required easements to the appropriate authority for access, public utilities, drainage purposes or turning circles, upon registration of the plan of subdivision. Any off-site easements and works necessary to connect watermains, storm and sanitary sewers to outfall trunks and stormwater management facilities shall be satisfactory to, and dedicated to, the City.
- 11.2 The Owner covenants and agrees in the subdivision agreement that the design and layout of Lot 2 will ensure that all required parking and any visitor parking spaces being provided on the driveway will not encroach on any portion of the access easement in favour of 57 Joseph Street.

12.0 Utilities

- 12.1 The Owner shall covenant and agree in the subdivision agreement that hydro electric, telephone, gas and television cable services, and any other form of telecommunication services within Lot 1, Lot 2 & Blocks 3 and 4 shall be constructed at no cost to the City as underground facilities within the common element road allowances or within other appropriate easements, as approved on the Composite Utility Plan, to the satisfaction of the City (Commissioner of Development Services) and authorized agencies.
- 12.2 The Owner shall covenant and agree in the subdivision agreement to enter into any agreement or agreements required by any applicable utility companies, including Power Stream, Enbridge, telecommunications companies, etc. for the utility servicing of Lot 1, Lot 2, & Blocks 3 and 4.
- 12.3 The Owner shall covenant and agree in the subdivision agreement to facilitate the construction of Canada Post facilities for Lot 1, Lot 2, & Blocks 3 and 4 at locations and in the manner agreeable to the City in consultation with Canada Post, and that where such facilities are to be located within the common element road allowances, they shall be approved on the Composite Utility Plan and be in accordance with the Community Design Plan.

- 12.4 Standard Community Mailbox installations are to be done by Canada Post at locations approved by the municipality and shown on the Composite Utility Plan. Should the developer propose an enhanced Community Mailbox installation, any costs over and above the standard installation must be borne by the developer, and be subject to approval by the City in consultation with Canada Post.

13. Phase 1 Environmental Site Assessment (ESA)

- 13.1 Prior to registration of the plan of subdivision, the Owner shall:

- i) Submit environmental site assessment reports prepared by a Qualified Person in accordance with the Record of Site Condition Regulation (O.Reg. 153/04) describing the current conditions of the land to be conveyed to the City and any proposed remedial action plan, for peer review and concurrence;
- ii) At the completion of any necessary site remediation process, submit certification from the Qualified Person that the necessary clean up has been carried out and that the land to be conveyed to the City meets the Site Condition Standards of the intended land use;
- iii) File a Record of Site Condition on the Provincial Environmental Site Registry for the land to be conveyed to the City; and
- iv) Pay all costs associated with the City retaining a third-party reviewer for the peer review service.

- 13.2 The Owner shall covenant and agree in the subdivision agreement that if during construction of any infrastructure or building within the subdivision contaminated soils are discovered, the Owner shall submit a further remedial action plan to the City for peer review and concurrence prior to carrying out the clean up, to the satisfaction of the Director of Engineering.

14.0 Well Monitoring Program and Mitigation Plan

- 14.1 Prior to any site alteration activities, the Owner shall check if there are any active wells within 500 metres of the Zone of Influence (ZOI). If any active wells are found within the ZOI, the Owner shall prepare and implement a Well Monitoring Program and Mitigation Plan, in accordance with the City's requirements to the satisfaction of the Director of Engineering.

15.0 Heritage

- 15.1 Prior to registration of the 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

archaeological resources, and further to mitigate any identified adverse impacts to significant heritage resources to the satisfaction of the City (Commissioner of Development Services) and the Ministry of Culture. 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 Culture to the City indicating that all matters relating to heritage resources have been addressed in accordance with licensing and resource conservation requirements.

- 15.2 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 Culture.

16.0 Other City Requirements

- 16.1 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. The Owner shall provide a letter of credit in an amount to be determined by the Fire Chief at the subdivision agreement stage to ensure compliance with this condition.
- 16.2 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 Chief that there is an adequate water supply for firefighting operations. The Owner also covenants and agrees that the future dwelling units within Blocs 3 and 4 will be constructed with automatic fire protection sprinkler systems in conformance with the Ontario Building Code.
- 16.3 The property is inspected by the Markham Fire Department staff to ensure that the fire access route signs, hydrants, fire access routes, addressing complies with the approved site plan drawings as approved.

17.0 Region of York

- 17.1 The road allowances included within the draft plan of subdivision shall be named to the satisfaction of the area municipality and the York Region Planning and Development Services Department.
- 17.2 Prior to registration of the plan of subdivision, York Region shall confirm that adequate water supply and sewage servicing 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. Registration of the plan of subdivision shall occur in phases based on the availability of water supply and sewage servicing allocation.

- 17.3 The Owner shall covenant and agree in the subdivision agreement that the Owner shall save harmless the City of Markham and York Region from any claim or action as a result of water or sanitary sewer service not being available when anticipated.
- 17.4 Prior to registration of the plan of subdivision, the Owner shall provide a copy of the subdivision agreement to the Transportation and Community Planning Department, outlining all requirements of the Transportation and Community Planning Department.
- 17.5 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 prior to final approval in accordance with By-law 2010-49.
- 17.6 The Region of York Transportation and Community Planning Department shall advise that Conditions 17.1 to 17.5 inclusive, have been satisfied.

18.0 External Clearances

- 18.1 Prior to registration of the 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 Ministry of Culture shall advise that Conditions 15.1 and 15.2 have been satisfied.
- 18.2 That prior to any grading, development, pre-servicing or site alteration, or registration of the plan of subdivision or any phase thereof, the applicant submit for the review and approval of the Toronto and Region Conservation authority (TRCA):
- (a) A detailed engineering report, stamped by a professional engineer, that describes the storm drainage system (quantity and quality) for the proposed development of the subject lands. This report shall include:
- i. plans illustrating how this drainage system will tie into surrounding drainage systems and storm water management techniques which may be required to control minor or major flows;
 - ii. appropriate Stormwater Management Practices (SWMPs) to be used to treat stormwater, to mitigate the impacts of development on the quality and quantity of ground and surface water resources, including how it relates to terrestrial and aquatic species and their habitat, in addition to natural features and systems;
 - iii. proposed methods for controlling or minimizing erosion and siltation on-site and/or in downstream areas during and after

construction, in accordance with the current Sediment and Erosion Control Guidelines utilized by the TRCA;

- iv. mapping of proposed stormwater management measures, with consideration for existing vegetation to be disturbed, grade differentials and grading required, opportunities for minimizing impacts through pond design and location, if applicable;
 - v. Plans illustrating proposed methods for treating road run-off, and proposed locations for the stock-piling of snow;
 - vi. A description of lot-level controls for infiltration or SWM “at source” control (i.e. roof leaders to rear yards) to achieve on-site retention and overall water balance of run-off for a minimum 5mm storm event.
- b) Overall grading plans for the subject lands. These plans must indicate how grade differentials will be accommodated without the use of retaining walls within or adjacent to the natural areas and valley and stream corridors. No retaining walls within or adjacent to the valley or stream, natural areas or associated buffer blocks shall be permitted;
 - c) A detailed water balance implementation report that will identify measures that will be implemented to maintain ground water infiltration on-site, and on-site retention. On-site retention measures shall be quantified, and the report shall demonstrate that a minimum of the first 5mm of precipitation on-site is being retained to the satisfaction of the TRCA. This study must provide detailed design of the system(s), and implementation;
 - d) Detailed design of infiltration measures and stormwater management best management practices with anticipated performance targets, maintenance requirements, and a monitoring strategy to the satisfaction of the TRCA;
 - e) A report detailing low impact development measures to be applied within the subdivision, including energy star certification, stormwater management best management practices, sustainable community design elements, and low impact development measures.
 - f) That the owner agrees in the subdivision agreement to provide a buffer enhancement/compensation planting plan and details for trees and vegetation that are to be removed to the satisfaction of the TRCA. Compensation planting can be located onsite and/or offsite and will be subject to the approval of the TRCA.
 - g) That the owner agree in the subdivision agreement, in wording acceptable to the TRCA:
 - i. to carry out, or cause to be carried out, to the satisfaction of the TRCA, the recommendations of the technical report(s) and plans referenced in TRCA’s conditions;

- ii. to implement the requirements of the TRCA's conditions in wording acceptable to the TRCA;
- iii. to design and implement on-site erosion and sediment control in accordance with current TRCA standards;
- iv. to maintain all stormwater management and erosion and sedimentation control structures operating and in good repair during the construction period, in a manner satisfactory to the TRCA;
- v. to obtain all necessary permits pursuant to Ontario Regulation 166/06 from the TRCA, in addition to all permits and approvals from Fisheries and Oceans Canada, and the Ministry of Natural Resources;
- vi. to implement all water balance/infiltration measures identified in the water balance study that is to be completed for the subject property;
- vii. to provide enhancement buffer/compensation planting to replace removed trees and vegetation located onsite and to provide vegetation within the buffers to the satisfaction of the TRCA;
- viii. to provide for the warning clauses and information identified in TRCA's conditions;
- ix. to carry out, or cause to be carried out the cleaning-out and maintenance of all stormwater management infrastructure (including best management practice measures) prior to assumption of the subdivision by the City of Markham. And, to include appropriate clauses in all agreements of purchase and sale, for lots or blocks on which infiltration infrastructure is to be located that clearly identifies maintenance responsibilities of the landowner.

18.3

That the draft plan be red-lined revised in order to meet the requirements of the TRCA's conditions, if necessary.

DRAFT PLAN OF
COMMON ELEMENTS CONDOMINIUM OF
PART OF BLOCK 1
PLAN 65M -
TOWN OF MARKHAM
REGIONAL MUNICIPALITY OF YORK

SCALE : 500
RADY-PENTEN & FORWARD SURVEYING LTD., Q.I.S.

METRIC DISTANCES SHOWN ON THIS PLAN ARE IN METERS AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048

JOSEPH STREET
BY REGISTERED PLAN 180)
PIN 02927 -- 0114

[illegible]

LOT 4
REGISTERED PLAN 4608

LOT 5
REGISTERED
PLAN 4608

EXISTING RESIDENTIAL

PART 3 PLAN 6SR 4463
FIN 02910 - 0335
PART OF LOT 11,
REGISTERED PLAN 157

EXISTING
RESIDENTIAL

PART I, PLAN 6SR - 4463
P.N. 02930 - 0333
OF LOT

DATE _____ 2012

GEMINI URBAN DESIGN (HOUGHTON) CORP

SEN. SLATER
AUTHORIZED SIGNING OFFICER
I HAVE THE AUTHORITY TO BIND THE CORPORATION

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THE BOUNDARIES OF THE LANDS TO BE SUBDIVIDED
AND THEIR RELATIONSHIP TO THE ADJACENT LANDS ARE ACCURATELY AND
CORRECTLY SHOWN

DATE _____ 1012

C. WANGA
ONTARIO LAND SURVEYOR

KEY PLAN (NOT TO SCALE)

ONTARIO MUNICIPAL BOARD		
CASE #	EXHIBIT #	
PL130010		
FILE #		
PL130010		
PL130011		
PL130012		

ADDITIONAL INFORMATION AS REQUIRED
BY SECTION 51(17) OF THE PLANNING ACT

- 101 SEE PLAN
102 SEE PLAN
103 SEE PLAN
104 SEE PLAN
105 SEE PLAN
106 SEE PLAN AND KEY PLAN
107 RIPPED WATER
108 SEE SOILS REPORT
109 SEE APPROVED SITE AND GRADING PLAN
110 FULLY SERVICED
111 SEE PLAN

NOTES


PIN DENOTES PROPERTY NUMBER

ALL AREA MEASUREMENTS ARE COMPUTED GENERATE

LAND USE
SITE AREA 6122 (14A)

CONCESSION 8

11



RAY-PENTEK & EDWARD SURVEYING LTD

ONTARIO LAND SURVEYORS
643 Christie Road, Suite 7
Woodbridge, Ontario L4L 8A3

Tel: (416) 635-5000
 Tel: (905) 264-0881
 Website: www.4-pc.co
 Fax: (416) 635-5001
 Fax: (905) 264-2099

DRAWN: EG CHECKED: CW
 JOB NO 11-174 CAD FILE: N2 11-174

Apr 17, 2013 - 10:14:35

**THE CONDITIONS OF THE CITY OF MARKHAM TO BE SATISFIED
PRIOR TO RELEASE FOR REGISTRATION OF PLAN OF
COMMON ELEMENTS CONDOMINIUM 19CDM-12001
11 & 15 Houghton Blvd. and 55 Joseph Street, Markham
Gemini Urban Design (Houghton) Corp.**

Draft Plan of Common Elements Condominium 19CDM-12001 prepared by Rady-Pentek & Edward Surveying Ltd., for a common element road, 5.0 m easement and landscaped area, identified as Job No. 11-174, dated April 17, 2013, is hereby draft approved subject to the following conditions:

1. That all provisions of a subdivision agreement between the Owner and the City be fulfilled to the satisfaction of the City;
2. That the City of Markham receive and accept the following certificates prior to registration of the condominium:
 - a) A certificate from the Owner's Landscape Architect stating that all landscaping has been substantially completed in accordance with the approved landscape plans and details stated in the subdivision agreement, to the satisfaction of the Director of Planning and Urban Design, or that arrangements have been made to the satisfaction of the City for their completion;
 - b) A certificate from the City Treasurer, or his delegate, stating that the Owner has paid by certified funds to the City, all taxes and local improvement charges in respect of the condominium owing for the period prior to registration;
 - c) A certificate from the Owner's engineer(s) stating that all Grading, Sanitary, Stormwater Management, Noise Study and other engineering requirements, including above and below ground services, fencing, sod and asphalt paving have been completed in accordance with the plan and conditions in the original Subdivision Agreement, or that arrangements to the satisfaction of the Director of Engineering have been made for their completion;
3. That Bell Canada requires one or more conduit or conduits of sufficient size from each unit to the room(s) in which telecommunications facilities are situated and one or more conduits from the room(s) in which the telecommunications facilities are located to the street line;
4. That prior to registration:
 - a) Once the above certificates are received by the City, the Owner shall arrange inspections of the on-site works with the Engineering and Design Departments, and shall rectify any outstanding deficiencies related to the approved plans to the satisfaction of the Director of Engineering and the City Architect, or that arrangements have been made to the satisfaction of the City for their completion.
 - b) The property shall be inspected by the Markham Fire Department staff to ensure that the access route signs, hydrants and fire access routes comply with the approved subdivision drawings as approved by the City of Markham;

- c) The Declarant shall agree in a Condominium Declaration that the private access and services for Watermain, Storm and Sanitary Sewers are shared by Multiple Unit Owner's within the development;
- d) The applicant will be required to resolve internal water billing and metering arrangements for cost sharing of water consumption with the Waterworks Department. The City will require a water meter chamber at the property line to service the proposed Plan of condominium. The City's Waterworks Department requires that the applicant install a remote water meter read out from the meter chamber as per the City's Water Meter Detail;
- e) Any revised Site Servicing and Grading Plans will be required to be submitted and accepted by the Engineering Department prior to registering as a condominium;
- f) Prior to final approval, the Declarant shall agree in the Condominium Declaration that each residential unit within the development will be billed for potable water based on the amount of water used by the unit in accordance with the unit's individual water meter(s);
- g) Prior to final approval, the Declarant shall agree in the Condominium Declaration that if the building is receiving waste management collection services from the Local Municipality, the York Region Waste Management Department and/or the Local Municipality may conduct an audit of the material at any given time;
- h) Prior to final approval, the Owner shall submit and executed copy of the Condominium Declaration to the satisfaction of the Director of Planning and Urban Design or his designate; and.
- i) The Owner shall include in Schedule 'A' to the condominium declaration all necessary and appropriate reciprocal easements for the use and maintenance of all onsite services, support facilities, and pedestrian and vehicular access over the common elements of the draft plan of condominium. This condition is pursuant to subsection 20(2) of the Condominium Act, 1998.