



Report to: Development Services Committee

Report Date: February 27, 2017

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**SUBJECT:** Recommendation Report  
McCowan Developments Limited  
Applications for Draft Plan of Subdivision and Zoning By-law Amendment to permit a common element condominium townhouse development at 9329 & 9365 McCowan Road and 5286 16<sup>th</sup> Avenue (NE McCowan Road and 16<sup>th</sup> Avenue)

File Nos: SU 16 110451 & ZA 15 110451

**PREPARED BY:** Stacia Muradali, Ext. 2008  
Senior Planner, East District

**REVIEWED BY:** Sally Campbell, Ext. 2645  
Manager, East District

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**RECOMMENDATION:**

- 1) THAT the confidential staff report titled "Recommendation Report, McCowan Developments Limited, Applications for Draft Plan of Subdivision and Zoning By-law Amendment to permit a common element condominium townhouse development at 9329 & 9365 McCowan Road and 5286 16<sup>th</sup> Avenue (NE McCowan Road & 16<sup>th</sup> Avenue)", be received;
- 2) THAT the record of the Public Meeting held on October 20, 2015 relating to the application to amend the Zoning By-law for (ZA 15 110451) and the record of the Public Meeting held on September 20, 2016 relating to the Draft Plan of Subdivision (SU 16 110451), be received;
- 3) THAT the Zoning By-law Amendment application (ZA 15 110451) submitted by McCowan Developments Limited to amend Zoning By-law 304-87, as amended, be approved and that the draft By-law attached as Appendix 'A' be finalized and enacted without further notice;
- 4) THAT Draft Plan of Subdivision 19TM-16005 be approved subject to the conditions of draft approval set out in Appendix 'B' of this report;
- 5) THAT the Director of Planning and Urban Design, or his designate be delegated authority to issue draft approval, subject to the conditions attached as Appendix 'B' as may be amended by the Director of Planning and Urban Design;
- 6) THAT servicing allocation for 151 townhouse units be granted;

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- 7) THAT the draft approval for plan of subdivision 19TM-16005 will lapse after a period of three (3) years commencing on the date of issuance of draft plan approval, in the event that a subdivision agreement is not executed within that period;
  - 8) THAT these recommendations be made public upon Council's approval of the Draft Plan of Subdivision 19TM-16005 (SU 16 110451) and the attached draft By-law attached as Appendix 'A';
  - 9) AND THAT Staff be authorized and directed to do all things necessary to give effect to this resolution.

**PURPOSE:**

This report recommends approval of the applications for Draft Plan of Subdivision and Zoning By-law Amendment submitted by McCowan Developments Limited to allow a common element condominium townhouse development at 9329 & 9365 McCowan Road and 5286 16<sup>th</sup> Avenue, which includes the extension of an existing public local road to connect to McCowan Road. The Owner has an appeal on the City's 2014 Official Plan (as partially approved by the OMB on October 30, 2015 and May 26, 2016) (the "City's new Official Plan"), which is discussed in more detail later in the report. As a result, the Legal Department has instructed Planning Staff that this report dealing with related development matters (subdivision and zoning) is confidential and to be considered in camera.

**PROCESS TO DATE:**

- Community Information Meeting –April 30<sup>th</sup>, 2015 hosted by the Local Ward 4 Councillor
- Preliminary Report for Official Plan and Zoning By-law Amendment applications - June 16<sup>th</sup>, 2015
- Statutory Public Meeting for Official Plan and Zoning By-law Amendment applications –October 20<sup>th</sup>, 2015
- Draft Plan of Subdivision application submitted to provide for the new public local road connection – April 4, 2016
- Preliminary Report for Draft Plan of Subdivision application –June 7<sup>th</sup>, 2016
- Statutory Public Meeting for Draft Plan of Subdivision application – September 20<sup>th</sup>, 2016

**Next steps**

- Enactment of the Zoning By-law
- Issuance of Draft Plan Approval for the Plan of Subdivision
- Registration of the Draft Plan of Subdivision
- Site Plan Control application currently under review and to be the subject of a future recommendation report to Committee

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**BACKGROUND:****Area context and subject lands**

The subject lands (9329 & 9365 McCowan Rd and 5286 16<sup>th</sup> Ave) are located on the east side of McCowan Road, north of 16<sup>th</sup> Avenue, behind the Region of York Pumping Station which is located right at the intersection of McCowan Road and 16<sup>th</sup> Avenue (Figure 1). The subject lands are approximately 3.3 hectares (8.15 acres) in area. A community church for the Salvation Army was previously located at 9329 McCowan Road but has since been demolished. There is an existing telecommunication tower at the south end of the property, which will remain. Both 5286 16<sup>th</sup> Avenue and 9365 McCowan Road contained single family homes which have also been demolished. To the north is a recently constructed place of worship and an associated dwelling, which will be converted and used as a day care by the church. There is an existing row of mature spruce trees being retained along the mutual property line between the subject lands and the residential subdivision to the east, which consists of single and semi-detached houses. Existing townhouses, semi-detached and single family homes, and a gas station are located on the west side of McCowan Road. There are existing residential neighbourhoods located on the south side of 16<sup>th</sup> Avenue (Figure 3).

**Official Plan**

The 2014 Official Plan (as partially approved by the Ontario Municipal Board (OMB) on October 30<sup>th</sup>, 2015 and May 26<sup>th</sup>, 2016) (the “City’s new Official Plan”) designates the subject lands “Residential Low Rise” which provides for residential development consisting of single and semi-detached homes and townhouses with a maximum height of three (3) storeys. The OMB approved a modification to the City’s new Official Plan allowing development within this designation to front onto private roads subject to the development block(s) having frontage on an arterial or major collector road. In this case, the development blocks front McCowan Road and 16<sup>th</sup> Avenue, both of which are arterial roads. The proposed development conforms with the City’s new Official Plan.

**Zoning**

The subject lands are zoned “Rural Residential” in Zoning By-law 304-87, as amended, which only permits single family residential dwellings (Figure 2). The subject lands will be rezoned to an appropriate zone category in By-law 177-96 and details of the application to amend the zoning by-law to permit the proposed development will be addressed later in this report.

**Proposed subdivision**

McCowan Developments Limited has submitted a draft plan of subdivision application which will create two (2) residential blocks, a public road block, which will facilitate the extension of West Bay Drive, and a block along McCowan Road which will be conveyed to the Region of York (Figure 4) and protected for future road widening. The draft plan of subdivision will facilitate a common element condominium townhouse development comprised of:

- Block 1 – 1.13 hectares (2.8 acres) on north side of West Bay Drive accommodating approximately 58 townhouse units in 8 buildings

- 
- Block 2 – 1.83 hectares (4.5 acres) on south side of West Bay Drive accommodating approximately 93 townhouse units in 13 buildings
  - Block 3 – 0.24 hectares (0.6 acres) West Bay Drive extension to McCowan Road to be conveyed to the City.
  - Block 4 – 0.1 hectares (0.25 acres) road widening along McCowan Road to be conveyed to the Region of York.

Block 2 also incorporates a private open space area of approximately 1,300 square metres (14,000 sqft), which will allow for passive amenity space, as well as providing sufficient area for a small play structure and park furniture the details of which will be reviewed at the site plan stage. In addition to vehicular access onto West Bay Drive, a restricted right-in / right-out private road access is also being provided to the south of Block 2 onto 16<sup>th</sup> Avenue.

**Other development applications on the subject lands and current OMB appeal**

An application to amend the City's Official Plan was submitted in February 2015. At that time the majority of the subject lands were designated "Institutional" in the City's in-force Official Plan (Revised 1987), as amended (the "City's in-force Official Plan") and in the Wismer Commons Secondary Plan. The remainder of the subject lands were designated "Urban Residential" in the City's in-force Official Plan and "Low Density Residential" in the Wismer Commons Secondary Plan. The application to amend the City's in-force Official Plan was to redesignate the subject lands from "Institutional" to an appropriate residential designation. The requested Official Plan amendment to the City's in-force Official Plan is no longer required because the "Residential Low Rise" designation in the City's new Official Plan, which the subject lands are designated, is now in effect and the City's in-force Official Plan is no longer applicable.

The applicant also applied to amend the City's new Official Plan in February 2015 because the "Residential Low Rise" designation only provided for residential development to front onto public streets, which would not have allowed the proposed common element condominium townhouse development. The applicant, as well as other landowners and developers appealed this particular aspect of the "Residential Low Rise" designation to the OMB. Planning Staff proposed a modification to the provisions of this designation and on May 26, 2016 the OMB approved the "Residential Low Rise" designation with a modification allowing low rise development that has frontage on private roads subject to locational criteria that the development block(s) has frontage on either an arterial or major collector road. The subject lands have frontage on McCowan Road and 16<sup>th</sup> Avenue, both of which are arterial roads. As a result, the proposed common element townhouse development conforms to the "Residential Low Rise" designation, which is now in full force and effect and the Official Plan Amendment application is no longer required.

McCowan Developments Limited has also appealed other sections of the City's new Official Plan including sections pertaining to built form, the road network, parkland dedication, cost sharing and Developers Group obligations.

The Owner has indicated, through its legal counsel, that upon approval of the zoning by-law and draft approval by Council, it will withdraw their appeal of the City's Official Plan. The letter withdrawing the appeal is to be provided in escrow pending the Council approval on Tuesday March 21<sup>st</sup>. It is Staff's understanding that the applicant will withdraw their appeal of the City's new Official Plan in its entirety.

The applicant submitted a site plan application in September 2016 to facilitate the proposed development. Staff will bring a recommendation report forward for the site plan application for consideration at a future date when the application review is completed.

#### **PUBLIC INPUT THROUGHOUT THE APPLICATION REVIEW PROCESS**

A community information meeting was held by the Ward Councillor on April 30<sup>th</sup>, 2015. Approximately 13 residents attended and expressed concerns including the following:

- Ensuring that the existing trees along the east property line of the subject lands are preserved;
- Potential increase in traffic;
- Proposed height of dwellings and potential over-shadowing; and
- Possible extension of West Bay Drive.

The statutory Public Meeting respecting the applications to amend the Official Plan and Zoning By law was held on October 20<sup>th</sup>, 2015. One (1) resident who lives on the west side of McCowan Road addressed Committee and spoke in opposition to the proposal with respect to density and the impacts of increased traffic from the proposed development especially if West Bay Drive is extended to McCowan Road.

The statutory Public Meeting respecting the application for Draft Plan of Subdivision was held on September 20, 2016. Three (3) residents expressed concerns with the potential increase in traffic on McCowan Road and on local roads to the west of McCowan resulting from the extension of West Bay Drive together with parking issues and the proposed height of the townhouses.

Approximately nine (9) written submissions were received in total respecting all three (3) development applications for the subject lands. The main concerns reflected in the written submissions mirrored those concerns expressed at the Community Information Meeting and Public Meetings. These issues are reviewed more thoroughly in the following section of this report.

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

##### **The Draft Plan of Subdivision is appropriate**

The Draft Plan of Subdivision is appropriate particularly with the extension of West Bay Drive to McCowan Road, which was envisioned in the planning of the adjacent subdivisions wherein a road stub was provided for the connection to improve vehicular circulation and connectivity. This connection ensures that the proposed development is

not isolated from the Wismer Commons community with respect to schools, parks and local services. The Region of York (the "Region") supports the additional vehicular connection provided by extending West Bay Drive. The Owner is required to convey the West Bay Drive extension to the City as a condition of draft approval (Appendix 'B').

**The Zoning By-law Amendment is appropriate**

Amending the Zoning By-law to permit residential development in the form of townhouses is appropriate and in keeping with the City's new Official Plan and is compatible with surrounding existing development. Staff are currently reviewing the site plan application and have had several meetings with the applicant providing comments and feedback on the proposed site plan (Figure 5). In addressing the concerns raised by residents, which are summarized above, the site plan provides for the protection and preservation of the spruce trees along the east property line and proposes a maximum height of three storeys for the townhouse dwellings in accordance with the Official Plan provisions for low rise residential development. The existing trees will assist in screening the proposed townhouses from the existing homes to the east. These details together with an illustration of visitor parking and snow storage areas (private maintenance) will be presented when the recommendation report for the site plan application is brought forward to Committee in the near future.

The attached Zoning By-law Amendment at Appendix 'A' is site-specific and implements development standards including setbacks, building height, minimum townhouse unit widths and minimum private open space which in the opinion of Staff are appropriate parameters to achieve an acceptable development and built form. The Owner has committed to provide a public art contribution, which will be secured through a Section 37 Agreement, as indicated in draft zoning by-law.

**Region of York requirements**

McCowan Road and 16<sup>th</sup> Avenue are both under the jurisdiction of the Region of York. In addition to conveyance of the required road widening along McCowan Road the Owner is required to convey 0.3m reserves along the McCowan Road and 16<sup>th</sup> Avenue frontages of the subject lands. The Owner is also required to provide a YRT/Viva pedestrian standing area and shelter at the south-east corner of McCowan Road and the West Bay Drive extension, as well as appropriate pedestrian access connections. The access driveway onto 16<sup>th</sup> Avenue, which crosses a wider portion of the boulevard, has been restricted by the Region to right-in/ right-out movements only. The Region has confirmed that the intersection of the West Bay Drive extension and McCowan Road will operate at an acceptable and safe level as a full moves intersection and therefore does not warrant a traffic signal at this time. A traffic signal will be installed in the future should it be warranted. The applicant is working with the Region of York on enhancing the landscaping and tree planting along 16<sup>th</sup> Avenue in front of the pumping station and the subject lands.

Following detailed review of the Traffic Impact Study submitted with the application, both Regional and City transportation staff are of the opinion that the traffic volumes resulting from the proposed development, together with the planned road network and

intersection design, are supportable. The proposed development is not expected to result in any adverse impact on the function or safety of the public local roads on the west side of McCowan Road.

**Parkland dedication requirements**

The Wismer Commons Developers Group Agreement outlines the obligations of participating land owners with respect to parkland dedication in accordance with the Wismer Commons Community Design Plan and Open Space Masterplan. The required parkland for the Wismer Community has been mostly delivered in full. The Owner is having discussions with the Wismer Developers Group and the City on providing their parkland obligations through the Developers Group in combination with paying cash-in-lieu of parkland to the City based on the current appraised value of the subject lands. A condition of draft plan approval has been included to ensure that this obligation is met prior to registration (Appendix 'B'). It should be noted that the private open space area is not eligible for a credit against the parkland dedication requirement.

**Operational considerations**

Visitor parking spaces, including accessible spaces have been provided in accordance with City parking standards. Details of the location of these spaces will be presented with the recommendation report for the site plan application, however, it is not anticipated that the proposed development will result in parking issues on neighbouring public local roads. While garbage collection will be a municipal service for the common element condominium townhouse development, winter maintenance will be privately managed and contracted out by the condominium corporation.

**Developers Group release required**

Development of the subject lands cannot proceed without the developer obtaining clearance from the Wismer Developers Group confirming that the developer has satisfied his obligations to the group. The Owner must provide a clearance letter from the Trustee of the Wismer Developers Group prior to registration of the draft plan and this is included as a condition of draft plan approval (Appendix 'B').

**CONCLUSION:**

The proposed Zoning By-law Amendment and Draft Plan of Subdivision conform to the City's new Official Plan, delivers the West Bay Drive extension, makes efficient use of land and preserves existing mature trees, which represents good planning. Staff recommend approval of the implementing zoning by-law attached as Appendix 'A' and the draft plan of subdivision subject to the conditions in Appendix 'B'.

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

Not applicable.

**HUMAN RESOURCES CONSIDERATIONS**

Not applicable.

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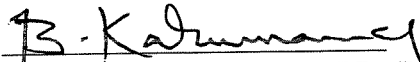
**ALIGNMENT WITH STRATEGIC PRIORITIES:**

The proposed development will align with the City's strategic priorities of safe and sustainable communities, growth management and transportation.


**BUSINESS UNITS CONSULTED AND AFFECTED:**

The applications have been reviewed by various departments and external agencies. Requirements of the City and external agencies have been reflected in the conditions of draft plan of subdivision and the site-specific zoning by-law amendment. The Legal Department has been consulted and provided direction and input respecting this report.

**RECOMMENDED BY:**



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

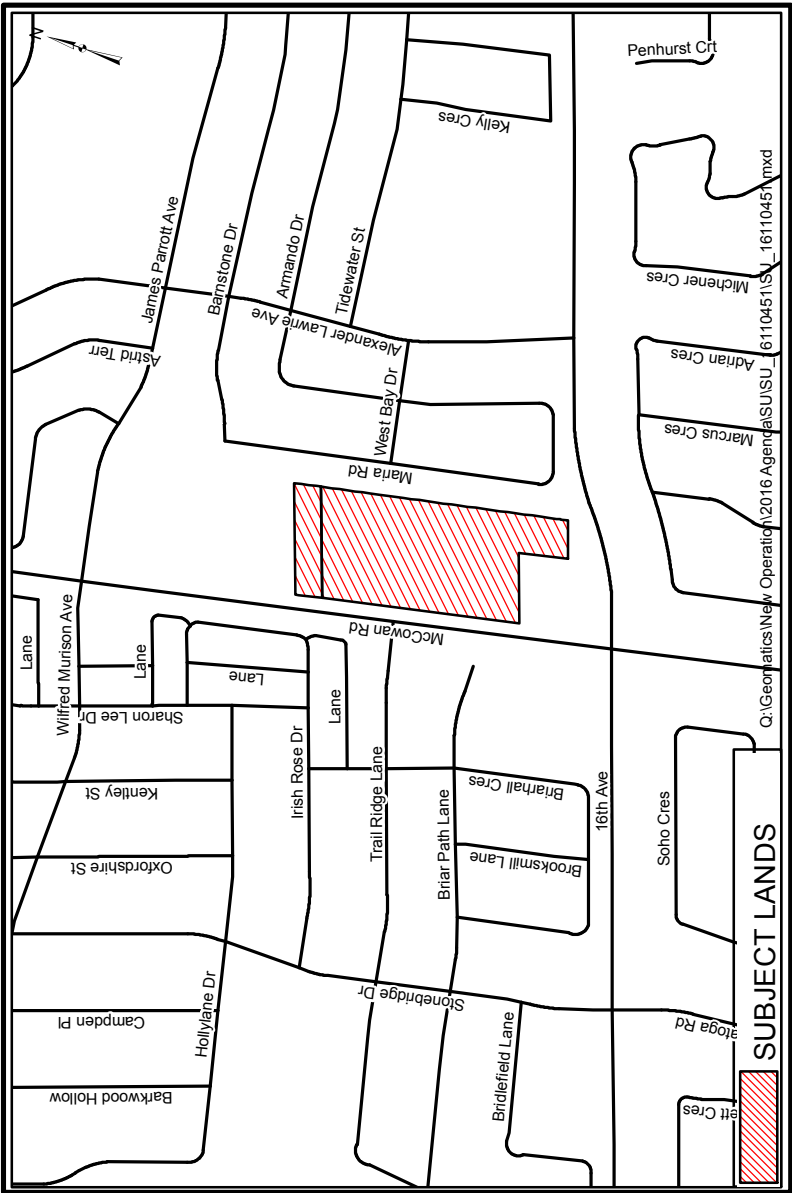


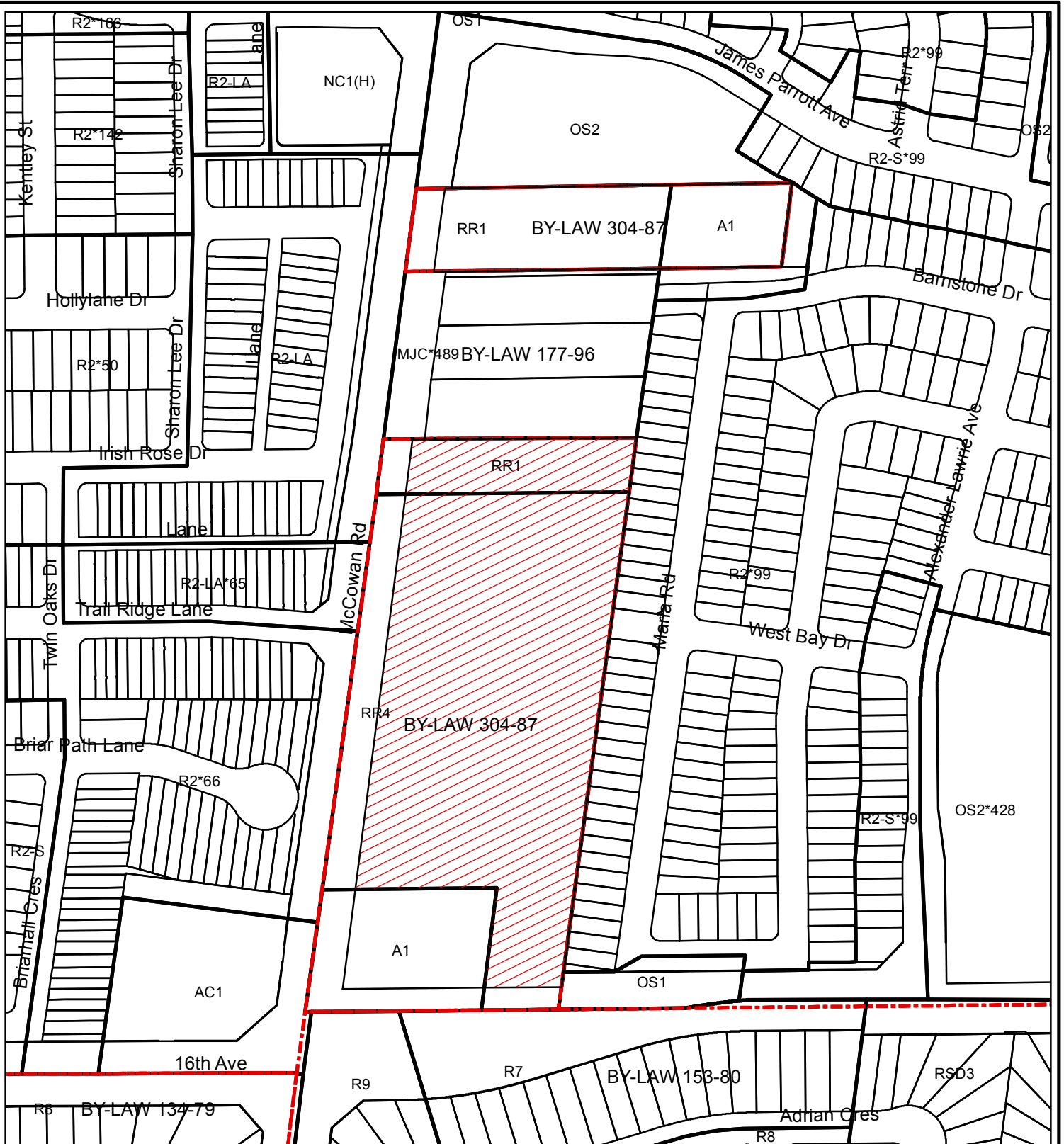
James Baird, M.C.I.P., R.P.P.  
Commissioner of Development Services

**ATTACHMENTS:**

- |               |                                    |
|---------------|------------------------------------|
| Figure 1:     | Location Map                       |
| Figure 2:     | Area Context/ Zoning               |
| Figure 3:     | Air Photo                          |
| Figure 4:     | Proposed Draft Plan of Subdivision |
| Figure 5:     | Proposed Conceptual Site Plan      |
| Appendix 'A': | Draft Zoning By-law Amendment      |
| Appendix 'B': | Draft Plan Conditions              |

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# AREA CONTEXT/ZONING

APPLICANT: McCOWAN DEVELOPMENTS LIMITED.

9329 & 9365 McCOWAN ROAD & 5286 16th. AVENUE

FILE No. SU16110451(SM)

 SUBJECT LANDS

DATE: 05/12/16



DEVELOPMENT SERVICES COMMISSION

Drawn By: DD

Checked By: SM

FIGURE No. 2



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# AIR PHOTO

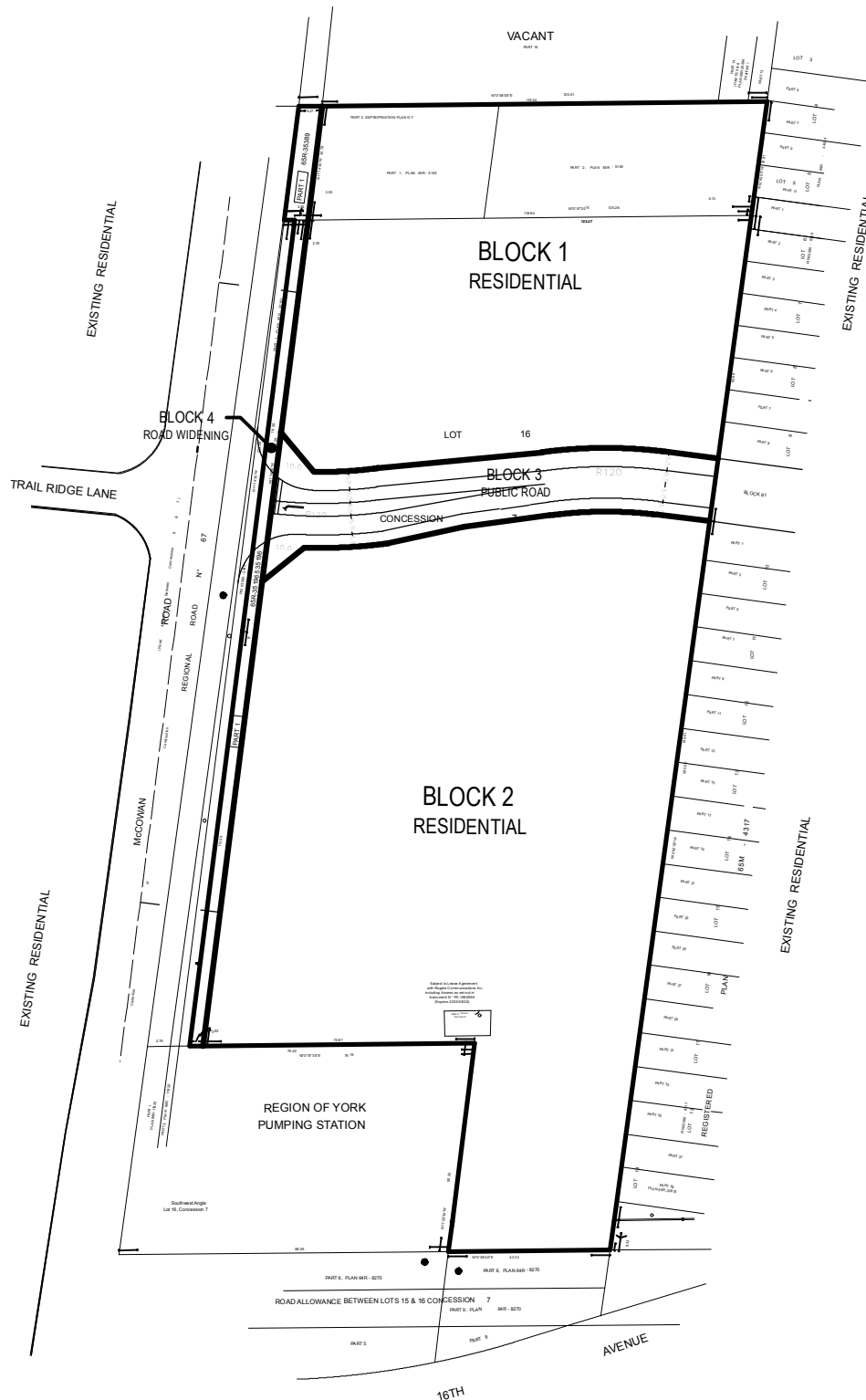
APPLICANT: McCOWAN DEVELOPMENTS LIMITED.

9329 & 9365 McCOWAN ROAD & 5286 16th. AVENUE

FILE No. SU16110451(SM)

 SUBJECT LANDS

DATE: 05/12/16



# PROPOSED DRAFT PLAN

APPLICANT: McCOWAN DEVELOPMENTS LIMITED  
9329 & 9365 McCOWAN ROAD & 5286 16th. AVENUE

FILE No. SU16110451(SM)

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 SUBJECT LANDS

DATE: 23/01/2017

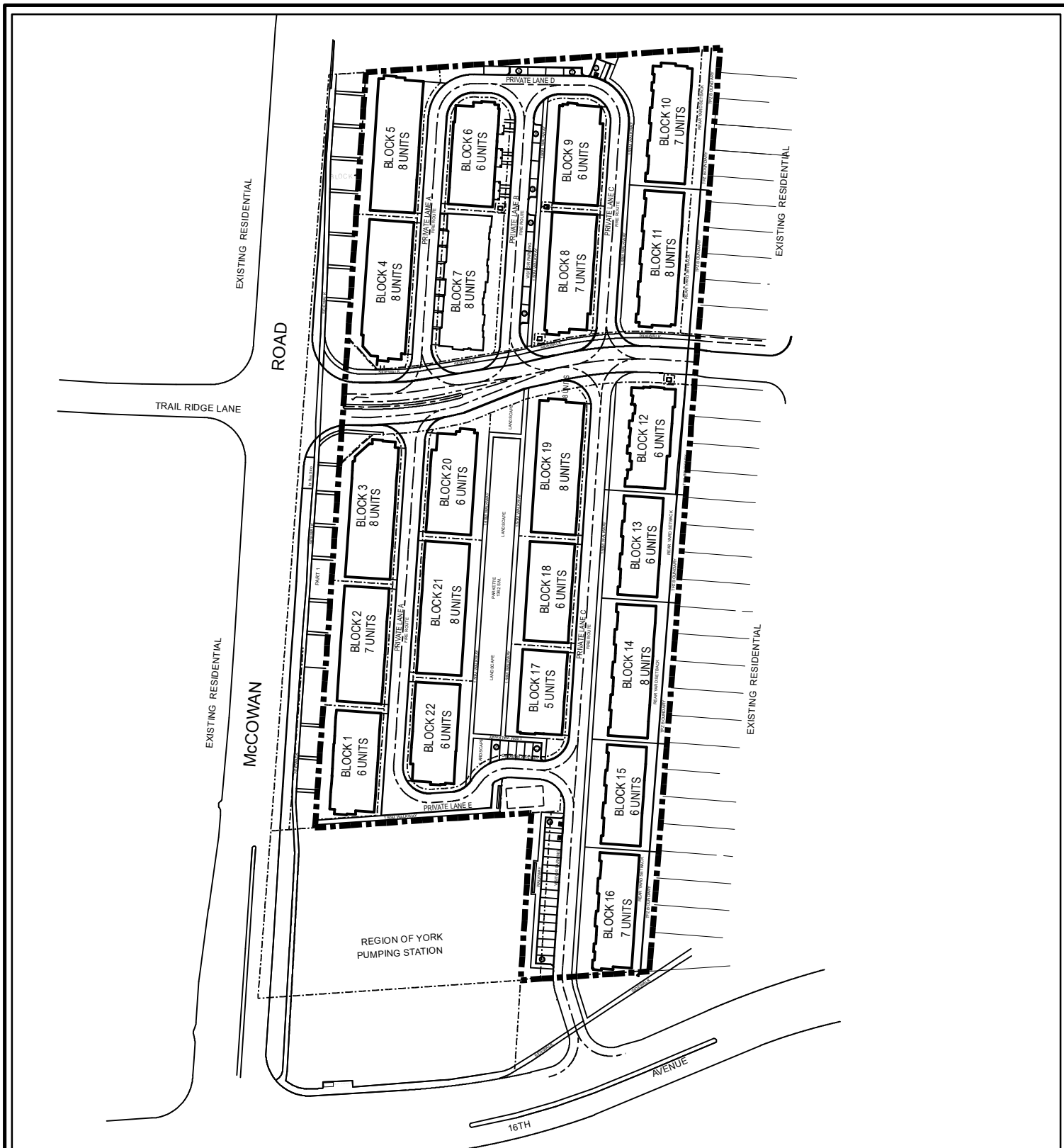


DEVELOPMENT SERVICES COMMISSION

Drawn By: LW

Checked By: SM

**FIGURE No. 4**



# CONCEPTUAL SITE PLAN

APPLICANT: McCOWAN DEVELOPMENTS LIMITED

9329 & 9365 McCOWAN ROAD & 5286 16TH. AVENUE

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DATE: 03/02/2017



DEVELOPMENT SERVICES COMMISSION

Drawn By: CPW

Checked By: SM

FIGURE No. 5

--- SUBJECT LANDS





BY-LAW 2017-\_\_\_\_

A By-law to amend By-law 304-87, as amended  
(to delete lands from the designated area of By-law 304-87)  
and 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 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 the lands shown on Schedule ‘A’ attached hereto.
  - 2.2 By zoning the lands outlined on Schedule ‘A’ attached hereto as follows:

Residential Two \*567 (R2\*567) Zone and  
Residential Two \*568 (R2\*568) Zone

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

Exception 7.567	McCowan Developments Limited East Side of McCowan Rd, north of 16 <sup>th</sup> Ave (North of West Bay Dr)	Parent Zone R2
File ZA 15 114051		Amending By-law 2017-
Notwithstanding any other provisions of this By-law, the provisions in this Section shall apply to the land denoted by the symbol *567 on the schedule to this By-law.		
7.567.1 Only Permitted Uses		
The following are the only permitted uses:		
a)	Townhouse Dwellings	
7.567.2 Special Zone Standards		
The following special zone standards shall apply:		
a)	Minimum width of an internal townhouse dwelling unit – 5.4m	
b)	Minimum width of an external or corner townhouse dwelling unit – 7m	
c)	Maximum number of townhouse dwelling units – 58	
d)	Minimum distance between buildings – 3m	
e)	Minimum required front yard setback – 4m	
f)	Minimum required rear yard – 6m	
g)	Minimum required exterior side yard – 1.5m	
h)	Minimum setback from a daylighting triangle – 1.5m	
i)	Maximum height of a townhouse dwelling – 12m	
j)	Notwithstanding any further division or partition of any lands subject to this Section, all lands zoned R2*567 shall be deemed to be one lot for the purposes of this By-law.	

Exception 7.568	McCowan Developments Limited East side of McCowan Rd, north of 16 <sup>th</sup> Ave (south of West Bay Dr)	Parent Zone R2
File ZA 15 114051		Amending By-law 2017-
Notwithstanding any other provisions of this By-law, the provisions in this Section shall apply to the land denoted by the symbol *568 on the schedule to this By-law.		
7.568.1 Only Permitted Uses		
The following are the only permitted uses:		
a)	Townhouse Dwellings	

b)	<i>Private Park</i>
<b>7.568.2 Special Zone Standards</b>	
The following special zone standards shall apply:	
a)	For the purposes of this by-law, the <i>lot line</i> abutting McCowan Road shall be deemed to be the <i>front lot line</i> .
b)	Minimum width of an internal townhouse dwelling unit- 5.4m
c)	Minimum width of an external or corner townhouse dwelling unit – 7m
d)	Maximum number of townhouse dwelling units- 93
e)	Minimum distance between buildings – 3m
f)	Minimum required <i>front yard</i> setback – 4m
g)	Minimum required <i>rear yard</i> – 6m
h)	Minimum required <i>exterior side yard</i> – 1.2m
i)	Minimum setback from a daylighting triangle – 1.5m
j)	Porches may encroach into a required <i>exterior side yard</i> provided that no part of the porch is located closer than 0.3m from the <i>lot line</i> .
k)	Porches may encroach into a required setback to a daylight triangle provided that no part of the porch is located closer than 0.3m from the <i>lot line</i> .
l)	Eaves may encroach into a required <i>exterior side yard</i> setback provided that no part of the eaves is located closer than 0.3m from the <i>lot line</i> .
m)	Eaves may encroach into a required setback to a site triangle provided that no part of the eaves is located closer than 0.3m from the <i>lot line</i> .
n)	Maximum <i>height</i> of a <i>townhouse dwelling</i> - 12m
n)	Notwithstanding any further division or partition of nay lands subject to this Section, all lands zoned R2*568 shall be deemed to be one lot for the purposes of this By-law
o)	Minimum <i>private park</i> area – 1300 m2

4. SECTION 37 CONTRIBUTION

- 4.1 A contribution by the Owner to the City for the purposes of public art, in the amount of \$150,000.00 in 2016 dollars, to be indexed to the Ontario rate of inflation as per the consumer price index (CPI), in accordance with Section 37 of the Planning Act, as amended, shall be required. Payments shall be collected in accordance with the terms of an agreement to secure for the Section 37 contribution. Nothing in this section shall prevent the issuance of a building permit as set out in Section 8 of the Building Code Act or its successors.

Read a first, second and third time and passed on \_\_\_\_\_, 2017

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

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



# SCHEDULE "A " TO BY-LAW

## AMENDING BY-LAWS 304-87 AND 177-96 DATED

- BOUNDARY OF AREA COVERED BY THIS SCHEDULE  
TO BE DELETED FROM 304-87 AND ADDED TO 177-96
- BOUNDARY OF ZONE DESIGNATION(S)
- RR2

RESIDENTIAL TWO

RR4

RURAL RESIDENTIAL FOUR

\*No.

EXCEPTION SECTION NUMBER

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

## APPENDIX ‘A’



### EXPLANATORY NOTE

#### BY-LAW 2017-\_\_\_\_\_

##### **A By-law to amend By-law 304-87, as amended**

(to delete lands from the designated area of By-law 304-87)

##### **And By-law 177-96, as amended**

(to incorporate lands into the designated area of By-law 177-96)

##### **McCowan Developments Limited**

**9329 & 9365 McCowan Rd and 5286 16<sup>th</sup> Ave**

**CON 7, PT LT 16, 65R5155, PARTS 1, 2 & 3**

**File No. ZA 15 110451**

##### **Lands Affected**

The proposed by-law amendment applies to lands with an approximate area of 3.3 hectares (8.15 acres) located on the east side of McCowan Rd and on the north side of 16<sup>th</sup> Ave and municipally known as 9329 & 9365 McCowan Rd and 5286 16<sup>th</sup> Ave.

##### **Existing Zoning**

The subject lands are zoned in accordance with By-law 304-87, as amended, as follows:

Rural Residential One (RR1) and  
Rural Residential Four (RR4)

##### **Purpose and Effect**

The purpose and effect of this By-law is to delete the lands from the designated area of By-law 304-87, as amended, incorporate the lands into the designated area of By-law 177-96, as amended, and zone the subject lands to “Residential Two \*567 (R2\*567) Zone” and “Residential Two \*568 (R2\*568) Zone”, in order to facilitate the development of 151 townhouses including the introduction of site-specific development standards.

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

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

**APPENDIX 'B'**  
**DRAFT PLAN CONDITIONS**

**THE CONDITIONS OF THE COUNCIL OF THE CITY OF MARKHAM  
TO BE SATISFIED PRIOR TO RELEASE FOR REGISTRATION OF  
PLAN OF SUBDIVISION 19TM - 16005  
MCCOWAN DEVELOPMENTS LIMITED  
ARE AS FOLLOWS:**

1. **General**

- 1.1 Approval shall relate to a draft plan of Subdivision prepared by Humphries Planning Group Inc. with a Surveyor's Certificate from Piratheepan Ramachandran, dated November 28, 2016, and identified as File Number: 16437, and incorporating the following redline revisions:
- The daylight triangle at the intersection of McCowan Road and the future public road will be conveyed to the Region. Please create a separate block for the daylight triangle;
  - Block 3 should be named as "West Bay Drive". This will be conveyed to the City; and
  - Show centreline of existing West Bay Drive.
- 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 XXXX unless extended by the City upon application by the Owner.
- 1.3 The Owner shall enter into a subdivision agreement with the City agreeing to satisfy all conditions of the City and Agencies, financial and otherwise, prior to final approval.
- 1.4 The Owner acknowledges and understands that prior to final approval of this draft plan of subdivision, any amendments (if applicable) to the City's in-force Official Plan (1987 Revised), as amended, the Wismer Commons Secondary Plan, and Zoning By-law 177-96, as amended to implement the plan shall have come into effect in accordance with the provisions of the Planning Act.
- 1.5 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, Traffic Impact Study, Internal Functional Traffic Design Study, Stormwater Management Study (Environmental Master Drainage Plan), Noise Impact Study, Functional Servicing Report, 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.

- 1.6 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, traffic signals, stormwater management facilities or any other services that are required external to the 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.
- 1.7 The Owner acknowledges and agrees to provide the appropriate public art contribution through a Section 37 Agreement, to the satisfaction of the Director of Planning and Urban Design.
- 1.8 Prior to final approval of the draft plan, the Owner acknowledges and agrees to obtain required approval from the Region of York and any other applicable public agencies to the satisfaction of the Director of Engineering.
- 1.9 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.
- 1.10 The Owner covenants and agrees to provide a list of sustainable initiatives which will be incorporated into the proposed townhouse development (Blocks 1 and 2), to the satisfaction of the Director of Planning and Urban Design, prior to site plan endorsement of the proposed townhouse development (Blocks 1 and 2).

## 2. Roads

- 2.1 The road allowances within the draft plan shall be named to the satisfaction of the City and the Region of York.
- 2.2 The road allowances within the draft plan shall be dedicated as public highway, free of costs and encumbrances.
- 2.3 The Owner shall covenant and agree in the subdivision agreement that the public highways including spacing for intersection and driveway accesses shall be designed and constructed in accordance with established municipal standards to the satisfaction of the City (Director of Engineering) and the Region of York.
- 2.4 Prior to final approval of the draft plan, the Owner shall show the ROW rounding radius and/or daylight triangles of all road intersections, as redlined on the draft plan, to the satisfaction of the City (Commissioner of Development Services) and the Region of York.
- 2.5 The Owner shall covenant and agree in the subdivision agreement to implement any traffic calming measures identified in the Internal Functional Traffic Study. The Owner shall further covenant and agree to implement additional traffic

calming measures, prior to assumption of the plan of subdivision, if it is determined by the City that additional traffic calming measures are required.

3. Community Design

- 3.1 The Owner shall implement and incorporate all requirements of the approved Wismer Commons Open Space Master Plan, Community Design Plan and Architectural Control Guidelines into all landscape plans, engineering plans and any other required design documents.

4. Parks and Open Space

- 4.1 The Owner shall provide a specialized depth of topsoil in the entire municipal boulevard to appropriately plant boulevard trees to the satisfaction of the Director of Planning and Urban Design.
- 4.2 The Owner shall post approved copies of any Open Space Plans, Conceptual Park Development Master Plans and Conceptual Facility Fit Plans and private amenity park space in all sales offices for dwelling units within the draft plan of subdivision.
- 4.3 The Owner agrees that parkland dedication within the Wismer Commons Community is required to be provided to the satisfaction of the Director of Planning and Urban Design.

5. Landscape Works

- 5.1 Prior to execution of the subdivision agreement, the Owner shall submit landscape plans prepared by a qualified person based on the approved Wismer Commons Open Space Master Plan and Community Design Plan into all landscape works, to the satisfaction of the Director of Planning and Urban Design, which may include:
- 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;
  - c) front yard decorative fencing;
  - d) streetscape plan including street trees; and
  - e) any other landscaping as determined by the Community Design Plan and the Environmental Drainage Plan.
- 5.2 The Owner shall construct all landscaping in accordance with the approved plans at no cost to the City.

- 5.3 The Owner shall not permit their builders to charge home purchasers for the items listed in Condition 5.1.
- 5.4 The Owner shall include in all agreements of purchase and sale the following clause:

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

- STREET TREES (TREES PLANTED IN THE CITY BOULEVARD OR IN ADJACENT PUBLIC LANDS OR PRIVATE LOTS TO MEET 5.1 A)
- 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.”

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

## 6. Tree Inventory and Tree Preservation Plans

- 6.1 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.

- 6.2 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.
- 6.3 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.
- 6.4 The Owner shall submit for approval, as part of the tree inventory and tree preservation plan, in accordance with the City of Markham Streetscape Manual a tree compensation schedule detailing replacement and enhancement planting or the replacement value based on the following:
- a) Trees between 20cm and 40cm diameter at breast height (DBH) shall be replaced at a ratio of 2:1
  - b) All trees over 40cm DBH shall have an individual valuation submitted to the City by an ISA certified Arborist in accordance with the Council of Tree and Landscape Appraisers (CTLA) Guide for Plant Appraisal (2000)
  - c) Where a site does not allow for the 2:1 replacement, the City will negotiate a credit for tree planting on alternate sites
  - d) The requirement for the replacement or equivalent economic value following unauthorized tree removal or damage shall be determined by the City.

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, fencing, streetscape, buffer, landscaping and other landscaping requirements.

8. Noise Impact Study

- 8.1 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 and by any other identified noise sources, to the satisfaction of the City, in consultation with the Region of York. 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.
- 8.2 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), in consultation with the Region of York.

9. 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 ultimately be required.
- 9.2 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.
- 9.3 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. Municipal 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 and potential upgrades to municipal infrastructure downstream of the subdivision resulting from this development. Any requirements resulting from this Report shall be incorporated into the draft plan and provided for in the subdivision agreement. The Owner shall covenant and agree in the subdivision agreement to pay for all external municipal infrastructure upgrades.
- 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, bicycle lanes, curbs, gutters, sidewalks (in accordance with the applicable Council policy and City's Design criteria and Standards), 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 Prior to final approval of the draft plan, detailed engineering drawings shall be provided by the Owner in accordance with the City's Design Criteria 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, streetlighting design drawings, stormwater management detail plans, etc. to the satisfaction of the Director of Engineering.

- 10.4 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 and acceptable access for firefighting equipment is available.

11. Easements

- 11.1 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. Any off-site easements and works necessary to connect watermain, storm and sanitary sewers to outfall trunks and stormwater management facilities shall be satisfactory to, and dedicated to, the City.

12. 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 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 (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 PowerStream, Enbridge, telecommunications companies, etc.
- 12.3 The Owner shall covenant and 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.
- 12.4 The Owner shall covenant and agree in the subdivision agreement to include in all offers of purchase and sale a statement that advises prospective purchasers that mail delivery will be from a designated Community Mailbox. The Owners will further be responsible for notifying purchasers of the exact Community Mailbox locations prior to the closing of any home sale.
- 12.5 The Owner shall covenant and agree in the subdivision agreement to provide a suitable temporary Community Mailbox location(s) which may be utilized by Canada Post until the curbs, sidewalks and final grading have been completed at the permanent Community Mailbox locations. This will enable Canada Post to provide mail delivery to new residents as soon as homes are occupied.
- 12.6 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.

- 12.7 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.

13. Transportation Impact Study/Internal Functional Traffic Design Study

- 13.1 Prior to final approval of the draft plan, the Owner shall address all outstanding comments related to the Transportation Impact Study and Functional Traffic Design Study to the satisfaction of the City (Director of Engineering). Further, the Owner agrees that the draft plan may require revisions and the Owner agrees to provide additional lands/easements if required, to the satisfaction of the City (Director of Engineering), to implement or integrate any recommendations from these studies.
- 13.2 The Owner shall covenant and agree in the subdivision agreement that the public road(s) including spacing for intersection and driveway accesses shall be designed and constructed in accordance with established municipal standards to the satisfaction of the City (Director of Engineering).

14. Development Charges

- 14.1 The Owner covenants and agrees to provide written notice of all development charges related to the subdivision development, including payments made and any amounts owing, to all first purchasers of lands within the plan of subdivision at the time the lands are transferred to the first purchasers.
- 14.2 The Owner shall pay all fees and development charges as set out in the subdivision agreement.

15. Environmental Clearance

- 15.1 The Owner covenants and agrees to retain a “Qualified Person” as defined by the *Environmental Protection Act* and its regulations to carry out all necessary

environmental testing, evaluation and remediation and pay to the City for the third party peer review. The Owner acknowledges that it has retained a “Qualified Person” for the execution of the Owner’s obligation hereunder. The Owner agrees that it shall not substitute the “Qualified Person” without the prior written consent of the Director of Engineering.

- 15.2 The Owner covenants and agrees that, prior to execution of this Agreement, an environmental clearance shall be provided to the City for all lands or interests in lands to be conveyed to the City to the satisfaction of the Director of Engineering. The City shall be satisfied that the lands are environmentally suitable for their proposed use and be certified as such by the “Qualified Person” as defined in Ontario Regulation 153/04, all of which shall be in accordance with the *Environmental Protection Act* and its regulations. The “Qualified Person” shall file a Record of Site Condition on the Provincial Environmental Site Registry for all lands to be conveyed.
- 15.3 The Owner covenants and agrees that if, during construction of the Works, contaminated soils or materials are discovered, the Owner shall inform the Director of Engineering 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 Director of Engineering and the Ministry of the Environment. After remediation, the “Qualified Person” shall file an updated Record of Site Condition on the Provincial Environmental Site Registry, in accordance with Ontario Regulation 153/04, for all lands to be conveyed to the City.
- 15.4 The Owner covenants and agrees to assume full responsibility for the environmental condition of the Lands and agrees to indemnify and save harmless the City, its directors, officers, Mayor, Councillors, employees and agents from any and all actions, causes of action, suits, claims, demands, losses, expenses and damages whatsoever that may arise either directly or indirectly from the approval and Assumption by the City of the Works, the construction and use of the Works or anything done or neglected to be done in connection with the use or any environmental condition on or under the Lands, including any work undertaken by or on behalf of the City in respect of the Lands and the execution of this Agreement.

## 16. Heritage

- 16.1 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 appropriate treatment of built heritage and 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 in proximity to the heritage resource prior to the issuance of a letter from the Ministry of Culture (Heritage Branch) to the City indicating that all matters relating to heritage resources have been addressed in accordance with licensing and resource conservation requirements.

- 16.2 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.
- 16.3 Prior to final approval of the plan of subdivision or any phase thereof, the Manager of Heritage Planning shall advise that Conditions 16.1 to 16.2 inclusive, have been satisfied.

17. Well Monitoring Program and Mitigation Plan

- 17.1 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.

18. Other City Requirements

- 18.1 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.
- 18.2 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 and acceptable access for firefighting equipment is available. The Owner shall further covenant and agree that fire protection sprinklers (if required) are installed to the satisfaction of the Fire Chief or his designate.
- 18.3 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 Chief or his designate.
- 18.4 The Owner shall covenant and agree in the subdivision agreement to include warning clauses in agreements of purchase and sale for all units with single car garages advising purchasers of the following:

- the City's parking by-law requires a minimum of two parking spaces, one in the driveway and one in the garage;
- the City's zoning by-law restricts the width of the driveway, this width does not allow two cars to park side by side; and,
- overnight street parking will not be permitted unless an overnight street parking permit system is implemented by the City

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

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

All display plans shall be reviewed and approved at the sales office by City staff, prior to the opening of the sales office.

18.6 The Owner covenants and agrees to purchase from the City two (2) recycling containers, one (1) green bin and one (1) kitchen collector per residence so that each purchaser may participate in the City's waste diversion program. Furthermore, the Owner shall ensure that the recycling containers, green bins, kitchen collectors and educational materials are deposited in each home on or before the date of closing.

18.7 The Owner covenants and agrees to contact the City at least four (4) weeks prior to unit occupancy to arrange an appointment time in which the recycling containers, green bins, kitchen collectors and educational materials are to be collected by the Owner.

18.8 The Owner covenants and agrees to pay to the City the cost for recycling containers, green bins and kitchen collectors and to provide said recycling containers, green bins and kitchen collectors to purchasers at the same cost as paid to the City.

18.9 The Owner covenants and agrees that during the construction phase of the development, unobstructed roadway access to a width no less than 6 metres will be provided for the safe passage of municipal waste and recycling collection vehicles on the designated collection day. Furthermore, if required, the Owner shall provide vehicle turning space that meets the City's engineering design

standards. The Owner agrees that at times when the above defined access cannot be provided, the Owner shall be responsible for moving all residential waste, recyclables and organics from the occupied units to an agreed upon centralized location at the Owner's expense, for collection by the City.

19. Region of York

- 19.1 The road allowances included within the draft plan of subdivision shall be named to the satisfaction of the area municipality and York Region.
- 19.2 Prior to final approval 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.
- 19.3 The Owner shall 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.
- 19.4 Prior to final approval, the Owner shall submit an updated Functional Servicing Report (FSR) to the satisfaction of Infrastructure Asset Management, Environmental Services Department.
- 19.5 Prior to final approval, the engineering drawings showing the layout of the watermains and sewers shall be submitted to the Community Planning and Development Services Division for review.
- 19.6 The Owner shall agree in the subdivision agreement that any direct connection(s) to and/or crossing(s) of a York Region water or wastewater system requires Regional approval prior to construction. Engineering drawings showing details of the connection(s) and/or crossing(s) shall be submitted to the Community Planning and Development Services for approval.
- 19.7 Prior to final approval, the Owner shall have prepared by a qualified professional transportation consultant, a functional transportation report/ plan outlining the required road improvements for this subdivision. The report/plan, submitted to Community Planning and Development Services Division for review and approval, shall explain all transportation issues and shall recommend mitigative measures for these issues.
- 19.8 The Owner shall agree in the Subdivision Agreement, in wording satisfactory to Community Planning and Development Services to implement the recommendations of the functional transportation report/plan as approved by the Community Planning and Development Services Division.

- 19.9 The Owner shall provide a basic 43 metres Right-of-way required for this section of McCowan Road. As such, all municipal setbacks shall be referenced from a point of 21.5 metres from the centerline of construction on McCowan Road and any additional lands required for turn lanes at the intersections will be conveyed to York Region for public highway purposes, free of all costs and encumbrances, to the satisfaction of the York Region Solicitor.
- 19.10 The Owner shall provide a basic 43 metres Right-of-Way required for this section of 16<sup>th</sup> Avenue. As such, all municipal setbacks shall be referenced from a point 21.5 metres from the centerline of construction on 16<sup>th</sup> Avenue and any additional lands required for turn lanes at the intersections will be conveyed to York Region for public highway purposes, free of all costs and encumbrances, to the satisfaction of the York Region Solicitor.
- 19.11 Prior to final approval, the Owner shall provide a written undertaking, to the satisfaction of the Community Planning and Development Services Division that the Owner agrees to implement the recommendations of the functional transportation report/ plan as approved by the Community Planning and Development Services Division.
- 19.12 Prior to final approval, the Owner shall submit detailed engineering drawings, to the Community Planning and Development Services Division for review and approval, that incorporate the recommendations of the functional transportation report/ plan as approved by the Community Planning and Development Services Division. Additionally, the engineering drawings shall include the subdivision storm drainage system, erosion and siltation control plans, site grading and servicing, plan and profile drawings for the proposed intersections, construction access and mud mat design, utility and underground servicing location plans, pavement markings, electrical drawings for intersection signalization and illumination design, traffic control/ construction staging plans and landscape plans.
- 19.13 Prior to final approval, the Owner shall provide drawings for the proposed servicing of the site to be reviewed by the Engineering Department of the area municipality. Three (3) sets of engineering drawings (stamped and signed by a professional engineer), and MOE forms together with any supporting information shall be submitted to the Community Planning and Development Services Division, Attention: Mrs. Eva Pulnicki, P. Eng.
- 19.14 Prior to final approval, the location and design of the construction access for the subdivision work shall be completed to the satisfaction of the Community Planning and Development Services Division and illustrated on the Engineering Drawings.
- 19.15 Prior to final approval, the Owner shall demonstrate, to the satisfaction of the Community Planning and Development Services Division, that all existing

driveway(s) along the Regional road frontage of this subdivision shall be removed as part of the subdivision work, at no cost to York Region.

- 19.16 Prior to final approval, the Owner shall demonstrate, to the satisfaction of the Community Planning and Development Division, that elevations along the streetline shall be 0.3 metres above the centerline elevations of the York Region roadway, unless otherwise specified by the Community Planning and Development Services Division.
- 19.17 The Owner shall agree in the Subdivision Agreement in wording satisfactory to Community Planning and Development Services Division, that prior to the development approval of this plan of subdivision, that access to this subdivision shall be via the internal road network except at the intersection of McCowan Road and "Block 3, Public Road" and direct access to 16<sup>th</sup> Avenue shall be restricted to right-in/right-out movements only. Further, the Owner shall agree in the subdivision agreement to extend the existing median from the intersection of McCowan Road and 16<sup>th</sup> Avenue in order to reinforce this access, free of all costs and encumbrances, to the satisfaction of York Region.
- 19.18 The Owner shall agree in the Subdivision Agreement in wording satisfactory to Community Planning and Development Services Division, that prior to the development approval of this plan of subdivision, to include a warning clause in the future Condominium Agreement that this right-in/right-out access to 16<sup>th</sup> Avenue may be modified should traffic or safety issues be identified by the Region in the future.
- 19.19 The Owner shall agree in the Subdivision Agreement in wording satisfactory to Community Planning and Development Services Division, that prior to the development approval of this plan of subdivision, to provide a Letter of Credit for enhanced landscaping on 16<sup>th</sup> Avenue to be implemented once 16<sup>th</sup> Avenue Class Environmental Assessment (EA) design work is complete to ensure it is not removed due to future widening. This Letter of Credit for enhanced landscaping on 16<sup>th</sup> Avenue shall be separate from the standard Letter of Credit for engineering works including landscaping on McCowan Road.
- 19.20 Prior to final approval, the Owner shall demonstrate, to the satisfaction of the Community Planning and Development Services Division, that the existing West Bay Drive shall be extended to intersect McCowan Road on a common tangent to form a proper four legged intersection at McCowan Road. This intersection shall be designed to the satisfaction of the Community Planning and Development Services Division with any interim or permanent intersection works including turning lanes, profile adjustments, illumination and/or signalization as deemed necessary by the Community Planning and Development Services Division.
- 19.21 Prior to final approval, the Owner shall submit drawings depicting the following to the satisfaction of York Region staff:

- a) All existing woody vegetation within the York Region road Right-of-Way,
- b) Tree protection measures to be implemented on and off the York Region road Right-of-Way to protect Right-of-Way vegetation to be preserved,
- c) Any woody vegetation within the York Region road Right-of-Way that is proposed to be removed or relocated. However, it is to be noted that tree removal within York Region road Rights-of-Way shall be avoided to the extent possible/ practical. Financial or other compensation may be sought based on the value of trees proposed for removal,
- d) A planting plan for all new and relocated vegetation to be planted within the York Region road Right-of-Way, based on the following general guideline:

Tree planting shall be undertaken in accordance with York Region standards as articulated in Streetscaping Policy and using species from the York Region Street Tree Planting List. These documents may be obtained from the Forestry Section. If any landscaping or features other than tree planting (eg. flower beds, shrubs) are proposed and included in the subdivision agreement, they will require the approval of the City and be supported by a Maintenance Agreement between the City and the Region for City maintenance of these features; any such Maintenance Agreement should indicate that where the area municipality does not maintain the feature to York Region's satisfaction, the area municipality will be responsible for the cost of maintenance or removal undertaken by the Region.

19.22 Prior to final approval, the Owner shall agree that the following lands will be conveyed to York Region for public highway purposes, free of all costs and encumbrances, to the satisfaction of the York Region Solicitor:

- a) A widening across the full frontage of the site where it abuts McCowan Road of sufficient width to provide a minimum of 21.5 metres from the centerline of construction of McCowan Road;
- b) A 10.0 metre by 10.0 metre daylight triangle at the intersection of McCowan Road and "Block 3, Public Road";
- c) A 0.3 metre reserve across the full frontage of the site, except at the approved access location, where it abuts McCowan Road adjacent to the above noted widening; and
- d) A 0.3 metre reserve across the full frontage of the site where it abuts 16<sup>th</sup> Avenue.

19.23 Prior to final approval, in order to determine the property dedications (if any) required to achieve the ultimate Right-of-Way width of both 16<sup>th</sup> Avenue and McCowan Road abutting the subject site, the applicant shall submit a recent plan of survey for the property that illustrates the existing centre line of construction of 16<sup>th</sup> Avenue and McCowan Road.

- 19.24 Prior to final approval, The Owner shall provide a solicitor's certificate of title in a form satisfactory to the Regional Solicitor, at no cost to the Region, with respect to the conveyance of these lands to York Region.
- 19.25 The Region requires the Owner to submit to it, in accordance with the requirements of the Environmental Protection Act and O.Reg. 153/04 Records of Site Condition Part XV.1 of the Act (as amended) ("O.Reg. 153/04"), a Phase 1 Environmental Site Assessment ("Phase 1 ESA") of the Owner's lands that are the subject of the application, including the lands to be conveyed to the Region (the "Conveyance Lands"). The Phase 1 ESA cannot be more than 2 years old as of the actual date title to the Conveyance Lands is transferred to the Region. If the Phase 1 ESA is linked to different phases of development and there will be multiple conveyances of lands, the Phase 1 ESA prepared in respect of a specific conveyance and phase of development cannot be more than two years old as of the actual date of transfer of title to the Region. If a Phase 1 ESA is or would be more than two years old as of the actual date of transfer of title to the Region, the Phase 1 ESA will need to be either updated or a new Phase 1 obtained by the Owner in accordance with the requirements of this section. The Region, at its discretion, may require further study, investigation, assessment and delineation to determine whether any remedial or other action is required regardless of the findings or conclusions of the Phase 1 ESA. Any Phase II environmental site assessment required by or submitted to the Region must be prepared in general accordance with the requirements of O. Reg. 153/04 (as noted above). Reliance on the Phase 1 ESA and any subsequent environmental reports or other documentation prepared in respect of the environmental condition of the lands must be provided to the Region and : (i) will be addressed to "The Regional Municipality of York", (ii) contain wording to the effect that the region is entitled to rely on such reports or documentation in their entirety; and (iii) the terms and conditions of the reliance extended (including any wording seeking to limit liability) must be satisfactory to the Region.

The Owner shall also provide the Region's Community Planning and Development Services Division with a certified written statement from the Owner or the Owner's authorized representative that no contaminant, pollutant, waste of any nature, hazardous substance, toxic substance, dangerous goods, or other substance or material defined or regulated under applicable environmental laws is present at, on, in or under lands to be conveyed to the Region (including soils, substrata, surface water and groundwater, as applicable); (i) at the time of conveyance, at a level of concentration that exceeds the Environmental Protection Act O. Reg. 153/04 (as amended) full depth generic site condition standards applicable to the intended use of such lands by the Region or any other remediation standards published or administered by governmental authorities applicable to the intended land use; and (ii) in such a manner, condition or state, or is emanating or migrating from such lands in a way, that would contravene applicable environmental laws.

The preparation and delivery of the Phase 1 ESA, any subsequent environmental reports, other documentation, reliance and the Owner's certified written statement shall be provided at no cost to the Region.

- 19.26 Prior to final approval, the Owner shall engage the services of a consultant to prepare and submit for review and approval, a noise study to the satisfaction of the Community Planning and Development Services Division recommending noise attenuation features.
- 19.27 The Owner shall agree in the subdivision agreement, in wording satisfactory to the Community Planning and Development Services Division, to implement the noise attenuation features as recommended by the noise study and to the satisfaction of the Community Planning and Development Services Division.
- 19.28 The Owner shall agree in the subdivision agreement, in wording satisfactory to the Community Planning and Development Services Division, that where berm, noise wall, window and/or oversized forced air mechanical systems are required, these features shall be certified by a professional engineer to have been installed as specified by the approved Noise Study and in conformance with the Ministry of Environment guidelines and the York Region Noise Policy.
- 19.29 The following warning clause shall be included in a registered portion of the subdivision agreement with respect to the lots or blocks affected:
- “Purchasers are advised that despite the inclusion of noise attenuation features within the development area and within the individual building units, noise levels will continue to increase, occasionally interfering with some activities of the building's occupants.”
- 19.30 Where noise attenuation features will abut a York Region Right-of-Way, the Owner shall agree in the subdivision agreement, in wording satisfactory to York Region's Community Planning and Development Services Division, as follows:
- a) That no part of any noise attenuation feature shall be constructed on or within the York Region Right-of-Way;
  - b) That noise fences adjacent to York Region roads may be constructed on the private side of the 0.3 metre reserve and may be a maximum 2.5 metres in height, subject to the area municipality's concurrence;
  - c) That maintenance of the noise barriers and fences bordering on York Region's Right-of-Way shall not be the responsibility of York Region; and
  - d) That any landscaping provided on York Region Right-of-Way by the Owner or the area municipality for aesthetic purposes must be approved by the Community Planning and Development Services Division and shall

be maintained by the area municipality with the exception of the usual grass maintenance.

- 19.31 The Owner shall agree in the subdivision agreement, in wording satisfactory to the Community Planning and Development Services Division, to be responsible to decommission any existing wells on the Owner's lands in accordance with all applicable provincial legislation and guidelines to the satisfaction of the area municipality.
- 19.32 Prior to final approval, the Owner shall demonstrate, to the satisfaction of the Community Planning and Development Services Division, that all local underground services will be installed within the area of the development lands and not within York Region's road allowance. If a buffer or easement is needed to accommodate the local services adjacent to York Region's Right-of-Way, then the Owner shall provide a satisfactory buffer or easement to the City, at no cost to the Region.
- 19.33 The Owner shall agree in the subdivision agreement, in wording satisfactory to the Community Planning and Development Services Division that the Owner will be responsible for determining the location of all utility plants within York Region Right-of-Way and for the cost of relocating, repairing and restoring any appurtenances damaged during construction of the proposed site works. The Owner must review, or ensure that any consultants retained by the Owner, review, at an early stage, the applicable authority's minimum vertical clearances for aerial cable systems and their minimum spacing and cover requirements. The Owner shall be entirely responsible for making any adjustments or relocations, if necessary, prior to the commencement of any construction.
- 19.34 The Owner shall provide direct shared pedestrian/cycling facilities and connections from the proposed development to McCowan Road, 16<sup>th</sup> Avenue and the Collector/Local Roads (West Bay Drive extension) to support active transportation and public transit, where appropriate. A drawing showing the conceptual layout of active transportation facilities and connections internal to the site and to the Regional roads shall be provided.
- 19.35 The Owner shall provide an updated Transportation Demand Management (TDM) Plan to the satisfaction of the Region.
- 19.36 Prior to final approval, the Owner shall satisfy the Regional Municipality of York Transportation Services Department that the services to be installed within or in conjunction with the Plan will provide for sidewalks on both sides of the roadways listed below, unless only one side of the street lies within the limits of the subject lands. The sidewalks shall meet the local municipality's standards, and be provided by the Owner along the subject lands' frontage onto roadways that have transit services.

Existing YRT/Viva transit services operate on the following roadways in the vicinity of the subject lands:

- McCowan Road
- 16<sup>th</sup> Avenue

19.37 Prior to final approval, the Owner shall satisfy the Regional Municipality of York Transportation and Services Department and the area municipality that the services to be installed by the Owner within or in conjunction with the Plan will provide a concrete pedestrian access connection from the internal roadway to the Regional roadway as follows:

- From “Block 3 (Trail Ridge Lane)” to “McCowan Road”.

The concrete pedestrian access connections shall meet the local municipality’s standards for sidewalks and shall be owned and maintained by the area municipality.

19.38 The Owner shall agree in the executed Subdivision Agreement to convey lands to the local municipality to provide for such pedestrian access connection referred to in Condition 19.37 above.

19.39 The Owner shall satisfy the Regional Municipality of York Transportation Service Department that the services to be installed within or in conjunction with the Plan will provide passenger standing area/shelter identified below and shall be installed to the satisfaction of the local municipality and York Region Transit. The Region confirms that all such passenger standing area/ shelter pad shall be owned and maintained by the Region and that the local municipality shall have no responsibility for those notwithstanding that they may be included in the subdivision agreement.

Subject to approval by YRT/Viva, passenger standing area and shelter pad shall be provided at the following location:

ON Street	AT Street	Location	Standard	Traffic Signal Request
McCowan Road	Trail Ridge Lane	SE corner	YRT-1.02	
			YRT- 1.02 or YRT- 1.03	

The passenger standing area/shelter pad shall be provided at no cost to York Region and shall be provided concurrently with construction of necessary sidewalks. The Owner may apply for a development charge credit, in accordance with the York Region – Road Works development charge credit guideline for passenger standing areas and shelter pads.

Landscaping should not interfere with the bus stop, passenger standing area or corner sightlines. Bus stop located in front of the employment areas shall be incorporated into the landscape design.

The bus stop location determined during the design phase is subject to change. Prior to construction of the passenger standing area/ shelter pad, the Owner shall confirm with YRT/Viva the final bus stop location/ requirements. The Owner is to contact YRT/Viva Facilities Supervisor (tel. 905-762-2111) to confirm final details.

- 19.40 Prior to final approval, the Owner shall submit drawings showing, as applicable, the sidewalk location(s) , concrete pedestrian access, passenger standing area and shelter pad to the satisfaction of York Region.
- 19.41 The Owner shall agree in the executed subdivision agreement to advise all potential purchasers of the existing transit services in this development as identified in Condition 19.36. This includes current transit routes, bus stops and shelter locations. This shall be achieved through distribution of information/marketing materials (YRT/Viva route maps, Future Plan maps & providing YRT/Viva website contact information) at sales offices and appropriate notification clauses in purchase agreements. The YRT/Viva route maps and the Future Plans maps are available from YRT/Viva upon request.
- 19.42 The Owner shall satisfy the Regional Municipality of York Transportation Services that the services to be installed within or in conjunction with the Plan will include illumination in accordance with the local municipality's design standards along all streets which have transit services, sidewalks, pedestrian access and bus stop location.
- 19.43 The Owner shall demonstrate that the proposed Public Road to McCowan Road (Block 3 as shown in the Drawing Number A1, dated March 14, 2016) shall be aligned with Trail Ridge Lane on the western limit of the site, which is located on the west side of McCowan Road.
- 19.44 The Owner shall demonstrate the proposed Public Road (Bloc 3 as shown on Drawing Number A1, dated March 14, 2016) shall be aligned with West Bay Drive on the eastern limit of the site.
- 19.45 The Owner shall demonstrate that the proposed access to 16<sup>th</sup> Avenue is restricted to right-in right-out operation only. The existing median from the intersection of 16<sup>th</sup> Avenue and McCowan Road shall be extended to reinforce this access.
- 19.46 Prior to final approval, the Owner shall provide a copy of the subdivision agreement to the Community Planning and Development Services Division,

outlining all requirements of the Community Planning and Development Services Division.

19.47 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 2012-36.

19.48 The Regional Community Planning and Development Services Branch shall advise that Conditions 19.1 to 19.47 inclusive, have been satisfied.

20. Ministry of Natural Resources (MNR)

20.1 The Owner shall agree in the subdivision agreement to satisfy all requirements of the MNR 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 MNR in this respect, to the satisfaction of the Commissioner of Development Services.

21. Enbridge Gas Distribution

21.1 The Owner covenants and agrees in the subdivision agreement:

- a) To contact Enbridge Gas Distribution's Customer Connections department by emailing [SalesArea30@enbridge.com](mailto:SalesArea30@enbridge.com) 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.

22. Canada Post

22.1 The Owner covenants and agrees in the subdivision agreement to comply with the following conditions:

- a) The Owner/ developer agrees to include on all purchases and sale, a statement that advises the prospective purchaser that mail delivery will be from a designated Community Mailbox.
- b) The Owner/ developer will be responsible for notifying the purchaser of the exact Community Mailbox locations prior to the closing of any home sale.
- c) The Owner/developer will consult with Canada Post to determine suitable locations for the placement of Community Mailboxes and to indicate these locations on the appropriate servicing plans.
- d) The Owner/ developer will provide the following for each Community Mailbox site and include these requirements on the appropriate servicing plans:
  - i) a concrete pad to place the Community Mailboxes on;
  - ii) any required walkway across the boulevard; and
  - iii) any required curb depressions for wheelchair access.

22.2 The Owner/developer further agrees to determine and provide a suitable temporary Community Mailbox(s) location(s) which may be utilized by Canada Post until the curbs, sidewalks and final grading have been completed at the permanent Community mailbox locations. This will enable Canada Post to provide mail delivery to the new homes as soon as they are occupied.

23. Bell

23.1 The Owner covenants and agrees in the subdivision agreement that prior to commencing any work within the Plan, the Owner/ developer must confirm that sufficient wire-line communication/ telecommunication infrastructure is available within the proposed development to provide communication/ telecommunication service to the proposed development. In the event that such infrastructure is not available, the Owner/ developer is hereby advised that the Owner/developer may be required to pay for the connection to and/or extension of the existing communication/ telecommunication infrastructure. If the Owner/developer elects

not to pay for the such connection to and/or extension of the existing communication/telecommunication infrastructure, the Owner/ developer shall be required to demonstrate to the municipality that sufficient alternative communication/telecommunication facilities are available within the proposed development to enable, at a minimum, the effective delivery of communication/ telecommunication services for emergency management services (i.e. 911 Emergency Services).

24. Developers Group Release

24.1 That the Owner covenants and agrees to provide written clearance from the Trustee of the Wismer Common Developers Group respecting all of the lands within the draft plan, prior to registration of the draft plan or execution of a site plan agreement for Phase 1 of the proposed development or any portion of the subject lands within the draft plan, whichever comes earlier, to the satisfaction of the Director of Planning and Urban Design.

25. Municipal Infrastructure

25.1 The Owner and the City acknowledge that this subdivision, when fully constructed, will tentatively have the following City's municipal infrastructure:

- Local Roads: 120m
- Sidewalks: 100m
- Streetlights: 4 nos
- Watermain: 120m
- Sanitary Sewers: 120m
- Storm Sewers: 120m

26. Streetlight Types:

26.1 The Owner agrees to contact City Staff 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.

27. External Clearances

27.1 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 Regional Municipality of York Planning Department shall advise that Condition 19 has been satisfied.
- b) The Ministry of Culture shall advise that Conditions 16 has been satisfied.

- c) Enbridge Gas Distribution shall advise that Condition 21 has now been satisfied.
- d) Canada Post shall advise that Condition 22 has now been satisfied.
- e) Bell shall advise that Condition 23 has now been satisfied.

Dated: XXXXXX , 2017

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Ron Blake, Senior Development Manager