

SUBJECT: **RECOMMENDATION REPORT**
Ontario Municipal Board Appeal
Aryeh Construction Limited
8293 Warden Avenue
Application for site plan approval for a high density
residential development
File No. SC 10 131755

PREPARED BY: Scott Heaslip, Senior Project Coordinator
Central District, ext. 3140

REVIEWED BY: Richard Kendall, Manager,
Central District, ext. 6588

RECOMMENDATION:

- 1) That the staff report dated October 9, 2012 titled "Recommendation Report, Ontario Municipal Board Appeals, Aryeh Construction Limited, 8293 Warden Avenue, Application for site plan approval for a high density residential development, File No. SC 10 131755" be received.
- 2) That the City Solicitor or her designate and all necessary staff be directed to attend the OMB hearing to support the approval of site plan application SC 10 131755 on the basis of:
 - a) The following plans, subject to the provisions of Clause 3, below:
 - i. Site Plan, Drawing SPA-101, prepared by E.I. Richmond Architects Ltd., Plot Date: August 28, 2012
 - ii. East Elevation, Drawing SPA-401, prepared by E.I. Richmond Architects Ltd., Plot Date: August 27, 2012
 - iii. West Elevation, Drawing SPA-402, prepared by E.I. Richmond Architects Ltd., Plot Date: August 27, 2012
 - iv. South Elevation, Drawing SPA-403, prepared by E.I. Richmond Architects Ltd., Plot Date: August 27, 2012
 - v. North Elevation, Drawing SPA-404, prepared by E.I. Richmond Architects Ltd., Plot Date: August 27, 2012
 - vi. South Interior Elevation and Section, Drawing SPA-405, prepared by E.I. Richmond Architects Ltd., Plot Date: August 27, 2012
 - vii. North Interior Elevation and Section, Drawing SPA-406, prepared by E.I. Richmond Architects Ltd., Plot Date: August 27, 2012
 - b) The conditions attached as Appendix 'A' to the October 9, 2012 staff report,
- 3) That the Commissioner of Development Services be delegated the authority to approve revisions to the conditions of site plan approval referenced in Appendix "A" of this staff report, and to approve revisions to the site plan and elevation

drawings referenced in Recommendation 2 of this staff report, including updating the plot dates on such plans and drawings.

- 4) That Part of Block 7, Plan 65M-4294, Town of Markham, Regional Municipality of York, designated as Part 1 on Plan 65R-33837 be declared surplus to City purposes in accordance with By-law 178-96 and conveyed to Aryeh Construction Limited under the terms and conditions set out in this report, including a purchase price of \$405,000.
- 5) That the Mayor and Clerk be authorized to execute an Agreement of Purchase and Sale between the City and Aryeh Construction Limited in a form and content satisfactory to the City Solicitor and Chief Administrative Officer with respect to the sale of the said lands to Aryeh.
- 6) That Council authorize the Mayor and Clerk to enter into a Section 37 Agreement with Aryeh Construction Limited to secure a Section 37 contribution in the amount of \$1,333 per unit.
- 7) And that the Mayor and Clerk be authorized to execute the necessary documentation to give effect to the forgoing resolution.
- 8) That conditional 2015 servicing allocation for 340 units be granted from the Regional allocation when it becomes available to Markham, subject to written confirmation from the Trustee of the Markham Centre Landowners Group.
- 9) That staff be authorized and directed to do all things necessary to give effect to this resolution.

EXECUTIVE SUMMARY:

Not applicable.

PURPOSE:

The purpose of this report is to recommend that Council support the approval of a site plan application which has been appealed to the OMB, and to recommend that a parcel of City owned land be declared surplus to facilitate incorporation of the parcel into the proposed development.

BACKGROUND:**Subject Lands (Figures 1, 2 and 3)**

Aryeh Construction Limited (Aryeh) owns a 1.86 ha (4.6 acre) property on the east side of Warden Avenue, directly opposite Clegg Road. Clegg Road, which will be known as Rougeside Promenade east of Warden Avenue, will bisect the subject property. The block north of the future Rougeside Promenade is vacant. The block south of the road

contains a designated heritage building (the Sheridan-Paterson House). The lands to the north, east and south are owned by the Times Group and form part of their Uptown Markham development. The Times lands adjoining the subject property are draft plan approved and zoned as follows:

- North and east of the north block – high rise residential with permission for commercial in the base of the buildings. Building heights up to 20 storeys.
- East of the south block – a public elementary school site.
- South of the south block – a park block.

To the west across Warden Avenue is the Hilton Suites Hotel (north of Clegg Road) and a future municipal park (between Clegg Road and Cedarland Drive).

Proposed Development (Figures 6-8)

The proposed apartment development comprises two 19-storey towers on 9 and 10 storey podium elements, accommodating 524 apartment units (111 one-bedroom, 281 one-bedroom plus den, 123 two-bedroom, 9 two bedroom plus den).

The first three floors of the building will be differentiated from the floors above through use of architectural concrete panels as the primary facing material. The upper floors will be primarily faced with light yellow brick with vertical pre-cast concrete banding to articulate the building. The rooftop mechanical equipment will be enclosed within precast concrete penthouse structures which will accentuate the tops of the towers. Rooftop patios are proposed on top of the three podium areas.

All parking will be located within a two-level underground parking garage, which will extend beneath the adjoining park blocks. Parking is proposed at a rate of 0.87 space/unit for residents and 0.2 space/unit for visitors.

OPTIONS/ DISCUSSION:

Aryeh's subdivision and zoning appeals have been settled

In 2007, Aryeh applied to amend the Town's Official Plan and zoning by-laws and for approval of a draft plan of subdivision to permit the property to be developed with a 945 unit apartment development as shown on Figure 4. Aryeh appealed these applications to the OMB, primarily citing concerns with the cost sharing provisions of the Markham Centre landowners agreement. Aryeh applied for site plan approval in 2010, and subsequently appealed this application to the OMB. It was ultimately determined that an Official Plan Amendment is not required to permit the proposed development.

On February 6, 2012, the OMB approved a settlement of Aryeh's zoning and subdivision appeals. The minutes of settlement, which were signed by Aryeh and the Town of Markham, provide as follows:

- The property will be developed in general accordance with the concept plan shown on Figure 5, attached. This plan shows the entire north block and the north and east portions of the south block (a total of 0.83 hectares or 2.05 acres) being dedicated to City for parkland. The remaining portion of the south block, (0.66 hectare or 1.63 acres) is to be developed with a 530 unit condominium apartment

development. The underground parking garage is permitted to extend beneath the adjoining park blocks (0.43 hectare or 1.1 acres).

- The Sheridan-Paterson House will be relocated to a 0.07 hectare (0.18 acre) lot adjoining the south boundary of the property for use as amenity space for the condominium. Aryeh is to purchase this lot from the City from lands conveyed to the City by the Times Group for parkland at a price of \$405,000, which was determined by the City's Manager of Real Property based on the value of a single detached residential lot having this frontage and area.
- Aryeh will make a Section 37 contribution to the City in the amount of \$1333 per unit, which is consistent with the Section 37 contribution by the Times Group for their Uptown Markham development.
- The apartment building will either achieve LEED Silver or LEED Silver "equivalency" through certification by a qualified independent third party.
- The apartment building will be connected to Markham District Energy.

The provisions of the minutes of settlement will be secured in the site plan agreement.

The OMB approved a zoning by-law amendment and conditions of draft plan of subdivision approval, but withheld its final Order until the heritage lot conveyance is completed and heritage easement approvals are finalized.

The OMB has scheduled a hearing for October 25 to consider Aryeh's site plan

At the time of the settlement of Aryeh's zoning and subdivision appeals, Aryeh had not prepared detailed plans of their proposed apartment development. It was therefore not possible to settle conditions of site plan approval. Aryeh submitted a detailed site plan package on August 30, 2012.

Aryeh's site plan submission is acceptable, subject to minor refinements

The overall built form and massing of the proposed apartment building is generally consistent with that shown on the concept plan which formed the basis of the settlement of the zoning and subdivision appeals, and is acceptable.

The proposed development is street related and incorporates mid-rise podiums and base elements along the street frontages, ensuring a comfortable human scale, which will be enhanced by a high quality public realm, including generous sidewalks.

The proposed development will be LEED Silver certified (or equivalent) and be connected to District Energy in accordance with the OMB approved minutes of settlement.

The City Architect is working with the applicant's architect to refine the building elevations to accentuate the building base and the vertical elements of the towers, and to minimize the impact of ventilation shafts and exit stairs on the programming of the park blocks with parking beneath.

Staff will ensure that appropriate Fatal Light Awareness Program (FLAP) measures are incorporated into the final project plans.

Prior to approval of final plans the project will be presented to the Markham Centre Advisory for consideration and evaluation against the Performance Measures Document. Any refinements to the project plans coming out of the Advisory's review will be incorporated into the final project plans.

The staff recommendation includes a provision authorizing the Commissioner of Development Services to approve revisions to the site plan and elevation drawings and conditions of site plan approval. Staff's review of the supporting studies and reports is ongoing, and it is necessary that the plans and conditions can be updated prior to the hearing on October 25, 2012 to ensure that the City's interests are reflected in the Board's approval of the site plan application.

Zoning by-law incorporates holding provisions to secure City's requirements

The zoning by-law amendment approved by the OMB includes a holding provision. The by-law requires the following conditions to be fulfilled before the holding provision is lifted:

- execution of a subdivision agreement.
- confirmation of servicing allocation by City Council and/or the developers group
- site plan approval has been granted by the City.
- the Owner has entered in the applicable developers group agreement or has made alternative cost sharing arrangements.
- execution of a Section 37 agreement.
- execution of an amendment to the existing heritage easement agreement for the Sheridan-Paterson House.
- a traffic impact study and a TDM plan have been approved by the City.

Heritage house lot needs to be declared surplus

Title to the lot for the Sheridan-Peterson House has been conveyed by the Times Group to the City pursuant to the Times Uptown Markham Phase 1 subdivision agreement.

In order to convey the lot to Aryeh in accordance with the terms and conditions of the OMB order, the heritage lot must first be declared surplus to City purposes in accordance with By-law 178-96. The staff recommendation incorporates the required Council resolution to do this.

FINANCIAL CONSIDERATIONS AND TEMPLATE: (external link)

Not applicable.

ALIGNMENT WITH STRATEGIC PRIORITIES:

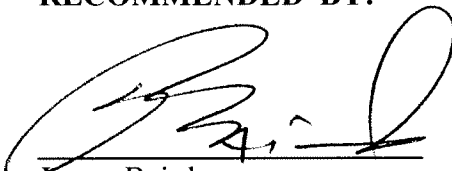
The proposed development supports a number of the City's Strategic Priorities, as follows:

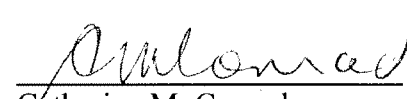
- Growth Management - intensification along a transit corridor
And Transportation/Transit
- Environmental Focus - LEED Silver certification (or equivalent), District Energy, TDM

BUSINESS UNITS CONSULTED AND AFFECTED:

The proposed development has been circulated to internal City departments and public agencies for review and comment.

RECOMMENDED BY:


James Baird
Commissioner, Development


Catherine M. Conrad
City Solicitor

ATTACHMENTS:

- Figure 1 – Location Map
- Figure 2 – Area Context/Zoning
- Figure 3 – Air Photo
- Figure 4 – Original Site Plan
- Figure 5 - Settlement Concept Plan
- Figure 6 - Site Plan
- Figure 7 - Elevations
- Figure 8 - Rendering

Appendix 'A' – Conditions of Site plan Approval

Applicant/Agent:

Peter Swinton
PMG Planning Consultants

227 Bridgeland Avenue
Toronto, ON, M6A 1Y7
Tel (416) 787-4935 Ext. 32
E-mail pswinton@pmgplanning.ca

APPENDIX A
Recommended Conditions of Site Plan Approval
Aryeh Construction Limited
8293 Warden Avenue
(east side, south of Highway 7)
Markham Centre Community

Prior to the execution of the site plan agreement, the Owner shall submit:

1. Final site plans, elevation drawings (including building materials, colours and details), ground floor plans indicating proposed waste management facilities, underground parking garage layout plans, plans of any portions of underground parking garage within park blocks indicating the grade relationship to the finished grade of the park, and the locations of all exit stairs and ventilation shafts, to the satisfaction of the Commissioner of Development Services, acting reasonably. The final plans shall incorporate appropriate Fatal Light Awareness Program (FLAP) components to ensure more bird friendly buildings, to the satisfaction of the City
2. Final plans for the relocation and restoration of the Sheridan-Peterson House.
3. Final landscape plans, including streetscape details, prepared by a Landscape Architect having membership with the Ontario Association of Landscape Architects.
4. A storm water management report and functional servicing report.*
5. Grading, servicing and engineering drawings.*
6. A geotechnical report.*
7. A sediment and erosion control plan.*
8. Plans of any shoring that will encroach into any City or Regional right-of-way or lands.
9. Plans of any hoarding/fencing that will encroach into any City or Regional right-of-way or lands.
10. A traffic impact study.*
11. A TDM (Travel Demand Management) plan.
12. A noise report.*
13. A Construction Management Plan.

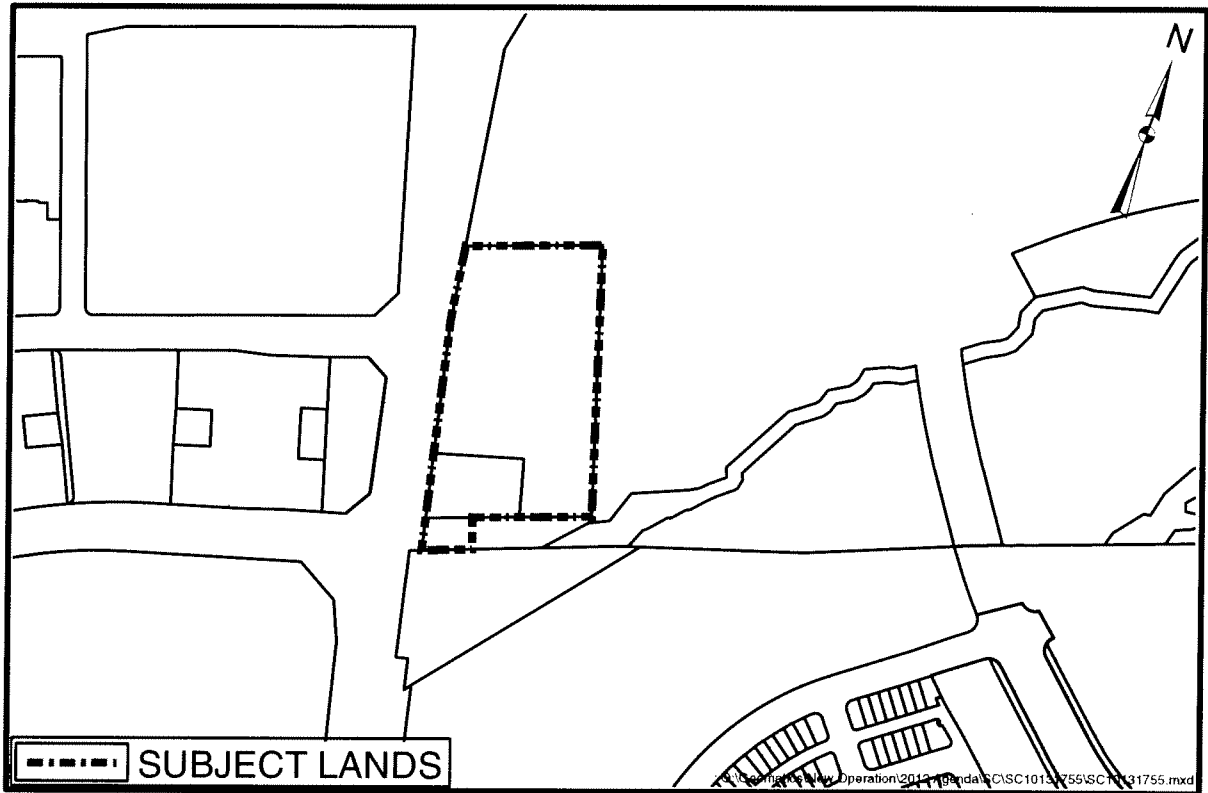
for approval by the City, York Region and the TRCA, as applicable.

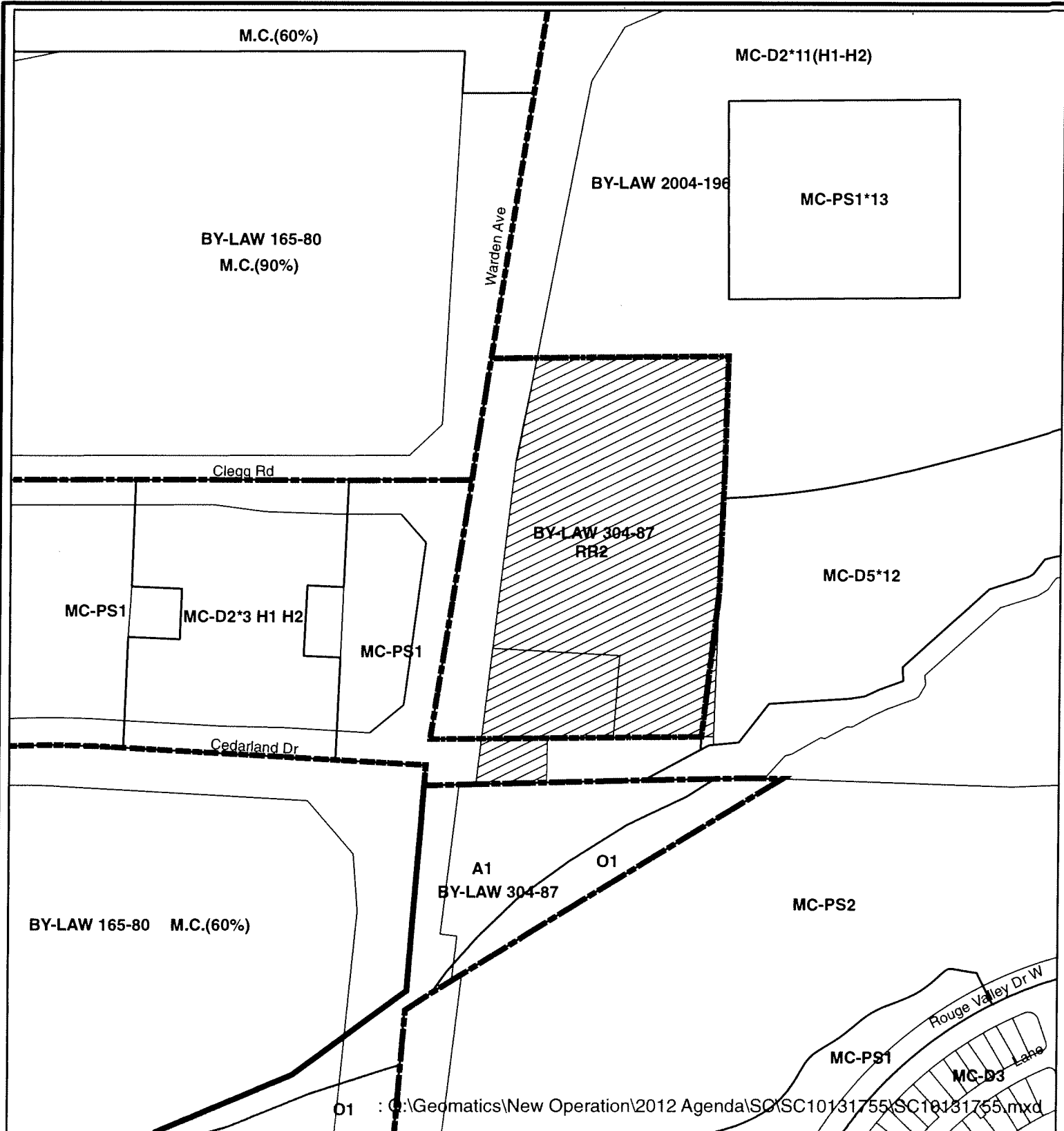
* These items have been submitted to the City of Markham and are under review.

The Owner shall enter into a Site Plan Agreement with the City and the Region of York, containing all standard and special provisions and requirements of the City, the Region and other public agencies including, but not limited to, the following:

1. Provisions for the payment by the Owner of all applicable fees, recoveries, development charges, parkland dedications (including cash-in-lieu) and financial obligations related to applicable Developers Group Agreements.
2. Provisions to secure the applicable provisions of the Minutes of Settlement between the City of Markham and Aryeh Construction Limited.
3. Provisions to secure the relocation and restoration of the Sheridan-Paterson House.
4. Provisions to ensure implementation of the recommendations of the approved reports and plans.
5. Provisions for satisfying all requirements of City departments and public agencies.
6. That the location, size and construction of all refuse storage areas and recycling facilities, and arrangements for waste collection to be to the satisfaction of the City of Markham Waste Management Department.
7. That the site be designed to ensure that there is no permanent underground encroachment into any municipal road right-of-way.
8. That the Owner provide written confirmation to the City that the height of the buildings meets the requirements of Transport Canada, including applicable warning clauses.

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AREA CONTEXT/ZONING

APPLICANT: ARYEH CONSTRUCTION LTD.
8293 WARDEN AVENUE

FILE No.SC10131755(SH)

 SUBJECT LANDS

DATE: 10/03/12



AREA CONTEXT

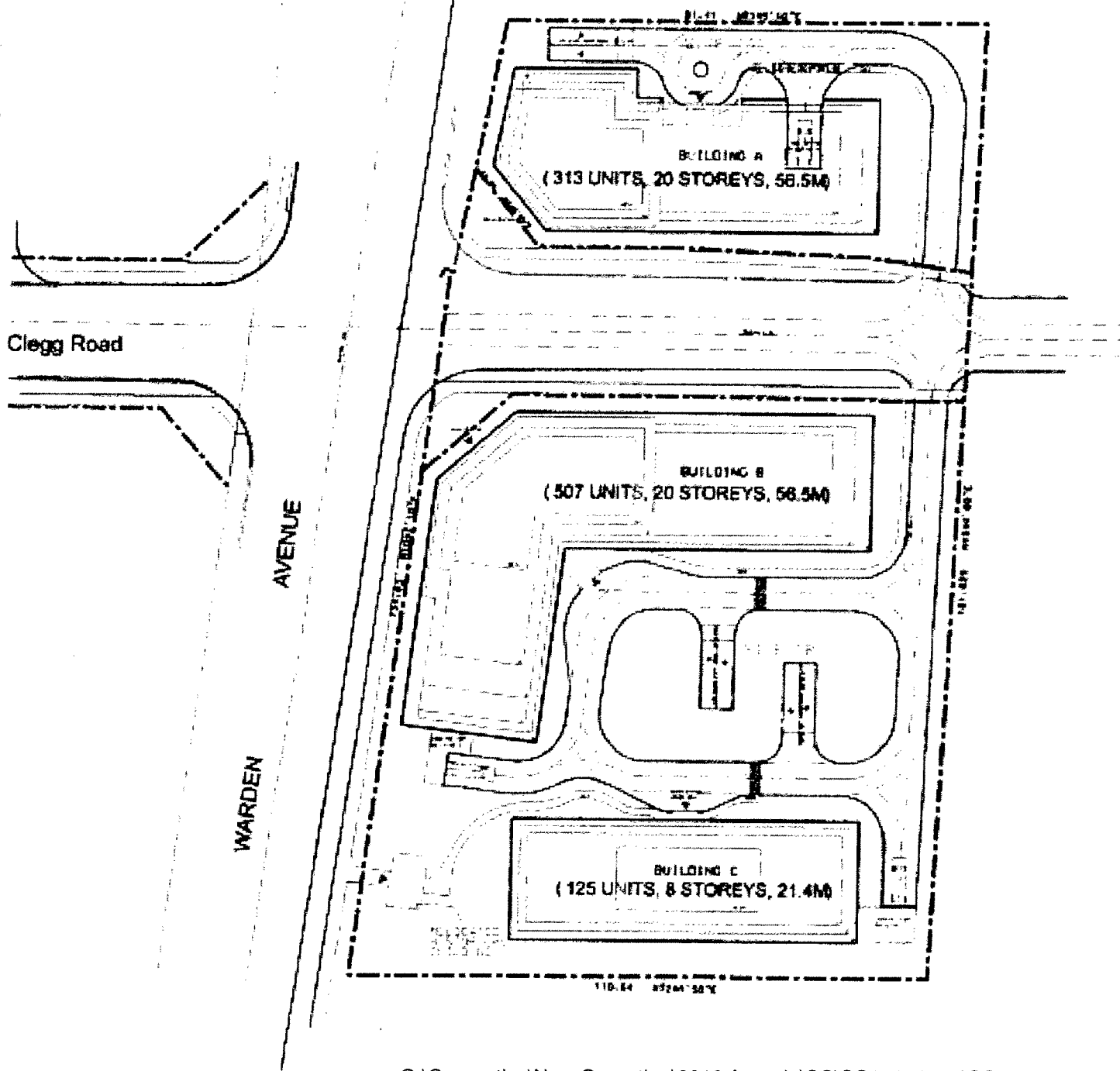
APPLICANT: ARYEH CONSTRUCTION LTD.
8293 WARDEN AVENUE

FILE No.SC10131755(SH)

 SUBJECT LANDS

DATE: 10/03/12





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ORIGINAL SITE PLAN

APPLICANT: ARYEH CONSTRUCTION LTD.
8293 WARDEN AVENUE

FILE No. SC10131755(SH)

--- SUBJECT LANDS

DATE: 10/03/12

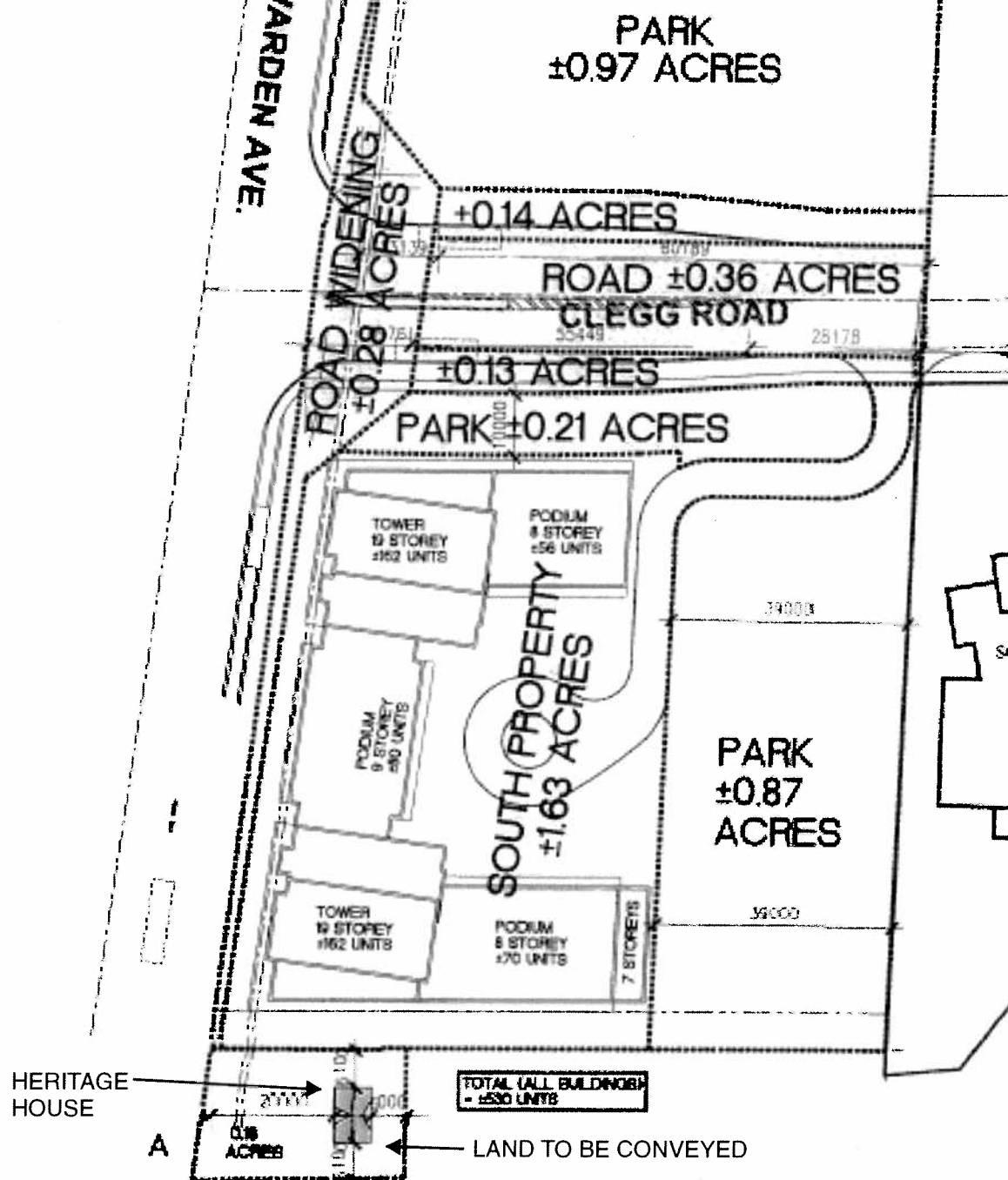


MARKHAM DEVELOPMENT SERVICES COMMISSION

Drawn By: DD

Checked By: SH

FIGURE No. 4



OPTION 14
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SETTLEMENT CONCEPT PLAN

APPLICANT: ARYEH CONSTRUCTION LTD.
8293 WARDEN AVENUE

FILE No. SC10131755(SH)

--- SUBJECT LANDS

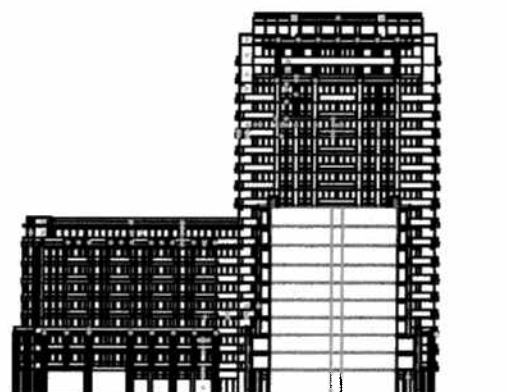
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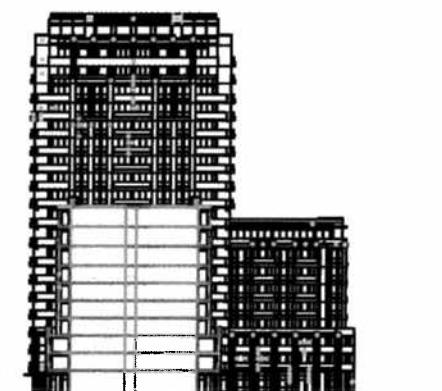
NORTH



SOUTH



NORTH INTERIOR



SOUTH INTERIOR



EAST



WEST

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ELEVATIONS

APPLICANT: ARYEH CONSTRUCTION LTD.
8293 WARDEN AVENUE

FILE No.SC10131755(SH)

DATE: 10/03/12



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RENDERING

APPLICANT: ARYEH CONSTRUCTION LTD.
8293 WARDEN AVENUE

FILE No.SC10131755(SH)

DATE: 10/03/12