




MEMORANDUM

TO: Mayor and Members of Council

FROM: Brian Lee, Commissioner of Development Services (Acting) 

COPY TO: Biju Karumanchery, Director of Planning and Urban Design

PREPARED BY: Rick Cefaratti, Planner II, West District

DATE: December 12, 2017

SUBJECT: **Hold Removal By-law
Kylemore Communities (Yorkton) Limited
9350-9392 Kennedy Road
(West side of Kennedy Road, north of 16th Avenue)
File No. ZA 17 168139**

RECOMMENDATION:

- 1) That the memorandum entitled "Hold Removal By-law Kylemore Communities (Yorkton) Limited 9350-9392 Kennedy Road (West side of Kennedy Road, north of 16th Avenue), File No. ZA 17 168139", dated December 12, 2017 be received; and,
- 2) That the application to remove a Hold provision, which applies to a portion of the development proposal by Kylemore at 9350-9392 Kennedy Road ('Subject Lands'), be approved. (See Figure 1 - Area Context/Zoning and Figure 2 – Site Plan – Area Subject to the Holding Provision); and,
- 3) That staff be authorized and directed to do all things necessary to give effect to this resolution.

BACKGROUND:

Official Plan, Draft Plan of Subdivision, and Zoning By-law Amendment applications by Kylemore for a 132 unit townhouse development at 9350-9392 Kennedy Road, which includes the 'Subject Lands', were approved by Markham Council in June 2015.

The Kylemore proposal for 9350-9392 Kennedy Road includes two public roads: the extension of Yorkton Boulevard at the west boundary of the proposed development; and a new east/west public road (Street 'A') that would connect Kennedy Road to the extension of Yorkton Boulevard, opposite Beckett Avenue on the east side of Kennedy

Road. Approximately 89 townhouse units will be located north of Street 'A', and 43 units will be located south of Street 'A'. All of the proposed townhouse units will be accessed from private common element condominium lanes. The proposal also includes a 0.4 ha (1.0 ac) public park fronting on to Street 'A' (See Figure 3 – Draft Plan of Subdivision).

The Official Plan and Zoning By-law Amendments and Draft Plan of Subdivision were approved in June 2015. The site plan application for the development was endorsed in October 2017. Work to finalize the subdivision and site plan agreements, in anticipation of subdivision registration, is ongoing.

At the June 2015 Council meeting, in response to a deputation by the owner of 9346 Kennedy Road (the property to the south) expressing concerns that York Region may restrict or not permit vehicular access to Kennedy Road in the event that this property was redeveloped, Council directed staff to:

“...include an (H) provision on the lands at the southwest corner of Street 'A' and Kennedy Road, to be removed when the applicant has entered into a subdivision agreement and site plan agreement to address matters pertaining to tree preservation, building siting and potential future access integration with the property to the south, to the satisfaction of the Director of Planning and Urban Design, or his designate;”

This access integration would allow traffic from the lands south of the 'Subject Lands' to access the signalized intersection at Kennedy Road and Beckett Avenue via the 'Subject Lands' and the new east/west public road Street 'A'.

The 'H' provision applies to a 0.48 ha (1.18 ac) portion of the 'Subject Lands' located at the southwest corner of proposed public road Street 'A' and Kennedy Road. (See Figure 2.) There are approximately 10 townhouse units proposed on this portion of the 'Subject Lands'. For staff to recommend removal of the 'H', the conditions noted above, including securing some form of access easement arrangement between Kylemore and the landowner to the south, will need to be addressed to the City's satisfaction. (A copy of the Zoning By-law Amendment including the Hold Provision is attached as Appendix 'A'.)

Since the June 2015 decision by Council to add an 'H' to the zoning, four properties to the south, including the property at 9346 Kennedy Road, have been assembled and consolidated under new ownership. The consolidated lands include 9332-9346 Kennedy Road (See Figure 4). Staff have been in preliminary discussions with the current owners of these properties regarding their development potential. These lands are designated Mixed Use Mid Rise by the 2014 Official Plan, as partially approved by the OMB on October 30, 2015, May 26, 2016, March 10, 2017 and April 21, 2017 (2014 Official Plan). This designation provides for a range of uses including: apartment building, multi-storey non-residential or mix-use buildings, stacked townhouses, and townhouses

including back to back townhouses, subject to the submission and approval of development applications.

York Region staff have confirmed that future improvements to Kennedy Road will include a new centre median. This median will prevent northbound left turns from Kennedy to 9332-9346 Kennedy Road, and limit access onto southbound Kennedy Road to right-in/right-out movements only. These anticipated access restrictions may limit the ability of 9332-9346 Kennedy Road to develop as envisioned in the 2014 Official Plan. Providing a second access from 9332-9346 Kennedy Road through a portion of the 'subject lands', over one or more common element condominium lanes, to the new Street 'A' (a public road allowance), which will intersect with Kennedy Road at a full movement signalized intersection, would mitigate these access restrictions.

Kylemore is requesting that the City remove the holding provision at this time, in order to meet its building program timing. Kylemore also wishes to qualify for current Development Charge rates, which requires that the Hold removal be approved as recommended by this Memorandum, building permit applications be filed prior to the end of 2017, and full building permits be issued on or before March 30, 2018. Staff is investigating whether building permit applications can be accepted prior to registration of the plan of subdivision.

COMMENT:

Staff has held recent discussions with Kylemore in order to assist the advancement of their building program. Through these discussions, a satisfactory arrangement has been reached. The Applicant has submitted a written undertaking (Appendix 'B') in which they have agreed to include clauses in their subdivision agreement regarding transferring a private easement to the owner of 9332-9346 Kennedy Road. This private easement will allow vehicular access between 9332-9346 Kennedy Road and the new Street 'A' (a public road allowance), which will intersect with Kennedy Road at a full movement signalized intersection. (The subdivision wording is included in the attached Undertaking.) Staff are committed to continue working with Kylemore to execute the subdivision and site plan agreements in a timely manner.

CONCLUSION:

To assist Kylemore with the timing of their building program, staff support removing the holding provision at this time, as described in this Memorandum.

ATTACHMENTS:

Figure 1: Area Context/Zoning

Figure 2: Site Plan – Area Subject to the Holding Provision

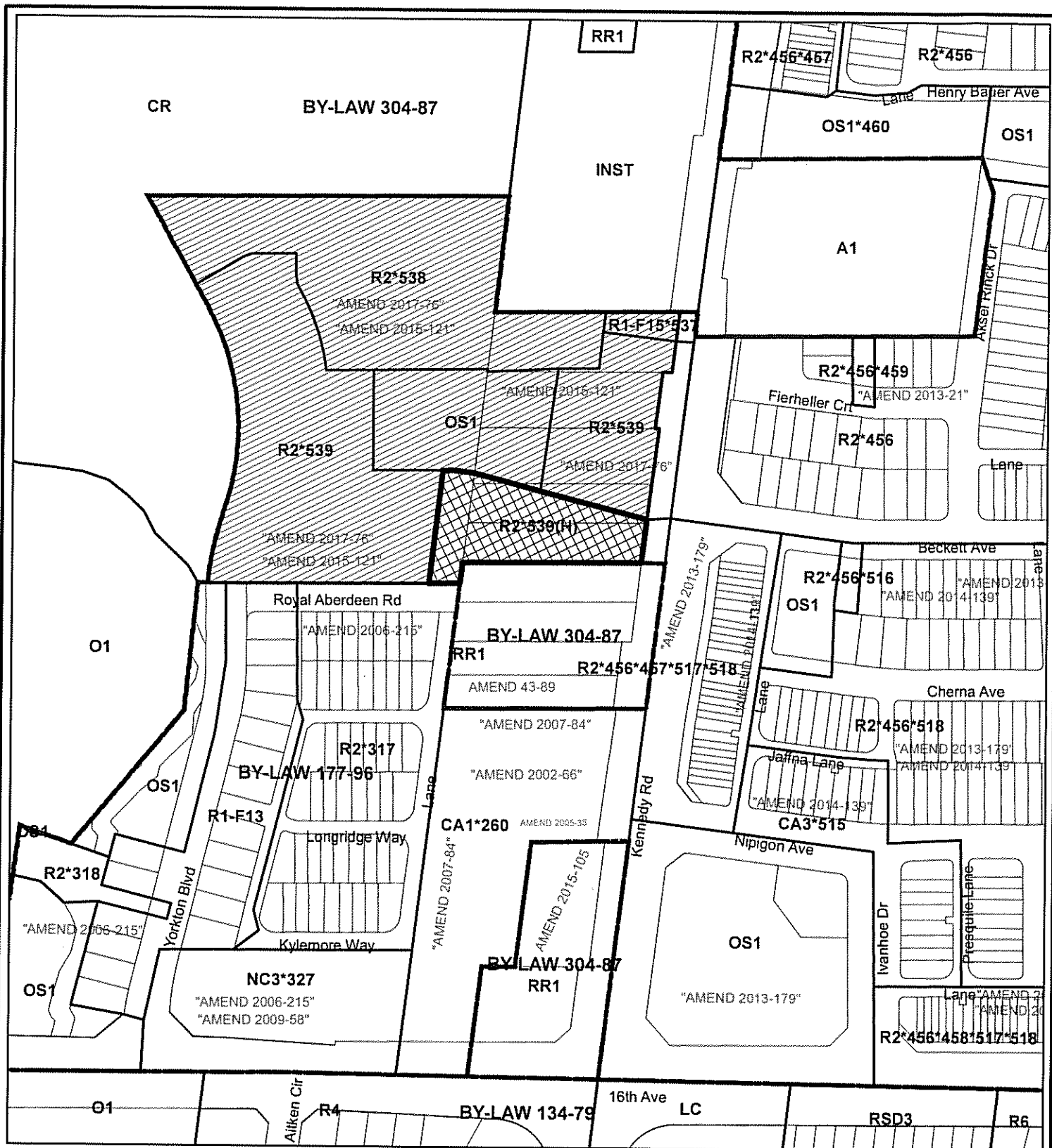
Figure 3: Draft Plan of Subdivision

Figure 4: Aerial Photo - 9332 to 9346 Kennedy Road

Appendix 'A': Holding provision – By-law 2015-121

Appendix 'B': Letter of Undertaking from Kylemore Communities (Yorkton) Limited

Appendix 'C': Removal of Holding provision By-law



AREA CONTEXT / ZONING

APPLICANT: KYLEMORE COMMUNITIES (YORKTON) INC.
 9350 - 9392 KENNEDY ROAD

FILE No. ZA. 17168139 (RC)

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DEVELOPMENT SERVICES COMMISSION

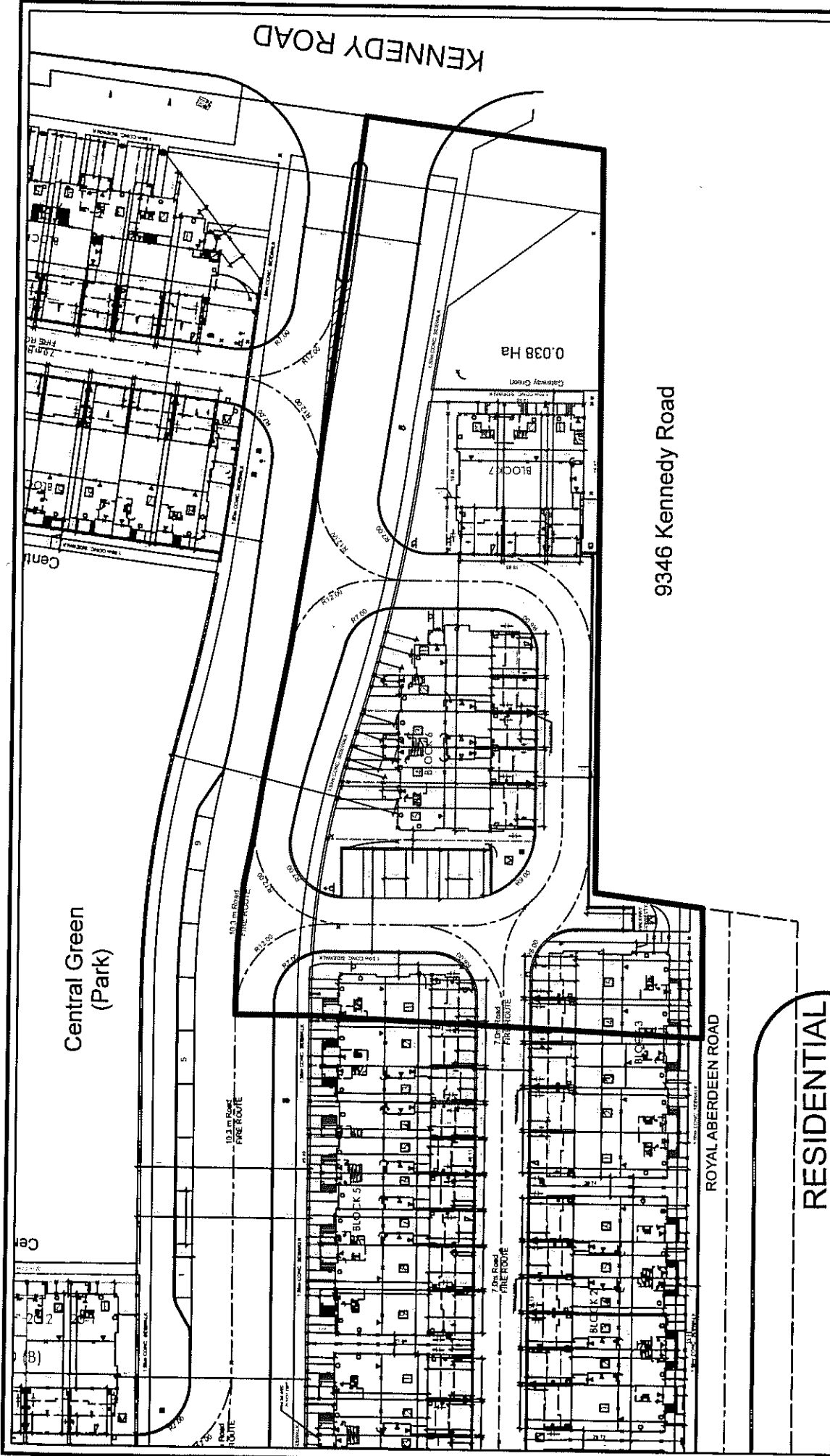
Drawn By: CPW

Checked By: RC

DATE: 28/11/2017

FIGURE No. 1

[Diagonal Hatching] SUBJECT LANDS
 [Cross-Hatching] LANDS SUBJECT TO HOLDING PROVISION



SITE PLAN - AREA SUBJECT TO (H) HOLDING PROVISION

APPLICANT: KYLEMORE COMMUNITIES (YORKTON) INC.
9350 - 9392 KENNEDY ROAD

FILE No. ZA. 17168139 (RC)

 HOLDING PROVISION BOUNDARY

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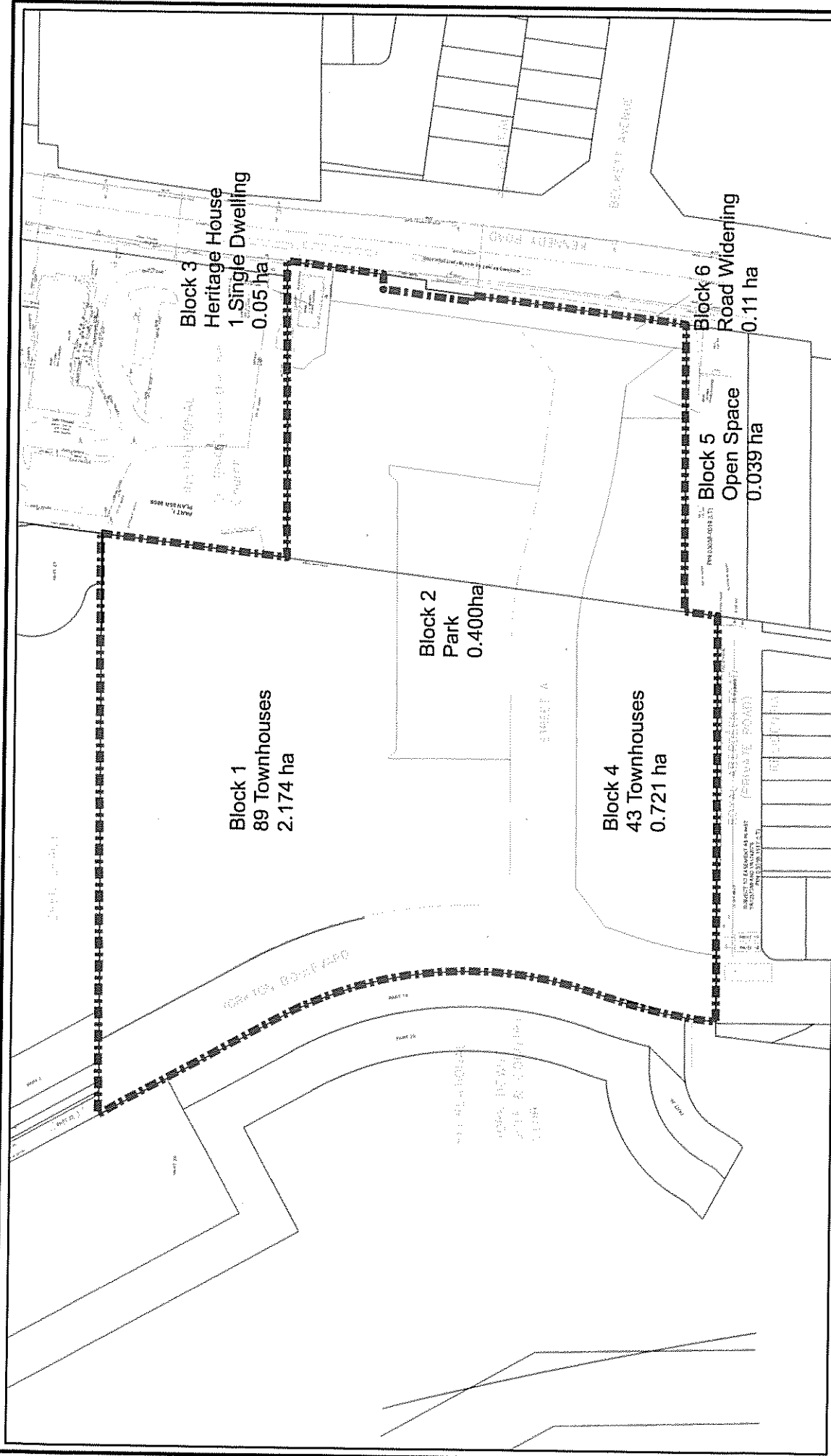
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Checked By: RC

DATE: 28/11/2017

FIGURE No. 2




DRAFT PLAN OF SUBDIVISION

APPLICANT: KYLEMORE COMMUNITIES (YORKTON) LTD.
9350, 9356, 9366 & 9392 KENNEDY ROAD

FILE No: ZA. 17168139 (RC)

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MARKHAM DEVELOPMENT SERVICES COMMISSION

 SUBJECT LANDS

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DATE: 28/11/2017


FIGURE No. 3



AERIAL PHOTO (2016) OF ADJACENT LANDS

APPLICANT: KYLEMORE COMMUNITIES (YORKTON) INC.
9350 - 9392 KENNEDY ROAD

FILE No. ZA. 17168139 (RC)

 9332 TO 9346 KENNEDY ROAD

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DATE: 04/12/2017



DEVELOPMENT SERVICES COMMISSION

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FIGURE No. 4

Prior to removing the Holding Provision (H), the following conditions must be met to the satisfaction of the City of Markham:

- a) Execution of a subdivision agreement and site plan agreement to address matters pertaining to tree preservation, building siting and potential future access integration with the property to the south (9346 Kennedy Road), to the satisfaction of the Director of Planning and Urban Design, or his designate.

LETTER OF UNDERTAKING

To: Corporation of the City of Markham
101 Town Centre Boulevard
Markham, Ontario, L3R 9W3
December 12, 2017

Re: 9350 to 9392 Kennedy Road
(West side of Kennedy Road, north of 16th Avenue)
Owner – Kylemore Communities (Yorkton) Limited

WHEREAS Kylemore Communities (Yorkton) Limited is the "Owner" and applicant with respect to development approvals for the property described as 9350 to 9392 Kennedy Road, City of Markham, hereinafter referred to as the 'subject lands';

AND WHEREAS the Owner has formally applied to the City for removal of the holding symbol attached to the zoning category of the 'subject lands';

AND WHEREAS the condition for removal of the holding symbol requires the Owner to execute subdivision and site plan agreements to address matters including tree preservation, building siting and potential future access integration with the property to the south;

AND WHEREAS the Owner has not yet executed the subdivision and site plan agreements;

AND WHEREAS the Owner hereby covenants and agrees to include clauses in their subdivision agreement regarding transferring a private easement to the owner of 9332 to 9346 Kennedy Road. This private easement will allow vehicular access between 9332 to 9346 Kennedy Road and the new Street 'A' (a public road allowance), which will intersect with Kennedy Road at a full movement signalized intersection;

AND WHEREAS the Owner covenants and agrees to execute subdivision and site plan agreements, to the satisfaction of the Director of Planning and Urban Design, or designate, in a timely manner.

THEREFORE THE OWNER UNDERTAKES AND AGREES to include the following wording in the subdivision agreement for 19TM-14009, as follows:

The Owner covenants and agrees to transfer a private easement to the owner(s) of 9332 to 9346 Kennedy Rd. ("Adjoining Lands") over part of Block 133 as shown in Schedule "A" ("Part Block 133") on draft plan of subdivision plotted by J.D Barnes on November 21, 2017 to provide the Adjoining Lands with vehicular access integration over, along and upon Part Block 133 to a signalized intersection on Kennedy Road upon the execution of a cost sharing agreement with the owner of the Adjoining Lands and payment of the compensation required therein. Pursuant to the cost sharing agreement, the Adjoining Owner shall agree to pay its proportionate share of: the market value of the easement; its proportionate share of the cost to construct all infrastructure reasonably related to and to be used as part of the exercise of the easement; out of pocket costs and any contractual or other losses reasonably related to and

The Owner acknowledges and agrees that despite Part 10, the City will not Assume the Subdivision until the earlier of: (a) receipt by the City of a registered copy of the easement; (b) notice being provided by the Region to the City that a full moves access to Kennedy is permitted and the City providing notice to the Owner that the shared access is not required; or (c) the Owner demonstrating to the satisfaction of the Commissioner of Development Services that they have made reasonable efforts to contact the Adjoining Owner and have not received a response or reasonable cooperation to resolve the outstanding cost sharing issue in accordance with this Clause ____.

Kylemore Communities (Yorkton) Limited

F. SPZUOI VP: ASO

