

Memorandum to the City of Markham Committee of Adjustment

August 22, 2022

File: B/020/21 & B/021/21
Address: 19 Riverview Avenue & 21 Riverview Avenue – Markham, ON
Applicant: Moe Nikaïen and Anastasia Vittas, 21 Riverview Avenue
Agent: MHBC Planning Limited (Maire Stea)
Hearing Date: August 24, 2022

The following comments are provided on behalf of the East District team. MHBC Planning Limited, the agent acting on behalf of the applicant submitted two development applications requesting provisional consent to:

19 Riverview Avenue – B/020/21

- a) sever and convey a parcel of land with an approximate lot frontage of 2.21 m (7.25 ft), and an approximate lot area of 88.89 m² (956.80 ft²) (Part 3);
- b) retain a parcel of land with an approximate lot frontage of 32.08 m (105.25 ft), and an approximate lot area of 1,294.17 m² (13,930.33 ft²) (Part 4);

21 Riverview Avenue – B/021/21

- c) sever and convey a parcel of land with an approximate lot frontage of 16.09 m (52.79 ft), and an approximate lot area of 646.87 m² (6,962.85 ft²) (Part 2); and
- d) retain a parcel of land with an approximate lot frontage of 18.30 m (60.04 ft), and an approximate lot area of 734.02 m² (7,900.93 ft²) (Part 1).

The purpose of these applications is to sever and convey a portion of each property municipally known as 19 Riverview Avenue and 21 Riverview Avenue, respectively, with the intent to merge the severed portions to facilitate the creation of one new residential lot.

PROPERTY DESCRIPTION

The subject properties municipally known as 19 Riverview Avenue and 21 Riverview Avenue are located on the south side of the street, north of Milne Dam Conservation Park, south of Highway 7 East, and west of Main Street Markham South; collectively referred to herein as the “Subject Lands”. Each property is currently developed with a one-storey detached dwelling. Mature trees and vegetation exist throughout.

The Subject Lands are located within an established neighbourhood, and abut a woodland feature and natural heritage system to the south. The surrounding area is currently comprised of residential lots with a mix of areas, frontages and depths. Mature vegetation and varying lot sizes are characteristics of the surrounding area.

PROPOSAL

The applicant proposes to sever and convey Part 3 from the property municipally known as 19 Riverview Avenue (Parts 3 and 4), and Part 2 from the property municipally known as 21 Riverview Avenue (Parts 1 and 2). The applicant further intends to merge Parts 2 and 3 to facilitate the creation of one new developable residential lot, which would be able to accommodate one new single detached dwelling in accordance with the applicable “Residential One – (R1)” zone standards.

The proposed consent applications to sever and convey these parts would reduce each property's current lot frontage and lot area (19 Riverview Avenue and 21 Riverview Avenue), and create one new lot (see Draft Reference Plan attached as Appendix "B"). All three lots would comply with the applicable zoning. Provided below is a table summary of the proposed lot frontages and areas for the severed and retained lots (*Table 1*).

Table 1 – Proposed Severance Applications at 19 Riverview Avenue & 21 Riverview Avenue

Municipal Address	Current Lot Frontage	Current Lot Area	Proposed Lot Frontage	Proposed Lot Area
19 Riverview Avenue	34.39 m (112.83 ft)	1,380.69 m ² (14,861.62 ft ²)	18.30 m (60.04 ft)	734.02 m ² (7,900.93 ft ²)
Parts 2 and 3 proposed to be Severed and Merged	N/A	N/A	18.30 m (60.04 ft)	735.76 m ² (7,919.66 ft ²)
21 Riverview Avenue	34.29 m (112.50 ft)	1,383.06 m ² (14,887.14 ft ²)	32.08 m (105.25 ft)	1,294.17 m ² (8,743.74 ft ²)

OFFICIAL PLAN AND ZONING

Official Plan 2014 (partially approved on November 24/17, and updated on April 19/18)

The Subject Lands are designated "Residential Low Rise", which provides for low rise housing forms including single detached dwellings. Where severances are proposed, Section 10.3.2 of the Official Plan outlines a set of criteria for provisional consent to be granted. Staff are of the opinion that the proposed development conforms to the Official Plan in accordance with Section 51(24) of the *R.S.O. 1990, c.P.13, as amended* (the "*Planning Act*"), and:

- would result in the creation of three or fewer lots, and a plan of subdivision is not necessary;
- is within a community which has adequate servicing, and no extension of municipal services, or public streets is required;
- fronts onto Riverview Avenue, which is a public street;
- will not restrict the development of adjacent lands;
- is permitted by the lot size and frontage requirements of the Zoning By-law;
- is located on lands which have been identified by the Regional Municipality of York as having archaeological potential; and
- conforms with the relevant policies of the Official Plan.

For new development, the Official Plan requires the establishment of a Vegetation Protection Zone (VPZ) which is typically setback 10.0 m (32.81 ft) from a woodland feature. The Official Plan also describes the general purpose of a Zoning By-law under Section 10.2, which regulates the permitted lot sizes and dimensions.

Zoning By-law 1229, as amended (the "Zoning By-law")

The Subject Lands are zoned "Residential One (R1)" under the Zoning By-law in effect, which permits one single detached dwelling per lot and requires a minimum lot frontage of 60.0 ft (18.29 m) and minimum lot area of 6,600.0 ft² (613.16 m²). If approved, the severed parts would be registered and merged on title. As submitted, the severed and retained lots would comply with the minimum lot area and lot frontage requirements under the Zoning By-law.

COMMENTS

Planning

The proposed lot frontages and lot areas noted in *Table 1* above would be similar to and compatible with other lots within the surrounding area, and respectively comply with the requirements of the “Residential One (R1)” zone as required in the enacted Zoning By-law. With the exception of a few similarly zoned lots within the surrounding area, the majority of lot frontages and areas generally range between:

- 60.0 ft (18.28 m) and 128.50 ft (39.17 m), according to MPAC assessment records on nearby streets; and
- 6,600.0 ft² (613.16 m²) and 21,900.0 ft² (2,034.58 m²), respectively.

Along the north side of the street, 16 Riverview Avenue was granted provisional consent to sever lands in May 2022 after the application had lapsed for a second time under the *Planning Act*, with approximate lot frontages of 79.50 ft (24.23 m) and 79.99 ft (24.38 m), and approximate lot areas of 7,886.75 ft² (732.61 m²) and 7,936.02 ft² (737.28 m²).

While staff acknowledge that the lot areas and lot frontages of five lots along this portion of Riverview Avenue on the south side are approximately 15,000.0 ft² (1,393.55 m²) and 113.0 ft (34.44 m), staff also acknowledge that there are varying and similar lot frontages and areas which surround these lots and therefore, the proposed lots are compatible with the character of the neighbourhood. The proposed severance will not impact the streetscape which is also comprised of different lot configurations and lot areas. The north side of the street has some smaller flanking lots, including 22 Grandview Boulevard and 16 Riverview Avenue which received approval to permit severances. The west end of Riverview Avenue (two lots to the west) on both the north and south sides of the street are also comprised of smaller flanking lots on Riverview Avenue. The proposed lots will comply with the Zoning By-law requirements and the applicant has not requested any minor variances.

It is staff's opinion that the proposed consent application conforms to the aforementioned Official Plan criteria in Section 10.3.2 including Section 51(24) of the *Planning Act*. Staff have no objections to the approval of both severance applications, provided that the Committee adopts the conditions recommended in Appendix “A”, which would require the applicant to register and merge the severed parts on title to form the new lot, amongst also addressing other matters.

Engineering

Engineering staff advise that the applicant would be required to submit a site servicing and grading plan for review and acceptance by the City at the Building Permit stage, and must make satisfactory arrangements with the City's Engineering staff for the installation of proposed sanitary, storm and water main service connections to service the newly created lot and disconnect any unused service connections. Engineering staff have no objections, provided the Committee adopts the recommended conditions in Appendix “A”, which would require the submission of a Functional Servicing Plan to confirm and address servicing matters.

Natural Heritage

As previously noted, a woodland feature and natural heritage system is located to the south of the Subject Lands. For new development, the Official Plan requires the establishment of a VPZ, which is typically 10.0 m (32.81 ft) from a woodland feature. In considering the applicable zoning permissions and lot configuration, Natural Heritage staff are able to support the establishment and restoration of a reduced VPZ setback a minimum of 5.0 m (7.38 ft) from the edge of the woodland consistent with Section 3.1.2.26 of the Official Plan. Accordingly, staff recommend that

the applicant implement the restoration of the VPZ through submission of a Landscape Plan, as a component of the Development Agreement.

Parkland Dedication

Urban Design staff does not have any objections to the approval of the severance application, provided that the applicant enters into a Development Agreement with the City as a condition of approval, to ensure the applicant provides a land appraisal report, and payment of Cash-in-Lieu of Parkland Dedication.

Tree Preservation and Compensation

Staff advise that property owners are required to apply for, and obtain a [Tree Permit](#) from the City for any proposed injury to, or removal of any trees on site, including City of Markham street trees in accordance with the City's Tree Preservation By-Law 2008-96 and conditions of a Tree Permit. The applicant is also advised that the construction of a new dwelling would be subject to a future [Residential Infill and Grading Application Process](#), which would require review and approval of a Tree Assessment and Preservation Plan, erection of required tree protection fencing, and appropriate tree removal compensation via replacement trees and/or Cash-in-Lieu payment.

PUBLIC INPUT SUMMARY

As of August 22, 2022, staff received written submissions from 25 municipal addresses in support of the proposed development expressing that it:

- would meet the changing housing needs;
- would not negatively impact their property;
- would not negatively impact the character and appeal of the surrounding neighbourhood;
- represents modest and appropriate infill development; and
- represents a reasonable balance between intensification and protecting the character.

As of the same date noted, staff also received two petition letters and written submissions from 52 municipal addresses in opposition to the proposed development expressing that it:

- is not in keeping with the unique character of the neighbourhood;
- is not in uniformity with properties within the surrounding area;
- is incompatible with other lots along the street;
- is inconsistent with adjacent 34.40 m (112.86 ft) lots;
- is in contravention of Official Plan policies 8.2.3.5 a), 9.14.2, and 10.3.2.4;
- is contrary to the new proposed comprehensive zoning by-law, which is not yet in force where minimum lot frontages are proposed at 22.86 m (75.0 ft);
- would not coincide with existing zoning regulations;
- would result in the removal of trees;
- would contravene the lot pattern and streetscape, and fragment the neighbourhood;
- would set a negative precedent;
- would add to traffic issues;
- would affect nearby home values;
- would lead to overcrowding and the degradation of a neighbourhood;
- would not reflect the new pattern of development of 20.73 m (68.0 ft) lots created through severances in the area; and

- would fragment the neighbourhood.

Additional information may be received after the writing of this report, and the Secretary-Treasurer will provide information on this at the meeting.

CONCLUSION

In determining its appropriateness, staff have had regard for Section 53 of the *Planning Act* and Section 10.3.2 of the City's Official Plan. For the reasons detailed in the memorandum, staff find that the proposed development is compatible with and similar to other residential lots in the surrounding area, is consistent with Provincial and City policies, and complies with the requirements of the Zoning By-law. Planning staff recommend that the Committee consider public input and the subsequent conditions of approval in reaching a decision.

APPENDICES

Appendix A: Conditions of Approval

Appendix B: Draft Reference Plan, April 25, 2022

Appendix C: Consent Sketch, May 3, 2022

PREPARED BY:



Aleks Todorovski, MCIP, RPP
Planner, Zoning and Special Projects

REVIEWED BY:



Stacia Muradali, MCIP, RPP
Development Manager, East District

APPENDIX “A”

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF B/020/21 & B/021/21

1. Payment of all outstanding realty taxes and local improvements charges owing to date against both the subject and retained parcels, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled.
2. Submission to the Secretary-Treasurer of the required transfers to effect the severances applied for under Files B/020/20 and B/021/21, conveying the subject lands, and issuance by the Secretary Treasurer of the certificate required under subsection 53(42) of the *Planning Act*.
3. Submission to the Secretary-Treasurer of a deposited reference plan showing the subject lands, which conforms substantially to the application as submitted.
4. Payment of the required Conveyance Fee for the creation of residential lots per City of Markham Fee By-law 211-83, as amended.
5. Provide confirmation that any and all existing services for the retained lot do not traverse the severed lot.
6. Provide a Functional Servicing Plan to show how individual water and sewer services will be provided for the retained and severed lots.
7. Prior to the issuance of a Certificate of Official, the Owner shall enter into and execute a Development Agreement with the City to the satisfaction of the City Solicitor, Director of Planning and Urban Design, Director of Operations, and the Director of Engineering, or their designates, which Development Agreement shall be registered on title to the lands in priority to all mortgages, charges, liens and other encumbrances, and the Owner shall procure and cause to be executed and registered at its own cost and expense such discharges, postponements, and subordination agreements as may be required by the City in order to provide for the priority of registration for the Development Agreement on title to the Lands. The Development Agreement shall specifically provide for matters including, but not limited to:
 - i) Payment of all applicable fees in accordance with the City's fee By-law;
 - ii) Submission of securities respecting any works to be provided in accordance with the Development Agreement;
 - iii) Payment of Cash-in-Lieu of Parkland Dedication in accordance with By-law 195-90, as amended, upon execution of the development agreement.
 - iv) Submission of an Appraisal report prepared by a member of the Appraisal Institute of Canada in accordance with the City's Terms of Reference respecting the proposed new lot, to be reviewed and approved by the City;
 - v) Submission and implementation of a Landscape Plan that appropriately addresses the restoration of the VPZ which is to be setback a minimum of 5.0 m from the woodland feature, and provide for the related;

- vi) Immediate notification to the Ministry of Tourism, Culture and Sport should archaeological remains be found on the property during construction activities;
 - vii) Immediate notification to the Ministry of Tourism, Culture and Sport and the Registrar of the Cemeteries Regulation Unit of the Ministry of Consumer and Commercial Relations if human remains are encountered during construction activities; and
 - viii) Implementation of any measures recommended by the Heritage Resource Assessment, to the satisfaction of the City and the Ministry of Tourism, Culture and Sport should previously unknown or unassessed archaeological resources be uncovered during development, as they may be a new archaeological site and therefore subject to Section 48(1) of the *Ontario Heritage Act*. The proponent or person discovering the archaeological resources must cease alteration of the site immediately and engage a licensed consultant archaeologist to undertake archaeological fieldwork, in compliance with Section 48(1). Any person discovering human remains must immediately notify the police or coroner and the Registrar of Cemeteries, Ministry of Government Services.
8. Subsection 50(3) or 50(5) of the *Planning Act* shall apply to any subsequent conveyance of or transaction involving the parcel of land that is the subject of this consent.
9. Submission of a Solicitor's Certificate certifying that upon registration of the required transfers to effect the severances applied for under File B/020/21 and B/021/21, title to Part 2 on the Draft Reference Plan submitted with File B/021/21 will merge with title to Part 3 on the Draft Reference Plan submitted with File B/020/21, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of the Director of Planning and Urban Design, or their designate.
10. That the Owner provides confirmation from an Ontario Land Surveyor that the severed and retained parcels, in their final configuration, meets all requirements of the applicable Zoning By-law, including any development standards for buildings and structures on the severed and retained parcels, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of the Zoning Supervisor, or their designate.
11. Fulfillment of all of the above conditions within two years of the date that notice of the decision was given under Section 53(17) or 53(24) of the *Planning Act*.

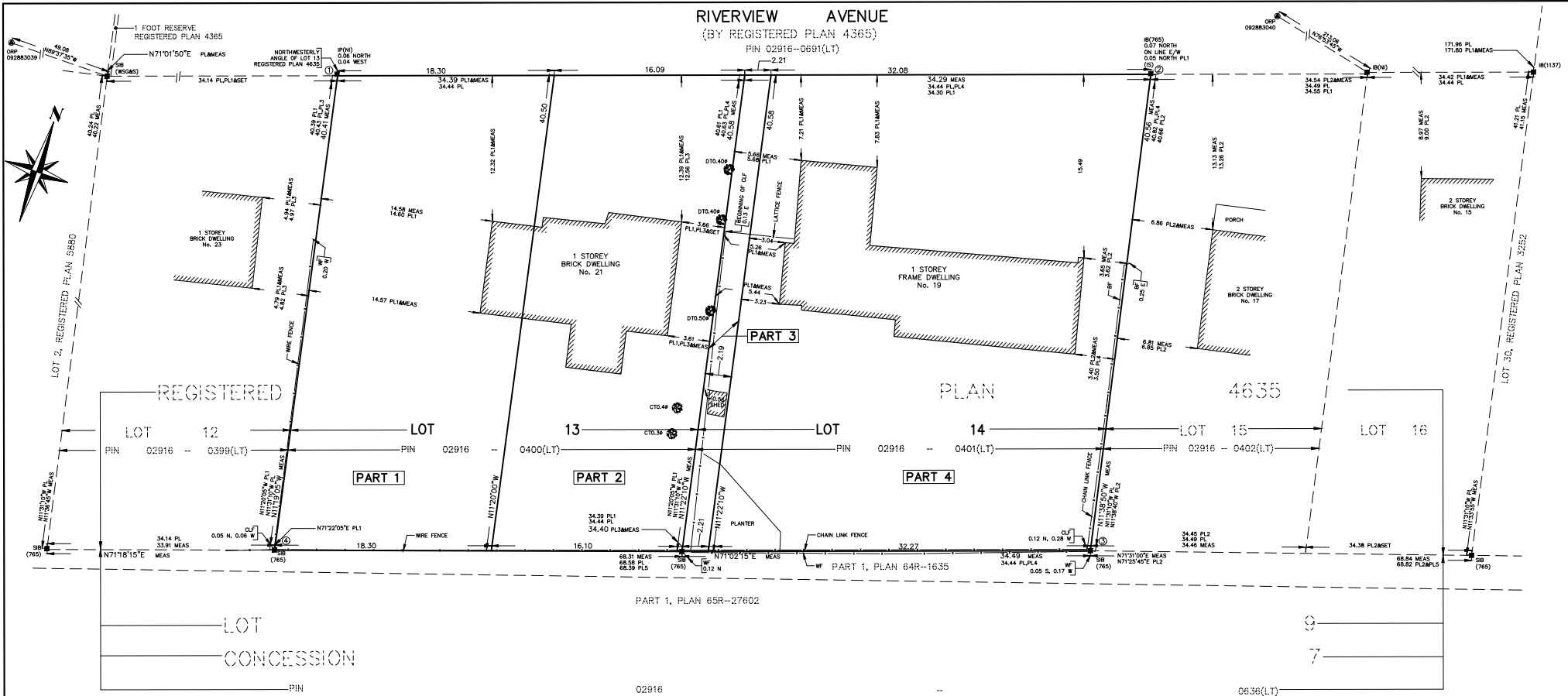
CONDITIONS PREPARED BY:



Aleks Todorovski, MCIP, RPP
Planner, Zoning and Special Projects

APPENDIX “B”

DRAFT REFERENCE PLAN: APRIL 25, 2022



SURVEYOR'S CERTIFICATE

I CERTIFY THAT:

1. THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYS ACT, THE SURVEYORS ACT AND THE LAND TITLES ACT AND THE REGULATIONS MADE UNDER THEM.

2. THE SURVEY WAS COMPLETED ON THE ____ DAY OF ____, 2022.

APRIL 25, 2022

DRAFT

R. SHANMUGARAJAH
ONTARIO LAND SURVEYOR

NOTES

DISTANCES SHOWN HEREON ARE GROUND DISTANCES AND CAN BE CONVERTED TO GRID DISTANCES BY MULTIPLYING BY A COMBINED SCALE FACTOR OF 0.99981733.

BEARINGS SHOWN HEREON ARE GRID BEARINGS AND ARE DERIVED FROM ORP's 092883039 AND 092883040 AS SHOWN ON THIS PLAN AND ARE BASED ON ON U.T.M. ZONE 17, CENTRAL MERIDIAN 81° WEST LONGITUDE, NAD-1983/CSRS:CBNV6-2010.0.

BEARINGS ON THE FOLLOWING PLAN HAVE BEEN ROTATED COUNTERCLOCKWISE BY 02° 44' 10" TO ACCOUNT FOR DIFFERENT REFERENCE SURVEYS - PL AND PL2

OBSERVED REFERENCE POINTS (ORP's): U.T.M. ZONE 17, NAD83 (CSRS)		
COORDINATES TO URBAN ACCURACY PER SEC. 14 (2) OF O.REG. 216/10		
POINT ID	NORTHING	EASTING
ORP 092883039	4858652.040	639151.575
ORP 092883040	4858744.670	639123.085
PLAN COORDINATES, UTM NAD83 (CSRS)		
POINT ID	NORTHING	EASTING
1	4858662.816	639232.922
2	4858685.136	639297.856
3	4858645.423	639306.042
4	4858623.194	639240.852
COORDINATES CANNOT, IN THEMSELVES, BE USED TO RE-ESTABLISH CORNERS OR BOUNDARIES SHOWN ON THIS PLAN		

I REQUIRE THIS PLAN TO BE DEPOSITED UNDER THE LAND TITLES ACT.

DATE _____, 2022

R. SHANMUGARAJAH
ONTARIO LAND SURVEYOR

PLAN 65R-

RECEIVED AND DEPOSITED

DATE _____, 2022

REPRESENTATIVE FOR
LAND REGISTRAR FOR THE
LAND TITLES DIVISION OF
YORK REGION (No. 65)

PART	LOT	REGISTERED PLAN	PIN	AREA
1	ALL OF LOT 13	4365	ALL OF PIN 02916-0400(LT)	734.02 m ²
2				646.87 m ²
3	ALL OF LOT 14		ALL OF PIN 02916-0401(LT)	88.89 m ²
4				1294.17 m ²

**PLAN OF SURVEY OF
LOTS 13 AND 14
REGISTERED PLAN 4365
CITY OF MARKHAM**

SCALE 1:200

10m 5 0 10 METRES

THAM SURVEYING LTD., O.L.S. C

METRIC

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

LEGEND

□ DENOTES MONUMENT SET
■ DENOTES MONUMENT FOUND
CP DENOTES CONCRETE PIN
SIB DENOTES STANDARD IRON BAR
SSIB DENOTES SHORT STANDARD IRON BAR
IB DENOTES IRON BAR
IP DENOTES IRON PIPE
ORP DENOTES SPECIFIED CONTROL POINT
PL DENOTES REGISTERED PLAN 4365
PL1 DENOTES SURVEYOR'S REAL PROPERTY REPORT BY MANDARIN SURVEYORS LIMITED, O.L.S., DATED MAY 30th, 2018.
PL2 DENOTES SURVEYOR'S REAL PROPERTY REPORT BY ERTL SURVEYORS., O.L.S., DATED NOVEMBER 4th, 2014.
PL3 DENOTES PLAN OF SURVEY BY HORTON CARR AND HAYNES., O.L.S., DATED AUGUST 20th, 1954.
PL4 DENOTES PLAN OF SURVEY BY D. H. BLACK, O.L.S., DATED MARCH 24th, 1958.
PL5 DENOTES PLAN 64R-1635
(WS046) DENOTES W.S. OGBSON & SONS, O.L.S.
(765) DENOTES G.T. HORTON, O.L.S.
(1137) DENOTES R.G.MCKIBBON, O.L.S.
(N) DENOTES NOT IDENTIFIABLE
PIN DENOTES PROPERTY IDENTIFIER NUMBER
MEAS DENOTES MEASURED
BF DENOTES BOARD FENCE
CLF DENOTES CHAIN LINK FENCE
WF DENOTES WIRE FENCE
N/S DENOTES NORTH/SOUTH
E/W DENOTES EAST/WEST
CDB.10 DENOTES CONIFEROUS TREE AND DIAMETER
CDB.759 DENOTES DECIDUOUS TREE AND DIAMETER

ALL TIES TO CONCRETE FOUNDATION, UNLESS NOTED OTHERWISE.

THAM SURVEYING LIMITED
ONTARIO LAND SURVEYORS

8888 KEELE STREET, UNIT 7 PHONE: 905-761-6521 FAX: 905-761-6523
VAUGHAN, ONTARIO, L4K 2N2 1-855-761-6521

DRAWN BY: S.G. CHECKED BY: R.S. CAD NUMBER: 22-050-RPLAN GROUND JOB NUMBER: 22-050

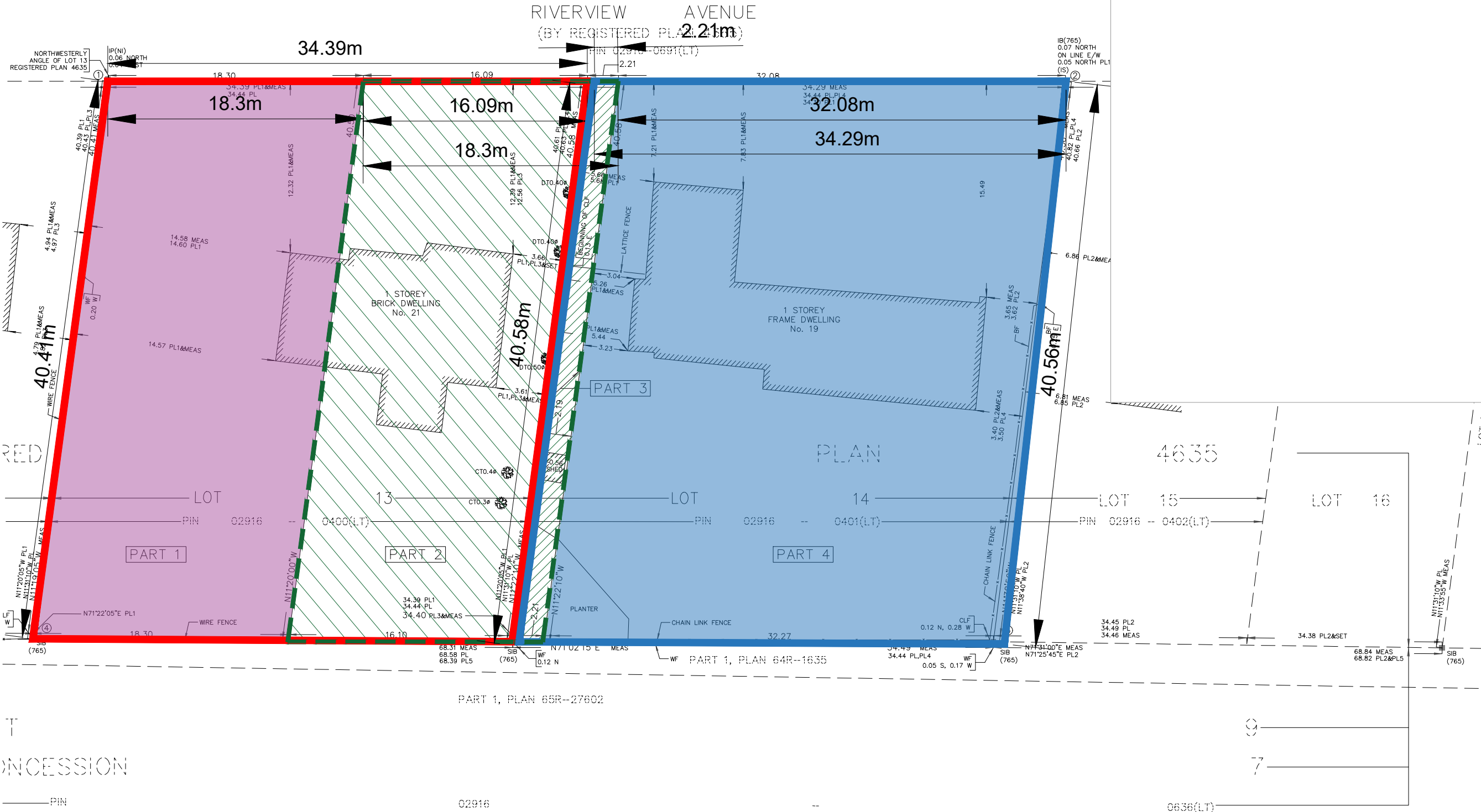
AOLS STICKER No.

APPENDIX “C”
CONSENT SKETCH, MAY 3, 2022

Figure 1
Proposed Severances - Consent Sketch

21 & 19 Riverview Avenue, Markham, Ontario

- LEGEND**
- 21 Riverview Avenue (Property A)
 - 19 Riverview Avenue (Property B)
 - Proposed New Property C
 - Proposed Retained Lands (Part of Property A) (7,900.92 sq.ft.)
 - Proposed Severed Lands(Part of Property A) (6,962.85 sq.ft.)
 - Proposed Retained Lands (Part of Property B) (13,930.33 sq.ft.)
 - Proposed Severed Lands (Part of Property B) (956.80 sq.ft.)



The existing dwelling on 21 Riverview Avenue (Lot 13) will be demolished as a requirement of consent approval.

	Proposed Lot Area		Proposed Lot Frontage	
Property A (21 Riverview Avenue)- Retained Lands	734.02m ²	7,900.92ft ²	18.3m	60.04ft
Property B (19 Riverview Avenue)- Retained Lands	1294.17m ²	13,930.33ft ²	32.08m	105.25ft
New Property C (21 and 19 Riverview Avenue)- Severed Lands	735.76m ²	7,919.65ft ²	18.3m	60.04ft

DATE: May 3, 2022

SCALE: 1:300

N:\21324\A - 21 Riverview Avenue, Markham\2022\Figures\CAD\21324A- Severance Figure- 02 May 2022.dwg

Data Source: Tham Surveying Limited- R. Shammuganajah (April 25, 2022)