

Memorandum to the City of Markham Committee of Adjustment

November 19 2021

Files: B/012/21 and A/159/21
Address: Concession 4, Part of Lot 27, Markham
Applicant: AKSM Properties Inc.
Agent: MHBC Planning, Urban Design and Landscape Architecture
(Andrew Palumbo)
Hearing Date: Wednesday November 24, 2021

The following comments are provided on behalf of the West Team:

Consent Application (B/012/21)

The applicant is requesting provisional consent to sever and convey a parcel of land with an approximate area of 22.91 hectares (Parts 1-3) while retaining a parcel of land with an approximate area of 14.27 hectares (Part 4).

In conjunction with the proposed severance, the applicant is requesting provisional consent to establish an access easement over the severed lands (Parts 1-3) in favour of the retained lands (Part 4).

Minor Variance Application (A/159/21): Part 4

The applicant is requesting relief from the following requirements of By-law 304-87, as amended, to permit:

a) Section 2.0

a lot without frontage on a street, whereas the by-law requires a lot fronts onto a street.

BACKGROUND

Property Description

The 37.18 hectare (91.87 acres) property is located approximately 400 metres north of Elgin Mills Road East, adjacent to the Hydro Corridor which is east of Woodbine Avenue (the "Subject Property") (See Appendix A: Location Map). There is an existing easement over the Hydro Corridor which allows public road access from George Peach Avenue.

The Subject Property is farmed and is bisected in a north-south direction by the Berczy Creek Tributary. Mature vegetation exists along the Berczy Creek, along the south property line and in the centre of the Subject Property.

Uses surrounding the Subject Property include (See Appendix B: Aerial Photo):

- North: Agricultural lands;
- East: Berczy Creek followed by agricultural lands;
- South: Berczy Creek and agricultural lands; and,
- West: Hydro corridor followed by a low-rise residential subdivision.

Proposal

The applicant is requesting provisional consent to sever and convey a parcel of land with an approximate area of 22.91 hectares (Parts 1-3) while retaining a parcel of land with an

approximate area of 14.27 hectares (Part 4) (See Appendices C and D: Draft Reference Plan and Sketch).

Due to the proposed severance, Part 4 (the retained portion) loses its frontage onto George Peach Avenue, necessitating the concurrent variance to permit a lot that does not front onto a street. The objective of requiring a blanket access easement over Parts 1 -3 in favour of Part 4, together with retaining the existing creek crossing within Part 4, would be to provide a means of access to Part 4 without it having a direct frontage on a public road. No development is proposed at this time.

Official Plan and Zoning

Official Plan 2014 (partially approved on November 24/17, and updated on April 9/18)

The Subject Property is located within the City's Future Urban Area (FUA) and is designated "Future Neighbourhood Area, Greenway and Future Employment Area" in the Official Plan 2014 (See Appendix E: Official Plan 2014 Map 3 – Land Use).

Section 8.12 of the Official Plan 2014 identifies a comprehensive process planning process to be undertaken prior to development occurring within the FUA. A key component of the comprehensive planning process is the development of the Conceptual Master Plan (CMP) over the entirety of the FUA in order to ensure consistent, coordinated planning and development within individual draft secondary plan areas. In October 2017, Council endorsed the CMP, which established a high level Community Structure Plan and key policy direction as the basis for the preparation and approval of secondary plans for the FUA.

In 2021, Council approved the Victoria Glen Secondary Plan (VGSP). It encompasses Parts 1-3 and designates these lands "Residential Low Rise, Residential Mid Rise and Greenway" (See Appendix F: Victoria Glen Secondary Plan – Land Use). The proposed severance line generally follows the centreline of the Berczy Creek (which is the boundary of the VGSP) with the exception of a "nub" where access is proposed to be maintained to Part 4 via the existing crossing.

A secondary plan for the Future Employment Area, which encompasses Part 4, has not been initiated.

Zoning By-law 304-87

The Subject Property is zoned "Agriculture One Zone (A1) and Open Space One Zone (O1)" under By-law 304-87, as amended (See Appendix G: Zoning By-law Excerpt). Permitted uses include, amongst other uses, agricultural, golf courses and public conservation projects.

COMMENTS

As the Subject Property is located within the City's Future Urban Area, it is expected to accommodate future population and employment growth. Specifically the severed lands (Parts 1-3) are subject to the policies of the approved VGSP. The retained lands (Parts 4) are located within the Future Employment Area, where a secondary plan is expected to be approved in the future.

The Secondary Plans, together with the Master Environmental Servicing Plans, Collector Road Environmental Assessment(s) and future Draft Plans of Subdivisions will guide the orderly development of the FUA including the Subject Property. It is expected that matters

such as the availability of municipal services, the establishment of a collector and local road network providing permanent access, and the classification and protection of natural heritage features will be secured through future development approvals. As such, staff are of the opinion that the parcels are of sufficient size and shape to allow the existing farming uses to continue while at the same time not restricting future planning considerations.

Staff do not have objections to the applications, subject to the conditions attached, which include the requirement that the applicant enter into a Consent Agreement with the City.

PUBLIC INPUT SUMMARY

No written submissions were received as of November 19, 2021. It is noted that additional information may be received after the writing of the report, and the Secretary-Treasurer will provide information on this at the meeting.

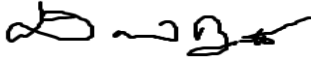
CONCLUSION

The applicant has applied for consent and minor variance applications to facilitate the creation of one lot. No development is proposed at this time.

Planning Staff have reviewed the application with respect to Section 45(1) and 51(24) of The Planning Act, R.S.O. 1990, c. P.13, as amended, and are of the opinion that the proposal meets the four tests of the Planning Act and have no objections to the proposed consents, subject to conditions outlined in Appendix 'H' attached to this report. Staff recommend the Committee consider public input in reaching a decision.

The onus is ultimately on the applicant to demonstrate why they should be granted relief from the requirements of the zoning by-law, and how they satisfy the tests of the Planning Act required for the granting of minor variances.

PREPARED BY:



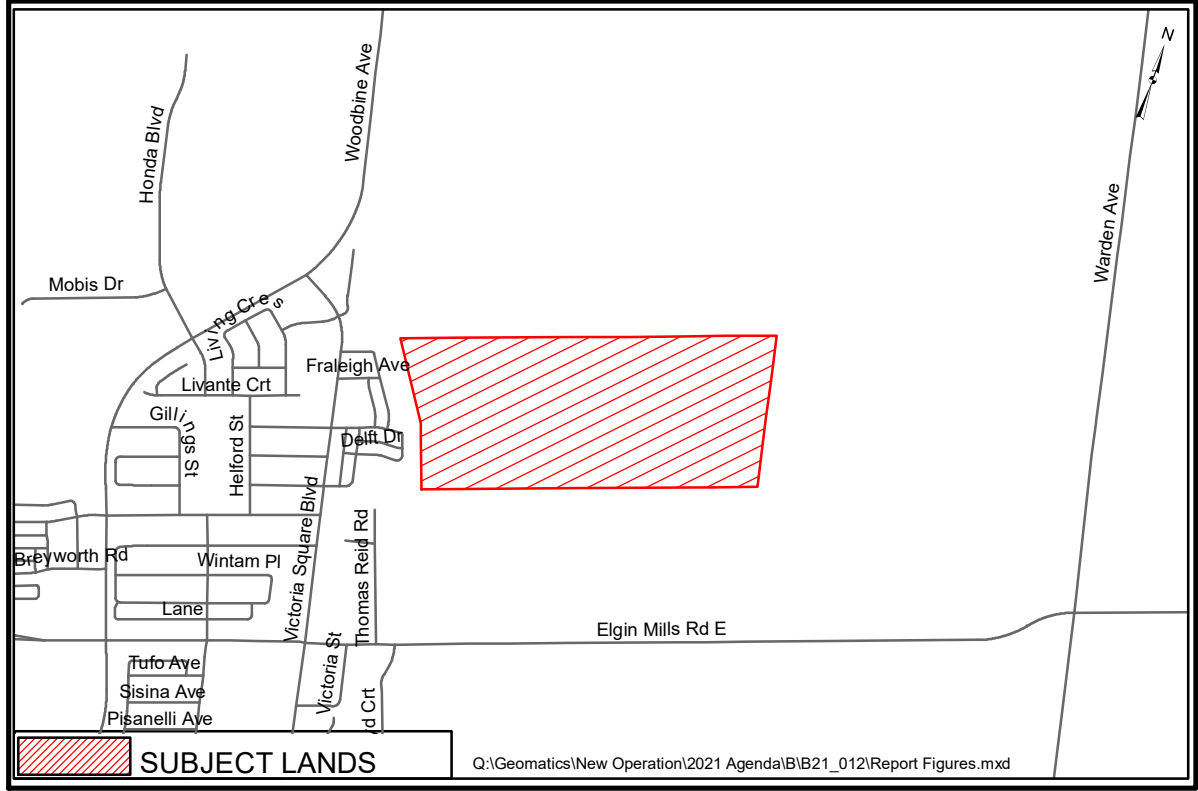
Daniel Brutto, Senior Planner, West District

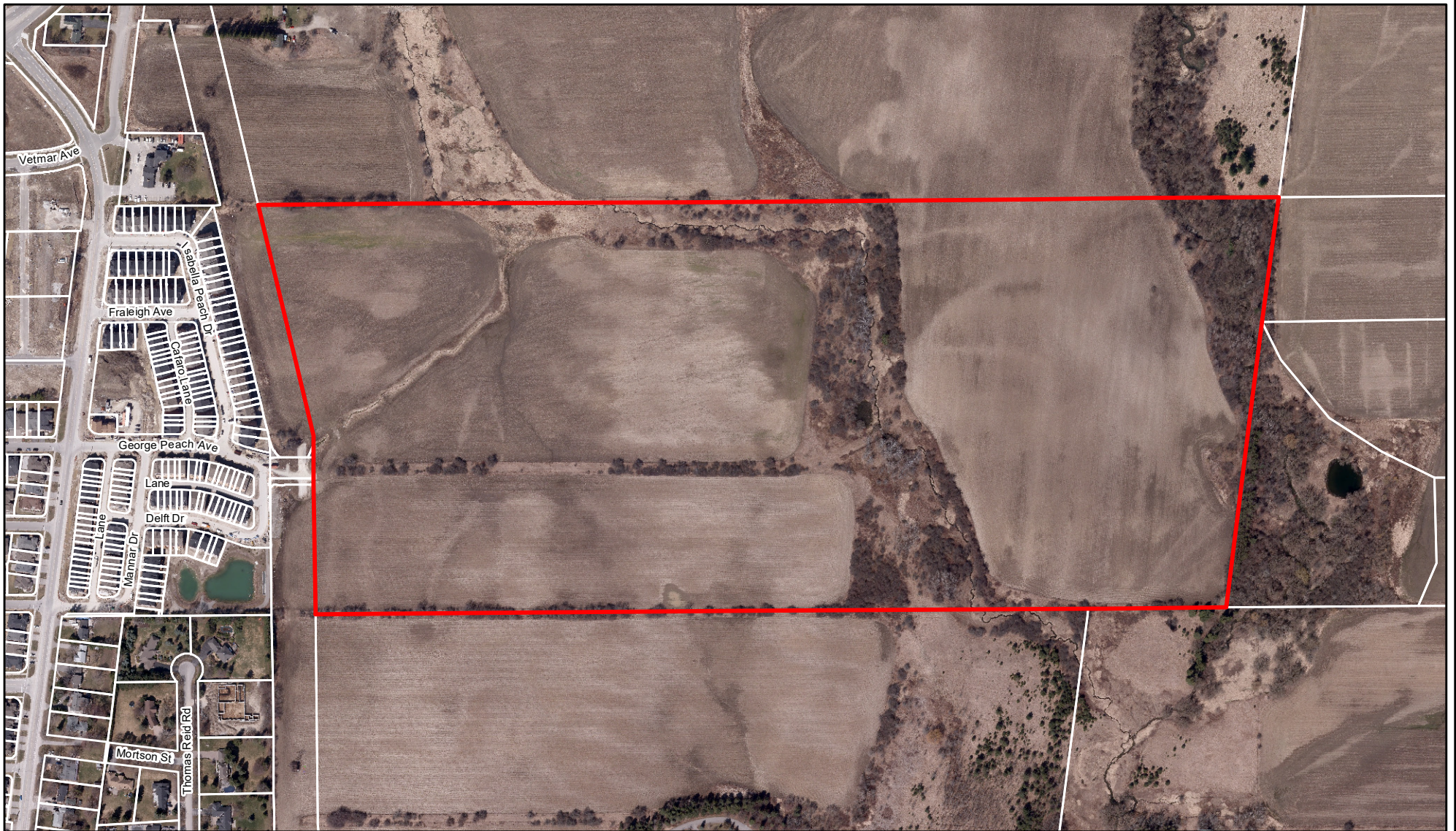
REVIEWED BY:



Mary Caputo, Development Manager, West District

Appendix A: Location Map
Appendix B: Aerial Photo
Appendix C: Draft Reference Plan
Appendix D: Sketch
Appendix E: Official Plan 2014 Map 3 – Land Use
Appendix F: Victoria Glen Secondary Plan – Land Use
Appendix G: Zoning By-law Excerpt
Appendix H: Conditions of Approval
Appendix I: TRCA Letter





AERIAL PHOTO (2020)

APPLICANT: AKSM Properties Inc

FILE No. B/012/21

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MARKHAM DEVELOPMENT SERVICES COMMISSION

Drawn By: RT

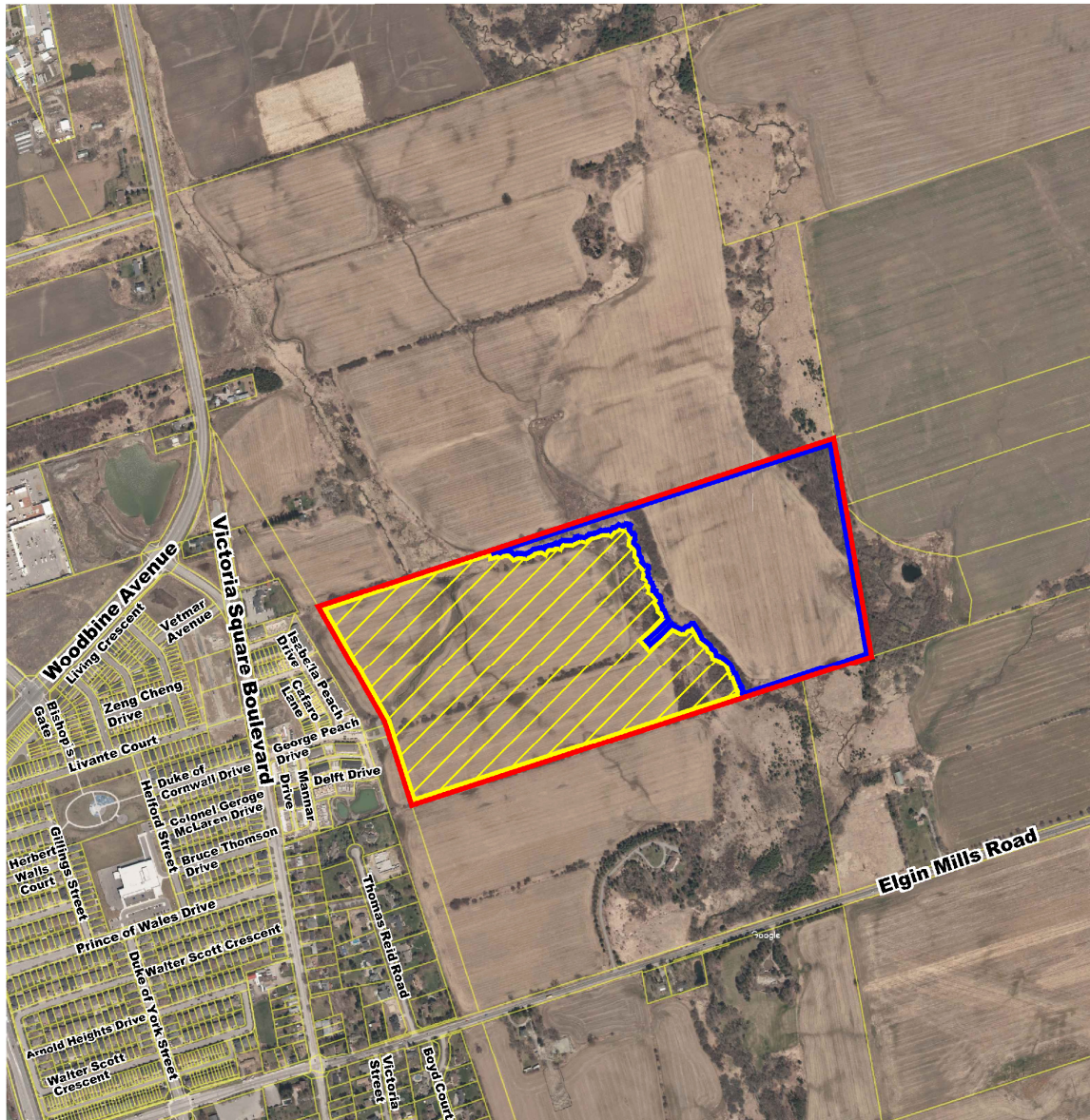
Checked By: DB

DATE: 03/11/2021

APPENDIX 'B'

 SUBJECT LANDS





Data Source: First Base Solutions Aerial Flown 2016

Figure 1

Proposed Consent Sketch

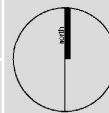
10975 Woodbine Avenue,
Markham, Ontario

LEGEND

- Subject Lands
- Parts 1 through 3 (Residential Lands) - "Severed" Lands
- Part 4 (Greenway/Employment Lands) - "Retained" Lands

DATE: August 10, 2021

SCALE 1:10000



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MHBC PLANNING
URBAN DESIGN
& LANDSCAPE
ARCHITECTURE
230-7050 WESTON ROAD WOODBRIDGE, ON, L4L 8C7
P: 905 761 5588 F: 905 761 5589 | WWW.MHBCPLAN.COM

SKETCH

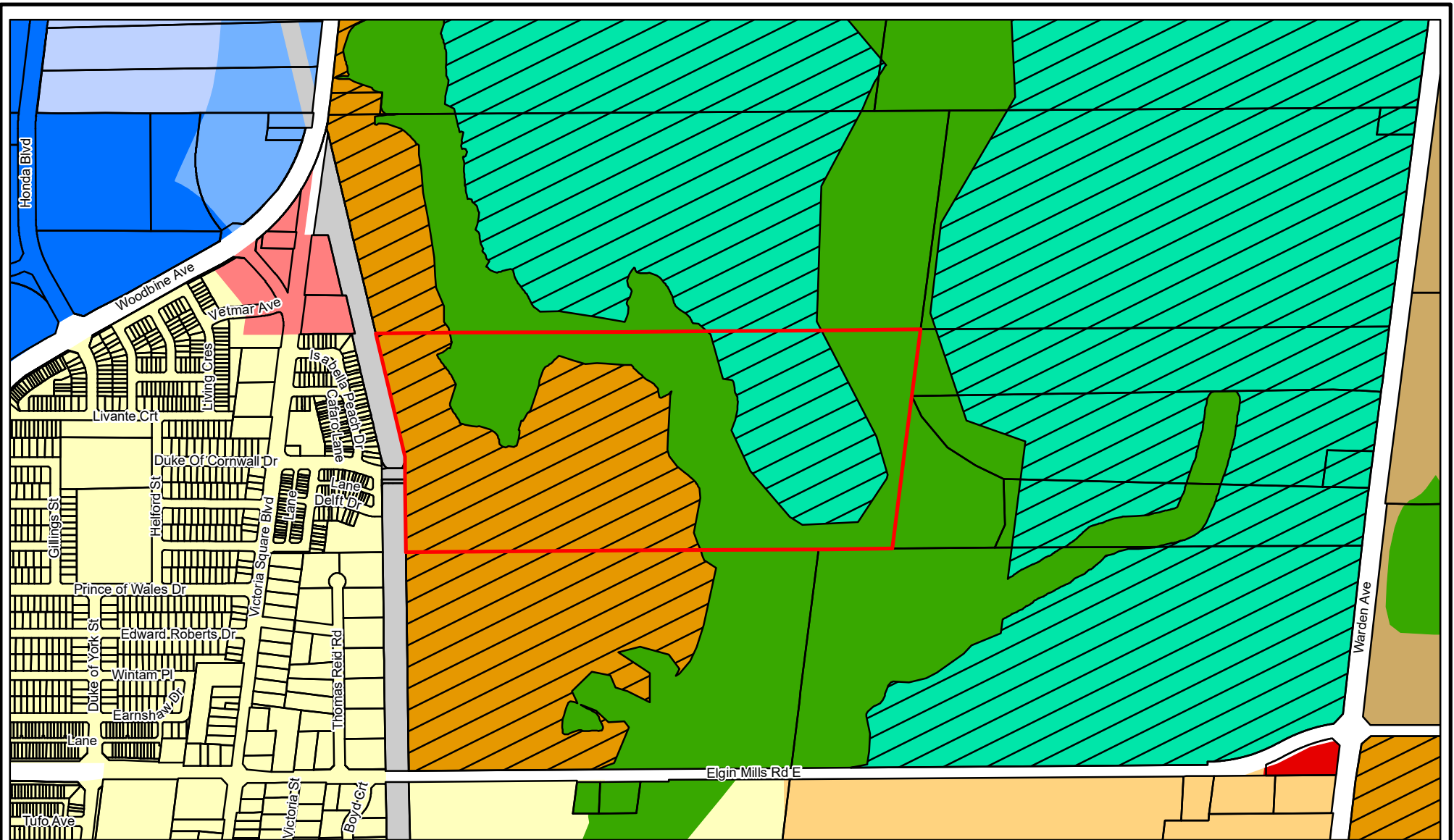
APPLICANT: AKSM Properties Inc

FILE No. B/012/21

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Not to Scale













DATE: 03/11/2021



OFFICIAL PLAN 2014 MAP 3 - LAND USE

APPLICANT: AKSM Properties Inc

FILE No. B/012/21

	Business Park Employment		Residential Low Rise
	Service Employment		Residential Mid Rise
	General Employment		Countryside
	Future Employment Area		Mixed Use Low Rise
	Future Neighbourhood Area		Mixed Use Mid Rise
	Greenway		Transportation and Utilities

 SUBJECT LANDS

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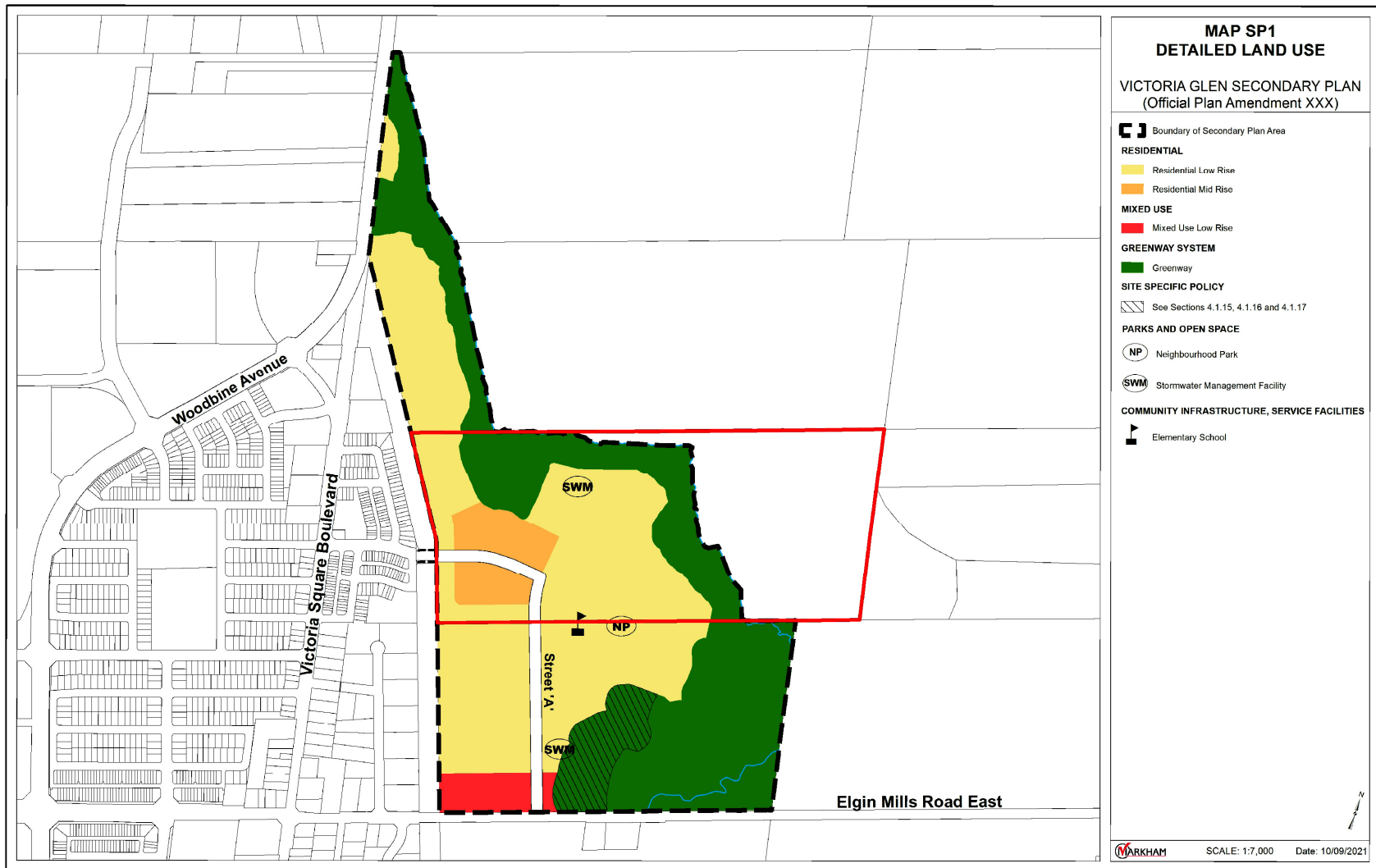
DEVELOPMENT SERVICES COMMISSION

DATE: 03/11/2021

Drawn By: RT

Checked By: DB

APPENDIX 'E'



VICTORIA GLEN SECONDARY PLAN - LAND USE

NOTE: Victoria Glen Secondary Plan is subject to York Region approval

APPLICANT: AKSM Properties Inc

FILE No. B/012/21

 SUBJECT LANDS

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MARKHAM DEVELOPMENT SERVICES COMMISSION

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DATE: 03/11/2021

APPENDIX 'F'



Appendix H – Conditions of Approval

Consent Application (B/012/21)

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/012/21, in duplicate, 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 Property, which conforms substantially to the application as submitted.
4. Payment of the required Conveyance Fee per City of Markham Fee By-law 211-83, as amended.
5. The Owner shall enter into a Consent Agreement with the City to the satisfaction of the City Solicitor, Director of Planning and Urban Design, Director of Operations, and/or the Director of Engineering, or their designates, which Consent Agreement shall be registered on title 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 Consent Agreement on title to the Lands. The Consent 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) Open burning is not permitted unless written approval has been granted by the Fire Chief.
 - iii) The Owner acknowledges and agree that there may not be an operable vehicular or pedestrian access to the Part 4 lands from George Peach Drive and that any permits and/or work required to obtain or remediate any existing or future vehicular or pedestrian access to the Part 4 lands is the responsibility of the Owner.
 - iv) Unless the Director of Planning and City Solicitor have been satisfied that alternate access arrangements for Part 4 have been made by the Owner, the Owner shall be responsible for the remediation of the existing crossing on the Part 4 lands upon the receipt of a development approval application by the City for all or every part of the adjacent lands to the north known municipally in 2021 as 11251 Woodbine Avenue.
 - v) The Owner acknowledges and agrees that the following (or similar) warning clause in the agreement: "Part 4 lands shall not be developed beyond the uses currently permitted until such time the Future Employment Area Secondary Plan is approved or other plan related to these Part 4 lands is approved. Permanent public frontage onto a street is anticipated to be from the local/collector road network within the Future Employment Area."

6. That the Owner provides confirmation from an Ontario Land Surveyor that the severed and retained parcels, in their final configuration, meets all the requirements of the applicable Zoning By-law, including any development standards for building and structures, and that the Secretary-Treasurer receive written confirmation that this condition has been satisfied to the satisfaction of the Zoning Supervisor or designate.
7. That the applicant satisfies the requirements of the Toronto and Region Conservation Authority (TRCA), financial or otherwise, as indicated in their letter to the Secretary-Treasurer attached as Appendix I to this Staff Report, to the satisfaction of the TRCA, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of TRCA.
8. Fulfillment of all of the above conditions within one (1) year of the date that notice of the decision was given under Section 50(17) or 50(24) of the *Planning Act*, R.S.O. 1990, c.P.13, as amended.

CONDITIONS PREPARED BY:



Daniel Brutto, Senior Planner, West District

Minor Variance Application (A.159.21): Part 4

1. The variance apply only to the proposed lot (Part 4) attached as Appendix 'C' as long as it remains.
2. That the variance only apply should a final consent be issued for Committee of Adjustment File No. B/012/21.

CONDITIONS PREPARED BY:



Daniel Brutto, Senior Planner, West District

October 29, 2021

CFN 64142.04

Uploaded to E-Plan

Justin Leung
Secretary-Treasurer – Committee of Adjustment
City of Markham
101 Town Centre Blvd
Markham ON L3R 9W3

Dear Mr. Leung:

**Re: Applications for Consent B/012/21 & Minor Variance A/159/21
10975 Woodbine Avenue / Victoria Square Boulevard, City of Markham
(Owner: AKSM Properties Inc.)**

This letter acknowledges receipt of the above-noted applications within the City of Markham, received by Toronto and Region Conservation Authority (TRCA) on October 19, 2021. TRCA has reviewed the applications and provides the following comments as part of TRCA's commenting role under the *Planning Act*; the Authority's delegated responsibility of representing the provincial interest on natural hazards encompassed by Section 3.1 of the Provincial Policy Statement, 2020; the Credit Valley, Toronto and Region and Central Lake Ontario Source Water Protection Plan (CTC SPP); the "Living City Policies for Planning and Development within the Watersheds of the TRCA" (LCP), TRCA's Regulatory Authority under Ontario Regulation 166/06, Development, Interference with Wetlands and Alterations to Shorelines and Watercourses; and our Memorandum of Understanding (MOU) with the Region of York, wherein we provide technical environmental advice.

Purpose of the Application

The purpose of the Consent Application is to sever a 37.18 hectare property in order to create a new 22.91 hectare lot (Parts 1-3) and to retain a 14.27 hectare lot (Part 4). In conjunction with this severance, the applicant proposes a blanket easement over the new lot (Parts 1-3) in favour of Part 4 to maintain the existing lot frontage on George Peach Avenue, and to maintain the use of the existing vehicular and pedestrian access to Part 4 so it may continue to be actively farmed.

A related Minor Variance Application has also been submitted to allow a lot (Part 4) without frontage on a street, whereas the by-law requires lots to have frontage on a street.

Applicable Regulations and Policies

Provincial Policy Statement (2020)

The Provincial Policy Statement 2020 (PPS) provides policy direction on matters of provincial interest related to land use planning and development. According to subsections 3 (5) and (6) of the *Planning Act*, as amended, all planning decisions made by a municipality and all comments provided by the TRCA shall be consistent with the PPS.

Section 2.1 provides policies for the protection of natural features and areas. It is of note that Section 2.1.4 of the PPS prohibits development and site alteration within significant wetlands, and Section 2.1.8

of the PPS states that development and site alteration shall not be permitted on adjacent lands to certain natural features or areas unless it has been demonstrated that there will be no negative impacts on the natural features or their ecological functions.

Through a MOU between Conservation Ontario, the Ministry of Municipal Affairs and Housing, and the Ministry of Natural Resources and Forestry, the responsibility to uphold the natural hazards section of the PPS (Section 3.1) has been delegated to Conservation Authorities where the province is not involved. TRCA staff note that Section 3.1 of the PPS generally directs development and site alteration to locations outside of hazardous lands that would be impacted by flooding hazards and/or erosion hazards and prohibits development in areas that would be rendered inaccessible to people and vehicles during times of flooding hazards, unless it has been demonstrated that the site has safe access. The PPS also directs planning authorities to consider the potential impacts of climate change that may increase the risk associated with natural hazards.

Municipal Policies

The TRCA has a MOU with York Region and the City of Markham wherein TRCA provides plan review and technical expertise to our member municipalities in the context of provincial, municipal and other guiding policies and legislation related to the natural environment (e.g., natural hazards, natural heritage, watershed and stormwater management).

Ontario Regulation 166/06 under the *Conservation Authorities Act*

The subject property is located within TRCA's Regulated Area under Ontario Regulation 166/06 as it contains Provincially Significant Wetlands and its area of interference, as well as stream corridors containing tributaries of the Rouge River Watershed and their flood plain and erosion hazards. In accordance with Ontario Regulation 166/06 (Development, Interference with Wetlands and Alteration to Shorelines and Watercourses), a permit is required from the TRCA prior to any of the following works taking place within TRCA's Regulated Area:

- a) straightening, changing, diverting or interfering in any way with the existing channel of a river, creek, stream or watercourse, or for changing or interfering in any way with a wetland;
- b) development, if in the opinion of the Authority, the control of flooding, erosion, dynamic beaches or pollution or the conservation of land may be affected by the development.

'Development' is defined as:

- i) the construction, reconstruction, erection or placing of a building or structure of any kind,
- ii) any change to a building or structure that would have the effect of altering the use or potential use of the building or structure, increasing the size of the building or structure or increasing the number of dwelling units in the building or structure,
- iii) site grading, the temporary or permanent placing, dumping or removal of any material originating on the site or elsewhere.

TRCA's Living City Policies

The Living City Policies for Planning and Development in the Watersheds of the Toronto and Region Conservation Authority (LCP) is a TRCA policy document that guides the implementation of TRCA's legislated and delegated roles and responsibilities in the planning and development approvals process. TRCA's policies describe a "Natural System" made up of water resources, natural features and areas, natural hazards, potential natural cover and/or buffers including the greater of the following:

- Valley and Stream Corridors: 10 metre (m) buffer/setback from the greater of the long-term stable top of slope, stable toe of slope, Regulatory Flood plain, meander belt and any contiguous natural features or areas;

- Woodlands: 10 m buffer from the dripline and any contiguous natural features or areas;
- Wetlands: 30 m buffer from Provincially Significant Wetlands and wetlands on the Oak Ridges Moraine, and a 10 m buffer from all other wetlands and any contiguous natural features or areas.

In accordance with Section 7.5.2.4 of TRCA's Living City Policies, it is our policy that lands containing the Natural System (natural features, natural hazards, buffers and areas of potential natural cover) not be designated or zoned for development, and not form part of lots to be created or developed, but rather, be designated and zoned for environmental protection and be set aside for dedication into public ownership for their long term protection and enhancement.

Application Review Fee

As per TRCA's role as a commenting agency for *Planning Act* application circulated by member municipalities to assess whether a proposed development may impact or be impacted by TRCA's policies or interests. By way of this letter the applicant is advised that this application is subject to a \$2,310 review fee (2021 TRCA Planning Fee Schedule – Consent - Standard).

Application-Specific Comments & Recommendations

Both the proposed "Retained Lands" and "Severed Lands" contain components of the Natural System, including but not limited to, Provincially Significant Wetlands (PSWs), tributaries of the Rouge River, flood plain hazards, erosion hazards, woodlands, and buffer/setback areas.

It is typically TRCA's preference to secure the conveyance of the Natural System in the initial stages of the planning process. However, we recognize that the "Severed Lands" are part of the Victoria Glen Secondary Plan of the Markham Future Urban Area (FUA), and the "Retained Lands" are part of the Employment Area of the FUA, and that these boundaries have been set based on the centerline of the watercourse. Although full conveyance of the Natural System is not proposed in this application, it is TRCA's expectation that the conveyance of the Natural System into public ownership for its long-term protection will occur at a later date, as site specific planning applications proceed.

As such, TRCA has no objections to the consent application, or the requested minor variance.

I trust these comments are of assistance. Should you have any questions, please do not hesitate to contact me at the undersigned.

Sincerely,

Dan Nguyen
Planner I
Development Planning and Permits
Extension 5306

DN/mb