

Memorandum to the City of Markham Committee of Adjustment

December 3, 2021

File: B/025/21
Address: 3143 19th Avenue – Markham, ON
Applicant: Tung Kee Investment Canada Ltd.
Agent: MHBC Planning Limited (Celeste Salvagna)
Hearing Date: December 8, 2021

The following comments are provided on behalf of the North Markham District team. The purpose of the proposed consent application is to create a separate parcel of land to be developed as a film studio in accordance with a recently approved Minister's Zoning Order (MZO) applying to the majority of the subject property. The applicant is requesting provisional consent to:

- collectively sever and convey a parcel of land being Parts 1 to 7 with an approximate lot area of 65.34 Ac (264,401.56 m²), as shown in the Draft R-Plan (Parts 1 and 2 being a future road widening to be conveyed to the City);
- collectively retain a parcel of land being Parts 8 and 9 with an approximate lot area of 34.16 Ac (138,228.72 m²), as shown in the Draft R-Plan; and
- create easements for access and servicing in favour of Parts 6 and 7 over Part 8.

BACKGROUND PROPERTY DESCRIPTION

The 40.26 ha (99.50 ac) subject property is located at the southeast corner of 19th Avenue and Woodbine Avenue, municipally known as 3143 19th Avenue. The property appears to be vacant, predominantly used for agricultural purposes with mature vegetation existing across the lands. Lands designated within the Provincial Greenbelt bisect the property. The subject property and surrounding area are not currently serviced by municipal water and wastewater services. Surrounding land uses are predominantly agricultural.

PROPOSAL

The applicant proposes to sever the existing lot to facilitate the creation of one new lot for the future purpose of developing the site in accordance with the MZO applying to these lands (Appendix "D").

The severed lands would collectively include Parts 1 to 7 (Appendix "B"), having an approximate lot area of 13.82 ha (34.16 ac), and an approximate lot frontage of 321.28 m (1,054.07 ft) along 19th Avenue. The retained lands would collectively include Parts 8 and 9, having an approximate lot area of 26.44 ha (65.34 ac), and an approximate lot frontage of 687.32 m (2,254.99 ft) along 19th Avenue.

The applicant also proposes to create easements for access and servicing in favour of Parts 6 and 7 over Part 8. Part 8 was conceptually shown in the MZO application as the approximate location of a future north/south road. A future Draft Plan of Subdivision application and associated Environmental Assessment will confirm the ultimate alignment of the future road. Until such time that municipal servicing is extended to this area of the City, each lot is intended to be privately serviced by the applicant.

OFFICIAL PLAN AND ZONING

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

The subject property is located within the City of Markham's "Future Urban Area", and portions of the property are designated "Future Employment Area", and "Greenway" under the Official Plan. Lands designated "Future Employment Area" will be re-designated to one of the other "Employment Lands" through the approval of secondary plans for the "Future Urban Area". Lands designated "Greenway" bisect the property, and are located along Woodbine Avenue; these lands are intended to protect natural heritage and hydrologic features, including wildlife habitat, while supporting agricultural activities, passive recreation uses, and enhancement of natural heritage.

Section 10.3.2 of the Official Plan outlines a set of criteria for provisional consents to be granted, and staff are of the opinion that the proposed severance conforms with the Official Plan as the proposed development:

- would result in three or fewer lots, and a plan of subdivision is not necessary for the purpose of this lot severance;
- is within the Future Urban Area district which is not municipally serviced; however, the applicant proposes that the lots will be privately serviced until full municipal services are extended to this area of the City;
- will front onto 19th Avenue, which is a public street;
- will not restrict the development of adjacent lands;
- the severed and retained lands conform with the requirements of the zoning by-law, and the size and shape of the lots are appropriate for the uses contemplated by the zoning; and
- is situated on lands identified by the Regional Municipality of York as having archaeological potential, and requiring an archaeological study through a future development application would appropriately address the cultural heritage policies of the Official Plan.

Zoning By-law 304-87, as amended

The majority of the property is zoned "Business Park" in accordance with a MZO issued by the Ministry of Municipal Affairs and Housing (MMAH) through Ontario Regulation 599/21 (see Appendix "D"). Parts of the lands zoned "Business Park" as shown in Map 270 (Appendix "D") will allow for a wide range of employment uses within these areas, and their future development would require review and approval of future Draft Plan of Subdivision and Site Plan applications. Remaining portions of the property that are located outside of the MZO are subject to By-law 304-87, as amended, and are zoned "Open Space One Zone – (O1)" and "Agriculture One Zone – (A1)", which limits permitted uses within these areas.

COMMENTS

Planning Comments

The proposed severance would facilitate the creation of one new additional lot. The proposed severance line dividing Parts 6 and 8 in the Draft R-Plan is well separated from the westerly limit of the Greenbelt lands, and lands designated "Greenway" under the Official Plan. Staff have no objections to the proposed consent application to sever and convey a portion of the lands to facilitate the creation of one new lot for the future purpose of developing the lands as a Film Studio in accordance with the MZO applying to the lands. It is noted that the submitted "Master Plan – SK001, prepared by CXT Architects Inc.,

dated November 11, 2021” is conceptual, as the buildable elements shown on the plan would be subject to future Draft Plan of Subdivision, and, or Site Plan applications.

Urban Design Comments

It is noted that property owners are required to apply for and obtain tree permits from the City for any proposed injury to, or removal of trees that have a diameter at breast height (DBH) of 20.0 cm (7.87 in), or more. As development is not being proposed at this stage, no injury to, or removal of trees are anticipated. A Tree Assessment and Preservation Plan (TAPP), required compensation for permitted tree removals, and Cash-in-Lieu Parkland Dedication would be required through future approval processes.

Natural Heritage Comments

As previously noted, the Greenbelt lands bisect the property; and with further study the environmental and developable limits of the site will be determined. Accordingly, staff recommend that these limits be provided through further study, and that the Committee adopt the conditions detailed in Appendix “A”.

Engineering Comments

“Map 10 – Road Network” of the City of Markham’s Official Plan identifies the portion of 19th Avenue adjacent to the subject property as a City of Markham Arterial Road with a right of way width of up to 32.50 m (106.63 ft), and part of a future Donald Cousens Parkway. “Map 12 – Street Network” of the Regional Municipality of York’s Official Plan 2019 Office Consolidation identifies the portion of 19th Avenue adjacent to the subject lands as having a proposed street width of up to 43.0 m (141.08 ft).

Staff recommend that the applicant be required to enter into a development agreement with the provision of conveying a future road widening along 19th Avenue to the City, having a right of way width of 43.0 m (141.08 ft), and that Environmental Site Assessments for the lands comprising the future road widening be submitted as detailed in Appendix “A”.

Toronto and Region Conservation Authority (TRCA) Comments

Following receipt of the TRCA’s initial comments, staff have consulted with the TRCA, and advised of the draft conditions proposed. In an e-mail dated December 1, 2021, the TRCA has no objections to this application subject to the implementation of the conditions of approval (Appendix “A”).

Regional Municipality of York Comments

The Regional Municipality of York (the “Region”) provided comments on December 2, 2021, requesting the acquisition of additional lands for a road widening along Woodbine Avenue, and daylighting triangle located at the southeast corner of Woodbine Avenue and 19th Avenue. The Region has no objections to the consent application, subject to the conveyance of these lands being secured prior to Site Plan Approval through a development agreement.

PUBLIC INPUT SUMMARY

No written submissions were received as of December 3, 2021. It is noted that 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 considered that the proposed severance line separating Parts 6 and 8 (as shown in the Draft Reference Plan) is well distanced from the Greenbelt boundary and will not affect the greenbelt lands. Staff note the proposed application is a request to subdivide the lands, and any development would be subject to future development applications and approval processes.

Staff have had regard for Section 51(24) of the *Planning Act, R.S.O. 1990, c. O.13, as amended*, and have concluded that the proposed severance to create one new lot is consistent with and conforms to Provincial and City policies, and complies with the zoning requirements as identified in the MZO. Planning staff recommend that any approval of this application be subject to the conditions provided in Appendix "A", and that the Committee considers public input in reaching a decision.

APPENDICES

Appendix "A" – Conditions of Approval

Appendix "B" – Draft R-Plan

Appendix "C" – Consent Sketch

Appendix "D" – MZO Map of O. Reg 599/21 No. 270: August 27, 2021

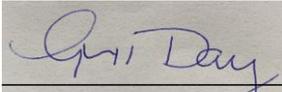
Appendix "E" – York Region Comments: December 2, 2021

PREPARED BY:



Aleks Todorovski, Planner, Zoning and Special Projects

REVIEWED BY:



Geoff Day, Senior Planner, Zoning and Special Projects

APPENDIX “A”

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF B/025/21

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 File B/025/21, 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 lands, which conforms substantially to the application as submitted.
4. Prior to the issuance of a Certificate of Official, the Owner shall enter into and execute a Development Agreement on terms and conditions 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 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 the following:
 - a. Payment of all applicable fees in accordance with the City’s fee by-law;
 - b. That the lands for a future road widening to establish a right of way width of 43.0 m (141.08 ft) as identified by Map 12 – Street Network in the Region’s Official Plan, measured from the proposed centerline of 19th Avenue be conveyed to the City of Markham prior to the execution of a Site Plan Agreement;
 - c. That the Owner submit the Environmental Site Assessments for the lands comprising the future road widening noted above to the City for peer review and acceptance, and file a Record of Site Condition (RSC) for those lands prior to its conveyance to the City in accordance with *O. Reg. 153/04*;
 - d. That the lands for a future road widening to establish a right of way width of 21.50 m (70.54 ft) from the centreline of construction of Woodbine Avenue, as identified by Map 12 – Street Network in the Region’s Official Plan, measured from the centreline of construction of Woodbine Avenue, and a 15.0 m (49.21 ft) x 15.0 m (49.21 ft) daylighting triangle at the south east corner of Woodbine Avenue and 19th Avenue be conveyed to the Regional Municipality of York prior to the execution of a Site Plan Agreement;
 - e. The Owner and City hereby agree and acknowledge that some of the lands are located within the Greenway System of the 2014 Markham Official Plan (the “Official Plan”) and that the delineation of the Natural Heritage Network, Rouge Watershed Protection Area, and hazardous lands shall occur through the Site Plan Approval process, including preparation of an Environmental Impact Study and review thereof in accordance with the policies of Section 3.1 of the Official Plan. The Environmental Impact Study also shall assess the potential impacts of trails, fencing, and any other infrastructure, and provide recommendations on the mitigation of impacts and enhancement of the Greenway System to the satisfaction of the Director of Planning and Urban Design. The Owner agrees that the Site Plan Agreement will require it to convey to the City the *natural heritage and hydrologic features*, and hazardous lands, as defined by the Official Plan (currently identified

as Part 3 on the Draft Reference Plan submitted to the City of Markham on November 19, 2021, and which is to be confirmed through the Environmental Impact Study). For the lands in the Greenway System outside of the *natural heritage and hydrologic features*, and hazardous lands, the Owner further agrees that the Site Plan Agreement will require the Owner to address those aforementioned lands (including protection and re-naturalization) as appropriate pursuant to the Official Plan.

5. Payment to the Toronto and Region Conservation Authority (the "TRCA") of the TRCA's required Consent Review Fee in the amount of \$3,559.00 as indicated in their e-mail dated November 25, 2021 to City Staff, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of the TRCA.
6. Fulfillment of all of the above conditions within one year of the date that notice of the decision was given under Section 50(17) or 50(24) of the *Planning Act*.

CONDITONS PREPARED BY:



Aleks Todorovski, Planner, Zoning and Special Projects

APPENDIX "B"
DRAFT R-PLAN

**PLAN OF SURVEY OF
PART OF LOT 30
CONCESSION 4,
(GEOGRAPHIC TOWNSHIP OF MARKHAM)
CITY OF MARKHAM
REGIONAL MUNICIPALITY OF YORK**

SCALE 1:1000
R-P-E SURVEYING LTD., O.L.S.

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

NOTES

- DENOTES MONUMENT FOUND
 - DENOTES MONUMENT SET
 - SSB DENOTES SHORT STANDARD IRON BAR
 - SB DENOTES STANDARD IRON BAR
 - IB DENOTES IRON BAR
 - CM DENOTES CONCRETE MONUMENT
 - P.I.N. DENOTES PROPERTY IDENTIFIER NUMBER
 - PL1 DENOTES PLAN OF SURVEY BY C. HOWWOOD LIMITED, O.L.S., DATED 1986 (PROJECT No. 1597)
 - PL2 DENOTES PLAN 65R-5283
 - PL3 DENOTES PLAN 65R-36995
 - PL4 DENOTES PLAN 65R-36364
 - PL5 DENOTES PLAN 65R-36227
 - PL6 DENOTES PLAN 65R-INST. No. MA49271 (L-122-16)
 - PL7 DENOTES PLAN OF SURVEY BY R-PE SURVEYING LTD., O.L.S., DATED MAY 23, 2021.
 - (M) DENOTES METERS
 - (N) DENOTES NOT IDENTIFIED
 - (R-P-E) DENOTES R-PE SURVEYING LTD., O.L.S.
 - (L-122-16) DENOTES LLOYD & PURCELL LTD., O.L.S.
 - (1370) DENOTES KIRKMAR SURVEYORS LTD., O.L.S.
 - (C-48) DENOTES CARTER HOWWOOD LTD., O.L.S.
 - (W-5080) DENOTES W. S. GIBSON & SONS, O.L.S.
 - (R-PE) DENOTES REFERENCED REFERENCE POINT
 - BBB DENOTES BELL BOX
 - BXB DENOTES BELL BOX ANCHOR
 - UGL DENOTES UNDERGROUND LOCATION MARKER
- ALL SET MONUMENTS ARE SHORT STANDARD IRON BARS UNLESS OTHERWISE NOTED.

INTEGRATION NOTE

BEARINGS ARE GRID, UTM NAD83 (CSRS-ORNL/2010.0), DERIVED FROM OBSERVED REFERENCE POINTS (A) AND (B) USING CAN-NET REAL TIME NETWORK (RTN) No. 20120110002 (NORTHING: 4872129.55, EASTING: 633879.33).

COORDINATES ARE UTM ZONE 17, NAD83 (CSRS-ORNL/2010.0), TO URBAN ACCURACY PER SEC. 14 (2) OF OREG. 216/10, AND CANNOT, IN THEMSELVES, BE USED TO RE-ESTABLISH CORNERS OR BOUNDARIES SHOWN ON THIS PLAN.

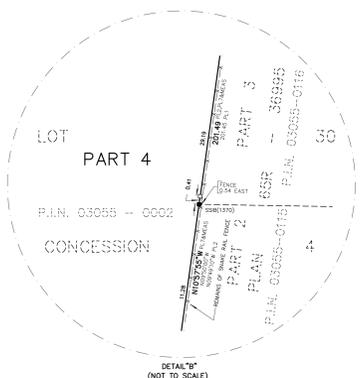
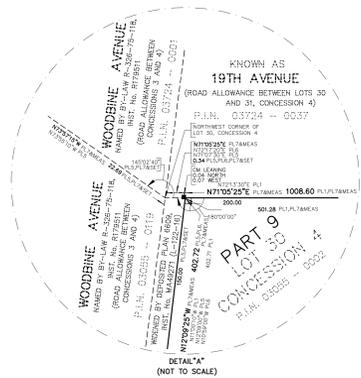
POINT ID NORTHING EASTING
ORP (A) 4864097.72 630450.14
ORP (B) 4864735.87 631079.27

DISTANCES ARE GROUND AND CAN BE CONVERTED TO GRID BY MULTIPLYING BY THE COMBINED SCALE FACTOR OF 0.9999810.

SURVEYOR'S CERTIFICATE

I CERTIFY THAT:
1. THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYORS ACT, THE SURVEYORS ACT AND THE LAND TITLES ACT AND THE REGULATIONS MADE UNDER THEM.
2. THE SURVEY WAS COMPLETED ON THE ____ DAY OF ____ 2021.
DATE ____ 2021

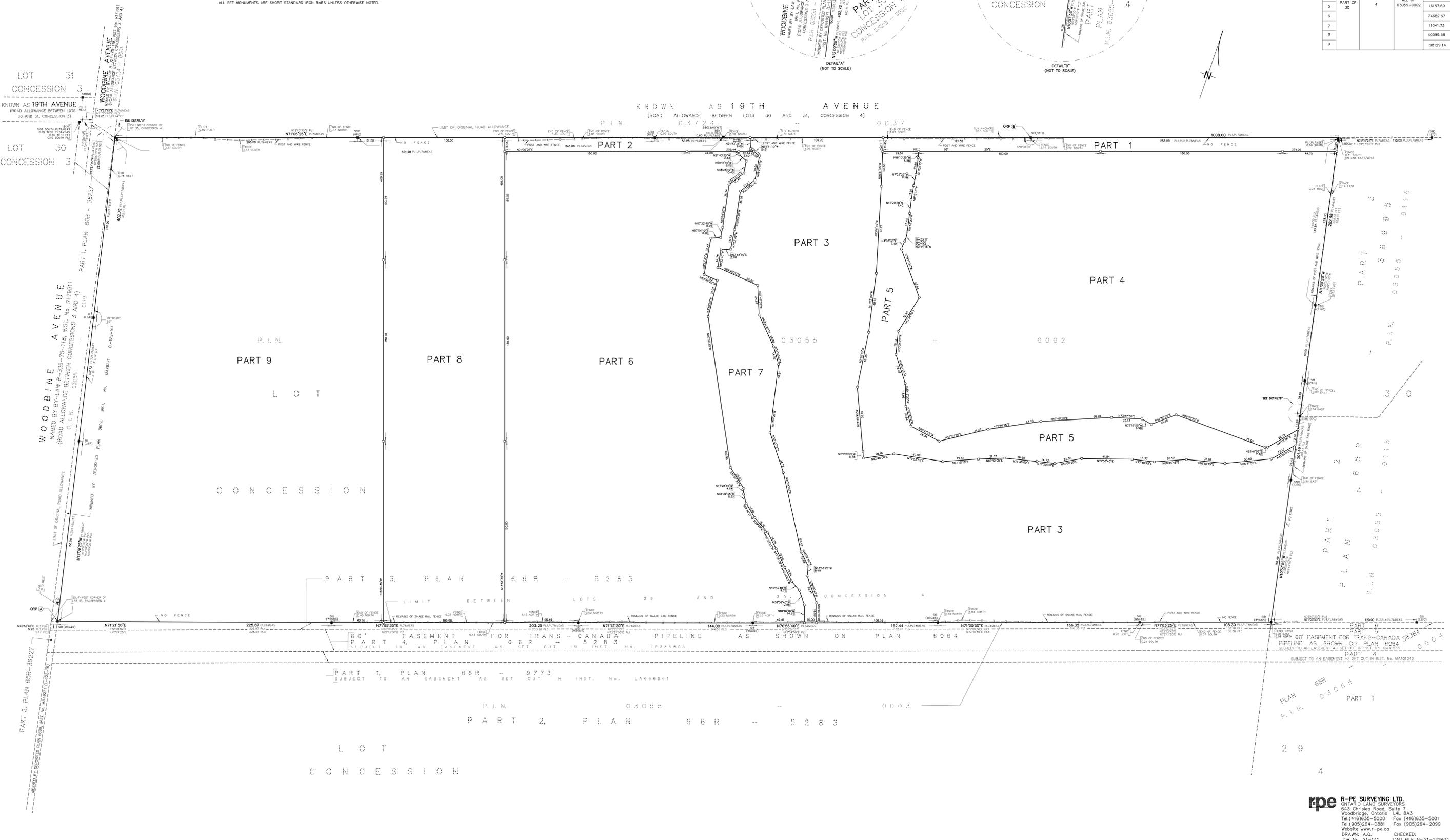
A. U. KUMARANAYAKE
ONTARIO LAND SURVEYOR



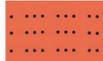
I REQUIRE THIS PLAN TO BE DEPOSITED UNDER THE LAND TITLES ACT.
DATE _____, 2021
A. U. KUMARANAYAKE O.L.S.

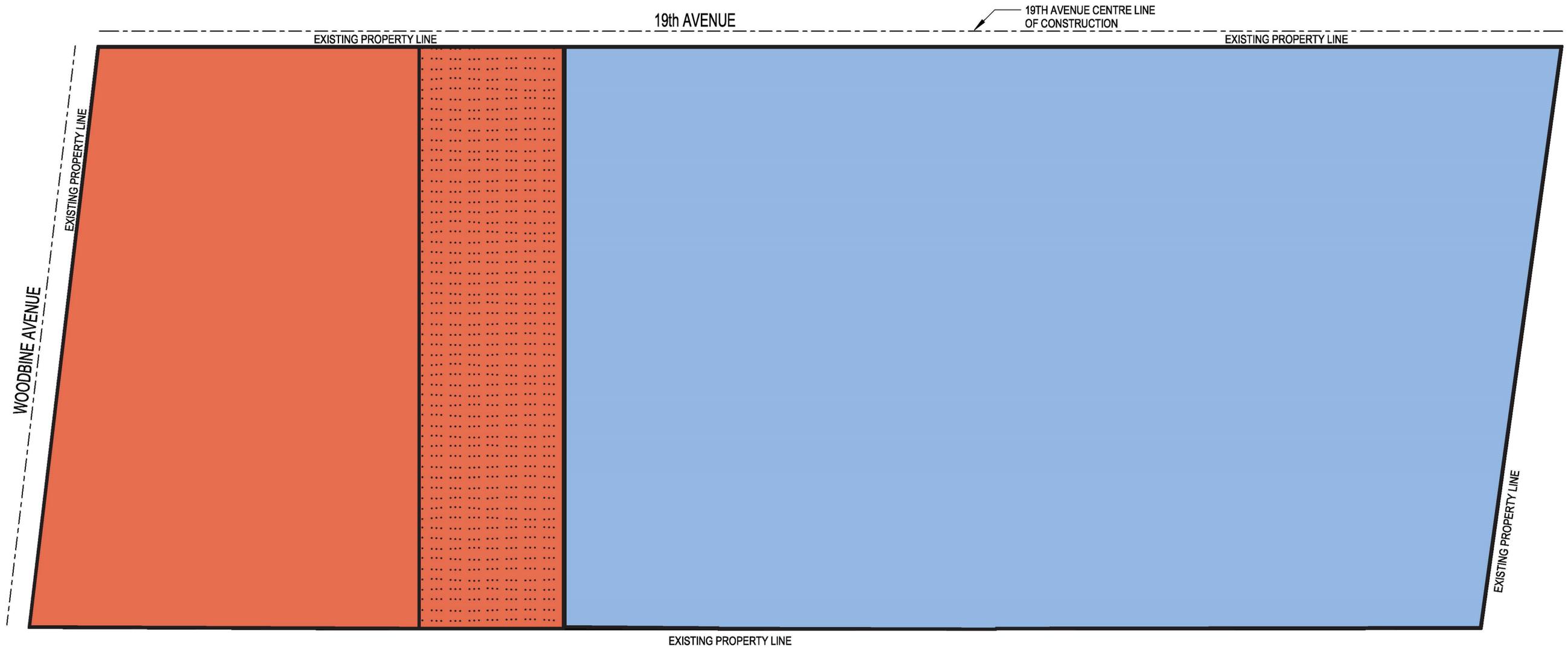
PLAN 65R-
RECEIVED AND DEPOSITED
DATE _____, 2021

REPRESENTATIVE FOR LAND REGISTRAR FOR THE LAND TITLES DIVISION OF YORK REGION (No.42)				
				SCHEDULE
PART	LOT	CONCESSION	P.I.N.	AREA(SQ.M)
1				4287.86
2				2320.10
3				7884.26
4	PART OF 30	4	ALL OF 03055-0002	77097.35
5				16157.69
6				74662.57
7				11041.73
8				40099.58
9				98129.14



APPENDIX "C"
CONSENT SKETCH

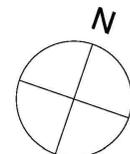
-  Retained Lot
-  Severed Lot
-  Easement for Access and Servicing



CXT Architects Inc.

ONE MARKHAM

3143 19th AVENUE, MARKHAM, ON



PROPOSED CONSENT SKETCH

1 : 3000

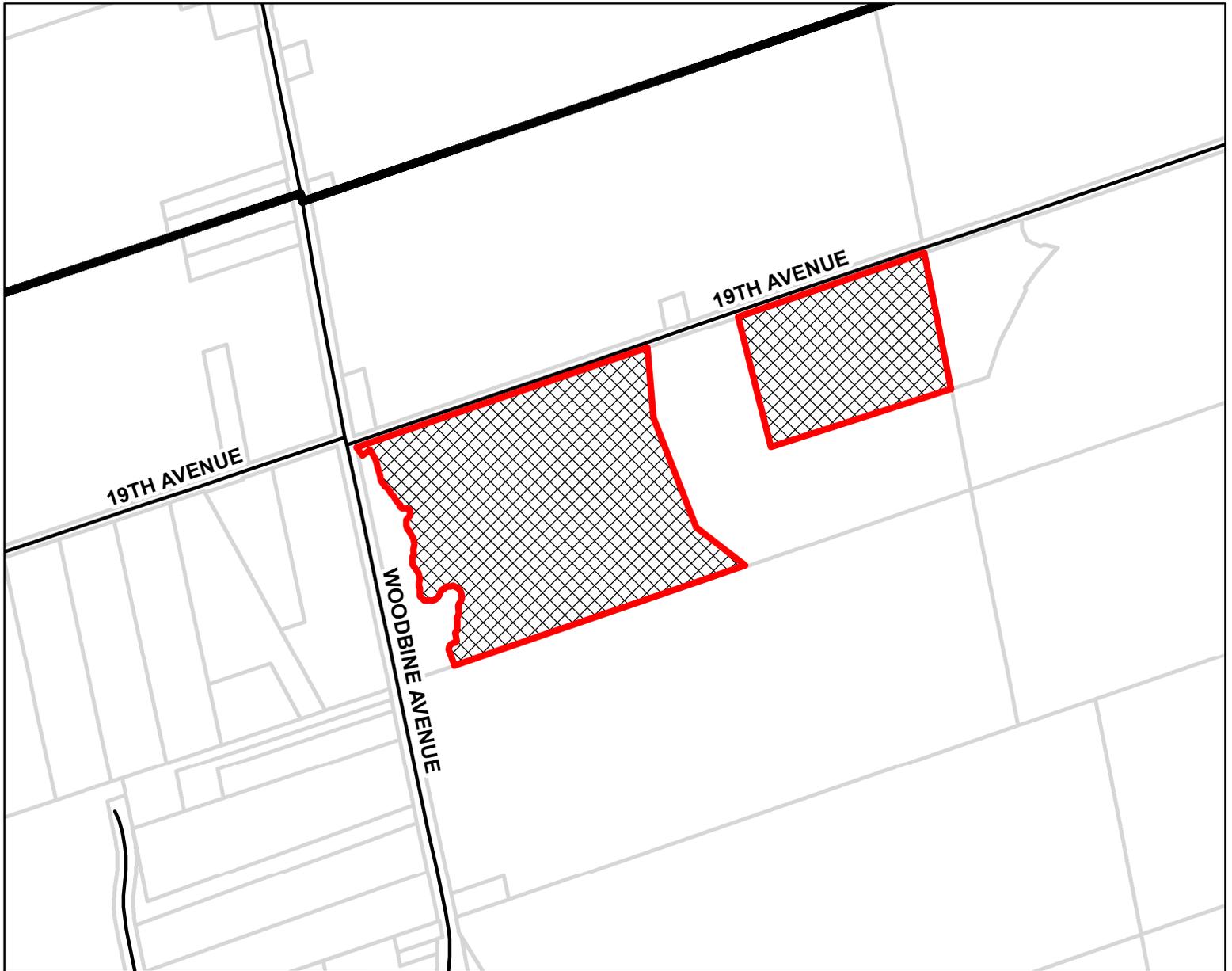
2021-11-10 4:32:28 PM

19750

SK001c

APPENDIX "D"
MZO MAP OF O. REG 599/21 NO. 270: AUGUST 27, 2021

Part of Lot 30, Concession 4
City of Markham, Regional Municipality of York



MAP No. 270

Map filed at the office of the Ontario Ministry of Municipal Affairs and Housing, 777 Bay St., Toronto, Ontario,

Planning Act

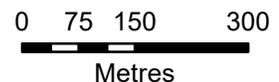
Ontario Regulation: 599/21

Date: August 27, 2021

Original Signed By: Minister of Municipal Affairs and Housing

LEGEND

-  Municipal boundary
-  Lands Subject to Zoning Order
-  Business Park
-  Roads
-  Assessment Parcel



1 centimetre equals 100 metres



Map Description:

This is map no. 270 referred to in a Minister's Zoning Order. It shows lands which are located in Part of Lot 30, Concession 4, City of Markham, Regional Municipality of York.

We are committed to providing accessible customer service

(<https://www.ontario.ca/page/accessible-customer-service-policy>).

On request, we can arrange for accessible formats and communications supports.

Please contact MMAH by email (mininfo@ontario.ca) for regulation details.

THIS IS NOT A PLAN OF SURVEY

Information provided by the Ministry of Municipal Affairs and Housing, under licence with the Ministry of Natural Resources.

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APPENDIX "E"
YORK REGION COMMENTS: DECEMBER 2, 2021



File No.:21.142158.000.00.CSNT
(CONS.21.M.0104)

December 2, 2021

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

**RE: Consent Application: 21.142158.000.00.CSNT (CONS.21.M.0104)
Tung Kee Investment Canada Ltd.
3143 19th Avenue
City of Markham**

The Regional Municipality of York ("Region") has completed its review of the above noted consent to sever application. The subject site is municipally known as 3143 19th Avenue and is located on the south east corner of Woodbine Avenue and 19th Avenue. The site is within an approved Minister's Zoning Order (O.Reg 599/21).

The site is designated "Urban" and "Protected Countryside" on Map 1 of the York Region Official Plan – 2010 (YROP-2010). Portions of the site are within the Regional Greenland's System as shown on Map 2 of the YROP-2010 and subject to the policies of Section 2.1.20 of the YROP-2010.

There is also a "Natural Heritage System" and "Woodland" on the site as per Map 3 and Map 5 of the YROP-2010. The TRCA will provide technical comments on behalf of the Region as it relates to environmental polices required by the Region's Official Plan.

The subject property is located on a Regional Road as identified on Map 12 of the YROP-2010. The Region is protecting for a 43 metre(s) right-of-way along the frontage of this section of Woodbine Avenue for the purpose of a road widening as per Section 7.2.49 of the YROP-2010.

The following lands for conveyance shall be secured prior to site plan approval which will be recognized through a development agreement as a condition of this consent: a road widening to establish a right-of-way 21.5 meters from the centreline of construction of Woodbine Avenue and a 15 x 15 metre daylighting triangle at the southeast corner of Woodbine Avenue and 19th Avenue.

We understand 19th Avenue is currently under the jurisdiction of Markham, they will ensure any needed widenings of 19th Avenue are obtained to achieve its full width.

Water Resource Comments

Water Resources does not have any objections/concerns with the Consent to Sever application as it relates to Source Protection policy. The subject site is located within a Significant Groundwater Recharge Area. As such the Source Protection Plan water quantity recharge policies and York Region Official Plan Low Impact Development policy 2.3.41 will apply. The proponent should maximize infiltration at the site using best management practices. The use of the following resource is encouraged: Low Impact Development Stormwater Management Planning and Design Guide by Credit Valley Conservation Authority. The contact person for this requirement is Quentin Hanchard at TRCA. The approving body for compliance with the policy will be the local municipality.

Should the proposed include bulk fuel ($\geq 2500L$) or bulk chemicals ($\geq 500L$) within the HVA, Contaminant Management Plan (CMP) will be required prior to future Site Plan approval for Water Resources review and approval. If a CMP is not required, a letter prepared by a qualified professional will be required in its place stating that the above noted activities will not be occurring.

Should you have any questions regarding the above, please contact Gabrielle Hurst at extension 71538 or through electronic mail at gabrielle.hurst@york.ca

Regards,

Gabrielle Hurst

Gabrielle Hurst, MCIP, RPP. Associate Planner
Programs and Process Improvement, Planning and Economic Development Branch