

Memorandum to the City of Markham Committee of Adjustment

November 27, 2024

File: A/046/24
Address: Lots 70 – 172, Draft Plan of Subdivision 19TM-19005
Agent: Malone Given Parsons Ltd (Ms Emily Grant)
Hearing Date: Wednesday December 4, 2024

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

The applicant is requesting relief from the following requirement of By-law 177-96, as amended, to permit:

a) By-law 2021-106, Section 7.688.2.f.i):

Outdoor Amenity Space to be located at-grade, on a rooftop, above a private garage, and or be located on a balcony, whereas the by-law permits Outdoor Amenity Space to be located on a rooftop, above a private garage and or be located on a balcony.

BACKGROUND

Property Description

Lots 70 – 172 (the “Subject Lots”) are located on Draft Plan of Subdivision 19TM-19005 (the “Subject Lands”) which has an area of approximately 37 hectare (92 acres) and is located west of Warden Avenue, north of Major Mackenzie Drive East within the area commonly referred to as the Berczy Glen Secondary Plan Area (Refer to Appendix A: Location Map).

Council approved a Draft Plan of Subdivision on the Subject Lands on June 29, 2021 to facilitate the development of a low rise residential community. Currently, site alteration works are taking place to facilitate the development (Refer to Appendix B: Aerial Photo). The Subject Lands are partially within the Toronto and Region Conservation Authorities (TRCA) Regulated Area as the central portion is traversed by a valley corridor associated with the Berczy Creek, however the TRCA did not provide any comments.

Proposal

The Owner is proposing that outdoor amenity spaces be located at grade for the Subject Lots, which are intended to accommodate single detached laneway dwellings (Refer to Appendix C: Draft Plan of Subdivision 19TM-19005).

Outdoor amenity space is defined as an outdoor space, unobstructed by buildings or structures and which cannot be travelled upon by motor vehicles. This is typically the area where owners would landscape and place outdoor furniture such as tables, chairs and barbeques (Refer to Appendices D and E: Typical Siting Plans). The by-law currently prohibits the outdoor amenity space from being located at grade and requires it to be located either on a rooftop, above a private garage or on a balcony.

Official Plan and Zoning

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

The Subject Lots are located within the City’s Future Urban Area (FUA) and are designated “Residential Low Rise” in the 2014 Official Plan. The intent of this designation

is to accommodate lower scale buildings such as detached and semi-detached dwellings, duplexes and townhomes.

Berczy Glen Secondary Plan (OPA 24)

The Berczy Glen Secondary Plan (BGSP) was approved in 2019 and is planned to accommodate approximately 4,200 dwelling units and 13,000 residents when development is complete. The Subject Lots are designated “Residential Low Rise” in the BGSP. The intent is to provide for compact neighborhoods consisting primarily of ground related housing types which includes detached dwellings.

Zoning By-law 177-96

The Subject Lands are zoned “R2-LA*688” under By-law 177-96, as amended which permits detached dwellings subject to site specific development standards (Refer to Appendix F: Zoning By-law Excerpt). Outdoor amenity spaces are subject to the following development standards:

f)	<i>Outdoor Amenity Space</i> shall be provided and shall be subject to the
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By-law 2021-106

following provisions:
i. The <i>Outdoor Amenity Space</i> shall be located on a rooftop, above a <i>private garage</i> , and/or be located on a <i>balcony</i> ;
ii. One <i>Outdoor Amenity Space</i> shall have a contiguous minimum area of 20 square metres
iii. Notwithstanding any other provisions in this By-law, <i>decks</i> are permitted to be located above the first <i>storey</i> and <i>balconies</i> are not required to be <i>cantilevered</i>

Comprehensive Zoning By-law 2024-19

On January 31, 2024, Markham Council enacted By-law 2024-19 which was appealed to the Ontario Land Tribunal (OLT). Given the Subject Property is located within the Berczy Glen Secondary Plan, it was excluded from By-law 2024-19.

Zoning Preliminary Review (ZPR) Not Undertaken

The owner has confirmed that a Zoning Preliminary Review (ZPR) has not been conducted. It is the owner’s responsibility to ensure that the application has accurately identified all the variances to the Zoning By-law required for the proposed development. If the variance request in this application contains errors, or if the need for additional variances is identified during the Building Permit review process, further variance application(s) may be required to address the non-compliance.

COMMENTS

The Planning Act states that four tests must be met in order for a variance to be granted by the Committee of Adjustment:

- a) The variance must be minor in nature;
- b) The variance must be desirable, in the opinion of the Committee of Adjustment, for the appropriate development or use of land, building or structure;
- c) The general intent and purpose of the Zoning By-law must be maintained;
- d) The general intent and purpose of the Official Plan must be maintained.

The applicant is requesting relief to permit amenity space to be located at grade as opposed to on a balcony, rooftop or above a private garage for 102 detached laneway units.

The Official Plan policies do not regulate the amenity space location, this is done through the zoning by-law. The intent of the zoning by-law is to ensure one adequately sized outdoor amenity area is achieved and to provide flexibility in where amenity areas are located given the smaller lot frontages and depths. In this regard, seeing as though no change is requested to the minimum size and there is an opportunity to provide the amenity space at grade, staff are satisfied the variance is minor, desirable and maintains the general intent of the Zoning By-law. To ensure that the 20 m² contiguous outdoor amenity space is adequately sized a condition has been recommended which requires that a portion of it provide a minimum configuration of 4.5 metres by 5 metres. This will allow purchasers the opportunity to actively use the greatest amount of the available amenity space (i.e. place outdoor furniture such as tables, chairs and barbeques).

PUBLIC INPUT SUMMARY

No written submissions were received as of November 27, 2024. 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.

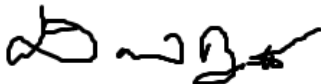
CONCLUSION

Planning Staff have reviewed the application with respect to Section 45(1) of The Planning Act, R.S.O. 1990, c. P.13, as amended, and are of the opinion that the variance request meets the four tests of the Planning Act and have no objection. Staff recommend that 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.

Please refer to Appendix "G" for conditions to be attached to any approval of this application.

PREPARED BY:



Daniel Brutto, Senior Planner, Planning and Urban Design Department

REVIEWED BY:



Rick Cefaratti, Acting Development Manager, West Markham District

Appendix A: Location Map

Appendix B: Aerial Photo

Appendix C: Draft Plan of Subdivision 19TM-19005

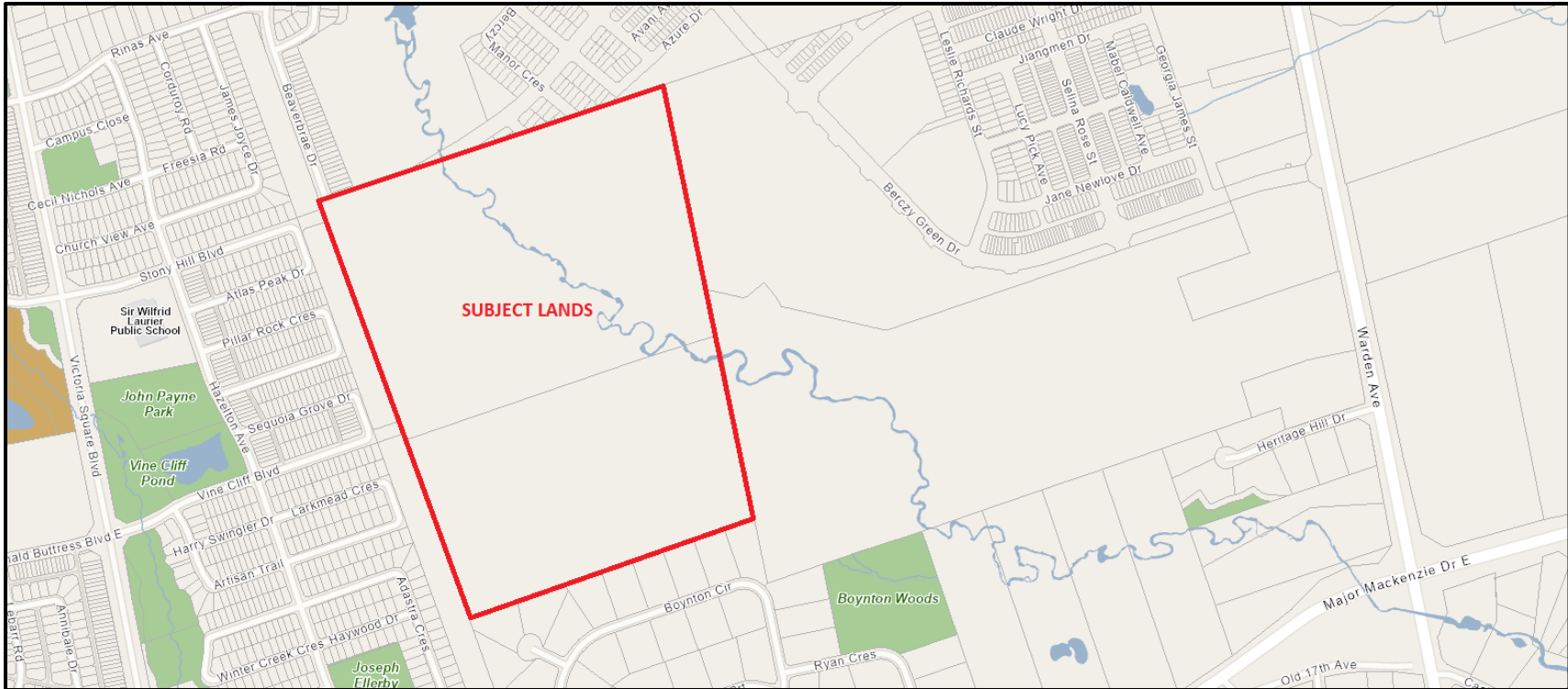
Appendix D: 8.1 m Typical Rear Lane Single Siting Plan

Appendix E: 9.45 m Typical Rear Lane Single Siting Plan

Appendix F: Zoning By-law Excerpt

Appendix G: Conditions of Approval

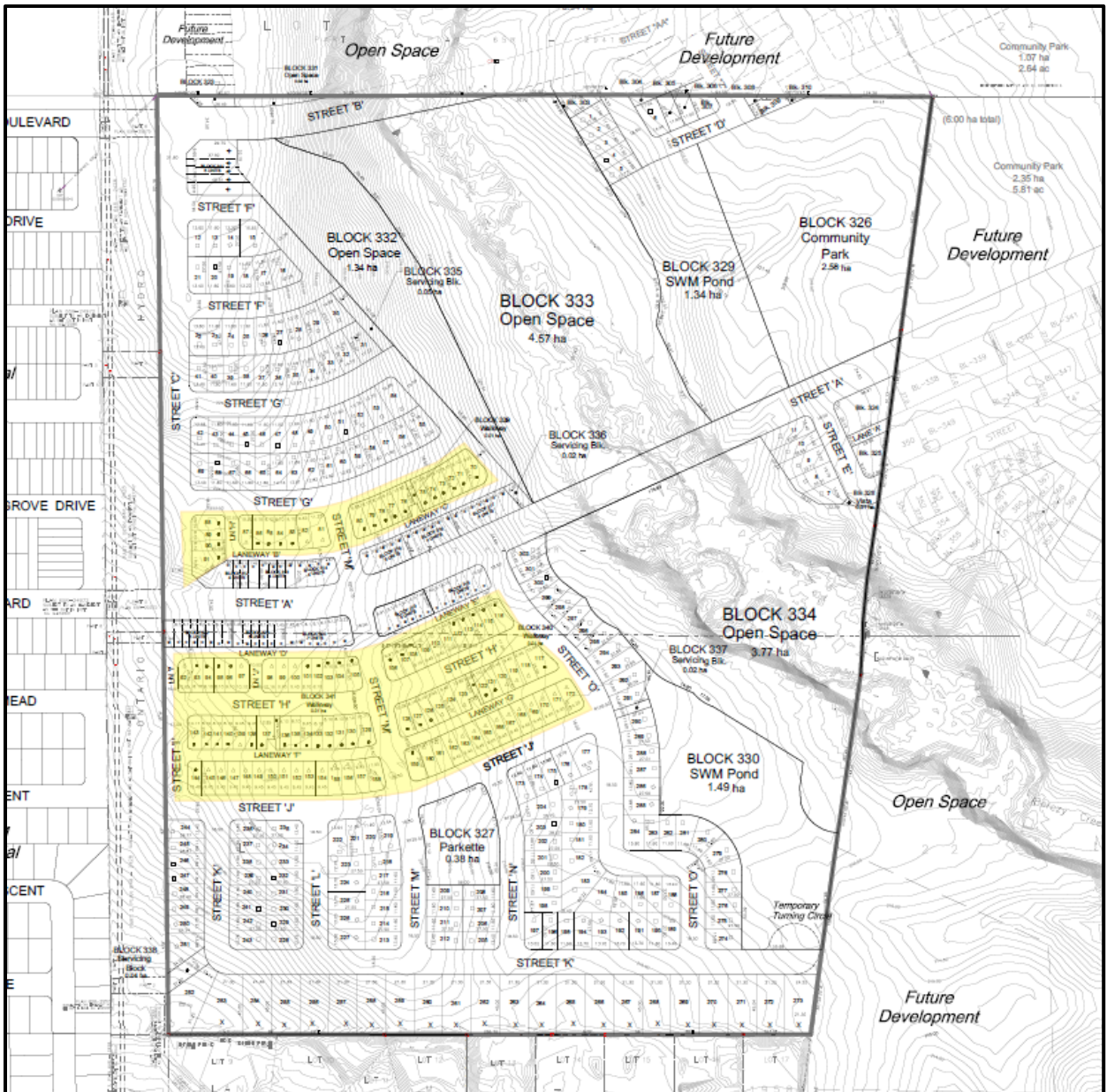
APPENDIX "A"
LOCATION MAP



APPENDIX "B"
AERIAL PHOTO (2024)

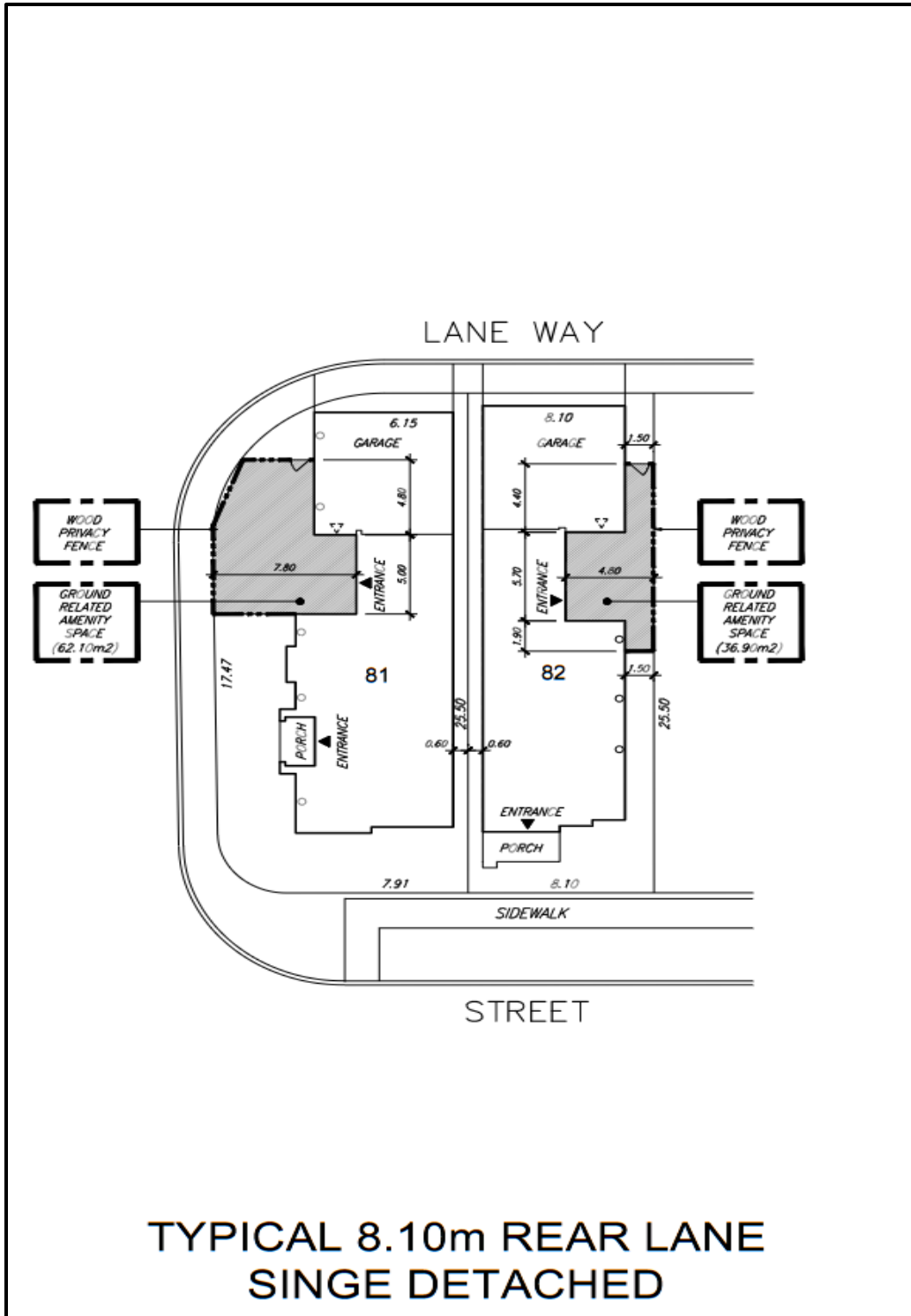


APPENDIX "C"
DRAFT PLAN OF SUBDIVISION 19TM-19005 (SUBJECT LANDS)

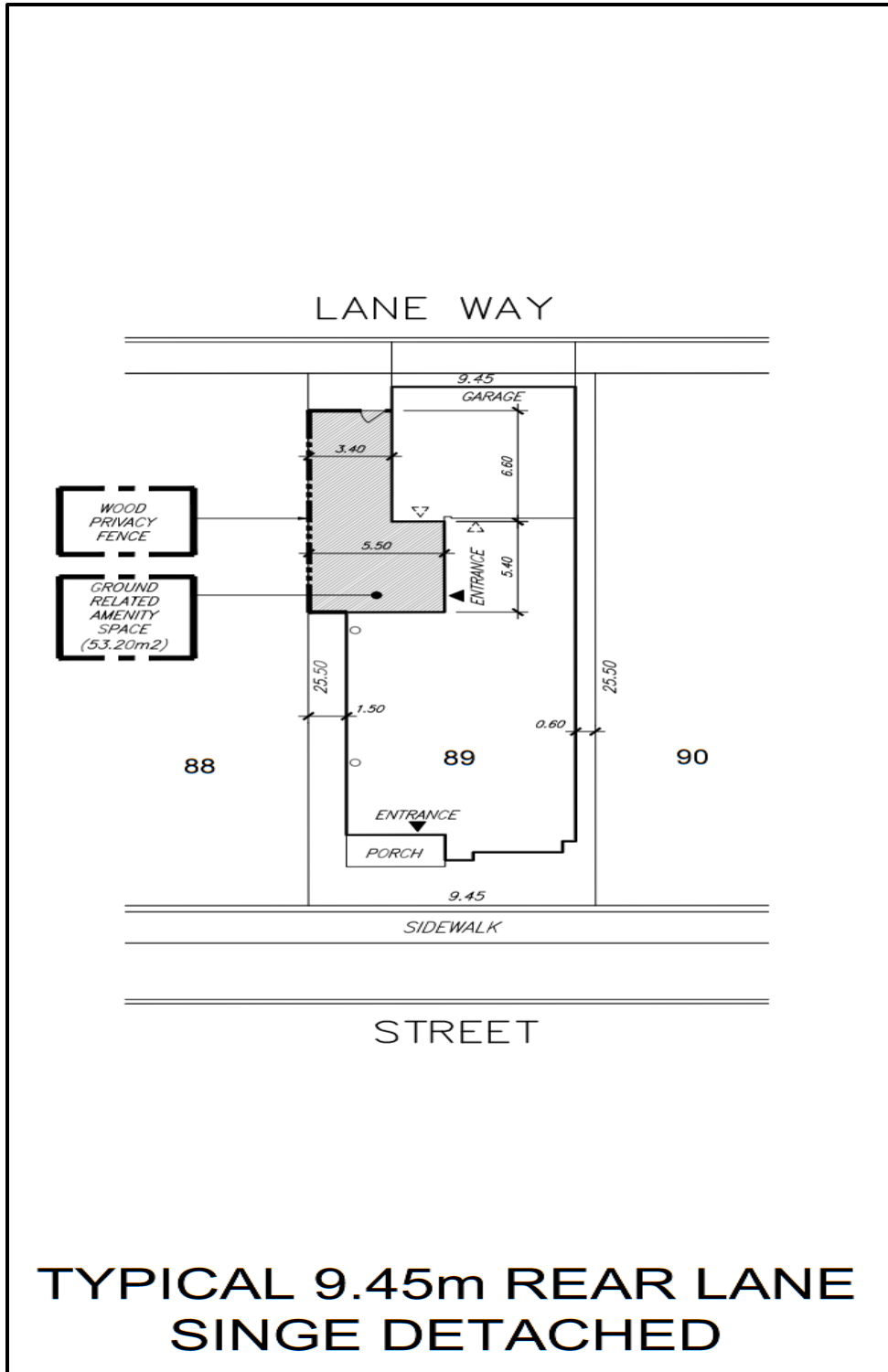


SUBJECT LOTS

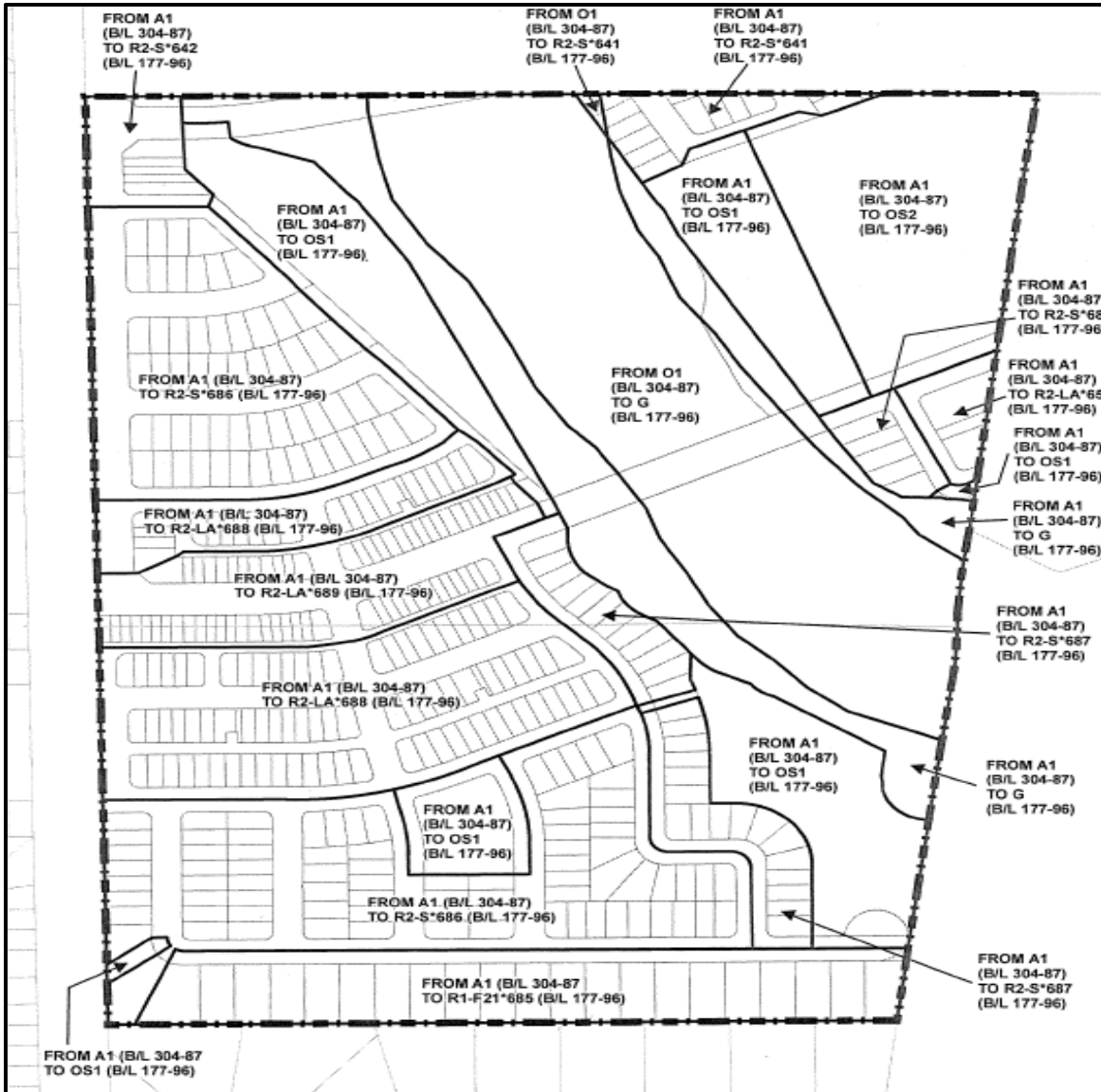
APPENDIX "D"
8.1M TYPICAL REAR LAND SINGLE SITING PLAN





APPENDIX "E"
9.5M TYPICAL REAR LAND SINGLE SITING PLAN











APPENDIX "F"
ZONING BY-LAW EXCEPT



SCHEDULE "A" TO BY-LAW 2021-106
AMENDING BY-LAWS 304-87 AND 177-96 DATED NOVEMBER 9, 2021

 BOUNDARY OF AREA COVERED BY THIS SCHEDULE TO BE DELETED FROM 304-87 AND ADDED TO 177-96
 BOUNDARY OF ZONE DESIGNATION(S)

 A1	AGRICULTURAL ONE	 OS2	OPEN SPACE TWO
 O1	OPEN SPACE ONE	 R1-F21	RESIDENTIAL ONE - F21
 G	GREENWAY	 R2-S	RESIDENTIAL TWO - SPECIAL
 OS1	OPEN SPACE ONE	 R2-LA	RESIDENTIAL TWO - LANE ACCESS

THIS IS NOT A PLAN OF SURVEY. Zoning information presented in this Schedule is a representation sourced from Geographic Information Systems. In the event of a discrepancy between the zoning information contained on this Schedule and the text of zoning by-law, the information contained in the text of the zoning by-law of the municipality shall be deemed accurate.

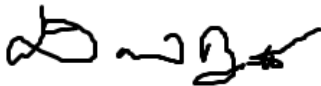
NOTE: This Schedule should be read in conjunction with the signed original By-Law filed with the City of Markham Clerk's Office

APPENDIX "G"

CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF FILE A/046/24

1. The variances apply only to the proposed development as long as it remains;
2. That the variances apply only to the subject development, in substantial conformity with the plan(s) attached as Appendices D and E to this Staff Report and received by the City of Markham on June 6, 2024, and that the Secretary-Treasurer receive written confirmation from the Supervisor of the Committee of Adjustment or designate that this condition has been fulfilled to their satisfaction;
3. That a portion of the minimum 20 m² contiguous outdoor amenity space shall have a minimum configuration of 4.5 metres by 5 metres.

CONDITIONS PREPARED BY:



Daniel Brutto, Senior Planner, Planning and Urban Design Department