Memorandum to the City of Markham Committee of Adjustment May 29, 2024

File: B/025/22 and A/015/24

Address: 9390 Woodbine Avenue and Markland Street, Markham

Applicant: Bousfields Inc. (Kate Cooper)
Hearing Date: Wednesday, June 5, 2024

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

Consent Application B/025/22

Pursuant to the provisions of Section 53 of the Planning Act, R.S.O. 1990 c.P13, as amended, and Ontario Regulation No. 197/96, the Applicant is requesting provisional consent to:

- a) sever and convey a parcel of land with an approximate lot frontage of 119 metres and an approximate lot area of 1.94 ha (Parts 1 to 14);
- b) retain a parcel of land with an approximate lot frontage of 59 metres and an approximate lot area of 0.45 ha (Parts 15 to 26);
- c) establish an easement over Parts 2, 3, 4, 11, 12, and 13 in favour of the Retained Lands (Parts 15 to 26) for the purpose of access;
- d) establish an easement over Parts 18, 21, and 22 in favour of the Severed Lands (Parts 1 to 14) for the purpose of access; and,
- e) establish an easement over Parts 2, 3, 4, 10, 11, 12, 13, 17, 18, 21, 22, 23, 24, 25, and 26 in favour of York Region Condominium Corporation 1415 (King Square Mall) for the purpose of access.

The purpose of this application is to sever the subject lands to facilitate a townhouse development (severed lands) and a future condominium block (retained lands), and establish easements for the purpose of access. This application is being heard concurrently with minor variance application A/015/24, as detailed below.

Minor Variance Application A/015/24

The applicant is requesting relief from the requirements of the "Select Industrial and Limited Commercial (M.C. (170%))" Zone under By-law 165-80, as amended, to permit:

a) Parking By-law 28-97, Section 3.0 (Table B) Non-Residential Uses:

a total of 84 parking spaces to be provided on the neighbouring adjacent lot; whereas, the by-law requires all parking spaces to be provided on the same lot;

b) Parking By-law 28-97, Section 3.0 (Table B) Non-Residential Uses:

a minimum of 995 parking spaces; whereas, the by-law requires a minimum of 1020 parking spaces;

c) By-law 165-80, Section 5.2 (d)(ii):

a minimum interior side yard setback of 0 metres; whereas, the by-law requires a minimum interior side yard setback of 6.9 metres;

d) By-law 165-80, Section 5.2 (d) (iii):

a minimum rear yard setback of 9.6 metres; whereas, the by-law requires a minimum rear yard setback of 12.0 metres; and,

e) By-law 165-80, Section 2:

Woodbine Avenue to continue as the front lot line; whereas, the by-law considers the front lot line to be the shorter boundary line abutting the street.

BACKGROUND

Property Description

The subject lands include two separate parcels, the existing King Square Mall located at the northwest corner of Woodbine Avenue and Markland Street, as well as the parcel located just west of King Square Mall, which is currently being used as surface parking in support of King Square Mall (see Appendix A). The total area of the subject lands is 4.42 ha (10.9 ac).

Other Applications

Staff are currently reviewing an associated Official Plan and Zoning By-law Amendment application (File No. PLAN 21 111003). Development of the subject lands is expected in two phases. Phase 1 proposes 94 townhouse units located on the west side of the subject lands (severed parcel). Phase 2 proposes a mixed-use tower on the east side of the subject lands (retained parcel). Phase 1 was approved by Council on March 21, 2023, subject to the instruments being brought to a future Council meeting for enactment. No changes are currently proposed to the existing King Square Mall.

Proposal

Consent Application

The Owner is proposing to sever and convey a parcel of land in order to create two development blocks with reciprocal easements for access. This will facilitate the development of 94 townhouses on the severed parcel (Phase 1) and a mixed-use tower on the retained parcel (Phase 2). The Consent Application will also facilitate easements for access, including access easements in favour of King Square Mall.

Minor Variance Application

To facilitate the proposed development, the Owner is proposing to remove the majority of the surface parking currently located on the subject lands. Parking for King Square Mall is proposed to be accommodated through the existing underground parking as well as temporary parking proposed on the retained lands (Phase 2).

The Minor Variance application also proposes a reduction in the minimum required setbacks for the King Square Mall lands, as well as the continued use of Woodbine Avenue as the front lot line.

Official Plan and Zoning

King Square Mall Lands

Official Plan 2014 (partially approved on November 24/17, and updated on April 9/18)
The 2014 Official Plan designates the King Square Mall lands 'Commercial'. Permitted uses within the 'Commercial' designation include, but are not limited to: retail, service and recreational uses. The existing shopping centre and recreational use are provided for within this designation.

The subject property is located within the Buttonville district, and is subject to site specific policy 9.4.7 of the 2014 Official Plan, which specifies height and density provisions for the lands located at 9390 Woodbine Avenue. As the Minor Variance application does not propose to alter the building height or density, site specific policy 9.4.7 is not applicable to this application.

Severed and Retained Lands (Phase 1 and Phase 2 Lands)

Official Plan 2014 (partially approved on November 24/17, and updated on April 9/18)
The 2014 Official Plan designates the severed and retained parcels 'Commercial' and 'Deferral Area'. The 'Deferral Area' indicates that the 'Commercial' designation is deferred, and that the provisions of the 1987 Official Plan apply. The Subject Lands were one of a number of employment land conversion applications considered by Markham Council prior to the adoption of the 2014 Official Plan. In accordance with Council direction, the deferral area is to remain in place until a decision on the Official Plan Amendment is made. The 1987 Official Plan designated the Subject Lands 'Industrial' as per Appendix A – Land Use, and more specifically 'Business Corridor Area' as per Appendix H – Commercial/Industrial Categories. Staff are currently reviewing an associated Official Plan and Zoning By-law Amendment application for the proposed development. No change of use is proposed as part of the Consent and Minor Variance applications.

Zoning By-law 165-80

King Square Mall Lands

The subject lands are zoned Select Industrial and Limited Commercial (M.C (170%)) under Bylaw 165-80, as amended, which permits uses including, but not limited to, health centres, personal service shops, business offices, restaurants, and retail stores. The property does not comply with the By-law with respect to the required side yard setback, rear yard setback, and front lot line.

Severed and Retained Lands (Phase 1 and Phase 2 Lands)

The subject lands are zoned Select Industrial and Limited Commercial (M.C (170%)(H)) under By-law 165-80, as amended, which permits uses including, but not limited to, health centres, personal service shops, business offices, restaurants, and retail stores. However, as the subject lands are under hold, only the uses which existed on the effective date of amending By-law 2009-116 are permitted without the removal of the hold. No change of use is proposed as part of the Consent and Minor Variance applications.

Zoning Preliminary Review (ZPR) Not Undertaken

The Owner has confirmed that a Zoning Preliminary Review (ZPR) has <u>not</u> been conducted. However, the applicant has received comments from the building department through their related development applications to confirm the variances required for the proposed development.

COMMENTS

Consent Application B/025/22

The Owner is proposing to sever and convey a parcel of land in order to create two development blocks with reciprocal easements for access.

Planning Staff opine that the proposed severance is appropriate and consistent with the surrounding area. In addition, Planning Staff have no objections to the request to establish easements as noted above.

Minor Variance Application A/015/24

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

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

Parking on a Neighbouring Lot Variance

The Owner is requesting to permit 84 parking spaces off-site on a neighbouring lot, whereas all required parking must be provided on the same lot. To facilitate the proposed development the majority of the surface parking for King Square Mall will be removed. Parking for King Square Mall will be accommodated through the existing 895 underground spaces as well as 100 temporary parking spaces, of which 84 are proposed to be located on the neighbouring lot (retained parcel). The temporary parking spaces would remain until such time as Phase 2 of the proposed development moves forward. Additional underground parking spaces are proposed through Phase 2 of the proposed development and will be assessed through the associated development applications.

Transportation Staff has commented they are satisfied with the above-noted proposed parking strategy and have no concerns with the requested variance. Staff are of the opinion that the requested variance is desirable for the appropriate development of the Subject Lands and have no objections.

Minimum Required Parking Space Variance

The Owner is proposing a minimum of 995 parking spaces; whereas, the By-law requires a minimum of 1020 parking spaces. This is a total reduction of 25 parking spaces.

Transportation Staff have reviewed the parking assessment submitted in support of the proposal and have no concerns with the proposed parking reduction. Staff are of the opinion that the requested variance is minor in nature.

Side Yard Setback and Rear Yard Setback Variances

The Owner is requesting relief to permit a minimum interior side yard setback of 0 metres, whereas, the By-law requires a minimum interior side yard setback of 6.9 metres. In addition, the Owner is requesting a minimum rear yard setback of 9.6 metres, whereas, the By-law requires a minimum rear yard setback of 12.0 metres.

These variances relate to the existing King Square Mall. The proposed variances are technical in nature and are a result of the related Consent application.

Staff do not anticipate any adverse impacts and have no concerns with the requested variance.

Front Lot Line Variance

The Owner is requesting a variance to allow Woodbine Avenue to continue to be interpreted as the front lot line, whereas, the By-law considers the front lot line to be the shorter boundary line abutting the street (Markland Street). This variance is technical in nature and a result of the related Consent application.

Staff have no concerns with the request to allow Woodbine Avenue to continue as the front lot line.

PUBLIC INPUT SUMMARY

No written submissions were received as of May 29, 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 severance application with regard for Section 53 of the Planning Act, and recommend approval of the consent application.

Planning Staff have reviewed the minor variance application with respect to Section 45(1) 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 application to demonstrate why they should be granted relief from the requirements of the *Planning Act* and Zoning By-law, and how they satisfy the requirements for the granting of severances and minor variances.

Please refer to Appendices 'D' and 'E' for conditions to be attached to any approval of this application.

PREPARED BY:

Gailey Miller

Hailey Miller, Senior Planner, West District

REVIEWED BY:

APPENDICES

Appendix 'A' - Aerial Photo Appendix 'B' – Draft Reference Plan

Appendix 'C' – Supporting Plans

Appendix 'D' – Conditions of Any Approval – B/025/22

Rick Cefaratti, MCIP, RPP, Senior Planner, West District

Appendix 'E' - Conditions of Any Approval - A/015/24

APPENDIX "D" CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF B/025/22

- 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/025/22, 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 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 from an Ontario Land Surveyor that the severed and retained parcels, in their final configuration, meet all the requirements of the applicable Zoning By-law, including any development standards for building and structures on the subject lands, and that the Secretary-Treasurer receive written confirmation that this condition has been satisfied to the satisfaction of the Zoning Supervisor or designate;
- 6. That prior to the issuance of the Certificate of Official, the Owner shall enter into and execute a Development Agreement with the City to the satisfaction of the City Solicitor and 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:
 - a. Payment of all applicable fees in accordance with the City's fee by-law;
 - Submission of securities respecting any works to be provided in accordance with the Development Agreement;
 - c. Provide a functional servicing plan to show how individual water and sewer services will be provided for the Severed Lot.
 - d. Provide a functional grading plan to clearly indicate the existing grading will not impact the retained and/or severed lots negatively, and whether or not any improvement is required.
 - e. To pay for and construct any improvement to the municipal infrastructure, should it be determined that improvement to such infrastructure is required to support this development.
 - f. Provide an erosion and sediment control plan and a detailed stormwater management report.
 - g. To construct the required servicing, grading and stormwater management for the development.
 - h. To construct and or implement any required excavation, removal, relocation, restoration and/or improvement of any above or below ground municipal services or utilities that may be necessary for this development.

- 7. Prior to final approval of the Consent, a Plumbing Permit from the Building Department shall be obtained and the internal storm sewer works completed for the retained parcel. The Secretary-Treasurer shall receive written confirmation that this condition has been fulfilled to the satisfaction of the Chief Building Official or designate; and,
- 8. 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, R.S.O. 1990, c.P.13, as amended.

CONDITONS PREPARED BY:

Houley Miller

Hailey Miller, Senior Planner, West District

APPENDIX "E" CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF A/015/24

- 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 'Appendix C' to this Staff Report 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. Submission of a Tree Assessment and Preservation Plan, prepared by a qualified arborist in accordance with the City's Streetscape Manual (2009), as amended, to be reviewed and approved by the City, and that the Secretary-Treasurer receive written confirmation from the Director of Planning and Urban Design or designate that this condition has been fulfilled to his/her satisfaction, and that any detailed Siting, Lot Grading and Servicing Plan required as a condition of approval reflects the Tree Assessment and Preservation Plan;
- 4. That prior to the commencement of construction or demolition, tree protection be erected and maintained around all trees on site in accordance with the City's Streetscape Manual, including street trees, in accordance with the City's Streetscape Manual (2009) as amended, and inspected by City Staff to the satisfaction of the Director of Planning and Urban Design or their designate;
- 5. That tree replacements be provided and/or tree replacement fees be paid to the City if required in accordance with the Tree Assessment and Preservation Plan, 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 designate.

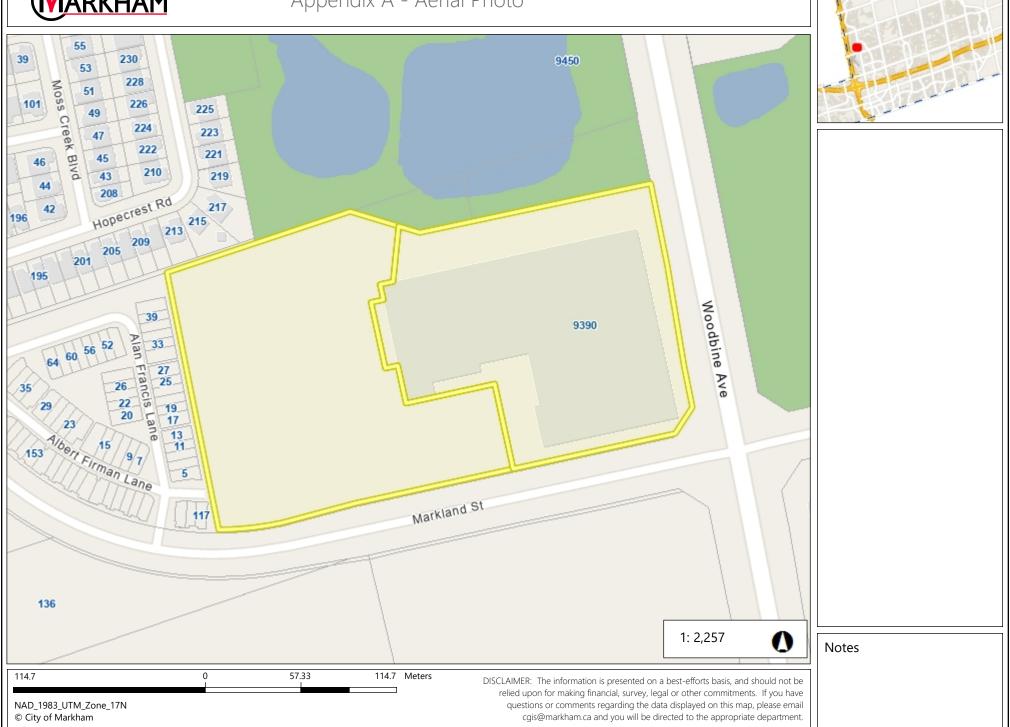
CONDITONS PREPARED BY:

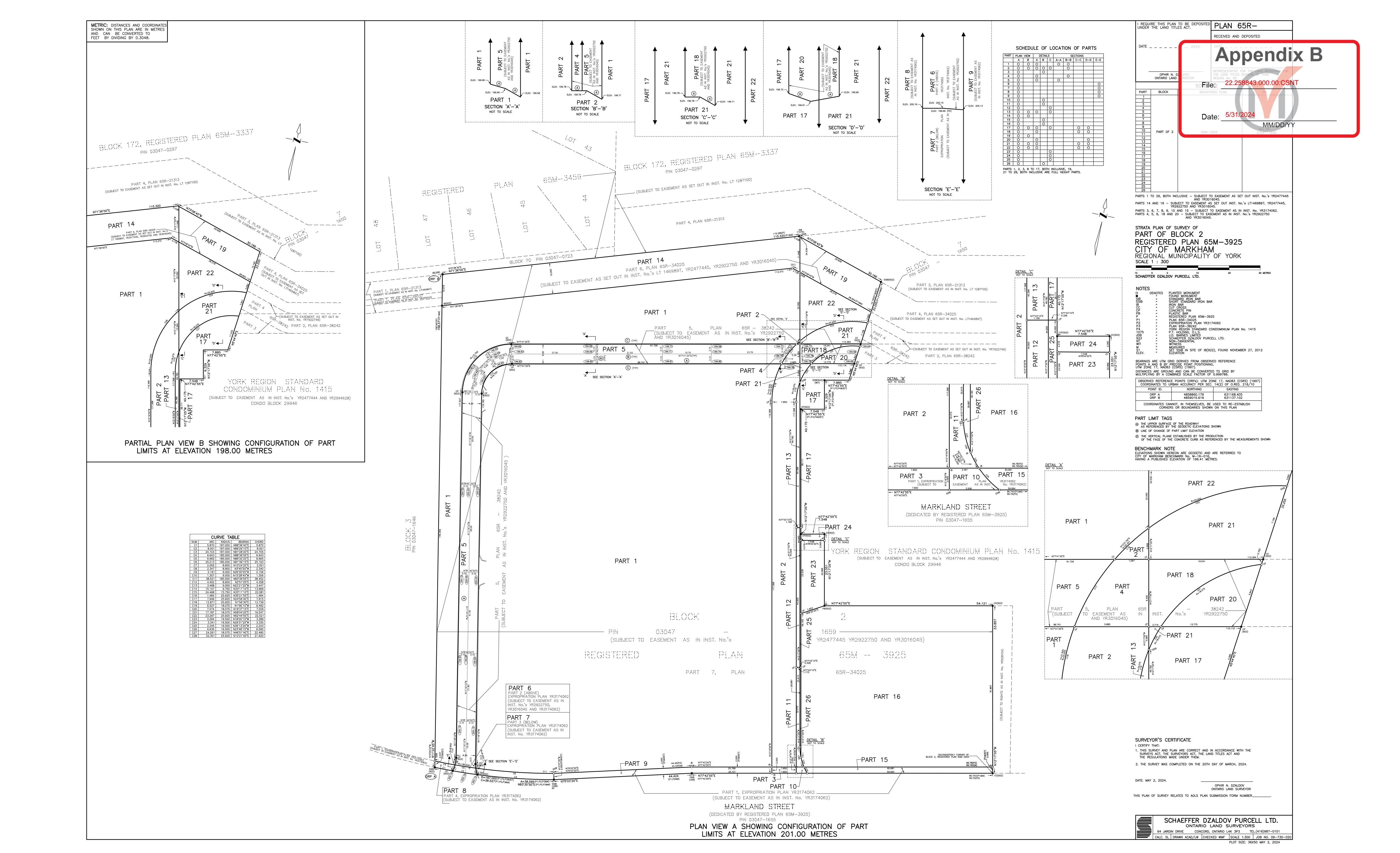
Houley Miller

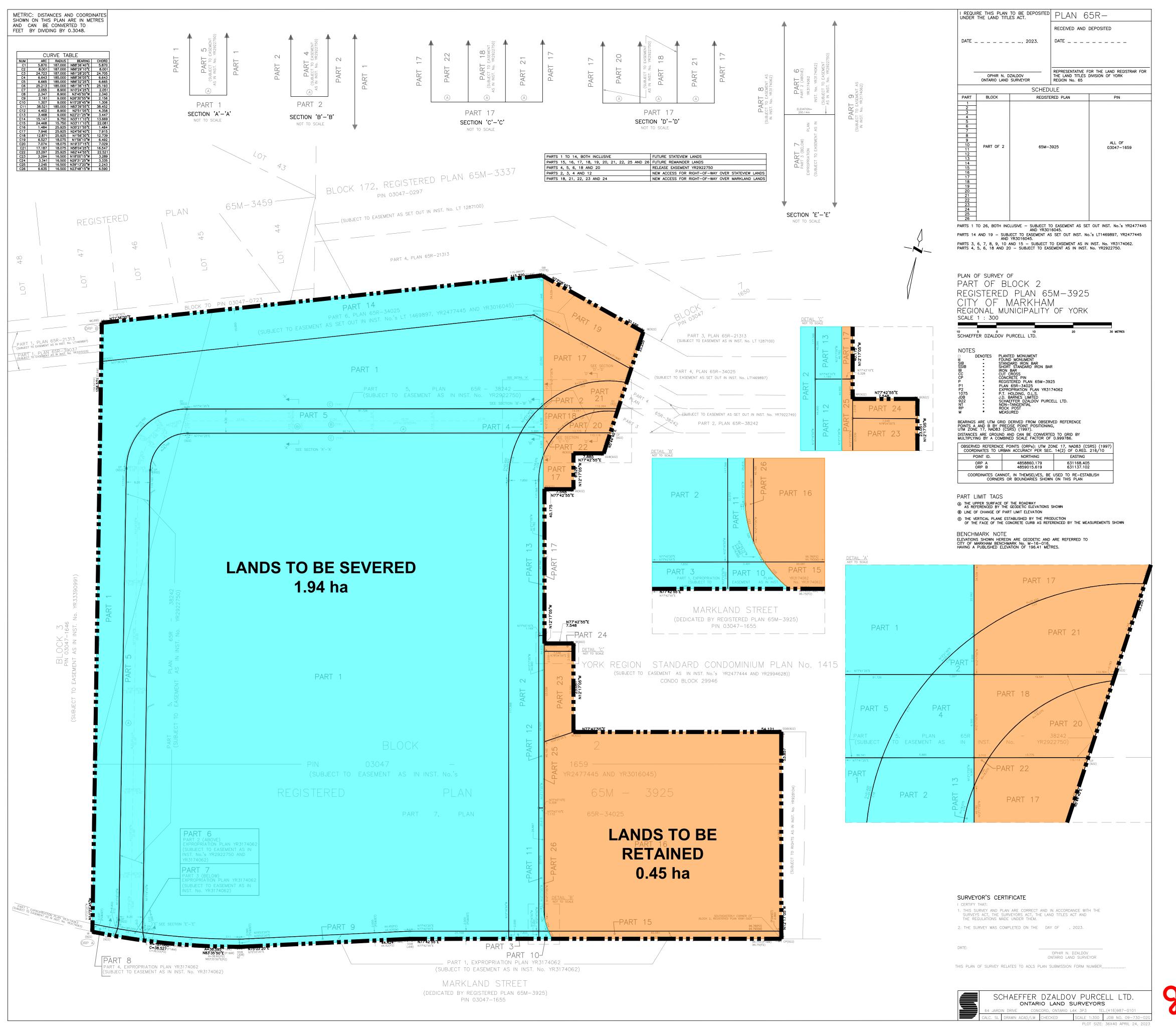
Hailey Miller, Senior Planner, West District

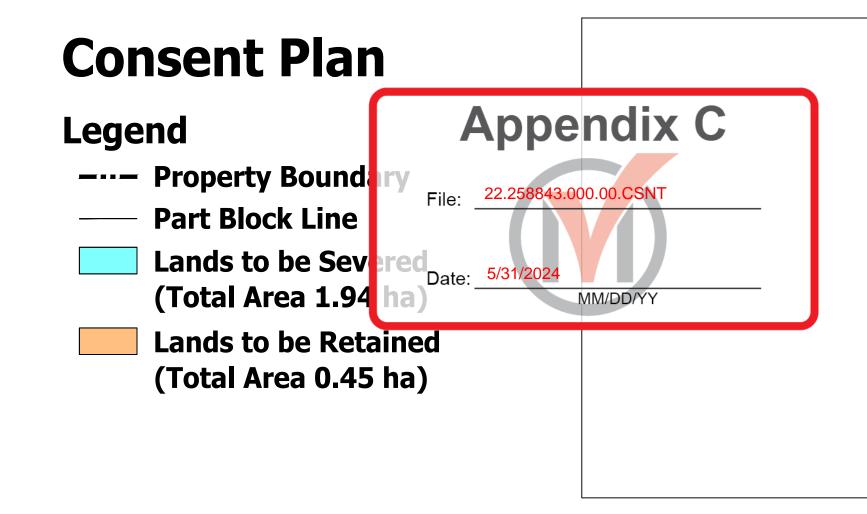


Appendix A - Aerial Photo









9390 Woodbine Avenue City of Markham BOUSFIELDS inc. 2107 – 25sk MAY 26, 2023

