

Memorandum to the City of Markham Committee of Adjustment

February 26, 2020

Files: B/16/19,
Address: 2900 Steeles Avenue Markham
Applicant: Bayview Summit Development Limited
Agent: Gatzios Planning & Development Consultants Inc.
Hearing Date: Wednesday March 4, 2020

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

B/16/19

The applicant is requesting provisional consent to:

- a) sever and convey a parcel of land with an approximate area of 21,202.1 m² and lot frontage of 153.5 m (see Parts 19-25, Attachment 1);
- b) retain a parcel of land with an approximate area of 50,627.5 m² and lot frontage of 251.5 m (see Parts 1-18, Attachment 1).
- c) establish easements in perpetuity for pedestrian and vehicular access and servicing on the retained and severed parcels

The purpose of this application is to create a new residential lot to facilitate high rise residential development on the severed lands.

BACKGROUND

Property and Area Context

The subject property is approximately 7.1 hectares (17.7 acres) in area and is located on the northeast corner of Don Mills Road and Steeles Avenue East.

The subject lands are bounded by the following uses:

- To the north and west, across Don Mills Road are low density homes;
- To the south, across Steeles Avenue East in the City of Toronto are townhouses and six-storey apartment buildings; and,
- Highway 404 off-ramp and employment uses to the east.

Existing Uses

The subject lands currently supports a shopping centre (Shops on Steeles and 404), three additional commercial buildings on pads located adjacent to Steeles Avenue East, and a gas station at the intersection of Don Mills Road and Steeles Avenue East. The existing enclosed mall contains a broad range of retail stores, including a food supermarket, and office uses.

The subject site is currently served by three access driveways. Two driveways are located along Steeles Avenue East.

OMB Decision

These lands were the subject of an Ontario Municipal Board (OMB) Hearing. In April of 2011, a settlement was reached on an appeal on applications for Official Plan and Zoning

By-law amendments submitted by Bayview Summit Developments Limited to allow high rise residential uses and site specific development standards on the subject lands.

The main parties to the above noted settlement were Bayview Summit and the City of Markham. Staff note that the German Mills Residents' Association and the City of Toronto were also active participants in this settlement. The settlement included an agreement that future re-development of the Shops on Steeles and 404 property would allow for high rise residential development with a maximum building height of 25 storeys and a maximum of 1,235 residential dwelling units.

Markham Official Plan

The 2014 Official Plan (as partially approved on November 24, 2017 and further updated on April 9, 2018) designates the west side of the subject lands (retained portion) 'Mixed Use Mid Rise' and the east side (severed portion) of the subject lands 'Mixed Use High Rise'. Both land use designations provide for a broad range of residential, retail, restaurant, service and commercial uses.

These lands are also subject to Site Specific Policy 9.18.10 of the 2014 Official Plan, for the Local Centre of German Mills. The Policy provides for a maximum building height of 12 storeys for the portion of the property located within Mixed Use Mid Rise designation, and a maximum building height of 25 storeys for the portion of the property located within Mixed Use High Rise designation. The Policy provides for a total of 1,235 dwelling units to be developed on the subject lands.

Zoning By-law

The western portion (retained lot) of the site is zoned Community Amenity One – [CA1], and the eastern portion (severed lot) of the subject lands is zoned Community Amenity Two – [CA2] and Open Space Zone – (OS1) by By-law 2612, as amended by By-law 2011-196. The by-law applies site specific zoning provisions including permitted uses, height provisions, building setbacks, maximum residential units, maximum floor area and parking provisions. Approval of By-law 2011-196 was issued by the Ontario Municipal Board in September 2011.

In addition, the Zoning By-law incorporates Holding One (H1) and Holding Two (H2) provisions to the CA2 Zone to provide for phased residential development on the subject lands. The Zoning By-law provides specific conditions to be met prior to the removal of these holding provisions including but not limited to, confirmation of servicing capacity, transportation capacity, and the execution of one or more Agreements between the City of Markham, York Region and the City of Toronto relating to the construction, financing and implementation of off-site infrastructure improvements, if required. The purpose and effect of these holding provisions is to ensure residential development does not occur until such time as the above noted conditions of removal are met.

Proposal

Severed Lot

The applicant (Bayview Summit) is proposing to sever and convey a parcel of land with an approximate area of 21,202.1 m² and a lot frontage of 153.8 m to Lifetime Developments (see Attachment 1, Severance Plan). The development (see Phase 1 Concept Plan, Severed Lot, Attachment 2) for the severed lands proposes:

- A total of 1,159 residential apartment units;

- Two residential buildings including: one building with 12 storey, 15 storey , and 24 storey components; and a second building with a podium ranging in height from 1-9 storeys, and two residential tower components, each with a height of 24 storeys;
- 1,330 parking spaces located within 3 levels of underground parking;
- A centrally located, privately owned, and publicly accessible park feature;

The severed parcel represents Phase 1 of a proposal to redevelop the Shoppes on Steeles and 404 property.

Retained Lot

The applicant is proposing to retain a parcel of land with an approximate area of 50,627.5 m² and lot frontage of 251.5 m (Parts 1-18) where the current shopping centre is located. A future redevelopment proposal (see Phase 2 Concept Plan, Retained Lot, Attachment 3) for the retained lot proposes:

- 76 residential dwelling units
- 28,119 m² of non-residential space (14,306 m² of new non-residential space and 13,813 m² of existing non-residential space)
- 1,230 parking spaces within 3 levels of underground parking, on the roof of the existing shopping mall, and surface parking

The retained parcel represents Phase 2 of the subject lands. A future Site Plan application will be required to be submitted to the City.

Phased Redevelopment of Shopping Centre Proposed

The severed lot represents Phase 1 of a proposal to redevelop the Shoppes on Steeles and 404 property. The retained lot represents Phase 2 of future redevelopment plans for the subject lands.

The applicant is also proposing to establish easements in perpetuity for servicing and pedestrian and vehicular access (see Attachment 4 – Easement Summary).

Public Access to Private Park

In accordance with the above noted OMB Settlement, the applicant will be required to provide the City of Markham with an easement for public access to use the future park area proposed in Phase 1 to the satisfaction of the Commissioner of Development Services and the City Solicitor.

This public access easement will be secured through the site plan agreement process.

Zoning Preliminary Review (ZPR) Undertaken

A Zoning Preliminary Review (ZPR) was completed on September 12, 2019 to confirm that both the severed and retained parcels will be treated as one lot for zoning purposes.

PUBLIC INPUT SUMMARY

Six written submissions in objection to the consent application were received from the public as of February 26, 2020. These objections included concerns that the proposed development will increase traffic congestion and noise in the area, are opposed to the proposed building heights, and lack of public open spaces in the area.

As stated previously, Official Plan and Zoning approval for high rise development on the subject lands was previously authorized by the OMB. These implementing documents have already determined the maximum building height and amount of residential units permitted, subject to an application for site plan approval and the removal of the holding provisions in the zoning by-law. Through future development applications including site plan approval, the applicant will be required to demonstrate that all servicing capacity and transportation capacity matters have been addressed prior to any high rise residential development occurring on the subject lands.

As mentioned above, a centrally located park with public access is proposed on the severed lot.

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

COMMENTS

Site Plan Application Required

An application for Site Plan approval is required prior to the issuance of any building permits for the high rise residential development of the severed parcel. This application has not yet been submitted.

Hold Removal Application Submitted

The applicant submitted a Hold removal application in August of 2019 (PLAN 19 131939). The applicant included servicing and transportation studies with the Hold removal application, in support of removing the H1 and H2 Holding provisions. These studies are under review by York Region, the City of Markham, and the City of Toronto. Prior to final site plan approval, the Holding provisions must be removed from the zoning by-law.

York Region Comments

York Region staff (see Attachment 5 – York Region Comments, October 16, 2019) indicates they have no objections to the consent application, subject to a number of conditions being met including:

1. Confirmation that adequate water supply and sewage capacity has been allocated for the proposed new lot;
2. A widening across the full frontage of the subject lands where it abuts Don Mills Road of sufficient width to provide a minimum of 22.5 metres from the centreline of construction of Don Mills Road;

Engineering Comments

Markham's Development Engineering staff has no objection to the proposed severance subject to the submission of functional servicing plans indicating how municipal services will be provided for the severed lot, grading plans that demonstrate the existing grading on the retained parcel will not adversely impact the severed parcel, and confirmation that service lines for the severed and retained parcels will be independent.

In addition Engineering staff has requested that the applicant enter into an agreement with the City satisfy the following requirements:

1. 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.
2. To submit servicing, grading, erosion and sediment control plan and a detailed stormwater management report to the satisfaction of the Director of Engineering.
3. To construct the required servicing, grading and stormwater management for the development, to the satisfaction of the Director of Engineering;
4. 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, to the satisfaction of the Director of Engineering:

It is the opinion of Planning staff that the above noted agreement matters can be addressed through a future site plan application and associated site plan agreement process.

Building Department Comments

The Building Department advises that the Building Code requires independent service lines for the severed and retained parcels.

The existing grocery store building (Food Basics) currently straddles the retained and severed parcels. Building staff advise that, prior to finalizing the severance, a partial demolition of this building is required.

Request to Establish Easements Appropriate

It is the opinion of Planning Staff that the proposed easements for servicing, pedestrian and vehicular access are appropriate and consistent with discussions with Development Engineering and Transportation Engineering staff.

There are a number of existing easements on the 'subject lands' in favour of the City. These easements are related to existing underground services and will remain in place following completion of the severance.

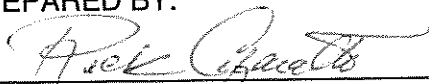
CONCLUSION

In concluding that the proposed severance is appropriate, staff have had regard for the criteria in Section 51 (24) of the Planning Act.

Planning staff recommend that, should the Committee of Adjustment decide to approve the application, the conditions in Appendix 'A', be attached to B/16/19.

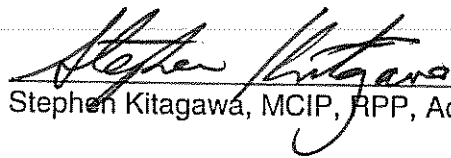
Please see Appendix "A" for conditions to be attached to any approval of this application.

PREPARED BY:



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

REVIEWED BY:



Stephen Kitagawa, MCIP, RPP, Acting-Manager, West District

Attachments:

- Appendix 'A' – Conditions to be attached to any Approval of B/16/19
- Attachment 1 – Severance Plan
- Attachment 2 – Phase 1 Concept Plan
- Attachment 3 – Phase 2 Concept Plan
- Attachment 4 – Easement Summary
- Attachment 5 – York Region Comments

APPENDIX 'A'
CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF B/16/19

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/10/19, 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 seven white prints of a deposited reference plan showing the subject land, 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. Submission of functional servicing plans indicating how municipal services will be provided for the severed lot, grading plans that demonstrate the existing grading on the retained parcel will not adversely impact the severed parcel, and confirmation that independent service lines for the severed and retained parcels will be provided, to the satisfaction of the Director of Engineering or designate;
6. The City receives confirmation that a portion of the existing grocery store building is demolished to accommodate the land severance;
7. That the applicant satisfies the requirements of York Region, financial or otherwise, as indicated in their letter to the Committee of Adjustment (see Attachment 3 to this Staff Report), and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled to the satisfaction of York Region.
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.

CONDITONS PREPARED BY:



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

Consent Plan

Bayview Summit Development Ltd.
2900 Steeles Avenue East

Part(s) to be severed
Parts # 19- 25

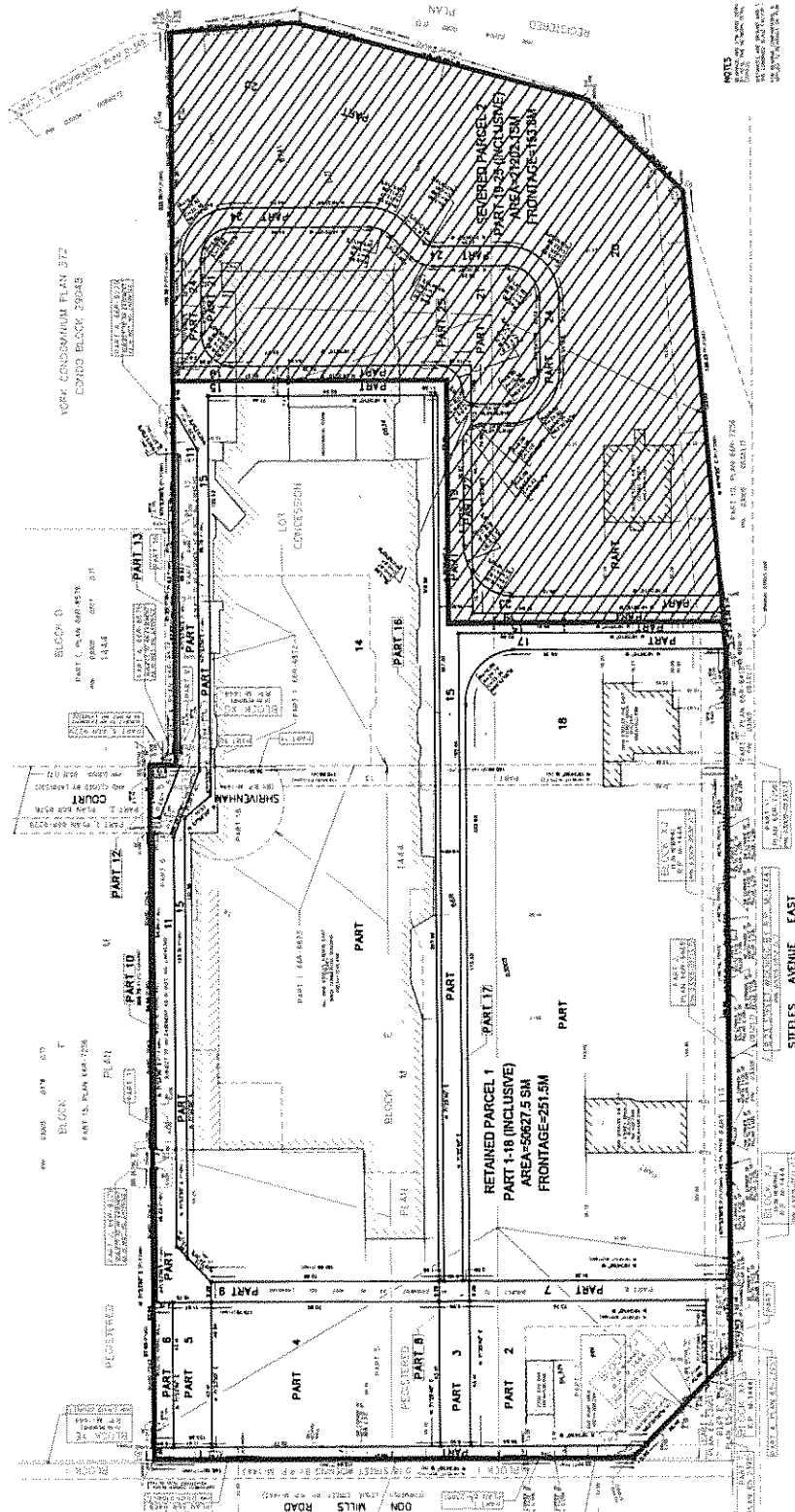


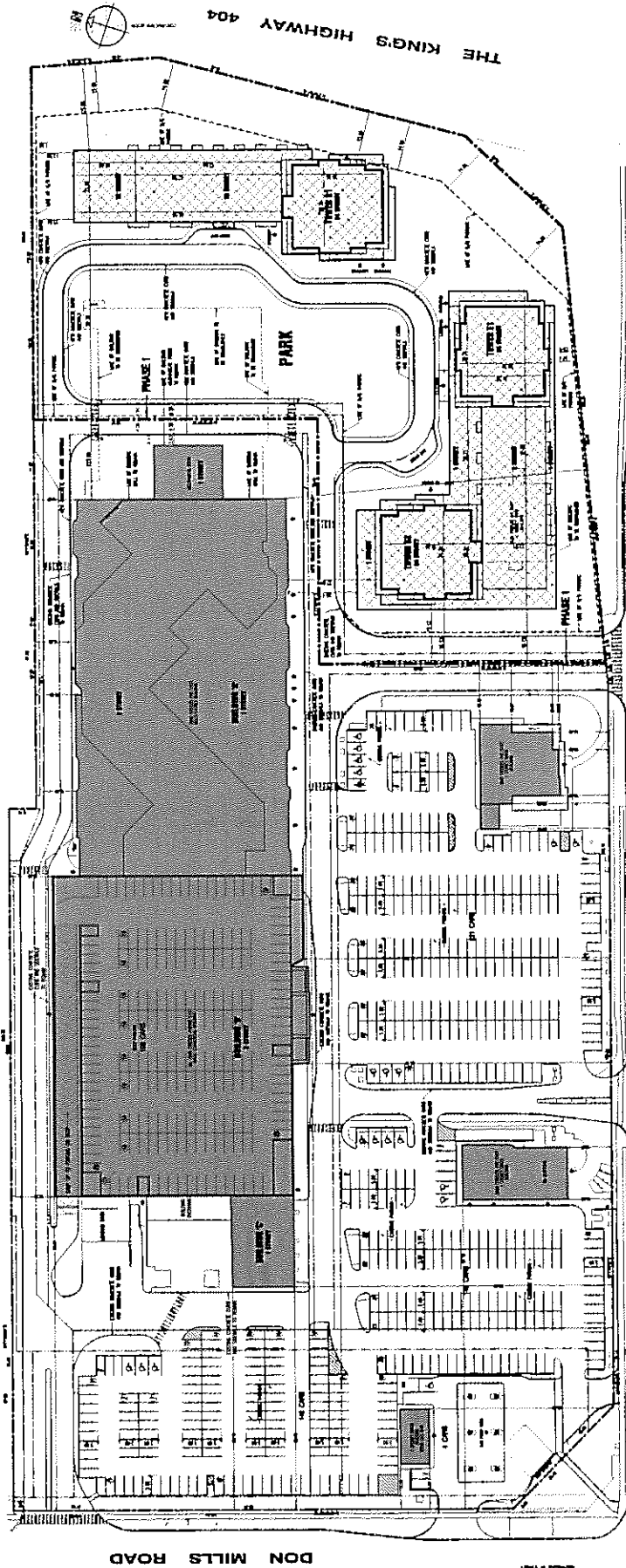
Part(s) to be retained
Parts # 1-18



September 12, 2019

Gottlieb Planning +
Development Consultants Inc.





PHASE 1 - MASTER PLAN

SHOPPES ON STEELES
2900 STEELES AVENUE EAST
MARKHAM, ONTARIO

THE BAYVIEW SUMMIT DEVELOPMENT LTD.

PROPOSED

DATE: 11/11/11
SCALE: 1" = 100'

PROJECT NO: 17045
SHEET NO: A-181

ALL DIMENSIONS ARE IN METERS UNLESS OTHERWISE SPECIFIED.

THESE PLANS WERE PREPARED BY THE ENGINEER BASED ON THE INFORMATION PROVIDED BY THE CLIENT. THE ENGINEER DOES NOT WARRANT THE ACCURACY OF THE INFORMATION PROVIDED BY THE CLIENT.

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STEELES AVENUE EAST

PHASE 1 - MASTER PLAN

GENERAL INFORMATION

PROJECT NAME: SHOPPES ON STEELES
CLIENT: THE BAYVIEW SUMMIT DEVELOPMENT LTD.
DATE: 11/11/11
SCALE: 1" = 100'

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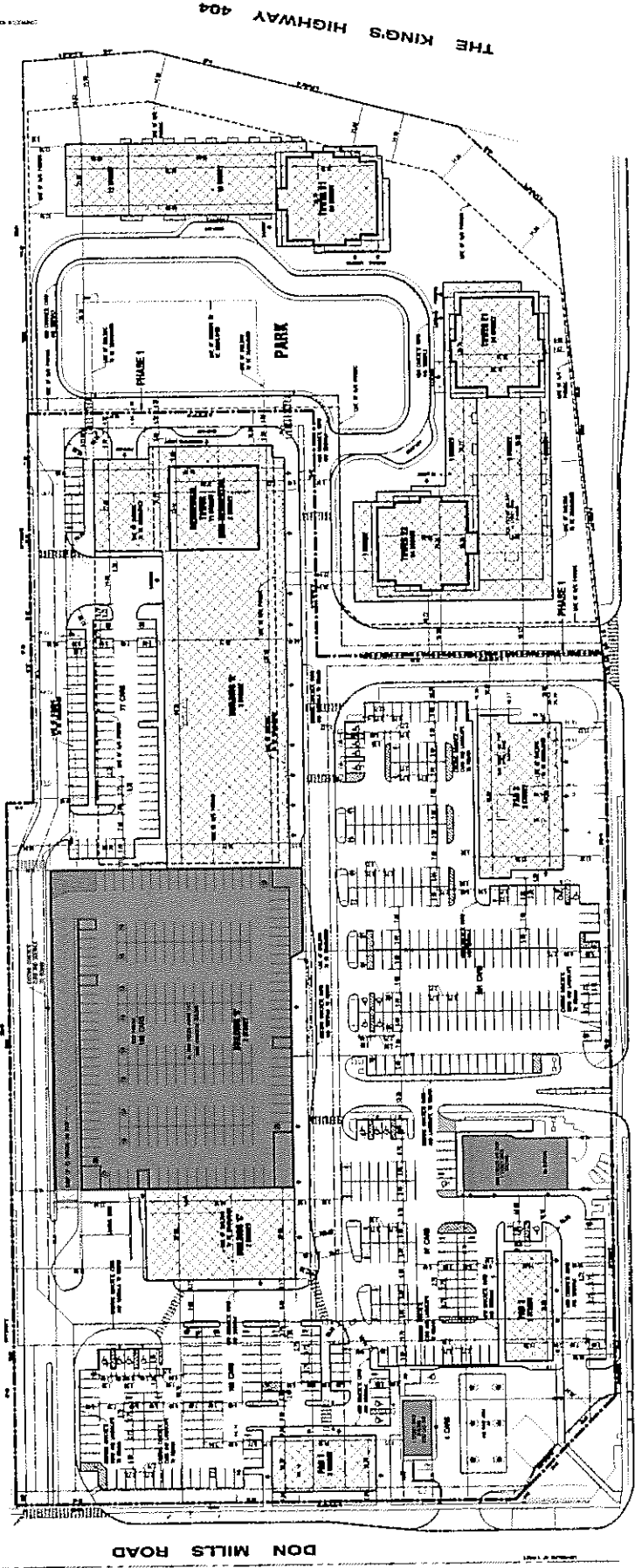
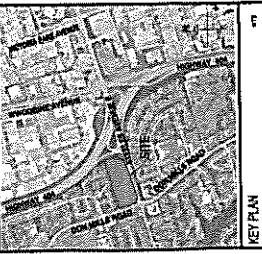
PHASE 1 - MASTER PLAN

GENERAL INFORMATION

PROJECT NAME: SHOPPES ON STEELES
CLIENT: THE BAYVIEW SUMMIT DEVELOPMENT LTD.
DATE: 11/11/11
SCALE: 1" = 100'

LEGEND:

- EXISTING BUILDING
- EXISTING DRIVEWAY
- EXISTING DRIVEWAY
- EXISTING DRIVEWAY



PHASE 2 - MASTER PLAN	
DATE: 11/11/11	SCALE: 1" = 100'
SHOPPES ON STEELES 2990 STEELES AVENUE EAST AND BAYVIEW SUMMIT DEVELOPMENT LIA	
PETROFF	
PREPARED BY: PETROFF & ASSOCIATES 1100 SHEPPARD AVENUE EAST, SUITE 100 SCARBOROUGH, ONTARIO M1S 1B5 TEL: (416) 291-1100 FAX: (416) 291-1101 WWW.PETROFFONLINE.COM	PROJECT NO.: 17045 DRAWING NO.: A-102

STEELES AVENUE EAST	
EXISTING DEVELOPMENT DATA: EXISTING BUILDING AREA: 10,000 SQ. FT. EXISTING DRIVEWAY AREA: 1,000 SQ. FT. EXISTING LANDSCAPING AREA: 1,000 SQ. FT.	PROPOSED DEVELOPMENT DATA: PROPOSED BUILDING AREA: 10,000 SQ. FT. PROPOSED DRIVEWAY AREA: 1,000 SQ. FT. PROPOSED LANDSCAPING AREA: 1,000 SQ. FT.

PHASE 2 - MASTER PLAN	
EXISTING DEVELOPMENT DATA: EXISTING BUILDING AREA: 10,000 SQ. FT. EXISTING DRIVEWAY AREA: 1,000 SQ. FT. EXISTING LANDSCAPING AREA: 1,000 SQ. FT.	PROPOSED DEVELOPMENT DATA: PROPOSED BUILDING AREA: 10,000 SQ. FT. PROPOSED DRIVEWAY AREA: 1,000 SQ. FT. PROPOSED LANDSCAPING AREA: 1,000 SQ. FT.

Attachment 4

BAYVIEW SUMMIT & LIFETIME DEVELOPMENTS
SUMMARY OF EASEMENTS FOR SHOPS ON STEELES SEVERANCE
 revised draft: September 12, 2019

EASEMENTS ON PROPERTY TO BE OWNED BY: BAYVIEW SUMMIT
BAYVIEW SUMMIT TO OWN: Parts 1 to 18

PART	DESCRIPTION	EASEMENT TO	PURPOSE
1	Don Mills road widening	n/a	
2	site	n/a	
3	driveway to Don Mills	n/a	
4	site	n/a	
5	driveway to Don Mills	Lifetime	surface vehicular and pedestrian access
6	driveway to Don Mills	1. Lifetime 2. City of Markham	surface vehicular and pedestrian access underground services easement
7	existing services easement & driveway to Don Mills	1. City of Markham 2. Lifetime	underground services easement surface vehicular and pedestrian access
8	existing services easement & driveway to Don Mills	1. City of Markham 2. Lifetime	underground services easement surface vehicular and pedestrian access
9	existing services easement & driveway to Don Mills	1. City of Markham 2. Lifetime	underground services easement surface vehicular and pedestrian access
10	existing services easement	City of Markham	underground services easement
11	existing services easement & driveway to Don Mills	1. City of Markham 2. Lifetime	underground services easement surface vehicular and pedestrian access
12	site	n/a	
13	site	n/a	
14	site	n/a	
15	future services easement & driveway to Don Mills	1. City of Markham 2. Lifetime	underground services easement surface vehicular and pedestrian access
16	driveway to Don Mills	Lifetime	surface vehicular and pedestrian access
17	driveway to Don Mills	Lifetime	surface vehicular and pedestrian access
18	site	n/a	

EASEMENTS ON PROPERTY TO BE OWNED BY: LIFETIME

LIFETIME TO OWN: Parts 19 to 25

PART	DESCRIPTION	EASEMENT TO	PURPOSE
19	future services easement & driveway	1. City of Markham 2. Bayview Summit	underground services easement surface vehicular and pedestrian access
20	site	n/a	
21	private park	1. City of Markham 2. Bayview Summit	surface pedestrian access surface pedestrian access
22	future services easement	City of Markham	underground services easement
23	driveway to Steeles	Bayview Summit	surface vehicular and pedestrian access
24	driveway surrounding park	Bayview Summit	surface vehicular and pedestrian access
25	future services easement	City of Markham	underground services easement



File No: B/16/19 (Cons.19.M.021)

October 16, 2019

Melissa Leung
Committee of Adjustment Technician
Planning and Urban design
City of Markham
101 Town Centre Boulevard

**RE: Revised for Consent Application B/16/19
Submitted by: Bayview Summit Development Limited
2900 Steeles Avenue East
Markham**

The Regional Municipality of York has completed its review of the above noted severance application B/16/19. The subject site is municipally known as 2900 Steeles Avenue East and is located on the north side of Steeles, west of Highway 404 and east of Don Mills Road in the City of Markham.

The site is located within the Urban Area as designated on Map 1 of the York Region Official Plan 2010 (YROP-2010). Further the Region is protecting for a 45 metre(s) right-of-way along the frontage of this section of Don Mills Road for the purpose of a road widening as per Section 7.2.49 of the YROP-2010.

The Region has no objection to the consent application subject to the following conditions:

1. Prior to the approval of the Consent application, the City of Markham shall confirm that adequate water supply and sewage capacity has been allocated for the proposed new lot.
2. "The Owner shall agree that the existing access onto Don Mills Road may be subject to review and approval by the Region in the future, based on the recommendations of the future Don Mills Road Environmental Assessment Study."
3. Prior to final approval, the Owner shall convey the following lands to York Region for public highway purposes free of all costs and encumbrances, to the satisfaction of the Regional Solicitor:

- a. A widening across the full frontage of the site where it abuts Don Mills Road of sufficient width to provide a minimum of 22.5 metres from the centre of construction of Don Mills Road
4. Notwithstanding any lands that may have previously been expropriated by the Region, the Owner shall convey sufficient property to the Region for public highway purposes along the full frontage of the site(s) where it abuts [Regional Road] to provide a 45 metre(s) right-of-way, free of all costs and encumbrances. Conveyance of sufficient property shall be referenced from a point 22.5 metre(s) from the centerline of construction of Don Mills Road
5. The Owner shall provide a solicitor's certificate of title in a form satisfactory to the Regional Solicitor, at no cost to the Region, with respect to the conveyance of these lands to York Region. Alternatively, the Owner shall submit documentation to the Region confirming that the existing streetline represents sufficient right-of-way as required by York Region.
6. The Owner shall arrange for the preparation, review and deposit on title of a reference plan describing the lands to be conveyed to the Region, as described above, to the satisfaction of the Regional Planning and Economic Development Branch.
7. The Region requires the Owner submit a Phase One Environmental Site Assessment ("ESA") in general accordance with the requirements of the *Environmental Protection Act* and O. Reg. 153/04 Records of Site Condition, as amended ("O. Reg. 153/04"). The Phase One ESA must be for the Owner's property that is the subject of the application and include the lands to be conveyed to the Region (the "Conveyance Lands"). The Phase One ESA cannot be more than two (2) years old at: (a) the date of submission to the Region; and (b) the date title to the Conveyance Lands is transferred to the Region. If the originally submitted Phase One ESA is or would be more than two (2) years old at the actual date title of the Conveyance Lands is transferred to the Region, the Phase One ESA will need to be either updated or a new Phase One ESA submitted by the Owner. Any update or new Phase One ESA must be prepared to the satisfaction of the Region and in general accordance with the requirements of O. Reg. 153/04. The Region, at its discretion, may require further study, investigation, assessment, delineation and preparation of reports to determine whether any action is required regardless of the findings or conclusions of the submitted Phase One ESA. The further study, investigation, assessment, delineation and subsequent reports or documentation must be prepared to the satisfaction of the Region and in general accordance with the requirements of O. Reg. 153/04. Reliance on the Phase One ESA and any subsequent reports or documentation must be provided to the Region in the Region's standard format and/or contain terms and conditions satisfactory to the Region.

The Region requires a certified written statement from the Owner that, as of the date title to the Conveyance Lands is transferred to the Region: (i) there are no contaminants of concern, within the meaning of O. Reg. 153/04, which are present at, in, on, or under the property, or emanating or migrating from the property to the Conveyance Lands at levels that exceed the MOECC full depth site condition standards applicable to the property; (ii) no pollutant, waste of any nature, hazardous substance, toxic substance, dangerous goods, or other substance or material defined or regulated under applicable environmental laws is present at, in, on or under the Conveyance Lands; and (iii) there are no underground or aboveground tanks, related piping, equipment and appurtenances located at, in, on or under the Conveyance Lands.

8. The Owner shall be responsible for all costs associated with the preparation and delivery of the Phase One ESA, any subsequent environmental work, reports or other documentation, reliance and the Owner's certified written statement.

This application is subject to York Region's development applications processing fee as identified in By-law No. 2010-15. The review fee for Consent to Sever is \$840 for the first lot (severed + new lot) and the fee for Review and Approval of Environmental Site Assessment Report fee is \$1,600. These fees are required to proceed with the review.

Please note that all payments shall be in the form of a certified cheque and made payable to "The Regional Municipality of York" and forwarded to the Development Engineering Application Coordinator, Planning and Economic Development Branch.

9. Prior to final approval, the Planning and Economic Development Branch shall certify that Conditions 1-8 have been met to its satisfaction.

With respect to the conditions above, we request a copy of the notice of decision when it becomes available.

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

Regards,



Gabrielle Hurst, MCIP, RPP

[Programs and Process Improvement, Planning and Economic Development Branch
YORK-#10148600_Regional_Consent_Letter