

Local Planning Appeal Tribunal
Tribunal d'appel de l'aménagement
local



ISSUE DATE: August 20, 2019

CASE NO(S): PL171051

The Ontario Municipal Board (the “OMB”) is continued under the name Local Planning Appeal Tribunal (the “Tribunal”), and any reference to the Ontario Municipal Board or Board in any publication of the Tribunal is deemed to be a reference to the Tribunal.

PROCEEDING COMMENCED UNDER subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant: 1854290 Ontario Inc.
Subject: Application amend Zoning By-law No.0225-2007 -
Refusal of Application by the City of Mississauga
Existing Zoning: R2-3 (Detached dwellings – typical lot)
Proposed Zoning: R16-Exception (Detached dwelling on a CEC –
Private Road)
Purpose: To permit 4 detached homes on a private
condominium road
Property Address/Description: 1260 Kane Rd.
Municipality: City of Mississauga
Municipality File No.: OZ 16/007
OMB Case No.: PL171051
OMB File No.: PL171051
OMB Case Name: 1854290 Ontario Inc. v. Mississauga (City)

PROCEEDING COMMENCED UNDER subsection 51(39) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant: 1854290 Ontario Inc.
Subject: Proposed Plan of Subdivision
Property Address/Description: 1260 Kane Rd.
Municipality: City of Mississauga
Municipal File No.: TM 16002
OMB Case No.: PL171051
OMB File No.: PL171052

PROCEEDING COMMENCED UNDER subsection 45(12) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant:	1935327 Ontario Inc.
Subject:	Minor Variance
Variance from By-law No.:	0225-2007
Property Address/Description:	1262 Kane Road
Municipality:	City of Mississauga
Municipal File No.:	A 509/17
OMB Case No.:	PL171051
OMB File No.:	PL180048

Heard: July 19, 2019 at Mississauga, Ontario

APPEARANCES:

Parties

Counsel

1854290 Ontario Inc.

Russell Cheeseman

City of Mississauga

Michal Minkowski

MEMORANDUM OF ORAL DECISION DELIVERED BY GERALD S. SWINKIN AND GERRY DIVARIS ON JULY 19, 2019

[1] The Local Planning Appeal Tribunal (the “Tribunal”) had before it three appeals. 1854290 Ontario Inc. (the “Appellant”) owns 1260 Kane Road (the “Property”), in the City of Mississauga (the “City”). The Appellant sought draft approval of a plan of subdivision on the Property in order to create four residential single family detached lots. Accompanying the plan of subdivision application, the Appellant also made application for amendment of Zoning By-law No. 0225-2007, as amended, to create zoning provisions which would accommodate the creation of these four lots based upon a common element condominium.

[2] A companion matter was set down to be heard with these two appeals, being an appeal by 1935327 Ontario Inc., from the refusal by the City’s Committee of Adjustment of its application for variance with respect to 1262 Kane Road. The variance request

was for the purpose of reducing the side yard setback to the existing dwelling on that property on the basis that a portion of the side yard was to be incorporated into the proposed plan of subdivision in order to create a driveway of sufficient width to meet City standards to serve the proposed four lot subdivision.

[3] However, the variance appeal was withdrawn by counsel for 1935327 Ontario Inc., Russell Cheeseman, on the basis that the development proposal had considerably changed and the variance relief was no longer required as the driveway no longer required widening.

[4] In summary, the four lot proposal was converted by the Appellant into a proposal to create two lots only from the Property, served by a driveway from Kane Road that would form part of one lot and be subject to a right-of-way easement for the benefit of the other.

[5] This change of approach garnered the support of neighbouring landowners and the City, and came before the Tribunal as a settlement.

[6] The Property is in an unusual property configuration. It is what is referred to as a key lot as it is a reasonably large parcel of land but its connection to the street is by a stem of land having a width of only 5.3 metres ("m"). According to the survey mapping, the depth of the stem is 45.7 m.

[7] Due to the angle of the public highway, the frontage of the Property is 5.6 m.

[8] With the change of development concept, the Parties came to the Tribunal having resolved the issues arising from the proposal and advanced consent conditions of draft approval and a consent form of zoning by-law amendment.

[9] The Tribunal heard consent evidence from a staff planner from the City Planning Department, David Ferro.

[10] Mr. Ferro advised the Tribunal that the Property is located within the Clarkson-Lorne Park Neighbourhood Character Area under the City's Official Plan ("OP"), which is an established neighbourhood characterized by detached homes on moderate to larger sized lots. As noted above, the Property is a key lot and therefore anomalous. The Property and surrounding lands are designated Residential Low Density I, which designation permits detached dwellings. In this regard, the development proposal conforms with the OP.

[11] The Property is presently zoned R2-3, which is specific to the Property and follows from an Ontario Municipal Board ruling in 1983. The current proposal is to rezone it to a new low density residential exception zone, R3-80.

[12] Mr. Ferro took the Tribunal to the Infill Housing policies of the OP, as found in s.16.5.1.4, and detailed how the proposal will conform with clauses a) through i) of that policy.

[13] The subdivision will essentially divide the 60 m width of the parcel into two new lots, one northerly and the other southerly. The southerly lot is identified as Lot B on the draft zoning by-law amendment and it will have attached to it the stem to Kane Road. Lot A, the northerly lot, would obtain a right-of-way easement over the northeasterly corner of Lot B, which would then proceed along the entire width and length of the stem, thereby affording Lot A full vehicular and pedestrian access to Kane Road.

[14] The right-of-way will be created following registration of plan of subdivision either by way of a consent application or by way of part-lot control exemption. The Tribunal insisted that a specific condition be included in the conditions of draft approval to ensure this outcome, which the Parties accommodated.

[15] Mr. Ferro spoke to the criteria in s. 51(24) of the *Planning Act* for which regard must be had in considering a proposed plan of subdivision. He also reviewed the proposed conditions of draft approval. He was of the opinion that due regard had been

had for all of these criteria and recommended the proposal for draft approval based upon the imposition of the proposed conditions.

[16] Mr. Ferro took the Tribunal through the details of the proposed zoning amendment by-law, which makes explicit provision for the reduced street frontage and provides for the required setbacks to ensure compatibility with abutting residential development.

[17] In connection with the review of the zoning by-law amendment and the draft plan, Mr. Ferro confirmed that both instruments were consistent with the Provincial Policy Statement, 2014, and conform to the policies of the Growth Plan for the Greater Golden Horseshoe, 2019, primarily on the basis that the development proposal represents compatible and reasonable infill development.

[18] Mr. Ferro further confirmed that the zoning and draft plan proposal, in his opinion, would conform with the policies of the Region of Peel Official Plan.

[19] On the strength of the uncontested evidence and the submissions of counsel, the Tribunal will:

1. Allow the zoning appeal, in part, as amended, and will direct amendment of City Zoning By-law No. 0225-2007, as amended, in accordance with the form of zoning by-law amendment attached to this Decision as Attachment 1; and,
2. Will grant draft plan approval to the proposed revised two lot plan of subdivision on the conditions of draft approval attached to this Decision as Attachment 2.

[20] Upon requesting of counsel for the City if the City would assume responsibility for administering clearance of the conditions of draft approval and the grant of final approval once the conditions have been satisfied, and being advised in the affirmative,

under the authority of s. 51(56.1) of the *Planning Act*, the Tribunal so delegates that authority to the City.

[21] So Orders the Tribunal.

“Gerald S. Swinkin”

GERALD S. SWINKIN
MEMBER

“Gerry Divaris”

GERRY DIVARIS
MEMBER

If there is an attachment referred to in this document,
please visit www.elfto.gov.on.ca to view the attachment in PDF format.

Local Planning Appeal Tribunal

A constituent tribunal of Tribunals Ontario - Environment and Land Division
Website: www.elfto.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

ATTACHMENT 1

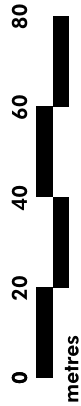
SCHEDULE "A" TO
 LOCAL PLANNING APPEAL TRIBUNAL
 ORDER DATED _____

LPAT Case No. PL171051
 LPAT File No. PL171051
 1854290 Ontario Inc.

1. By-law Number 0225-2007, as amended, being a City of Mississauga Zoning By-law, is amended by adding the following Exception Table:

4.2.4.80	Exception: R3-80	Map # 08	By-law:
In a R3-80 zone the permitted uses and applicable regulations shall be as specified for a R3 zone except that the following uses/regulations shall apply:			
Regulations			
4.2.4.80.1	The regulations contained in Subsection 4.2.4 of this By-law shall apply		
4.2.4.80.2	The regulations of Lines 8.0 and 9.0 in Table 4.2.4 contained in Subsection 4.2.4 of this By-law shall not apply		
4.2.4.80.3	The provisions contained in Article 2.1.3.1 of this By-law shall not apply to Lot 'A'		
4.2.4.80.4	Minimum lot frontage - interior lot for Lot 'B'	5.5 m	
4.2.4.80.5	Minimum setback of accessory buildings and structures to a rear lot line	7.5 m	
4.2.4.80.6	Accessory buildings and structures and swimming pools are permitted outside of the buildable area identified in Schedule R3-80 of this Exception, but shall only be located in the rear yard , and shall not include a detached garage		
4.2.4.80.7	For Lot 'A', the most easterly property line parallel to Kane Road shall be deemed to be the front lot line		
4.2.4.80.8	All site development plans shall comply with Schedule R3-80 of this Exception		

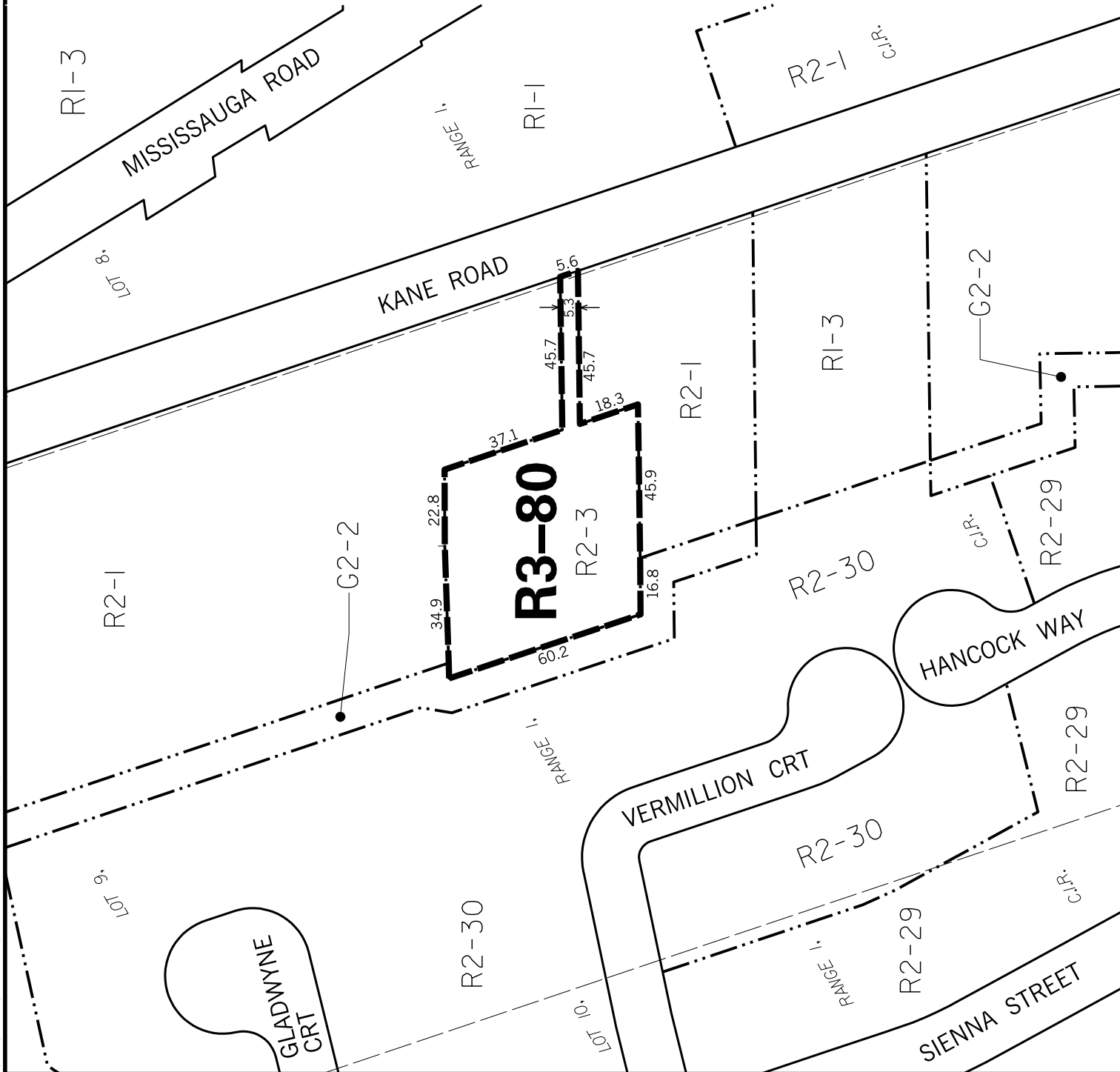
2. Map Number 08 of Schedule "B" to By-law Number 0225-2007, as amended, being a City of Mississauga Zoning By-law, is amended by changing thereon from "R2-3" to "R3-80", the zoning of Part of Lot 9, Range 1, Credit Indian Reserve, in the City of Mississauga, PROVIDED HOWEVER THAT the "R3-80" zoning shall only apply to the lands which are shown on the attached Schedule "A", which is deemed to be an integral part of this By-law, outlined in the heaviest broken line with the "R3-80" zoning indicated thereon.



This is not a Plan of Survey. For accurate boundary information refer to Plan 43R-10861.

CITY OF MISSISSAUGA

**THIS IS SCHEDULE "A" TO
SCHEDULE "A" OF LPAT
ORDER DATED _____
LPAT CASE NO. PL171051
LPAT FILE NO. PL171051**





Note:
All measurements are in metres
and are minimum setbacks,
unless otherwise noted.

This is not a Plan of Survey.

CITY OF MISSISSAUGA

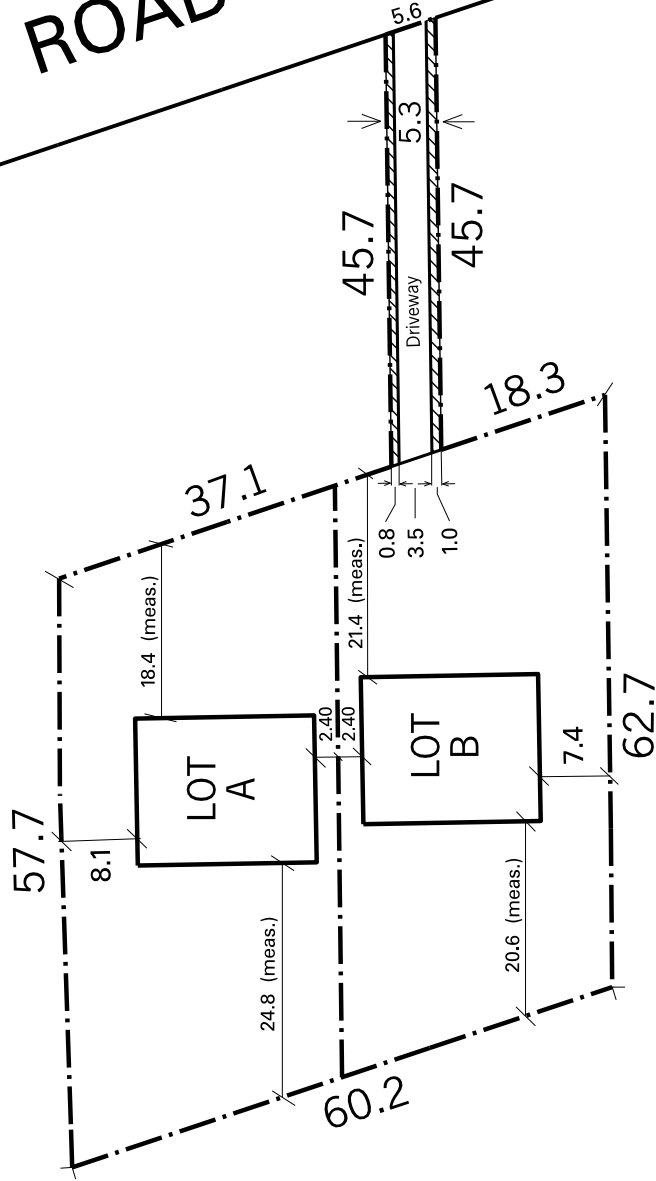


BUILDABLE AREA



LANDSCAPED BUFFER

KANE ROAD



**THIS IS SCHEDULE "R3-80"
AS ATTACHED TO
SCHEDULE "A" OF LPAT**

ORDER DATED _____

LPAT CASE NO. PL171051

LPAT FILE NO. PL171051

VERMILLION CRT

APPENDIX "A" TO SCHEDULE "A" OF

LPAT ORDER DATED _____

LPAT Case No. PL171051

LPAT File No. PL171051

Explanation of the Purpose and Effect of the By-law

The purpose of this By-law is to permit two detached dwellings at the rear of the subject property.

This By-law amends the zoning of the property outlined on the attached Schedule "A" from "R2-3" (Detached Dwellings - Typical Lots - Exception) to "R3-80" (Detached Dwellings - Typical Lots - Exception).

"R2-3" permits detached dwellings with a minimum lot area of 3 865 m² and a frontage of 5.5 m.

"R3-80" permits two detached dwellings, one without frontage on a street, in accordance with the Schedule R3-80.

Location of Lands Affected

Southwest of Mississauga Road and Indian Road, in the City of Mississauga, as shown on the attached Map designated as Schedule "A".

Further information regarding this By-law may be obtained from David Ferro of the City Planning and Building Department at 905-615-3200 ext. 4554.

http://teamsites.mississauga.ca/sites/18/Bylaws/OZ_16_007_by-law_LPAT.df.lc.jmcc.docx

ATTACHMENT 2



MISSISSAUGA

GLOSSARY SUBCOND2

SCHEDULE A CONDITIONS OF APPROVAL

NOTICE OF DECISION TO APPROVE:	May 21, 2019
FILE:	T-M 16002 W2
SUBJECT:	Draft Plan of Subdivision Lot 9, Range 1 C.I.R. of Registered Plan 43R10861 1260 Kane Road City of Mississauga

In accordance with By-law 1-97, as amended, the Commissioner, Planning and Building Department has made a decision to approve the above noted draft plan of subdivision subject to the lapsing provisions and conditions listed below.

Approval of a draft plan of subdivision granted under Section 51 of the Planning Act, R.S.O. 1990, c.P.13, as amended, will be valid until approval is either withdrawn or the plan is registered. Approval may be withdrawn by the Commissioner, Planning and Building Department if approval of the final plan has not been given three (3) years after the date of approval of the draft plan.

NOTE: City is "The Corporation of the City of Mississauga"
Region is "The Regional Municipality of Peel"

- 1.0 Approval of the draft plan applies to the plan dated June 3, 2019.
- 2.0 That the owner agree, in writing, to satisfy all the requirements, financial and otherwise of the City and the Region.
- 3.0 The applicant/owner shall enter into a Subdivision Agreement including Municipal Infrastructure Schedules, and any other necessary agreements, in a form satisfactory to the City, Region or any other appropriate authority, prior to ANY development within the plan. This Agreement may, where applicable, deal with matters including, but not limited to, the following: engineering matters such as municipal services, road widenings, land dedications, public vehicular and pedestrian easements, construction and reconstruction, signals, grading, fencing, noise mitigation, and warning clauses; financial matters such as cash contributions, levies (development charges), land dedications or reserves, securities or letters of credit, insurance; planning matters such as residential reserve blocks, buffer blocks, site development plan and landscape plan approvals and conservation. Municipal Infrastructure Schedules shall be in a form satisfactory to the Commissioner of Transportation and Works. THE DETAILS OF REQUIREMENTS ARE CONTAINED IN COMMENTS IN RESPONSE TO THE CIRCULATION OF THE PLAN FROM AUTHORITIES, AGENCIES, AND DEPARTMENTS OF THE CITY AND REGION WHICH HAVE BEEN FORWARDED TO THE APPLICANT OR HIS CONSULTANTS. AND WHICH COMMENTS FORM PART OF THESE CONDITIONS.

- 4.0 All processing and administrative fees shall be paid prior to the registration of the plan. Such fees will be charged at prevailing rates of approved City and Regional Policies and By-laws on the day of payment.
- 5.0 The applicant/owner shall agree to convey/dedicate, gratuitously, any required road or highway widenings, 0.3 m (1 ft.) reserves, walkways, sight triangles, buffer blocks and utility or drainage easements to the satisfaction of the City, Region or other authority.
- 6.0 The applicant/owner shall provide all outstanding reports, plans or studies required by agency and departmental comments
- 7.0 That a Zoning By-law for the development of these lands shall have been passed under Section 34 of the *Planning Act*, R.S.O. 1990, c.P.13, as amended, and be in full force and effect prior to registration of the plan.
- 8.0 Prior to final approval, the Engineer is required to submit, to the satisfaction of the Region, all engineering drawings in Micro-Station format as set out in the latest version of the Region of Peel "Development Procedure Manual".
- 9.0 Prior to final approval, confirmation be received from Canada Post Corporation that the applicant has made satisfactory arrangements for the installation of any central mail facilities required in this development.
- 10.0 Prior to the execution of the Subdivision Agreement, the applicant submit updated Tree Preservation and Landscape Plans satisfactory to the Planning and Building Department.
- 11.1 Prior to final approval, the applicant shall submit the following revised reports and drawings;
 - i. A Phase 2 Environmental Site Assessment Report and Letter of Reliance,
 - ii. An updated/revised Stormwater Management Report, Functional Servicing Report,
 - iii. An updated Acoustical Attenuation Report,
 - iv. Engineering drawings including Site Grading and Servicing Plans.
- 12.0 The applicant/owner shall enter into an agreement with the City, satisfactory to the City, with respect to the timing of the demolition of the existing buildings and structures on the subject lands.
- 13.0 The applicant/owner shall enter into an agreement with the City, satisfactory to the City, to establish a minimum 5.3 m vehicular and pedestrian right-of-way easement over the internal driveway and to provide interconnections (including infrastructure) to Lot 1.
- 14.0 That prior to signing of the final plan, the Commissioner of Planning and Building is to be advised that all of the above noted conditions have been carried out to the satisfaction of the appropriate agencies and the City.

THE REQUIREMENTS OF THE CITY WILL BE EFFECTIVE FOR THIRTY-SIX (36) MONTHS FROM THE DATE THE CONDITIONS ARE APPROVED BY THE COMMISSIONER, PLANNING AND BUILDING DEPARTMENT. AFTER THIS DATE REVISED CONDITIONS WILL BE REQUIRED. NOTWITHSTANDING THE SERVICING REQUIREMENTS MENTIONED IN SCHEDULE A, CONDITIONS OF APPROVAL, THE STANDARDS IN EFFECT AT THE TIME OF REGISTRATION OF THE PLAN WILL APPLY.