

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



ISSUE DATE: July 22, 2020

CASE NO(S): PL171373

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:	Unipetro Investments Inc.
Subject:	Application to amend Zoning By-law No. 270-2004 - Neglect of the City of Brampton to make a decision
Existing Zoning:	"Agricultural - A", "Residential Estate Two - RE2" and "Floodplain (F)"
Proposed Zoning:	"Office Commercial - OC Special Sections"
Purpose:	To permit the development of office, retail and hotel uses
Property Address/Description:	7929 Mississauga Road
Municipality:	City of Brampton
Municipality File No.:	T04W15.027
OMB Case No.:	PL171373
OMB File No.:	PL171373
OMB Case Name:	Unipetro Investment Inc. v. Brampton (City)

HEARD: July 06, 2020 by telephone conference

APPEARANCES:

Parties

Unipetro Investments Inc.

Counsel

Alex Lusty, Hannah Bahmanpour
Michael Melling, Neil Davis

City of Brampton	Matthew Rea
Metrus Central Properties Limited	Katarzyna Sliwa, Aaron Kurts
2438284 Ontario Inc.	Harinder Gahir
Regional Municipality of Peel	Rachel Godley

DECISION OF THE TRIBUNAL DELIVERED BY M. ARPINO AND ORDER OF THE BOARD

[1] Unipetro Investments Inc. (“Unipetro”) has filed an appeal to the Local Planning Appeal Tribunal under Section 34(11) of the *Planning Act* (“Act”) on the grounds that the City of Brampton (“City”) failed to make a decision on a Zoning By-law Amendment application within the timeframe specified in the Act. This proceeding originally scheduled as a hearing on the merits was converted to a settlement hearing at the request of the Parties. The matter had previously been the subject of a Pre-hearing Conference (“PHC”).

[2] On consent of Unipetro and the City the Tribunal previously granted requested Party status to the Regional Municipality of Peel (“Region”), Metrus Central Properties Limited (“Metrus”), 2438284 Ontario Inc. (“2438284”) and the Credit Valley Conservation Authority (“CVCA”).

[3] Unipetro owns land at 7929 Mississauga Road in the City (“Property”). The Property which has an area of approximately 6.69 hectares is in the southeast quadrant of Steeles Avenue West and Mississauga Road which are Regional roads.

[4] The Property is subject to Provincial Policy Statement, 2020 (“PPS”), the Growth Plan for the Greater Golden Horseshoe, 2019, (“Growth Plan”), and the Bram West Secondary Plan (“Secondary Plan”). The Property is designated as “Office and Open Space” in the City’s Official Plan. A Site Plan Control Agreement is registered on title of the Property it establishes the permitted ingress and egress to the Development (“Access”).

[5] The Property is zoned “Residential Estate Two (RE2), Agricultural (A) and Floodplain (F) in zoning By-law No. 270-2004. Unipetro filed an application to amend Zoning By-law No. 270-2004. The proposed amendment would permit approximately 10,400 square metres of floor area for retail uses; a six-storey, 8,400 square metres hotel and conference centre and 17,668 square metres of office space on the Property (“Development”). The Development is to be constructed in phases.

[6] 2438284 owns land adjacent to the Property. At the PHC the Tribunal was informed that 2438284’s interest in the matter related to the proposed shared access from its site and the Property to Steeles Avenue West.

[7] Metrus owns land abutting the Property to the east. The Tribunal was previously advised that Metrus and Unipetro are contemplating a shared access route to Steeles Avenue West to be located on the shared side lot line. The Tribunal was informed that Metrus did not intend to raise issues or call witnesses at the hearing unless the planned access road is impacted.

[8] The CVCA concerns and interests relate to natural heritage and natural hazards, as the planned site access on Mississauga Road will cross a watercourse regulated by the CVCA. The Tribunal was informed that the CVCA is satisfied that the two issues are appropriately addressed, CVCA requested withdrawal of its Party Status.

[9] David Riley is a Registered Professional Planner retained by Unipetro. The Tribunal qualified Mr. Riley to provide opinion evidence in land use planning matters. Mr. Riley informed the Tribunal that the Parties have agreed to terms of settlement of the appeal. On consent of the Parties Mr. Riley provided an affidavit for consideration of the Tribunal, Exhibit 1.

[10] Mr. Riley informed the Tribunal that Tab 5 of Exhibit 1 contained a proposed zoning by-law amendment (“ZBA”) which the Parties agree would resolve the appeal. The ZBA was submitted for consideration by the Tribunal. Mr. Riley provided the Tribunal with a summary of the ZBA, he testified that the ZBA would create three

separate zone categories to permit a range of uses, including office, hotel, commercial, personal service and institutional. The portion of the Property within the floodplain is proposed to be re-zoned Floodplain ("F"), no development is proposed within this Zone, except for a driveway providing access to the Property from Mississauga Road. The ZBA includes site-specific definitions, performance standards and use restrictions. A portion of the Property will be subject to a holding (H) symbol.

[11] Sarah Powell, the planner for the Region attended the hearing but did not testify. Katarzyna Sliwa, counsel to Metrus requested the Tribunal comment on or provide direction regarding the Access, these matters were not before the Tribunal.

[12] Mr. Riley testified that in his professional opinion the ZBA has appropriate regard for matters of provincial interests and is consistent with the PPS, he opined that the ZBA conforms to the Growth Plan, the Secondary Plan, the Region of Peel Official Plan, and the City Official Plan.

[13] Mr. Riley provided affidavit evidence that the matters related to vehicular access have been resolved and that the Region and the CVCA were satisfied with same. He testified that it was his professional opinion that implementation of the ZBA represents good planning in the public interest.

LEGISLATIVE TESTS

[14] In making a decision under the Act with respect to this appeal, the Tribunal must have regard to matters of provincial interest. The proposed zoning by-law amendment must be consistent with the PPS, it must conform to the Secondary Plan, and Region's Official Plan and the City Official Plan. The ZBA must represent good planning in the public interest.

DECISION AND ORDER

[15] Notwithstanding the agreement of the Parties the Tribunal is tasked with

assessing the planning merits of the ZBA.

[16] Based upon the evidence before it, including the documentary evidence and the uncontroverted evidence of Mr. Riley the Tribunal finds that the ZBA satisfies the legislative tests.

[17] The Tribunal Orders that the appeal against By-law No. 270-2004 of the City of Brampton is allowed in part, and By-law No. 270-2004 is amended as set out in Attachment 1 to this Order.

[18] The Tribunal orders that in all other respects the appeal is dismissed.

"M. Arpino"

M. ARPINO
MEMBER

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

Local Planning Appeal Tribunal

A constituent tribunal of Ontario Land Tribunals

Website: www.olt.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248



THE CORPORATION OF THE CITY OF BRAMPTON

BY-LAW

Number _____ - 2020

To amend By-law 270-2004

The Local Planning Appeal Tribunal, in accordance with the provisions of the Planning Act, R.S.O., 1990, c.P.13, hereby orders the coming into force of By-law Number _____-2020 as follows:

1. By-law 270-2004, as amended, is hereby further amended:

(1) By changing on Schedule A thereto, the zoning designation of the lands as shown outlined on Schedule A to this by-law:

From the Existing Zoning of:	To:
Floodplain (F), Agricultural (A) and Rural Estate Two (RE2).	Office Commercial – Section 2914 (OC – 2914), Office Commercial (Holding) (OC(H) - 2915 and Floodplain (F)

(2) By adding thereto the following sections:

“2914 The lands designated OC – 2914 on Schedule A to this by-law:

2914.1 Shall only be used for the following purposes:

- (1) An office;
- (2) A research and development facility in conjunction with an office;
- (3) Accessory uses in conjunction with the uses permitted in Sections 2914.1(1) to 2914.1(2); and,
- (4) The following other permitted uses:
 - (i) A retail establishment;
 - (ii) A convenience store or grocery store, to a maximum of 1,858 sq. m. for one or more uses;
 - (iii) A dry cleaning and laundry establishment;
 - (iv) A dining room restaurant;
 - (v) A take-out restaurant;
 - (vi) A service shop;
 - (vii) A personal service shop, but excluding a massage or body rub parlour;

- (viii) A printing or copying establishment;
- (ix) A university, college, commercial, technical or recreational school;
- (x) A community club;
- (xi) A health centre or fitness centre;
- (xii) A day nursery;
- (xiii) An animal hospital;
- (xiv) A hotel which may include a conference centre;
- (xv) A bank, trust company or financial institution;
- (xvi) A theatre;
- (xvii) An automotive retail store; and
- (xviii) Accessory uses to the permitted uses contained in Section 2914.1(4) of this By-law.

(5) The following uses shall not be permitted:

- (i) A retail warehouse;
- (ii) A warehouse;
- (iii) A supermarket;
- (iv) An adult video store; and
- (v) An adult entertainment parlour.

(6) Notwithstanding the permitted uses listed in 2914.1, within Part 3 on Schedule C, any use located at or above the second storey shall be limited to the following permitted uses:

- (i) An office;
- (ii) A research and development facility in conjunction with an office;
- (iii) A university, college, commercial, technical or recreational school;
- (iv) A health centre or fitness centre; and
- (v) A bank, trust company or financial institution.

2914.2 Shall be subject to the following requirements and restrictions:

- (1) Minimum Front Yard Depth: For buildings located within 54.5 metres of Steeles Avenue West, the Minimum Front Yard Setback shall be 4.5 metres; and,
- (2) Maximum Front Yard Depth: For buildings located within 54.5 metres of Steeles Avenue West, the Maximum Front Yard Setback shall be 7.5 metres; and,

For buildings located beyond 54.5 metres from Steeles Avenue West, there shall be no Maximum Front Yard Setback;
- (3) Minimum Building Setback to all other lot lines: 6.0 metres except that where a lot line abuts an Agricultural or Floodplain zone the minimum requirement is 0.0 metres;
- (4) Minimum Building Height: 3 storeys for any portion of a building located within 24.5 metres of Steeles Avenue West;

5 storeys for a hotel building;

6 storeys for any other building located within Parts 3 or 4 on Schedule C; and,

1 storey for all other locations.

- (5) Notwithstanding the minimum building height required in Section 2914.2(4), there is no minimum building height requirement for an accessory parking structure;
- (6) Maximum encroachment into the Minimum Required Front Yard Setback for canopies, porches and patios shall be 2.5 metres;
- (7) Continuous Building Wall: A building wall or walls at grade shall be a minimum of 50 per cent of the entire available frontage facing Steeles Avenue West. Available frontage shall be the total frontage excluding driveways and pedestrian sidewalks;
- (8) Minimum Landscaped Open Space, except at approved access locations:
 - (i) A width of 6.0 metres abutting Steeles Avenue West, and which may be reduced to 4.5 metres when the area between a building and lot line are exclusively landscaped and not used for parking and/or driveway purposes; and,
 - (ii) 0.0 metres abutting all other zone boundaries
- (9) Minimum Ground Floor Height: 4.5 metres;
- (10) The openings for waste disposal, service and loading facilities of any buildings shall be screened from public view from a public street;
- (11) All garbage, refuse and waste containers for any use shall be located within a climate controlled area within a building;
- (12) Parking: The minimum parking requirements set out in Section 20.3 of the by-law shall apply, except where an above ground and/or below ground parking structure is provided, in which case a 10 per cent parking reduction shall be applied to the parking requirements for the associated use;
- (13) With the exception of seasonal display of goods associated with a permitted retail establishment with an associated garden centre, outside storage shall not be permitted;
- (14) Notwithstanding the requirements above, the minimum setbacks for parking structures below established grade shall be 0.0 metres, including associated structures; and,

(15) A surface parking lot shall not be permitted within:

- (i) 50.0 metres of Steeles Avenue, unless it is required in association with the parking requirements for a building that is located within 50.0 metres of Steeles Avenue; and,
- (ii) 100.0 metres of Mississauga Road, unless it is required in association with the parking requirements for a building that is located within 100.0 metres of Mississauga Road.

2914.3 All lands zoned OC-2914 and OC-2915 shall be treated as one lot for zoning purposes.

2914.4 For the purpose of this by-law:

A “Conference Centre” shall mean a building or place which is used for the assembly of persons for private or public activities of a religious, political, charitable, educational, social, business, cultural, recreational, and like purposes, and may include media communication and dining room facilities accessory to the main assembly function, but shall not include a public or private school or a place of worship.

A “Retail Warehouse” shall mean a building or structure or part of a building or structure having a minimum gross leasable floor area of 1860 square metres, where the building or structure, or part of the building or structure is occupied by a single user, and where the use is the warehousing and retailing of goods and materials to the general public. A retail warehouse shall not include a supermarket, a grocery store, a convenience store, a variety store or a motor vehicle parts retail outlet.

An “Automotive Retail Store” shall mean a retail establishment selling automotive parts and supplies as well as camping goods, garden supplies, tools, buildings supplies excluding lumber and other household supplies, and which is not a retail warehouse.

2915 The lands designated OC(H) - Section 2915 on Schedule A to this By-law:

2915.1 Shall only be used for the following purposes:

- (1) Purposes permitted by the OC - Section 2914 zone upon the removal of the Holding (H) Symbol;
- (2) Purposes permitted in the Agricultural (A) zone and a private driveway in association with the uses permitted in the OC-2914 zone category, HC2-2627 or OC-2927 zone categories while the Holding (H) symbol is in place.

2915.2 Shall be subject to the following requirements and restrictions:

- (1) The requirements and restrictions of the OC – Section 2914 zone; and
- (2) The requirements and restrictions of the Agricultural (A) zone while the Holding (H) symbol is in place.

2915.3 All lands zoned OC-2914 and OC-2915 shall be treated as one lot for zoning purposes

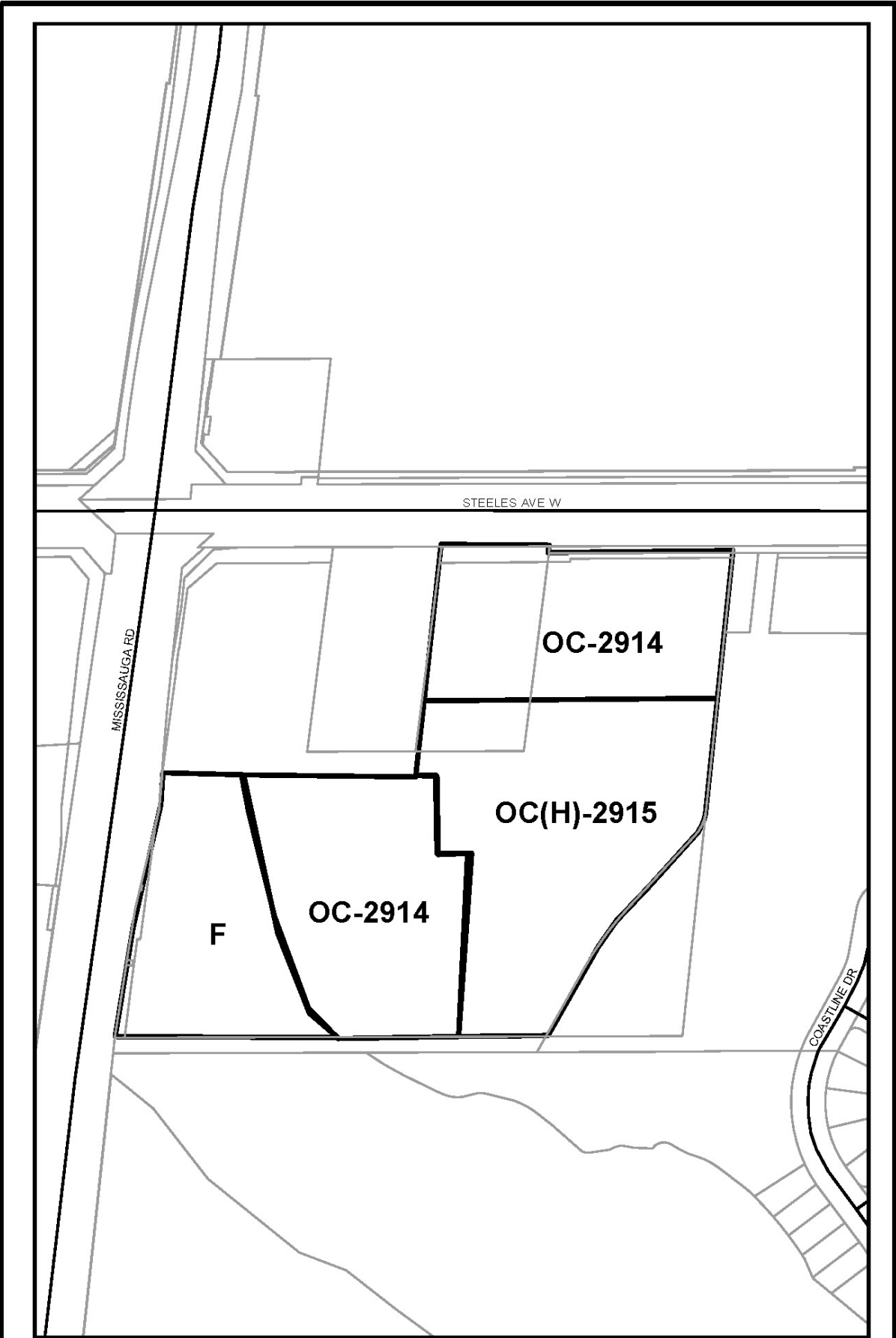
2915.4 The Holding (H) symbol shall be lifted for Part 2 on Schedule C as applicable when the following is satisfied:

- (1) That a building permit for at least one 3-storey office building in Part 1 on Schedule C, with a minimum of 2,400 square metres in the portion of the building that is within 24.5 metres of Steeles Avenue West, has been issued in accordance with Section 2914.2 (4).”

APPROVED BY THE LOCAL PLANNING APPEAL TRIBUNAL on

_____, 2020, PURSUANT to

ORDER NO. _____.

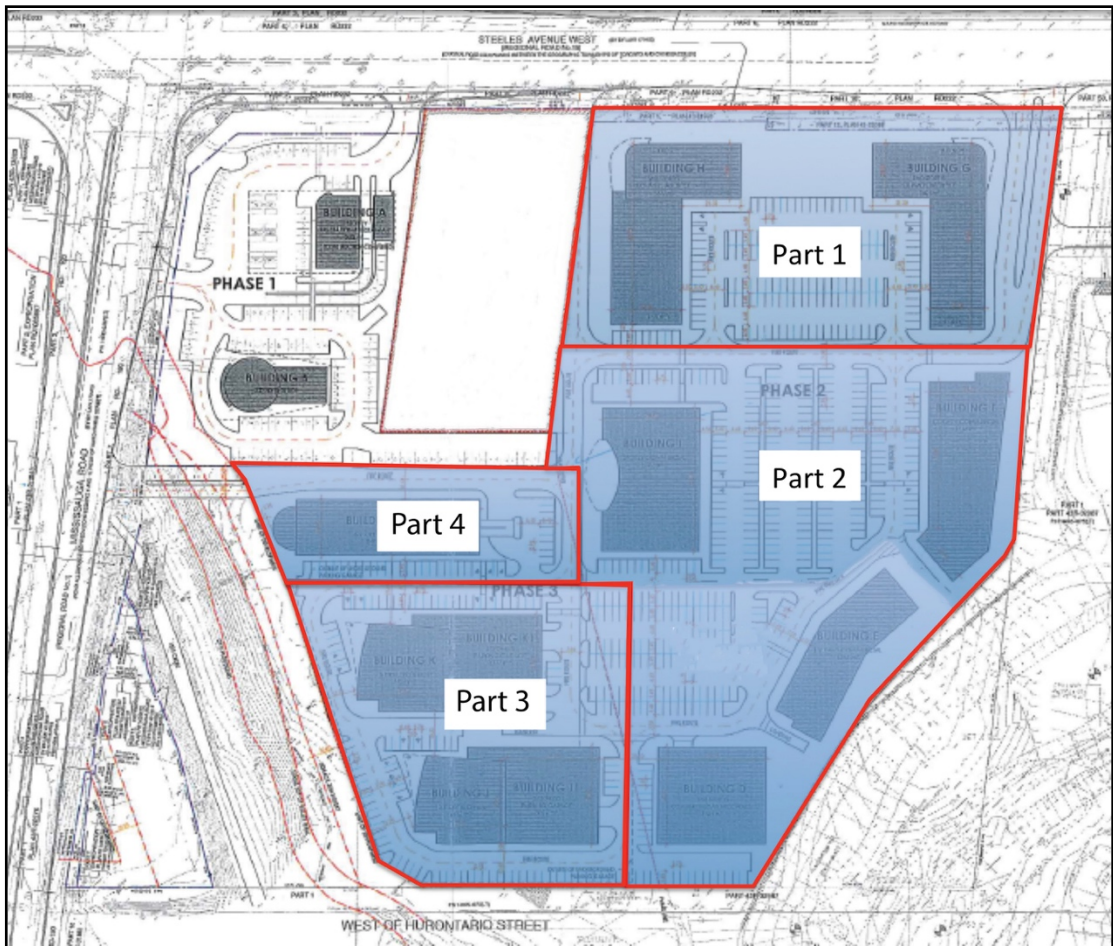


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PART LOT 15, CONCESSION 4 W.H.S. (TOR.)

BY-LAW _____

SCHEDULE A



PART LOT 15, CONCESSION 4 W.H.S. (TOR.)

BY-LAW _____

SCHEDULE C