

AREA CONTEXT /ZONING

APPLICANT: Fairglen Homes Limited
9765 KENNEDY ROAD

FILE No: SU.050093224

 SUBJECT LANDS

DATE: 090706



DEVELOPMENT SERVICES COMMISSION DWN BY:RK CHK BY:SK SCALE 1:

FIGURE No.2



SU05009324.DGN 07/09/2006 4:15:13 PM



CASTLEMORE AVENUE

TANNIS STREET

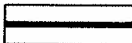
CYNTHIA JEAN STREET

KENNEDY ROAD

AIR PHOTO 2002

APPLICANT: Fairglen Homes Limited
9765 KENNEDY ROAD

FILE No: SU.050093224

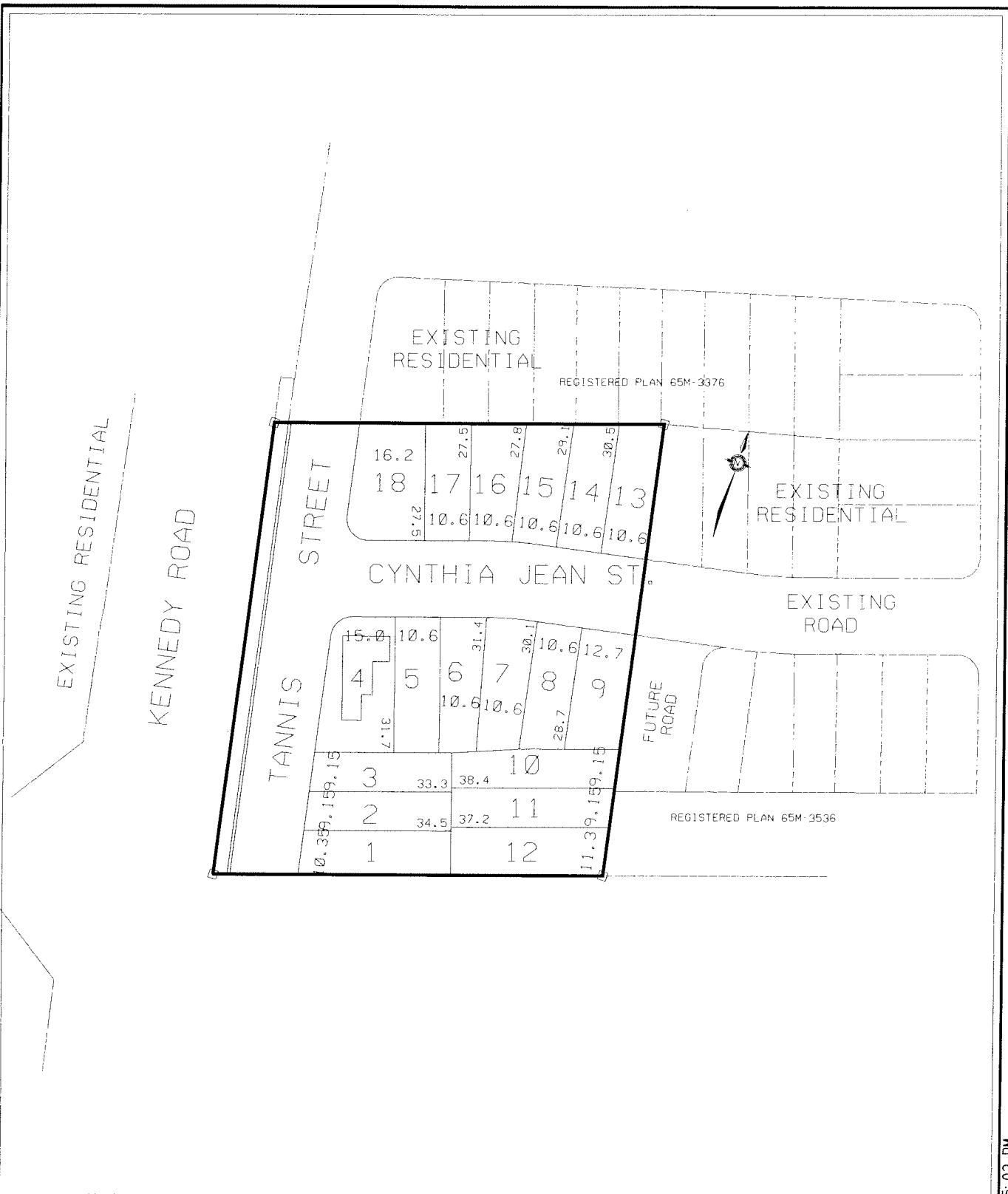
 SUBJECT LANDS

DATE: 09/07/06



DEVELOPMENT SERVICES COMMISSION DWN BY:RK CHK BY:SK SCALE 1:

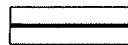
FIGURE No.3



PLAN OF SUBDIVISION – 19TM-05003

APPLICANT: Fairglen Homes Limited
 9765 KENNEDY ROAD

FILE No: SU.050093224

 SUBJECT LANDS

DATE: 09/07/06



DEVELOPMENT SERVICES COMMISSION DWN BY:RK CHK BY:SK SCALE 1:

FIGURE No.4



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APPENDIX 'A'
DRAFT ZONING BY-LAW AMENDMENT

EXPLANATORY NOTE

BY-LAW 2005 -

A by-law to amend By-law 304-87, as amended

Fairglen Homes Limited
19TM-05003
Part of Lot 19, Concession 6

LANDS AFFECTED

The by-law applies to a 0.968 ha (2.39 ac.) property, located east of Kennedy Road, south of Major Mackenzie Drive, in the Berczy Village Secondary Plan Area.

EXISTING ZONING

The lands subject to this By-law are presently zoned Agriculture One (A1) by By-law 304-87, as amended.

PURPOSE AND EFFECT

The purpose and effect of this by-law is to delete the lands from By-law 304-87, as amended, so that they may be incorporated into By-law 177-96, as amended, to permit the development of 18 single detached dwellings. The single-detached units will have lot frontages ranging from 9.15 metres (30 ft) to 16.2 metres (53.1). By-law 304-87 is the Town's rural area by-law. By-law 177-96 is the Town's expansion area by-law.

A by-law to amend By-law 304-87, as amended

THE COUNCIL OF THE CORPORATION OF THE TOWN OF MARKHAM
HEREBY ENACTS AS FOLLOWS:

1. By-law 304-87, as amended, be and the same is hereby further amended by deleting the lands outlined on Schedule 'A' hereto from the designated area of By-law 304-87, as amended.
2. This by-law shall not come into force until By-law 2006-XX, amending By-law 177-96, as amended, comes into force and the subject lands of this by-law become incorporated into the designated area of By-law 177-96, as amended.
3. All other provisions of By-law 304-87, as amended, not inconsistent with the provisions of this by-law shall continue to apply.

EXPLANATORY NOTE

BY-LAW 2005 -

A by-law to amend By-law 177-96, as amended

Fairglen Homes Limited
19TM-05003
Part of Lot 19, Concession 6

LANDS AFFECTED

The by-law applies to a 0.968 ha (2.39 ac.) property, located east of Kennedy Road, south of Major Mackenzie Drive, in the Berczy Village Secondary Plan Area.

EXISTING ZONING

The lands subject to this By-law are presently zoned Agriculture One (A1) by By-law 304-87, as amended.

PURPOSE AND EFFECT

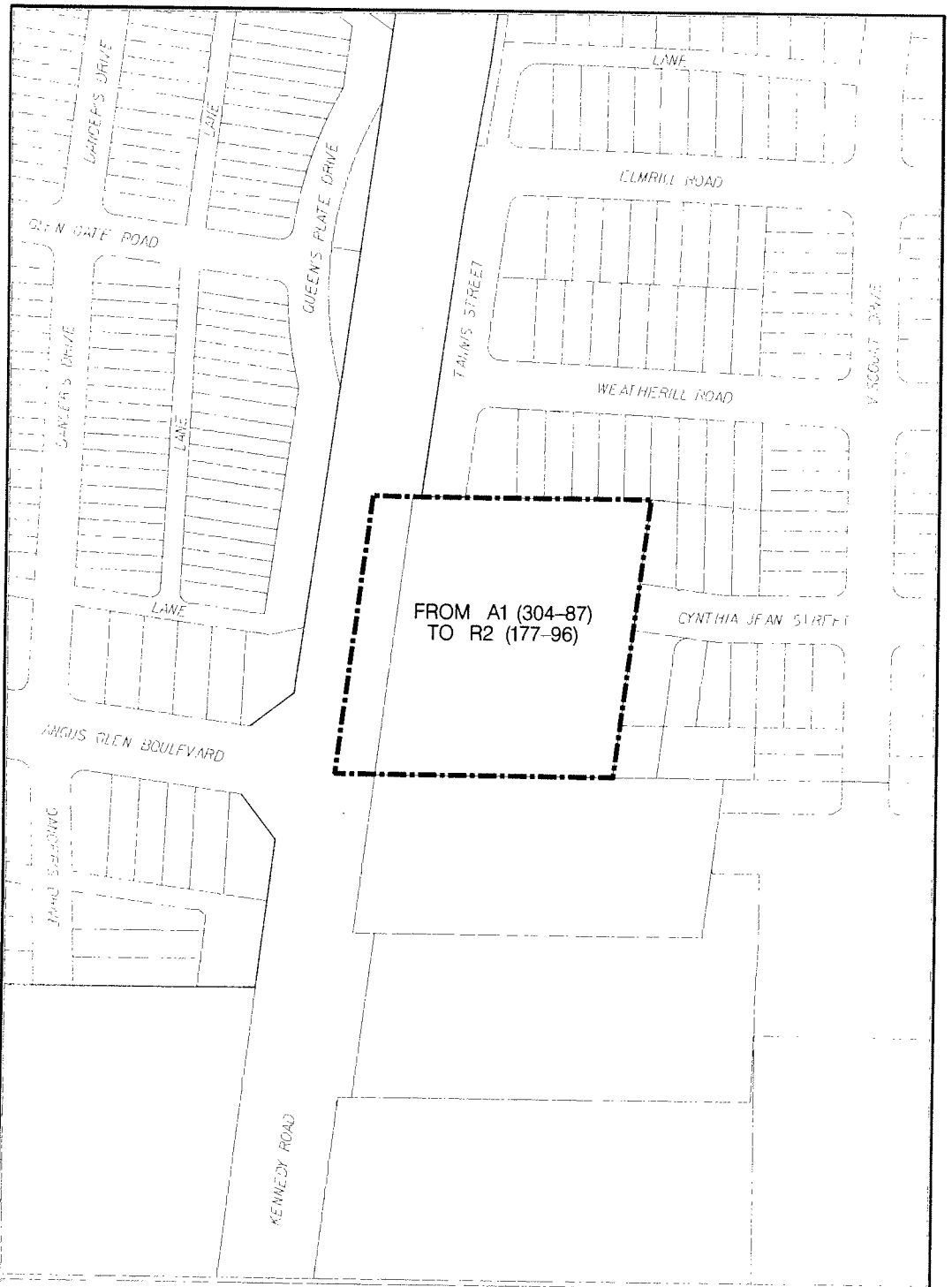
The purpose and effect of this by-law is to incorporate the lands into appropriate residential zone categories within By-law 177-96, as amended. The proposed zoning designation is Residential Two (R2). The applicant is proposing 18 single detached lots with frontages ranging from 9.15 metres (30 ft) to 16.2 metres (53.1).

A by-law to amend By-law 177-96, as amended
(Draft Plan 19TM-05003)

THE COUNCIL OF THE CORPORATION OF THE TOWN OF MARKHAM
HEREBY ENACTS AS FOLLOWS:

1. By-law #177-96, as amended, is hereby further amended as follows:
 - 1.1 By expanding the designated area of the By-law to include those lands comprising Part of Lot 16, Concession 5 as more particularly outlined on Schedule 'A' hereto.
 - 1.2 By zoning the lands

Residential Two R2
2. All other provisions of By-law 177-96, as amended, not inconsistent with the provisions of this by-law shall continue to apply.



DEVELOPMENT SERVICES COMMISSION

A BY-LAW TO AMEND BY-LAW 177-96

BOUNDARY OF AREA COVERED BY THIS BY-LAW

R2 RESIDENTIAL TWO

A1 AGRICULTURE ONE

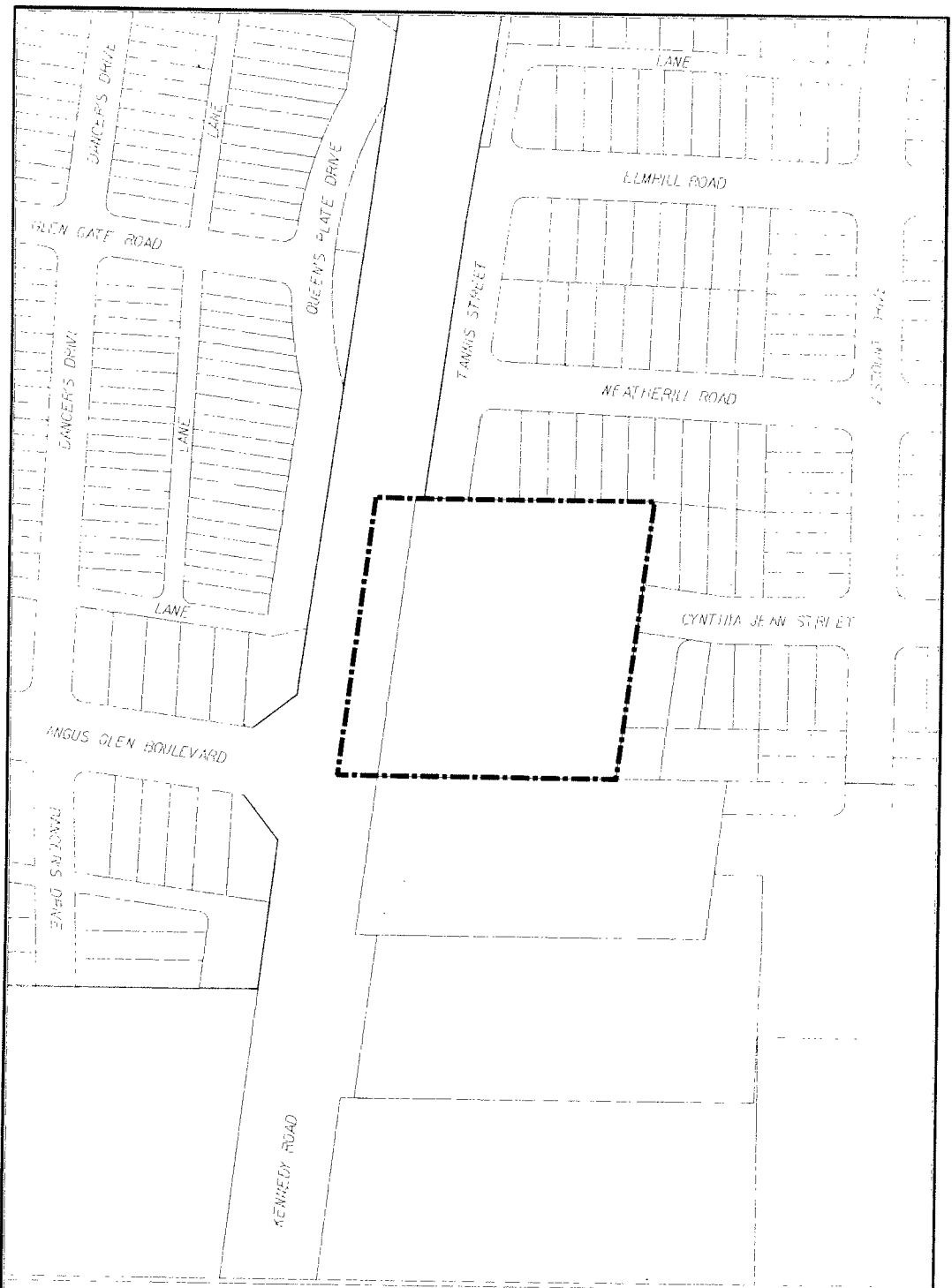
THIS IS SCHEDULE 'A' TO BY-LAW
 PASSED THIS DAY

.....MAYOR

.....CLERK

NOTE: 1) DIMENSIONS ARE IN METRES
 2) REFERENCE SHOULD BE MADE TO
 THE ORIGINAL BY-LAW LODGED IN
 THE OFFICE OF THE CLERK

SCALE 1: 2000



DEVELOPMENT SERVICES COMMISSION

A BY-LAW TO AMEND BY-LAW 304-87

 BOUNDARY OF AREA COVERED BY THIS BY-LAW

THIS IS SCHEDULE 'A' TO BY-LAW
 PASSED THIS DAY
MAYOR
CLERK

NOTE: 1) DIMENSIONS ARE IN METRES
 2) REFERENCE SHOULD BE MADE TO
 THE ORIGINAL BY-LAW LODGED IN
 THE OFFICE OF THE CLERK

SCALE 1: 2000

APPENDIX 'B'
CONDITIONS OF DRAFT PLAN APPROVAL

APPENDIX 'B'
RECOMMENDED CONDITIONS OF DRAFT APPROVAL
PLAN OF SUBDIVISION 19TM-05003
(Fairglen Homes Limited)

1. General

- 1.1 Approval shall relate to a draft plan of subdivision prepared by KLM Planning Partners Inc., identified as Project Number P-1603, dated February 4, 2005, subject to the following red line revision:
 - Revise draft plan to reflect the lot frontages necessary to accommodate a larger lot for the heritage dwelling to the satisfaction of Heritage Markham.
- 1.2 This draft approval shall apply for a maximum period of three (3) years from date of issuance by the Town, and shall accordingly lapse on October unless extended by the Town upon application by the Owner.
- 1.3 The Owner shall enter into a subdivision agreement with the Town agreeing to satisfy all conditions of the Town and Agencies, financial and otherwise, prior to final approval.
- 1.4 The Owner acknowledges and understands that prior to final approval of this draft plan of subdivision, amendments to Zoning By-laws 304-87 and 177-96 to implement the plan shall have come into effect in accordance with the provisions of the Planning Act.
- 1.5 The owner shall covenant and agree in the subdivision agreement that the Holding Zoning (H) provision shall not be removed by the Town, and that building permits shall not be sought or issued for any dwelling units within the draft plan for which a water supply allocation has not been confirmed by the Developers Group Trustee and the Town.
- 1.6 The Owner acknowledges and agrees that the draft plan of subdivision and associated conditions of draft approval may require revisions, to the satisfaction of the Town, (Commissioner of Development Services) to implement or integrate any recommendations resulting from studies required as a condition of draft approval.

2. Roads

- 2.1 The road allowances within the draft plan shall be named to the satisfaction of the Town and the Region of York.
- 2.2 The road allowances within the draft plan shall be dedicated as public highway, free of all costs and encumbrances.

- 2.3 The Owner shall covenant and agree in the subdivision agreement that the public highways shall be designed secured and constructed in accordance with established municipal standards to the satisfaction of the Town (Commissioner of Development Services).
- 2.4 The Owner shall convey 0.3m reserves at the end of Streets ---- to the Town, free of all costs and encumbrances, upon registration of the plan of subdivision.
- 2.5 The Owner shall covenant and agree in the subdivision agreement to provide temporary turning circles where required at their cost and remove them and restore the streets to their normal condition at their cost when required by the Town, to the satisfaction of the Town (Commissioner of Development Services). The design of the temporary turning circles, and any implications on surrounding land use, shall be addressed in the subdivision agreement to the satisfaction of the Town.

3. Noise Impact Study

- 3.1 Prior to final approval of the draft plan, the Owner shall submit a Noise Impact Study, prepared by a qualified noise consultant, with recommended mitigation measures for noise generated by road traffic on Kennedy Road and by any other identified noise sources, to the satisfaction of the Town, in consultation with the Region of York. The Owner further agrees to make any revisions to the draft plan that may be required to achieve the recommendations of the Noise Impact Study.
- 3.2 The Owner shall covenant and agree in the subdivision agreement to implement noise control measures and warning clauses as recommended by the approved Noise Impact Study, to the satisfaction of the Town (Commissioner of Development Services), in consultation with the Region of York.

4. Tree Preservation and Landscaping

- 4.1 Prior to final approval of the draft plan, the Owner shall submit landscape plans based on the approved Berczy Village Urban Design and Amenity Guidelines, to the satisfaction of the Town. These plans are to be prepared by a qualified landscape architect in good standing with the O.A.L.A. and shall include the following:
 - a) street tree planting, including a minimum of one tree per residential lot with a maximum space of 12 metres between trees. The size, spacing and species selected shall be to the satisfaction of the Town (Commissioner of Development Services)
 - b) buffer planting for the open space blocks and single loaded road allowances abutting Kennedy Road.
 - d) noise attenuation fencing as per the approved noise study.

- e) streetscape plan including street trees for Kennedy Road, Tannis Street and, Cynthia Jean St.
 - f) any other landscaping as determined by the Community Design Plan and the Environmental Master Drainage Plan.
- 4.2 The Owner covenants and agrees that the detailed design and construction of all landscaping shall be at no cost to the Town and in accordance with the provisions of the approved landscape plans.
- 4.3 The Owner shall submit an overall tree inventory and preservation plan, which has been prepared by a qualified Landscape Architect in good standing with the O.A.L.A., or a certified Arborist, to the satisfaction of the Commissioner of Development Services, prior to the execution of a subdivision agreement for any portion of the draft plan of subdivision. The tree preservation plan shall be based on information taken from a registered survey plan, showing the exact location of the trees to be preserved, location of protective hoarding, final grading, proposed municipal services and utilities, and conceptual building envelopes and driveway locations.
- 4.4 The Owner shall covenant and agree in the subdivision agreement that the Owner shall prepare and submit site grading/tree preservation plans, with respect to trees to be preserved on any portion of the plan of subdivision, showing the location of buildings and structures to be erected and proposed municipal services and utilities in that area, in accordance with the approved Tree Preservation Plan for the approval of the Town (Commissioner of Development Services) prior to the issuance of building permits.
- 4.5 The Owner shall covenant and agree in the subdivision agreement to obtain written approval of the Town prior to the removal of any trees within the area of the draft plan.
- 4.6 The Owner shall covenant and agree that provision shall be made in the subdivision agreement for a letter of credit, in an amount to be determined by the Town, to ensure compliance with applicable tree preservation, fencing, streetscape, buffer and other landscaping requirements.
- 4.7 The Owner shall covenant and agree in the subdivision agreement to prohibit all builders from imposing an extra charge to home purchasers for the items listed in Condition 4.1.
- 4.8 The Owner shall include in all agreements of purchase and sale the following clause:
- “PURCHASERS ARE ADVISED THAT AS A CONDITION OF APPROVAL OF THE SUBDIVISION WITHIN WHICH THIS LOT IS LOCATED, THE TOWN OF MARKHAM HAS REQUIRED THE DEVELOPER TO UNDERTAKE AND BEAR THE COST OF THE FOLLOWING ITEMS:**

- STREET TREES (TREES PLANTED IN THE TOWN BOULEVARD)
 - CORNER LOT FENCING
 - REAR LOT LINE FENCING AT LANES (IF SPECIFICALLY REQUIRED BY THE TOWN)
 - TREE PLANTING IN REAR YARDS ADJOINING THE LANES (IF SPECIFICALLY REQUIRED BY THE TOWN)
 - NOISE ATTENUATION FENCING AS IDENTIFIED IN THE NOISE IMPACT STUDY
 - FENCING OF SCHOOL, PARK, WALKWAY AND STORMWATER MANAGEMENT POND BLOCKS
 - BUFFER PLANTING FOR OPEN SPACE, WALKWAY AND STORMWATER MANAGEMENT POND BLOCKS AND SINGLE LOADED STREET ALLOWANCES
 - SUBDIVISION ENTRY FEATURES AND DECORATIVE FENCING AS IDENTIFIED ON LANDSCAPE PLANS APPROVED BY THE TOWN.
- THE DEVELOPER HAS BORNE THE COST OF THESE ITEMS AND THE HOME PURCHASER IS NOT REQUIRED TO REIMBURSE THIS EXPENSE.”

5. Parks and Open Space

- 5.1 The Owner covenants and agrees that the plan of subdivision shall not be released for registration by the Town until the Trustee delivers a release to the Town stating that the Owner is in good standing and has complied with the terms of the Developer's Group for provision of parkland that is satisfactory to the Town.

As security for the Owner's pro rata share of overall parkland in Berczy, the Owner authorizes the Town to draw on any letter of credit filed, to the value of any parkland deficiency as determined by the Town, which amount may be drawn at any point in time to be determined at the sole discretion of the Town and when so drawn shall be deemed to be cash-in-lieu of parkland.

- 5.3 The Owner shall covenant and agree to rough grade, topsoil, seed and maintain (free of stock piles and debris) all school blocks, park blocks and place of worship blocks and vacant lands within the subdivision to the satisfaction of the Town. The park blocks shall be maintained until such time as the parks have been constructed and assumed by the town for maintenance. The school blocks, places of worship blocks, and other vacant blocks shall be maintained until such time as the ownership of the blocks has been transferred.

The Owner acknowledges that should these works not be completed and maintained to the satisfaction of the Commissioner of Development Services, the Town will do the work as required and draw on the letters of credit for all costs so incurred.

- 5.4 The Owner shall covenant and agree in the subdivision agreement to post approved copies of any Open Space Plans, Conceptual Park Development Master Plans and Conceptual Facility Fit Plans for the park and school campus in all sales offices for dwelling units within the draft plan of subdivision.

6. Stormwater Management

- 6.1 Prior to final approval of the draft plan, the Owner shall submit a stormwater management study, prepared by a qualified engineer, detailing the provision of water quality and quantity management facilities, hydraulic gradelines, overland flow routes, and erosion and siltation controls for the draft plan for approval by the Town and the Toronto and Region Conservation Authority. The Owner acknowledges and agrees that they will be required to construct the proposed stormwater management facilities and overland routes, provide any easements or lands both internal and external to the subdivision for stormwater and overland flow purposes, and to revise the draft plan accordingly, as may ultimately be required.

- 6.2 The Owner shall covenant and agrees to undertake the monitoring of watercourse temperatures which may be affected by storm drainage from its development, subject to consultation with, and to the satisfaction of the Town. The Owner covenants and agrees to provide the Town with a watercourse temperature monitoring program, satisfactory to the Director of Engineering within six (6) months after the registration of the plan of subdivision. The Town is exploring the implementation of a Town directed watercourse monitoring program. If this program is implemented by the Town, it is acknowledged that the Town reserves the right to relieve the Owner of the requirement of this clause.

7. Municipal Services

- 7.1 The Owner shall acknowledge and agree in the subdivision agreement that final approval of the draft plan shall be subject to adequate sanitary sewer capacity and water supply being allocated to the subdivision by the Town.
- 7.2 Prior to final approval of the draft plan, the Owner shall prepare, to the satisfaction of the Town (Commissioner of Development Services), a Functional Servicing Report to determine the infrastructure required for all municipal services internal to the subdivision. Any requirements resulting from this Report shall be incorporated into the draft plan and provided for in the subdivision agreement.
- 7.3 The Owner shall acknowledge and agree in the subdivision agreement that building permits will not be issued until the Director of Building Services has been advised by the Director of Engineering that water, sewage treatment, utilities and roads satisfactory to the Director of Engineering are available to the lands, except that building permits may be issued for model homes upon terms and conditions established by the Town (Commissioner of Development Services).

- 7.4 The Owner shall covenant and agree in the subdivision agreement that they shall be required to construct, or pay for the construction of, roads, bicycle lanes, curbs, gutters, sidewalks (in accordance with the applicable Council policy), underground and above ground services, street lights, street signs, utilities, stormwater management facilities, etc., to the satisfaction of the Town (Commissioner of Development Services).
- 7.5 Prior to final approval of the draft plan, detailed engineering drawings shall be provided by the Owner which will include, but not be limited to grading control plans, plan and profile drawings of all underground and aboveground services, general plans, drainage plans, composite utility plans, stormwater management detail plans, etc. to the satisfaction of the Town (Commissioner of Development Services).
- 7.6 The Owner shall acknowledge and agree in the subdivision agreement that building permits will not be issued for lands in any stage of development within the draft plan of subdivision until the Director of Building Services has been advised by the Fire Chief that there is an adequate water supply for firefighting operations and acceptable access for firefighting equipment is available.
- 7.7 The Owner shall covenant and agree to pay for the relocation of existing service connections on the relocation of existing service connections on the relocation of existing service connections on abutting roads owned by the Town and for the relocation of any infrastructure within the abutting roads to the satisfaction of the Director of Engineering.
- 7.8 The Owner acknowledges and agrees that allocation for 18 units is granted in accordance the Town's February 15, 2005, and October 20, 2005, Council reports, relating to allocation policy.
- 7.9 The Owner shall covenant and agree in the subdivision agreement to pay \$100.00 per unit as their proportionate share for the cost of the Highway 48 Flow Control System which is required to create the sanitary sewer capacity for this project.
- 7.10 Prior to final approval, the Owner shall retain a qualified professional engineer to conduct a water supply distribution analysis to confirm the adequacy of the water supply from Pressure Districts 6 and 6M for both domestic and fire fighting purposes to the satisfaction of the Town.
- 7.11 The Owner shall covenant and agree in the subdivision agreement that there will be no pre-servicing until the engineering drawings are approved, site alteration has been approved the pre-servicing agreement is executed and the necessary financial securities are provided.

8. Community Design Plan

- 8.1 The Owner shall covenant and agree in the subdivision agreement to incorporate the requirements and criteria of the approved Berczy Village Urban Design and Amenity

Guidelines into all municipal works, site plan and building permit applications within the plan of subdivision.

- 8.2 The Owner shall retain a design consultant to formulate architectural control guidelines to be submitted to the Town for approval prior to final approval of the plan and shall covenant and agree in the subdivision agreement to implement the architectural control guidelines.

9. Development Phasing Plan

- 9.1 Prior to final approval of the draft plan, the Berczy Landowners Group shall enter into a legal agreement with the Town with respect to the implementation of the approved Berczy Village Development Phasing Plan, to the satisfaction of the Town

10. Traffic Impact Study

- 10.1 Prior to final approval of the draft plan, the Owner shall prepare, in consultation with the Owners of other lands within the Berczy Village Secondary Plan area, a Traffic Impact Study to the satisfaction of the Town and the Region of York. The Owner shall incorporate the requirements and criteria of the Traffic Impact Study into the draft approved plan and subdivision agreement.

11. Easements

- 11.1 The Owner shall grant required easements to the appropriate authority for public utilities, drainage purposes or turning circles, upon registration of the plan of subdivision. Any off-site easements and works necessary to connect watermains, storm and sanitary sewers to outfall trunks and stormwater management facilities shall be satisfactory to, and dedicated to, the Town.

12. Utilities

- 12.1 The Owner shall covenant and agree in the subdivision agreement that hydro electric, telephone, gas and television cable services, and any other form of telecommunication services shall be constructed at no cost to the Town as underground facilities within the public road allowances or within other appropriate easements, as approved on the Composite Utility Plan, to the satisfaction of the Town (Commissioner of Development Services) and authorized agencies.
- 12.2 The Owner shall covenant and agree in the subdivision agreement to enter into any agreement or agreements required by any applicable utility companies, including Powerstream, Consumers Gas, telecommunications companies, etc.
- 12.3 The Owners shall covenant and agree in the subdivision agreement to facilitate the construction of Canada Post facilities at locations and in manners agreeable to the Town

of Markham in consultation with Canada Post, and that where such facilities are to be located within public rights-of-way they shall be approved on the Composite Utility Plan and be in accordance with the Community Design Plan.

- 12.4 The Owners shall covenant and agree in the subdivision agreement to include on all offers of purchase and sale a statement that advises prospective purchasers that mail delivery will be from a designated Community Mailbox. The Owners will further be responsible for notifying the purchasers of the exact Community Mailbox locations prior to the closing of any home sale.
- 12.5 The Owners shall covenant and agree in the subdivision agreement to provide a suitable temporary Community Mailbox location(s), which may be utilized by Canada Post until the curbs, sidewalks and final grading have been completed at the permanent Community Mailbox locations. This will enable Canada Post to provide mail delivery to new residents as soon as homes are occupied.
- 12.6 Standard Community Mailbox installations are to be done by Canada Post at locations approved by the municipality and shown on the Composite Utility Plan. Should the developer propose an enhanced Community Mailbox installation, any costs over and above the standard installation must be borne by the developer, and be subject to approval by the Town in consultation with Canada Post.
- 12.7 The Owner covenants and agrees that it will permit any telephone or telecommunication service provider to locate its plant in a common trench within the proposed subdivision prior to registration provided the telephone or telecommunications services provider has executed a Municipal Access Agreement with the Town. The Owner shall ensure that any such service provider will be permitted to install its plant so as to permit connection to individual dwelling units within the subdivision as and when each dwelling unit is constructed.
- 12.8 The Owner covenants and agrees to advise all utility and telecommunications carriers that plan for medium or large size vaults are to be submitted to the Town for review and approval. Drawings are to be approved by the Commissioner of Development Services and to include location, grading, fencing, landscaping, access and elevations.

13. Development Charges

- 13.1 The Owner covenants and agrees to provide written notice of all development charges related to the subdivision development, including payments made and any amounts owing, to all first purchasers of lands within the plan of subdivision at the time the lands are transferred to the first purchasers.

14. Environmental Clearance

- 14.1 Prior to release for registration of the draft plan, the Owner shall submit:

- i) environmental site assessment reports prepared by a qualified person in accordance with the Record of Site Condition Regulation (O. Reg 153/04) for peer review and concurrence to the satisfaction of the Director of Engineering for all lands to be conveyed to the Town.
- ii) carry out all necessary site remediation to meet the provincial soil and ground water and sediment conditions.
- iii) submit certificate from the Qualified Person that the necessary clean up has been done and the land is in an environmental condition satisfactory to the Town.
- iv) pay for all costs associated with the peer review service.

14.2 The Owners shall covenant and agree in the subdivision agreement that if during construction of any infrastructure of buildings within the subdivision, contaminated soils are discovered, the Owners shall undertake, at their expense, the necessary measures to identify and deal with the contaminate, in accordance with the Record of Site Condition (O. Reg. 153/04).

15. Heritage

- 15.1 Prior to final approval of the draft plan of subdivision or any phase thereof, the Owners shall carry out an archaeological assessment for the lands within the draft plan to ensure the assessment and identification of appropriate treatment of archaeological resources, and further to mitigate any identified adverse impacts to significant archaeological resources to the satisfaction of the Town (Commissioner of Development Services) and the Ministry of Culture. No demolition, grading, filling or any form of soil disturbances shall take place on the lands within the draft plan prior to the issuance of a letter from the Ministry of Culture to the Town indicating that all matters relating to archaeological resources have been addressed in accordance with licensing and resource conservation requirements.
- 15.2 The Owner shall covenant and agree in the subdivision agreement to implement any measures recommended by the archaeological assessment, to the satisfaction of the Town and the Ministry of Culture.
- 15.3 The Owner covenants and agrees to retain the Heritage Building (Henry Pingle Sr. House), known municipally as 9765-9767 Kennedy Road, on Lot 12 within the plan of subdivision.
- 15.4 The Owner covenants and agrees to protect and conserve the Heritage Building through the following means:
 - a) To keep the Heritage Building occupied for as long as possible prior to commencement of site/construction work to prevent vandalism and deterioration;

- b) To maintain the Heritage Building in good and sound conditions at all times prior to and during the development of the property;
- c) Once the Heritage Building is unoccupied, to undertake the following:
 - secure and protect the buildings from damage through procedures carried out according to the Town of Markham Guidelines for Boarding Heritage Structures;
 - erect a "No-trespassing" sign in a visible location on the property indicating that the Heritage Building(s) is to be preserved onsite and should not be vandalized and/or scavenged; and
 - install a 3m high fence around the perimeter of the house to protect the dwelling until the completion of construction in the vicinity or the commencement of long-term occupancy of the dwelling as confirmed by Town (Heritage Section) staff.

15.5 Prior to final approval of the plan of subdivision or any phase thereof, the Owner is to implement the following measures to protect the Heritage Building:

- a) The Owner is to provide at its expense a legal survey of the Heritage Building to facilitate the registration of the designation and easement agreements on the created/proposed lot;
- b) The Owner is to enter into a Heritage Easement Agreement for the Heritage Building with the Town;
- c) The Owner is to permit the designation of the property under Part IV of the Ontario Heritage Act ;
- d) The Owner is to provide a \$25,000 Letter of Credit for the Heritage Building to ensure the preservation of the existing buildings. The letter of credit shall be retained for use by the Town and shall not be released until the following has been addressed:
 - construction and grading on the subject lands and adjacent lots, and roads have been completed to the satisfaction of the Town (Commissioner of Development Services),
 - the building has been connected to municipal services,
 - the exterior restoration of the Heritage Building is complete,
 - the buildings meet the basic standards of occupancy as confirmed by the Building Standards Department, and
 - all other heritage requirements of the Subdivision Agreement have been completed;
- e) The Owner is to enter into a site plan agreement with the Town for the Heritage Building, containing details on the site plan such as driveway, grading,

connections to municipal services, trees to be preserved and detailed elevations outlining the proposed restoration plan, any additions and alterations, and any proposed garage.

- 15.6 The owner shall covenant and agree in the subdivision agreement to preserve the Heritage Building through the following means:
- a) to provide and implement a traditional restoration plan for the Heritage Building that would be reviewed and approved by the Town (Heritage Section). The restoration plan is to be included in a site plan agreement for each of the property;
 - b) to complete the exterior restoration of the Heritage Building, connection of all municipal services to the allocated lot (water, gas, hydro, cable, telephone etc.) and ensure basic standards of occupancy as confirmed by Building Standards Department within two years of registration of the plan of subdivision;
 - c) to ensure that the architectural design and elevations of dwellings proposed for adjacent lots is compatible with the restored heritage dwelling;
 - d) to ensure that the final proposed grading on the lots adjacent to Heritage Building is consistent with the existing historic grading of the Heritage Building;
 - e) To ensure that the historic front of the Heritage Building retains a front yard appearance, the type of fencing should be limited to a low residential picket fence rather than privacy fencing;
- 15.7 The Owner shall covenant and agree in the subdivision agreement to prepare and implement a marketing plan, to the satisfaction of the Commissioner of Development Services, which details the ways and means the Heritage Building will be marketed to prospective purchasers;
- 15.8 The Owner shall covenant and agree in the subdivision agreement to provide notice and commemoration of the Heritage Building through the following means:
- a) to provide and install at its cost, an interpretative baked enamel plaque for each Heritage Building, in a publicly visible location on the property. The plaque is to be designed according to the specifications of the "Markham Remembered" program, and outline the history of the house. Details of the design and location of the plaque are to be submitted for review and approval of the Town (Heritage Section);
 - b) to include the following notice in each Offer of Purchase and Sale for the Heritage Building:

“Purchasers are advised that the existing building on this property is designated pursuant to the Ontario Heritage Act, and is subject to a heritage easement agreement with the Town of Markham. Any proposed additions or alterations to the exterior of the existing dwelling shall be subject to review and approval of plans by the Town.”

- 15.9 Prior to final approval of the plan of subdivision or any phase thereof, the Manager of Heritage Planning shall advise that Conditions 15.1 to 15.8, inclusive, have been satisfied.

16. Other Town Requirements

- 16.1 Prior to final approval of the draft plan or any phase thereof, the Owner shall enter into a Developers Group Agreement(s) to ensure the provision of community and common facilities such as school sites, municipal services, parks and public roads in the Secondary Plan PD 37 area, to the satisfaction of the Town (Commissioner of Development Services and Town Solicitor), and a certificate confirming completion of such agreement(s) shall be provided to the Town by the Developers Group Trustee to the satisfaction of the Town Solicitor.
- 16.2 The Owner acknowledges and agrees that firebreak lots within the draft plan shall be designated in the subdivision agreement, to the satisfaction of the Fire Chief. The Owner shall provide a letter of credit in an amount to be determined by the Fire Chief at the subdivision agreement stage to ensure compliance with this condition.
- 16.3 The Owner acknowledges and agrees that final approval of the draft plan of subdivision may be issued in phases provided that:
- a) phasing is proposed in an orderly progression generally consistent with the phases identified in the approved Development Phasing Plan; and,
 - b) all concerned government agencies agree to registration by phases and provide the clearances as required in Condition 18 for each phase.
- 16.6 The Owner covenants and agrees in the subdivision agreement to include the following clauses in all Agreements of Purchase and Sale and/or Lease for all units with a single car garage:

“PURCHASERS/TENANTS ARE ADVISED THAT THE TOWN’S PARKING BY-LAW REQUIRES A MINIMUM OF TWO PARKING SPACES, INCLUDING ONE ON THE DRIVEWAY AND ONE IN THE GARAGE.”

“PURCHASERS/TENANTS ARE ADVISED THAT THE TOWN’S ZONING BY-LAW RESTRICTS DRIVEWAY WIDTHS, WHICH MAY NOT ALLOW TOW CARS TO PARK SIDE BY SIDE.”

“PURCHASERS/TENANTS ARE ADVISED THAT OVERNIGHT STREET PARKING WILL NOT BE PERMITTED UNLESS AN OVERNIGHT STREET PARKING SYSTEM IS IMPLEMENTED BY THE TOWN.”

16.7 The Owner shall covenant and agree in the subdivision agreement that construction access will be restricted to Cynthia Jean Street.

17. Region of York

17.1 The road allowances included within the draft plan of subdivision shall be named to the satisfaction of the Town of Markham and the York Region Planning and Development Services Department.

17.2 York Region shall confirm that adequate water supply capacity and sewage treatment capacity are available and have been allocated by the Town of Markham for the development proposed within this draft plan of subdivision or any phase thereof.

17.3 The Owner shall submit detailed engineering drawings to the York Region Transportation and Works Department for review and approval. The engineering drawings shall include the subdivision storm drainage system, erosion and siltation control plans, site grading and servicing plans, construction access and mud mat design, utility and underground servicing location plans and landscape plans.

17.4 The location and design of the construction access for the subdivision work shall be completed to the satisfaction of the York Region Transportation and Works Department and illustrated on the Engineering Drawings.

17.5 The following lands shall be conveyed to York Region for public highway purposes, free of all costs and encumbrances:

a) a widening across the full frontage of the site where it abuts Kennedy Road of sufficient width to provide a minimum of 18 metres from the centreline of construction of Kennedy Road; and,

b) a 0.3 metre reserve across the full frontage of the site where it abuts Kennedy Road.

17.6 The applicant is required to submit a draft reference plan illustrating the required property dedications and reserves, to the satisfaction of the York Region Transportation and Works Department.

17.7 The applicant shall submit a recent plan of survey for the property that illustrates the existing centre line of Kennedy Road.

- 17.8 The owner shall provide a solicitor's certificate of title in a form satisfactory to the York Region Solicitor, at no cost to the Region, with respect to the conveyance of lands.
- 17.9 Prior to Final Approval, the Owner shall demonstrate, to the satisfaction of the York Region Transportation and Works Department, that all existing driveway(s) along York Region road frontage, within this subdivision, shall be removed as part of the subdivision work, at no cost to York Region.
- 17.10 Prior to Final Approval, the Owner shall demonstrate, to the satisfaction of the York Region Transportation and Works Department, that elevations along the streetline shall be 0.3 metres above the centreline elevations of Kennedy Road.
- 17.11 The Owner shall agree in the subdivision agreement, in wording satisfactory to the York Region Transportation and Works Department, to provide for the installation of visual screening between Tannis Street and Kennedy Road, consisting of either a screening fence or a combination of a berm and planting, to a maximum of 1.8 metres in height, to be located within the right-of-way of the local street. The Owner shall submit to the York Region Transportation and Works Department for review and approval, landscape plans showing the proposed planting for headlight screening purposes.
- 17.12 Prior to final approval, the Owner shall engage the services of a consultant to prepare and submit for review and approval, a noise study recommending noise attenuation features, to the satisfaction of the York Region Transportation and Works Department.
- 17.13 The Owner shall agree in the subdivision agreement, in wording satisfactory to the York Region Transportation and Works Department, to implement the noise attenuation features as recommended by the noise study and to the satisfaction of the York Region Transportation and Works Department.
- 17.14 The Owner shall agree in the subdivision agreement, in wording satisfactory to the York Region Transportation and Works Department, that where a berm, noise wall, window and/or oversized forced air mechanical systems are required, these features shall be certified by a professional engineer to have been installed as specified by the approved Noise Study and in conformance with the Ministry of Environment guidelines and the York Region Noise Policy.
- 17.15 The following warning clause shall be included in a registered portion of the subdivision agreement with respect to the lots or blocks affected:

"Purchasers are advised that despite the inclusion of noise attenuation features within the development area and within the individual building units, noise levels will continue to increase, occasionally interfering with some activities of the building's occupants".

17.16 Where noise attenuation features will abut a York Region right-of-way, the Owner shall agree in the subdivision agreement, in wording satisfactory to the York Region Transportation and Works Department, as follows:

- a) that no part of any noise attenuation feature shall be constructed on or within the Regional right-of-way;
- b) that noise fences adjacent to York Region roads may be constructed on the private side of the 0.3 metre reserve and may be maximum 2.5 metres in height, subject to the area municipality's concurrence;
- c) that maintenance of the noise barriers and fences bordering on York Region right-of-ways shall not be the responsibility of York Region; and
- d) that any landscaping provided on the York Region right-of-way by the Owner or the area municipality for aesthetic purposes must be approved by the York Region Transportation and Works Department and shall be maintained by the area municipality with the exception of the usual grass maintenance.

17.17 Prior to final approval, the Owner shall submit drawings depicting the following to the satisfaction of the York Region Transportation and Works Department:

- a) All existing woody vegetation within the York Region right-of-way.
- b) Tree protection measures to be implemented on and off the York Region road right-of-way respecting vegetation identified for preservation.
- c) Any woody vegetation within the York Region road right of way that is proposed to be removed or relocated. However, it is to be noted that tree removal within York Region road right-of-ways shall be avoided to the extent possible/practical. Financial or other compensation may be sought based on the value of trees proposed for removal.
- d) A planting plan for all new and relocated vegetation to be planted within the York Region road right of way, based on the following general guideline: Tree planting shall be undertaken in accordance with York Region standards as articulated in Streetscaping Policy and using species from the Regional Street Tree Planting List. These documents may be obtained from the Forestry Section. If any landscaping or features other than tree planting (e.g. flower beds, shrubs) are proposed and included in the subdivision agreement, they will require the approval of the Town and be supported by a Maintenance Agreement between the Town and the Region for Town maintenance of these features; any such Maintenance Agreement should indicate that where the area municipality does not maintain the feature to the Region's satisfaction, the area municipality will be responsible for the cost of maintenance or removal undertaken by the Region.

- 17.18 Prior to final approval, York Region requires the Owner to submit to it, in accordance with the requirements of the *Environmental Protection Act* and O. Reg. 153/04 *Records of Site Condition Part XV.1 of the Act* (as amended), a Phase I environmental site assessment prepared and signed by a qualified professional, of the Owner's lands and more specifically of the lands to be conveyed to York Region (the "Assessment"). Based on the findings and results of the Assessment, York Region may require further study, investigation, assessment and delineation to determine whether any remedial or other action is required. The Assessment and any subsequent environmental reports or other documentation prepared in respect of the environmental condition of the lands to be conveyed must be addressed to York Region, contain wording to the effect that York Region shall be entitled to rely on such reports or documentation in their entirety, and such reports or documentation shall be satisfactory to York Region.

Prior to Final Approval, the Owner shall certify, in wording satisfactory to the York Region Transportation and Works Department, that no contaminant, pollutant, waste of any nature, hazardous substance, toxic substance, dangerous good, or other substance or material defined or regulated under applicable environmental laws is present at, on, in or under all lands to be conveyed to York Region (including soils, substrata, surface water and groundwater, as applicable): (i) at a level or concentration that exceeds the *Environmental Protection Act* O. Reg. 153/04 full depth generic site condition standards applicable to the intended use that such lands will be put by York Region at the time of conveyance or any other remediation standards published or administered by governmental authorities applicable to the intended land use; and (ii) in such a manner, condition or emanating from such lands in such a way, that would result in liability under applicable environmental laws. The Assessment, any subsequent environmental reports or other documentation and the Owner's certification shall be done at no cost to York Region.

- 17.19 Prior to final approval, the Owner shall provide a copy of the subdivision agreement the York Transportation and Works Department, outlining all requirements of the York Region Transportation and Works Department.
- 17.20 A concrete pedestrian connection shall be provided between Kennedy Road and Tanis Street. The concrete pedestrian access shall be provided at no cost to York Region and concurrent with construction of necessary sidewalks. Sidewalks and concrete pedestrian access shall be provided in accordance with OPSD 310.010, 310.020, 310.030 and should be provided "at grade" (i.e. without stairs, inclines, etc.).
- 17.21 Prior to final plan approval, the owner shall submit drawings showing the location of the concrete pedestrian access to the satisfaction of York Region.
- 17.22 The owner shall agree in the subdivision agreement to advise all potential purchasers of the current transit services in the area. This includes existing transit routes and bus-stops. This can be achieved through distribution of information/marketing materials (YRT route

maps, Future Plan maps & providing YRT website contact information) at sales offices and appropriate notification clauses in purchase agreements. The YRT route maps and the Future Plan maps are available from YRT upon request.

- 17.23 The owner shall enter into an agreement with the York Region, agreeing to satisfy all conditions, financial and otherwise, of the Regional Corporation; Regional Development Charges are payable prior to final approval in accordance with By-law DC-0005-2003-050.

18. External Clearances

- 18.1 Prior to final approval of the draft plan of subdivision, clearance letters, containing a brief statement detailing how conditions have been met, will be required from authorized agencies as follows:

- (a) The Regional Municipality of York Planning Department shall advise that Conditions 2.1, 10.1 and 17.1 to 17.23, inclusive, have been satisfied.