

PROPOSED PLAN OF SUBDIVISION

APPLICANT: AMBER PLAIN INV. LTD.,

FILE No: SU02110218 (GS)



DEVELOPMENT SERVICES COMMISSION

DWN BY: DD

CHK BY: GS

SCALE 1:

- CONDITIONAL 2011 SERVICING ALLOCATION (PHASE 4A)
- PHASE 4B
- SUBJECT LANDS

DATE: 05/26/09

FIGURE No.4

SU02110218.dgn 04/06/2009 9:42:04 AM

APPENDIX A

THE CONDITIONS OF THE TOWN OF MARKHAM TO BE SATISFIED PRIOR TO RELEASE FOR REGISTRATION OF PLAN OF SUBDIVISION 19TM-02003 (PHASE 4) (AMBER PLAIN INVESTMENTS LTD.) ARE AS FOLLOWS:

1. General

- 1.1 Approval shall relate to a draft plan of subdivision prepared by KLM Planning Partners Inc., identified as Project Number P-413, Drawing No. 08:4, dated April 09, 200, revised May --, 2009, subject to the following redline revision:
 - Provision of 4.5m open space block between McCowan Road and Block 81
- 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 ----- 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 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 and 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 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, as shown on the draft plan, to the Town and the Region of York, 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 design and construct the intersection of James Parrot Avenue and Alexander Lawrie Avenue, external to the Plan, to connect James Parrot Avenue to Alexander Lawrie Avenue and to provide 2 road accesses to the Plan, to the satisfaction of the Director of Engineering.
- 2.6 The Owner shall covenant and agree, in the subdivision agreement, to design and construct the pavement width of all elbow roads as 9.5m minimum to accommodate simultaneous movements of single unit truck and passenger cars, and a single movement of a semi-trailer, in accordance to the Internal Traffic Study entitled “Wismer Commons Group, Wismer Commons, Internal Traffic Study”, dated June 1998, by Entra Consultants Inc., to the satisfaction of the Director of Engineering.
- 2.7 The Owner shall covenant and agree, in the subdivision agreement, to design and construct the east side boulevard width of the single loaded road, Carolina Rose Crescent, as 6.0m in accordance to the Town’s standard drawing “MRI”, and accordingly to revise the west side boulevard width to 2.2m to accommodate 16.7m ROW, to the satisfaction of the Director of Engineering.
- 2.8 The Owner shall covenant and agree, in the subdivision agreement, to design and construct additional signage on Carolina Rose Crescent at James Parrot Avenue to address stopping sight distance, to the satisfaction of the Director of Engineering.
- 2.9 The Owner shall covenant and agree in the subdivision agreement to, in association with the Wismer Commons Developers’ Group, complete the construction of Castlemore Avenue, between Roy Rainey Avenue and Mingay Avenue, and the Roy Rainey Avenue crossing of Robinson Creek by December 31, 2009, to the Town’s satisfaction.

3.0 Tree Inventory and Preservation Plans

- 3.1 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, conceptual building envelopes and driveway locations.

- 3.2 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 Top Soil Stripping.
- .1 The Owner shall covenant and agree in the subdivision agreement to implement any required mitigating measures for tree preservation in keeping with the approved tree preservation plans.
- 3.4 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. Community Design

- 4.1 The Owner shall covenant and agree in the subdivision agreement to incorporate the requirements and criteria of the approved Wismer Commons Community Design Plan, Town of Markham, prepared by NAK Design Group in collaboration with Viljoen Architect Inc. and KLM Planning Partners Inc., dated April 3, 2000 into all municipal works, site plan and building permit applications within the plan of subdivision. The Community Design Plan must incorporate the recommendations of the Markham Pathways and Trails Master Plan and the Markham Bicycle Path Master Plan.
- 4.2 The Owner shall agree to provide a coloured Lot Distribution Plan, A coloured Street Tree Master Plan and a Street Lighting Component Master Plan to be reviewed in conjunction with the Community Design Plan.
- 4.3 The Owner shall agree to the Architectural Control Guidelines, prepared by Watchorn Architect Inc., dated March 2000 and retain a design consultant to implement the Architectural Control Guidelines.
- 4.4 Plans submitted for model home permits for any building within the plan of subdivision shall bear an approval stamp identifying the architectural company retained for architectural control and the signature of the control

architect. The approval stamp shall certify that the floor plans, building elevations and site plans are designed in accordance with the approved architectural control guidelines.

- 4.5 The Owner shall ensure that the design architect for any buildings within the plan of subdivision shall not also assume the role of control architect for the plan of subdivision.

5. Parks and Open Space

- 5.1 The Owner shall convey Blocks 249 and 250 to the Town for park purposes, free of all costs and encumbrances, upon registration of the plan of subdivision. These Blocks shall be conveyed in a physical condition which is satisfactory to the Town which includes the utility and sewer connections for the Block at the street line. The Town reserves the right to require, as an alternative, payment of cash-in-lieu for any part of the said conveyance of lands for parks purposes and that the draft plan be revised accordingly.

- .1 The Owner shall covenant and agree to rough grade, topsoil, seed and maintain (free of stock piles and debris) all school blocks, park blocks (park land is not to be topsoiled and seeded) 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.

- 5.3 The Owner shall convey Block 251 to the Town for purposes of a 10m environmental buffer, free of all costs and encumbrances, upon registration of the plan of subdivision.
- 5.4 The Owner shall convey Blocks 252 and 253 to the Town for landscape buffer purposes, free of all costs and encumbrances, upon registration of the plan of subdivision.
- 5.5 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.

- 5.6 The parks within the draft plan shall be named to the satisfaction of the Town.

6.0 Landscape Works

- 6.1 Prior to final approval of the draft plan, the Owner shall submit landscape plans, 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) D
- b) 1.5m high black vinyl chain link fence where residential lots abut parks and open space
- c) buffer planting for the open space blocks and single loaded road allowances
- d) noise attenuation fencing
- e) fencing and planting of the landscape buffers and 10m environmental buffer
- f) fencing of the school blocks where they abut residential development
- g) streetscape plan including street trees
- k) any other landscaping as determined by the Community Design Plan and the Environmental Master Drainage Plan.

- 6.2 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.

- .1 The Owner covenant and agrees that the street tree landscape plans for all regional roads will be provided to the Region of York, Regional Transportation and Works Department and that a copy of the submission letter, letter of approval for the landscape works and a copy of the agreement with the Region, if required by the Region for the landscape

works will be provided to the Town prior to the execution of the subdivision agreement.

- 6.4 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 6.1.
- 6.5 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
Or IN ADJACENT PUBLIC LANDS OR PRIVATE LOTS
- 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.”

7.0 Financial

- 7.1 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.

8. Noise Impact Study

- 8.1 The Owner shall submit, at the detailed engineering design stage, a revised Noise Impact Study, prepared by a qualified noise consultant, in accordance to the update to the Noise Impact Study entitled “Update to Revised Preliminary Environmental Noise Analysis, Proposed Residential Development, McCowan Road and James Parrot Avenue, Amber Plain Phase 4”, dated April 6, 2009, by Jade Acoustics Inc., to the satisfaction of the Town (Commissioner of Development Services), 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, specifically for Lots 32, 82, 97, 98, 114, 115, 138, 139, 166, 167, 212 and 213, where the required noise barrier height is from 3.0m to 4.0m..
- 8.2 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. The Owner will be responsible for including all noise warning clauses in the Offers of Purchase and Sale, for affected lots including any Offers of Purchase and Sale entered into prior to execution of the subdivision agreement.

9. Stormwater Management

- 9.1 The Owner shall submit, at the detailed engineering design stage, 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 for stormwater and overland flow purposes, and to revise the draft plan accordingly, as may ultimately be required.
- 9.2 The Owner shall covenant and agree in the subdivision agreement to undertake, in conjunction with the other landowners in the Wismer Commons Developers’ Group, 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.

- 9.3 The Owner shall submit, at the detailed engineering design stage, the stormwater management study for Pond 3 to confirm its capacity.
- 9.4 The Owner shall covenant and agree in the subdivision agreement to obtain approval of Site Alteration Plans in accordance with the Town's Standards prior to proceeding with any on-site works and more particularly topsoil stripping.

10. Municipal Services

- 10.1 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 service the lands, except that building permits may be issued for model homes upon terms and conditions established by the Town (Commissioner of Development Services).
- 10.2 The Owner shall covenant and agree in the subdivision agreement that the public highways, curbs, gutters, sidewalks, underground and aboveground services, street lights, street signs, etc, shall be designed in accordance with the Town's design criteria, standards and general engineering principles and establish municipal standards to the satisfaction of the Town (Commissioner of Development Services)
- 10.3 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).
- 10.4 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, erosion and sedimentation control plans, etc. to the satisfaction of the Town (Commissioner of Development Services).
- 10.5 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.

10.6 The Owner acknowledges that the Town reserves the right to revoke or reallocate servicing allocation should construction not proceed in a timely manner, or in accordance with on-going monitoring to ensure a reasonable distribution of servicing allocation among landowners in the Wismer Commons Community, in consultation with the Developers' Group.

10.7 The Owner shall pay \$200.00 per unit as their proportionate share of the cost of the Hwy. 48 Flow Control System which is required to create the sanitary sewer capacity for this plan of subdivision.

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 Power Stream, Enbridge, 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 provide easements for utilities/telecommunications/vaults as required by the Town to the satisfaction of the Town.
- 12.9 The Owner covenants and agrees to advise all utility and telecommunications carriers that plans for medium and large sized vaults are to be submitted to the Town for review and approval. Drawings are to be approved by the Commissioner of Development Services and are to include location, grading, fencing, landscaping, access, elevations, etc.

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.

13.2 The Owner shall pay all fees and development charges as set out in the subdivision agreement.

14. Phase I Environmental Site Assessment (ESA)

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

- i) Submit to the Town a Letter of Reliance for Phase I Environmental Site Assessment, as per the Town's standards, signed and stamped by a Qualified Person, to the satisfaction of the Town (Commissioner of Development Services);
- ii) At the completion of any necessary site remediation process, submit certification from the Qualified Person that the necessary clean up has been carried out and that the land to be conveyed to the Town meets the Site Condition Standards of the intended land use;
- iii) File a Record of Site Condition on the Provincial Environmental Site Registry for the land to be conveyed to the Town; and
- iv) Pay all costs associated with the Town retaining a third-party reviewer for the peer review service.

14.2 The Owner shall covenant and agree in the subdivision agreement that if during construction of any infrastructure or building within the subdivision contaminated soils are discovered, the Owner shall submit a further remedial action plan to the Town for peer review and concurrence prior to carrying out the clean up, to the satisfaction of the Director of Engineering.

15. Heritage

15.1 Prior to final approval of the draft plan of subdivision or any phase thereof, the Owners shall carry out a cultural heritage resource assessment for the lands within the draft plan to ensure the assessment and identification of appropriate treatment of built heritage and archaeological resources, and further to mitigate any identified adverse impacts to significant heritage resources to the satisfaction of the Town (Commissioner of Development Services) and the Ministry of Culture (Heritage Branch). 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 (Heritage Branch) to the

Town indicating that all matters relating to heritage 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 heritage resource assessment, to the satisfaction of the Town and the Ministry of Culture (Heritage Branch).

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 Wismer Commons Secondary Plan PD 36 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 Prior to final approval, the Trustee of the Wismer Commons Developers' Group agreement shall deliver a release to the Town indicating the Owner has satisfied all conditions of the Group agreement and the Trustee has no objection to the registration of this draft plan of subdivision.
- 16.3 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.
- 16.4 The Owner shall covenant and agree in the subdivision agreement that Blocks 67 to 77, inclusive and Blocks 241 to 247, inclusive shall be developed only in conjunction with abutting Blocks in plan of subdivision 19TM-02011 (16th and McCowan Holdings Ltd.) and that no building permits will be issued for said blocks until combined with the abutting blocks to create building lots in conformity with the zoning by-law and all applicable fees have been paid.
- 16.5 The Owner shall covenant and agree in the subdivision agreement to include warning clauses in agreements of purchase and sale for all units with single car garages advising purchasers of the following:
- the Town's parking by-law requires a minimum of two parking spaces, one in the driveway and one in the garage

- the Town's zoning by-law restricts the width of the driveway, this width does not allow two cars to park side by side
- overnight street parking will not be permitted unless an overnight street parking permit system is implemented by the Town

16.6 The Owner shall covenant and agree in the subdivision agreement to, in association with the Wismer Commons Developers' Group, construct a pedestrian crossing of the Robinson Creek valley, to the Town's satisfaction, if it is determined to be feasible by the TRCA.

17. Region of York

1. The road allowances included within the draft plan of subdivision shall be named to the satisfaction of the area municipality and the York Region Planning and Development Services Department.
2. Prior to final approval York Region shall confirm that adequate water supply and sewage servicing 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. Registration of the plan of subdivision shall occur in phases based on the availability of water supply and sewage servicing allocation.
3. The Owner shall agree in the subdivision agreement that the Owner shall save harmless the Town of Markham and York Region from any claim or action as a result of water or sanitary sewer service not being available when anticipated.
4. Prior to the final approval of the initial 80 residential units the following shall occur:
 - York Region has advised in writing that it is no earlier than six (6) months prior to the expected completion of the Duffin Creek Water Pollution Control Plant expansion project and the YDSS Flow Control Structures project; or,
 - the Town of Markham approves a transfer of servicing allocation to this development that is not dependent upon the completion of infrastructure; or,
 - the Regional Commissioner of Environmental Services confirms servicing allocation for this development by a suitable alternative method and the Town of Markham allocates the capacity to this development.
5. Prior to the final approval of any residential units beyond the initial 80 units the following shall occur:
 - York Region has advised in writing that it is no earlier than six (6) months prior to the expected completion of the Duffin Creek Water Pollution Control Plant

expansion project, the YDSS Flow Control Structures project and the Southeast Collector Sewer; or,

- the Town of Markham approves a transfer of servicing allocation to this development that is not dependent upon the completion of infrastructure; or,
 - the Regional Commissioner of Environmental Services confirms servicing allocation for this development by a suitable alternative method and the Town of Markham allocates the capacity to this development.
6. For the initial 80 residential units, the Holding (h) provisions of Section 36 of the Ontario Planning Act shall be used in conjunction with all residential zone categories in order to ensure that development of these lands does not occur until such time as the Holding (h) symbol is removed in accordance with the provisions of the Ontario Planning Act. The Zoning By-law shall specify the terms under which Council may consider the removal of the Holding (h) symbol. Said terms shall include a minimum of the following:
- York Region has advised in writing that it is no earlier than six (6) months prior to the expected completion of the Duffin Creek Water Pollution Control Plant expansion project and the YDSS Flow Control Structures project; or,
 - the Town of Markham approves a transfer of servicing allocation to this development that is not dependent upon the construction of infrastructure; or,
 - the Regional Commissioner of Environmental Services confirms servicing allocation for this development by a suitable alternative method and the Town of Markham allocates the capacity to this development.
7. For any residential units beyond the initial 80 units, the Holding (h) provisions of Section 36 of the Ontario Planning Act shall be used in conjunction with all residential zone categories in order to ensure that development of these lands does not occur until such time as the Holding (h) symbol is removed in accordance with the provisions of the Ontario Planning Act. The Zoning By-law shall specify the terms under which Council may consider the removal of the Holding (h) symbol. Said terms shall include a minimum of the following:
- York Region has advised in writing that it is no earlier than six (6) months prior to the expected completion of the Duffin Creek Water Pollution Control Plant expansion project, the YDSS Flow Control Structures project and the Southeast Collector Sewer; or,
 - the Town of Markham approves a transfer of servicing allocation to this development that is not dependent upon the construction of infrastructure; or,

- the Regional Commissioner of Environmental Services confirms servicing allocation for this development by a suitable alternative method and the Town of Markham allocates the capacity to this development.
- 8. Prior to final approval, the Owner shall have prepared, by a qualified professional transportation consultant, a functional transportation report/plan outlining the required Regional road improvements for this subdivision. The report/plan, submitted to the Transportation Services Department for review and approval, shall explain all transportation issues and shall recommend mitigative measures for these issues.
- 9. Prior to final approval, the Owner shall provide a written undertaking, to the satisfaction of the Transportation Services Department that the Owner agrees to implement the recommendations of the functional transportation report/plan as approved by the Transportation Services Department.
- 10. Prior to final approval, the Owner shall submit detailed engineering drawings, to the Transportation Services Department for review and approval, that incorporate the recommendations of the functional transportation report/plan as approved by the Transportation Services Department. Additionally, the engineering drawings shall include the subdivision storm drainage system, erosion and siltation control plans, site grading and servicing, plan and profile drawings for the proposed intersections, construction access and mud mat design, utility and underground servicing location plans, pavement markings, electrical drawings for intersection signalization and illumination design, traffic control/construction staging plans and landscape plans.
- 11. Prior to final approval, the Owner shall agree that the following lands will be conveyed to York Region for public highway purposes, free of all costs and encumbrances, to the satisfaction of York Region Solicitor:
 - a) a widening across the full frontage of the site where it abuts McCowan Road of sufficient width to provide a minimum of 18 metres from the centreline of construction of McCowan Road, and
 - b) a 15 metre by 15 metre daylight triangle at the northwest and southwest corners of James Parrot Avenue and McCowan Road, and
 - c) a 0.3 metre reserve across the full frontage of the site, except at the approved access location, adjacent to the above noted widening, where it abuts McCowan Road and adjacent to the above noted widenings, and
 - d) an additional 2 metre widening, 40 metres in length, together with a 60 metre taper for the purpose of a northbound right turn lane at the intersection of James Parrot Avenue and McCowan Road,

12. Prior to final approval, in order to determine the property dedications (if any) required to achieve the ultimate right-of-way width of McCowan Road abutting the subject site, the applicant shall submit a recent plan of survey for the property that illustrates the existing centre line of construction of McCowan Road.
1. Prior to final approval, the Owner shall provide a solicitor's certificate of title in a form satisfactory to York Region Solicitor, at no cost to York Region with respect to the conveyance of the above noted lands to York Region.
2. 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.
3. Prior to final approval, the Owner shall certify, in wording satisfactory to the Transportation Services 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.
4. The Owner shall agree in the subdivision agreement, in wording satisfactory to the Transportation Services Department, to be responsible to decommission any existing wells on the Owner's lands in accordance with all applicable provincial legislation and guidelines and to the satisfaction of the area municipality.
5. Prior to final approval, the intersection of McCowan Road and James Parrot Avenue shall be designed to the satisfaction of the Transportation Services Department with any interim or permanent intersection works including turning

lanes, profile adjustments, illumination and/or signalization as deemed necessary by the Transportation Services Department.

6. Prior to final approval, the location and design of the construction access for the subdivision work shall be completed to the satisfaction of the Transportation Services Department and illustrated on the Engineering Drawings.
7. Prior to final approval, the Owner shall demonstrate, to the satisfaction of the Transportation Services Department, that all existing driveway(s) along the Regional road frontage of this subdivision will be removed as part of the subdivision work, at no cost to York Region.
8. Prior to final approval, the Owner shall demonstrate, to the satisfaction of the Transportation Services Department that elevations along the streetline shall be 0.3 metres above the centreline elevations of the York Region roadway, unless otherwise specified by the Transportation Services Department.
9. The Owner shall agree, in the subdivision agreement and prior to any further planning application abutting McCowan Road, that direct vehicle access from any development blocks within this plan of subdivision to McCowan Road will not be permitted. Access must be obtained through the internal road network.
10. Prior to final approval, the Owner shall demonstrate, to the satisfaction of the Transportation Services Department, that the Owner will provide the installation of visual screening between Carolina Rose Crescent and McCowan Road and Chokecherry Crescent/Street 1 and McCowan Road, consisting of either a screening fence or a combination of a berm and appropriate planting, to a minimum of 1.8 metres in height, to be located within the right-of-way of Chokecherry Crescent/Street 1 and Carolina Rose Crescent. The Owner shall submit to the Transportation Services Department for review and approval, landscape plans showing the proposed planting for headlight screening purposes.
11. Prior to final approval, the Owner shall submit drawings depicting the following to the satisfaction of York Region staff:
 - a) All existing woody vegetation within the York Region road right of way,
 - b) Tree protection measures to be implemented on and off the York Region road right of way to protect right of way vegetation to be preserved,
 - 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's of way 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 York Region 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 York Region's satisfaction, the area municipality will be responsible for the cost of maintenance or removal undertaken by the Region.

1. Prior to final approval, the Owner shall engage the services of a consultant to prepare and submit for review and approval, a noise study to the satisfaction of the Transportation Services Department recommending noise attenuation features.
2. The Owner shall agree in the subdivision agreement, in wording satisfactory to the Transportation Services Department, to implement the noise attenuation features as recommended by the noise study and to the satisfaction of the Transportation Services Department.
3. The Owner shall agree in the subdivision agreement, in wording satisfactory to the Transportation Services Department, that where 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.
4. 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".

1. Where noise attenuation features will abut a York Region right-of-way, the Owner shall agree in the subdivision agreement, in wording satisfactory to York Region's Transportation Services Department, as follows:
 - a) that no part of any noise attenuation feature shall be constructed on or within the York Region 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 a 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 York Region right-of-way by the Owner or the area municipality for aesthetic purposes must be approved by the Transportation Services Department and shall be maintained by the area municipality with the exception of the usual grass and tree maintenance.
1. Prior to final approval, the Owner shall demonstrate, to the satisfaction of the Transportation Services Department, that all local underground services will be installed within the area of the development lands and not within York Region's road allowance. If a buffer or easement is needed to accommodate the local services adjacent to York Region's Right of Way, then the Owner shall provide a satisfactory buffer or easement to the Area Municipality, at no cost to the Region.
 2. The Owner shall agree in the subdivision agreement, in wording satisfactory to the Transportation Services Department that the Owner will be responsible for determining the location of all utility plants within York Region right-of-way and for the cost of relocating, replacing, repairing and restoring any appurtenances damaged during construction of the proposed site works. The Owner must review, or ensure that any consultants retained by the Owner, review, at an early stage, the applicable authority's minimum vertical clearances for aerial cable systems and their minimum spacing and cover requirements. The Owner shall be entirely responsible for making any adjustments or relocations, if necessary, prior to the commencement of any construction.
 3. Prior to final approval, the Owner shall satisfy York Region Transportation Services Department that sidewalks will be provided onto roadways that have/will have transit services as listed below. Sidewalks are to be provided on both sides of the roadways where feasible.

Existing YRT/Viva transit services operate on the following roadways in the vicinity of the subject lands:

- McCowan Rd
 - Bur Oak Ave
1. Prior to final approval, the Owner shall satisfy the York Regional Transportation Services Department and the area municipality that the services to be installed by the Owner within or in conjunction with the Plan will provide concrete pedestrian access connections from the internal roadways to the Regional roadway as follows:

- From Carolina Rose Crescent to McCowan Rd
 - From Chokecherry Crescent to McCowan Rd
 - Block 248 to Bur Oak Ave
2. The concrete pedestrian access connections and sidewalks, identified in Conditions 31 and 32, shall be designed and constructed to meet the local municipality's standards for sidewalks and shall be owned and maintained by the area municipality.
 3. The Owner shall agree in the subdivision agreement to convey lands to the local municipality to provide for such pedestrian access connections identified in Condition 32 above.
 4. Prior to final approval, the Owner shall submit drawings showing, as applicable, the concrete pedestrian access connections to the satisfaction of York Region.
 5. The Owner shall agree in the Subdivision Agreement to advise all potential purchasers of the existing of transit services in this development as identified in Condition 31. This includes transit routes, bus stops and shelter locations. This shall 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.
 6. Prior to final approval, the Owner shall provide a copy of the subdivision agreement to the Transportation Services Department, outlining all requirements of the Transportation Services Department.
 7. The Owner shall enter into an agreement with 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-0007-2007-040.
18. TRCA
- 18.1 Prior to final approval of the draft plan, the owner shall complete any required studies, relating to matters under the jurisdiction of the Toronto and Region Conservation Authority, to the satisfaction of the Authority. The owner acknowledges and agrees that requirements resulting from these studies shall be incorporated into the draft plan of subdivision and the subdivision agreement as required.
 - 18.2 Prior to final approval, the owner shall provide a signed copy of the subdivision agreement to the TRCA, which agreement shall include all requirements of the TRCA as outlined in their comments to the Town dated February 13, 2009.

19. External Clearances

19.1 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, 5.1, 5.2 and 17 (1 to 38) have been satisfied.
- b) The Toronto and Region Conservation Authority shall advise that Condition 9.1 and 18 has been satisfied.
- c) The Ministry of Culture (Heritage Branch) shall advise that Conditions 15.1 and 15.2 have been satisfied.

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A by-law to amend Rural Area Zoning By-law 304-87, as amended
(To delete lands from the designated area of this By-law)

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

1. THAT By-law 304-87, as amended, is hereby further amended by deleting the lands in Lots 16, 17 and 18, Concession 9, as shown on Schedule 'A' attached hereto, from the designated area of By-law 304-87, as amended.
2. This by-law shall not come into effect until By-law **XXXXX** amending By-law 177-96, as amended comes into effect and the lands, as shown on Schedule 'A' attached hereto, are 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

A by-law to amend Urban Expansion Area Zoning By-law 177-96, as amended
(*To incorporate lands into the designated area of this By-law*)

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 By-law 177-96, as amended, to include those lands comprising Part of Lots 17 and 18, Concession 7, as outlined on Schedule 'A' attached hereto;
 - 1.2 By zoning the lands to:

Residential Two *99(H)[R2*99(H)],
Residential Two *99(H1) [R2*99(H1)],
Residential Two*AAA(H) [R2*AAA(H)] ,
Open Space One [OS1],
Open Space Two [OS2].
 - 1.3 By adding the following Subsection 7.AAA to section 7 – EXCEPTIONS:

**“7.AAA AMBER PLAIN INVESTMENTS LTD, WISMER
COMMONS**

Notwithstanding any provisions of this by-law, the provisions in this section shall apply to those lands denoted by the symbol *AAA on the schedules to this By-law. All other provisions of this by-law, unless specifically modified/amended by this section, continue to apply to the lands subject to this Section

a) Zone Standards:

The following specific Zone Standards apply:

- i). Minimum required front yard – 4.5 metres;
- ii). Minimum required rear yard – 2.0 metres;
- iii). Minimum required exterior side yard – 2.0 metres;
- iv). Minimum required interior side yard – 1.2 metres;
- v). Minimum required setback to the site-triangle at the intersection of Bur Oak Avenue and McCowan Road – 0.3 metres;
- vi). Notwithstanding Section 7.AAA.a).v) to the contrary, architectural features such as sills, belt

courses, cornices, eaves, chimney breasts, pilasters, roof overhangs, and gutters are allowed to be located no closer than 0.1m from the site-triangle at the intersection of Bur Oak Avenue and McCowan Road.

b) Special Site provisions:

The following additional provisions apply:

- i). Notwithstanding any further division or partition on lands subject to this Section, all R2*AAA zoned lands not owned by a public authority shall be deemed to be one lot for the purposes of this By-law;
- ii). The lot line abutting Bur Oak Avenue is deemed to be the front lot line;
- iii). The main wall of a dwelling unit shall be setback a minimum of 6.0 metres from the centerline of a private road;
- iv). The main wall of an attached private garage that contains the opening for motor vehicle access shall be setback a minimum of 9.0 metres from the centerline of a private road;
- v). Notwithstanding Special Provision #11 of Table B2, a private garage is permitted to be within or attached to the main building.”

1.3 HOLDING PROVISIONS:

For the purpose of this By-law, Holding (H) and Holding (H1) *zones* are hereby established and are identified on Schedule ‘A’ attached hereto by the letters (H) and (H1) in parenthesis following the zoning symbol.

No person shall hereafter *erect* or *alter* any *building* or *structure* on lands subject to ‘(H) or (H1)’ provisions for the purpose permitted under this By-law until amendments to this By-law to remove the letters ‘(H) & (H1)’ have come into effect pursuant to the provisions of Section 36 of the Planning Act.

Prior to removing the ‘(H)’ Holding provision, the following conditions must be met to the satisfaction of the Town of Markham:

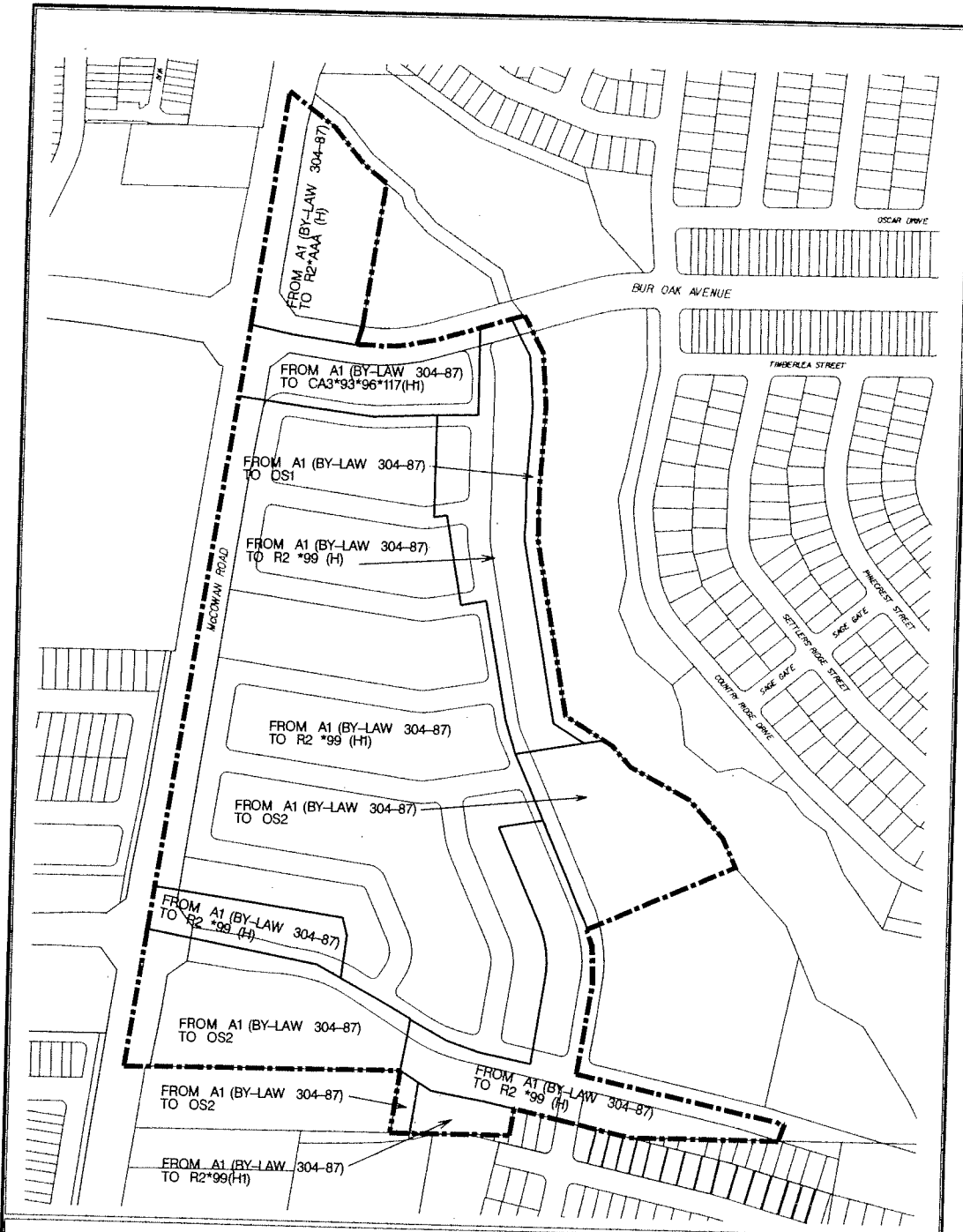
- a) York Region has advised in writing that the expected completion of the Duffin Creek Water Pollution Control Plant expansion project and the YDSS Flow Control Structures project will be within six (6) months; and,

- b) The Council of the Town of Markham has allocated adequate available water supply and sewage servicing capacity to the subject development; or,
- c) The Council of the Town of Markham approves servicing allocation to the lands that are not dependent upon the construction of Regional infrastructure; or
- d) The Regional Commissioner of Environmental services confirms servicing capacity for this development by a suitable alternative method and the Town of Markham allocates the capacity to this development.

Prior to removing the '(H1)' Holding provision, the following conditions must be met to the satisfaction of the Town of Markham:

- a) York Region has advised in writing that the expected completion of the Southeast Collector Sewer will be within six (6) months;
- b) The Council of the Town of Markham has allocated adequate available water supply and sewage servicing capacity to the lands; and,
- c) The Trustee for the Wismer Commons Developers' Group Cost Sharing Agreement has assigned -- units of conditional servicing (water and sewer) allocation to the Owner; or,
- d) The Council of the Town of Markham approves servicing allocation to the lands that are not dependent upon the construction of Regional infrastructure; or
- e) The Regional Commissioner of Environmental services confirms servicing capacity for this development by a suitable alternative method and the Town of Markham allocates the capacity to this development.

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
ZONE BOUNDARY

R2	RESIDENTIAL TWO	OS2	OPEN SPACE TWO	(H)	HOLDING PROVISION
CA3	COMMUNITY AREA THREE	A1	AGRICULTURE ONE		
OS1	OPEN SPACE ONE	*(No.)	EXCEPTION NUMBER		

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: 4000

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