

Memorandum to the City of Markham Committee of Adjustment

August 1, 2019

Files: B/10/19, A/61/19, and A/62/19,
Address: 4134 16th Ave Markham
Applicant: Sixteenth Land Holding Inc.
Agent: Gatzios Planning & Development Consultants Inc.
(Maria Gatzios)
Hearing Date: Wednesday August 07, 2019

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

B/10/19

This application is to create two separate parcels of land.

- a) sever and convey a parcel of land with approximate lot frontage of 1064 m and approximate lot area of 92.6 ha (Parts 27, 28, 30 to 32 and 34);
- b) retain a parcel of land with approximate lot frontage of 613 m and approximate lot area of 75.9 ha (Parts 1 to 26, 29, 33 and 35 to 49); and
- c) discharge a mortgage from a portion of the retained parcel (Parts 3 to 5, 25 and 38 to 49).

This application is also related to variance applications A/61/19 and A/62/19.

A/61/19 & A/62/19

The severed and retained parcels each require two variances (see a) and b) below). These variance applications relate to an existing building that is currently located on the proposed severance line. The applicant is requesting relief from the following requirements of By-law 304-87, O1, OS1, CR, R2*538 & R1-F18*20 as amended:

- a) Section 10.2 (c): a minimum side yard setback of 0.0m for an accessory building, whereas the By-law requires a minimum side yard setback of 7.5m; and
- b) Section 10.2 (c): a minimum rear yard setback of 0.0m for an accessory building, whereas the By-law requires a minimum rear yard setback of 7.5m.

These applications are related to consent application B/10/19.

BACKGROUND

Property and Area Context

The 'subject lands' comprises the approximately 168.6 ha. (416.6 acres) York Downs Golf Course lands located north of 16th Avenue, west of Kennedy Road (see Figure 1). There is a clubhouse building on site and there are also several associated golf course maintenance buildings. The main entrance to the golf

course is from 16th Avenue at a signalized intersection opposite Normandale Road. There is a maintenance access driveway from Kennedy Road, immediately south of the Angus Glen Village neighbourhood. There is no vehicular access from Warden Avenue or from Angus Glen Boulevard to the north. The Bruce Creek bisects the subject lands and the Berczy Creek is located on the southwestern portion of the lands.

The surrounding context is as follows:

- To the north is the Angus Glen Village neighbourhood,
- To the south, across 16th Avenue is the Normandale Road neighbourhood and continuation of the Berczy and Bruce creeks,
- To the east is the developing Yorkton subdivision, and
- To the west is Warden Avenue, Glenburn Forest Way, Glenridge Drive, Walnut Glen Place, and Country Estates Drive.

Markham Official Plan and Zoning By-law

The 2014 Official Plan (as partially approved on November 24, 2017 and further updated on April 9, 2018) designates the golf course portion of the subject lands 'Private Open Space' and the valleyland portion of the lands 'Greenway'. (With the update to the 2014 Official Plan, in April of 2018, the majority of the 2014 Plan is in force.)

The lands are zoned Commercial Recreation Zone (CR) and Open Space One Zone (O1) by By-law 304-87, as amended.

The 'Private Open Space' Official Plan designation and the 'Commercial Recreation Zone' (CR) and 'Open Space One Zone' (O1) Zoning does not allow the development anticipated by the development applications that were submitted in late 2016 (see below).

Development Applications

In late 2016, Sixteenth Land Holdings Inc. applied to amend the 2014 Official Plan to re-designate the developable portion of the subject lands to allow for a predominately low density residential community, some medium and high rise residential north of 16th Avenue and west of Kennedy Road, and a mixed use block adjacent to 16th Avenue. Sixteenth Land Holdings Inc. also submitted a rezoning application to permit the proposed development, and to establish development standards.

Two Draft Plans of Subdivision (East 19T-16M10 & West 19T-16M11), were also submitted by Sixteenth Land Holdings Inc., with the Official Plan and Rezoning applications. The East Draft Plan, between Kennedy Road and the eastern boundary of the Bruce Creek valley lands and associated wetlands, is approximately 93 hectares (230 acres). The West Draft Plan which contains the Berczy and Bruce creek valley lands, is approximately 76 hectares (188 acres).

The Local Planning Appeal Tribunal (LPAT) gave an oral decision approving the Official Plan, Zoning By-law and Draft Plan applications in February of 2019. (The written order has not yet been issued.)

Proposal

The severance application (B/10/19) proposes to divide the 'subject lands' into two parcels. The severed parcel is consistent with the West Draft Plan of Subdivision, and the retained parcel is consistent with the East Draft Plan. The proposed property boundary follows the line that separates the East and West draft plans. The severed (West) and retained (East) parcels will each have its own Draft Plan of Subdivision and associated draft plan conditions. The East and West Draft Plans of Subdivision each have a number of conditions, related to development co-ordination and clearances for registration, related to the other Draft Plan of Subdivision.

The variance applications (A/61/19 & A/62/19) are required as one of the existing buildings is located on the proposed severance line.

Applicant's Stated Reason(s) for Not Complying with Zoning

Please refer to the June 19th, 2019 letter to the Committee of Adjustment, attached as Appendix 'A'.

Zoning Preliminary Review (ZPR) Undertaken

A Zoning Preliminary Review (ZPR) to confirm the variances required was completed on May 22, 2019.

PUBLIC INPUT SUMMARY

No written submissions were received as of July 29, 2019. It is noted that additional information may be received after the writing of the report, and the Secretary-Treasurer will provide information about this at the meeting.

COMMENTS

It is the opinion of staff, that the co-ordination of the development of the 'subject lands', as anticipated by Council, and required by the East and West Draft Plan of Subdivision conditions, will not be compromised by this land division.

There are a number of existing easements on the 'subject lands' in favour of the City and Kylemore Communities (Yorkton). These easements are related to construction, access, and maintenance of a storm water management pond and sanitary sewer infrastructure. It is intended that these easements will remain in place following the severance.

CONCLUSION

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

Planning Staff have reviewed the application with respect to Section 45(1) of The Planning Act, R.S.O. 1990, c. P.13, as amended, and are of the opinion that the variance request meets the four tests of the Planning Act. Staff recommend that the Committee consider public input in reaching a decision.

The onus is ultimately on the applicant to demonstrate why they should be granted relief from the requirements of the zoning by-law, and how they satisfy the tests of the Planning Act required for the granting of minor variances.

Planning staff recommend that, should the Committee of Adjustment decide to approve the applications, the conditions in Appendix 'B', be attached to B/10/19, and the conditions in Appendix 'C', be attached to A/61/19 and A/62/19.

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

PREPARED BY:


David Miller, Development Manager

Attachments:

Figure 1 – Subject Lands

Appendix 'A' – Applicant's June 19th, 2019 letter to the Committee of Adjustment

Appendix 'B' – Conditions to be Attached to any Approval of B/10/19

Appendix 'C' - Conditions to be Attached to any Approval of A/61/19 and A/62/19

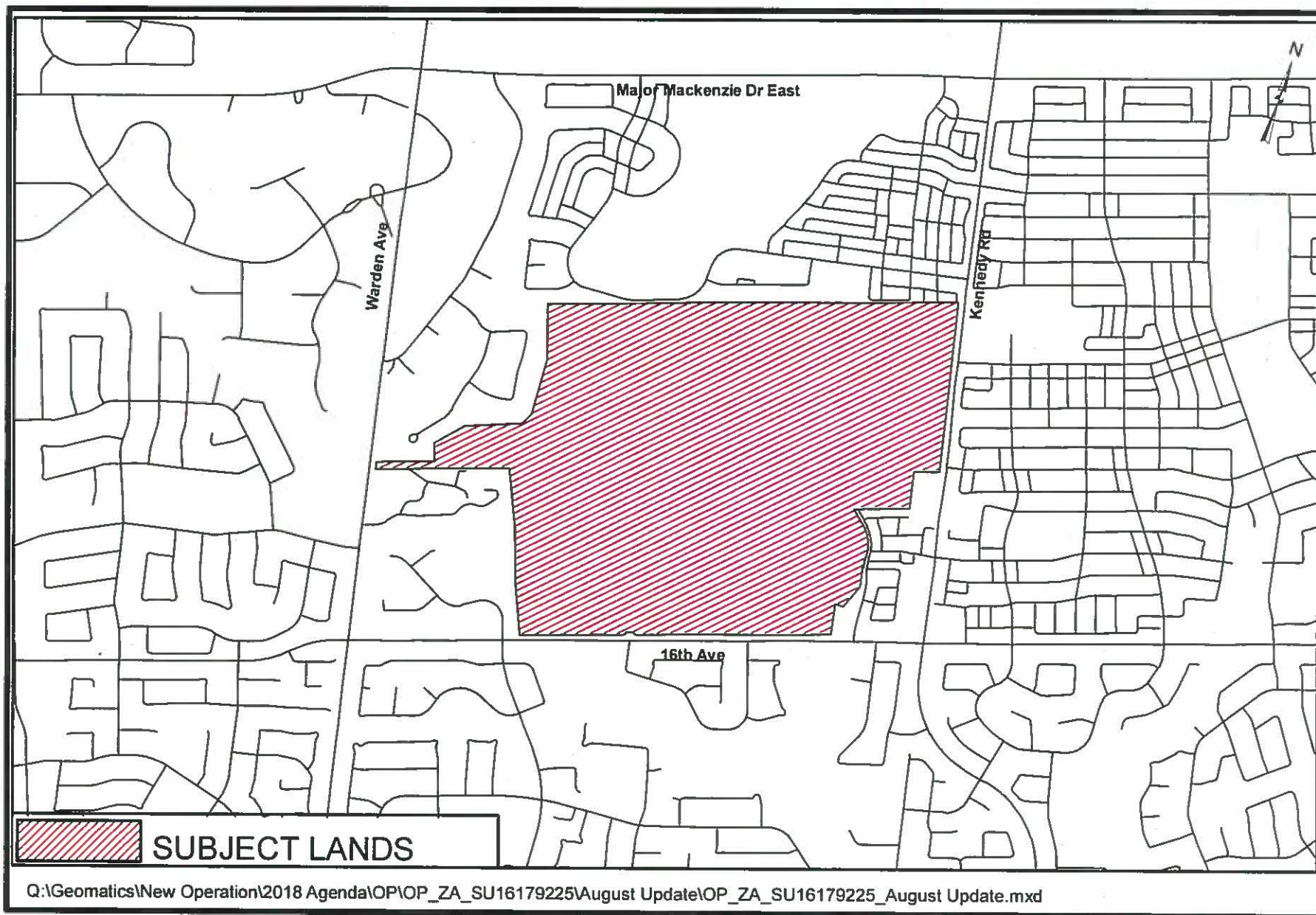


FIGURE 1



APPENDIX 'A'

Gatzios Planning + Development Consultants Inc.

File No: 65MA-1511

June 19, 2019

**Committee of Adjustment
City of Markham**
101 Town Centre Boulevard
Markham, Ontario
L3R 9W3

Attention: Justin Leung
Secretary-Treasurer, Committee of Adjustment

**Regarding: APPLICATIONS FOR CONSENT & MINOR VARIANCE
SIXTEENTH LAND HOLDINGS INC.
4134 SIXTEENTH AVENUE
FORMERLY YORK DOWNS GOLF & COUNTRY CLUB**

Dear Mr. Leung:

On behalf of the landowner we are submitting these applications for Consent and Minor Variance for the following purposes:

1. To sever the Property into 2 parcels, an 'East Parcel' and a 'West Parcel',
2. To discharge a mortgage from a portion of the new East parcel, and
3. To permit minor exceptions to the standards in the current zoning, to ensure that the existing buildings on the property are in conformity with the existing zoning by-law upon approval of the severance.

The following briefly describes the subject property, summarizes the planning approvals history and describes the proposed severance and variance in order to assist the Committee in its review and consideration of these Consent and Minor Variance applications.

The Property

The property is outlined on **MAP 1** and is a total of 168.6 hectares (416.4 acres) in size, located on the north side of 16th. Avenue and west of Kennedy Road, in the City of Markham.

A tributary of the Berczy Creek crosses the western portion of the property in two locations, and the Bruce Creek traverses the property in a roughly north / south direction, bisecting the property into west and east tableland areas. Both the Berczy and the Bruce are tributaries of the Rouge River.

The majority of the property is currently used as a private golf course known as York Downs Golf & Country Club. The Club operates a 27-hole golf course with a driving range on site since the early 1970's. The eastern portion of the property situated adjacent to Kennedy Road is vacant and is in active agricultural cultivation, and also contains two temporary stormwater management ponds serving external urban development.

The property has frontage onto the north side of Sixteenth Avenue, onto the west side of Kennedy Road, a very small frontage onto the east side of Warden Avenue, and also onto a portion of the south side Angus Glen Boulevard to the north.

During the last decade, York Downs Golf & Country Club has severed and sold small portions of the eastern vacant portion of its original larger landholding near Kennedy Road for urban residential development.

In 2015, the Club voted to cease operations and sell the current property in its entirety. The current landowner Sixteenth Land Holdings Inc. purchased the property in 2015 and proceeded to submit planning applications to permit the development of the property for a residential neighbourhood.

History and Status of Planning Permissions

In October 2016 the following planning applications were submitted to the City, and in February 2019 they were approved by the LPAT (written order pending) in order to permit the urban residential development of the property:

1. an Official Plan Amendment ("OPA") to the City of Markham Official Plan 2014 to redesignate the property from 'Private Open Space' and 'Greenway' to appropriate residential land use designations;
2. a Zoning By-Law Amendment ("ZBLA") to incorporate all of the property into the City's 'New Urban Area' By-Law 177-96 and to rezone the Property from 'Commercial Recreational' and 'Open Space' to appropriate residential zone categories; and
3. two Draft Plans of Subdivision (East: 19T-16M10 and West: 19T-16M11) to permit the residential subdivision of the property.

These planning applications as well as all the supporting studies were subject to review, revision and public consultation prior to the City, the Region, the TRCA, the school boards and the various residents' groups and parties agreeing to their approval.

As of the time of writing, the LPAT has provided an oral decision approving of these four planning applications to permit the residential development of the property, however the final written order has not yet been issued by the LPAT. As a result, as of the date of

this application the current zoning of the property technically remains the CR Commercial Recreation Zone and O1 Open Space One zones from ZBL 304-87.

Details of the Proposed Severance

As noted above, there are two Draft Plans of Subdivision approved on the property, one covering the east portion being 19T-16M10, and one covering the west portion being 19T-16M11. A composite plan of the two Draft Plans of Subdivision is included on **MAP 2**, with the east Draft Plan of Subdivision 19T-16M10 on **MAP 3** and the west Draft Plan of Subdivision 19T-16M11 on **MAP 4**. Each Draft Plan of Subdivision has its own set of draft plan of subdivision approval conditions.

The proposed severance would divide the property into two parcels, an East and a West, precisely along the line between the two Draft Plans of Subdivision as shown on **MAP 5**. This proposed division line roughly coincides with the eastern edge of the Bruce Creek valleylands.

This severance would create two separate parcels of land, each with its own Draft Plan of Subdivision approval and associated conditions, facilitating the development of each parcel at its own pace by its own separate future owner.

It is important to note that several Draft Plan of Subdivision conditions of approval for each Draft Plan of Subdivision relate to coordination and clearances for registration which relate to the other Draft Plan of Subdivision. Also, the two future landowners of each parcel are required to cost share various community infrastructure and associated works and costs, as stipulated in the Official Plan Amendment and in conditions found in both sets of draft plan of subdivision approval conditions. As a result, the fact that there will be two separate future owners, one for each Draft Plan of Subdivision, does not negatively affect the planning approval conditions nor permit development outside of the parameters, controls and development requirements established by the planning approvals to date.

Description of the East Parcel (Retained Lands)

The proposed East Parcel would contain the following Parts as shown on the preliminary 65R-Plan provided with this application:

Parts 1 to 26, 29, 33 and 35 to 49

The East Parcel has a land area of approximately 75.9 hectares (187 acres), and approximately 613 metres of frontage on Kennedy Road.

In addition, the owner proposes to discharge the mortgage over a portion of the future East Parcel, and as noted in this application, approval from the Committee is required.

Description of the West Parcel (Severed Lands)

The proposed West Parcel would contain the following Parts as shown on the preliminary 65R-Plan provided with this application:

Parts 27, 28, 30, 31, 32 and 34

The West Parcel has a land area of approximately 92.6 hectares (228 acres), and approximately 1064 metres of frontage on 16th Avenue.

Easements

The property is currently subject to existing easements in favor of the City of Markham and Kylemore Communities (Yorkton) Limited, being a neighbouring landowner directly to the east. The existing easements relate to construction, access, and maintenance of a stormwater management pond and sanitary sewer infrastructure. A summary chart of these existing easements and the purpose for the parts found on the preliminary 65R-Plan is attached entitled **Existing Easements Summary**.

With respect to easements which are required post-severance, it is our understanding that all of the existing easements must survive the severance and be in place upon the two new parcels, with the attached summary entitled **Post Severance Easements Summary** being applicable post severance.

Conformity with the City of Markham 2014 Official Plan

Until such time as the LPAT decision approving the official plan amendment application is issued, the property continues to be designated Private Open Space and Greenway. The existing land use designations recognize the use existing on the property at this time, being a private golf course.

With the final written order and approval of the official plan amendment by the LPAT, the Residential Low Rise, Residential Mid-Rise, Mixed Use Mid Rise, and Greenway land use designations will be applied to the property and the residential development of the property, as intended, will be permitted.

This severance does not affect the existing land use nor the land use designations.

Conformity with the City of Markham Zoning By-Law 304-87 & Details of the Proposed Minor Variance

Until such time as the LPAT decision approving of the zoning by-law amendment application is issued, the property continues to technically be zoned CR Commercial Recreation Zone and O1 Open Space One zones, according to Zoning By-law 304-87.

With the final written order and approval of the zoning by-law amendment by the LPAT, the appropriate zone categories and standards will be applied to the property and residential development, as intended, will be permitted.

At this time, there are a number of existing buildings on the property which relate to the function of the golf course and country club and include the clubhouse, storage buildings, and sheds. The existing buildings have been located and detailed on **MAP 7** and **MAP 8**.

As shown on **MAP 8**, one of the existing buildings currently sits on the proposed severance line which separates the east and west parcels.

As confirmed through the City's Zoning Preliminary Review process and detailed in the chart below, a technical minor variance has been requested to permit an exception to:

- the minimum side yard setback of 7.5 metres for both the retained lands (east parcel) and severed lands (west parcel)
- the minimum rear yard setback of 7.5 metres for both the retained lands (east parcel) and severed lands (west parcel)

The technical minor variance would permit a reduction to the minimum side yard setback to 0.0 metres, and the minimum rear yard setback to 0.0 metres for both the retained lands (east parcel) and severed lands (west parcel) to ensure the existing building is in conformity with the existing zoning by-law upon approval of the severance application.

The chart below details the current performance standards in the existing CR Commercial Recreation Zone in Zoning By-law 304-87 and the required technical minor variance to ensure the existing buildings on the property are in conformity with the existing zoning by-law upon approval of the severance application.

Performance Standard	CR Commercial Recreation zone Standard	East Parcel (Retained lands)	West Parcel (Severed lands)	Minor Variance Required
Minimum lot frontage	60 metres	613 metres along Kennedy Road	1,064 metres along 16 th Avenue	NO
Minimum lot area	4.0 hectares	75.9 hectares	92.6 hectares	NO
Minimum front yard	12.0 metres	+ 12.0 metres	+ 12.0 metres	NO
Minimum side yard	7.5 metres	0 metres	0 metres	YES
Minimum rear yard	7.5 metres	0 metres	0 metres	YES

Details of the proposed mortgage discharge on a portion of the East Parcel

It is the intention of the owner to discharge a mortgage from a portion of the future East Parcel, and this requires approval from the Committee of Adjustment.

The existing York Downs Golf and Country Club Limited mortgage is proposed to be discharged from a portion of the property in the north-east corner described as Parts 3, 4, 5, 25, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49 on the preliminary 65R-Plan, and shown on **MAP 6**.

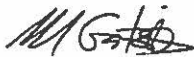
Please find enclosed the following documentation comprising these applications for Consent and Minor Variance:

1. A copy of the completed and signed **Application for Consent** form.
2. A copy of the completed and signed **Application for Minor Variance** form for the Severed Lands (east parcel).
3. A copy of the completed and signed **Application for Minor Variance** form for the Retained Lands (west parcel).
4. A cheque in the amount of **\$21,951.38** for the **Application for Consent & Mortgage fee**.
5. A cheque in the amount of **\$12,616.45** for both **Application for Minor Variance fees**.

6. 2 copies of the **Zoning Preliminary Review** Changemarks Report, prepared by the City of Markham, dated May 28, 2019.
7. 2 full-size copies, and 4 reductions of the **draft Reference Plan**, prepared by J.D. Barnes Limited. dated April 5, 2019.
8. 2 copies of the **Area Certificate**, prepared by J.D. Barnes Limited dated April 5, 2019.
9. 2 copies of the **Consent Plan**, prepared by Gatzios Planning, dated May 2019.
10. 2 copies of the **Existing Building & Structure Particulars chart**, prepared by Gatzios Planning, dated May 16, 2019.
11. 2 copies of the **Schedule of Current Encumbrances**, prepared by Fasken Martineau DuMoulin LLP, dated March 4, 2019.
12. 2 copies of the **Existing Easements Summary** prepared by Gatzios Planning and J.D. Barnes Limited, dated May 3, 2019.
13. 2 copies of the **Post Severance Easements Summary** prepared by Gatzios Planning and J.D. Barnes Limited, dated May 3, 2019.
14. A **USB** with the above noted materials.

Sincerely,

Gatzios Planning + Development Consultants Inc.



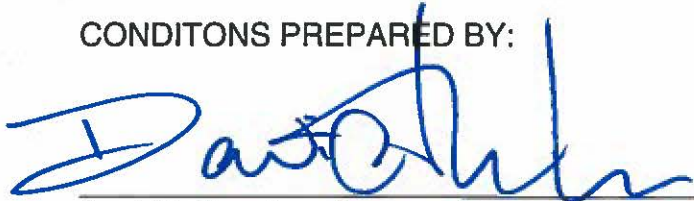
Maria Gatzios, MCIP RPP

Enclosures.

APPENDIX 'B'
CONDITIONS TO BE ATTACHED TO ANY APPROVAL OF B/10/19

1. Payment of all outstanding realty taxes and local improvements charges owing to date against both the subject and retained parcels, and that the Secretary-Treasurer receive written confirmation that this condition has been fulfilled.
2. Submission to the Secretary-Treasurer of the required transfers to effect the severances applied for under Files B/10/19, in duplicate, conveying the subject lands, and issuance by the Secretary Treasurer of the certificate required under subsection 53(42) of the Planning Act.
3. Submission to the Secretary-Treasurer of seven white prints of a deposited reference plan showing the subject land, which conforms substantially to the application as submitted.
4. Payment of the required Conveyance Fee for the creation of residential lots per City of Markham Fee By-law 211-83, as amended.
5. Fulfillment of all of the above conditions within one (1) year of the date that notice of the decision was given under Section 50(17) or 50(24) of the Planning Act, R.S.O. 1990, c.P.13.

CONDITONS PREPARED BY:

A handwritten signature in blue ink, appearing to read 'David Miller', is written over a horizontal line.

David Miller, Development Manager

APPENDIX 'C'
CONDITIONS TO BE ATTACHED TO ANY APPROVALS OF A/61/19 and/or
A/62/19

1. That the variances apply only to the existing building/structures on the property, as shown on the plans submitted with the applications.

CONDITONS PREPARED BY:



David Miller, Development Manager