

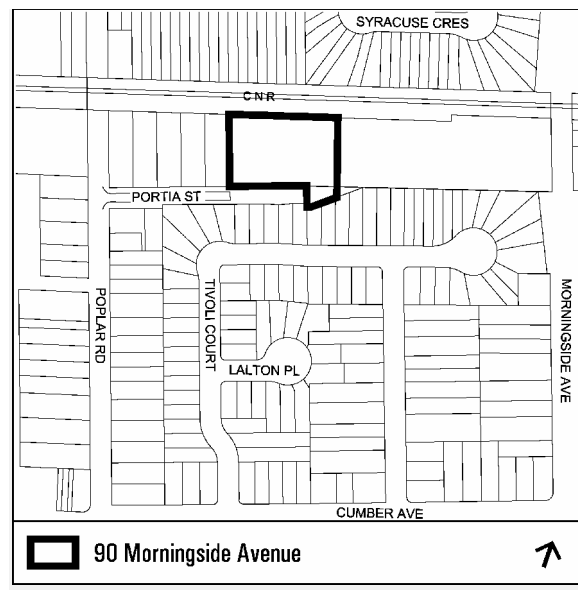
**90 Morningside Avenue - Draft Plan of Subdivision  
Application – Final Report**

<b>Date:</b>	January 23, 2007
<b>To:</b>	Scarborough Community Council
<b>From:</b>	Director, Community Planning, Scarborough District
<b>Wards:</b>	Ward No. 43 – Scarborough East
<b>Reference Number:</b>	File No. 06 135372 ESC 43 SB

**SUMMARY**

An application has been submitted for draft plan of subdivision approval to permit eight (8) lots for single-detached dwellings on a 0.72 hectare (1.7 acre) property at the east end of Portia Street. The site is situated within the area of the former Phase 4 Scarborough Transportation Corridor (STC) land use study. The proposed plan of subdivision is consistent with the results of the STC study that provided for an extension of Portia Street and new residential development of single-detached dwellings on the lands. The lots are compatible with existing residential development in the neighbourhood and schools and a local park are nearby. The proposed plan of subdivision promotes the orderly development of the land in keeping with the results of the STC Phase 4 study and the Official Plan.

Proposed conditions of draft plan approval are included in Attachment 4 that address requirements for the road, services, tree protection, street tree planting, noise and safety issues, urban design and other technical matters. Staff recommend draft approval of the plan of subdivision subject to the conditions included in Attachment 4.



## **RECOMMENDATIONS**

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### **The City Planning Division recommends that:**

1. City Council recommend to the Chief Planner that the draft plan of subdivision be approved, generally as illustrated on Attachment 1, subject to:
  - (a) the conditions as generally listed in Attachment 4, which except as otherwise noted, must be fulfilled prior to the release of the plan of subdivision for registration; and
  - (b) such revisions to the proposed plan of subdivision or additional or modified conditions as the Chief Planner may deem to be appropriate to address matters arising from the on-going technical review of the development.

### **Financial Impact**

There are no financial implications resulting from the adoption of this report.

### **DECISION HISTORY**

The subject lands are situated within the area of the Phase 4 Scarborough Transportation Corridor (STC) land use study. The Phase 4 STC study was completed for this area in February 2002 with amendments to the former Scarborough Official Plan and the Guildwood Community Zoning By-law. The subject lands were designated Low Density Residential and zoned Single-Family Residential to permit single-family dwellings on lots with a minimum frontage of 12 metres (39 feet).

The subject lands were formerly City-owned. In April 2003 Council declared the lands surplus and in September 2005 Council approved the sale of the lands.

### **ISSUE BACKGROUND**

#### **Proposal**

The plan of subdivision includes eight (8) lots for single-detached dwellings (Attachments 1 and 2). The lot frontages range from 12.2 to 16.2 metres (40 to 53 feet) and lot areas range from approximately 695 to 830 square metres (7,480 to 8,930 square feet). An extension of Portia Street to the east is proposed, terminating in a cul-de-sac. The right-of-way for the extension of Portia Street would be 16.5 metres (54 feet) wide. The City currently owns most of the right-of-way for the extension of Portia Street and the applicant is proposing to construct the road on this unopened road allowance. The bulb at the east end of the street is on the subdivision lands and is proposed to be conveyed to the City as a public street.

#### **Site and Surrounding Area**

The 0.7 hectare (1.7 acre) site is situated at the end of Portia Street, about 110 metres (360 feet) east of Poplar Road. The site is relatively flat and is vacant. There are trees

interspersed on the property with a more heavily vegetated area of shrubs and trees, primarily Poplar and Ash, along the north portion of the site.

The CN rail line abuts the property to the north. There are single-detached dwellings on the south side of Portia Street that front on Tivoli Court further south. The rear yards for these existing houses abut the south side of the Portia Street road allowance and the subject lands and there are no accesses from the existing lots to Portia Street.

The adjacent lands to the west extending to Poplar Road are in the same ownership as the subdivision lands. There were previously five lots with single family houses on the lands to the west. These five properties were consolidated and severed in May 2006, to create nine (9) new lots proposed to be developed with single-detached dwellings. Four of the houses have been demolished. The City owns the property adjacent to the east. The Purvis/Castles log cabin, a designated building under the Ontario Heritage Act, is situated on the City lands.

### **Official Plan**

The property is designated Neighbourhoods in the Official Plan. Neighbourhoods are considered physically stable areas made up of residential uses in lower scale buildings such as single and semi-detached dwellings, triplexes, townhouses and walkup apartments. The development complies with the policies of the new Official Plan.

### **Zoning**

The site is zoned 'S' Single Family Residential in the Guildwood Community Zoning By-law (Attachment 3). Single-family dwellings on lots with a minimum frontage of 12 metres (39.2 feet) and a minimum lot area of 464 square metres (4,994 square feet) are permitted on the site and the proposed lots conform to the zoning by-law.

### **Reasons for Application**

A plan of subdivision is needed to divide the land into individual residential lots and to construct the public street and services.

### **Agency Circulation**

The application was circulated to appropriate agencies and City divisions. Responses received have been used to evaluate the application and formulate appropriate conditions of draft plan approval.

## **COMMENTS**

### **Compatible Development**

The site is situated in an established residential neighbourhood developed with single and semi-detached dwellings. Portia Street is a small local road. Only 11 lots currently have frontage on the street. The Phase 4 STC study completed in 2002, provided for the development of the subject lands with single-family dwellings through a minor extension of Portia Street. It was anticipated that about eight (8) lots could be developed on the site.

The proposed lots are larger than most in the area, and the proposed use for single-detached dwellings is compatible with existing residential uses in this neighbourhood. The lots are deep, generally more than 65 metres (213 feet) long, providing space for the dwellings to be setback 30 metres (98 feet) or more from the CN property line, as required in the zoning by-law and by CN rail. The larger lot depths also provide space for a safety berm and acoustic fencing along the rail line behind the proposed houses. The plan of subdivision promotes the orderly development of the area and implements the policies and zoning standards for this area established through the Phase 4 STC study.

### **Schools and Parks**

Poplar Road Park, a local park, and Poplar Road elementary school are located on the west side of Poplar Road within walking distance of the site. The Toronto District School Board (TDSB) has advised that there is sufficient space in the local elementary and secondary schools to accommodate students anticipated from the development.

### **Urban Design Guidelines**

When the Phase 4 STC study was completed in 2002, Council approved urban design guidelines for the area to be used to assess future development. The guidelines address site organization, built form, streetscape, landscaping and the design of acoustic barriers. To ensure that design objectives are achieved staff recommend that the owner be required to submit house siting and architectural plans and acoustic fencing design plans for review as conditions of approval.

### **Tree Preservation and Planting**

The site is subject to the City's Private Tree Protection By-law. An arborist report and tree preservation plan were submitted with the application. Six trees are proposed to be removed that qualify for protection under the private tree by-law and a tree removal permit application has been submitted. The trees are proposed to be removed due to grade changes for the berm, for the extension of Portia Street and for the construction of the dwellings. Proposed conditions of draft plan approval provide that tree protection barriers be installed and that the owner submit a tree replacement planting plan for trees proposed to be removed.

### **Recommended Conditions of Draft Plan of Subdivision Approval**

Draft plan of subdivision approval conditions are included in Attachment 4 that address the technical requirements of the development including among other matters, the construction of the street and services, tree protection and planting, urban design, and the requirements of CN for acoustic fencing and a berm along the rail line.

### **Portia Street Reconstruction**

Technical Services staff have advised that Portia Street extending from Poplar Road to the west limit of the subject site was identified in the City's capital works program in 2005 for reconstruction. The existing built portion of Portia Street does not have a sidewalk or storm sewer. The project was not implemented at that time as it was anticipated that new development would occur on the subject property that was then City-owned and proposed to be sold.

The development of the plan of subdivision provides an opportunity for the City to coordinate the reconstruction of the existing street (120 metres) with the construction of the extension (100 metres). Through a coordinated effort, the existing street would be reconstructed to a full urban standard consistent with the extension proposed in the plan of subdivision, including a sidewalk on the north side and a storm sewer along its full extent. Technical Services staff have discussed the coordination of these projects with the applicant and are targeting a report on this issue to the Public Works and Infrastructure Committee in the first quarter of 2007.

### **Development Charges**

It is estimated that the development charges for this project will be \$77,936.00. This is an estimate. The actual charge is assessed and collected upon issuance of the building permit.

### **CONTACT**

Sue McAlpine, Senior Planner  
Tel. No. (416) 396-7721  
Fax No. (416) 396-4265  
E-mail: smcalpin@toronto.ca

### **SIGNATURE**

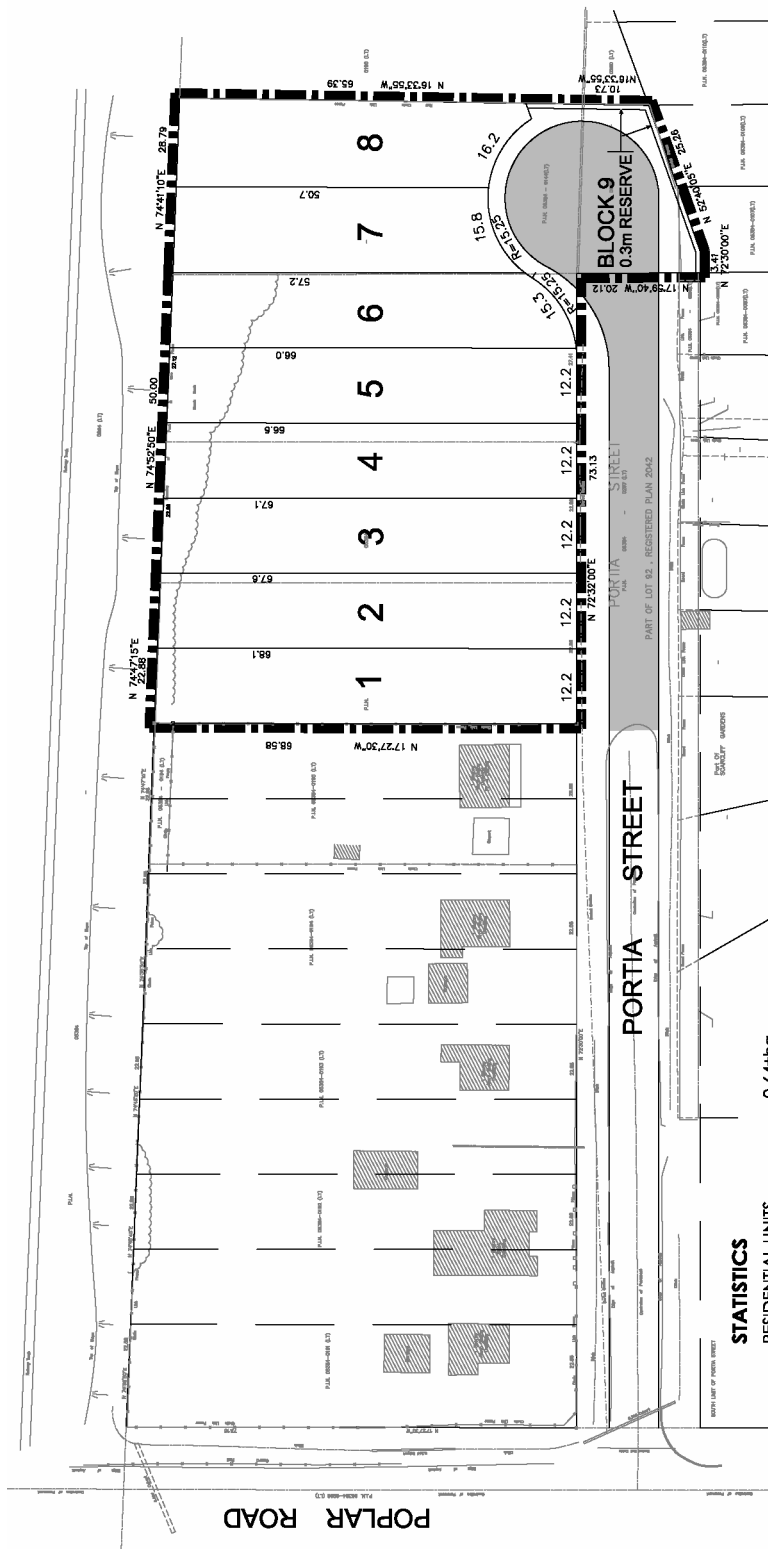
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Allen Appleby, Director  
Community Planning, Scarborough District

### **ATTACHMENTS**

Attachment 1: Draft Plan of Subdivision  
Attachment 2: Application Data Sheet  
Attachment 3: Zoning  
Attachment 4: Proposed Conditions of Draft Plan Approval

# Attachment 1: Draft Plan of Subdivision



90 Morningside Avenue

**Subdivision Plan**  
 Applicant's Submitted Drawing

Not to Scale  
 1/18/07

File # 06-135372 SB

## Attachment 2: Application Data Sheet

Application Type	Subdivision Approval	Application Number:	06 135372 ESC 43 SB
Details		Application Date:	May 15, 2006
Owner	Sentex Properties Ltd.		
Applicant	Intelliterra Planning & Development Consulting		
Municipal Address:	90 MORNINGSIDE AVE, TORONTO ON		
Location Description:	CON D PT LT11 PL 2042 LTS 89 TO 91 **GRID E4308		
Project Description:	8 single detached dwelling lots & public street		

### PLANNING CONTROLS

Official Plan Designation:	Neighbourhood	Site Specific Provision:	12m min. frontage
Zoning:	S-Single Family Residential	Historical Status:	Lands designated through Scarborough Transportation Corridor (STC) Phase 4 –Zoned Single-Family Residential
Height Limit (m):	9m (2 storey)	Site Plan Control Area:	No

### PROJECT INFORMATION

Site Area:	0.72 hectares	Height:	Storeys: 0
Frontage (m):	73.09	Metres:	0
Depth (m):	68.5		
Total Ground Floor Area (sq. m):	0		<b>Total</b>
Total Residential GFA (sq. m):	2000	Parking Spaces:	16
Total Non-Residential GFA (sq. m):	0	Loading Docks	0
Total GFA (sq. m):	2000		
Lot Coverage Ratio (%):	0		
Floor Space Index:	0.028		

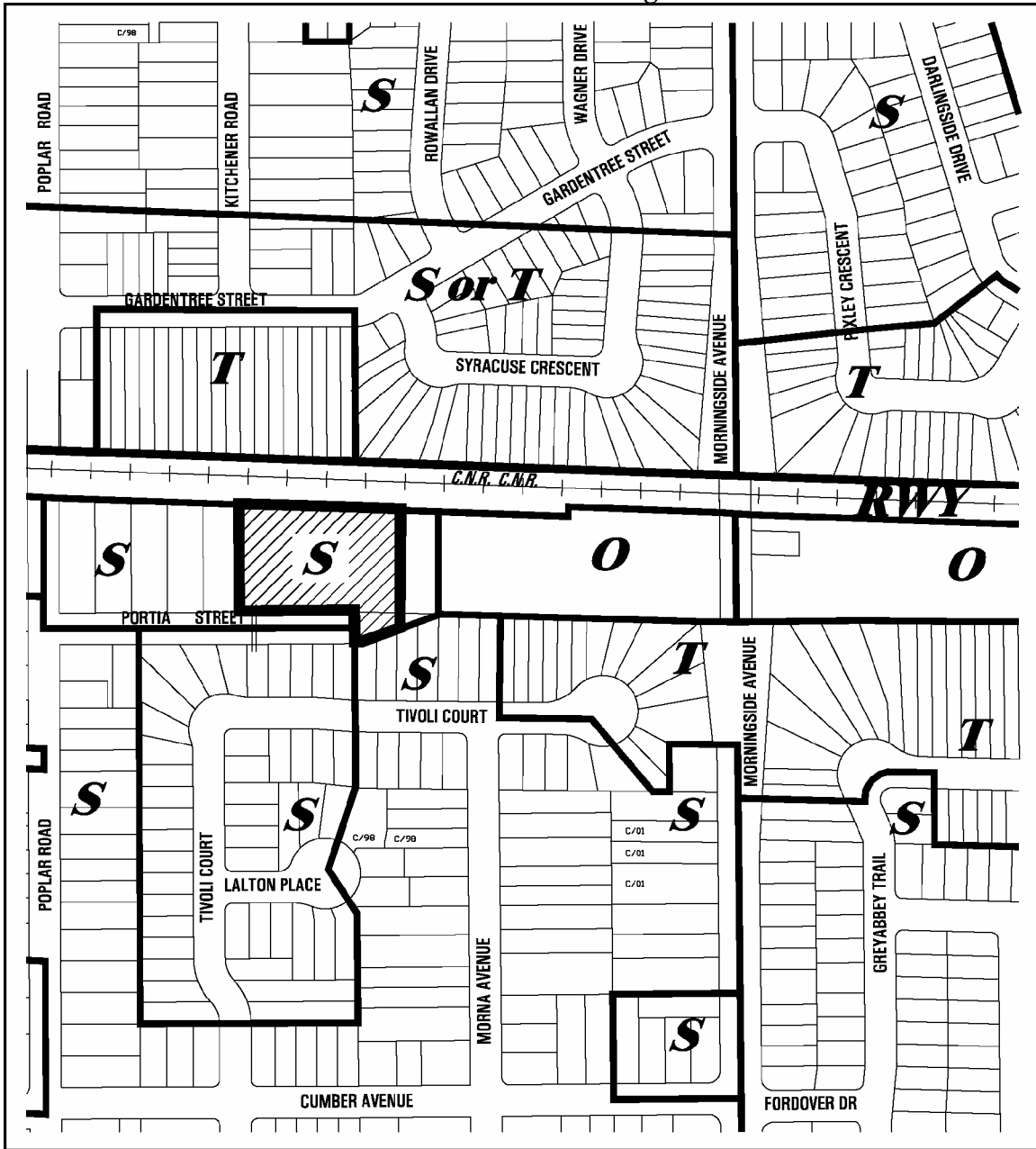
### DWELLING UNITS

### FLOOR AREA BREAKDOWN (upon project completion)

		Above Grade	Below Grade
Tenure Type:	Freehold		
Rooms:	0	Residential GFA (sq. m):	2000
Bachelor:	0	Retail GFA (sq. m):	0
1 Bedroom:	0	Office GFA (sq. m):	0
2 Bedroom:	0	Industrial GFA (sq. m):	0
3 + Bedroom:	0	Institutional/Other GFA (sq. m):	0
Total Units:	8		

**CONTACT: PLANNER NAME: Susan McAlpine, Senior Planner**  
**TELEPHONE: (416) 396-7721**

Attachment 3: Zoning



**TORONTO** City Planning  
Division  
**Zoning**

**90 Morningside Avenue**  
File # 06-135372 SB

**S** Single-Family Residential  
**T** Two-Family Residential  
**O** Major Open Spaces  
**RWY** Railway

Guildwood Community Bylaw  
Not to Scale  
12/14/06



## **Attachment 4 – Proposed Conditions of Draft Plan of Subdivision Approval**

**Subdivision Application 06 135372 ESC 43 SB  
Draft Plan of Subdivision prepared by Design Plan Services Inc  
Dated December 19, 2006  
Lots 89, 90 & 91 Registered Plan 2042, Part of Lot 11, Concession D &  
Part 6, 7, 8 Registered Plan M-929  
Sentex Properties Ltd.**

**THE FOLLOWING CONDITIONS MUST BE FULFILLED PRIOR TO THE  
REGISTRATION OF THE PLAN OF SUBDIVISION OR ANY PHASE  
THEREOF FOR REGISTRATION**

### **SUBDIVISION AGREEMENT**

1. The owner shall enter into a standard residential Subdivision Agreement with the City of Toronto in a form and content to the satisfaction of the City Solicitor and shall provide such security for the obligations of the agreement as the City may reasonably require. The Owner shall forward the executed subdivision agreement to CN Rail for reference and information.

### **PARKS**

2. Prior to the registration of the plan of subdivision, the Owner agrees to pay a five percent (5%) cash-in-lieu of parkland dedication to the satisfaction of the General Manager of Parks, Forestry and Recreation.
3. Prior to the registration of the plan of subdivision, the Owner agrees to construct a 1.8 metre high, black vinyl coated chain link fence, (or other suitable fencing material as determined by the General Manager of Parks, Forestry and Recreation) without gates along the west boundary of the City lands at 90 Morningside Avenue adjacent to the east boundary of Lot 8, to the satisfaction of the General Manager of Parks, Forestry and Recreation. The Owner agrees that such fencing will be installed prior to any construction activity on the site. The Owner further agrees to install and maintain sediment control fencing covered with filter fabric prior to and during construction to the satisfaction of the General Manager of Parks, Forestry and Recreation. The bottom of the filter fabric must be held firmly to the ground with clear stone to prevent migration of sediments from the subdivision onto adjacent parkland.
4. Prior to the registration of the draft plan of subdivision, the Owner will post a letter of credit as security for the installation of the fencing equal to 120% of the value of the fencing to the satisfaction of the General Manager of Parks, Recreation and Forestry. The Owner agrees that there will be a two-year maintenance period for the fencing, with an annual inspection by the General

Manager of Parks, Forestry and Recreation together with the Owner or its' agent. At the end of the maintenance period, upon acceptance of the fencing, the City will return the letter of credit to the Owner.

5. Prior to the registration of the plan of subdivision the Owner will ensure that the grading and drainage for the plan of subdivision is compatible with the grade of the City-owned lands adjacent to the east at 90 Morningside Avenue. The lot grading and drainage plans shall be to the satisfaction of the Executive Director of Technical Services and the General Manager of Parks, Forestry and Recreation.
6. Prior to the registration of the plan of subdivision the Owner agrees that stockpiling of any soils, machinery or materials on the City property at 90 Morningside Avenue adjacent to the east is prohibited, unless otherwise authorized by the General Manager of Parks, Forestry and Recreation.
7. All Letters of Credit that are to be provided by the Owner, unless determined otherwise by the City of Toronto, are intended to be in current dollars and accordingly, shall be adjusted either upwards or downwards, annually, on the anniversary date of the execution of the associated subdivision agreement, in accordance with the change in the Statistics Canada Construction Price Index, or other index to the satisfaction of the City, during such one year period, provided that in no case shall the amount, payable by the Owner, at any time be less than the minimal amount set out in that agreement.
8. The Owner agrees to include in all Offers of Purchase and Sale and/or Rental Agreements to the satisfaction of the General Manager of Parks, Forestry and Recreation clauses that advise:
  - i) Lots abutting City owned parklands, open space or valley lands maintained by the City will prohibit the installation of any form of screening or fencing along the abutting property lines other than the 1.8 metre black vinyl chain link fence (or other material as determined by the General Manager of Parks, Forestry and Recreation) required by the City;
  - ii) Lots abutting City owned parkland, open space or valley lands maintained by the City will prohibit gates or private access onto parkland, open space or valley lands; and
  - iii) Lots abutting City owned parkland, open space or valley lands maintained by the City will include a warning clause that there may be a trail in the abutting parkland, open space or valley lands.

## **CONSTRUCTION OF STREETS**

9. Prior to the registration of the plan of subdivision the Owner shall make satisfactory arrangements with the City to construct, at no cost to the City, Portia Street within the unopened road allowance adjacent to the south of Lots 1, 2, 3, 4

and 5, and this street shall be fully serviced to the satisfaction of the Executive Director of Technical Services.

10. Prior to the registration of the plan of subdivision the Owner shall construct, at no cost to the City, Portia Street adjacent to the south of Lots 6, 7 and 8 and this street shall be fully serviced to the satisfaction of the Executive Director of Technical Services.
11. The Owner agrees to convey to the City for nominal consideration the portion of Portia Street adjacent to the south of Lots 6, 7 and 8 within the plan of subdivision to the satisfaction of the Executive Director of Technical Services. The Owner shall be responsible for all costs associated with the conveyance of the road.

### **WINDROW AND SIDEWALK SNOW CLEARING**

12. Prior to the registration of the plan of subdivision, the Owner agrees to include the following warning clause in all Offers of Purchase and Sale and/or Lease Agreements, and registered on title to the satisfaction of the City Solicitor:

“Purchasers are advised that private driveway windrow clearing and sidewalk snow clearing will not be provided by the City for streets with less than 18.5 metre rights-of-way and/or with sidewalks adjacent to the curb.”

The Owner agrees to provide its Solicitor’s confirmation to the City advising that the clause set out above has been included in applicable Offers of Purchase and Sale and/or Lease Agreements to ensure that future occupants are aware of the City’s snow clearing practices.

### **DEDICATION OF 0.3 METRE RESERVE – BLOCK 9**

13. Prior to the registration of the plan of subdivision, the Owner shall dedicate Block 9, a 0.3 metre reserve, to the City, free and clear of all encumbrances. The Owner shall be responsible for all costs associated with dedicating the 0.3 metre reserve.

### **SERVICES AND UTILITIES**

14. Prior to the registration of the plan of subdivision, the Owner shall make satisfactory arrangements with the Executive Director of Technical Services with respect to servicing the plan of subdivision.
15. Prior to the registration of the plan of subdivision, the Owner shall provide a Composite Utility Plan, prepared by a licensed municipal servicing engineer, who shall co-ordinate on behalf of the City and to City standards, all utility company installations proposed within municipal road allowances created and/or extended to service the development to the satisfaction of the Executive Director Technical Services.

16. Prior to the registration of the plan of subdivision, the Owner shall make satisfactory arrangements financial and otherwise (including providing easements), with Toronto Hydro, regarding the installation of the electrical distribution system for the subdivision including a street lighting system
17. Prior to the registration of the plan of subdivision, the Owner shall make satisfactory arrangements, financial and otherwise (including providing easements), with a telecommunications provider for the delivery of telecommunications services to the plan of subdivision.
18. Prior to the registration of the plan of subdivision, the Owner shall make satisfactory arrangements, financial and otherwise (including providing easements), with a natural gas provider for the delivery of gas services to the plan of subdivision.
19. Prior to the registration of the plan of subdivision, the Owner will pay the following to the City:
  - a) \$300.00 per hydrant for fire hydrant maintenance
  - b) \$40.00 per unit for geodetic survey and aerial mapping
  - c) \$10.00 per unit for traffic signs
20. The Owner agrees to provide such easements as are deemed necessary by the Executive Director of Technical Services for utilities, drainage, and servicing purposes to the appropriate authorities in order to service this plan of subdivision.
21. The Owner agrees to satisfy requirements for coordination and approval by the Executive Director of Technical Services for work by Utility Companies related to the development.
22. The Owner agrees to construct sidewalks and utilities throughout the development to the satisfaction of the Executive Director of Technical Services.

## **STORM WATER MANAGEMENT**

23. Prior to the registration of the plan of subdivision, the Owner shall provide a Phase 2 stormwater management report including providing Level 1 treatment for all storm water to the satisfaction of the Executive Director of Technical Services.

## **ENVIRONMENTAL REVIEW**

24. Prior to the registration of the plan of subdivision, the Owner shall provide satisfactory Environmental Assessment Reports and any associated Remedial Action Plan prepared by a Qualified Person, in accordance with the Record of Site Condition Regulation (O.Reg. 153/04) describing the current conditions of the

lands to be conveyed to the City, in fee simple and as easement interest both internal and external to the subdivision lands. Such reports shall be peer reviewed to the satisfaction of the Executive Director Technical Services. The Owner shall pay all costs associated with the City retaining a third-party peer reviewer including a 7% administrative cost to the City, and submit a certified cheque payable to the City of Toronto in the amount of \$5,000.00, as a initial deposit towards the cost of the peer review to the Executive Director of Technical Services. The Owner agrees that should additional costs be associated with the peer review, as determined by the Executive Director of Technical Services, that the Owner will be responsible for the additional costs associated with the peer review.

25. Prior to the registration of the plan of subdivision the Owner agrees that at the completion of the site remediation process, the Owner will submit a Statement from the Qualified Person, to the Executive Director Technical Services, for peer review and concurrence, that, based on all necessary supporting environmental documents:
  - i) The land to be conveyed to the City meets the Site Condition Standards of the intended land use OR the most environmentally sensitive adjacent land use, whichever is more stringent; and,
  - ii) It is unlikely that there is any off-site contamination resulting from past land uses on or in the vicinity of the development site, that has migrated on to the adjacent rights-of-way, that would exceed the applicable Site Condition Standards.
26. Prior to the registration of the plan of subdivision, the Owner agrees to file the Record of Site Condition (RSC) on Ontario's Environmental Site Registry and submit the Ministry of the Environment's Letter of Acknowledgement of Filing of the Record of Site Condition (RSC) confirming that the RSC has been prepared and filed in accordance with O. Reg. 153/04, or that the RSC has passed an MOE audit, to the Executive Director, Technical Services.

## **ARCHAEOLOGICAL ASSESSMENT**

27. Prior to the registration of the plan of subdivision, the Owner shall submit to the City an Archaeological Assessment of the development site, prepared by a qualified Archaeologist licensed by the Ministry of Culture under the provisions of the Ontario Heritage Act (R.S.O. 1990 as amended) to the satisfaction of the Chief Planner and General Manager of City Planning.
28. Prior to the registration of the plan of subdivision, the Owner agrees that no demolition, construction, grading or other soil disturbance shall take place on the subject lands prior to the City's Planning Division (Heritage Preservation Services Unit) and the Ministry of Culture (Heritage Operations Unit) confirming in

writing that all archaeological licensing and technical review requirements have been satisfied.

29. The Owner agrees that in the event that deeply buried archaeological remains are encountered on the property during construction activities, the Heritage Operations Unit of the Ministry of Culture be notified immediately at (416) 314-7146 as well as the City of Toronto Heritage Preservation Services Unit at (416) 338-1096 by the Owner.
30. The Owner agrees that in the event that human remains are encountered during construction, the Owner shall notify immediately both the Ministry of Culture and the Registrar or Deputy Registrar of Cemeteries at the Cemeteries Regulation Unit, Ministry of Government Services at (416) 326-8404.

### **DRAINAGE AND HERITAGE BUILDING AT 90 MORNINGSIDE AVENUE**

31. Prior to the registration of the plan of subdivision the Owner shall revise the servicing report to include an assessment of the drainage from the lands within the plan of subdivision on the City lands to east to ensure that there are no impacts from water draining onto the City lands, on the designated heritage building known as the “Purvis/Castles” Log Cabin situated on the City lands at 90 Morningside Avenue. The updated servicing report shall be to the satisfaction of the Executive Director of Technical Services in consultation with the Chief Planner and Executive Director of City Planning.

### **TREE PROTECTION AND REMOVAL**

32. Prior to the registration of the plan of subdivision, the Owner shall provide an Arborist Report prepared by a Certified or Registered Arborist or Registered Forester, and a Tree Inventory Plan which indicates the location of existing trees that meet the criteria of the Private Tree By-law, Toronto Municipal Code Chapter 813 Trees Article III, to be prepared to the satisfaction of the General Manager of Parks, Forestry and Recreation.

It is understood and agreed that the Arborist Report and Tree Preservation Plan:

- i) be prepared in conjunction with the subdivision grading and house siting plans which indicate above and below grade services. This plan must show trees proposed for removal, trees to be preserved and tree protection zones;
- ii) be prepared by a qualified arborist or other tree professional satisfactory to the General Manager of Parks, Recreation and Forestry;
- iii) indicate the surveyed location of all City-owned trees and private trees, species, size and condition of the trees identified and shown on the approved draft plan; and
- iv) identify and evaluate which trees are to be preserved and the methods to be implemented to protect the trees during construction activities associated

with the subdivisions, as well as identify and evaluate trees proposed for removal and the reasons for their removal.

33. The Owner agrees to make application to the City, under the Private Tree By-law, Toronto Municipal Code Chapter 813 Trees Article III, for any trees proposed to be removed as outlined in the Arborist Report. Such application shall include house siting plans.
34. The Owner agrees that privately owned trees, that are the subject of an application made under the Private Tree By-law, Toronto Municipal Code Chapter 813 Trees Article III, will not be removed until permitted construction activities commence which warrant the removal of the trees.
35. The Owner agrees to protect all existing trees associated with the development or which approval to remove or injure has not been granted, in accordance with the Arborist Report and Tree Preservation Plan.
36. The owner agrees to install tree protection barriers to the satisfaction of the General Manager of Parks, Forestry and Recreation and to maintain the barriers in good condition until all construction has been completed and removal has been authorized by the General Manager of Parks, Forestry and Recreation.
37. The Owner agrees:
  - i) to instruct a qualified Arborist or other tree professional satisfactory to the General Manager of Parks, Forestry and Recreation, to monitor tree preservation in accordance with the Arborist Report and Tree Preservation Plan until submission of the Site Certificate of Compliance.
  - ii) to notify all builders, contractors and agents of all requirements of this clause where any part of the Development will be carried out by them on behalf of the Owner.
  - iii) to provide brief status reports to Urban Forestry Services at specified times as a condition of approval to remove trees under Toronto Municipal Code Chapter 813 Article III and Chapter 658.

#### **REPLACEMENT TREE PLANTING PLAN**

38. Prior to the registration of the draft plan of subdivision, the Owner shall provide a Replacement Planting Plan for private property to the satisfaction of the General Manager of Parks, Forestry and Recreation.

The Owner agrees that once all site works are complete, including sodding, planting will be implemented and completed in accordance with the approved replacement planting plan, to the satisfaction of the General Manager of Parks, Forestry and Recreation.

## **STREET TREES**

39. Prior to the registration of the plan of subdivision, the Owner shall provide a street tree planting plan in conjunction with a composite utility plan that indicates the species, size and location of all proposed street trees, as these relate to the location of any roads, sidewalks, driveways, street lines and utilities to the satisfaction of the General Manager of Parks, Forestry and Recreation and the Executive Director of Technical Services. The owner agrees that driveway widths within the area of the municipal boulevard will be designed to provide adequate space for tree planting within the boulevard, to the satisfaction of the General Manager of Parks, Forestry and Recreation.
40. Prior to the registration of the plan of subdivision, the Owner shall post a Letter of Credit equal to 120% of the value of the street trees to guarantee the planting and maintenance by the Owner of the new street trees for a period of two years after the planting date, to the satisfaction of the General Manager Parks, Forestry and Recreation.
41. The Owner agrees to contact the Supervisor of Urban Forestry, Tree Protection and Plan Review or his/her designate prior to commencement of street tree planting. The Owner agrees to plant the street trees in accordance with the approved tree preservation, street tree planting , landscape, and composite utility plans. There shall be a two-year maintenance period, with an annual inspection involving Urban Forestry and the Owner (and their agents). At the end of the two year maintenance period, if the street trees are in good condition, the General Manager of Parks, Forestry and Recreation shall accept maintenance responsibilities, and return the Letter of Credit. The Owner acknowledges that any trees requiring removal will be replaced, maintained and guaranteed by the Owner for an additional two year period.
42. Prior to registration of the plan of subdivision, the Owner shall provide confirmation from its solicitor that there will be no wording in any Offer of Purchase and Sale and/or Rental Agreement for any lands within the plan of subdivision that states or creates an expectation that there will be a tree in front of each residential lot.

## **PROTECTION OF CITY-OWNED TREES**

43. The Owner agrees to protect City-owned trees within the Portia Street road allowance as identified on the Vegetation Analysis Plan, drawings VA-1 and VA-2 prepared by Budrevics and Associates, dated October 16, 2006 and in accordance with an approved Arborist Report and Tree Preservation Plan to the satisfaction of the General Manager of Parks, Forestry and Recreation. Any changes proposed to the trees identified for protection shall be subject to the review and approval of the General Manager of Parks, Forestry and Recreation.



44. Prior to the registration of the plan of subdivision, the Owner must provide a tree protection security deposit to secure the protection of the city-owned trees, as identified on the Vegetation Analysis Plan, drawings VA-1 and VA-2 prepared by Budrevics and Associates, dated October 16, 2006, during construction and landscaping in close proximity to the trees to the satisfaction of the General Manager of Parks, Forestry and Recreation. Any changes proposed to the trees identified for protection shall be subject to the review and approval of the General Manager of Parks, Forestry and Recreation.
45. The Owner agrees to install tree protection barriers and signage prior to any site work, and to maintain barriers in good repair until removal has been authorized by the City all to the satisfaction of the General Manager of Parks, Forestry and Recreation.

### **NOISE MITIGATION AND SAFETY MEASURES**

46. Prior to the registration of the plan of subdivision, the Owner shall revise the preliminary Noise and Vibration Report prepared by Jade Acoustics, dated April 20, 2006 as follows:
  - i) to remove any portion of the berm and fencing from the City-owned lands to the east at 90 Morningside Avenue.
  - ii) to provide for gates in the fencing on the berm for each of the proposed lots to ensure that purchasers are able to access the lands on the north side of the fence associated with the individual lots.
47. The Owner agrees to engage a qualified consultant to update the “Preliminary Environmental Noise and Vibration Report – Proposed Residential development Portia Street and Poplar Road, City of Toronto (Scarborough) prepared by Jade Acoustics dated April 20, 2006 with a detailed analysis of noise and vibration that reflects the final lot numbering/layout and grading, in order to confirm the abatement measures necessary to achieve the maximum level limits set by the Ministry of the Environment and CN. Upon review and approval of the reports by CN, the Owner agrees that all recommendations provided in these report(s) shall be included in the Subdivision Agreement. The Owner further agrees to implement the abatement measures as outlined in the final Noise and Vibration Report to the satisfaction of CN Rail and the Executive Director of Technical Services.
48. The Owner agrees to install air conditioners in all future dwelling units and that all future dwelling units will have brick veneer or acoustically equivalent masonry construction, on Lots 1 through 8 on the draft plan of subdivision.
49. The Owner agrees to enter into restrictive covenants to be registered on title to the satisfaction of CN Rail and include clauses in all Offers of Purchase and Sale, and/or Rental Agreements, to provide notice to the public for all lots as follows:

- i) “This dwelling unit was fitted with a central air conditioning system in order to permit closing of windows for noise control. (Note: locate air cooled condenser unit in compliance with NPC-216 as required by the City of Toronto By-law)”.
  - ii) “Purchasers/tenants are advised that despite the inclusion of noise control features in the development and within the building units, noise levels from increasing traffic on the CN Kingston Subdivision rail line may continue to be of concern, occasionally interfering with some activities of the dwelling occupants as the noise exposure levels exceeds the Ministry of Environment noise criteria.”
  - iii) “Purchasers and tenants are advised that the acoustical berm and/or barrier as installed shall be maintained, repaired or replaced by the Owner. Any maintenance repair or replacement shall be with the same material, to the same standards and having the same colour and appearance of the original.
  - iv) “Warning: Canadian National Railways Company or its assigns or successors in interest has or have a right-of-way within 300 meters from the land subject hereof. There may be alteration to or expansions of the railway facilities on such right-of-way in the future including the possibility that the railways or its assigns or successors as aforesaid may expand its operations, which expansion may affect the living environment of the residents in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual dwellings. CN will not be responsible for any complaints or claims arising from use of such facilities and/or operations on, over or under the aforesaid rights-of-ways.”
  - v) “Purchasers and tenants are advised that the private amenity area (courtyard) between the attached garage and the house or the front yard amenity areas is the protected outdoor amenity area. The mitigated noise exposure level in the rear yard exceeds CN’s and the Ministry of the Environment’s noise criteria.”
50. Prior to the registration of the plan of subdivision, the Owner shall install a 1.83 metre high chain link fence along the mutual property line with the CN Rail property, to the satisfaction of CN Rail.

## **FENCING PLAN**

51. Prior to the registration of the plan of subdivision, the Owner shall provide a fencing plan that includes the details for all fencing, including the proposed noise barriers, to the satisfaction of the Chief Planner and Executive Director of City Planning in consultation with CN Rail.

## **IMPLEMENTATION OF CN RAIL REQUIREMENTS FOR SAFETY BERM**

52. Prior to the registration of the plan of subdivision, the Owner shall provide a plan for the proposed safety berm (Safety Berm Plan), to the satisfaction of CN Rail. The owner agrees that the safety berm will be a minimum of 3.5 metres above-grade at the property line, having side slopes not steeper than 2.5 to 1, adjoining and parallel to the rail-way right-of-way, and will include a fence and landscaping to visually screen the rail-line. The Owner agrees to construct the safety berm in accordance with the approved safety berm plan at no cost to the City or CN Rail. The Owner agrees that the safety berm shall be constructed prior to the occupancy of any dwelling units within the plan of subdivision.

## **GRADING AND DRAINAGE PLAN REVIEW BY CN RAIL**

53. The Owner agrees that any proposed alteration to the existing drainage affecting CN Rail property will be subject to the review and approval of CN Rail. The Owner agrees to submit the final grading and drainage plans to CN Rail for review and approval.

## **AGREEMENT WITH CN**

54. Prior to the registration of the plan of subdivision, the Owner shall enter into an agreement with CN, stipulating how CN's concerns will be resolved and will pay CN's reasonable costs in preparing and negotiating the agreement.

## **LETTER OF CREDIT FOR NOISE, VIBRATION & SAFETY MITIGATION MEASURES**

55. Prior to the registration of the plan of subdivision, the Owner shall post a Letter of Credit as security for the construction and installation of all berms and acoustic fences for the value of the safety berm and acoustic fences to CN Rail, such letter of credit to the satisfaction of CN Rail.

## **CN EASEMENT**

56. Prior to the registration of the plan of subdivision, the Owner shall convey to CN Rail, at no cost to CN Rail, an easement for operational noise and vibration emissions to the satisfaction of CN Rail. The easement shall not apply to lands to be conveyed or dedicated to the City.

## **URBAN DESIGN GUIDELINES**

57. Prior to the registration of the plan of subdivision, the Owner shall provide house siting plans and elevation plans for dwellings, to be reviewed for compliance with the Urban Design Guidelines for the Phase 4 Scarborough Transportation

Corridor Land Use Study – Guildwood Village Community adopted by Council at its meeting of February 13, 14 and 15, 2002, to the satisfaction of the Chief Planner and General Manager of City Planning.

## **TAX PAYMENT**

58. Prior to the registration of the plan of subdivision, the Owner shall pay the City in full all taxes on lands included in the plan of subdivision for the current taxation year. The required taxes shall be estimated by the City if required, and where such taxes have been estimated, they shall be subject to adjustment upon final determination thereof.

## **REGISTRATION & TERMS OF CONVEYANCE OF LANDS TO THE CITY**

59. The Owner shall ensure that land to be conveyed to the City be free and clear, above and below grade, of all easements, encumbrances and encroachments except those existing already on the lands that are for the benefit of the City or those required by the City as a condition of subdivision approval. All registration and conveyances required in this Agreement shall be made at the expense of the Owner in a form satisfactory to the City Solicitor.

## **PREPARATION OF THE FINAL PLAN OF SUBDIVISION**

60. The Owner shall prepare the final plan of subdivision in metric units related to the Ontario Co-ordinate System and submit a digital copy of the plan to the Executive Director of Technical Services.

## **GENERAL REQUIREMENTS**

61. The Owner acknowledges and agrees to complete or comply with any other requirements by the City acting reasonably that result from the City's examination and review of all requisite plans, drawings, reports, and submissions required by the City to facilitate the development.
62. Where any provision of the Subdivision Agreement makes reference to a particular City Official, and that City Official is unable or is unavailable to exercise the function or functions of the Subdivision Agreement, Council for the City may exercise the function or functions directly or may by resolution or by-law designate the function or functions to another City Official.
63. Draft approval of this subdivision is in effect for a period of 5 years from the date draft approval is issued. Without otherwise fettering its authority or jurisdiction, at its discretion, the City may after the 5 years have lapsed, elect to modify some or all of the conditions of draft approval or revoke the draft approval.