

**1 - 2 Meadowglen Place and 1021 - 1035 Markham Road -
Consent to Sever Application - Request for Direction
Report**

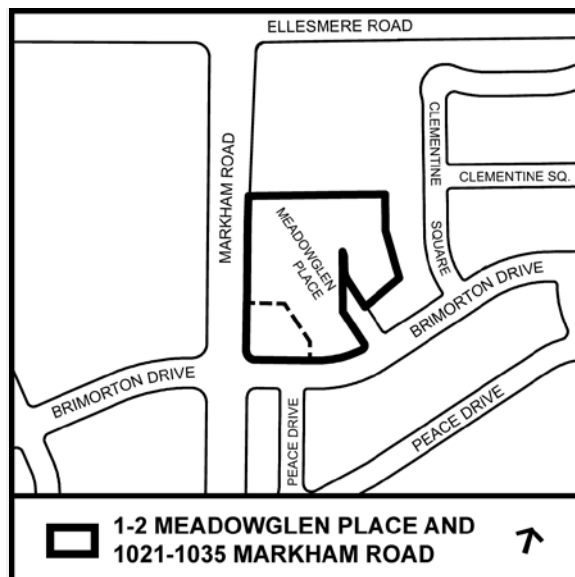
Date:	April 29, 2016
To:	City Council
From:	Chief Planner & Executive Director, City Planning
Wards:	Ward 38 – Scarborough Centre
Reference Number:	P:\2016\Cluster B\PLN\City Council\CC16062

SUMMARY

On March 31, 2016, City Council adopted Member Motion MM17.28 directing the Chief Planner and Executive Director, City Planning to report to the May 5, 2016 City Council meeting regarding the applicant's Ontario Municipal Board appeal of the severance application (No. B071/15SC) at 1 and 2 Meadowglen Place and 1021 – 1035 Markham Road.

On March 22, 2016, the owner appealed its application for consent to sever to the Ontario Municipal Board (OMB) citing the Committee of Adjustment's refusal or neglect to make a decision within 90 days from the submission of an application pursuant to Section 53(14) of the *Planning Act*.

This application as appealed to the OMB proposes to sever the site at 1 - 2 Meadowglen Place into three parcels of land. The three parcels would be linked by reciprocal easements, which easements would also include the adjacent land at 1021 - 1035 Markham Road.



This report seeks Council's direction with respect to the OMB hearing. Staff recommend that Council authorize staff to attend the OMB in support of the consent for 1 and 2 Meadowglen Place subject to conditions related to the applicant making satisfactory arrangements that serviced public roads for Streets A and B have been constructed and securing the timely implementation of the rental housing replacement and tenant protection components of the development proposal. Further, staff recommend that Council authorize staff to oppose the inclusion of the lands at 1021 – 1035 Markham Road. However, it should be noted that the applicant has now withdrawn their request to include these lands as part of their application.

Further the City Solicitor, in consultation with the Chief Planner and Executive Director, City Planning, be authorized to work towards a settlement in accordance with the conditions noted above.

RECOMMENDATIONS

The City Planning Division recommends that:

1. City Council authorize the City Solicitor, and other appropriate staff, to attend the Ontario Municipal Board hearing in support of the consent application as it relates to 1 and 2 Meadowglen Place, subject to the following conditions being addressed to the satisfaction of the City Solicitor:
 - a. that the OMB make its approval conditional upon the City's standard conditions of consent approval and upon the applicant making arrangements satisfactory to the Executive Director of Engineering and Construction Services and the City Solicitor to ensure that serviced public roads for Streets A and B have been constructed to provide access to the proposed severed parcels prior to occupancy of the earlier of proposed Rental Tower A or Condominium Tower B. Should finalizing the subdivision agreement including the above provision to provide for the serviced road be delayed, Council authorizes the execution of an agreement addressing this condition in advance of completion of the subdivision agreement.
 - b. that the OMB make its approval conditional upon the applicant having provided financial security in the form of a Letter of Credit, to the satisfaction of the Chief Planner and City Solicitor, with respect to the timely implementation of the rental housing replacement and tenant protection components of the development proposal, with such security to be in the amount of \$1,820,000.00.
2. Council authorize the City Solicitor and appropriate staff to oppose inclusion of the adjacent lands at 1021 – 1035 Markham Road;

3. City Council authorize the City Solicitor, in consultation with the Chief Planner and Executive Director, City Planning, to seek a settlement which includes recommendations 1a and 1b above; and
4. City Council authorize City officials to take all necessary steps to give effect to the above-noted recommendations.

Financial Impact

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

DECISION HISTORY

In June 2008, the applicant submitted a zoning by-law amendment and a rental housing demolition and replacement application to permit the redevelopment of the site, excluding the adjacent lands at 1021 - 1035 Markham Road, which the applicant did not yet own.

City Council approved a development application at its meeting on October 24, 2011. The zoning by-law, and the Council approval of the demolition under Section 111 of the City of Toronto Act, provided for the demolition and replacement of the rental housing units, and the tenant relocation plan for the tenants occupying the 141 two and three-bedroom apartments. Subsequently, on October 22, 2013, draft plan subdivision approval was issued for the creation of various parcels of land within the development site. Minor variance applications relating to the lands were approved on March 31, 2014 and on June 9, 2015. As a result, the development proposal now consists of 2-28 storey condominium buildings, a 14 storey condominium building, a 16 storey rental apartment building and 32 stacked townhouses for a total of 987 dwelling units.

For further details, the final staff report is available at:

<http://www.toronto.ca/legdocs/mmis/2011/sc/bgrd/backgroundfile-41065.pdf>.

The applicant has demolished the northerly rental apartment building on the site, while the remaining apartment building is occupied by tenants. The owners have received a conditional building permit which would enable Rental Tower A, Condominium Tower B and their connecting podiums to be constructed to the "superstructure" stage. The work required to enable occupancy of these structures has not, as yet been permitted. Staff are working with the applicant to finalize the conditions of site plan and of draft plan of subdivision approval.

Proposal & Ontario Municipal Board Appeal

Originally, the plan of subdivision and the condominium process were the mechanisms to establish the land divisions and access easements between the various elements of the development proposal - after the elements were constructed. In particular, completion of the replacement rental building and its occupancy by the tenants in Phase 1 was considered to be the earliest stage at which severance of the rental building parcel from

the remainder of the development lands would be permitted. However, the applicant advises that subdividing the elements of the proposal at a pre-construction stage is essential for their financing arrangements. Accordingly, the applicant filed an application to sever the lands into three parcels, with a number of easements, which also included lands at 1021 - 1035 Markham Road, recently acquired by the applicant and which are not covered in the existing planning approvals.

The application is complex, involving both surface and strata title, incorporating rights such as shared access routes, vehicle and bicycle parking areas, amenity facilities and support easements. In general, the future intent is to have all elements of the proposal (with the exception of a townhouse block east of the future public road) function as a whole, including rights provided in relation to the lands at 1021 - 1035 Markham Road. Details of the proposed severances are set out on Attachment 1.

The owner appealed its application for consent to sever to the Ontario Municipal Board (OMB) citing the Committee of Adjustment's refusal or neglect to make a decision within 90 days from the submission of an application pursuant to Section 53(14) of the *Planning Act*.

On April 29, 2016 the applicant advised that they are no longer pursuing the inclusion of the lands at 1021 – 1035 Markham Road as part of their application before the OMB.

COMMENTS

1. Rental Housing Replacement:

The development approval involves rental housing replacement and protection of existing tenants, including those that continue to occupy the remaining building, and the right to return for all of the tenants to the 146 replacement rental units in Rental Tower A. The applicant proposes to sever the components of the development proposal into three parcels owned by three different corporate entities, under separate financing arrangements. This is not the most effective approach to establish these arrangements at the pre-construction stage particularly given the City's experience with rental demolition and replacement developments. Past experience has not resulted in severing the replacement rental parcel from the condominium development prior to the completion and occupancy of the replacement rental building. Dealing with a single development applicant to deliver all the required elements of a proposal when it involves the relocation of tenants and the replacement of the rental housing in a timely manner, is more effective to administer.

Prior to completion of Phase 1 construction, the current, inter-connecting rental housing obligations which affect all 3 of the proposed severed land parcels will need to be reviewed to ensure the as-built construction responds to Council's rental housing protection requirements. Obligations to complete, and occupy the replacement rental building on one parcel, are tied to restrictions on the timing of completion and occupancy

of the first condominium building which would be on a separate parcel of land with a different owner. There are shared facilities and inter-locking strata titles to be finalized below grade between these 2 separate parcels. Additionally, a third parcel of land with potentially a separate owner would contain the existing occupied rental building, with obligations concerning occupancy, tenant relocation and provision of financial assistance, and obligations to mitigate the negative impacts of the adjoining construction activity on the other 2 parcels. After severance, any of these 3 parcels of land could be conveyed, or mortgage-related interests transferred, to other parties.

Failure to complete the rental building in a timely manner would negatively affect both the 90 households who vacated the demolished building and also extend the time period of the removal of these affordable two and three bedroom rental units suitable for families. The S.37 and S.111 Agreements did not contemplate severance prior to the completion of the replacement rental building. Additional security is required when the unbuilt replacement rental building is no longer on the same parcel of land as the condominium which received development approvals. In order to mitigate the risk posed by such a severance, a condition requiring a Letter of Credit is recommended. The amount of this Letter of Credit could be set at less than the full replacement cost of the rental housing units, in consideration that a conditional building permit has been issued for the replacement building, and that the new parcel for the rental housing which is "off-site" is at least adjacent to the condominium development and is connected with shared access and easements. Staff recommend that an amount of \$20,000 per unit for each of the 91 previously demolished two and three-bedroom rental units be required by way of Letter of Credit.

2. Issues with creating land parcels with no road access:

At present, only the conditional permit provides a mechanism to ensure that servicing and dedication of the public roads occur. In order to ensure that upon authorization of the severances, both Tower A and Tower B lands, have access to public roads, staff believe additional safeguards to ensure that the servicing and dedication of the public roads is needed. As such, in order to mitigate the risk posed by such a severance, a condition requiring that satisfactory arrangements be made to ensure that serviced public roads are in place prior to occupancy of either Tower A or Tower B is recommended.

Those "satisfactory" arrangements could include execution of a subdivision agreement and provision of servicing securities. Evolution of the proposal results now in proposed phasing of the registered subdivision plans, with Phase 1 to include the creation of serviced public roads. Staff note that the draft plan of subdivision has been issued for the lands; however these will be revised, with the owner to enter into a signed subdivision agreement thereafter. In addition, staff and the applicant have been working to resolve engineering issues associated with relocating the existing functioning watermain and sewer systems on the site into proposed Streets A and B.

Staff anticipate that signature of a subdivision agreement can occur in a timely manner, such that the Phase 1 M-Plan and subdivision agreement can be registered on the relevant lands, together with securities for road and services installations in order to satisfy this condition relating to road access. Should it prove difficult to complete the subdivision agreement in a timely manner to address this requirement, the requirement could be addressed by way of a separate agreement in advance of the subdivision agreement.

3. Inclusion of an adjoining parcel of land on Markham Road:

Staff are opposed to the proposal to include 1021 – 1035 Markham Road in the grouping of reciprocal easements, as proposed. On April 29, 2016 the applicant advised that they are no longer pursuing the inclusion of the lands at 1021 – 1035 Markham Road as part of their application before the OMB.

Of note, the owner's consultants met with City Planning staff to discuss a mixed use development proposal for this site. However, no development applications have been submitted for this site. Currently, the lands are designated *Mixed Use Areas* in the Official Plan, are zoned Commercial Residential pursuant to the City of Toronto Zoning By-law No. 569-2013, as amended and are zoned Neighbourhood Commercial pursuant to the Woburn Community Zoning By-law No. 9510, as amended. There are no residential zoning permissions for the property. For this reason staff are of the opinion that including these lands as currently proposed as part of the larger development block is premature and not in the public interest.

Recommendation No. 1a of this report references the City's standard conditions of consent. These conditions refer to matters such as confirmation of payment of outstanding municipal taxes (if any), advance provision of a proposed reference plan and satisfaction of imposed conditions within one year of the OMB decision, etc. These are standard conditions regularly imposed and are familiar to the development industry.

CONCLUSION

Approval of the consent and staff's attendance at the OMB in support of the consent, should be subject to a secure mechanism to ensure the installation of serviced public roads and a condition to secure the timely implementation of the rental housing replacement and tenant protection components of the development proposal. Further, Council should authorize staff to oppose the inclusion of the lands at 1021 – 1035 Markham Road.

In the event the application is refused by the OMB, the development can proceed in accordance with Council's previous approvals including the fulfillment of the plan of subdivision conditions and the registration of the subdivision agreement.

CONTACTS

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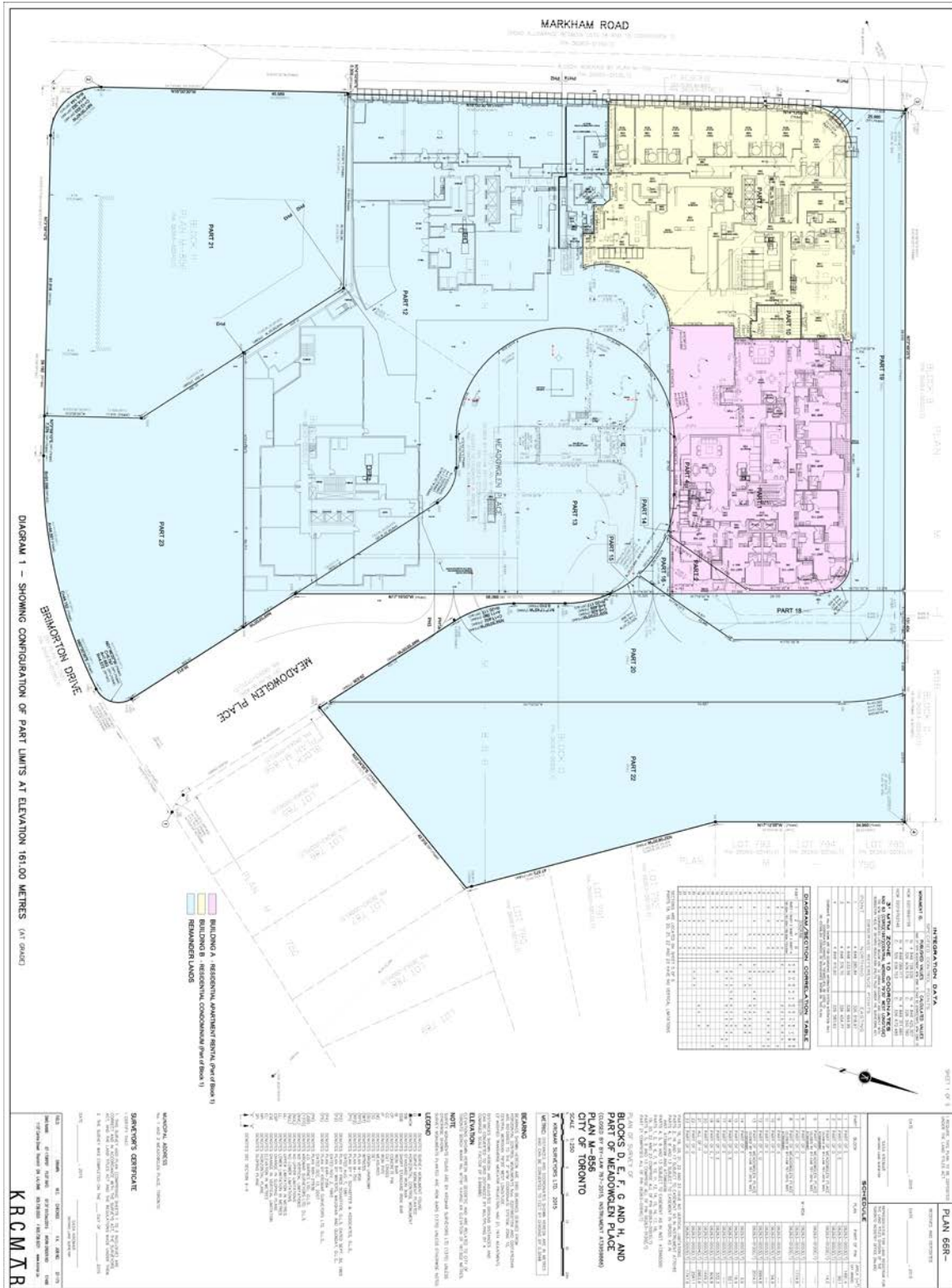
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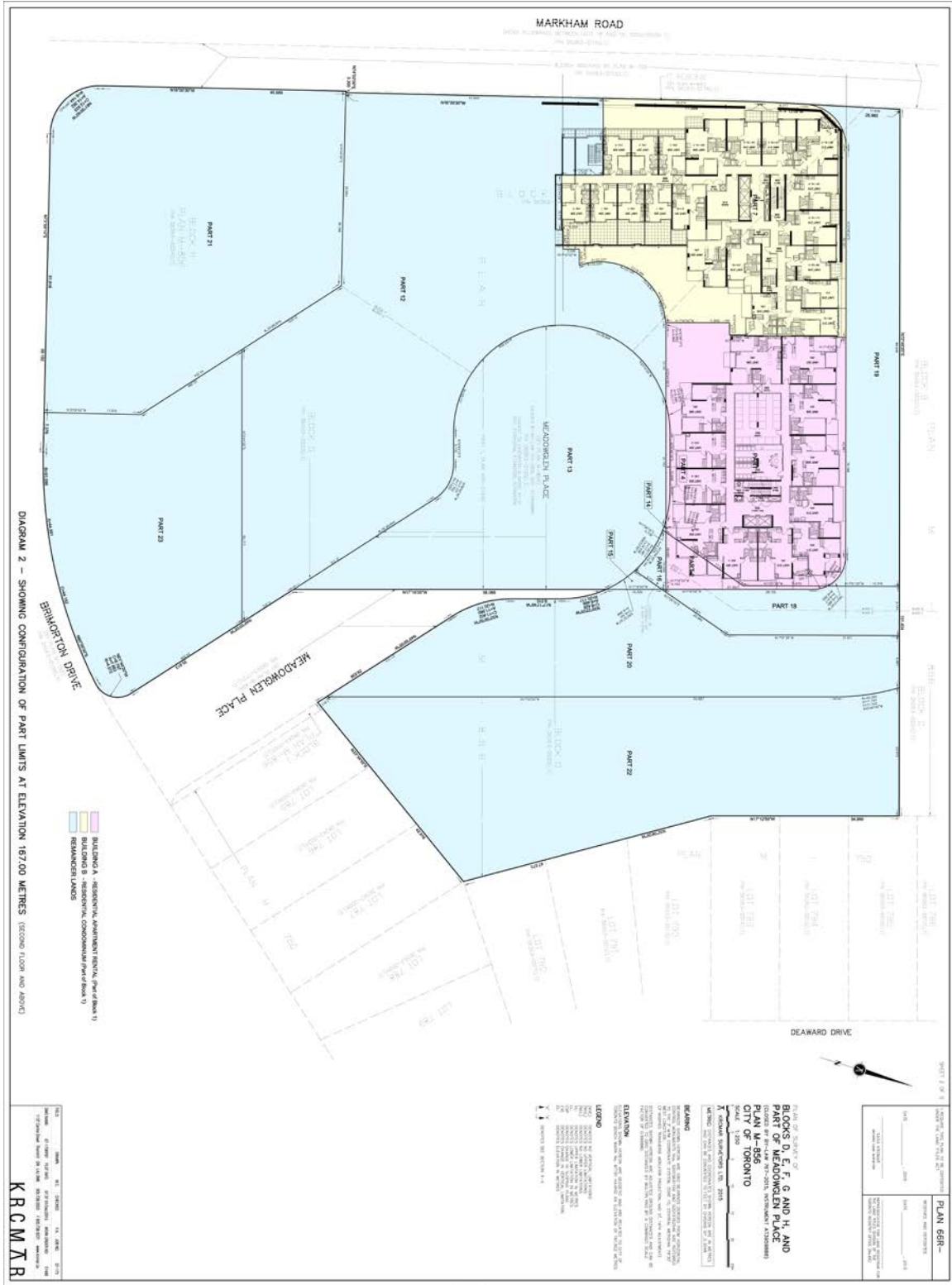
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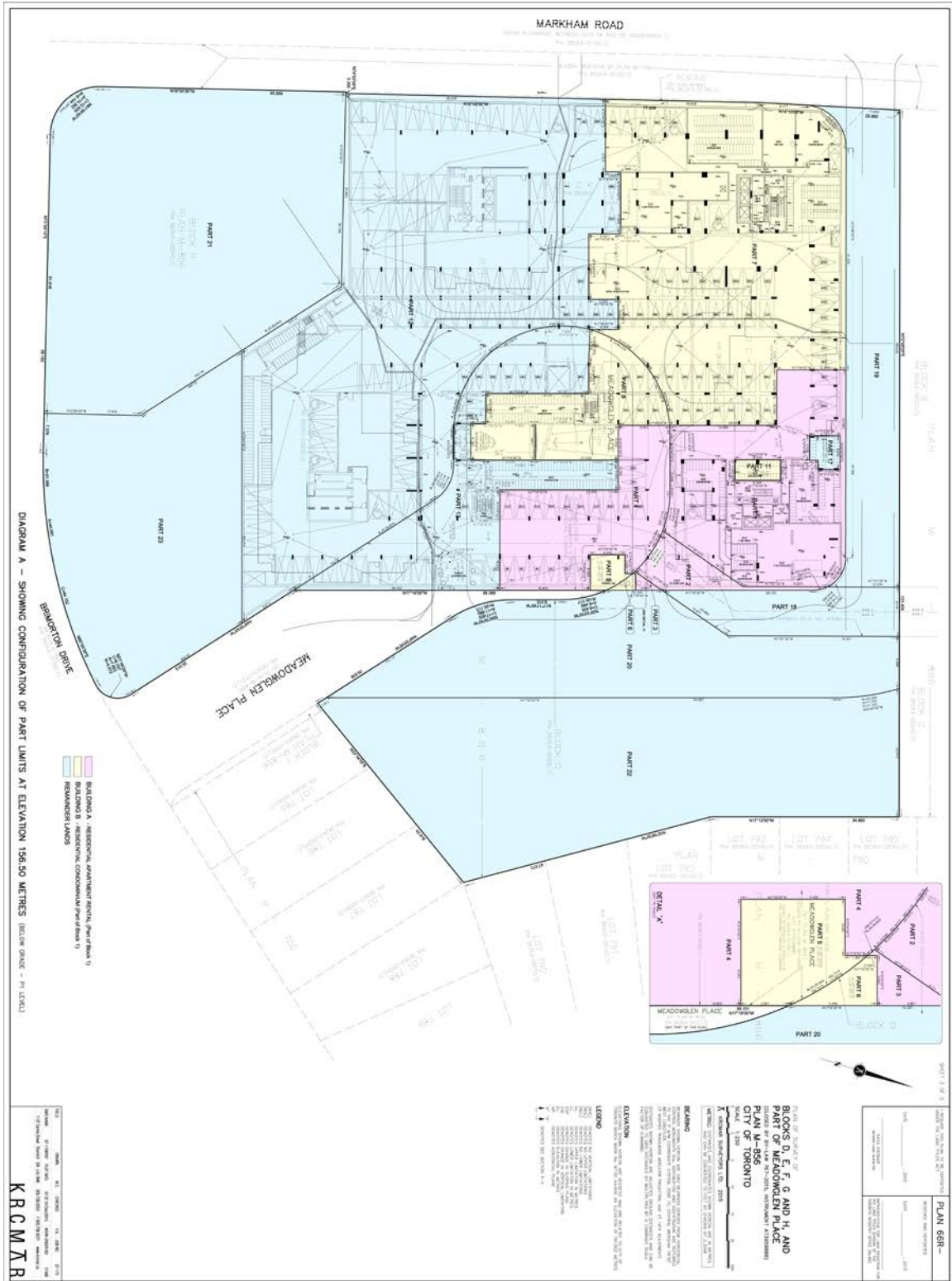
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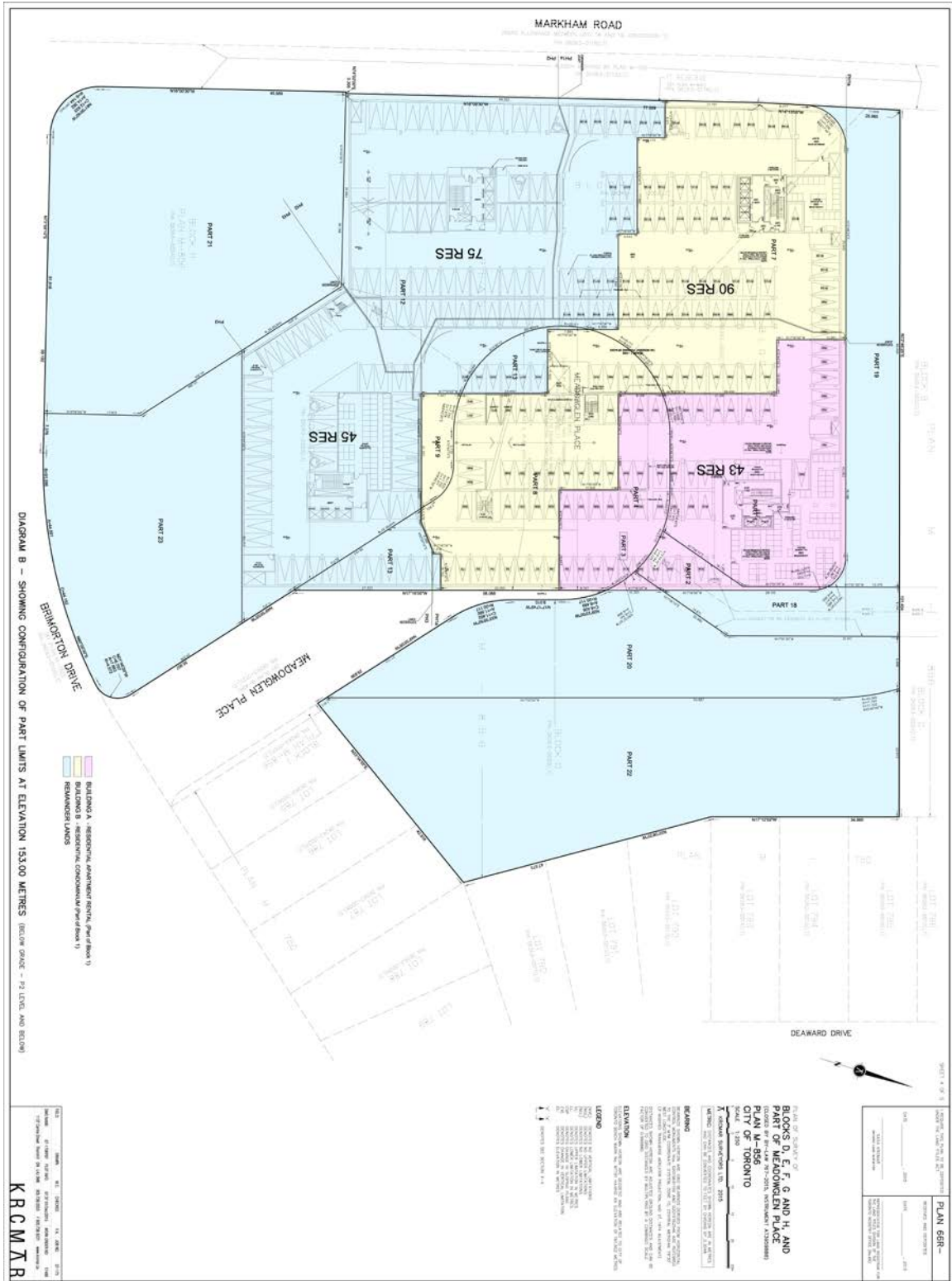
Attachment 1: Draft R-Plans and Easement Chart

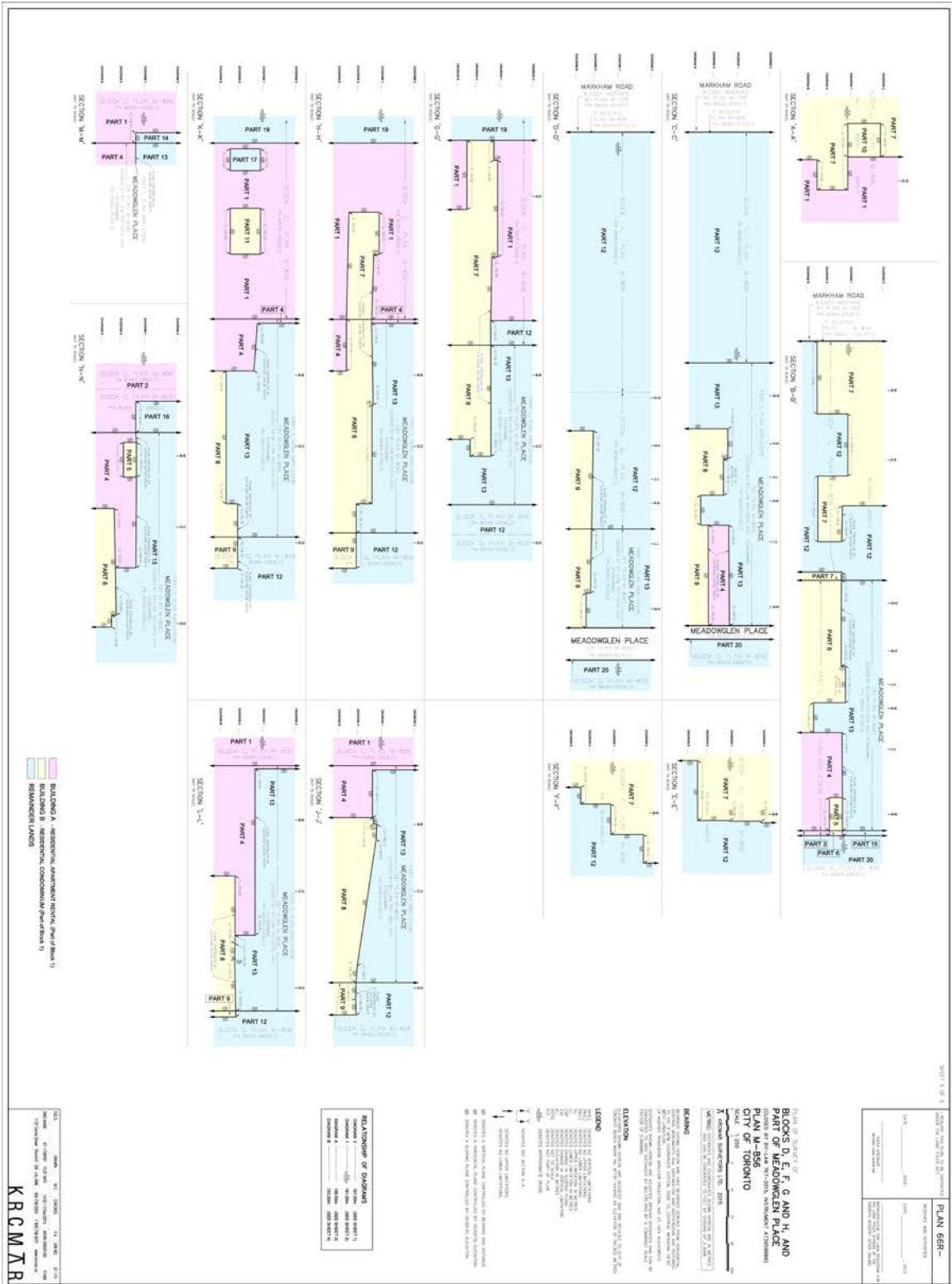
Attachment 1: Draft R-Plans and Easement Chart











ME LIVING - 1 & 2 Meadowglen Place - Parts Summary and Easement Descriptions

BLOCKS D, E, F, G AND H, AND PART OF MEADOWGLEN PLACE (Closed by By-Law 767-2015, Inst. AT3959888), Plan M-856
ALL OF PINS 06263-0003 (LT), 06263-0004 (LT) AND 06263-0120 (LT)

RENTAL BUILDING A: PARTS 1, 2, 3 AND 4
CONDO PHASE 1 (BUILDING B): PARTS 5 TO 11 INCLUSIVE
RETAINED LANDS: PARTS 12 TO 23 INCLUSIVE

PART	AREA (m ²) AT GRADE	PROPOSED OWNER	EASEMENTS IN FAVOUR OF		PROPOSED EASEMENTS	DESCRIPTION	EXISTING EASEMENTS IN FAVOUR OF
1	1491.4	Rental Bldg A	Condo Phase 1	Part of Retained Lands [12-17, 21]	Access, ingress and egress over underground garage ramps, drive aisles, walkways, stairwells, shared visitor parking on P1	Bulk of Rental Lands	
					Access and maintenance of services, utilities and building, support, emergency egress, temporary easement for construction		
2	90.1	Rental Bldg A	Condo Phase 1	Part of Retained Lands [12-17, 21]	Access, ingress and egress over underground garage ramps, drive aisles, walkways, stairwells, shared visitor parking on P1	Bulk of Rental Lands	The Corporation of the Township of Scarborough
					Access and maintenance of services, utilities and building, support, emergency egress, temporary easement for construction		
3	8.3 [At Elev. 156.50m P1]	Rental Bldg A	Condo Phase 1	Part of Retained Lands [12-17, 21]	Access, ingress and egress over underground garage ramps, drive aisles, walkways, stairwells, shared visitor parking on P1	Bulk of Rental Lands	
					Access and maintenance of services, utilities and building, support, emergency egress, temporary easement for construction		
4	14.0	Rental Bldg A	Condo Phase 1	Part of Retained Lands [12-17, 21]	Access, ingress and egress over underground garage ramps, drive aisles, walkways, stairwells, shared visitor parking on P1	Bulk of Rental Lands	Rogers Communications Inc. Toronto Hydro-Electric Systems City of Toronto
					Access and maintenance of services, utilities and building, support, emergency egress, temporary easement for construction		
5	40.1 [At Elev. 156.50m P1]	Condo Phase 1	Rental Bldg A	Part of Retained Lands [12-17, 21]	Access and maintenance of services, utilities and building, support, emergency egress, temporary easement for construction	Bike Parking Room P1	Rogers Communications Inc. Toronto Hydro-Electric Systems City of Toronto
6	8.6 [At Elev. 156.50m P1]	Condo Phase 1	Rental Bldg A	Part of Retained Lands [12-17, 21]	Access and maintenance of services, utilities and building, support, emergency egress, temporary easement for construction	Bike Parking Room P1	
7	1774.8	Condo Phase 1	Rental Bldg A	Part of Retained Lands [12-17, 21]	Access, ingress and egress to and over shared lobby, and access to and use of shared amenity areas	Bulk of Residential Condominium Bldg B	
					Access, ingress and egress over underground garage ramps, drive aisles, walkways, stairwells, shared visitor parking		
8	483.6 [At Elev. 156.50m P1]	Condo Phase 1	Rental Bldg A	Part of Retained Lands [12-17, 21]	Access, ingress and egress over underground garage ramps, drive aisles, walkways, stairwells, shared visitor parking	Underground Garage	Rogers Communications Inc. Toronto Hydro-Electric Systems City of Toronto
					Access and maintenance of services, utilities and building, support, emergency egress, temporary easement for construction		
9	117.1 [At Elev. 153.00m P2]	Condo Phase 1	Rental Bldg A	Part of Retained Lands [12-17, 21]	Access, ingress and egress over underground garage ramps, drive aisles, walkways, stairwells, shared visitor parking	Underground Garage (P2)	
					Access and maintenance of services, utilities and building, support, emergency egress, temporary easement for construction		
10	54.9	Condo Phase 1	Rental Bldg A	Part of Retained Lands [12-17, 21]	Access and maintenance of services, utilities and building, support, emergency egress, temporary easement for construction	Bicycle Room At Grade To Confirm Ownership	
11	33.2 [At Elev. 156.50m P1]	Condo Phase 1	Rental Bldg A	Part of Retained Lands [12-17, 21]	Access and maintenance of services, utilities and building, support, emergency egress, temporary easement for construction	Part of Bicycle Room on P1 To Confirm Ownership	

PART	AREA (m ²) AT GRADE	PROPOSED OWNER	EASEMENTS IN FAVOUR OF		PROPOSED EASEMENTS	DESCRIPTION	EXISTING EASEMENTS IN FAVOUR OF
12	3994.8	Retained Lands - future phase		Condo Phase 1	Access to and use of shared amenity areas within Building C	Bulk of Retained Lands	
			Rental Bldg A	Condo Phase 1	Access to and use of shared exterior amenity areas		
					Access, ingress and egress over surface driveways, underground garage ramps, drive aisles, walkways, stairwells, shared visitor parking		
					Access and maintenance of services, utilities and building, support, emergency egress, temporary easement for construction		
13	2014	Retained Lands - future phase	Rental Bldg A	Condo Phase 1	Access to and use of shared exterior amenity areas	Bulk of Retained Lands	Rogers Communications Inc. Toronto Hydro-Electric Systems City of Toronto
					Access, ingress and egress over surface driveways, underground garage ramps, drive aisles, walkways, stairwells, shared visitor parking		
					Access and maintenance of services, utilities and building, support, emergency egress, temporary easement for construction		
14	0.6	Retained Lands	Rental Bldg A	Condo Phase 1	Access, ingress and egress over surface driveways and walkways	Driveway at Grade	
					Access and maintenance of services, utilities and building, support, emergency egress, temporary easement for construction		
15	16.9	Retained Lands	Rental Bldg A	Condo Phase 1	Access, ingress and egress over surface driveways and walkways	Driveway at Grade	
					Access and maintenance of services, utilities and building, support, emergency egress, temporary easement for construction		
16	32.1	Retained Lands	Rental Bldg A	Condo Phase 1	Access, ingress and egress over surface driveways and walkways	Driveway at Grade	The Corporation of the Township of Scarborough
					Access and maintenance of services, utilities and building, support, emergency egress, temporary easement for construction		
17	32.6 [At Elev. 156.50m P1]	Retained Lands	Rental Bldg A	Condo Phase 1	Access and maintenance of services, utilities and building, support, emergency egress, temporary easement for construction	Bicycle Spaces P1 To confirm ownership	
18	332.3	Retained Lands	Rental Bldg A	Condo Phase 1	Access, ingress and egress over surface roadway to cease upon registration of M-Plan and road dedication as Public Highway	To form part of future public street	The Corporation of the Township of Scarborough
19	906.8	Retained Lands	Rental Bldg A	Condo Phase 1	Access, ingress and egress over surface roadway to cease upon registration of M-Plan and road dedication as Public Highway	To form part of future public street	
20	1449.2	Retained Lands	Rental Bldg A	Condo Phase 1	Access, ingress and egress over surface roadway to cease upon registration of M-Plan and road dedication as Public Highway	To form part of future public street	
21	2862.6	Retained Lands	Rental Bldg A	Condo Phase 1	Access and maintenance of services, utilities and building, temporary easement for construction	Commercial Plaza - Future Phase	
22	2561.1	Retained Lands				Future phase (towns)	
23	1747.9	Retained Lands				Future Park to be owned by City of Toronto	