

McCarthy Tétrault LLP
PO Box 48, Suite 5300
Toronto-Dominion Bank Tower
Toronto ON M5K 1E6
Canada
Tel: 416-362-1812
Fax: 416-868-0673

Cynthia A. MacDougall
Partner
Email: cmacdoug@mccarthy.ca



July 27, 2020

Via Email

City of Toronto
c/o Mark Piel
26th Floor - Metro Hall
55 John Street
M5V 3C6 Toronto ON

Dear Sirs/Mesdames:

**Re: Settlement Offer
2901 Bayview Avenue and 630 Sheppard Avenue East
bcIMC Realty Corporation
LPAT Case No. PL180148**

We are the solicitors for bcIMC Realty Corporation (the "Owner"), in respect of the above-captioned matter, related to the Owner's appeals of its applications to amend the Official Plan and applicable zoning respecting its lands known as 2901 Bayview Avenue and 630 Sheppard Avenue East (the "Property"). The Property includes two development sites, in the north east quadrant of the Property (the "North-East Parcel") and the south west quadrant of the Property (the "South-West Parcel"), respectively, separated by the existing mall located in the centre of the Property.

On behalf of the Owner, we hereby offer to settle the Owner's appeals on the basis of an official plan amendment, zoning by-law amendments, a section 37 agreement and City Council support for Development Charge credits and other matters, which reflect the apposite terms and conditions set out below, which we submit on "the record" basis to permit, for example, discussion with other interested parties:

1. Built Form

The zoning by-law amendments will permit a development substantially in accordance with plans and drawings, a detailed list and description of which is attached hereto as "Schedule 1". The proposed development of the Property is comprised of two six-storey buildings and one tower of 20 storeys and a retail addition to the existing mall on the North-East Parcel (the "North-East Development"), two towers with heights of 29 and 30 storeys atop a single podium building on the South-West Parcel, as well as a roof-top vestibule addition on top of the existing mall (the "South-West Development"), an above ground parking garage adjacent the existing mall (the "Parkade"), a publicly accessible open

space (“POPS”) and two proposed public parks (collectively, the “Development”). The key details of each component of the Development to be permitted are as set out below:

a. South-West Development

The South-West Development shall consist of the following components:

- two towers with heights of 29 and 30 storeys connected by a single podium building;
- a maximum 50,500 square metres of gross floor area, as defined by Zoning By-law a 569-2013, as amended (“GFA”), for residential purposes;
- a maximum 15,900 square metres of GFA for non-residential purposes;
- a maximum tower floorplate for each tower of 795 square metres gross construction area, above the podium element; and
- external balconies on each of the towers designed to include “breaks”, so as not to “wrap” around the entire floorplate.

b. North-East Development

The North-East Development shall consist of the following components:

- two six-storey buildings, one 20-storey tower and a commercial addition to the existing mall;
- a maximum 30,800 square metres of GFA for residential purposes;
- a maximum 8,800 square metres of GFA for non-residential purposes;
- tower element floor plates will be limited to 890 square metres on floors 4 to 6, 795 square metres on floors 7 and 8 and 755 metres from floors 9-20 (all areas being gross construction area).

c. New Parkade

The new Parkade shall consist of a 5-storey above grade parking structure adjacent to the existing mall, having a non-residential GFA of approximately 11,000 square metres.

d. General

Total Gross Floor Area

The Development as a whole will have a total maximum gross floor area of 117,000 square metres comprised of:

- a maximum 81,300 square metres of residential GFA; and

- a maximum 35,700 square metres of non-residential GFA.

2 and 3 Bedroom Units

The total number of new residential dwelling units within each of the North-East Development and South-West Development shall be comprised of:

- a minimum of 40% 2 or 3 bedroom units; and
- a minimum of 10% 3 bedroom units.

For clarity, an individual building within the Development may contain less than the above-noted minimum 2 or 3 bedroom and/or 3 bedroom units, provided the total number of dwelling units within the North-East Development and South-West Development, respectively, achieves such minimums.

2. Parkland Dedication

The parkland dedication requirement for the proposed Development shall be satisfied through the conveyance of a minimum 4,926 square metres of land on-site for public parkland purposes in full satisfaction of all requirements therefor under the *Planning Act*, in accordance with the detailed terms attached as Schedule “2” hereto, as generally described below:

- all land dedicated to the City for parkland purposes will be improved by the Owner to the City’s standard “base park” condition prior to conveyance;
- prior to conveyance to the City, the identified parkland may be used by the Owner for access, staging etc. during construction, following which the improvements to base park condition will be undertaken;
- de-stressed tie backs will be permitted in the land conveyed to the City for parkland purposes on a nominal basis; and
- City Council will authorize Development Charge credits in order that the Owner may elect to construct above-base park improvements for Development Charge credits, with the cost of such improvements are not to exceed the amount of the available Development Charge credits.

3. Publicly Accessible Private Open Space (“POPS”)

Prior to the condominium registration of the first residential building within the South-West Parcel, the Owner will convey a non-exclusive surface easement to the City to secure a privately-owned, publicly accessible open space (“POPS”) on the Property, having a minimum area of 750 square metres (or such greater area as the Owner may in its sole discretion determine), where the final location and configuration of which shall be determined as part of the Site Plan Approval process for the South-West Parcel, in accordance with the detailed terms attached as Schedule “3” hereto.

4. Sewer Easement Relocation

The City agrees that all fees to be nominal to authorize the release of the existing easement and proposed overhead pedestrian connection across the replacement easement. As part of the City Council decision supporting this settlement, City Council will:

- permit the partial release of existing sewer easement;
- authorize the entering into of a new sewer easement agreement with the City for the new sewer (area will not less than the existing easement); and
- grant permission for an above-grade pedestrian connection from the roof of the existing mall to the proposed podium within the South-West Development to facilitate the connection of the mall to the TTC Station.

5. Transit Station Access Upgrade

The Owner shall make best efforts to enter into agreements on reasonable commercial terms with the Toronto Transit Commission (“TTC”) and the City, to construct a new public TTC tunnel and station connection within the South-West Development and within the adjacent City right-of-way, as generally described below:

- the Owner shall make a \$3,000,000 Section 37 contribution to be allocated to the completion of the public tunnel connection within the City right-of-way;
- if the Owner has entered into the above noted agreements with TTC and the City, City Council will authorize Development Charge credits, such that the Owner may elect to seek a Development Charge credits against the Transit (balance) component of the Development Charges for Development of the Owners Lands; and
- all of the foregoing subject to and in accordance with the detailed terms set out in Schedule “4” attached hereto.

6. Servicing and use of H-Holding Symbols

The Owner agrees to submit for review and acceptance by the City’s Chief Engineer a Site Servicing Review which confirms that the storm water runoff, sanitary flow and water supply demand resulting from the Development, including the proposed phasing, can be serviced, prior to the proposed zoning by-law amendments being final and binding.

The Owner supports the use of “H” Holding symbols with respect to the City’s existing storm sewer easement and City’s sanitary sewer upgrade in accordance with the terms set out in Schedule “5” attached hereto.

7. Section 37 Agreement

The Owner will enter into a Section 37 Agreement with the City to secure the following:

- a. a cash contribution of \$1,754,156 to be allocated towards capital facilities within the vicinity of the Property consisting of:
 - (i) \$1,087,576 to be paid prior to the issuance of first above-grade residential building permit for the South-West Development; and
 - (ii) \$666,580 to be paid prior to the issuance of the first above-grade residential building permit for the North-East Development;
- b. an affordable housing contribution, having a total value of \$4,474,500, to be provided on terms acceptable to the Owner and the City;
- c. a contribution towards the construction of a TTC tunnel connection within the City right-of-way, with such contribution having a minimum value of \$3,000,000, in accordance with the terms set out in Schedule "4" hereto;
- d. The provision of Public Art in the amount of \$100,000 in each of the North-East Parcel and South-West Parcel (total of \$200,000), all or part of which may be provided as a cash contribution or through the City's Public Art Program at the discretion of the Owner; and
- e. The following matters to be secured as a legal convenience in support of the Development:
 - (i) the provision of a minimum 750 square metre POPS as set out in item 3 above and the detailed terms in Schedule "3";
 - (ii) Traffic Study Update: The Owner shall submit a scoped Traffic Impact Study for any phase of the Development which includes dwelling units in conjunction with:
 - A. any application for site plan approval, where such application is filed after the fifth anniversary of the date the zoning by-law amendment becomes final and binding; and
 - B. in the case of a request to extend approval where final site plan approval has been obtained, where the request for the extension is made after the fifth anniversary of the date the zoning by-law amendment becomes final and binding.

The Settlement Offer is conditional on:

- (a) agreement between the City and Owner as to the final form of the official plan and zoning by-law amendment;
- (b) the matters proposed to be provided by the Owner herein being secured in a Section 37 Agreement, and that the Development shall not be subject to any

community benefits charge by-law passed or approved pursuant to the *More Homes, More Choices Act, 2019* or successor legislation; and

- (c) the Development not being subject to any inclusionary zoning by-law passed by the City and, at the Owner's discretion, the above-referenced Section 37 Agreement unwinding, in accordance with the City's standard language therefor, should such a situation occur.

This Settlement Offer is also conditional on City Council accepting this offer during its meeting scheduled for July 28 and 29, 2020, as well as supporting the settlement in any hearing before the LPAT, including without limitation, any objections from third parties, subject to extensions to the acceptance of this offer satisfactory to the Owner in its discretion.

We look forward to hearing from you.

Yours truly,

McCarthy Tétrault LLP



Cynthia A. MacDougall

CAM

Schedule "1"

LIST OF PLANS AND DRAWINGS

1. Architectural Drawings for the Development dated April 22, 2020, prepared by Dialog, as follows:
 - (a) A1.005A – Overall Site Plan, dated May 15, 2020; and
 - (b) A1.005B – Overall Project Statistics, dated April 22, 2020.

2. Architectural Drawings for the North-East Development, prepared by Dialog, as follows:
 - (a) A2.002 – Site Plan – North Site, dated May 15, 2020;
 - (b) A2.003 – Project Statistics, dated April 22, 2020;
 - (c) A2.101 to A2.103 – Floor Plan B1 to B2, dated April 22, 2020;
 - (d) A2.202 to A 2.206 and A2.301 to A2.304 – Floor Plans, dated April 22, 2020;
 - (e) A2.201 – Floor Plan – Level 1, dated May 15, 2020;
 - (f) A2.202 to A 2.206 – Floor Plans Levels 2 to 6, dated April 22, 2020;
 - (g) A2.207 – Floor Plan – Level 7, dated May 15, 2020;
 - (h) A2.301 to A2.304 – Floor Plans – Level 7 to Level 20 – Tower Residential, dated April 22, 2020; and
 - (i) A2.501 to A2.503 – Exterior Elevations, dated April 22, 2020.

3. Architectural Drawings for the South-West Development prepared by Hariri Pontarini Architects as follows:
 - (a) A3.00b – Site Plan, dated May 15, 2020;
 - (b) A3.00c – Project Statistics, dated April 22, 2020;
 - (c) A3.001 to A3.005 – Floor Plans, dated April 22, 2020;
 - (d) A3.006 – Floor Plan Lower Retail, dated May 15, 2020;
 - (e) A3.007 to A3.008 – Floor Plans, dated April 22, 2020;
 - (f) A3.009 – floor Plan 2, dated May 15, 2020;
 - (g) A3.0010 to A3.016b – Floor Plans, dated April 22, 2020;
 - (h) A3.017 – Roof Plan, dated April 22, 2020;
 - (i) A3.021 to A3.023 – Elevations, dated April 22, 2020.

4. Architectural Drawings for the Parkade prepared by Dialog, as follows:
 - (a) A4.002 – Site Plan / Project Statistics, dated May 15, 2020;
 - (b) A4.101 – Floor Plan - P1, dated May 15, 2020;
 - (c) A4.102 to A4.105 – Floor Plans – P2 to P5, dated April 22, 2020; and
 - (d) A4.401 – Exterior Elevations, dated May 15, 2020.

Schedule 2

Conditions of Parkland Conveyance

If this application is approved, the following conditions of approval are recommended to be included:

Recommended Conditions of Approval

Parkland Dedication

1. The Owner will be required to convey a portion of the North East Parcel and a portion of the South West Parcel, totaling a minimum of 0.4926 ha (4,926 m²) for public parkland purposes, which conveyances will satisfy all parkland dedication requirements in connection with the development of the North East Parcel and South West Parcel having a combined maximum non-residential gross floor area of 35,700 square metres and a combined maximum residential gross floor area of 81,300 square metres. Should the Owner receive approval for additional gross floor area, the Owner shall be responsible for any resulting increase in the parkland dedication requirements to the extent that the new additional approved density generates a requirement for a greater parkland dedication in accordance with the in-force parkland dedication requirements applicable to the development. The location of the North East Parcel and the South West Parcel are reflected on Diagram 1. The proposed parkade may be developed in advance of the delivery of any required parkland dedication.
2. The parkland dedication requirements are to be satisfied through the conveyance of two park blocks to the satisfaction of the General Manager, Parks, Forestry & Recreation ("PF&R"):
 - a. a 0.3725 ha (3,725 m²) park block within the north development zone substantially in the location shown as Parts ● and ● (the "North Park") on the draft reference plan, prepared by David B. Searles Surveying Ltd., attached hereto as Schedule ● (the "Draft R-Plan"); and
 - b. a 0.1201 ha (1,201 m²) park block within the south development zone substantially in the location shown as Parts ● and ● on the Draft R-Plan (the "South Park").(collectively, the "Park Blocks")
3. The Park Blocks are to be conveyed free and clear, above and below grade of all physical obstructions and easements, encumbrances and encroachments, including surface and subsurface easements, unless otherwise satisfactory to the General Manager, PF&R, in consultation with the City solicitor, subject to tie backs as set out below. The Park Blocks may contain de-stressed tiebacks, without requirement for the payment of compensation to the City.
4. The Owner is to pay for the costs of the preparation and registration of all relevant documents. The Owner shall provide to the satisfaction of the City Solicitor all legal descriptions and applicable reference plans of survey for the new parkland.

Parkland Dedication – South Park

5. Prior to the registration of the first condominium on the South West Parcel, the Owner will convey the South Park to the City for public parkland purposes, with such conveyance comprising a minimum 0.1201 ha (1,201 m²) portion of the South West Parcel to the satisfaction of the General Manager, PF&R.

Parkland Dedication – North Park

6. The North Park shall be conveyed in accordance with the following:
 - 6.1 In the event the development of the North East Parcel proceeds in advance of the development of the South West Parcel, the Owner shall convey the North Park to the City no later than the earlier of: the first residential use and 3 years following the issuance of the first above-grade building permit for a building containing dwelling units in the North East Parcel to the satisfaction of the General Manager, PF&R; and
 - 6.2 In the event the development of the South West Parcel proceeds in advance of the development of the North East Parcel:
 - 6.2.1 no later than first condominium registration for the South West Parcel, the Owner shall convey a minimum 0.1820 ha (1820 m²) portion of the North Park generally in the location on Diagram 2 (the “North Park – Parcel A”) to the satisfaction of the General Manager, PF&R; and
 - 6.2.2 no later the earlier of: the first residential use and 3 years following the issuance of the first above-grade building permit for a building containing dwelling units in the North East Parcel, the Owner shall convey a minimum 0.1905 ha (1,905 m²) portion of the North Park generally in the location shown on Diagram 2 (the “North Park – Parcel B”) to the satisfaction of the General Manager, PF&R.
 - 6.3 Prior to the issuance of the first above-grade building permit for any residential dwelling units on all or any part of the site, the Owner shall register in priority a restriction pursuant to section 118 of the *Land Titles Act* in favour of the City against title to the North Park, to the satisfaction of the City Solicitor.

Fire Separation Distance — Ontario Building Code

7. Prior to the transfer of fee simple of the respective Park Blocks to the City, the subject Park Block shall nonetheless be deemed to be parkland in respect of the fire separation requirements of the Ontario *Building Code Act, 1992*. Parks, Forestry and Recreation staff advises that the applicant must design the building to achieve Ontario Building Code (OBC) setbacks related to fire separation on their own site on the portions of any building that abuts the park. A minimum 5 metre setback will apply to any building located next to the Park Block or the required setbacks which meet the Ontario Building Code for fire separation, whichever is greater. Prior to the issuance of any above grade building permit, the applicant will be required to provide a written statement to the Chief Building Official confirming that the abovementioned Ontario Building Code requirements for the subject building permit.

Environmental Assessment

8. Prior to conveying the parkland to the City, the Owner must:
 - 8.1 Submit a Qualified Person Preliminary Statement Letter, that is dated and signed by the applicant's Qualified Person, as defined in O. Reg. 153/04, as amended, describing the lands to be conveyed to the City, and identifying what environmental documentation will be provided to the City's peer reviewer to support this conveyance; all environmental documentation consistent with O. Reg. 153/04 requirements shall be submitted with reliance extended to the City and its peer reviewer and any limitation on liability and indemnification is to be consistent with Ontario Regulation 153/04, as amended, insurance requirements or such greater amount specified by the Executive Director, Engineering & Construction Services and copy to the General Manager, PF&R. (see the [Policy for Accepting Potentially Contaminated Lands to be Conveyed to the City](#) under the *Planning Act* adopted by City Council on February 10 and 11, 2015);
 - 8.2 Pay all costs associated with the City retaining a third-party peer reviewer including all administrative costs to the City (7%), and submit an initial deposit of \$8,000.00 towards the cost of the Peer Review in the form of a certified cheque, to the Executive Director, Engineering & Construction Services. Submit further deposits when requested to cover all costs of retaining a third-party peer reviewer;
 - 8.3 Submit, to the satisfaction of the City's peer reviewer, all Environmental Site Assessment reports prepared in accordance with the Record of Site Condition Regulation (Ontario Regulation 153/04, as amended) describing the current conditions of the land to be conveyed to the City and the proposed Remedial Action Plan based on the site condition standards approach, to the Executive Director, Engineering & Construction Services;
 - 8.4 At the completion of the site assessment/remediation process, submit a Statement from the Qualified Person based on the submitted environmental documents, to the Executive Director, Engineering & Construction Services for peer review and concurrence, which states:
 - 8.4.1 In the opinion of the Qualified Person:
 - 8.4.1.1 It is either likely or unlikely that there is off-site contamination resulting from past land uses on the development site that has migrated onto adjacent City lands that would exceed the applicable Site Condition Standards; and
 - 8.4.1.2 To the extent that the opinion in 8.4.1.1 is that past migration is likely, it is either possible or unlikely that such off-site contamination on adjacent City lands poses an adverse effect to the environment or human health.
 - 8.4.2 Land to be conveyed to the City meets either:
 - 8.4.2.1 the applicable Ministry Generic Site Condition Standards (Tables 1, 2, 3, 6, 7, 8 and 9; subject to applicable exemptions as stated in O. Reg. 153/04) for the most environmentally sensitive adjacent land use; or

- 8.4.2.2 the Property Specific Standards as approved by the Ministry for a Risk Assessment/Risk Management Plan which was conducted in accordance with the conditions set out herein.
- 8.5 The Qualified Person's statement, referenced in condition 8.1 above, will include a Reliance Letter that is dated and signed by the applicant's Qualified Person, as defined in O. Reg. 153/04, as amended, confirming that both the City and the City's peer reviewer can rely on the environmental documentation submitted, consistent with O. Reg. 153/04 requirements, and the Qualified Person's opinion as to the conditions of the site; all environmental documentation consistent with O. Reg. 153/04 requirements and opinions shall be submitted with reliance extended to the City and its peer reviewer and any limitation on liability and indemnification is to be consistent with Ontario Regulation 153/04, as amended, insurance requirements or such greater amount specified by the Executive Director of Engineering & Construction Services.
- 8.6 For conveyance of lands requiring a Record of Site Condition (RSC):
- 8.6.1 File the Record of Site Condition (RSC) on the Ontario Environmental Site Registry; and
- 8.6.2 Submit the Ministry's Letter of Acknowledgement of Filing of the RSC confirming that the RSC has been prepared and filed in accordance with O. Reg. 153/04, as amended, to the Executive Director, Engineering & Construction Services and to the General Manager, PF&R.

Park Construction

Base Park Improvements - General

9. The Owner, at their expense, will be responsible for the base construction and installation of the parkland. The Base Park Improvements include the following:
- a. Demolition, removal and disposal of all existing materials, buildings, foundations and associated servicing;
 - b. Grading inclusive of 300mm depth topsoil supply and placement. Where lands have been environmentally risk assessed in accordance with MECP regulations, the required depth profile of the environmental soil / soft cap will be 1.5 m of engineered fill compacted to 95% SPD and certified by the consulting engineer;
 - c. In the case of a risk-assessed site, all materials brought on site shall comply with the site-specific standards outlined in the Certificate of Property Use. In the case where no risk assessment of the site was required, all materials brought on site shall comply with the Ontario Reg. 153/04 Table 3 RPI standards;
 - d. Sodding #1 nursery grade;
 - e. Fencing, where deemed necessary;
 - f. Sanitary and storm service connections with manholes at streetline;

- g. Water and electrical service connections; (minimum water: 50mm to the street line including backflow preventers, shut off valves, water meter and chamber; electrical connection to the street line and electrical panel in a lockable cabinet (100 Amp service));
 - h. Street trees along all public road allowances abutting City-owned parkland; and
 - i. Standard park sign (separate certified cheque required).
10. All work is to be completed to the satisfaction of the General Manager, PF&R.
 11. Prior to the issuance of the first above grade building permit for the first building containing dwelling units in each of the North East Parcel and the South West Parcel, the Owner shall submit a cost estimate and any necessary plans for the Base Park Improvements for the associated Park Block, to the satisfaction of the General Manager, PF&R.
 12. Prior to issuance of the first above grade building permit for a building containing dwelling units in each of the North East Parcel and the South West Parcel, the Owner shall post an irrevocable Letter of Credit in the amount of 120% of the value of the Base Park Improvements for the associated Park Block to the satisfaction of the General Manager, PF&R. No credit shall be given towards the Parks and Recreation component of the Development Charges for costs associated with Base Park Improvements.
 13. The construction of the Base Park Improvements to each Park Block shall be completed prior to the conveyance of such Park Block to the City to the satisfaction of the General Manager, PF&R. Unforeseen delays (e.g. weather) resulting in the late delivery of the park block shall be taken into consideration and at the discretion of the General Manager, PF&R when determining a revised delivery date for the park block.

Temporary Fencing

14. Upon commencement of construction of parkland improvements, the Owner shall be responsible for the installation of temporary fencing around the parkland subject to the construction and its maintenance until such time as the development of the park block is completed.

Parkland Grading and Drainage

15. Prior to conveyance of each Park Block, the Owner shall ensure that the grading and drainage of the adjacent development blocks are compatible with the grades of the subject Park Block to the satisfaction of the General Manager, PF&R.
16. The Owner must provide documentation from a qualified environmental engineer that any fill or topsoil brought onto the site meets all applicable laws, regulations and guidelines for use in a public park.

Credit against DC's for Above Base Park Improvements

Should the owner agree to design and construct the Above Base Park Improvements on a Park Block for a development charge credit against the Parks and Recreation component of the Development charges, the following conditions 17 to 21, inclusive, apply:

17. The Owner agrees to design and construct the Above Base Park Improvements to the Parkland where the cost does not exceed the development charge credits against Parks and Recreation component of the Development Charges to the satisfaction of the General Manager, PF&R. The development charge credit shall be in an amount that is the lesser of the cost to the Owner of installing the Above Base Park Improvements, as approved by the General Manager, PF&R, and the Parks and Recreation component of Development Charges payable for the development in accordance with the City's Development Charges By-law, as may be amended from time to time. The Owner is required to submit a design and cost estimate to be approved by the General Manager, PF&R, and a letter of credit equal to 120% of the Parks and Recreation Development Charges payable for the development. The design, cost estimate and ultimately the letter of credit will be required prior to the issuance of the first above grade building permit for a building containing dwelling units for the subject phase of development.

Above Base Park Improvements

18. The Owner will be responsible to design and construct the Above Base Park Improvements to the satisfaction of the General Manager, PF&R. Areas to be addressed in the design of the Park are: park programming, sustainable design and plantings, community and public safety, ground surface treatments, seating, vandalism etc. Final design and programming of the parkland shall be at the discretion of the General Manager, PF&R.
19. The final design of the Above Base Park Improvements shall be in accordance with the City's standards and design specifications and to the satisfaction of the General Manager, PF&R as determined through the following submission review process:
 - 19.1.1 the Owner shall, prior to the issuance of the first above grade building permit for a building containing dwelling units, for the North East Parcel or the South West Parcel, as applicable, prepare and submit plans and specifications of a park design concept as well as a park development budget, including the Above Base Park Improvements to the satisfaction of the General Manager, PF&R (the "**Park Submission**") for approval. The Park Submission shall include, but not be limited to a context map, site preparation plan, tree preservation or removal plan (if applicable), layout plan, grading and storm water management plan, planting plan, electrical/lighting plan, services plan, irrigation plan together with supporting materials related to cost as may be required by the General Manager, PF&R;
20. The construction of Above Base Park Improvements shall, where applicable, be completed prior to the later of: 12 months after the conveyance of the subject Park Block as required by section 6 of this document, and 12 months after the first residential use as referred to in section 6 of this document. Unforeseen delays (e.g. weather) resulting in the late delivery of Above Base Park Improvements shall be taken into consideration and at the discretion of the General Manager, PF&R when determining a revised delivery date for the subject Above Base Park Improvements.

21. Should the Owner undertake Above Base Park Improvements on a Park Block following conveyance of such Park Block to the City, the Owner must obtain a Park Access Agreement (PAA) from PF&R; however, such PAA shall be at nominal cost to the Owner. The PAA will outline in detail the insurance requirements, extent of area permitted, permitted use, tree removal and replacement, and duration to the satisfaction of the General Manager, PF&R. The Owner will indemnify the City against any claim during any interim use of or work carried out by the applicant on the subject Park Block.

Warranty

22. The Owner, upon satisfactory completion of the construction and installation of the Base and Above Base Park Improvements shall be required to guarantee such work and associated materials. The Owner shall provide certification from their Landscape Architect certifying that all work has been completed in accordance with the approved drawings. Should the cost to construct the Above Base Park Improvements as approved by the General Manager, PF&R be less than the Parks and Recreation component of the Development Charges for the development, the difference shall be paid to the City by certified cheque prior to a reduction of the Above Base Park Improvement Letter of Credit. Upon the City's acceptance of the certificate, the Letter(s) of Credit will be released less 20% which will be retained for the 2 year guarantee known as the Parkland Warranty Period.
23. Upon the expiry of the Parkland Warranty Period, the outstanding park security shall be released to the Owner provided that all deficiencies have been rectified to the satisfaction of the General Manager, PF&R.
24. As-built drawings in print/hardcopy and electronic format, as well as a georeferenced AutoCAD file, shall be submitted to PF&R. A complete set of "as built" plans shall be provided electronically on CD in PDF format and in a georeferenced AutoCAD file, in addition to two (2) sets full size bond hard copy the General Manager, PF&R. The plans shall include, but not limited to specifications, locations of all hidden services, and all deviations from the design drawings, shop drawings, inspection reports, minutes of meeting, site instructions, change orders, invoices, certificates, progress images, warranties, close out documentation, compliance letters (for any play structures and safety surfaces), manuals etc. The files are to be organized in folders, including a file index and submitted with written warranties and related documents such as lists of contractor, sub-contractors together with contact persons, telephone numbers, warranty expiry dates and operating manuals.
25. Spare or replacement parts, special tools, etc. as provided by manufacturers, if any, are to be provided to PF&R.

Schedule 3

Publicly Accessible Private Open Space (“POPS”)

1. The Owner will:
 - (a) prior to the condominium registration of the first residential building within the South West Parcel, convey a non-exclusive surface easement to the City to secure a privately-owned, publicly accessible open space (“POPS”) on the Property, having a minimum area of 750 square metres (or such greater area as the Owner may in its sole discretion determine), substantially in accordance with Diagram 3, where the final location and configuration of which shall be determined as part of the Site Plan Approval process for the South-West Parcel; and
 - (b) the improvements associated with the POPS will be completed no later than 12 month following the first residential occupancy of the South-West Parcel, subject to seasonality.
2. The non-exclusive surface easement to the City for the purpose of providing pedestrian access to the general public over the POPS, will be subject to the reservation by the Owner of the right to remove members of the public behaving inconsistently with the use and enjoyment of the POPS by the public and/or the quiet enjoyment of adjacent private property by the owners thereof, and the right to close and/or temporarily restrict access to the POPS, at nominal cost to the Owner, to permit construction, repairs, maintenance or reconstruction of the POPS or any portion thereof and to permit repairs, maintenance, construction or reconstruction of any adjacent buildings or structures, including, but not limited to, buildings or structures located below or within the POPS.
3. The POPS may be temporarily closed to the public by the Owner for restricted-access temporary commercial uses subject to the following:
 - (a) a duration that is no longer than three consecutive days for any one temporary commercial event;
 - (b) a maximum of 24 days in total for all commercial events in any calendar year;
 - (c) no more than 18 of the 24 days may occur between May 1 and September 1 in any calendar year;
 - (d) notwithstanding the foregoing, a greater duration and/or number of closures for temporary commercial events may be permitted if agreed to in writing by the Chief Planner; and
 - (e) an admission fee may be charged for access to any such temporary commercial event(s).
4. Ongoing obligations for maintenance, indemnification and insurance to be the responsibility of the owner of the commercial component.

Schedule 4

Transit Station Access Terms

The proposed development of the Bayview Shopping Centre as reflected in the Owner's Official Plan and Zoning by-law amendment applications, contemplates a significant improvement to the existing Bayview and Sheppard Transit Station ("**Transit Station Access Upgrade**"), including a new underground tunnel connection between the Owners lands and the subway and new station entrances to Sheppard Avenue and a proposed POPS and Public Park . Although not required to support the density of the proposed redevelopment, the upgrade will provide significant new transit connections to benefit the public.

The proposed transit station access upgrade ("**Transit Station Access Upgrade**"), which includes a public TTC tunnel (the "**Public Tunnel**"), if constructed, will provide below grade access from the Owner's lands to the subway as reflected on the attached TTC Connection Drawings 1-3, dated June 12, 2020, prepared by Hariri Pontarini Architects (the "**Tunnel Drawings**"). The Public Tunnel is approximately 16.9 metres in length, of which approximately 1.1 metres is located within the Owner's property (the "**Owner Tunnel Portion**"). The majority of the Public Tunnel (15.8 metres) is proposed to be located within City owned lands, being Sheppard Avenue East (the "**City Tunnel Portion**"). The Owner is proposing to convey an easement to the City of a substrata part of the Owner's lands, of a minimum area of approximately 120 square metres, and of not more than 125 square metres, for use as public transit access space ("**Access Space**"). The Access Space forms part of the South West Parcel, as identified on Diagram 1. The Access Space and Public Tunnel will together form the Transit Station Access Upgrade.

We propose the following terms with respect to the Transit Station Access Upgrade, which the Owner agrees to undertake as set out below:

- A. The Owner agrees to make best efforts to enter into agreements on reasonable commercial terms ("**Agreements**") with the City and the TTC in order to construct both the Owner Tunnel Portion and the City Tunnel Portion, as well as the Access Space, the terms and conditions of which are to be satisfactory to the City, the TTC and the Owner, each party acting reasonably, reflecting principles set out in this memorandum, including:
- (i) the Owner's contribution of funds pursuant to Section 37 of the *Planning Act* as set out below;
 - (ii) City Council's authorization of Development Charge Credits for Transit component of the Development Charges, which will be available to the Owner for the cost of the City's Construction as set out below;
 - (iii) the Owner's agreement to pay the TTC standard connection fee in accordance with the TTC's Entrance Connection Guide dated

February, 2013, subject to any available discounts in accordance with such Guide; and

- (iv) any easement and/or construction licence required for the Public Tunnel will be granted on a nominal basis.
- B. If the Agreements have not been entered into between the Owner and the City, and the Owner and the TTC, to secure the Transit Station Access Upgrade prior to the Owner's application for its first Above-Grade Building Permit for residential development within the South West Parcel, the Owner shall have no further obligations with respect to any matters set out herein.
- C. If the Agreements have been entered into between the Owner and the City, and the Owner and the TTC, to secure the Transit Station Access Upgrade, such Agreements will provide, amongst other things, that the Owner will be responsible for construction of and construction costs for the following (the "**Owner's Construction**"):
- (i) excavation and installation of structural elements for the Owner Tunnel Portion;
 - (ii) construction of the Access Space to a Shell Condition (as defined below); and
 - (iii) a knock out panel between the Access Space and the Owner Tunnel Portion for purposes of future access.
- D. Such Agreements will require the Owner to complete the Owner's Construction prior to registration of the first residential condominium on the South West Parcel.
- E. Such Agreements will further require the City and/or the TTC to be responsible for all other construction costs for the Transit Station Access Upgrade, including, but not limited to, the following (the "**City's Construction**"):
- (i) the excavation and construction of all aspects of the City Tunnel Portion;
 - (ii) the installation of TTC's finishings and equipment needed for the operation of the entrance to the subway within the City Tunnel Portion, the Owner Tunnel Portion and the Access Space; and
 - (iii) except for the Owner's Construction, all other costs of construction and completion of the Public Tunnel and the Access Space needed in order to operate and provide access from the Owner's lands to the subway;

where the Owner is eligible for Development Charge credits against the Transit component of the Development Charges otherwise payable for the development of any of the Owner's Lands, with respect to the cost of the City's Construction.

- F. After the Owner has completed the Owner's Construction and the City's Construction, the Owner will have no further responsibilities for any aspects of completion of construction of the overall Public Tunnel and the Access Space, and the operation, inspection, repair and maintenance of the Public Tunnel and the Access Space, all of which shall be the responsibility of the TTC. Notwithstanding that it is TTC's responsibility with respect to the Access Space, the Owner may undertake repairs to or maintenance of the Access Space, at the TTC's expense, should the TTC fail to repair or maintain such space in accordance with standards acceptable to the Owner, in accordance with provisions of the Access Easement described below.
- G. On or prior to substantial performance (as such phrase is used and defined in Section 2 of the *Construction Act* (Ontario)) of the Owner's Construction, the Owner, for nominal consideration, shall grant to the City an easement (the "**Access Easement**") to run for as long as the Public Tunnel is used as pedestrian access to the subway, to:
- (i) permit the operation by the TTC of the Public Tunnel over and within the Owner Tunnel Portion;
 - (ii) permit the Access Space to operate and provide access to the subway; and
 - (iii) permit access to finished improvements on the ground level of the residential property constructed on the South West Parcel through lobbies abutting the Access Space;
- such easement to be granted and become effective when the Public Tunnel is open and is fully available to be used by the public as a means of access to the subway.
- H. If the Public Tunnel isn't operational and in use in all respects for the purpose for which it was intended as a means of public access to the subway within five years following substantial performance of the Owner's Construction, the Owner will have no further obligations with respect to any matters under the Agreement and in respect of the Public Tunnel, the Access Easement will be deemed to be terminated and/or released and abandoned and of no further force or effect, and the Owner may complete its finishing of the Access Space and use it for any lawful uses, all in the Owner's discretion, in accordance with applicable law.
- I. Constructing the Access Space to a "**Shell Condition**" means the Owner shall construct all structural walls and glazing and provide for stairs and all required embedded conduits, but it is expressly excluded from such defined term, and the Owner is not responsible for, all interior fixtures, finishing and equipment, all of which are the responsibility of, and at the cost of, the TTC and/or the City.
- J. An Above-Grade Building Permit means a building permit to construct a building, or any part thereof, which is located at or above grade, and excludes a building permit issued by the City for any demolition, shoring, piling, excavation, foundation, sales or rental office, or temporary building or structure.

- K. The terms of settlement set out above, include securing a contribution of three million dollars (\$3,000,000.00) (the “**TTC Section 37 Contribution**”) toward the cost of the City’s Construction (which will form part of the total proposed voluntary community contribution for the proposed redevelopment, being nine million, two hundred and twenty nine thousand and six hundred and fifty six dollars (\$9,229,656.00)), in accordance with Section 37 of the *Planning Act*, (the “**Total Section 37 Contribution**”) as follows:
- (a) Prior to issuance of the first Above-Grade Building Permit for any residential development of the South West Parcel, the Owner shall:
 - (i) if the Owner has entered into the aforementioned Agreements for the Transit Station Access Upgrade, provide the City with a Letter of Credit in the amount of the TTC Section 37 Contribution, subject to Upwards Indexing, to secure the Owner’s contribution to the City’s Construction, which security shall be released in accordance with the terms of such Agreement; or
 - (ii) if the Owner has not entered into the aforementioned Agreements for the Transit Station Access Upgrade, make a cash contribution to in the City in the amount of TTC Section 37 Contribution, subject to Upwards Indexing, to be used for the construction by the City of the City’s Construction.
- L. The amount of the Total Section 37 Contribution is conditional upon the settlement of all outstanding issues with respect to the approvals for the proposed redevelopment, satisfactory to the Owner, including:
- (a) acceptance of all other terms, including, but not limited to, the proposed parkland contribution substantially in accordance with the April 24, 2020, drawings and the terms as out in the Proposed Parkland Terms – July 15, 2020 (Doc. 20385918 v.11), as revised to reflect certain terms as proposed by the Owner, including, but not limited to, a total required parkland dedication amount of .4926 ha.

Background

- M. Proposed Total Section 37 Contribution is - \$9,229,656, based on \$137.5 sq.ft.
- N. Affordable housing = \$4,474,500 (value based on \$157.00 a sq.ft.)
- O. Remaining = \$3,000,000 for the TTC Section 37 Contribution
- \$1,754,156 toward community benefits as determined by the Councillor
 - \$200,000 for Public Art, split between the South West Parcel and the North East Parcel shown on Diagram 1.

Schedule “5”

Proposed “H” Holding symbols:

1. Parkade

A Parkade [NTD: “Parkade” to be defined in the by-law to refer to the proposed stand alone parkade in the South West Parcel] is not permitted within a portion of the area subject to the City’s existing storm sewer easement, registered as Instrument No. AT524470, which portion is generally identified with a holding symbol (H-1) on Diagram 4, until such time as the (H-1) holding symbol has been removed. An amending by-law to remove the (H-1) symbol shall be enacted by City Council when the following condition has been fulfilled to the satisfaction of Council:

- (a) The Owner has submitted municipal storm sewer relocation drawings with supporting documentation and made arrangements for the relocation of the existing City storm sewer, including the entering into of agreements and the granting of a new easement in favour of the City for the relocated storm sewer to the satisfaction of the Chief Engineer & Executive Director of Engineering and Construction Services (the “Chief Engineer”) and the City Solicitor. The existing municipal storm sewer shall be released by the City on a nominal basis.

If the H -1 symbol is not removed, the Owner will be required to meet the parking space requirements of the zoning by-law amendment on the lands.

2. Sheppard Sewer

The lands identified with a holding symbol (H-2) on Diagram 5, shall not be used for any purpose other than those uses and buildings that existed on the site as of July 1, 2020, and any new uses or buildings, where the use or construction of which, will increase sanitary flows to municipal sewers, until such time as the (H-2) symbol has been removed, subject to the exceptions set out below. An amending by-law to remove the (H-2) symbol, which may be removed from the whole of or a portion of the site, shall be enacted by City Council when the following condition has been fulfilled to the satisfaction of Council:

- (a) The Sanitary Sewer Upgrades (being the upgrade of the last three 300mmØ sanitary sewer legs upstream of the sanitary trunk sewer to 675mmØ, located at the north west corner of Sheppard Avenue East and Leslie Street intersection), which works are being undertaken by the City of Toronto, Design & Construction, Major Infrastructure Unit, Don & Central Waterfront District in the Engineering & Construction Services Division (Project # SAP2020-GL-EASTDON-00), is constructed and operational to the satisfaction of the Chief Engineer;

The exceptions include:

- (a) the proposed Parkade;

- (b) internal renovations to the existing buildings;
- (c) minor alterations to the existing buildings;
- (d) demolition of existing buildings and structures; and
- (e) any development, including any building permits, satisfactory to the Chief Engineer.

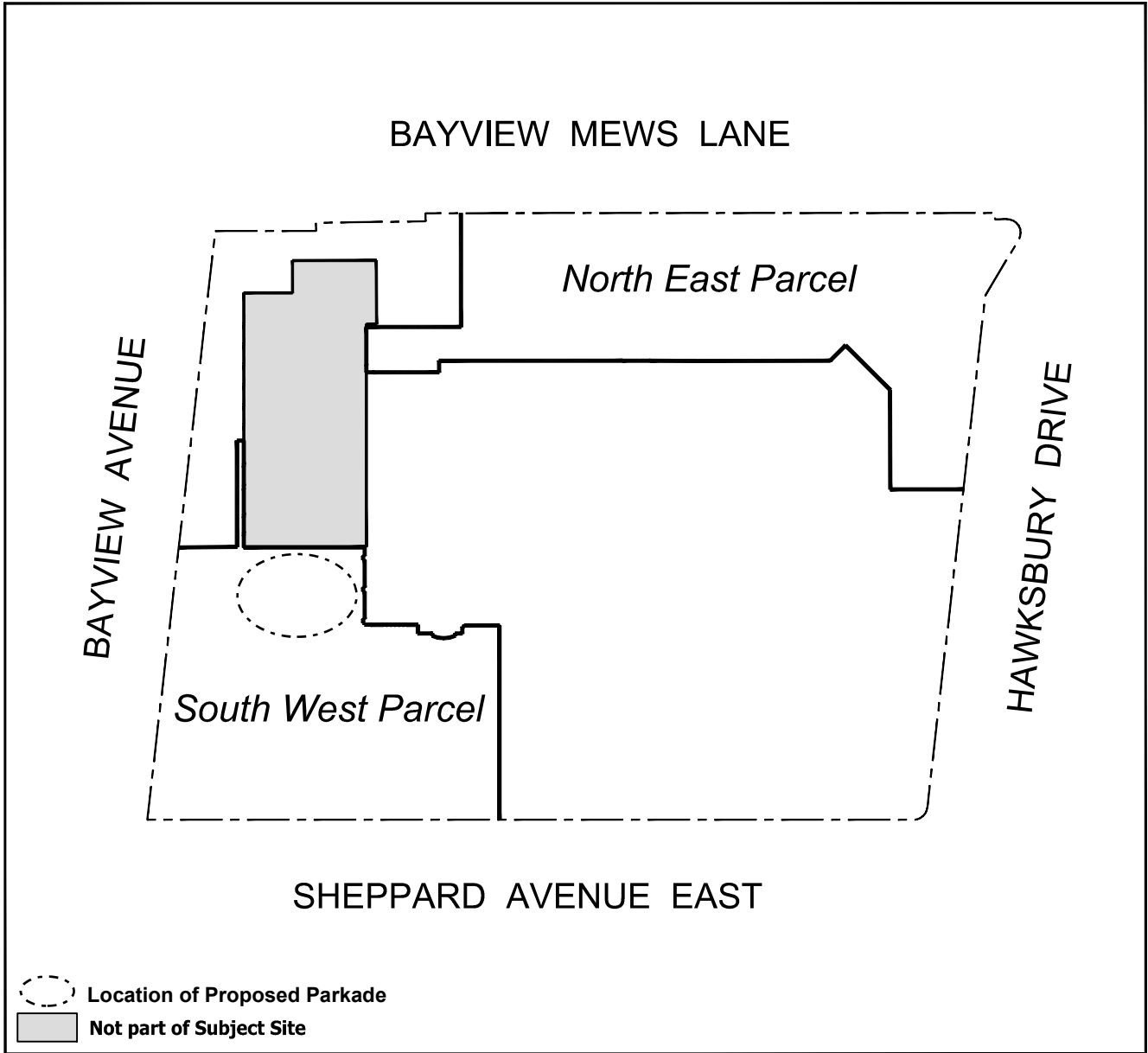


Diagram 1



Not to Scale

Diagram 2: Bayview Village Park Conveyance | North Park

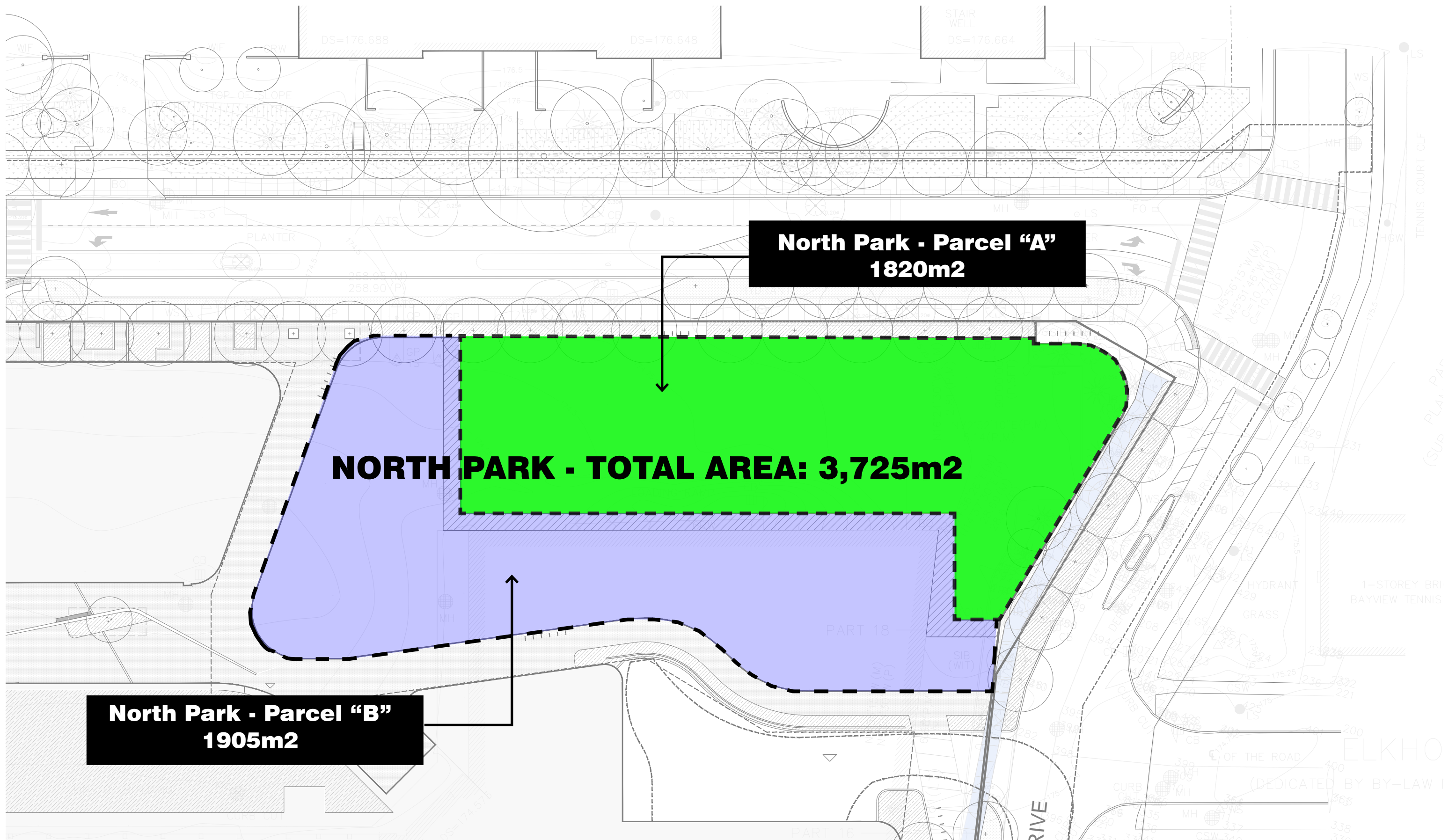


Diagram 3: Bayview Village Park Conveyance | South Park and POPS

