

Ecological & Environmental Solutions

November 25, 2021

Matt Kernahan, MCIP, RPP
Planning Manager
Upper Canada Planning & Engineering Ltd.
30 Hannover, Unit #3
St. Catharines, ON, L2W 1A3

Dear Mr. Kernahan,

**Re: Black Creek Road Subdivision – BMP Recommendations
0-17482 Black Creek Rd, Town of Fort Erie**

Ecological & Environmental Solutions (EES) was retained by Capital Contracting to provide a preliminary assessment of the property located at 0-17482 Black Creek Rd (ARN:270304005524600 & 270304005524625) in the Town of Fort Erie, and to review the EIS Scoping prepared by the Region of Niagara.

The Draft Plan of Subdivision prepared for the subject property proposes 225 units of mixed density housing, including detached and semi-detached homes, town homes, and an 80-unit apartment block. An 8400m² Storm Water Management (SWM) facility is located in the southern portion of the property, and a noise barrier will be installed along a portion of the western property boundary (Appendix).

A Regional EIS Scoping Checklist, prepared April 27, 2020 following a site visit with Regional staff on the same day, was provided with the pre-consultation agreement (August 12, 2021). The checklist was prepared based on the conditions of the site in the spring of 2020 and available air photos. EIS Scoping indicated the potential for Significant Wildlife Habitat and unevaluated wetlands on the property, recommending the completion of Ecological Land Classification, Breeding Bird Studies, Amphibian surveys, and surveys for bats and bat habitat to assess the natural areas.

EES reviewed the Regional comments in the pre-consultation agreement and visited the site on October 1, 2021 to complete a preliminary assessment. The property was largely clear of woody vegetation with only a few isolated trees present along the perimeter of the property. A list of vegetative species present on the property was compiled and a preliminary classification of the community was completed using ELC protocols, noting the dominant vegetation form and soil types. The property was classified as a Goldenrod Forb Meadow Type (MEFM1-1) with moist silty clay soil. The vegetation on the whole property was dominated by Goldenrod and Asters with other species common in disturbed areas, such as Yarrow, Indian Hemp, Knapweed, Thistle, Wild Grape, and Vetch.



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A small depression on the east side of the property along Black Creek Road included more wetland species such as sedges, Soft Rush, and some regeneration of Meadowsweet and Dogwood shrubs. However, the pocket was very small (<0.1 hectares) and did not appear to have any surface connection to the roadside ditch leading to Black Creek. The pocket resulted from alterations to grade and the use of heavy equipment allowing moist conditions to develop on the poorly drained soils. Consequently, the area was not identified as a potential wetland and no other potential unevaluated wetlands or watercourses were identified on the subject property. To the west, the property is bound by Netherby Road, which has provided a linear vector for the spread of invasive Phragmites along the perimeter.

There were no other features identified on the subject property and based on this preliminary evaluation, there is no habitat available which would likely support any Species at Risk. It is noted that the roadside ditch along Black Creek Road conveys surface water to the MTO ditch along the north side of the QEW and outlets into Black Creek, east of the subject property.

Following the preliminary site assessment, EES requested an additional site visit with Regional staff to review the current conditions of the site and revise the scoping requirements for an EIS as appropriate to reflect the changes that have occurred since April 2020. The Region confirmed that the current conditions do not support any natural heritage features (woodlands, wetlands, significant wildlife habitat etc.) and agreed there was no watercourse present on the property. Based on these current conditions, Regional staff have agreed to waive the requirements for an EIS for the proposed development (Appendix).

In lieu of an EIS, Regional staff recommended that best management practices be implemented during and prior to construction to ensure no negative impacts to the natural heritage system and adherence to other applicable legislation. EES provides the following recommendations to ensure no negative impacts to the natural heritage system and compliance with all applicable legislation:

- ***Endangered Species Act, 2007; Fish and Wildlife Conservation Act, 1997; Migratory Birds Convention Act, 1994:*** The Endangered Species Act protects all species listed as Threatened or Endangered from being harmed or killed and prohibits destruction of their habitat. The FWCA and MBCA both prohibit harm to nests or eggs of any wild bird. Although there does not appear to be significant habitat for SAR birds on the subject property, it is recommended that any vegetation removal be completed outside of the bird breeding window (between March 15 and September 15) to avoid destruction of nests of migratory birds. If vegetation removal is proposed between March 15 and September 15, a nesting survey may be completed to ensure no active nests are damaged.
- ***Fisheries Act, 1985:*** Prohibits the deposition of deleterious substances into water containing fish, or in any place where the substance may enter fish habitat. It is recommended that prior to construction, a silt fence barrier be properly installed (OPSD 219.110) along Black Creek Road and the southwestern portion of the property along the QEW. The fencing should be



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regularly inspected and maintained throughout the duration of construction to prevent sediment and other substances from being conveyed through the roadside ditch to Black Creek.

- **Stormwater management:** Appropriate quantity and quality controls should be put in place to ensure no negative impact to fish habitat in Black Creek or the associated Provincially Significant Wetland (PSW). The Region has requested that the SWM Report ensures the development meets the Enhanced standard water treatment rule to protect Type 1 Critical Fish habitat in Black Creek.
- **Other mitigation measures:** To encourage connectivity and promote natural cover, a streetscaping plan should be prepared for the proposed development which incorporates native species where possible. Light pollution should be minimized to protect migratory birds by ensuring all exterior lighting, including streetlights, are shielded and installed so that light is directed downward.

As noted by the Region of Niagara, the proposed development is not located within or adjacent to any natural features and does not interfere with any regulated buffer zones. As such, the development does not require environmental studies be completed under the planning act. However, the recommendations provided above will ensure that development conforms to applicable legislation and that best management practices are employed to protect wildlife and the natural heritage system.

We trust that the above will satisfy Regional recommendation to ensure compliance with applicable legislation. If you have any questions regarding the above information, please do not hesitate to contact us.

Sincerely,



Anne McDonald, B.Sc., EPT
Ecologist



Appendix



Anne McDonald

From: Boudens, Adam <Adam.Boudens@niagararegion.ca>
Sent: October 14, 2021 9:29 AM
To: Anne McDonald; Lampman, Cara
Cc: 'Matt Kernahan'; Morrison, Alexander; Jessica Abrahamse (jabrahamse@npca.ca)
Subject: RE: 0-17482 Black Creek Rd: Site visit to review EIS scoping checklist

Follow Up Flag: Follow up
Flag Status: Completed

Hi Anne,

Thanks for arranging the site visit last week. As discussed on-site, as the property has been cleared of vegetation with only new growth remaining on the subject lands, Regional Environmental Planning staff are supportive of waiving the requirement to complete an Environmental Impact Study. Staff instead recommend that best management practices be implemented during and prior to construction to ensure no negative impacts to the natural heritage system and adherence to other applicable legislation (i.e., Migratory Birds Act, Endangered Species Act, etc.).

Please let me know if you have any questions.

Thanks,
Adam

Adam Boudens
Senior Environmental Planner/Ecologist

Planning and Development Services, Niagara Region
1815 Sir Isaac Brock Way, P.O. Box 1042
Thorold, ON L2V 4T7
Phone: **905-980-6000 ext. 3770** Toll-free: 1-800-263-7215
Adam.Boudens@niagararegion.ca

From: Anne McDonald <amcdonald@eesn.ca>
Sent: Sunday, October 3, 2021 7:50 PM
To: Boudens, Adam <Adam.Boudens@niagararegion.ca>; Lampman, Cara <Cara.Lampman@niagararegion.ca>
Cc: 'Matt Kernahan' <matt@ucc.com>
Subject: RE: 0-17482 Black Creek Rd: Site visit to review EIS scoping checklist

CAUTION EXTERNAL EMAIL: This email originated from outside of the Niagara Region email system. Use caution when clicking links or opening attachments unless you recognize the sender and know the content is safe.

Hi Adam,

We can meet on Black Creek Road where it intersects with Lawrence Avenue.

See you Tuesday at 10am.

Anne

From: Boudens, Adam <Adam.Boudens@niagararegion.ca>
Sent: September 27, 2021 12:39 PM
To: Anne McDonald <amcdonald@eesn.ca>; Lampman, Cara <Cara.Lampman@niagararegion.ca>
Cc: 'Matt Kernahan' <matt@ucc.com>
Subject: RE: 0-17482 Black Creek Rd: Site visit to review EIS scoping checklist

Hi Anne,

October 5th at 10 am works for me.

Let me know where you would like to meet.

See you then,
Adam

Adam Boudens
Senior Environmental Planner/Ecologist

Planning and Development Services, Niagara Region
1815 Sir Isaac Brock Way, P.O. Box 1042
Thorold, ON L2V 4T7
Phone: **905-980-6000 ext. 3770** Toll-free: 1-800-263-7215
Adam.Boudens@niagararegion.ca

From: Anne McDonald <amcdonald@eesn.ca>
Sent: Monday, September 27, 2021 11:57 AM
To: Boudens, Adam <Adam.Boudens@niagararegion.ca>; Lampman, Cara <Cara.Lampman@niagararegion.ca>
Cc: 'Matt Kernahan' <matt@ucc.com>
Subject: RE: 0-17482 Black Creek Rd: Site visit to review EIS scoping checklist

CAUTION: This email originated from outside of the Niagara Region email system. Use caution when clicking links or opening attachments unless you recognize the sender and know the content is safe.

Hi Adam,

Do any of the following times work for you?

Oct 5 – 10am or 2pm

Oct 6 – 11am

Oct 7 – 1:30pm

Anne

From: Boudens, Adam <Adam.Boudens@niagararegion.ca>
Sent: September 27, 2021 11:45 AM
To: Anne McDonald <amcdonald@eesn.ca>; Lampman, Cara <Cara.Lampman@niagararegion.ca>
Cc: 'Matt Kernahan' <matt@ucc.com>
Subject: RE: 0-17482 Black Creek Rd: Site visit to review EIS scoping checklist

Hi Anne,

I'd be happy to meet with you on-site to review EIS scoping requirements.

My availability this week is extremely limited so I suggest we find a date next week that works. I'm currently available from Tuesday – Friday (October 5-8) if you want to suggest a few dates/times that work for you we can go from there.

Thanks,
Adam

Adam Boudens

Senior Environmental Planner/Ecologist

Planning and Development Services, Niagara Region
1815 Sir Isaac Brock Way, P.O. Box 1042
Thorold, ON L2V 4T7
Phone: **905-980-6000 ext. 3770** Toll-free: 1-800-263-7215
Adam.Boudens@niagararegion.ca

From: Anne McDonald <amcdonald@eesn.ca>
Sent: Monday, September 27, 2021 11:21 AM
To: Lampman, Cara <Cara.Lampman@niagararegion.ca>
Cc: 'Matt Kernahan' <matt@ucc.com>; Boudens, Adam <Adam.Boudens@niagararegion.ca>
Subject: 0-17482 Black Creek Rd: Site visit to review EIS scoping checklist

CAUTION: This email originated from outside of the Niagara Region email system. Use caution when clicking links or opening attachments unless you recognize the sender and know the content is safe.

Good morning,

I would like to request a site visit with Regional Planning staff to the review the property located at 0-17482 Black Creek Rd in Fort Erie. I understand a pre-consultation meeting was held on Aug 12, and an EIS Scoping checklist was provided based on a previous site visit (April 2020) and existing air photos. Recent review of the site indicates that the current conditions of the site may not reflect what is shown in the air photos, and we would like to meet with staff on site to review the items in the EIS scoping checklist before moving forward with preparing a Terms of Reference.

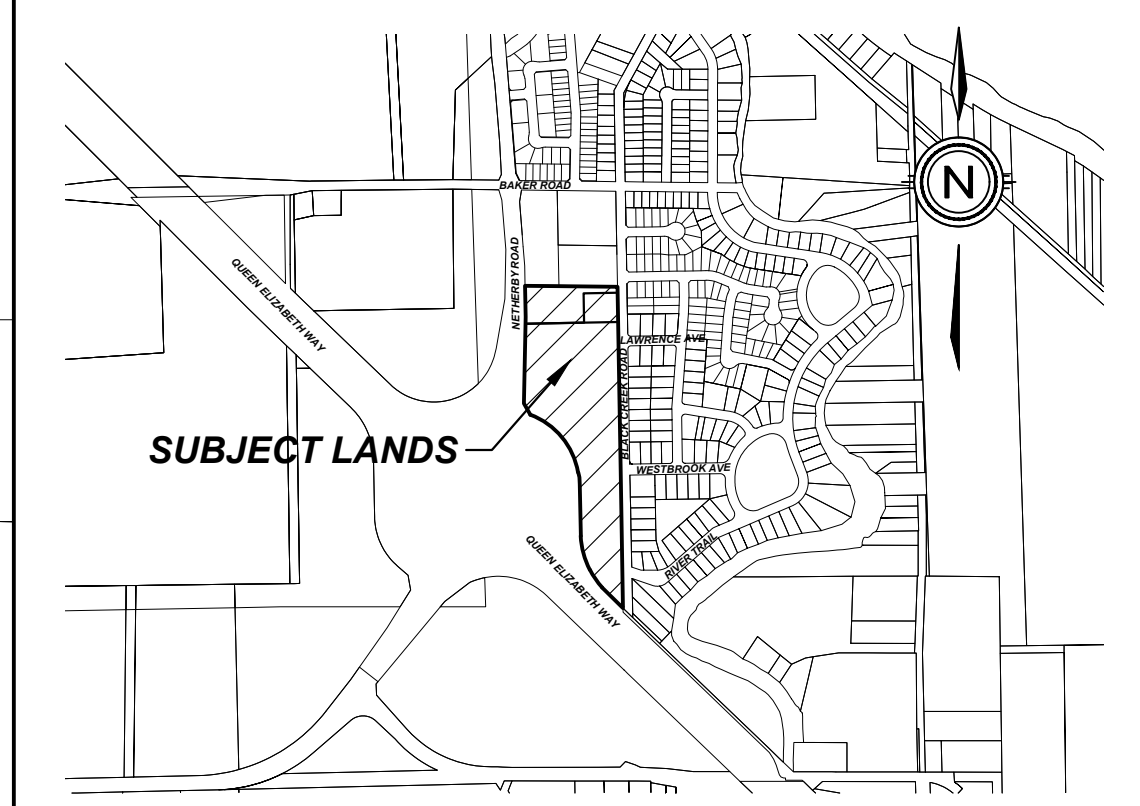
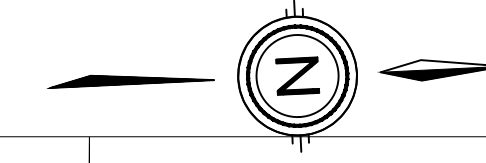
Please let me know your earliest availability to meet on site and review existing conditions.

Thank you,
Anne McDonald

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SPRING CREEK ESTATES SUBDIVISION

TOWN OF FORT ERIE



KEY PLAN
N.T.S.

DRAFT PLAN OF SUBDIVISION

LEGAL DESCRIPTION

PART OF LOT 19
BROKEN FRONT CONCESSION AT
SOUTHEAST ANGLE
GEOGRAPHIC TOWNSHIP OF WILLOUGHBY,
COUNTY OF WELLAND
NOW IN THE TOWN OF FORT ERIE
OWNER'S CERTIFICATE

BEING THE REGISTERED OWNER, I HEREBY AUTHORIZE UPPER CANADA CONSULTANTS TO PREPARE AND SUBMIT THIS DRAFT PLAN OF SUBDIVISION TO THE TOWN OF FORT ERIE FOR APPROVAL.

5009823 Ontario Inc. (Mike Colosimo) DATE

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THE BOUNDARIES OF THE LANDS TO BE SUBDIVIDED ARE CORRECTLY SHOWN.

J.D. BARNES LTD. DATE

REQUIREMENTS OF SECTION 51(17) OF THE PLANNING ACT

- a) SEE PLAN
- b) SEE PLAN
- c) SEE PLAN
- d) SEE PLAN
- e) SEE PLAN
- f) SEE PLAN
- g) SEE PLAN
- h) MUNICIPAL WATER
- i) CLAY LOAM
- j) SEE PLAN
- k) FULL SERVICE
- l) SEE PLAN

LAND USE SCHEDULE

| LAND USE | LOT/BLOCK | # OF UNITS | AREA(ha) | AREA(%) |
|---------------------------|-------------|------------|---------------|---------------|
| SINGLE LOT RESIDENTIAL | LOT 1-54 | 54 | 2.4864 | 28.65 |
| SEMI-DETACHED RESIDENTIAL | BLOCK 53-60 | 16 | 0.6622 | 7.63 |
| STREET TOWNHOUSE | BLOCK 61-73 | 59 | 1.4551 | 16.77 |
| BLOCK TOWNHOUSE | BLOCK 74 | 16 | 0.4343 | 5.00 |
| APARTMENT/STACKED TOWNS | BLOCK 75 | 80 | 1.0377 | 11.95 |
| SWM POND | BLOCK 76 | | 1.0086 | 11.62 |
| ROADWAY | | | 1.5828 | 18.24 |
| 0.3m RESERVE | BLOCK 77-81 | | 0.0093 | 0.10 |
| TOTAL | | 225 | 8.6768 | 100.00 |

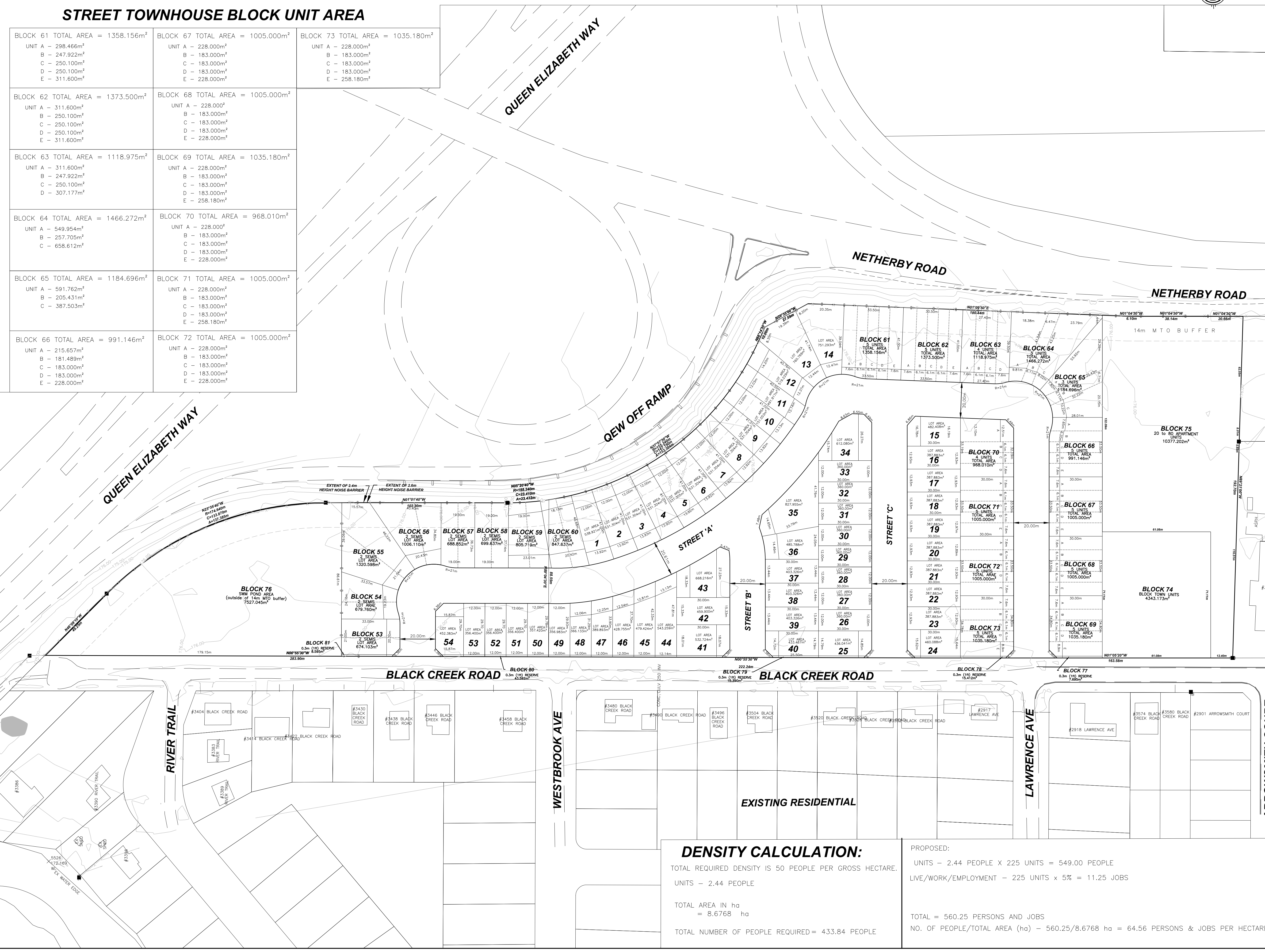
DEVELOPABLE AREA: 8.6768 ha
DEVELOPABLE DENSITY: 25.93 units/ha

| # | REVISION | DATE | INIT |
|---|-----------------------|------------|-------|
| 0 | CIRCULATED FOR REVIEW | 2021-10-19 | MK/AV |



| | | |
|----------------------------------|----------|------------------|
| DRAWING TITLE | DRAFTING | MK/AV |
| DRAFT PLAN OF SUBDIVISION | DATE | OCTOBER 19, 2021 |
| | PRINTED | OCTOBER 19, 2021 |
| | SCALE | 1:1000 |
| DWG No. | REV | |
| 20174-DP | 0 | |

| STREET TOWNHOUSE BLOCK UNIT AREA | |
|--|--|
| BLOCK 61 TOTAL AREA = 1358.156m ² UNIT A - 298.466m ² B - 247.922m ² C - 250.100m ² D - 250.100m ² E - 311.600m ² | BLOCK 67 TOTAL AREA = 1005.000m ² UNIT A - 228.000m ² B - 183.000m ² C - 183.000m ² D - 183.000m ² E - 228.000m ² |
| BLOCK 62 TOTAL AREA = 1373.500m ² UNIT A - 311.600m ² B - 250.100m ² C - 250.100m ² D - 250.100m ² E - 311.600m ² | BLOCK 68 TOTAL AREA = 1005.000m ² UNIT A - 228.000m ² B - 183.000m ² C - 183.000m ² D - 183.000m ² E - 228.000m ² |
| BLOCK 63 TOTAL AREA = 1118.975m ² UNIT A - 311.600m ² B - 247.922m ² C - 250.100m ² D - 307.177m ² | BLOCK 69 TOTAL AREA = 1035.180m ² UNIT A - 228.000m ² B - 183.000m ² C - 183.000m ² D - 183.000m ² E - 258.180m ² |
| BLOCK 64 TOTAL AREA = 1466.272m ² UNIT A - 549.954m ² B - 257.705m ² C - 658.612m ² | BLOCK 70 TOTAL AREA = 968.010m ² UNIT A - 228.000m ² B - 183.000m ² C - 183.000m ² D - 183.000m ² E - 228.000m ² |
| BLOCK 65 TOTAL AREA = 1184.696m ² UNIT A - 591.762m ² B - 205.431m ² C - 387.503m ² | BLOCK 71 TOTAL AREA = 1005.000m ² UNIT A - 228.000m ² B - 183.000m ² C - 183.000m ² D - 183.000m ² E - 228.000m ² |
| BLOCK 66 TOTAL AREA = 991.146m ² UNIT A - 215.657m ² B - 181.489m ² C - 183.000m ² D - 183.000m ² E - 228.000m ² | BLOCK 72 TOTAL AREA = 1005.000m ² UNIT A - 228.000m ² B - 183.000m ² C - 183.000m ² D - 183.000m ² E - 228.000m ² |



DENSITY CALCULATION:
TOTAL REQUIRED DENSITY IS 50 PEOPLE PER GROSS HECTARE.
UNITS - 2.44 PEOPLE
TOTAL AREA IN ha = 8.6768 ha
TOTAL NUMBER OF PEOPLE REQUIRED = 433.84 PEOPLE

PROPOSED:
UNITS - 2.44 PEOPLE X 225 UNITS = 549.00 PEOPLE
LIVE/WORK/EMPLOYMENT - 225 UNITS x 5% = 11.25 JOBS
TOTAL = 560.25 PERSONS AND JOBS
NO. OF PEOPLE/TOTAL AREA (ha) - 560.25/8.6768 ha = 64.56 PERSONS & JOBS PER HECTARE

EXISTING RESIDENTIAL