

## Report to Planning and Environment Committee

**To:** Chair and Members  
Planning & Environment Committee  
**From:** George Kotsifas, P. Eng  
Managing Director, Development & Compliance Services and  
Chief Building Official  
**Subject:** Application By: Sifton Properties Limited  
132, 146 & 184 Exeter Road  
Stormwater Management (SWM) Facility  
Land Acquisition Agreement  
**Meeting on:** February 19, 2019

## Recommendation

That, on the recommendation of the Manager, Development Planning, the following actions be taken with respect to entering into an Agreement between The Corporation of the City of London and Sifton Properties Limited for the subdivision of land over Part of Lots 34 and 35, Concession 2, (Geographic Township of Westminster), City of London, County of Middlesex, situated on the north side of Exeter Road, between White Oak Road and Wonderland Road South, municipally known as 132, 146 & 184 Exeter Road:

- (a) the attached Agreement between The Corporation of the City of London and Sifton Properties Limited (39T-15501) attached as Appendix “A”, **BE APPROVED**;
- (b) the financing for this project **BE APPROVED** as set out in the Source of Financing Report attached as Appendix “B”; and
- (c) the Mayor and the City Clerk **BE AUTHORIZED** to execute this Agreement, any amending agreements and all documents required to fulfil its conditions.

## Background

The lands which are the subject of this agreement are within a Draft Approved Plan of Subdivision located at 132, 146 & 184 Exeter Road; north side of Exeter Road, between White Oak Road and Wonderland Road South, having a total area of approximately 48.208 hectares (119 acres).

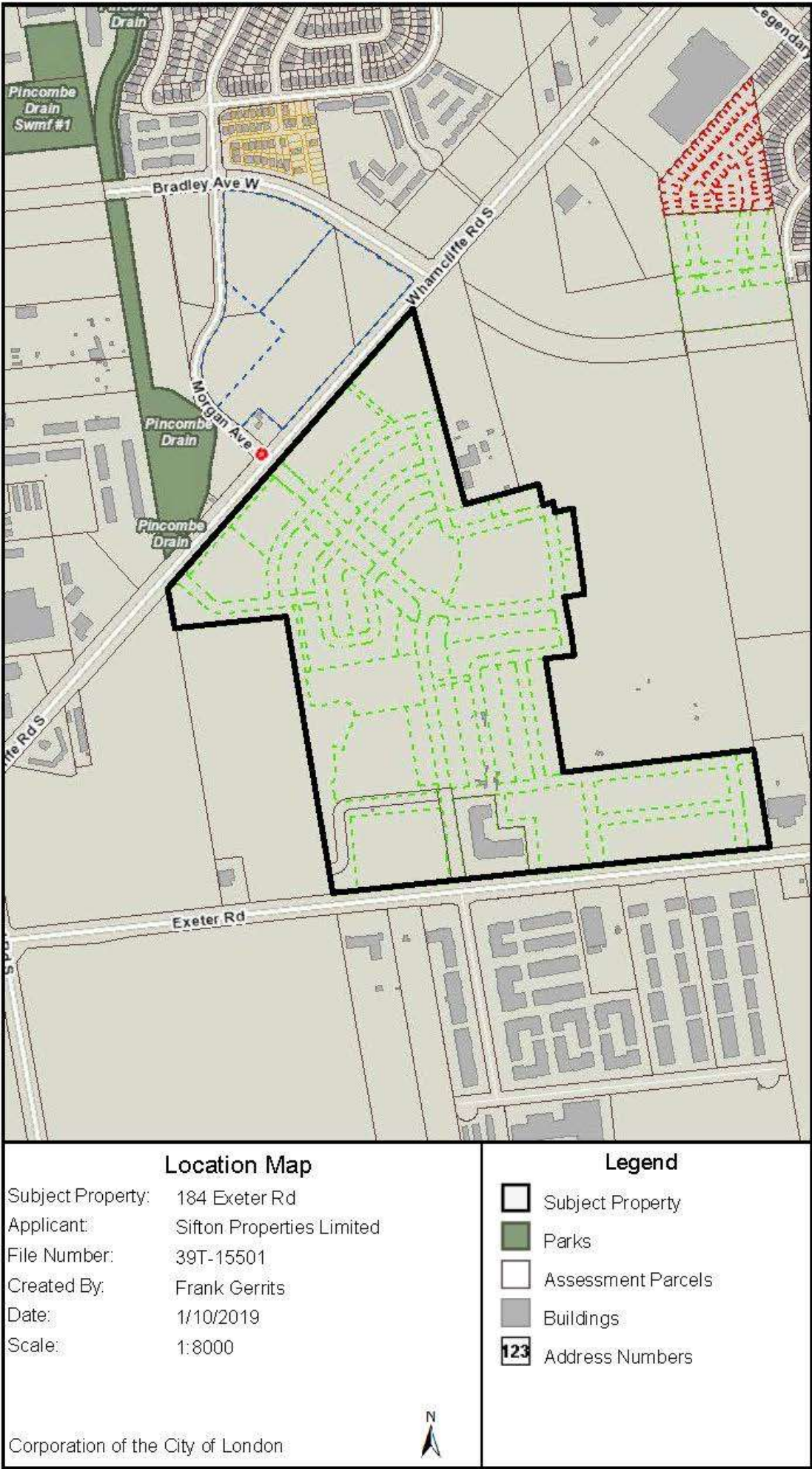
The original Draft approval was granted on January 27, 2017 by the Approval Authority. The draft plan consists of 26 low density blocks, 11 medium density blocks, 1 school block, 2 park blocks, 4 multi-use pathway blocks, 1 open space block, 1 stormwater management facility block, 1 future stormwater management facility or residential block, 1 light industrial block, 2 future road blocks, and several 0.3 m reserves and road widening, all served by 5 new secondary collector roads, and 11 new local streets.

This first Phase of the subdivision and special provisions for the subdivision agreement pertain to the stormwater management (SWM) pond, known as the Pincombe Drain SWM Facility No. 3 (Pincombe Drain SWMF3). Advancing a subdivision agreement for the SWMF will facilitate the transfer of the SWM Block to the City which will allow the tendering process to proceed. This subdivision agreement will only be registered against the SWM Facility Block of the draft approved plan.

Development Services has reviewed these special provisions with the Owner who is in agreement with them.

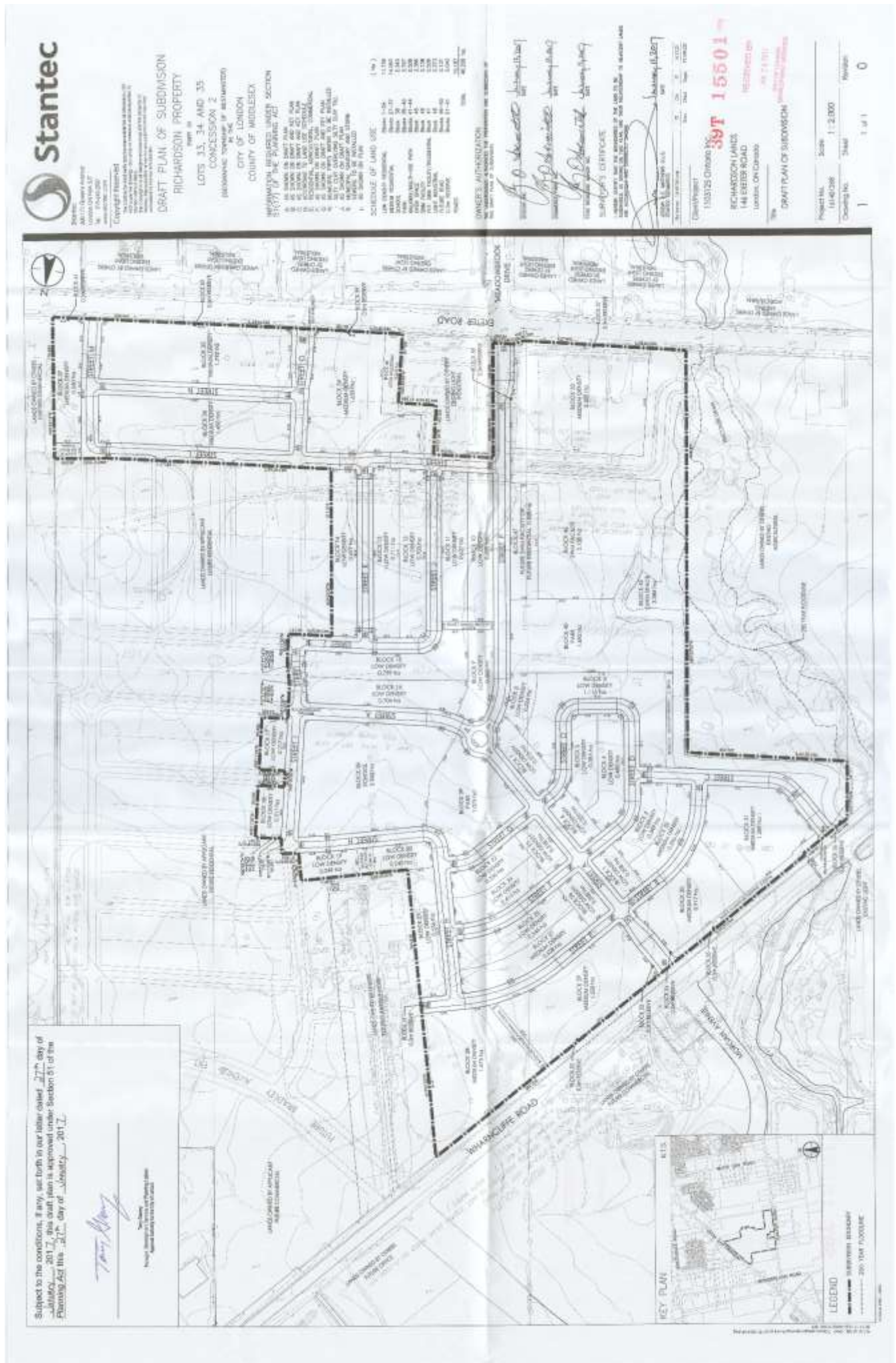
This report has been prepared in consultation with the City's Solicitors Office.

Location Map

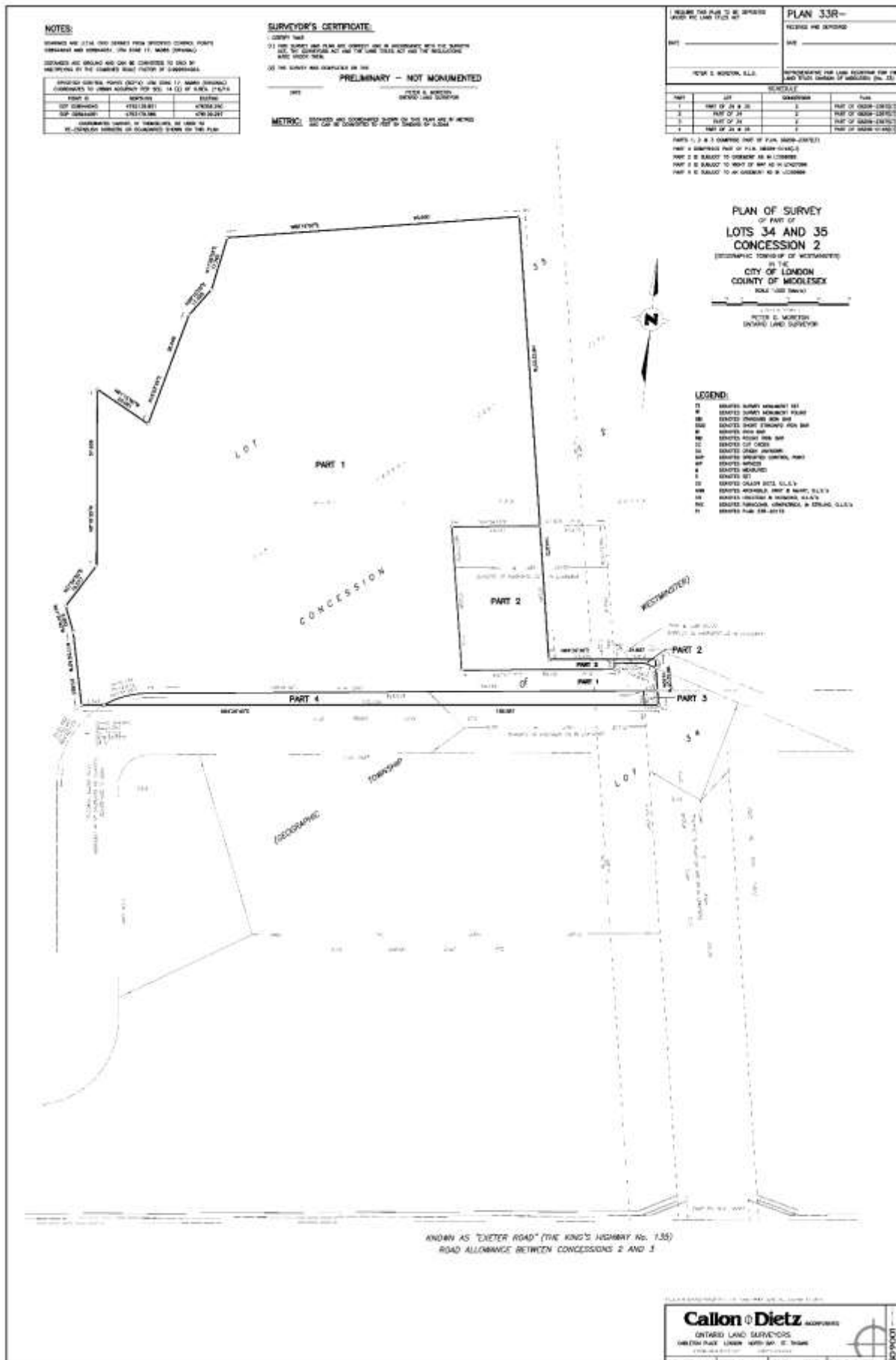




# Draft Plan of Subdivision



## SWM Pond Lands



Prepared by:	<div>Frank Gerrits Development Documentation Coordinator, Development Services</div>
Recommended by:	<div>Lou Pompilii, MCIP RPP Manager, Development Planning (Subdivision)</div>
Reviewed by:	<div>Matt Feldberg Manager, Development Services (Subdivision)</div>
Submitted by:	<div>George Kotsifas, P.ENG Managing Director, Development and Compliance Services and Chief Building Official</div>
Note: The opinions contained herein are offered by a person or persons qualified to provide expert opinion. Further detail with respect to qualifications can be obtained from Development Services.	

**Appendix A – Special Provisions**

THIS AGREEMENT made in triplicate this \_\_\_\_\_ day of February, 2019.

BETWEEN:

**THE CORPORATION OF THE CITY OF LONDON**  
(hereinafter called the “City”)

OF THE FIRST PART

AND

**SIFTON PROPERTIES LIMITED**  
(hereinafter called “the Owner”)

OF THE SECOND PART

WHEREAS the Owner represents that it is seized of those lands situate in the City of London, (formerly the Township of London) in the County of Middlesex, more particularly described on **Schedule “A”** attached, (the Lands), and desires to obtain the approval of the City of London for the Draft Plan of Subdivision (39T-15501) of the said Lands.

AND WHEREAS approval of this Plan of Subdivision would be premature, would not be in the public interest, and would not be lands for which municipal services are or would be available unless assurances were given by the Owner that the matters, services, works and things referred to in this Agreement were done in the manner and in the order set out in this Agreement;

AND WHEREAS the Approval Authority has required as a condition precedent to his approval of the said Plan of Subdivision that the Owner enter into this Agreement with the City;

AND WHEREAS the City proposes to construct a Stormwater Management Facility on the Land;

NOW THEREFORE THIS AGREEMENT WITNESSETH that for other valuable consideration and the sum of Two Dollars (\$2.00) of lawful money of Canada, paid by the City to the Owner (the receipt whereof is hereby acknowledged) the parties hereto covenant and agree each with the other to comply with, keep, perform and be bound by each and every term, condition and covenant herein set out to the extent that the same are expressed to be respectively binding upon them, and the same shall ensure to the benefits of and shall be binding upon their respective heirs, executors, administrators, successors and assigns.

**1. DEFINITIONS**

The words and phrases defined in this paragraph shall for all purposes of this Agreement and of any subsequent agreement supplemental hereto have the meanings herein specified unless the context expressly or by necessary implication otherwise requires.

- (a) "Director - Development Finance" means that person who from time to time, is employed by the City as its Director of Development Finance.
- (b) "City Engineer" means that person who, from time to time, is employed by the City as its Engineer.
- (c) "CSRF" or "Fund" means the City Services Reserve Fund.
- (d) "Land" means the land described on Schedule "A".
- (e) "Planning Act" means the Planning Act R.S.O. 1990, c. P.13, as amended;
- (f) "SWM" means Stormwater Management; and
- (g) "SWM Facility Works" means those acts necessary for the construction of the Pincombe Drain SWM Facility No. 3.

## 2. LANDS FOR PINCOMBE DRAIN SWM FACILITY 3

Upon registration of this Agreement, the Owner shall transfer Parts 1, 2, 3 and 4 on Plan 33R-                     to the City, free and clear of all encumbrances, all at no cost to the City and all to the satisfaction of the City Engineer. This land dedication is eligible for reimbursement from the CSRF as described in Section 3(a) of this Agreement to be paid in accordance with Section 3(b).

## 3. CLAIMS AGAINST THE CITY SERVICES RESERVE FUND

Following the transfer of the Land, the Owner may submit a claim to the City for the future reimbursement of the SWM facility land value. The claim shall contain confirmation of the transfer of Land and the final land value, refined from the estimate contained in this Agreement.

- (a) The anticipated reimbursements from the Fund are:
  - i. for lands dedicated to the City for the construction of Pincombe Drain SWM Facility No. 3, (being Part of Part 1 and all of Parts 2 and 3, on Reference Plan 33R-                    ) the estimated cost of which is \$604,478.00 Dollars (CDN), which is comprised of 1.957 hectares (4.835 acres) of Developable Land at \$308,880/hectare (\$125,000/acre), plus applicable taxes.
  - ii. for lands dedicated to the City for the construction of Pincombe Drain SWM Facility No. 3, (being Part of Part 1 and all of Part 4, on Reference Plan 33R-                    ) the estimated cost of which is \$2,446.00 Dollars (CDN), which is comprised of 0.18 hectares (0.44 acres) of Developable Land at \$13,590/hectare (\$125,000/acre), plus applicable taxes.
- (b) On a quarterly basis following the execution of this Agreement, the City will review the building permits issued and associated Development Charge payments received from new development within the catchment area. A running total will be maintained by the City. Once Development Charge payments totaling \$8.026 million have been received as a result of new development within the stormwater catchment area, as shown on **Schedule "B" and "C"** of this Agreement, the City will reimburse the Owner for the land cost in the quarter following achievement of the \$8.026 million threshold.



**4. EASEMENTS**

The Owner shall grant to the City a Multi-purpose easement for temporary access across lands owned by the Owner that are adjacent to the Land in favor of the City, its consultants, contractors and employees, for the purpose of constructing the SWM Facility Works and completing any peripheral grading work on said lands. The temporary access shall run until the project is complete.

**5. RELEASE**

Subject to the terms hereof, the Owner releases the City of and from all claims, suits, demands, actions, causes of action, and damages accruing to the Owner resulting directly or indirectly from the use of the Owner's lands, in relation to the City works outlined herein; save and except for any and all liability, loss, claims, demands and costs caused by or resulting from the actions or omissions of the City, its consultants, contractors, employees and/or agents.

**6. INCONTESTABILITY**

The Owner will not call into question directly or indirectly in any proceeding whatsoever in law or in equity or before any administrative or other tribunal the right of the City to enter into this Agreement and to enforce each and every term, covenant and condition thereof and this provision may be pleaded by the City in any such action or proceeding as a complete and conclusive estoppel of any denial of such right.

**7. REGISTRATION DOCUMENTS**

The City agrees to register the transfers of Parts 1, 2, 3 and 4 on Plan 33R-           forthwith upon the delivery thereof to the City and authorize the claims to the CSRF as specified in Section 3 of this Agreement.

**8. GENERAL PROVISIONS**

- (a) The parties hereby do authorize, empower and instruct their solicitors to enter into an appropriate escrow arrangement to facilitate the completion of those parts of this Agreement to be completed upon registration of this Agreement and those to be completed thereafter. In default of agreement between the parties' solicitors as to the terms such appropriate escrow arrangement; the Documentation Registration published by the Law Society of Upper Canada on its website shall be employed.
- (b) The division of this Agreement into sections and headings (or paragraphs) herein are for convenience or reference only and are not be used in the interpretation of the provisions related to them.
- (c) The Owner and its successors shall not assign this Agreement in whole or in part without the written consent of the City, which consent shall not be unreasonably withheld.
- (d) Subject to the provisions herein, the Owner shall be subject to all By-laws of the City. In the event of a conflict between the provisions of this Agreement and the provision of any By-law of the City, the provisions of the By-law shall prevail.
- (e) All of the provisions of this Agreement are, and are to be construed as, covenants and agreements as though the words importing such covenants and agreements were used in each separate clause hereof. Should any provision of this Agreement be adjudged unlawful or not enforceable, it shall be considered separate and severable from the agreement and its



(f) This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors and assigns, and that the Agreement and the covenants herein contained shall run with and burden the Lands.

(g) Any notices required or permitted to be given pursuant to the terms of this Agreement shall be given in writing sent by prepaid registered post, addressed in the case of notice given by the City to: Sifton Properties Limited, 1295 Riverbend Road, Suite 300, London, Ontario N6K 0G2 and in the case of notice given by the Owner, addressed to: The City Clerk, P.O. 5035, London, Ontario N6A 4L9.

IN THIS AGREEMENT the singular shall include the plural and the neuter shall include the masculine or feminine as the context may require, and words importing a person shall include corporation, and if there is more than one Owner the covenants of such Owner shall be joint and several.

SIGNED, SEALED AND DELIVERED)

In the presence of

Catharine Saunders, City Clerk

I/we have the authority to bind the Corporation.

**SCHEDULE "A"**

This is Schedule "A" to the Subdivision Agreement dated this \_\_\_\_ day of February, 2019, between The Corporation of the City of London and Sifton Properties Limited to which it is attached and forms a part.

(Pincombe Drain SWM Facility No. 3)

ALL AND SINGULAR that certain parcel or tract of land and premises, situate, lying, and being Part of Lots 34 and 35, Concession 2, Designated as Parts 1, 2 3 and 4 Plan 33R-\_\_\_\_ (geographic Township of Westminster), now in the City of London, County of Middlesex.

SCHEDULE “B”

Pincombe 3 SWMF Land Acquisition Calculations

1. Land Valuation
- as per By-law C.P. – 1496-244 s. 25 Schedule 8, 4.7 (“Development Charges By-law”)

Reference Plan 33R - xxxxxx	Total Area (hectares)	DC By-law Classification	Rate (\$ per hectare)	Valuation
Parts 1,2,3,4	1.957	Developable	\$ 308,880	\$ 604,478
	0.18	Non-Developable	\$ 13,590	\$ 2,446

\$ 606,924

2. 25% Payment Trigger
- As per “just-in-time” stormwater management facility design and construction policy, Council endorsed July, 2013.

39T-15501

ID Label	Category	Area (ha)	Yields	CSRF DC Rate	Estimated Revenue
Blocks 1-16, 19-26 <sup>1</sup>	LDR	11.305	295	\$ 29,373	\$ 8,665,035
Blocks 27 & 32 <sup>2</sup>	MDR	0.924	36	\$ 22,018	\$ 792,648
Blocks 28-31 <sup>3</sup>	MDR	5.439	407	\$ 22,018	\$ 8,961,326
Block 33 <sup>4</sup>	MDR	2.285	228	\$ 22,018	\$ 5,020,104

LDR Total \$ 8,665,035

MDR Total \$ 23,439,113

Grand Total \$ 32,104,148

25% \$ 8,026,000

1 LDR yields are a manual count, completed using the lotting pattern from the approved Draft Plan of Subdivision

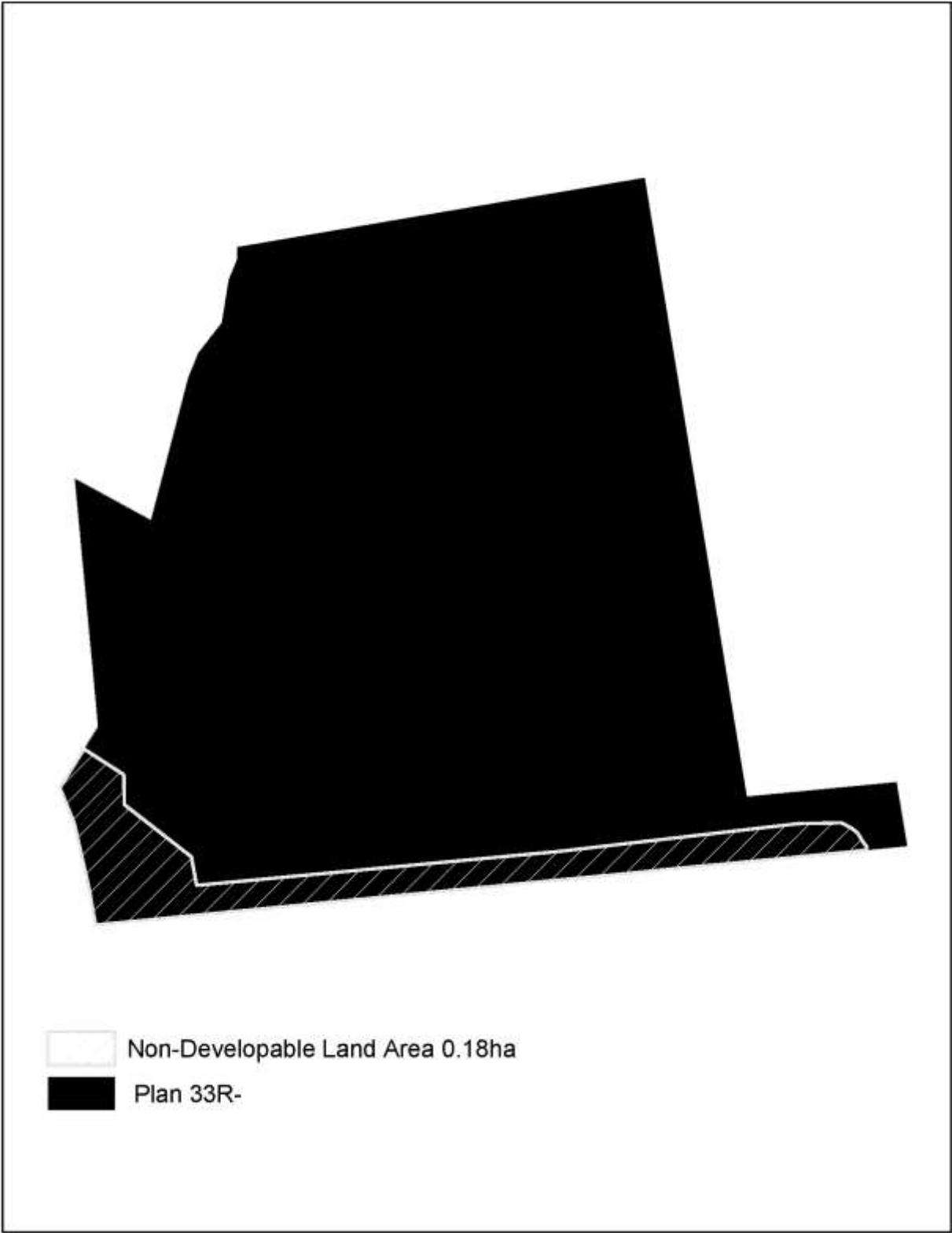
2 These blocks yields were calculated on a net uph density factor of 40

3 These blocks yields were calculated on a net uph density factor of 75 based on zoning special provision

4 This block yield was calculated on a net uph density factor of 100 based on zoning special provision

**SCHEDULE “C”**

**LAND VALUATION MAPPING**





Appendix B – Source of Finance

Chair and Members  
Planning & Environment Committee

#19010  
February 19, 2019  
(39T-15501)

RE: Stormwater Management Facility (SWM) Land Acquisition Agreement  
Sifton Properties Limited (Work Order #2456017)  
Capital Budget Project No. ESSWM-PD3 - SWM Facility - Pincombe Drain No. 3  
132,146 & 184 Exeter Road

**FINANCE & CORPORATE SERVICES REPORT ON THE SOURCES OF FINANCING:**  
Finance & Corporate Services confirms that the cost of this purchase can be accommodated within the financing available for it in the Capital Works Budget and that, subject to the adoption of the recommendations of the Managing Director, Development & Compliance Services & Chief Building Official, the detailed source of financing for this purchase is:

<u>ESTIMATED EXPENDITURES</u>	<u>Approved Budget</u>	<u>Revised Budget</u>	<u>Committed To Date</u>	<u>This Submission</u>	<u>Balance For Future Work</u>
Engineering	\$475,999	\$475,999	\$475,999		\$0
Land Purchase	600,000	626,219		626,219	0
Construction	1,491,001	1,464,782			1,464,782
<b>NET ESTIMATED EXPENDITURES</b>	<b><u>\$2,567,000</u></b>	<b><u>\$2,567,000</u></b>	<b><u>\$475,999</u></b>	<b><u>\$626,219</u></b> 1)	<b><u>\$1,464,782</u></b>
<b>SOURCE OF FINANCING</b>					
Drawdown from City Services - Mjr. SWM Reserve Fund (Development Charges)	2) \$2,091,001	\$2,091,001	\$475,999	\$626,219	\$985,783
Debtenture By-law No. W-5595-40 (Serviced through City Services Mjr. SWM Reserve Fund (Development Charges))	2) 475,999	475,999			475,999
<b>TOTAL FINANCING</b>	<b><u>\$2,567,000</u></b>	<b><u>\$2,567,000</u></b>	<b><u>\$475,999</u></b>	<b><u>\$626,219</u></b>	<b><u>\$1,464,782</u></b>

- 1) Financial Note:  
Purchase Cost \$606,924  
Add: Land Transfer Tax 8,613  
Add: HST @13% 78,900  
Less: HST Rebate (68,218)  
Total Purchase Cost \$626,219
- 2) Development charges have been utilized in accordance with the underlying legislation and the Development Charges Background Studies completed in 2014.

JG

Jason Davies  
Manager of Financial Planning & Policy