

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: Rembrandt Meadowlilly Inc.
Meadowlilly Subdivision
39T-00517 – Subdivision Agreement Amendment

Meeting on: April 27, 2020

Recommendation

That, on the recommendation of the Director, Development Services, the following actions be taken with respect to the Subdivision Agreement between The Corporation of the City of London and Rembrandt Meadowlilly Inc., for the subdivision of land over Registered Plan 33M-603, located on the north side of Commissioners Road East, east of Highbury Avenue South, across from Chelton Road:

- (a) the attached Amending Agreement between The Corporation of the City of London and Rembrandt Meadowlilly Inc. **BE APPROVED** for the Meadowlilly Subdivision (Registered Plan 33M-603); and,
- (b) the Mayor and the City Clerk **BE AUTHORIZED** to execute this Agreement, any further amending agreements and all documents required to fulfil its conditions.

Purpose

A Subdivision Agreement for the Meadowlilly Subdivision (Plan No. 33M-603) was entered into and registered in October of 2006. An Assignment Agreement was entered into with Rembrandt Meadowlilly Inc. in 2015, and an Amending Agreement (No. 1) was subsequently entered into and registered in 2017. This Amending Agreement (No. 2) is being brought forward as a result of revisions to the engineering drawings, as well as completion of several reports that have been accepted in support of the revised drawings pertaining to the provision of retaining walls, noise attenuation measures, warning clauses, and implementation of recommendations from a recently completed geotechnical report.

Background

The Meadowlilly Subdivision is located on the north side of Commissioners Road East, east of Highbury Avenue South, west of Jackson Road, and adjacent the City Wide Sports Park. The residential subdivision consisting of five (5) multi-family, medium density and low density cluster housing blocks, two (2) open space blocks, three (3) access blocks and one (1) road widening block, served by one (1) internal road (Meadowlark Ridge), received Draft Plan Approval by the City of London Approval Authority on May 21, 2004. The subdivision plan was granted Final Approval and registered as Plan 33M-603 on December 16, 2008.

The subdivision agreement originally entered into between the City of London and Jackson Summerside Land Corp. was amended by an Assignment Agreement on September 3, 2015, assigning its rights and obligations to Rembrandt Meadowlilly Inc. which had acquired all the developable lands within the subdivision. Rembrandt Meadowlilly Inc. subsequently applied for approval to rezone and partition several of the residential blocks fronting Meadowlark Ridge into single detached lots through a Part Lot Control Exemption By-law.

An amending agreement was required to address several outdated timelines in the original agreement that were no longer relevant. This amendment was completed on July 12, 2017 (Amending Agreement No. 1).

Most of the servicing for Phase 1 of the Meadowlilly Subdivision has been completed and construction of residential single detached homes and cluster townhouse dwellings is currently underway. The amending agreement includes conditions to address an incident of slope failure which had occurred in the northwest corner of Block 3 during grading and servicing activities of this phase. Revisions have been made to the subdivision servicing drawings to incorporate the recommended slope stabilization and remediation measures, provision of a retaining wall within Block 4, and noise mitigation measures to address potential traffic noise impacts for single detached lots created through the Part Lot Control Exemption By-law which are located adjacent to Commissioners Road East.

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 Solicitor's Office.

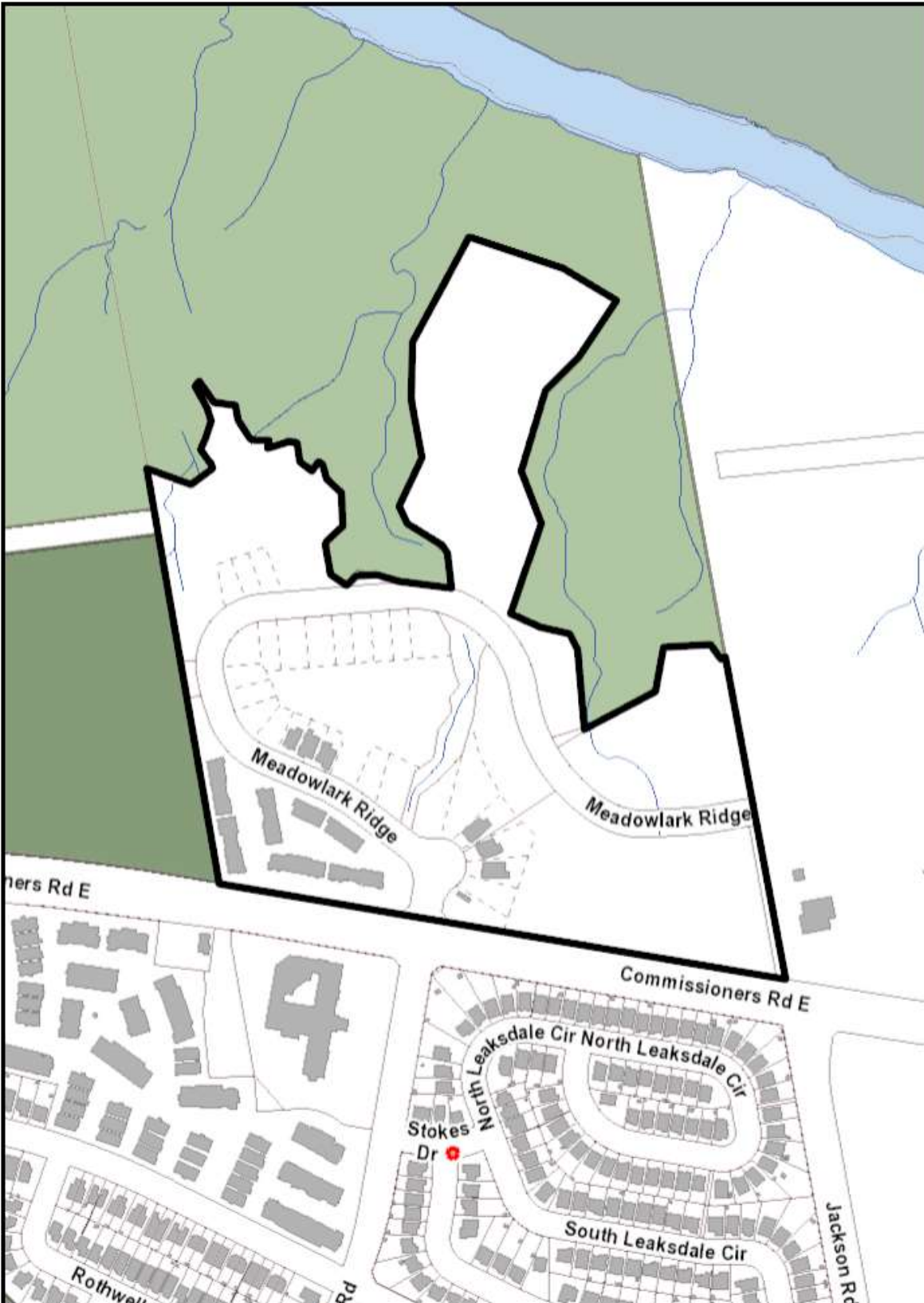
Prepared by:	Larry Mottram, MCIP, RPP Senior Planner, Development Services
Recommended by:	Paul Yeoman, RPP, PLE Director, Development Services
Submitted by:	George Kotsifas, P. Eng. Managing Director, Development and Compliance Services and Chief Building Official
Note: The opinions contained herein are offered by a person or persons qualified to provide expert opinion. Further detail with respect to qualifications can be obtained from Development Services.	

April 20, 2020

CC: Matt Feldberg, Manager, Development Services (Subdivisions)
Lou Pompilli, Manager, Development Planning
Ted Koza, Manager, Development Engineering

GK/PY/LM/jar

LOCATION MAP



Location Map

Project Title: 33M-603
Description: Meadowlilly Subdivision
Created By: Larry Mottram
Date: 2/18/2020
Scale: 1:4000

Legend

-  Subject Site
-  Parks
-  Assessment Parcels
-  Buildings
-  Address Numbers



Appendix A – Amending Agreement No. 2

THIS AGREEMENT made, in triplicate, this ____th day of May, 2020.

BETWEEN:

THE CORPORATION OF THE CITY OF LONDON
(hereinafter called the City)

OF THE FIRST PART

AND

REMBRANDT MEADOWLILLY INC.
a Company incorporated under the laws
of the Province of Ontario
(hereinafter called the Owner)

OF THE SECOND PART

WHEREAS a certain Subdivision Agreement was entered into between The Corporation of the City of London, as the City of the First Part, and Jackson Summerside Land Corp. as the Owner of the Second Part, and registered in the Land Registry Office for the Land Titles Division of Middlesex East on the 20th day of October, 2006 as Instrument Number ER464414, respecting the lands more particularly described in Schedule "A" attached hereto and other lands;

AND WHEREAS Rembrandt Meadowlilly Inc. has agreed to be bound by the provisions of the said Subdivision Agreement by entering into an Assignment Agreement, dated the 3rd day of September, 2015 and registered as Instrument Number ER1006281.

AND WHEREAS Rembrandt Meadowlilly Inc. has agreed to be bound by the provisions of the said Subdivision Agreement by entering into an Amendment Agreement, dated the 12th day of July, 2017 and registered as Instrument Number ER1128151.

AND WHEREAS it is deemed expedient to amend the said Agreement dated the 29th day of August, 2006, and as amended from time to time, as hereinafter set out;

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the premises and the sum of TWO DOLLARS (\$2.00) of lawful money of Canada now paid by the Owner to the City, the receipt whereof is hereby acknowledged, the City and the Owner covenant and agree that the Subdivision Agreement, be and the same is hereby amended as follows:

1. That Part II – Special Provisions, Section 28, be amended by adding the following clauses:
 - (ax) Prior to the issuance of a Certificate of Conditional Approval for any dwelling on Parts 5 to 15, both inclusive on Reference Plan 33R-20017, the Owner shall construct the proposed retaining wall within Block 4 as shown on the accepted engineering drawings and have its Professional Engineer certify that the said wall was constructed in accordance with the accepted engineering drawings, all to the satisfaction of the City.

- (ay) Prior to assumption, the Owner's Professional Engineer shall certify to the City, the retaining wall in Block 4 (33M-603) is in a state of good repair and functioning as intended, all to the satisfaction of the City.
- (az) The Owner shall implement the recommendations of the Environmental Noise Assessment - Meadowlilly Subdivision, prepared by LDS Consultants Inc. dated December 5, 2018, and include in all Agreements of Purchase and Sale and/or Lease for the transfer of Parts 34 and 35 on Reference Plan 33R-20017 the following Warning Clause:
- (i) Provision for Future Installation of Air Conditioning (Forced Air Ventilation System)
- The Owner shall not submit any building permit applications for Parts 34 and 35 on Reference Plan 33R-20017 unless the plans include a forced air ventilation system and ducting, etc. which is sized to accommodate future installation of central air conditioning by the occupant.
- (ii) Building Facade Construction - Part 35 Reference Plan 33R-20017
- The Owner shall not submit any building permit application for Part 35 on Reference Plan 33R-20017 unless as a minimum, the necessary specification for the building envelope is Acoustical Insulation Factor, AIF-27 for bedrooms and AIF-26 for living/dining/family rooms, based on the possibility of sound entering the buildings through the walls and windows. As a general guideline, a glazing construction with two panes of 3 mm glass and 13 mm airspace will be sufficient for the dwelling unit as long as the window to floor area ratio does not exceed 50% for the bedroom windows and 63% for the living/dining room windows. If patio doors are used in the dwellings, they must be in the window area.
- (ba) Prior to the occupancy of a dwelling on Parts 34 or 35 on Reference Plan 33R-20017, the Owner shall construct the proposed noise attenuation barrier adjacent to Commissioners Road East as shown on the accepted engineering drawings and have its Professional Engineer certify that the said wall was constructed in accordance with the accepted engineering drawings, all to the satisfaction of the City.
- (bb) The Owner shall include in all Agreements of Purchase and Sale and/or Lease for the transfer of Part 35 in Reference Plan 33R-20017 and Block 1 in Plan 33M-603, a covenant by the purchaser or transferee stating that the purchaser or transferee of the Lot (Part) and Block shall be responsible for the maintenance of the noise attenuation barrier in the future located on the said Lot (Part) and Block, all at no cost to the City.
- (bc) The Owner shall include in all Agreements of Purchase and Sale and/or Lease for the transfer of Parts 34 and 35 on Reference Plan 33R-20017 the following Warning Clauses:

Purchasers/tenants are advised that despite the inclusion of noise control features in the development and within the building units, sound levels due to increasing road traffic may

occasionally interfere with some activities of the dwelling occupants as the sound levels exceed the criteria of the Municipality and the Ministry of Environment, Conservation and Parks (MECP).

The City of London assumes no responsibility for noise issues which may arise from the existing or any increase in vehicle traffic on Commissioners Road East as it relates to the interior or outdoor living areas of any dwelling unit within this development. The City of London will not be responsible for constructing any form of noise mitigation for this development.

This dwelling unit has been fitted with a forced air heating system and the ducting etc., was sized to accommodate central air conditioning. Installation of central air conditioning will allow windows and exterior doors to remain closed, thereby ensuring that the indoor sound levels are within the sound level limits of the Municipality and the Ministry of Environment, Conservation and Parks (MECP).

The location and installation of the outdoor air conditioning device should be done so as to minimize the noise impacts and comply with criteria of MOECC Publication NPC-216, Residential Air Conditioning Devices.

- (bd) The Owner shall include in all Agreements of Purchase and Sale and/or Lease for the transfer of Block 3 on 33M-603 the following Warning Clause:

The Owner shall not submit any application for building permit for any building or structure to be located within the proposed land units 6, 7 and 8 as labelled in Drawing No. A9 in the Geotechnical Report prepared by LDS Consultants Inc. dated September 3, 2019 unless the final design drawings including the final building location of any buildings or structures, services, lot grading, excavations, inground swimming pools, inground sprinkler systems etc. have been reviewed by the Owner's Professional Engineer to ensure that the comments and recommendations provided in the Geotechnical Report prepared by LDS Consultants Inc. dated September 3, 2019 have been properly interpreted and implemented in the building permit application or any other permit required by the City.

In addition, the Owner shall submit a report from a geotechnical engineer with any building permit for any building or structure within the area of the proposed land units 6, 7, and 8 as noted in the above paragraph of this clause addressing the soil bearing capacity. The soil bearing capacity of the founding soils must be verified during a site review by a geotechnical consultant. The site review should include confirmation that excavations are set below the design frost depth (1.2 m below grade), and inspection of the subgrade soils to confirm that they are suitable to support the design net bearing capacity used in the design.

SCHEDULE "A"

This is Schedule "A" to the Subdivision Amendment Agreement dated the ____ day of March, 2020, between The Corporation of the City of London and Rembrandt Meadowlilly Inc. to which it is attached and forms a part.

ALL AND SINGULAR that certain parcel or tract of land and premises, lying, being and situate on Blocks 1, 3 and 4 on Plan 33M-603 and Parts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 34 and 35 on Plan 33R-20017, in the geographic Township of Westminster, now in the City of London, County of Middlesex.