

Report to Council

Report Title:	Master Servicing Plan for East Ridge Business Park		
Prepared By:	Sonya Watson, Chief Administrative Officer		
Department:	Administration		
Date:	July 9, 2019		
Report Number:	CAO2019-18	File Number:	C11AD, E03EA
Attachments:	Draft East Ridge Business Park Master Plan Agreement with Barry's Construction and Insulation Ltd. Map of East Ridge Business Park		

Recommendation:

That the Council of the Municipality of Brockton hereby approves Report Number CAO2019-18 – Master Servicing Plan for East Ridge Business Park, prepared by Sonya Watson, Chief Administrative Officer for information purposes and further that Council has received the presentation of B.M. Ross and Associates Limited and in doing so approves the preferred servicing plan as outlined and authorizes moving forward with the Notice of Completion.

Report:

Background:

The East Ridge Business Park was developed to stimulate economic development and support commercial and light industrial uses in Walkerton. The development of the East Ridge Business Park has proceeded in phases, with most of the lots in Phase 1 already being serviced with municipal water and sewers. The lots in Phase 1 were required to provide individual stormwater management plans.

Most of the lots that were included in Phase 1 of the development of the East Ridge Business Park have now been sold as shown on the attached map with an additional pending sale and interest in the remaining 2 lots along County Road 19. With the number of sales and inquiries increasing over the past year the need to finalize the Master Servicing Plan is imminent for continued growth. B.M. Ross and Associates Limited (BM Ross) were retained to assist in completing the Municipal Class Environmental Assessment ("Class EA") for the lots in Phase 2, as well to create a Servicing Master Plan.

BM Ross has prepared a draft Master Plan and presented the Phasing options with respect to the road configuration previously chosen by the Economic Development Committee and Council and the preferred servicing options that are available for the East Ridge Business Park.

Once the preferred servicing strategy outlined on page 18 of the presentation has been approved by Council, BM Ross can finalize the report and complete the Class EA and provide the Notice of Completion for public comments. Following the commenting period we are then in a position to move forward with design work and construction. The 2019 Budget included \$5,000.00 to complete the Class EA and included an approved transfer of \$100,000.00 from reserves for the engineering and design of the East Ridge Road Phase 2 (Roads “B” and “C” as presented by BM Ross).

A further report regarding proceeding with design work and the related financial considerations will follow pending Council’s approval of the preferred servicing option to provide Notice of Completion.

Analysis:

There are a number of additional considerations for the preferred servicing option that have been presented by BM Ross following discussions with Senior Management and the need for the phasing that has been proposed.

Residential Hospice Grey Bruce Inc. (the “Hospice”)

Representative from the Hospice attended the Council meeting on May 14, 2019 to request that Council consider donating a parcel of land in Phase 2 of the East Ridge Business Park for the purpose of building and operating a residential hospice. The Hospice noted that the goal was to be able to construct a residential hospice that had all municipal services (water, wastewater, stormwater management and roads) by May of 2024. Council passed a resolution that “Brockton Council supports in principle having the residential hospice build on the preferred site in Brockton”. The preferred location has been identified on the attached map.

Committing to the Hospice in the preferred location would require that Brockton has available services including municipal water and wastewater services and consider the construction of the stormwater management pond. Roads “B” and “C” as described in BM Ross’s presentation would also need to be constructed prior to May of 2024. Further analysis of these commitments would be prudent as we move forward in working with the Hospice Committee and the needs of the adjacent developer.

Agreement with Barry’s Construction and Insulation Ltd.

The Municipality of Brockton entered into an Agreement with Barry’s Construction and Insulation Ltd. (“Barry’s”) on June 4, 2018 (the “Agreement”) about a potential future development adjacent to the East Ridge Business Park that has been identified on the attached map. The County of Bruce has granted an extension to allow Barry’s until September 12, 2020 to deposit a draft plan of subdivision. As such, the Agreement allows Barry’s to retain parts of the road allowance until June 4, 2028 or when the draft plan of subdivision is deposited.

The Agreement also stipulates that Barry’s would be responsible for the costs associated with the design, tendering, contract management and contractor supervision for parts of the roadway (Roads “B” and “C” BM Ross’s presentation), unless Brockton requires that these areas be developed as public highways before the development of the subdivision. If Brockton were to require that Roads “B” and “C” as described in BM Ross’s presentation be constructed prior to Barry’s development of the subdivision to accommodate the Hospice, then Brockton would be required to pay for all of the costs associated with the design, construction etc. of these roads.

Bruce Power Regional Soccer Fields

As noted in previous reports, the Bruce Power Regional Soccer Fields have the potential to attract large tournaments and are used by a wide variety of age groups in Brockton. Consideration should be given to a servicing plan that supports the funds that have already been expended in construction, repairing and maintaining the Bruce Power Regional Soccer Park. Extending Roads "B" and "C" would align with this goal. With services available this would also allow for a potential concession stand or change room building to be developed in the future once current fundraising goals have been achieved.

Development Inquiries

Municipal staff have received a number of development inquiries on lands throughout the park. The large parcel along the north border of the East Ridge Business Park that was zoned to allow cannabis production has seen the most activity. Many of these inquiries have considered using larger amounts, or even the entire parcel, of this lot. Depending on what offers to purchase may be received in the future, there may be some potential to avoid incurring the cost of developing some portions of the proposed road that would run parallel with that lot (Road "A" in BM Ross's Presentation). Staff will continue to work with interested parties on development inquiries. Finalization of the preferred servicing plan is necessary to accurately accommodate these inquiries. Once the Master Servicing Plan is finalized the costing is then available to establish a current value for serviced lots in Phase 2 of the East Ridge Business Park. A further report will also follow regarding establishing an updated per acre price for lots in the East Ridge Business Park.

Recommendation

For the reasons described above, staff are recommending that Council support the preferred servicing plan as outlined by BM Ross (page 18 in the presentation) which includes extending the municipal water service, extending the municipal wastewater service with a low pressure system and pumping station, and providing a municipal stormwater management system with a drainage pond and ditches and further that the Notice of Completion of the Class EA be issued.

Sustainability Checklist:

What aspect of the Brockton Sustainable Strategic Plan does the content/recommendations in this report help advance?

- Do the recommendations help move the Municipality closer to its Vision? Yes
- Do the recommendations contribute to achieving Cultural Vibrancy? Yes
- Do the recommendations contribute to achieving Economic Prosperity? Yes
- Do the recommendations contribute to Environmental Integrity? Yes
- Do the recommendations contribute to the Social Equity? Yes

Financial Impacts/Source of Funding:

- Do the recommendations represent a sound financial investment from a sustainability perspective? Yes

The 2019 Budget included \$5,000.00 to complete the Class EA and authorized that \$100,000.00 be transferred from reserves for the design and engineering of the extension along East Ridge Road in Walkerton.

Reviewed By:

A handwritten signature in black ink, appearing to read 'Trish Serratore', with a stylized, overlapping loop structure.

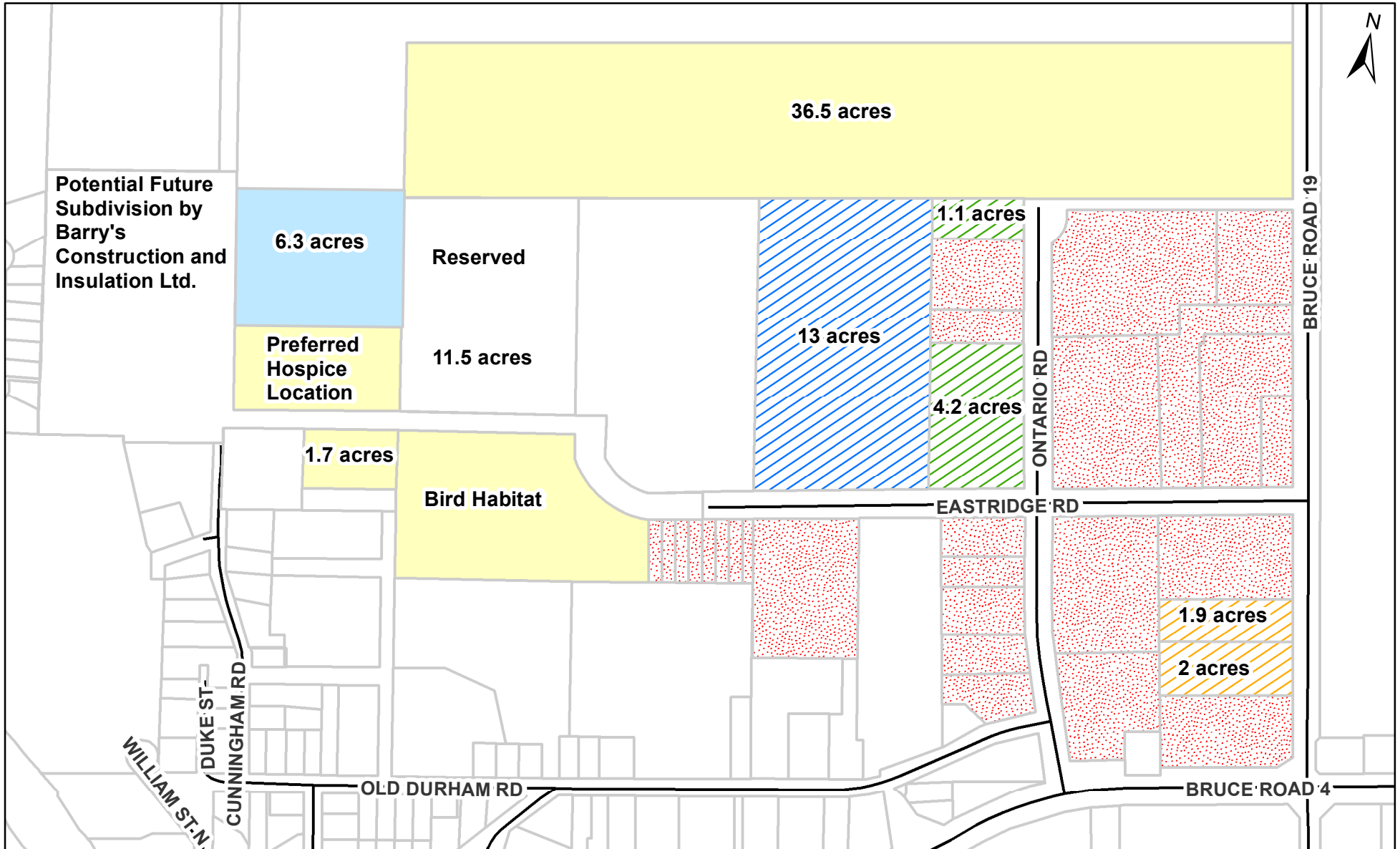
Trish Serratore, Chief Financial Officer







Respectfully Submitted by:

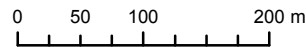
A handwritten signature in black ink, appearing to read 'Sonya Watson', with a cursive style and a long, sweeping tail.

Sonya Watson, Chief Administrative Officer

Walkerton East Ridge Business Park



-  SOLD
-  \$27, 500
-  \$38, 500
-  \$49, 600
-  Phase 2
-  Probable SWM Location



Note: All land measurements are approximate

This map has been prepared by the Municipality of Brockton GIS Department for information, consultation, and discussion purposes only. The Municipality does not guarantee the accuracy or completeness of the contents and assumes no liability for any consequences arising out of anyone's use of, reliance on, the information depicted.

Prepared by: Ritam Sen / GIS Technician



East Ridge Business Park Servicing Master Plan

COUNCIL PRESENTATION JULY 9, 2019

Agenda

- ▶ Overview of Master Plans and the process
- ▶ Problem/Opportunity Statement
- ▶ Alternative servicing strategies and their evaluation
- ▶ Overview of consultation
- ▶ Preferred servicing strategy
- ▶ Species at Risk investigations
- ▶ Phasing
- ▶ Estimated costs
- ▶ Next steps

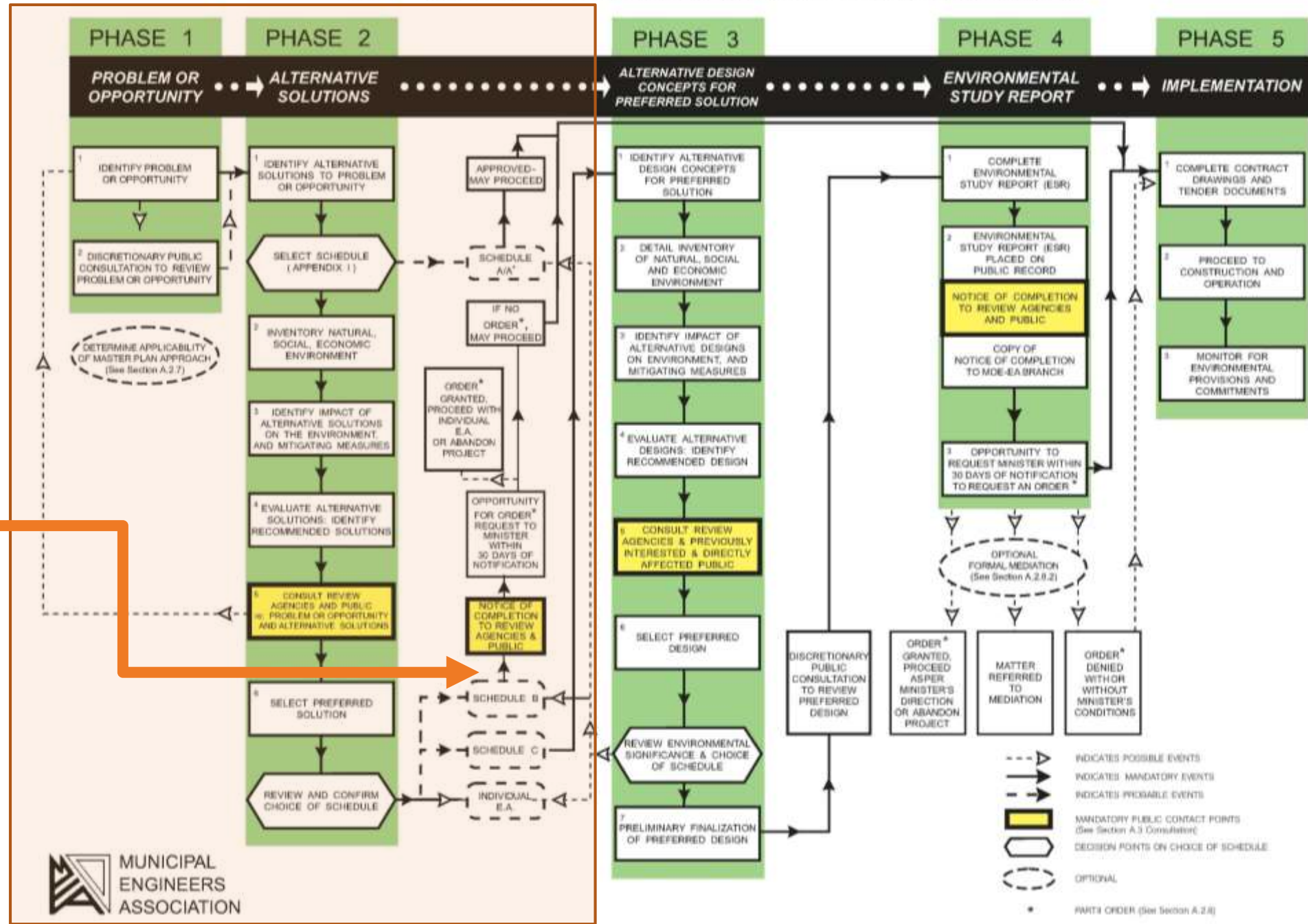
Master Plans

- ▶ Long range plans that integrate infrastructure requirements for existing land uses and environmental planning principles
- ▶ The Master Plan documents the processes followed to complete Phases 1 and 2 of the Municipal Class EA process
- ▶ Recommend an infrastructure servicing plan that can be implemented through the completion of separate projects
- ▶ Followed 'Approach 2' – completed a sufficient level of investigation to permit implementation of Schedule B projects upon completion of the Master Plan

Class EA & Master Plan Process

- Nearly at the finish line
- Draft Master Plan prepared
- Looking for Council support to Issue Notice of Completion

NOTE: This flow chart is to be read in conjunction with Part A of the Municipal Class EA





East Ridge Business Park



MUNICIPALITY OF BROCKTON
EAST RIDGE BUSINESS PARK (WALKERTON)
SERVICING MASTER PLAN
STUDY AREA LOCATION

DATE
June 2019

PROJECT No.
12154

SCALE
AS SHOWN

FIGURE No.
2.2

Problem/Opportunity

- ▶ Following review of existing infrastructure and future needs, the following opportunity was identified:
 - ▶ **The Municipality of Brockton established the East Ridge Business Park to promote the attraction and retention of commercial, highway commercial and light industrial uses to the community of Walkerton. However, only the eastern portion of the Business Park is currently serviced with municipal road, water and sanitary sewage infrastructure. There is an opportunity to ensure the remainder of the East Ridge Business Park is developed in an efficient and coherent pattern with municipal road, water, sanitary sewage and stormwater services.**

Alternative Solutions



Transportation

5 road configurations



Water

Extend municipal services
or
Private servicing



Wastewater

Extend municipal services

- Service northwest corner with low pressure sewer and individual grinder pumps
- Service properties at the rear and flow by gravity to the west

or
Private servicing



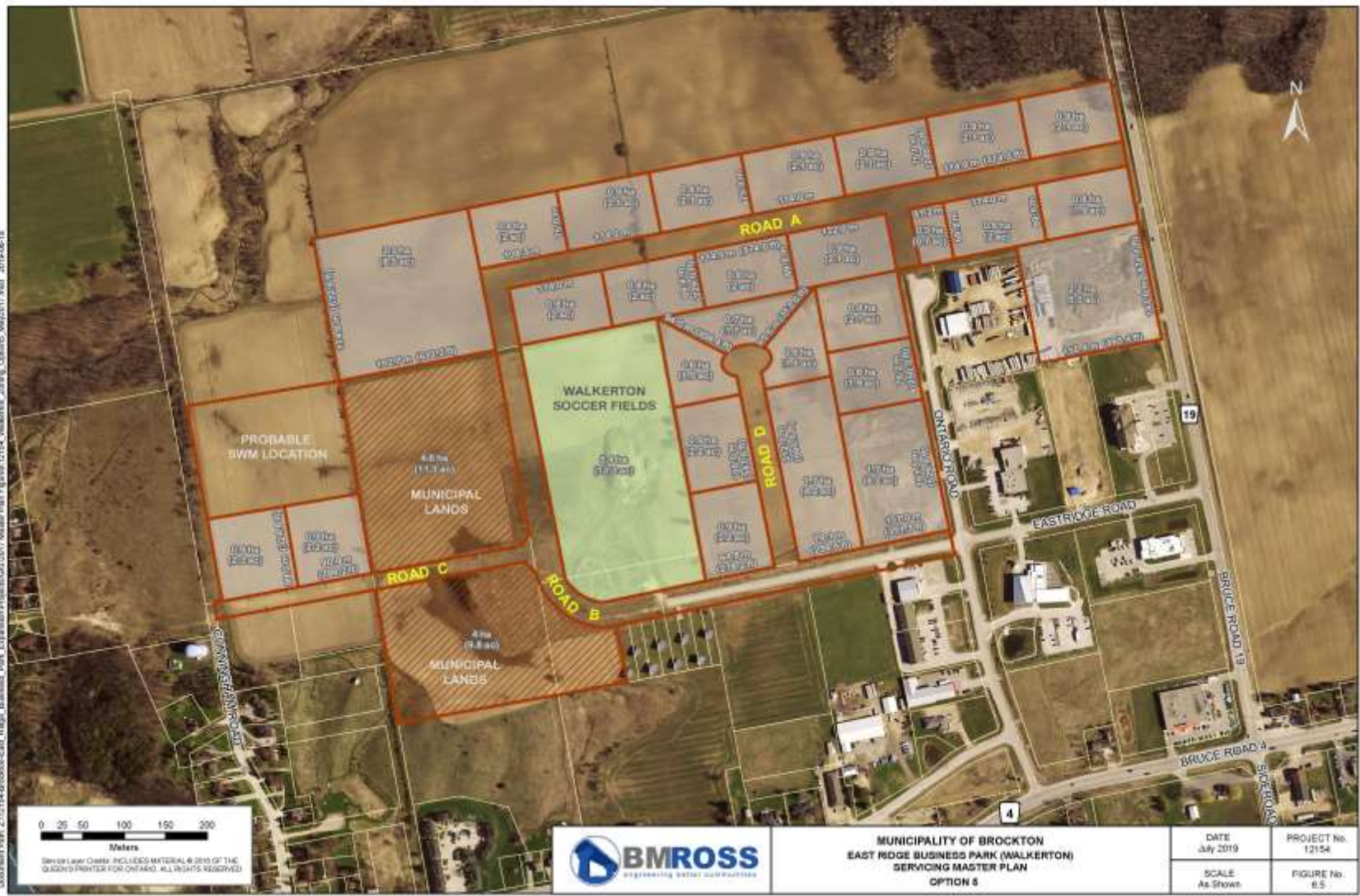
Stormwater

Municipal stormwater management (communal stormwater pond)
or
On-site servicing

There is also the 'Do Nothing' option which would maintain status quo



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MUNICIPALITY OF BROCKTON
 EAST RIDGE BUSINESS PARK (WALKERTON)
 SERVICING MASTER PLAN
 OPTION 6

DATE July 2019	PROJECT No. 12154
SCALE As Shown	FIGURE No. 6.5

Alternative Solution	Anticipated Benefits	Potential Impacts
TR1 – Road Pattern 1	<ul style="list-style-type: none"> Provides an additional access to the ERBP from Bruce Road 19 Will allow future development in the remainder of the Business Park Meets policy goals of the Official Plan Construction can be phased 	<ul style="list-style-type: none"> Construction of new intersections with existing roads may result in short-term disruptions to traffic flow concern with road adjacent to soccer complex Increased traffic volumes Compatibility with existing infrastructure
TR1 – Road Pattern 2	<ul style="list-style-type: none"> Provides an additional access to the ERBP from Bruce Road 19 Will allow future development in the remainder of the Business Park Meets policy goals of the Official Plan Construction can be phased Road configuration keeps traffic away from soccer complex 	<ul style="list-style-type: none"> Construction of new intersections with existing roads may result in short-term disruptions to traffic flow Increased traffic volumes Compatibility with existing infrastructure
TR3 – Road Pattern 3	<ul style="list-style-type: none"> Provides an additional access to the ERBP from Bruce Road 19 Will allow future development in the remainder of the Business Park Meets policy goals of the Official Plan Construction can be phased 	<ul style="list-style-type: none"> Construction of new intersections with existing roads may result in short-term disruptions to traffic flow concern with road adjacent to soccer complex Increased traffic volumes Compatibility with existing infrastructure
TR4 – Road Pattern 4	<ul style="list-style-type: none"> Provides an additional access to the ERBP from Bruce Road 19 Will allow future development in the remainder of the Business Park Meets policy goals of the Official Plan Construction can be phased Road configuration keeps traffic away from the soccer complex Is the preferred road pattern of Council and the Economic Development Committee 	<ul style="list-style-type: none"> Construction of new intersections with existing roads may result in short-term disruptions to traffic flow Increased traffic volumes Compatibility with existing infrastructure
TR5 – Road Pattern 5	<ul style="list-style-type: none"> Provides an additional access to the ERBP from Bruce Road 19 Will allow future development in the remainder of the Business Park Meets policy goals of the Official Plan Construction can be phased 	<ul style="list-style-type: none"> Construction of new intersections with existing roads may result in short-term disruptions to traffic flow Increased traffic volumes Compatibility with existing infrastructure



	MUNICIPALITY OF BROCKTON EAST RIDGE BUSINESS PARK (WALKERTON) SERVICING MASTER PLAN WATER SERVICING ALTERNATIVE - MUNICIPAL SERVICING		DATE June 2019	PROJECT No. 12154
			SCALE AS SHOWN	FIGURE No. 6.6

Municipal Water Servicing Alternative

Evaluation of Water Alternatives

Alternative Solution	Anticipated Benefits	Potential Impacts	Potential Mitigation
W1 – Extend municipal water services	<ul style="list-style-type: none"> • Sufficient supply capacity • Construction will be within road allowances, minimizing environmental impacts • Will allow future development within the Business Park • Meets the objectives and goals of the Official Plan • Can be phased 	<ul style="list-style-type: none"> • Construction may result in short-term traffic disruptions 	<ul style="list-style-type: none"> • Implement standard construction mitigation measures to control traffic flow
W3 – Do Nothing	<ul style="list-style-type: none"> • Least costly option • Fewest environmental impacts 	<ul style="list-style-type: none"> • Will not allow future development in the remainder of the Business Park • Does not meet the goals and objectives of the Official Plan 	<ul style="list-style-type: none"> • Unable to mitigate against loss of development potential • Unable to mitigate



Municipal Wastewater Servicing Alternative

Northwest area is topographically lower than rest of the ERBP. Two options to service this area:

- a) Gravity sewer along rear yards and connect to potential future subdivision
- b) Low pressure sewers and individual grinder pumps and connect to ERBP sewers



MUNICIPALITY OF BROCKTON
 EAST RIDGE BUSINESS PARK (WALKERTON)
 SERVICING MASTER PLAN
 WASTEWATER SERVICING ALTERNATIVE - MUNICIPAL SERVICING

DATE June 2019	PROJECT No. 12154
SCALE AS SHOWN	FIGURE No. 6.7

Alternative Solution	Anticipated Benefits	Potential Impacts
S1 – Extend municipal sanitary sewage services	<ul style="list-style-type: none"> • Sufficient treatment capacity • Construction will be within road allowances, minimizing environmental impacts • Will allow future development within the Business Park • Meets the objectives and goals of the Official Plan • Can be phased 	<ul style="list-style-type: none"> • Construction of sanitary sewer connections with existing sewers may result in short-term traffic disruptions • Grades in the northwest area of the ERBP will not allow for gravity sewers flowing to the east
S3 – Do Nothing	<ul style="list-style-type: none"> • Least costly option • Fewest environmental impacts 	<ul style="list-style-type: none"> • Will not allow future development in the remainder of the Business Park • Does not meet the goals and objectives of the Official Plan

Alternative Solution	Anticipated Benefits	Potential Impacts
A – Gravity sewer directed to the west	<ul style="list-style-type: none"> • Would allow for servicing of lots in the northwest corner of the ERBP • Least expensive option • Replaces aged assets • Meets the objectives and goals of the Official Plan 	<ul style="list-style-type: none"> • Requires coordination with developer of lands to the west • Services will be in the rear of properties – may require easement • Cannot be phased
B – Low Pressure System directed west and individual grinder pumps	<ul style="list-style-type: none"> • Would allow of servicing of lots in the northwest corner of the ERBP • Would allow for services to the front of properties • Services located in the road allowances would minimize impacts • Meets the objectives and goals of the Official Plan 	<ul style="list-style-type: none"> • Each property will require a grinder pump



Municipal Stormwater Servicing Alternative

	<p>MUNICIPALITY OF BROCKTON EAST RIDGE BUSINESS PARK (WALKERTON) SERVICING MASTER PLAN STORMWATER MANAGEMENT SERVICING PLAN</p>	DATE June 2019	PROJECT No. 12154
		SCALE As Shown	FIGURE No. 6.8

Evaluation of Stormwater Alternatives

Alternative Solution	Anticipated Benefits	Potential Impacts
SW1– Extend/add municipal stormwater services	<ul style="list-style-type: none"> • Ponds will provide water quality and quantity controls up to the 1:100 year storm • Will service the remainder of the ERBP • Meets objectives and goals of the Official Plan • Will provide foraging habitat for barn and bank swallows 	<ul style="list-style-type: none"> • Cost for pond and storm sewers estimated at approximately \$420,000 • Cannot be phased
SW2 – Individual, Lot-level controls	<ul style="list-style-type: none"> • Least costly • Property owners responsible for construction and maintenance of stormwater infrastructure on their property 	<ul style="list-style-type: none"> • Environmental impacts will vary with types of stormwater controls constructed • Lot level controls may not be sufficient for the larger storm events • Still require stormwater management for road surfaces • May reduce amount of developable land
SW3 – Do Nothing	<ul style="list-style-type: none"> • Least expensive option 	<ul style="list-style-type: none"> • Does not provide sufficient stormwater control for future development • Does not meet the goals and objectives of the Official Plan

Consultation



Review Agencies



Stakeholders



First Nation and Métis
communities



Public
PIC held: May 25, 2017

Preferred Servicing Strategy

- ▶ Road Layout 4
- ▶ Extending municipal water and sanitary sewage services
 - ▶ For the northwest corner – low pressure sewer and pumping station
- ▶ Municipal stormwater servicing
 - ▶ Stormwater pond
 - ▶ Ditches



Birds

- ▶ In 2015, Species at Risk assessment identified ERBP lands as habitat and breeding area for
 - ▶ Bobolink
 - ▶ Eastern Meadowlark
- ▶ Both are threatened species under ESA and have protected status
- ▶ To develop soccer fields, habitat compensation was required. Phase 1 lands are compensated for at former Brant landfill

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MUNICIPALITY OF BROCKTON
EAST RIDGE BUSINESS PARK (WALKERTON)
SERVICING MASTER PLAN
PHASE 1 AND PHASE 2 HABITAT ASSESSMENT AREAS

DATE
June 2019

SCALE
AS SHOWN

Birds

- ▶ Phase 2 lands re-assessed in 2017 and 2019
- ▶ 2019 assessment found with change in agricultural regime (no longer hay cropping in the area), there is no longer suitable habitat in majority of Phase 2 areas
- ▶ 4 ha area to southwest of soccer fields still being used as habitat by Eastern Meadowlark.
- ▶ Prior to development, will need to compensate for habitat and update Development Plan.

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MUNICIPALITY OF BROCKTON
EAST RIDGE BUSINESS PARK (WALKERTON)
SERVICING MASTER PLAN
PHASE 1 AND PHASE 2 HABITAT ASSESSMENT AREAS

DATE
June 2019

SCALE
AS SHOWN

Phasing

- ▶ Updated to see potential hospice site serviced in Phase 1
- ▶ Phase 1:
 - ▶ Construction of extension of East Ridge Road
 - ▶ Gravity sewer from Cunningham Road, east towards soccer fields
 - ▶ Construction of SWM pond
 - ▶ Ditches



Phasing

- ▶ Phase 2:
 - ▶ Construction of interior north-south road and water and sanitary services
- ▶ Phase 3
 - ▶ Construction of east-west road in northern part of ERBP
 - ▶ Extend water and sanitary services
 - ▶ Construction of low pressure sewer for northwest corner



Costs

Item	Construction	Engineering	Total
Road A – East Portion	\$1,400,000	\$170,000	\$1,570,000
Road A – West Portion	\$590,000	\$70,000	\$660,000
Road D	\$870,000	\$100,000	\$970,000
Road B/C – Eastridge Rd	\$1,080,000	\$130,000	\$1,210,000
Stormwater Management	\$390,000	\$45,000	\$435,000
Cunningham Road Sanitary	\$135,000	\$15,000	\$150,000
Total	\$4,465,000	\$530,000	\$4,995,000

Next Steps

✓ Get Council support for preliminary preferred servicing strategy

📄 Finalize Screening Report

🕒 Publish Notice of Completion 30 day review period of Master Plan

✎ Future Final Design (should decision be made to proceed to construction)

The Corporation of the Municipality of Brockton



By-Law 2018-045

Being a By-Law to Authorize the Conveyance of Lands as Approved by
By-Law 2013-041.

Whereas Section 9 of the Municipal Act, 2001, S.O. 2001, c 25, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under the Act;

And Whereas Section 11 provides that Sections 10 and 11 shall be interpreted broadly so as to confer broad authority on Municipalities to enable municipalities to govern their affairs as they consider appropriate

And Whereas By Law 2013-041 authorized the conveyance of Parts 1, 2, 3 and 4 on Plan 3R-9204 ("Brockton land") in accordance with an Agreement between Barry's Construction and Insulation Ltd. and The Corporation of the Municipality of Brockton dated April 5, 2013 ("the 2013 Agreement").

And Whereas the 2013 Agreement provided that Barry's Construction and Insulation Ltd. would re-convey the Brockton land to the Municipality on demand if a plan of subdivision creating the agreed public highways was not registered within the time period as agreed.

And Whereas the parties, by way of Restrictive Covenant Instrument No. BR76449 registered on June 4, 2013, further agreed that the Brockton land would be re-conveyed within five (5) years of the registration of the said document.


And Whereas the Restrictive Covenant Instrument No. BR76449 and Restrictive Covenant Instrument No. BR76600, both registered by the Municipality of Brockton against the Brockton land, provide that no dealings shall occur with respect to the Brockton land without the consent of The Corporation of the Municipality of Brockton.

Now Therefore the Council of the Corporation of the Municipality of Brockton hereby **Enacts As Follows:**

1. The terms and conditions of the agreement between Barry's Construction and Insulation Ltd. and The Corporation of the Municipality of Brockton dated June 4, 2018 ("the Agreement"), in the form attached hereto as "**Schedule A**" is hereby approved.
2. The Council of the Corporation of the Municipality of Brockton consents to the re-conveyance of Parts 3 and 4 on 3R-9204 by Barry's Construction and Insulation Ltd. with said transaction to be completed on or before June 6, 2018 in accordance with the Agreement.
3. That Parts 1 and 2 on 3R-9204, now identified as Parts 1 and 2 on 3R-9644, shall remain under the registered name of Barry's Construction and Insulation Ltd. until the earlier of:
1. June 4, 2028; 2. the deposit of a plan of subdivision which creates public highways of the said lands; or 3. within ninety (90) days of written demand by the Municipality of Brockton. If Parts 1 and 2 are returned to the Municipality of Brockton in accordance with options 1 or 2 herein, Barry's shall be responsible for all costs associated with the re-conveyance to the Municipality of Brockton. In the case of a return of Parts 1 or 2 to the Municipality of Brockton in accordance with option 3 herein, the Municipality of Brockton shall pay for the cost of the re-conveyance.

4. That the Restrictive Covenant Instrument No. BR76449 registered on June 4, 2013 shall be released from Parts 3 and 4 on 3R-9204 and shall remain on Parts 1 and 2 on 3R-9644 until the land is re-conveyed to the Municipality of Brockton in accordance with paragraph 3 herein.
5. That the Restrictive Covenant Instrument No. BR76600 registered on June 4, 2013 shall be released from Parts 3 and 4 on 3R-9204 and shall remain on Parts 1 and 2 on 3R-9644 until the land is re-conveyed to the Municipality of Brockton in accordance with paragraph 3 herein.
6. That all costs associated with the Agreement attached as Schedule "A" and the re-conveyance of Parts 3 and 4 on 3R-9204 of the Brockton land to the Municipality of Brockton be at the sole expense of Barry's Construction and Insulation Ltd.
7. That the Mayor and CAO/Clerk be and are hereby authorized on behalf of the Corporation to execute the Agreement attached hereto and marked as "Schedule A" and all deeds, undertakings, agreements and any other documents as may be required to complete the re-conveyance of Parts 3 and 4 on 3R-9204 to the Municipality of Brockton, including executing releases and new Restrictive Covenants related to Parts 1 and 2 on 3R-9644 (formerly 3R-9204) as may be deemed necessary, and to affix the corporate seal as and when required.
8. This by-law may be cited as the "Barry's Construction Subdivision Road Transfer Agreement By-Law"

Read, Enacted, Signed and Sealed this 4th day of June, 2018.



Mayor – David Inglis



CAO/Clerk – Sonya Watson

AGREEMENT

THIS AGREEMENT is made as of the 4th day of June, 2018,

BETWEEN:

BARRY'S CONSTRUCTION AND INSULATION LTD.
(hereinafter referred to as "Barry's")

OF THE FIRST PART

-and-

THE CORPORATION OF THE MUNICIPALITY OF BROCKTON
(hereinafter referred to as "Brockton")

OF THE SECOND PART

WHEREAS Barry's and Brockton executed an Agreement dated April 5, 2013 (the "2013 Agreement"), a copy of which is attached hereto and marked as **Schedule "A"**;

AND WHEREAS Section 5.5 of the 2013 Agreement provides that Barry's shall re-convey Parts 1, 2, 3 and 4 on Plan 3R-9204, a copy of said plan is attached hereto and marked as **Schedule "B"**, to Brockton on demand if the plan of subdivision creating the agreed public highways is not registered with the time period as agreed;

AND WHEREAS a Restrictive Covenant, Instrument No. RB76449, was registered on June 4, 2013 against Parts 1, 2, 3 and 4 on Plan 3R-9204 and provides that the re-conveyance of the said parts shall occur within five (5) years of the date of registration; namely June 4, 2018;

AND WHEREAS a plan of subdivision has yet to be deposited;

AND WHEREAS the Corporation of the County of Bruce has granted an extension for draft approval of a plan of subdivision to September 12, 2020;

AND WHEREAS the parties have agreed that it would be proper and in the public interest to permit Barry's to continue to retain Parts 1 and 2 on Plan 3R-9204 until the earlier of: 1. June 4, 2028; 2. the deposit of a plan of subdivision which creates public highways of the said lands; or 3. within ninety (90) days of written demand by Brockton;

AND WHEREAS the parties wish to amend the 2013 Agreement to reflect their understanding as to cost sharing related to Parts 3 and 4 on Plan 3R-9204;

AND WHEREAS the parties, by this agreement, wish to outline their mutual understanding of the obligations of each party to effect the re-conveyance of the Brockton lands to Brockton;

NOW THEREFORE in consideration of the terms, conditions and mutual covenants contained herein set forth and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged by the parties. The parties hereby covenant and agree as follows:

1. On or before June 4, 2018, Barry's shall transfer to Brockton the lands known as Parts 3 and 4 on Plan 3R-9204.
2. The parties agree that, notwithstanding the provisions contained in the 2013 Agreement and the Restrictive Covenants referred to herein, Parts 1 and 2 on 3R-9204, now identified as Parts 1 and 2 on 3R-9644, a copy of plan 3R-9644 is attached

and marked as **Schedule “C”**, shall remain under the registered name of Barry’s Construction and Insulation Ltd. until the earlier of: 1. June 4, 2028; 2. the deposit of a plan of subdivision which creates public highways of the said lands; or 3. within ninety (90) days of written demand by Brockton. If Parts 1 and 2 are returned to Brockton in accordance with options 1 or 2 herein, Barry’s shall be responsible for all costs associated with the re-conveyance to Brockton. In the case of a return of Parts 1 or 2 to Brockton in accordance with option 3 herein, Brockton shall pay for the cost of the re-conveyance.

3. That the Restrictive Covenant Instrument No. BR76449 registered on June 4, 2013 shall be released from Parts 3 and 4 on 3R-9204 but shall remain on Parts 1 and 2 on 3R-9644 until the said land is re-conveyed to the Municipality of Brockton in accordance with paragraph 2 herein.
4. That the Restrictive Covenant Instrument No. BR76600 registered on June 4, 2013 shall be released from Parts 3 and 4 on 3R-9204 but shall remain on Parts 1 and 2 on 3R-9644 until the said land is re-conveyed to the Municipality of Brockton in accordance with paragraph 2 herein.
5. The parties acknowledge and agree that if partial releases of Instruments No. BR76449 and BR76600 are not permitted by the Land Registry Office then new Restrictive Covenants will be registered against Parts 1 and 2 on 3R-9644 and the parties shall sign any documents necessary to effect the registration of same.
6. The parties shall sign any and all documents necessary to effect this Agreement.
7. The parties authorize Brockton’s solicitor, Tammy Grove-McClement, Grove-McClement & Fischer LLP, to register the following documents for this transaction, or any other documents necessary to effect this Agreement, in the following order or in such order as determined by her at her sole discretion:
 - a. Application to Register By-Law, if required;
 - b. Transfer of Parts 3 and 4;
 - c. Application to Delete Restrictions (S.119) (Instrument No. BR76600) (partial or full release, if required);
 - d. Application to Delete Restrictions (S.118) (Instrument No. BR76449) (partial or full release, if required);
 - e. Application to Annex Restrictive Covenants S. 119, if required; and
 - f. Application to Annex Restrictive Covenants S. 118, if required.
8. The parties consent to Tammy Grove-McClement making minor, non-material alterations to the above-noted documents if required by the Land Registry Office or any governmental agencies or governmental authorities to effect certification of the electronic documents noted in paragraph 7 above.
9. Barry’s shall pay all legal fees and disbursements associated with the preparation of this Agreement and the real estate registrations. Barry’s shall remit payment to Brockton within fifteen (15) days of receipt of an invoice from Brockton and/or Tammy Grove-McClement.
10. The parties agree that the 2013 Agreement shall be amended as follows:

Section 6.3(a)(ii) shall be deleted, including the schedule referred to therein.

Section 6.3(b) and 6.3(b)(i) shall be deleted and replaced with:

6.3(b) Barry’s shall be responsible for all matters relating to the construction of the connecting road including but not limited to design, tendering, contract management and contractor supervision

constructed, Brockton shall be responsible for all matters relating to the construction of that portion of the road involving Parts 3 and 4 on 3R-9204 including but not limited to design, tendering, contract management and contractor supervision however if the said road requires additional servicing and/or special consideration directly or indirectly as a result of the subdivision development, Barry's shall be pay the additional cost related of same.

6.3(b)(i) The design of the connecting road must be consented to and approved by the Brockton Public Roads Department.

11. The parties acknowledge and agree that the 2013 Agreement, save and except for the amendments referred to herein, shall remain in full force and effect and if there is conflict between this Agreement and the 2013 Agreement, the terms of this Agreement will prevail.
12. Barry's acknowledges and agrees that if it is required to request an additional extension from the Corporation of the County of Bruce of the September 12, 2020 draft approval deadline that it shall pay to Brockton the sum of \$10,000.00 unless Brockton Council, by resolution, agrees to waive this said payment.
13. The invalidity or unenforceability of any provision in this Agreement shall affect the validity and enforceability of such provision or covenant only and any such invalid provision shall be deemed to be severable from the balance of this Agreement, which shall be enforced to the greatest extent permitted by law.
14. This Agreement shall be governed by, and be construed and interpreted in accordance with, the laws of Ontario and the laws of Canada applicable in Ontario.
15. This Agreement may be executed by facsimile or PDF transmission and in one or more counterparts, all of which shall be considered one and the same Agreement.
16. This Agreement and the rights granted hereunder shall extend to, benefit and bind the parties hereto, their respective successors and permitted assigns.

The Parties have, by their duly authorized representatives who each have the authority to bind the Parties, executed this Agreement on Date referred to herein.

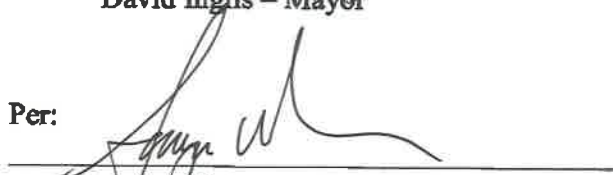
BARRY'S CONSTRUCTION AND INSULATION LTD.

Per: 
Name: Barry Kraisselbrink
Title: President

I have authority to bind the Corporation.

THE CORPORATION OF THE MUNICIPALITY OF BROCKTON

Per: 
David Inglis - Mayor

Per: 
Sonya Watson - CAO/Clerk

We have authority to bind the Corporation

Authorized by By-law # 045 - 2018
passed the 4th day of June 2018.

Schedule "A"

Agreement made this 5th day of April , 2013.

BETWEEN:

BARRY'S CONSTRUCTION AND INSULATION LTD.

(Hereinafter called "Barry's")

OF THE FIRST PART

- and -

THE CORPORATION OF THE MUNICIPALITY OF BROCKTON

(Hereinafter called "Brockton")

OF THE SECOND PART

RECITALS:

1. Barry's is the owner of lands located within Brockton being more or less described as Park Lots 26, 27, 28; Part of Park Lot 25, Registered Plan 38; and Parts 1 and 3, Reference Plan 3R-5416 all within the former Town of Walkerton, now in the Municipality of Brockton, County of Bruce and hereinafter referred to as the "Barry's lands".
2. Brockton is the owner of lands more or less described as Parts 1, 2, 3 and 4, Plan 3R-9204, all within the former Town of Walkerton, now in the Municipality of Brockton, County of Bruce and hereinafter referred to as "Brockton lands".
3. Barry's has submitted to the County of Bruce, as the approval authority, for revisions to the approval of a draft plan of subdivision and draft plan conditions located on the "Barry's lands" and issued as application # 41T89008..
4. The proposed Barry's Plan of Subdivision requires the acquisition from Brockton of part of the "Brockton lands" for use as a connecting street to the existing public highway system located in the Brockton East Ridge Business Park, said lands to be incorporated into the draft plan of subdivision as a public highway dedicated to Brockton.
5. The proposed Barry's Plan of Subdivision also requires the acquisition from Brockton of part of the road allowance on Plan 38 now known as Cunningham Road, which will be incorporated into the draft plan of subdivision as a public highway dedicated to Brockton.

NOW THEREFORE in consideration of the mutual terms and conditions of this agreement and the sum of \$1.00 the parties hereto agree as follows:

1. **THE RECITALS**

- 1.1 It is agreed that the recitals above are true and correct.

2. **BARRY'S LANDS**

- 2.1 The Barry's lands to be included in the application for approval of a registered plan of subdivision are those lands described in PIN 33196-0401, 0349 and 0347 and shown on the Block Map #33196 attached to this agreement.

3. **BROCKTON LANDS**

3.1 The Brockton lands are referred to as:

- Cunningham Road Plan 38– described as Part 1, Plan 3R9204
- Proposed Cunningham Road widening ,and Connecting Street & East Ridge Road – described as Parts 2, 3 & 4, Plan 3R9204

as shown on Plan 3R9204, deposited at the Bruce County Land Titles Office on March 7, 2011 and as shown on the schedule attached.

3.2 Barry's shall when required cause at its sole cost, the preparation and filing at the Bruce County Registry Office all surveys and reference plans for the purpose of providing legal descriptions of the Brockton lands for the purpose of all transfers intended by this agreement.

4. **THE PLAN OF SUBDIVISION**

4.1 Barry's has received from the County of Bruce draft plan approval under the Ontario Planning Act for a plan of subdivision under application #41T90008 and are in the process of applying for a major revision to the draft plan by way of "red-line revisions".

4.2 The red-line revisions to the draft plan of subdivision shall be in accordance with the two page drawing, revised red-line draft plan of proposed development prepared by Gamsby and Mannerow Engineers and referred to as Walkerton Subdivision, Municipality of Brockton, Geographic Town of Walkerton, Overall General Layout Plan "Project No. S-126, Drawings No. 1 of 1 and 2 of 2, dated January 18, 2013 and will include the Brockton lands.

4.3 The plan of subdivision may be developed in two phases provided that Phase 1 shall include the development and construction of Street A, the north south section of Street B and the external roads with the exception of Cunningham Road that is not required as a connection between the connecting street and Street A as referred to on the revised red line draft plan.

4.4 The parties acknowledge that they are each in receipt of the said Draft Plan of Proposed Development.

4.5 It is acknowledged that the proposed plan may be amended from time to time as a result of recommendations or requirements of the approval authority or by the agreement of the parties.

4.6 Barry's agree that the final approved version of the plan must be approved by Brockton.

5. **BARRY'S OBLIGATIONS**

5.1 Barry's shall at its sole cost proceed in good faith and in a timely manner with all matters required to obtain draft approval of the proposed development.

5.2 Barry's shall consult Brockton regarding the design of the plan and obtain its consent to the final version of the plan presented for approval.

5.3 Once the plan has received draft approval Barry's shall at its sole cost proceed in good faith and in a timely manner to comply with all conditions imposed by the approval authority including but not limited to the negotiation and completion of a subdivision agreement with Brockton related to the proposed development including but not limited to servicing the subdivision and construction of all highways included in the plan of subdivision.

5.4 Barry's shall register the approved plan of subdivision as a registered plan of subdivision pursuant to the requirements of the Ontario Land Titles Act within one year of the receipt of approval by the Bruce County Planning Department of the major revision to the draft plan of subdivision #41T-89008 and passing of a related zoning amendment by Brockton.

5.5 Barry's shall re-convey the Brockton lands, to Brockton on demand if the plan of subdivision creating the agreed public highways is not registered within the time period as agreed.

6. THE OBLIGATIONS OF BROCKTON TO TRANSFER THE BROCKTON LANDS TO BARRY'S

6.1 Brockton agrees in principal to transfer the Brockton lands to Barry's.

6.2 The obligation of Brockton to transfer the Brockton lands to Barry's are not limited to but shall include the following:

- (a) The receipt of satisfactory deposited reference plans describing the lands for use in the transfer documents.
- (b) The successful completion of all road closing procedures and authorizing by-laws required by the Municipal Act and the Municipality of Brockton to legally close and authorize the transfer to Barry's of Cunningham Road and any other land which might be part of the municipal highway system.
- (c) The issuing of approval of the major revision to a draft plan of subdivision and the passing of a zoning amendment to the proposed development plan by the approval authority in a form approved by Brockton, such draft plan to include the Brockton lands as public highways.
- (d) Brockton may register such restrictive covenants and reserve such easements as it deems advisable on the Brockton lands prior to the transfer to Barry's.
- (e) Such other terms and conditions as Brockton may reasonably demand to insure the proposed plan is in the public interest and the Brockton lands are used for the intended purpose as public highways under the jurisdiction of Brockton.

6.3 COST SHARING

(a) Brockton agrees to pay a portion of the cost of constructing the connecting street referred to in recital #5 of this agreement as follows:

- (i) Brockton's share of the cost will apply only to the construction of the connecting street described as Parts 3 and 4, Plan 3R9204.
- (ii) Brockton's share of the cost will not exceed the sum of \$370,197.00 as shown on the Gamsby and Mannerow Limited Cost Estimate dated October 19, 2012 and attached as a schedule to this agreement.
- (iii) Brockton shall not be required to pay any portion of its share of constructing the connecting road until authorized by the municipal council in the 2014 municipal budget process.

(b) Barry's shall be responsible for all matters relating to the construction of the connecting road including but not limited to design, tendering, contract management and contractor supervision.

- (i) The design of the connecting road must be consented to and approved by the Brockton Public Roads Department.

(c) Payments by Brockton to Barry's shall be made as follows:

- (i) Brockton shall pay its share of the construction and related engineering costs to Barry's by monthly payments on account of the agreed Brockton

- (i) share. The amounts of such payments shall itemize the work done in relation to the Brockton share and shall be certified by Barry's Construction Consultant or Supervising Engineer.
- (ii) At all times Barry's shall maintain holdbacks in accordance with the provisions of the Ontario Construction Lien Act prior to paying for any work done on the construction of the connecting highway.
- (iii) Applications for payment on account by Barry's may be made monthly as the work progresses.
- (iv) Applications for payment shall be dated the last day of the agreed monthly payment period and the amount paid shall be for the value, proportionate to the amount of Brockton's share of the work performed and products delivered to the work site.
- (v) Barry's shall submit to Brockton at least 14 days before each application for payment, a schedule of values of the various parts of the work showing the total amount of Brockton's agreed cost sharing and divided to allow Brockton to evaluate the application for payment.
- (vi) The payment schedule shall be supported by evidence as to its correctness and approved by Barry's Engineer or Consultant and shall be used as the basis for payment unless it is challenged by Brockton.
- (vii) When applying for payment, Barry's shall submit an invoice based on this schedule.

BARRY'S CONSTRUCTION AND INSULATION LTD.

I have authority to bind the Corporation.

Per: _____

President

THE CORPORATION OF THE MUNICIPALITY OF BROCKTON

Per: _____

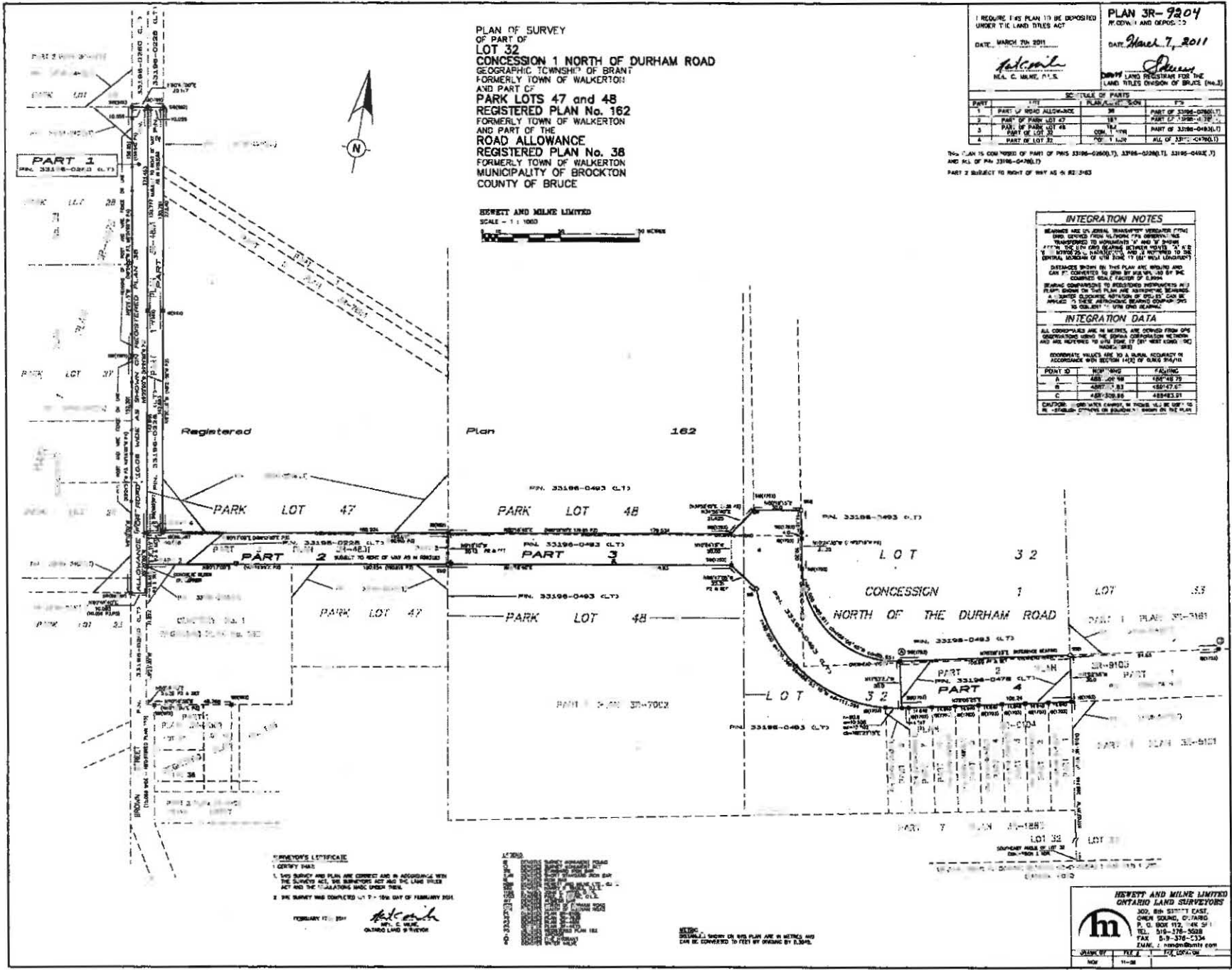
David Inglis - Mayor

Authorized by By-law # 41 - 2013
passed the 13 day of May
, 2013.

Per: _____

Deborah Roth - Clerk

Schedule "B"



PLAN OF SURVEY
OF PART OF
LOT 32
CONCESSION 1 NORTH OF DURHAM ROAD
GEOGRAPHIC TOWNSHIP OF BRANT
FORMERLY TOWN OF WALKERTON
AND PART OF
PARK LOTS 47 and 48
REGISTERED PLAN No. 162
FORMERLY TOWN OF WALKERTON
AND PART OF THE
ROAD ALLOWANCE
REGISTERED PLAN No. 38
FORMERLY TOWN OF WALKERTON
MUNICIPALITY OF BROCKTON
COUNTY OF BRUCE

HEWITT AND MILNE LIMITED
SCALE - 1 : 1000

REQUIRE THIS PLAN TO BE DEPOSITED UNDER THE LAND TILES ACT

DATE: MARCH 7th 2011

Heckathorn
M.L. C. MILNE, P.L.S.

PLAN 3R-9204
M.O.M. 1 AND DEPOS. 22

DATE: March 7, 2011

Heckathorn
M.L. C. MILNE, P.L.S.

DEPT. LAND REGISTRATION FOR THE LAND TILES DIVISION OF BRUCE (M.L.S.)

PART	DESCRIPTION	AREA (SQ. FT.)
1	PART OF ROAD ALLOWANCE	38
2	PART OF PARK LOT 47	181
3	PART OF PARK LOT 48	181
4	PART OF LOT 32	70

INTEGRATION NOTES

REMARKS ARE IN ITALIC TYPEWRITER UNLESS OTHERWISE STATED FROM ALTERNATE PLAN OR OTHERWISE INDICATED BY THE SURVEYOR. THE SURVEYOR HAS BEEN ADVISED BY THE CLIENT OF ANY ADJACENT SURVEYS AND HAS TAKEN THE NECESSARY PRECAUTIONS TO AVOID ANY CONFLICTS WITH THE BOUNDARIES OF THE SURVEYED PROPERTY.

DISTANCES SHOWN ON THIS PLAN ARE MEASURED AND NOT CALCULATED TO ONE OF THE SCALES BY THE COMBINED SCALE FACTOR OF 0.9994.

REMARKS REFERRED TO IN ITALIC TYPEWRITER IN THIS PLAN ARE HEREBY REPEATED AND APPLIED TO THESE ADJACENT SURVEYS TO THE EXTENT OF THE SURVEYED PROPERTY.

INTEGRATION DATA

ALL COORDINATES ARE IN METERS, ARE DERIVED FROM THE GEOGRAPHIC COORDINATE SYSTEM (GCS) AND ARE REFERRED TO THE POINT OF (BY WEST CORNER) INDICATED HEREIN.

COORDINATE VALUES ARE TO A HORIZONTAL ACCURACY OF 1:50,000 AS DETERMINED BY THE SURVEYING METHOD USED.

POINT ID	NORTHING	EASTING
A	488120.81	104748.79
B	488120.81	104748.79
C	488120.81	104748.79

CAUTION: USE WITH CARE. IF POINTS ARE TO BE USED IN A SURVEY, CHECK THE POSITION OF POINTS ON THE PLAN.

SURVEYOR'S CERTIFICATE

I CERTIFY THAT:

- THE SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEY ACT, THE SURVEYORS ACT AND THE LAND TILES ACT AND THE REGULATIONS MADE UNDER THEM.
- THE SURVEY WAS COMPLETED ON 7th DAY OF FEBRUARY 2011.

FEBRUARY 17, 2011

Heckathorn
M.L. C. MILNE
ONTARIO LAND SURVEYOR

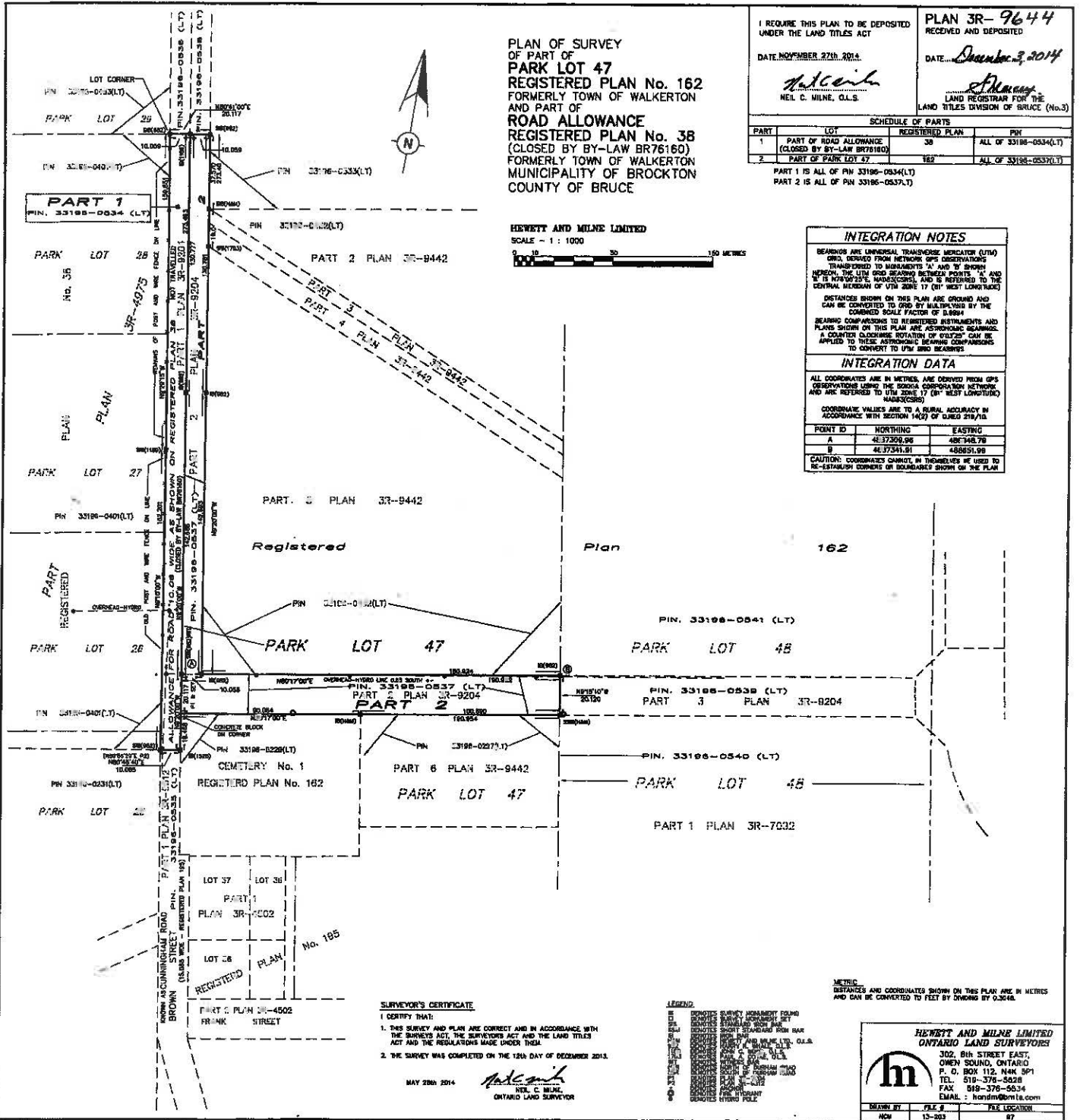
HEWITT AND MILNE LIMITED
ONTARIO LAND SURVEYORS

hm

300, 8th STREET EAST,
CHESHAM SQUARE, CHESHAM,
P. O. BOX 112, 4th FL.
TEL: 519-336-5028
FAX: 519-376-2334
E-MAIL: hml@hml.com

WORKING HOURS: 9:00 AM - 5:00 PM

Schedule "C"



PLAN OF SURVEY OF PART OF PARK LOT 47 REGISTERED PLAN No. 162 FORMERLY TOWN OF WALKERTON AND PART OF ROAD ALLOWANCE REGISTERED PLAN No. 38 (CLOSED BY BY-LAW BR76160) FORMERLY TOWN OF WALKERTON MUNICIPALITY OF BROCKTON COUNTY OF BRUCE

I REQUIRE THIS PLAN TO BE DEPOSITED UNDER THE LAND TITLES ACT

DATE: NOVEMBER 27th 2014

PLAN 3R-9644 RECEIVED AND DEPOSITED

DATE: December 3, 2014

LAND REGISTRAR FOR THE LAND TITLES DIVISION OF BRUCE (No.3)

SCHEDULE OF PARTS			
PART	LOT	REGISTERED PLAN	PIN
1	PART OF ROAD ALLOWANCE (CLOSED BY BY-LAW BR76160)	38	ALL OF 33198-0534(LT)
2	PART OF PARK LOT 47	162	ALL OF 33198-0537(LT)

PART 1 IS ALL OF PIN 33198-0534(LT)
 PART 2 IS ALL OF PIN 33198-0537(LT)

INTEGRATION NOTES

BEARINGS ARE UNIVERSAL TRANSVERSE MERCATOR (UTM) GRID DERIVED FROM NETWORK GPS OBSERVATIONS TRANSFERRED TO MONUMENTS 'A' AND 'B' BY SURVEY NETWORK. THE UTM GRID BEARING BETWEEN POINTS 'A' AND 'B' IS INTERPOLATED AND IS REFERRED TO THE CENTRAL MERIDIAN OF UTM ZONE 17 (BY WEST LONGITUDE). DISTANCES SHOWN ON THIS PLAN ARE GRID AND CAN BE CONVERTED TO GRID BY MULTIPLYING BY THE COMBINED SCALE FACTOR OF 0.9994. BEARING COMPARISONS TO REGISTERED INSTRUMENTS AND PLANS SHOWN ON THIS PLAN ARE ASTROLOGICAL BEARINGS. A CORRECTED CLOCKWISE ROTATION OF 0.0272° CAN BE APPLIED TO THESE ASTROLOGICAL BEARING COMPARISONS TO CONVERT TO UTM GRID BEARINGS.

INTEGRATION DATA

ALL COORDINATES ARE IN METRES, ARE DERIVED FROM GPS OBSERVATIONS USING THE BORDCO CORPORATION NETWORK, AND ARE REFERRED TO UTM ZONE 17 (BY WEST LONGITUDE) MAGNETIC(2010).

COORDINATE VALUES ARE TO A RURAL ACCURACY IN ACCORDANCE WITH SECTION 14(2) OF UTM 216/10.

POINT ID	NORTHING	EASTING
A	4537209.96	486348.76
B	4537341.91	486551.99

CAUTION: COORDINATES CHANGE, IN THEMSELVES WE USED TO RE-ESTABLISH CORNERS OR BOUNDARIES SHOWN ON THE PLAN.

SURVEYOR'S CERTIFICATE
 I CERTIFY THAT:
 1. THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEY ACT, THE SURVEYORS ACT AND THE LAND TITLES ACT AND THE REGULATIONS MADE UNDER THEM.
 2. THE SURVEY WAS COMPLETED ON THE 12th DAY OF DECEMBER 2014.

MAY 20th 2014
Nel C. Milne
 NEL C. MILNE,
 ONTARIO LAND SURVEYOR

HEWITT AND MILNE LIMITED
 ONTARIO LAND SURVEYORS
 302, 8th STREET EAST,
 OWEN SOUND, ONTARIO
 P. O. BOX 112, N4K 5P1
 TEL: 519-376-5828
 FAX: 519-376-5834
 EMAIL: hml@hmlt.com

DATE BY	FILE #	FILE LOCATION
HCM	13-203	87