



## PLANNING AND BUILDING SERVICES

Town of Newmarket

395 Mulock Drive

P.O. Box 328, STN Main

Newmarket, ON L3Y 4X7

www.newmarket.ca

planning@newmarket.ca

T: 905.953.5321

### Planning Report

TO: Committee of Adjustment

FROM: Patricia Cho  
Planner, Development

DATE: August 25, 2021

RE: Application for Consent - **D10-B05-21**  
Applications for Minor Variance - **D13-A18-21, D13-A19-21**  
90 Howard Drive  
Made by: Di Rezze, Giovanni

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#### 1. Recommendations:

**That Applications for Minor Variance D13-A18-21 and D13-A19-21 be granted, subject to the following conditions:**

- a. That the variance pertains only to the request as submitted with the application; and,
- b. That failure to comply with and maintain the conditions of the Committee shall render the approval null and void.

**That Consent Application D10-B05-21 be granted, subject to the following conditions:**

- a. That the Owner obtain relief from the provisions of the Zoning By-law for reduced frontage as set forth in Minor Variance Applications D13-A18-21 and D13-A19-21;
- b. That the applicant be advised that prior to the issuance of any demolition or building permit compliance will be required with the provisions of the Town's Tree Preservation, Protection, Replacement and Enhancement Policy including tree protection and securities;
- c. That the applicant be advised that they will be required to obtain municipal servicing for both lots independently, at their own cost, prior to any building permit being issued;
- d. That prior to any demolition, the owner be required to enter into a leading site plan agreement with the Town addressing matters such as, but not limited to: lot grading, storm drainage, municipal servicing, tree protection and compensation, parkland dedication, built form compatibility, easements, and other matters for the development of the severed lands and remaining lands;
- e. That the Owner be required to provide to the satisfaction of the Secretary-Treasurer of the Committee of Adjustment the following:
  - i. proof of payment of all outstanding taxes and local improvement charges owing to date against the subject lands;
  - ii. three white prints of a deposited reference plan showing the subject land, which conforms substantially to the application as submitted;

- iii. required transfers to effect the severance and conveyance applied for under Consent Application D10-B05-21, and issuance by the Secretary-Treasurer of the certificate required under subsection 53(42) of the Planning Act;
- iv. proof that they have registered on title easements for Bell Canada infrastructure under the property; and,
- f. That failure to comply with and maintain the conditions of the Committee shall render the approval null and void.

## 2. Subject Lands

This application pertains to the property described by the legal description below:

LT 75 PL 385 EAST GWILLIMBURY; TOWN OF NEWMARKET  
90 Howard Drive



## 3. Application:

An application for Consent has been submitted by the owner of the above noted lands. The purpose of the consent application is to create a new lot indicated as "A" on the sketch included as Attachment 1 for residential purposes and to retain the land marked "B" as remaining lands on the sketch for residential purposes.

The subject lands are located north of Davis Drive, on the west side of Howard Road. The consent, if granted, would result in two lots. The purpose of the minor variance applications is to recognize the reduction of the lot frontage of the proposed lots (the proposed lots both meet the minimum area requirement). The proposed lots and associated frontage, depth and area requirements are presented below:

	Frontage (m)	Depth (m)	Area (m2)
<b>Zoning Requirement (R1-C)</b>	18.0	N/A	743
<b>Proposed Lot A (To be severed)</b>	15.26	60.36	918.97
<b>Proposed Lot B (To be retained)</b>	15.26	60.41	921.93

The subject lands are currently occupied by a single detached dwelling and separate garage. The existing dwelling and garage would have to be demolished to allow for a proposed single detached dwelling on each of the proposed lots.

#### 4. Planning Considerations – Minor Variances

##### Variances

The applications for consent and variances must be addressed in tandem. If Committee decides not to grant the consent, the application for minor variances is unnecessary. Conversely, if Committee decides to deny the minor variance, the consent cannot be approved as it is required for the proposed resulting lots to conform with the requirements of the Zoning By-law.

The minor variance application must be addressed as a condition of the approval of the consent. If not, the proposed resulting lots will not conform with the minimum standards required by the zoning by-law and the application will be inconsistent with the Town's Official Plan, specifically Section 16.1.5(h): "the size and shape of the lot conforms with the requirements of the Zoning By-law".

In order to authorize a minor variance, Committee must be satisfied that the requested variances pass the four tests required by the Planning Act. In this regard, staff offer the following comments:

##### Conformity with the general intent of the Official Plan

The subject lands are designated "Residential Areas" in the Town's Official Plan. This designation permits a range of residential accommodation built form types. Regarding this designation, the Town's Official Plan states:

It is the objective of the Residential Areas policies to:

- provide for a range of residential accommodation by housing type, tenure, size and location to help satisfy the Town of Newmarket's housing needs in a context sensitive manner;
- maintain the stability of Residential Areas by establishing zoning standards that acknowledge and respect the existing physical character of the surrounding neighbourhood;
- recognize the desirability of gradual ongoing change by allowing for contextually-sensitive development through Planning Act applications, to permit development which contributes to a desirable urban structure, diversified housing stock, optimizes the use of existing municipal services and infrastructure, and is compatible with and complementary to the surrounding neighbourhood; and,
- encourage a range of innovative and affordable housing types, zoning standards and subdivision designs where it can be demonstrated that the existing physical character of the Residential Area will be maintained.

In January 2019, the Council of the Town of Newmarket directed staff to undertake a study of development and change in established residential areas. The study was conducted in order to achieve greater compatibility between new homes and existing homes as residential trends in the Town shift from suburban growth to urban intensification and redevelopment. The Established Neighbourhood Study (ENS) resulted in Council adopting Official Plan Amendment 29 (OPA 29) and enacting By-law 2020-63. OPA 29 amends policies in the Town's OP to recognize the built form patterns of each neighbourhood and sets out development criteria in Residential Areas, taking into consideration characteristics such as lot dimensions, lot frontage, setbacks, siting and orientation, lot coverage, and building height, massing and depth.

Among OPA 28 changes is the addition of the following policies under Section 3.8 in regard to Intensification:

Policy 1 states:

"Throughout Residential Areas, intensification is permitted through the introduction of the following:

- The consent of lands resulting in the introduction of additional residential dwellings, where appropriate and subject to other policies of this Plan."

Policy 3 states:

"Limited intensification through consents will be permitted subject to the Zoning By-law and compatibility with the scale of the surrounding neighbourhood, the physical suitability of the site to accommodate the proposed infill or intensification, availability of services and road access requirements."

As per the above policy, intensification by the consent of lands is permitted where appropriate and compatible with the surrounding neighbourhood. In this instance, there is sufficient space to meet the lot area requirements but a minor variance is needed to recognize a reduced lot frontage. If the creation of the two lots does not meet the minimum standards in the Zoning By-law, there is a process to seek relief from a specific provision of the Zoning By-law to allow for a minor change from the requirements of the Zoning By-Law. This process is through a minor variance application.

Lots along Howard Drive vary from the narrowest of 15.23m at 84 Howard Road to the immediate south of the subject lands, to the subject lands having the largest frontage (30.48m). Most of the existing lots along Howard Road are just over 18m.

Lots along other streets in the area are substantially narrower, with lots along Ashton Road, Wayne Drive and Rutledge Avenue as narrow as 15.24 and lots along Belfry Drive are generally at 25.13m. Please see Attachment 2 for a map showing the existing frontages in the general vicinity of the subject lands.

Although the proposed consent would create residential lots whose lot frontage is narrower than many on the street, there exists numerous examples of frontages that are smaller than the proposed 15.26m frontage. Of note, most of the lots along Howard Road have frontages just over 18m, and the difference between those frontages and the proposed frontage is less than 3m. A difference of less than 3m would represent lots that are not out of keeping with other lots in the area and on nearby streets.

The Official Plan designation permits a range of residential accommodation by housing type, tenure, size and location to help satisfy the Town's housing needs in a context sensitive manner. Given the analysis above, the development of the property conforms to the intent of the Official Plan, provided the recommended conditions are imposed. Further, the above analysis discusses the general compatibility of the frontage reduction. In staff's opinion, this test is met.

### **Conformity with the general intent of the Zoning By-law**

The subject lands are zoned Residential Detached Dwelling 18.0M Zone (R1-C) by Zoning By-law 2010-40.

The general intent of minimum lot frontages and minimum lot area is to ensure consistency and compatibility. In the case of the current application, the proposed variances would reduce the minimum required lot frontage from 18.0m to 15.26m, resulting in a difference of 2.74m. Each resulting lot would comply in terms of the minimum lot area required.

Regarding future development, staff have not seen any information regarding future built form. All that is being requested at this time is relief from the minimum frontage requirement. Therefore, any structure built on either lot will be required to comply with all other zoning standards, including the recently revised zoning standards (including setbacks, height and coverage) resulting from the ENS to ensure compatibility of the proposed developments relates to and enhances the established patterns of built form.

Sufficient space for each dwelling is possible for each lot and ample rear amenity space remains available for each lot due to the deep lot configuration, and the existing side-yard setback requirements will maintain the required separation from adjacent properties. In staff's opinion, this test is met.

### **Desirable development of the lot**

It is desirable to develop the lots with single detached dwellings as this is a permitted use. It is also desirable to allow property owners to invest in, redevelop, and improve their properties in accordance with the Official Plan and the Zoning By-law. In cases of consents, it is desirable to allow property owners to arrange their properties and sever new lots in a manner that suits their needs subject to the need for orderly development and zoning conformity.

In addition, the proposed lots would each be able to accommodate a more modest dwelling unit than what is permitted as of right on the subject lands. The subject lands has a greater lot size than the immediate vicinity, with a lot frontage of 30.28m and depth of 60.41m, which would could provide a significant building envelope. However, the required setbacks and lot coverage requirements set out in the Zoning By-law will allow for the development of a single family dwelling unit on each newly created lot, if approved, which may be closer in size to the existing homes in the surrounding area.

As the requested relief related to lot frontage would allow the property owner to arrange the property to suit their needs without significant impact to neighbours or the community, the variance is considered desirable and appropriate development of the lot. In staff's opinion, this test is met.

### **Minor nature of the variances**

The variance for lot frontage is minor in nature as it would allow the creation of lots that do not significantly vary from the standard lot frontage requirement. As mentioned above, there is some degree of variation in lot frontages among the immediate vicinity, along Howard Street and streets in the area. The proposed lot frontage of 15.25m for each the severed lands and remaining lands is compatible with the existing physical neighbourhood character. In staff's opinion, this test is met.

In consideration of the above, the proposed variances is deemed to meet the four tests under the *Planning Act*.

## **5. Planning Considerations - Consent:**

### **Conformity with the Official Plan**

As discussed above, the subject lands are designated "Residential Areas" in the Town's Official Plan. This designation permits a range of residential types, including single detached dwellings. Section 16.1.5 of the Official Plan sets out the circumstances in which an application for consent will be granted. The section reads that consents shall only be granted where:

- a. the severance is for the purpose of infilling within existing development;
- b. a plan of subdivision is not necessary;
- c. the number of lots created is three or less;
- d. the lot can be adequately serviced by sanitary sewage disposal, water supply, and storm drainage facilities;
- e. no extension, improvement or assumption of municipal services is required;
- f. the lot will have frontage on an improved public road, and access will not result in traffic hazards;
- g. the lot will not restrict the ultimate development of adjacent lands;
- h. the size and shape of the lot conforms with the requirements of the Zoning By-law, is appropriate to the use proposed and compatible with adjacent lots; and,
- i. the consent complies with all relevant provisions of this Plan.

The proposed consent meets clauses (a) to (g) and (i), as the subject land is within an existing neighbourhood with existing services. Clause (h) requires the Committee to determine whether it has been fulfilled or not. Clause (h) relies on whether the proposed consent will create a lot that is compatible with adjacent lots.

As mentioned above, development in Residential Areas is to be compatible with existing built and physical character of the surrounding properties. Under Section 3.2 of the Town's Official Plan, Residential Areas are categorized into Residential Character Areas with guiding policies and predominant physical characteristics for each Character Area. The subject lands fall within the Traditional Suburban Character Area, generally characterized by:

- Curvilinear street patterns, including crescent streets and cul-de-sacs;
- Long blocks with few intersections;
- Landscaped boulevards and a moderate and evolving canopy of maturing street trees;
- Discontinuous sidewalks on one side of the street, with the exception of cul-de-sacs, many of which are absent of sidewalks;

- Rectangular and pie-shaped lots, with consistent dimensions, of a moderate to significant size;
- Consistent front and side yard setbacks;
- Building heights between 1 and 2-storeys; and,
- A limited range of architectural expressions and styles.

The proposed consent meets the general characteristics of the Traditional Suburban Character Area, as the physical features and built form of the neighborhood remain unchanged. In terms of setbacks and building height, each lot would be required to conform to the standards of the Zoning By-law.

In the Town's Official Plan, Section 12 supports the use of Zoning By-law and Site Plan Approval to ensure a high quality of urban design. This is to ensure that new development responds appropriately to the existing character of the surrounding neighbourhood, and considers elements such as lot grading, tree protection and conservation, and built form (height, massing, setbacks, materials, and finishes). The recommended condition of requiring site plan approval of each lot will enable staff to review the proposed development on each of the resulting lots, if they are created, and ensure the built form complies with the Zoning By-law and reflects the architectural elements of the surrounding area.

The proposed application would not conflict with the purpose and intent of the Official Plan.

### **Conformity with the Zoning By-law**

The subject lands are zoned Residential Detached Dwelling 18M Zone (R1-C) by By-law 2010-40. This zone permits single detached dwellings and sets requirements for minimum lot areas and frontages. The severed parcel and the retained parcel, as proposed, meet the minimum lot area requirements for the R1-C Zone. If Committee grants the requested relief from the Zoning By-law, as described earlier in this report, each of the lots would comply with site-specific requirements for minimum lot frontage.

A building envelope plan has been provided by the applicant for review. Although it is only a concept plan and could change through the site plan approval process, the current design appears to be reasonable in terms of setbacks and lot coverage. A more comprehensive review will be completed during the site plan approval process. The building envelope plan is included as Attachment C to this report.

## **6. Other Comments**

### **Tree protection**

The Town's Tree Preservation, Protection, Replacement and Enhancement Policy requires properties that are subject to a planning application to submit an arborist report, protect trees during construction, and compensate for any removed trees by replanting or paying an amount to the Town commensurate with the removed trees.

The conditions of this application, if granted and required by Committee, will require the applicant to finalize the consent and enter into a leading site plan agreement prior to demolition of the existing house. This agreement would require the applicant to provide additional arborist report(s) before any development of the resulting lots, including tree protection and compensation as required by the Tree Preservation, Protection, Replacement and Enhancement Policy.

## **Heritage**

The subject lands are not listed or designated under the Ontario Heritage Act.

## **Site Plan Approval**

If the consent is granted and the applicant gains the necessary permission to demolish the structure, planning staff will work with the applicant through the site plan process to develop plans that include material types and architectural styles that reflect the surrounding area to ensure that this infill development is as sensitive as possible to the surrounding neighbourhood.

## **Effect of public input**

Planning Services received four letters from members of the public in response to these applications. The letters raised the following concerns: (1) setting a precedence for future development, (2) impact of construction on the lots (dirt, garbage), and (3) removal of trees. In response, staff offer the following:

- (1) Any future development/application will be considered on its own merits and required to comply with the Official Plan and Zoning By-law.
- (2) Through the site plan and building permit process, the orderly demolition and future construction of new homes can be managed to ensure that streets are kept clear of construction vehicles and debris and that construction occurs during designated hours. The noise by-law also regulates construction noise.
- (3) If the consent is granted, a condition is proposed that will ensure that the application conforms to the requirements of the Tree Preservation, Protection, Replacement and Enhancement Policy.

## **Commenting agencies and departments**

The Chief Building Official has reviewed the applications and has no comment with regards to this application.

Engineering Services has reviewed the applications and has no objection. The site shall be subject to the Site Plan review process at the time of development of these lots.

The Regional Municipality of York has reviewed the applications and has expressed that any development proposed within the new lot will require water and wastewater servicing allocation from the Town.

Bell Canada has reviewed the applications and has expressed that an easement will be required over the entirety of the lands or a 3.0m wide corridor to be measured 1.5m on either side of the underground facilities.



## 7. Conclusions

### Minor Variance Applications D13-A18-21 and D13-A19-21

In staff's opinion, the relief as requested:

- (1) Is minor in nature;
- (2) Conforms to the general intent and purpose of the Official Plan and Zoning By-law; and,
- (3) Is considered desirable for the appropriate development of the lot.

### Consent Application D10-B05-21

In staff's opinion, the consent meets the relevant requirements of the Zoning By-law, Official Plan and is recommended to be granted subject to the associated conditions.

Respectfully submitted,

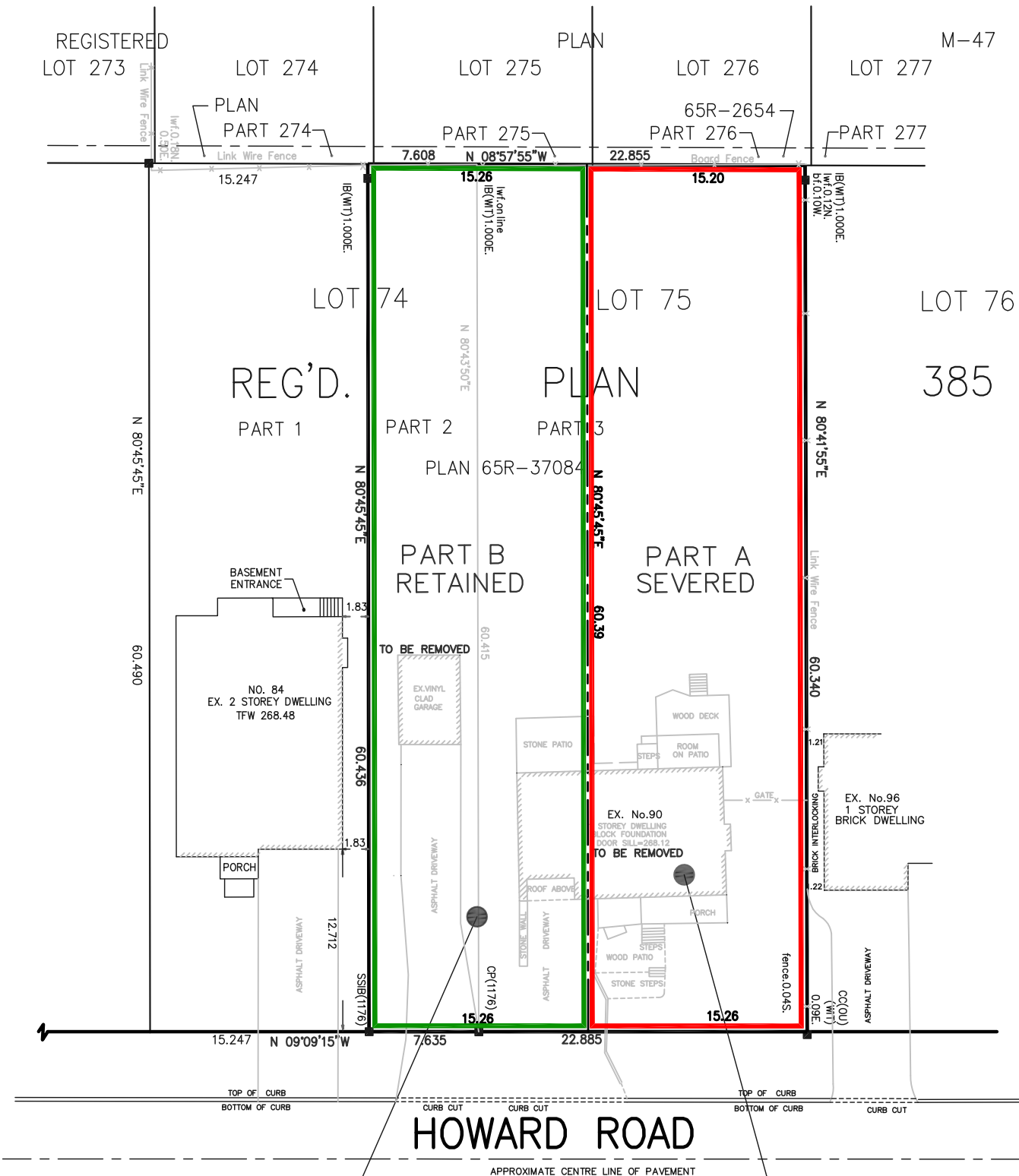
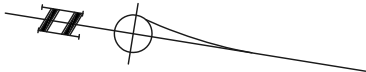


Patricia Cho, HBC, MSc. (Pln)  
Planner - Development

### Attachments

- 1 – Coloured concept sketch of proposed and retained lot
- 2 - Map showing approximate lot frontage and lot area of existing neighbourhood
- 3 – Concept plan

METRIC: ALL MEASUREMENTS SHOWN ON THIS PLAN ARE IN METRES AND MAY BE CONVERTED TO FEET BY DIVIDING BY 0.3048.



TOTAL SITE AREA = 1804.9 sq.m.

PART B – RETAINED  
LOT AREA : 921.93m<sup>2</sup>  
FRONTAGE : 15.26m  
AVE. DEPTH : 60.41m

PART A – SEVERED  
LOT AREA : 918.97m<sup>2</sup>  
FRONTAGE : 15.26m  
AVE. DEPTH : 60.36m



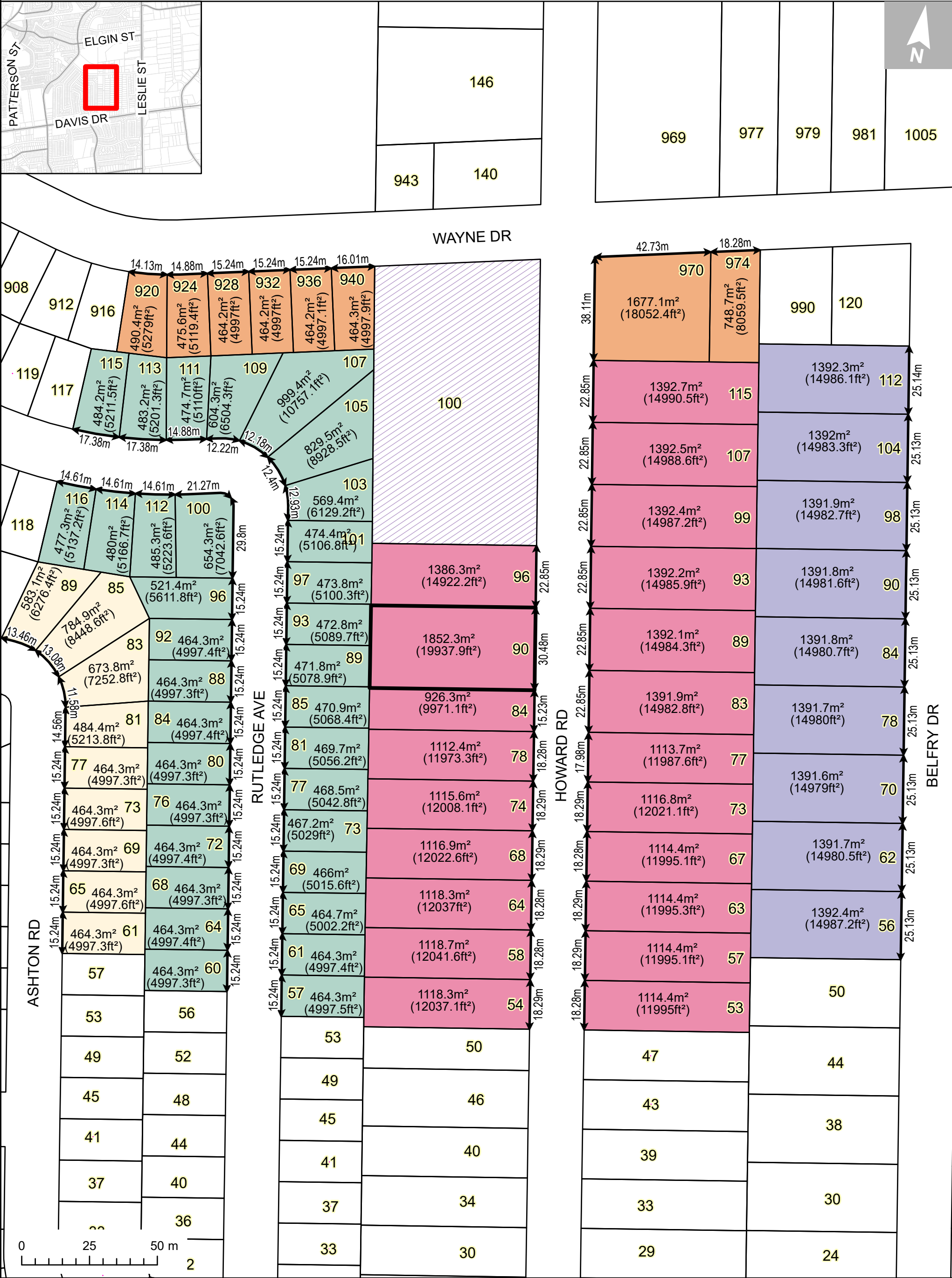
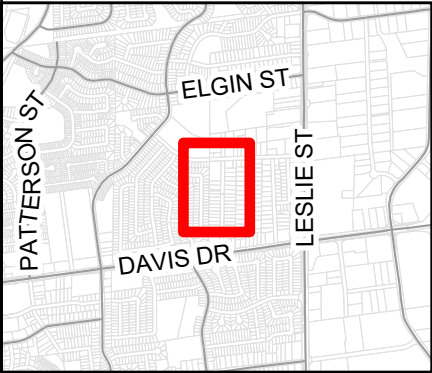
**AME-TECH Developments Limited**  
*Urban Engineering & Project Management Services*  
346 Newkirk Road, Unit 9, Richmond Hill, Ontario L4C 0A9, 905.884.4336

TITLE:  
**PROP. SEVERANCE**  
LOT NO. : LOT 75 & PART OF 74  
REG'D PLAN 385  
PARTS 2 & 3 65R-37084  
STREET NAME: 90 HOWARD ROAD  
TOWN OF NEWMARKET  
FOR: GIOVANNI DI REZZE

Designed by:  
Drawn by: C.D.R.  
Date: MAY 2021  
Scale: 1: 400  
Approved by:

# 90 Howard Drive and Surrounds

## Approximate Lot Frontage (m) and Lot Area (m<sup>2</sup>)



Street on which Property Fronts

Ashton Rd

Rutledge Ave

Subject Lands

Property Line

Town owned property

Belfry Dr

Wayne Dr

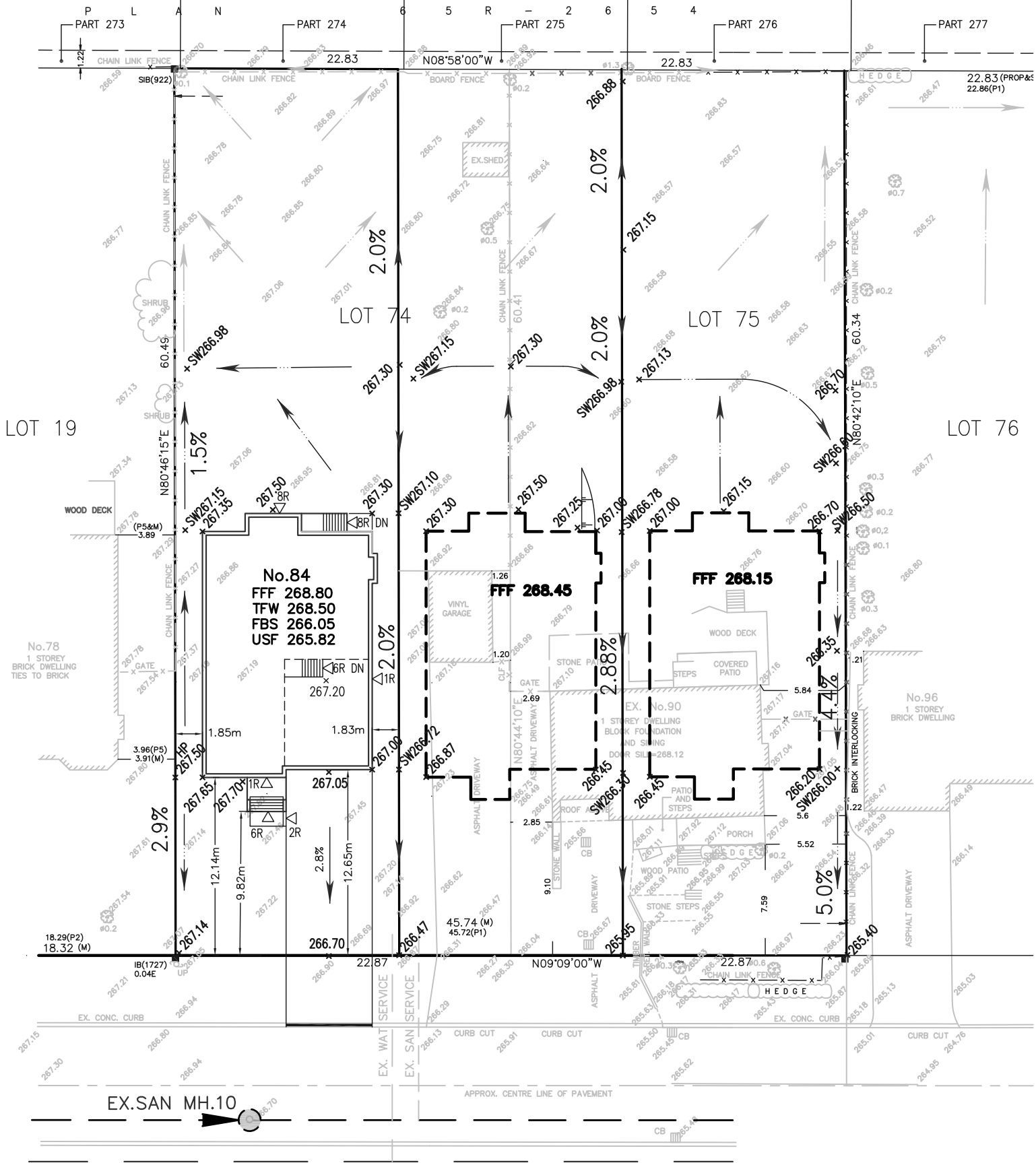
Howard Dr

Designed & produced by  
Information Technology - GIS  
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REGISTERED PLAN M-47

LOT 273 LOT 274 LOT 275 LOT 276 LOT 277



HOWARD ROAD

EX. 150mmØ WM