



CITY OF KINGSTON
REPORT TO PLANNING COMMITTEE

Report No.: PC-12-031

TO: Chair and Member of Planning Committee
FROM: Cynthia Beach, Commissioner, Sustainability & Growth
RESOURCE STAFF: Grant C. Bain, Director, Planning and Development Department
DATE OF MEETING: March 29, 2012
SUBJECT: **COMPREHENSIVE REPORT**
Application for Final Plan of Condominium
CaraCo Development Corporation
Blocks 213, 214 and 215, 13M-58
File No. D07-016-2012

EXECUTIVE SUMMARY:

This is a Comprehensive Report to recommend approval of an application for Final Plan of Condominium which has been submitted by CaraCo Development Corporation with respect to Blocks 213, 214 and 215, 13M-58, located on Augusta Drive and Crossfield Avenue within the Lyndenwood Subdivision. The applicant proposes to incorporate the rear lane as a common element condominium.

The application conforms to and is consistent with the applicable policies in the Provincial Policy Statement and complies with the general intent of the City of Kingston Official Plan. No specific concerns were raised through the technical circulation of the Final Plan of Condominium application as all concerns dealing with the development of these lands are addressed in the Subdivision Agreement.

RECOMMENDATION:

THAT it be recommended to Council that the application for Final Approval of a Plan of Condominium (Our File No. D07-016-2012) submitted by CaraCo Development Corporation, for an 8.0 metre wide rear lane on Blocks 213, 214 and 215, Registered Plan 13M-58, **BE APPROVED**; and,

THAT Final Approval be granted to the Plan of Condominium submitted by CaraCo Development Corporation, with respect to a common element condominium consisting of an 8.0 metre wide rear lane on Blocks 213, 214 and 215, Registered Plan 13M-58, subject to the Owner entering into a Condominium Agreement with the City, which Agreement shall provide

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further notice to the Condominium Corporation and present and future purchasers of the conditions contained within the registered Subdivision Agreement and that the Condominium Corporation will be responsible for maintaining the approved subdivision works and fulfilling any conditions of the Agreement; and,

THAT following the execution of the Condominium Agreement, the Director of Legal Services be authorized to forward the necessary signed and stamped originals and required copies of the Final Plan of Condominium to the Land Registry Office for registration.

AUTHORIZING SIGNATURES:

ORIGINAL SIGNED BY COMMISSIONER _____ Cynthia Beach, P.Eng., MCIP, RPP, Commissioner, Sustainability & Growth Group
ORIGINAL SIGNED BY CHIEF ADMINISTRATIVE OFFICER _____ Gerard Hunt, Chief Administrative Officer

CONSULTATION WITH THE FOLLOWING COMMISSIONERS:

Lanie Hurdle, <i>Community Services</i>	N/R
Denis Leger, <i>Transportation, Properties & Emergency Services</i>	N/R
Jim Keech, <i>President and CEO, Utilities Kingston</i>	N/R

(N/R indicates consultation not required)

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OPTIONS/DISCUSSION:

Origin

On January 5, 2012, a Final Plan of Condominium application was submitted by CaraCo Development Corporation for the purpose of incorporating a rear lane (Blocks 213 to 215) as a common element condominium for Lots 132, 196 to 211, Registered Plan 13M-58.

Site Characteristics

The subject lands are located on the south side of Crossfield Avenue and the west of Augusta Drive, in the Cataraqui North Neighbourhood and consist of 17 lots (Lots 132, 196 to 211, Registered Plan 13M-58) municipally known as 1261 to 1277 Crossfield Avenue and 685 to 699 Augusta Drive (see Exhibit A - Key Map). The lots are developed, or are intended to be developed, with single or semi detached dwellings. The lots are accessed by a private rear lane with individual garages off the rear lane.

The land uses surrounding the subject lots are primarily undeveloped land intended for future residential development and future parkland. Residential development, in the form of single and semi detached dwellings, has occurred to the south, west and east of the subject lots.

Application

The Final Plan of Condominium was submitted for the purpose of creating a common element condominium consisting of an 8.0 metre wide rear lane on Blocks 213 to 215 (see Exhibit B - Common Element Condominium Plan). The rear lane will provide access for vehicles to the individual garages and will be used for the collection of garbage and recycling from the residential units. There are a total of 17 lots that will utilize the rear lane in this phase of the development. CaraCo Development Corporation proposes to register a condominium corporation for these lands which will provide for the use and maintenance, including snow removal, of the lane.

The Applicant is requesting the approval of a Plan of Condominium under the exemption process outlined in Section 9 (6) of the Condominium Act.

Provincial Policy Statement

The Provincial Policy Statement provides policy direction on matters of provincial interest related to land use planning and development which are complemented by local policies addressing local interests. The application being considered is site specific to accommodate a specific proposal and does not involve any major policy issues.

The proposal is consistent with the Provincial Policy Statement with respect to the following:

- Promote efficient development and land use patterns which sustain the financial well-being of the Province and municipalities over the long term (Section 1.1.1.a);
- Accommodate an appropriate range and mix of residential, employment (including industrial, commercial and institutional uses), recreational and open space uses to meet long-term needs; (Section 1.1.1.b);

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- Avoid development and land use patterns which may cause environmental or public health and safety concerns (Section 1.1.1.c);
- Permitting and facilitating all forms of housing required to meet the social, health and well-being requirements of current and future residents, including special needs requirements (Section 1.4.3.b); and,
- Provide for an appropriate range of housing types and densities by permitting and facilitating all forms of residential intensification and redevelopment (Section 1.4.3.b.2).

The application conforms to and is consistent with the applicable policies in the Provincial Policy Statement.

Official Plan

The site is designated Residential in the City of Kingston Official Plan (see Exhibit C - Existing Official Plan designation) and is located within the Cataraqui North Neighbourhood Secondary Plan area. The predominant use permitted in the Residential designation is for residential purposes. Other uses which are complementary to and serve the principal residential uses, such as elementary schools and parkettes, are also permitted.

The goal of the Cataraqui North Neighbourhood Secondary Plan is to encourage the development of lands based on the principles of 'New Urbanism' which include:

- the safety and security of residents is paramount;
- a diversity of land uses is encouraged;
- the scale, design and pattern of development are pedestrian-oriented and supportive of public transit;
- the natural environment and heritage features are respected, preserved and enhanced wherever reasonably possible; and,
- public spaces are prominent, well-defined and serve to tie the neighbourhood into a cohesive unit.

The proposed Final Plan of Condominium complies with the general intent of the Official Plan therefore an Official Plan Amendment is not required.

Zoning By-Law

The lands are zoned Medium Density Residential Exception 1 (MDR*1) and Medium Density Residential Exception 16 (MDR*16) in Cataraqui North Zoning By-Law No. 97-102, as amended (see Exhibit D - Existing Zoning).

The Medium Density Residential zone generally applies to lands that are to be developed with semi-detached dwellings, townhouse dwellings, multiple dwellings and apartments. A private home daycare, public park and retirement home are also permitted within the Medium Density Residential zone. The Medium Density Residential Exception 1 and 16 zones permit single detached dwellings on lots accessed by a rear lane only.

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Site Plan Control

In accordance with By-Law No. 2006-65, the site is not subject to Site Plan Control.

Common Elements Condominium

In accordance with Section 9(6) of the Condominium Act, an 'Application for Exemption' recognizes that the proposed development has recently been subject to development approvals pursuant to the Planning Act resulting in a Development Agreement, such as a Site Plan Control Agreement or Subdivision Agreement, being registered on title of the subject property. The Development Agreement would dictate the details of the proposed development. Consequently, Conditions of Draft Plan of Condominium Approval may not be required and the development may proceed directly to Final Condominium Approval. The subject site has a registered Subdivision Agreement and will be constructed in accordance with the approved engineering plans and Subdivision Agreement.

A common elements condominium corporation is composed only of "common elements" that are shared by owners of freehold properties within the same Land Registry Division. The owners of the freehold lots own interests in a common elements condominium corporation. The freehold lots having an interest in the condominium corporation are called "parcels of tied land" and must exist on law prior to the registration of the common elements condominium corporation. The Condominium Act creates liens against the freehold properties to ensure payment of common expenses.

The subject lots and the private rear lane were created through the registration of Registered Plan 13M-58 in May of 2005. The Subdivision Agreement includes provisions to ensure that every Agreement of Purchase and Sale included a notice to the prospective purchasers advising that:

- Ownership includes a share in a Common Elements Condominium which shall own the private lane at the rear of the lots.
- The private lane will not be assumed by the Municipality and there will be no Municipal snowplowing or maintenance of any kind.
- Parking is prohibited at all times on any part of the lane. No Parking and traffic signage is to be maintained by the owners of the lane.
- Solid waste and recycling shall be collected from the rear lane by the Municipality. The Owner or occupant of the premise abutting the lane shall ensure that the receptacles holding solid waste for collection shall be placed within one (1) meter of the lane and provide the Municipality with unobstructed and convenient access. The lane must be suitable for solid waste and recycling truck access by 6am on the mornings of scheduled collection, to the satisfaction of the Manager, Solid Waste. The Municipality reserves the right to revoke rear lane collection service at any time. Despite any Municipal services provided in the rear lane, the Municipality shall not be responsible for any damage caused by Municipal equipment or personnel in the delivery of services.

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- The private lane is subject to an easement in favour of the Municipality for the provision of stormwater management. In the event repairs to the storm sewer and/or catch basins along the private lane are necessary, only patch repair to the asphalt will be made. It will not be the responsibility of the Municipality to repave the entire private lane.

Adequate provisions have been included in the Subdivision Agreement to ensure that access to the private rear lane is obtained and to notify purchasers of the intended use and potential extension of the rear lane.

Servicing, Lot Grading, Drainage and Stormwater Management

Servicing, lot grading, drainage, sediment control and stormwater management were addressed through the Final Subdivision process. Provisions are included in the Subdivision Agreement to address these issues.

Parkland Conveyance

Parkland dedication was conveyed through the Final Subdivision process.

Conclusion

In conclusion, the Planning and Development Department recommends approval of the application for Final Plan of Condominium for Blocks 213, 214 and 215, Registered Plan 13M-58.

The common element condominium will facilitate the requirement in the Subdivision Agreement to provide a shared ownership of the private rear lane. The rear lane maintains the new urbanism intent of this neighbourhood and provides a unique housing development in the area.

No specific concerns were raised by external or internal agencies. All concerns dealing with the future development of these lands are addressed in the Subdivision Agreement. The application conforms to and is consistent with the applicable policies in the Provincial Policy Statement and complies with the general intent of the City of Kingston Official Plan.

EXISTING POLICY/BY LAW:

The proposed amendment was reviewed against the policies of the Province of Ontario and policies, By-Law and studies of the City of Kingston to ensure that the changes would be consistent with the Province's and City's vision of urban development. The following documents were assessed:

Provincial

Planning Act

Condominium Act

Provincial Policy Statement, 2005

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Municipal

City of Kingston Official Plan
Cataraqui North Zoning By-Law No. 97-102

NOTICE PROVISIONS:

There are no statutory notice requirements for this application.

ACCESSIBILITY CONSIDERATIONS:

No accessibility concerns have been identified.

FINANCIAL CONSIDERATIONS:

No financial implications are considered in this report.

CONTACTS:

Karen Fraser, Senior Planner, Development Approvals, 613-546-4291, ext. 3287
Marnie Venditti, Manager, Development Approvals, 613-546-4291, ext 3256
Grant C. Bain, Director, Planning & Development Department, 613-546-4291, ext. 3252

OTHER CITY OF KINGSTON STAFF CONSULTED:

The following external and internal agencies were circulated the Final Plan of Condominium application for review and comment:

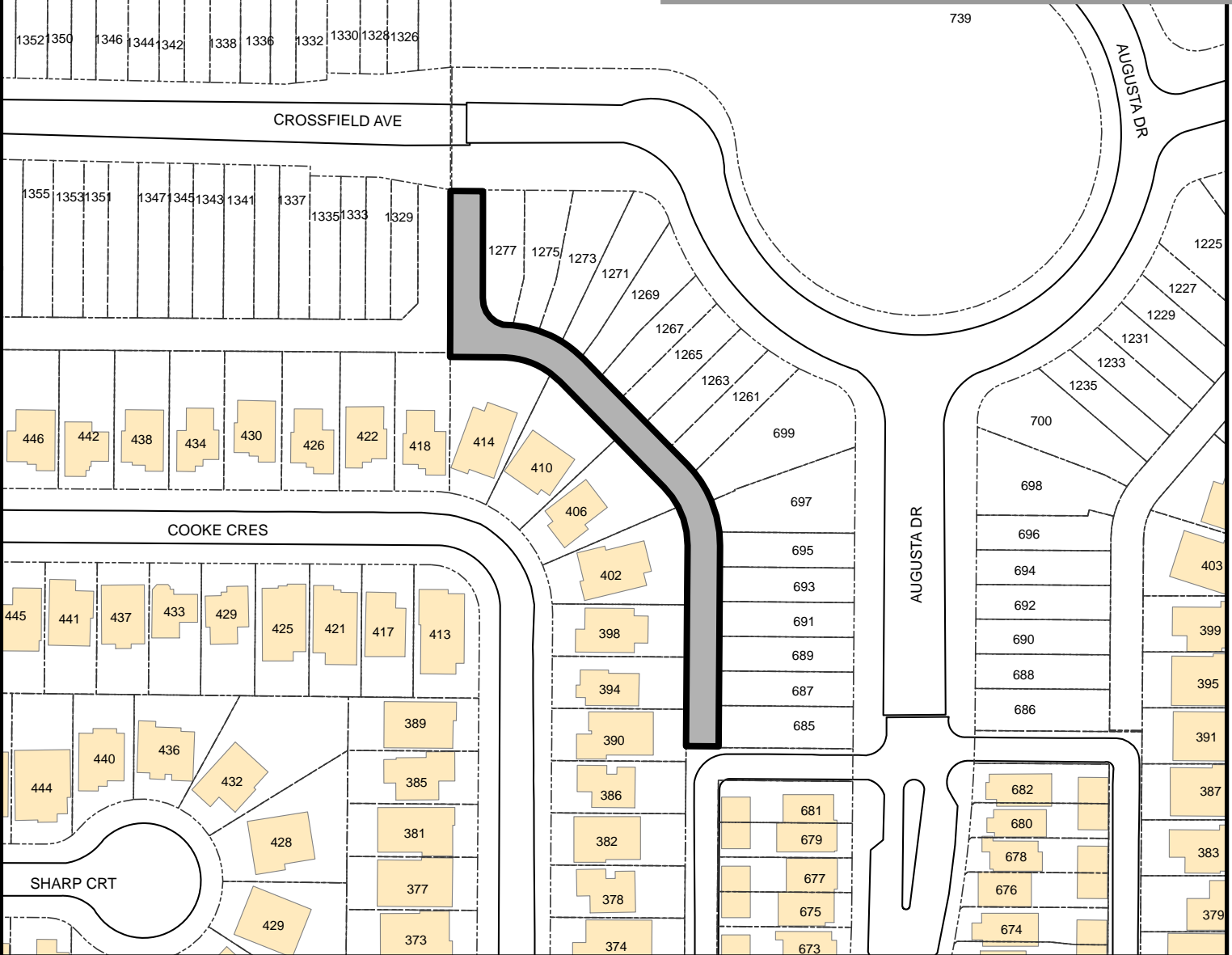
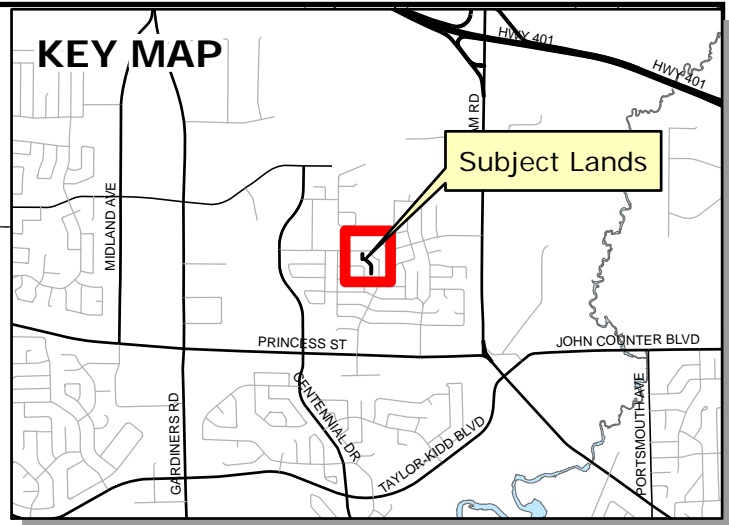
Kim Brown, Engineering Services
Chantal Chiddle, Utilities Kingston - Technical Services

EXHIBITS ATTACHED:

Exhibit A Key Map;
Exhibit B Common Element Condominium Plan;
Exhibit C Existing Official Plan designation;
Exhibit D Existing Zoning; and,
Exhibit E Draft Condominium Agreement.

DETAIL

KEY MAP



THE CORPORATION OF THE CITY OF KINGSTON
PLANNING & DEVELOPMENT DEPARTMENT

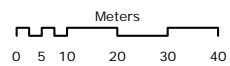
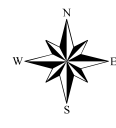
KEY MAP

Planning & Development
a department of Sustainability & Growth

Applicant: CaraCo Development Corp
File Number: D07-016-2012
Address: 685-699 Augusta Dr & 1261-1277 Crossfield Ave
Legal Description: PLAN 13M58 BLK 214
ARN: 1011 080 190 02430

Legend

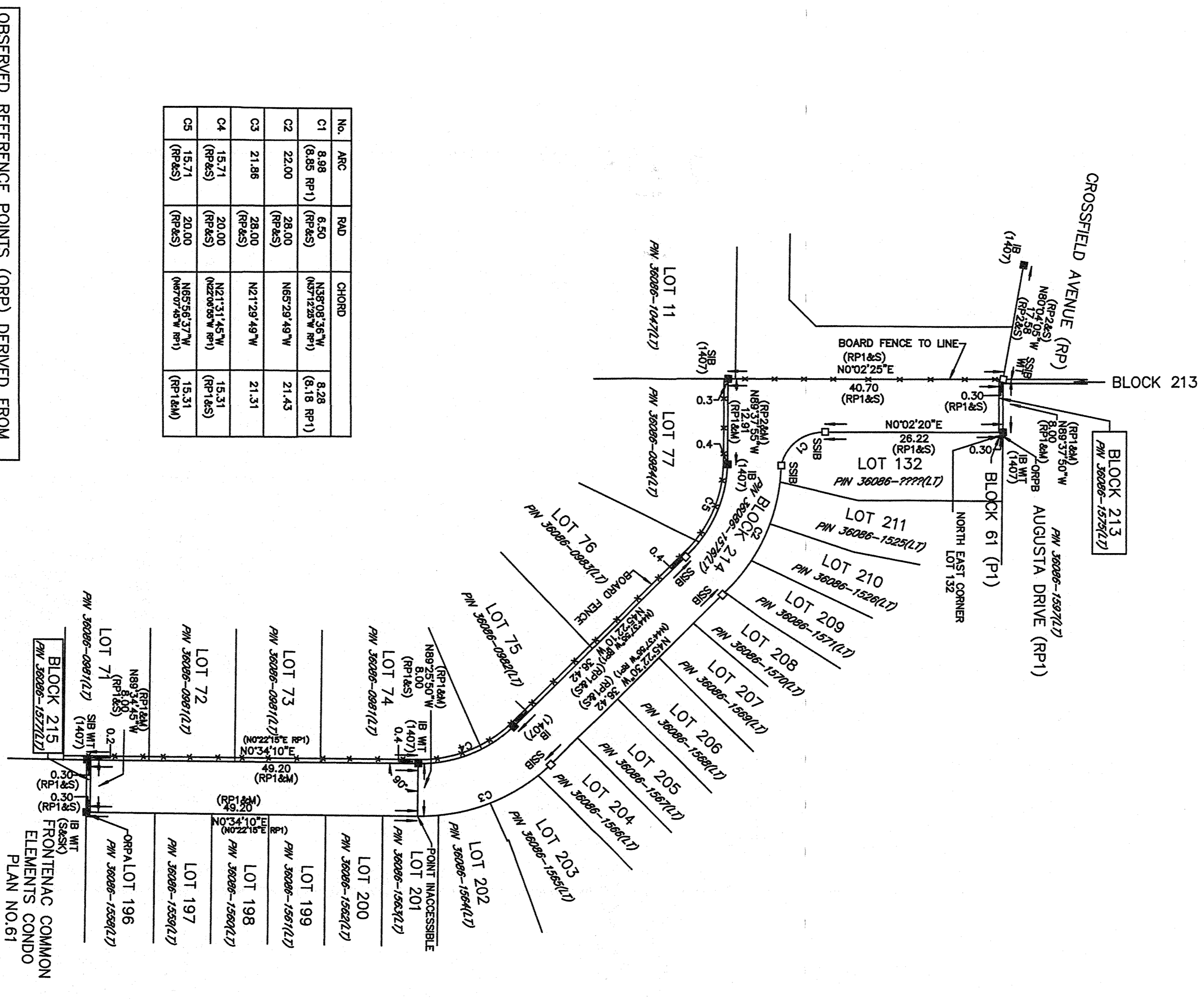
Subject Lands



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PLAN SURVEY OF
BLOCK 213, 214, 215
REGISTERED PLAN NO. 13M-58
CITY OF KINGSTON
(GEOGRAPHIC TOWNSHIP OF KINGSTON)
COUNTY OF FRONTENAC
SCALE: 1 : 500

METRIC
DISTANCES SHOWN ON THIS PLAN ARE IN METRES
AND CAN BE CONVERTED TO FEET BY DIVIDING BY
0.3048
GRANGE W. ELLIOTT LTD.
2011



No.	ARC	POD	CHORD
C1	8.88 (RP185)	6.50 (RP185)	8.28 (B18 RP1)
C2	22.00 (RP245)	28.00 (RP245)	21.43 (RP185)
C3	21.88 (RP245)	28.00 (RP245)	21.31 (RP185)
C4	15.71 (RP245)	20.00 (RP245)	15.31 (RP185)
C5	15.71 (RP245)	20.00 (RP245)	15.31 (RP185)

OBSERVED REFERENCE POINTS (ORP) DERIVED FROM GPS OBSERVATIONS USING CAN-NET RTK NETWORK UTM ZONE 18, NAD 83 ORIGIN (1997.0) CO-ORDINATES ARE TO URBAN ACCURACY PER SEC. 14(2) O. REG. 216/10

POINT ID	NORTHING	EASTING
ORP A	4 902 256.65	376 023.13
ORP B	4 902 393.32	375 965.22

CO-ORDINATES CANNOT IN THEMSELVES BE USED TO RE-ESTABLISH CORNERS OR BOUNDARIES SHOWN ON THIS PLAN.

FRONTENAC COMMON ELEMENTS
CONDOMINIUM PLAN NO.

LEVEL 1
REGISTERED IN THE LAND REGISTRY OFFICE FOR THE
LAND TITLES DIVISION OF KINGSTON (NO. 13) AT --
-- O'CLOCK ON THE -- DAY OF -- --
-- REPRESENTATIVE FOR LAND REGISTRAR

SURVEYOR'S CERTIFICATE:
1. CERTIFY THAT:
THIS SURVEY AND PLAN ARE CORRECT AND IN
ACCORDANCE WITH THE SURVEY ACT,
THE CONDOMINIUM ACT, 1998 AND THE
REGULATIONS MADE UNDER THEM.
2. THE SURVEY WAS COMPLETED ON THE
DAY OF
GRANGE W. ELLIOTT LTD.
KINGSTON, ONTARIO
NOVEMBER 28, 2011
DATE
M. PETER ALLEN
ONTARIO LAND SURVEYOR

DECLARATION REGISTERED AS
NO. LT -- --
THIS PLAN IS COMPRISED ALL OF PIN 36096-1574(L1),
PIN 36096-1576(L1) AND PIN 36096-1577(L1).

CERTIFICATE OF DECLARANT
THIS IS TO CERTIFY THAT THE PROPERTY INCLUDED IN
ELEMENTS IN ACCORDANCE WITH MY INSTRUCTIONS.
DATED THIS -- DAY OF --, 2011.

CARACO DEVELOPMENT CORPORATION
(I HAVE THE AUTHORITY TO BIND THE CORPORATION)

SCHEDULE OF APPLICANT AND SERVIENT INTERESTS
(UNDER CLAUSES 157 (1)(D) AND (E) OF THE CONDOMINIUM ACT, 1998)

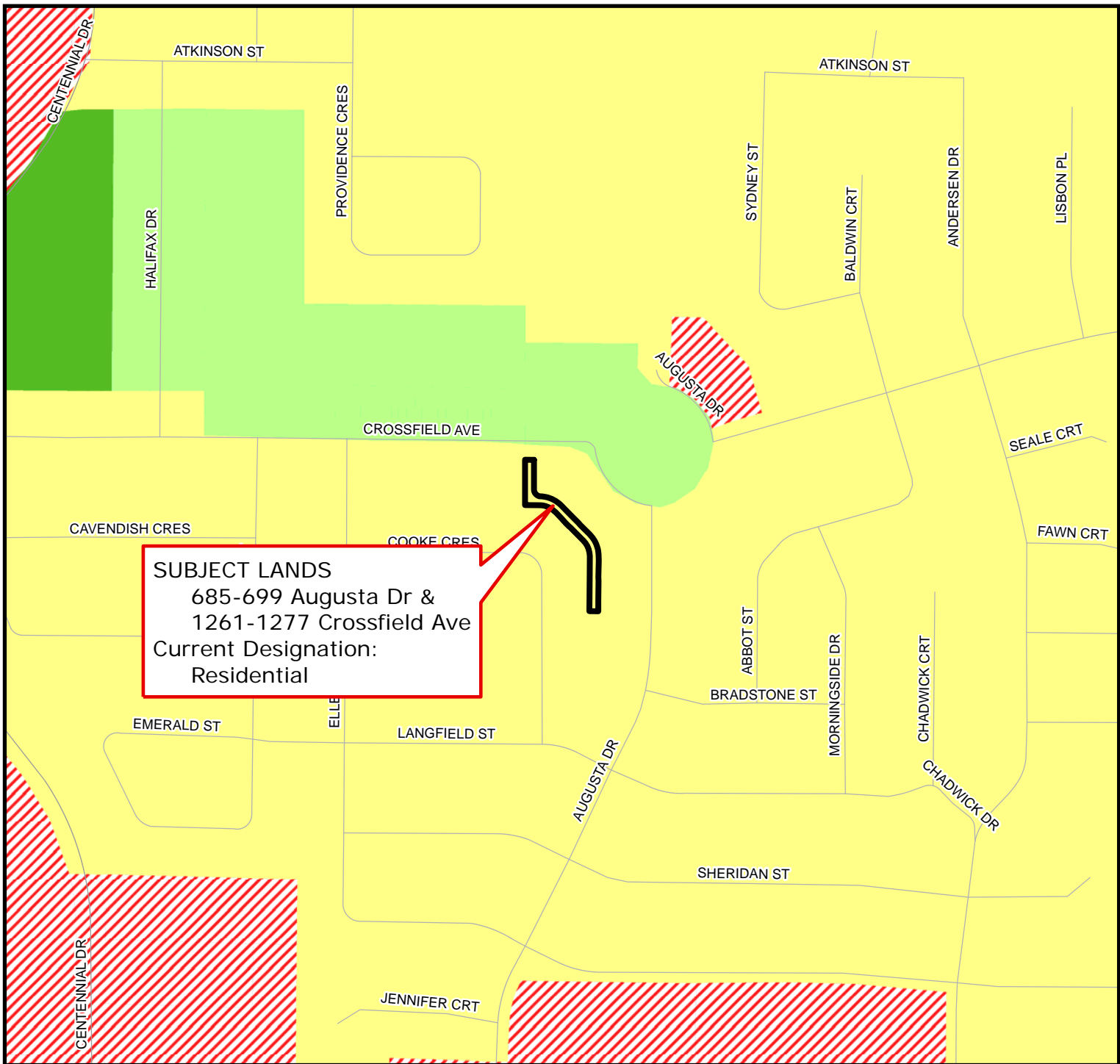
PART	PLAN	DESCRIBED IN	NOTES
TOGETHER WITH (APPLICANT INTERESTS)			
SUBJECT TO (SERVIENT INTERESTS)	BLOCKS	DECLARATION	EASEMENT FOR INGRESS & EGRESS
SUBJECT TO EASEMENT			

MUNICIPAL CERTIFICATE
APPROVED UNDER SECTION 51 OF THE PLANNING ACT
BY THE COUNCIL OF THE CORPORATION OF THE
CITY OF KINGSTON.
THIS -- DAY OF --, 2004

MAYOR (MARK GERRETSEN)
CITY CLERK (JOHN BOLONONE)
(WE HAVE THE AUTHORITY TO BIND THE CORPORATION)

NOTE & LEGEND:
BEARINGS ARE GRID BEARINGS DERIVED FROM GPS
OBSERVATIONS USING CAN-NET RTK NETWORK UTM
ZONE 18, WEST LONGITUDE NAD 83 ORIGINAL.
DISTANCES ARE GROUND DISTANCES AND CAN BE
CONVERTED TO GRID DISTANCES BY MULTIPLYING
BY THE GRID FACTOR. BEARINGS ARE GRID BEARINGS DERIVED FROM GPS
OBSERVATIONS USING CAN-NET RTK NETWORK UTM
ZONE 18, WEST LONGITUDE NAD 83 ORIGINAL.
FOR BEARING COMPARISONS A ROTATION OF 1.06° 35"
CLOCKWISE WAS APPLIED TO THE BEARINGS ON
RP1, RP2 & RP3.
SHORT/STANDARD IRON BAR
IRON BAR ROUND IRON BAR
CUT CROSS
WITNESS
SPLIT ANGLE
M.P. ALLEN O.L.S.
SMITH & SMITH KINGSTON LTD.
S
P
P1
P2
RP1
NO SIBS SET DUE TO URBAN ENVIRONMENT.

RECEIVED
JAN 03 2012
PLANNING & DEVELOPMENT
DEPARTMENT
CITY OF KINGSTON
NOVEMBER 28, 2011/9C
GRANGE W. ELLIOTT LTD. O.L.S.
1100 WATERLOO STREET
KINGSTON, ONTARIO K7L 3C7
(613) 542-6489 or 546-4849 or 546-3984 (Fax)
FILE: CITY 13M-58 BLK213, 214, 215 | M13501INT



SUBJECT LANDS
 685-699 Augusta Dr &
 1261-1277 Crossfield Ave
 Current Designation:
 Residential

Legend

- LAND USE DESIGNATION
- ENVIRONMENTAL PROTECTION AREA
- RESIDENTIAL
- COMMERCIAL
- OPEN SPACE
- Area To Which This Schedule Applies



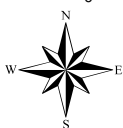
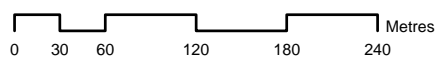
THE CORPORATION OF THE CITY OF KINGSTON

**Official Plan for the City of Kingston
 Schedule CN-1,
 Cataraqui North Neighbourhood**

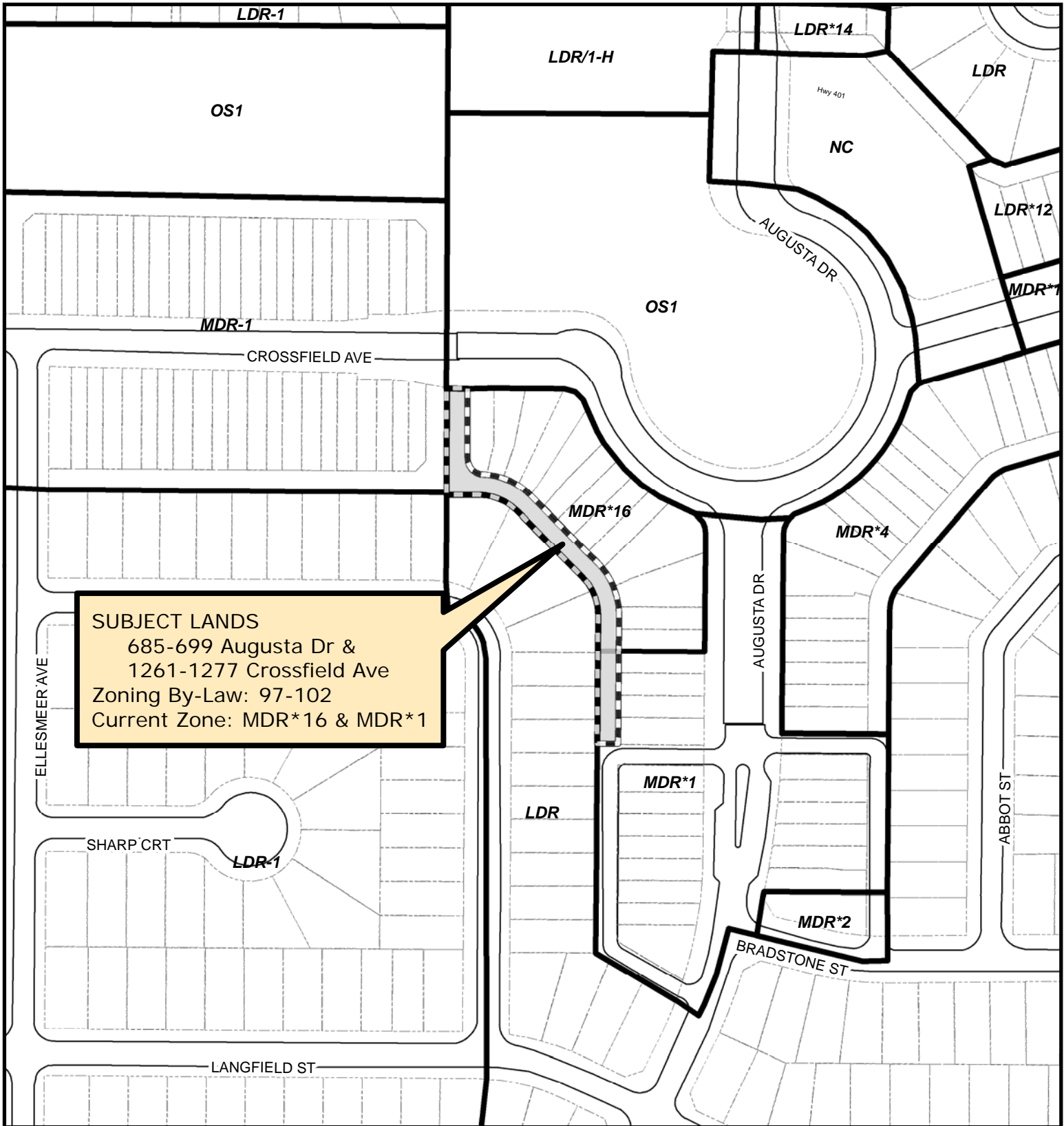
Applicant: CaraCo Development Corp
 File Number: D07-016-2012
 Address: 685-699 Augusta Dr & 1261-1277 Crossfield Ave
 Legal Description: PLAN 13M58 BLK 214
 ARN: 1011 080 190 02430

Legend

Subject Lands



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SUBJECT LANDS
 685-699 Augusta Dr &
 1261-1277 Crossfield Ave
 Zoning By-Law: 97-102
 Current Zone: MDR*16 & MDR*1



THE CORPORATION OF THE CITY OF KINGSTON
 PLANNING & DEVELOPMENT DEPARTMENT

EXISTING ZONING
 Zoning By-Law: 97-102

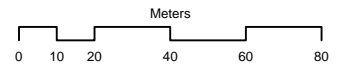
Planning & Development
 a department of Sustainability & Growth

Applicant: CaraCo Development Corp
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 Legal Description: PLAN 13M58 BLK 214
 ARN: 1011 080 190 02430

Legend:



Subject Lands
 Current Zone: MDR*16 & MDR*1



FOR REFERENCE PURPOSES ONLY

THIS IS AN OFFICE CONSOLIDATION. FOR ACCURATE REFERENCE THE ORIGINAL ZONING BY-LAW AND AMENDMENTS THERETO SHOULD BE CONSULTED AT 1211 JOHN COUNTER BLVD

CONDOMINIUM AGREEMENT

Clause ____, Report No. ____, _____, 2012

THIS AGREEMENT made in triplicate this _____ day of _____, 2012

B E T W E E N:

CARACO DEVELOPMENT CORPORATION
hereinafter referred to as the "OWNER"

OF THE FIRST PART

- and -

THE CORPORATION OF THE CITY OF KINGSTON
hereinafter referred to as the "MUNICIPALITY"

OF THE SECOND PART

WHEREAS the Owner has made an application to the Municipality for approval of a Plan of Common Element Condominium under the exemption process for the common element identified as Blocks 213, 214 and 215, Registered Plan 13M-58 which has been constructed at Lots 132, 196 to 211, Registered Plan 13M-58 on those lands described in Schedule "A" of this Agreement (the "Owner's Lands");

AND WHEREAS the Plan of Common Element Condominium is in conformity with the general purpose and intent of the applicable policies of the Official Plan and the regulations of the City's Zoning By-Law No. 97-102, as amended;

AND WHEREAS the Common Elements, described in Schedule 'A' are subject to the Subdivision Agreement, dated May 31, 2005, which Agreement was registered on title June 10, 2005 as Instrument No. FC3061;

AND WHEREAS the request for Final Condominium Approval under the Condominium Act is appropriate, in that the Plan of Common Element Condominium conforms to the existing Official Plan policies and Zoning By-Law regulations and is subject to a registered Subdivision Agreement;

AND WHEREAS on _____, 2012, City Council approved the application for Plan of Condominium (File No. D07-016-2012) submitted by CaraCo Development Corporation with respect to the Common Element Condominium for Blocks 213, 214 and 215, Registered Plan 13M-58, and EXEMPTED the Plan under Section 9 of the Condominium Act and the provisions of Sections 51 and 51.1 of the Planning Act;

AND WHEREAS the approval of City Council was subject to the Owner entering into a Common Element Condominium Agreement with the City, which Agreement is to reference the conditions from the

CONDOMINIUM AGREEMENT

registered Subdivision Agreement and to advise the Condominium Corporation of its responsibility to fulfill any conditions not completed by the Developer;

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the approval of the Common Element Plan of Condominium and the sum of ONE DOLLAR (\$1.00), receipt of which is hereby acknowledged, the Owner for itself and for all successors in title, hereby agrees with the Municipality as follows:

1. PRIOR TO THE REGISTRATION OF THE CONDOMINIUM DECLARATION, the Owner shall submit a written report from a consulting professional (Engineer, Architect, Ontario Land Surveyor) confirming that the Common Element has been completed in conformity with the approved plans and the Registered Subdivision Agreement and any amendments thereto. Any matters which will not be completed prior to the Registration of the Condominium Declaration and are to be assumed by the Condominium Corporation shall be clearly outlined in writing in the Report.
2. Purchasers are hereby advised that this Plan of Condominium is subject to a Subdivision Agreement, dated May 31, 2005, which Agreement was registered on title June 10, 2005 as Instrument No. FC3061. The Condominium Corporation shall be responsible for maintaining the required works as shown on the approved Subdivision Plans listed in the Subdivision Agreement and shall be responsible for completing any required works not completed prior to the registration of the Condominium Declaration.
3. Wherever this Agreement states "the Owner shall.....", this shall mean at the Owner's expense.
4. The Owner shall pay to the Municipality the cost of registration of this Agreement as well as the cost of any grants of easement relative thereto.
5. It is agreed between the parties hereto that every covenant, proviso and agreement herein shall enure to the benefit of and be binding upon the parties hereto, and their heirs, executors, administrators, successors and assigns; that all covenants herein shall be construed as being joint and several and that, when the context so requires or permits, the singular number shall be read as if the plural were expressed, and the masculine gender as if the feminine or neuter gender, as the case may be, were expressed.

IN WITNESS WHEREOF the parties hereto have affixed their Corporate Seals, under the hands of their proper signing officers, duly authorized in that behalf.

CONDOMINIUM AGREEMENT

SIGNED, SEALED AND DELIVERED
in the presence of

) CARACO DEVELOPMENT CORPORATION
)
)
)
) _____

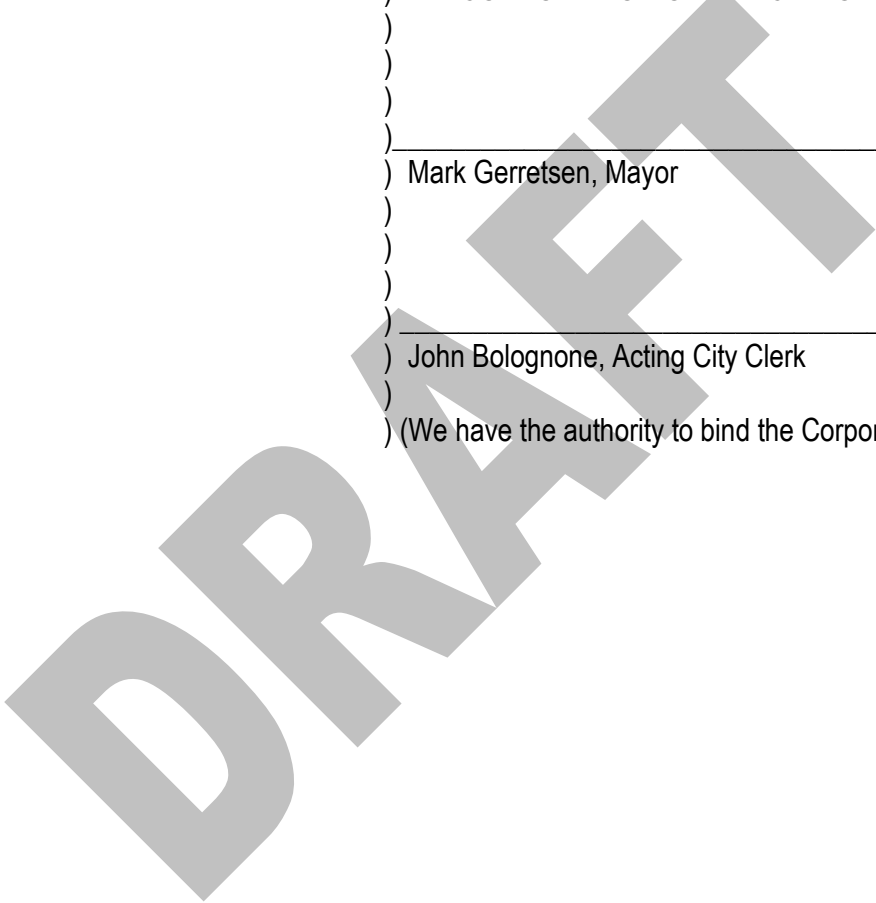
) Per:
)
)

) THE CORPORATION OF THE CITY OF KINGSTON
)
)
)
) _____

) Mark Gerretsen, Mayor
)
)

) _____
) John Bolognone, Acting City Clerk

)
) (We have the authority to bind the Corporation)



CONDOMINIUM AGREEMENT

SCHEDULE "A"

DESCRIPTION

Blocks 213, 214 and 215, Registered Plan 13M-58, City of Kingston, County of Frontenac

DRAFT