

Properties

PIN 58730 - 0245 LT
Description LOTS 15 TO 22 INCLUSIVE PLAN 51M495 AND PT OF LT 23 PL 51M495 BEING PT3 PL 51R32150, AND PT LT 14 PL 51M495 BEING PT 2 PL 51R32150; BARRIE
Address 500 VETERAN'S DRIVE
BARRIE

Consideration

Consideration \$2.00

Applicant(s)

The notice is based on or affects a valid and existing estate, right, interest or equity in land

Name THE CORPORATION OF THE CITY OF BARRIE
Address for Service Legal Services - 9th Floor
70 Collier St.
P.O. Box 400
Barrie, ON L4M 4T5

This document is not authorized under Power of Attorney by this party.

This document is being authorized by a municipal corporation CHRISTOPHER PACKHAM, Legal Counsel.

Statements

This notice is pursuant to Section 71 of the Land Titles Act.

The land registrar is authorized to delete the notice on the consent of the following party(ies) THE CORPORATION OF THE CITY OF BARRIE

Schedule: See Schedules

Signed By

Christopher Randall Packham 70 Collier Street PO Box 400 acting for Signed 2023 05 19
Barrie Applicant(s)
L4M 4T5

Tel 705-739-4220

Fax 705-739-4278

I have the authority to sign and register the document on behalf of the Applicant(s).

Submitted By

THE CORPORATION OF THE CITY OF BARRIE 70 Collier Street PO Box 400 2023 05 19
Barrie
L4M 4T5

Tel 705-739-4220

Fax 705-739-4278

Fees/Taxes/Payment

Statutory Registration Fee \$69.00

Total Paid \$69.00

File Number

Applicant Client File Number : D11-1324

THE CORPORATION OF THE CITY OF BARRIE

SITE PLAN DEVELOPMENT

AMENDING AGREEMENT

THIS AGREEMENT made in triplicate on this 19th day of May, 2023.

BETWEEN:

THE CORPORATION OF THE CITY OF BARRIE

(the "Municipality")

AND

DREAM SUMMIT INDUSTRIAL (ONTARIO) INC.

(the "Owner")

WHEREAS:

- A) Pursuant to subs. 41(7) of the *Planning Act*, the Owner and the Municipality entered into a Site Plan Development Agreement dated November 10, 2003, which was registered on title to the land as set out in Schedule "A" to this Agreement (the "Lands"), on December 11, 2003 as Instrument No. SC179681 being the "Development Agreement";
- B) The Municipality has approved, and the Parties have agreed to, an amendment of the Development Agreement to include updated and/or revised conditions and/or updated Approved Plans;
- C) The Parties hereby acknowledge and agree that all terms and conditions as set out in the Development Agreement remain in place, unless as otherwise specified in this Agreement;
- D) Subsection 41(7) of the *Planning Act* permits the registration of this Agreement against the lands to which it applies in order to secure the obligations of the Owner to develop the lands in accordance with the condition of Site Plan Approval granted by the Municipality;

NOW THEREFORE THIS AGREEMENT WITNESSETH THAT IN CONSIDERATION OF THE mutual covenants hereinafter expressed and other good and valuable consideration, the Parties hereto agree one with the other as follows:

PART I

AMENDMENTS

1. REVISIONS AND/OR ADDITIONAL SPECIAL PROVISIONS/CONDITIONS:

The Owner acknowledges and agrees that in addition to the provisions set out in the Development Agreement, it shall perform and comply with the following additional provisions and/or conditions:

BUSINESS PERFORMANCE AND ENVIRONMENTAL SUSTAINABILITY – ENVIRONMENTAL COMPLIANCE

- (a) The Owner shall demonstrate that the development of the Lands will conform to the City of Barrie's Sewer Use By-Law (2021-002) at the property line. Pre-treatment, if required, must be provided without reliance on downstream stormwater management facilities. The Owner shall retain a licensed professional engineer to provide technical support to address this requirement, in a form satisfactory to the Municipality.
- (b) The Owner shall ensure that access for stormwater quality monitoring for the Lands be provided to the Municipality.

ENVIRONMENTAL RISK MANAGEMENT

- (c) The Owner agrees that it shall finalize and submit a spill management plan related to its construction activities to the satisfaction of the Waste Management and Environmental Sustainability Department

DEVELOPMENT SERVICES – APPROVALS

- (d) The Owner shall retain an experienced civil consulting engineer to provide a detailed Stormwater Management Report. The consultant will also be required to obtain, if necessary, Ministry of Environment, Conservation, and Parks (previously Ministry of Environment and Climate Change) approvals for the implementation of any stormwater management works for the Lands, all to the satisfaction of Development Services (Approvals).
- (e) The Owner shall obtain a Site Alteration Permit if required, as per the Municipality's current Site Alteration By-law. In that regard, the Owner's Engineer will be responsible for the preparation of Site Alteration Plan that will detail the means by which erosion and siltation, and their effects, will be mitigated during and after the construction period. The installation of appropriate sediment and erosion control measures must be in place before commencing any works on the Lands. In this regard, the Owner will also be required to stabilize all inactive areas of the Lands beyond the immediate area of the proposed development. Until all works are completed and any guaranteed maintenance period has expired, it will be the responsibility of the Owner, through its Professional Consultant, to undertake routine inspections of all erosion and sediment control structures to ensure that they are in place and operating in accordance with the Site Alteration Plan. Such inspections shall be carried out on a minimum weekly basis, or after each storm event. The Professional Consultant will be responsible for filing reports on a weekly basis with the Municipality of all inspections made and remedial works undertaken. The Owner acknowledges and agrees that review and approval of the Site Alteration Plan will be coordinated with the review and approval of the Tree Preservation Plan, where applicable.
- (f) The Owner acknowledges and agrees that the water distribution system and fire protection systems within the limits of the Lands are privately owned and to be maintained by the Owner in accordance with all applicable fire code and insurance requirements.
- (g) The Owner shall provide each plan as referred to in Schedule "B" to this Agreement, at the time of execution of this Agreement, by way of an electronic digital copy of each plan acceptable to the Municipality.

DEVELOPMENT SERVICES – TRANSPORTATION PLANNING

- (h) The Owner shall obtain a Right-of-Way Activity Permit pursuant to the Municipality's current Right-of-Way Activity By-law for any works undertaken on the Municipality's road allowance(s). The Owner shall provide a cash deposit or other security in an amount and in a form satisfactory to the Municipality to guarantee the performance of the Owner's obligations pursuant to the Right of Way Activity Permit and to indemnify the Municipality for any costs incurred by it as a result of any work undertaken on the road allowance(s) or with respect to the Lands that has an adverse impact on the road allowance(s). The deposit is a pre-estimate only and the Municipality reserves the right to be completely indemnified for any costs or damages incurred by the Municipality as a result of any work undertaken on the Municipality's road allowance(s) or which has had an adverse impact thereon. The Owner shall ensure that for the Temporary Site Access, Veteran's Drive be reinstated and restored at the conclusion of the industrial addition project.
- (i) The Owner shall submit an Electrical Site Plan and agrees and understands that all site lighting shall be arranged to deflect light away from adjoining properties and adjoining streets, and which will require full cut-off fixtures for exterior parking lot lighting and fully shielded fixtures for wall mounted exterior lighting. Shielded shall mean that 100% of the lumens emitted from the light fixture are projected below an imaginary horizontal plane passing through the highest point on the fixture from which light is emitted; all to the satisfaction of the Development Services Department.

ALECTRA UTILITIES CORPORATION

- (j) The Owner shall comply with all requirements of Alectra Utilities Corporation as related to electrical servicing for the development, as stated in their "Conditions of Service" document. In this regard, the Owner shall submit an application for hydro service, receive approval from and execute an Offer to Connect agreement with Alectra Utilities Corporation prior to the commencement of construction. In the case where a transformer is required, any revisions to the site plan that are required as a result of relocating an Alectra owned transformer and high voltage underground service may be subject to a Site Plan Amendment application.

BELL CANADA

- (k) The Owner shall grant to Bell Canada any easements that may be required, which may include a blanket easement, for communication/telecommunication infrastructure. In the event of any conflict with existing Bell Canada facilities or easements, the Owner shall be responsible for the relocation of such facilities or easements.

DEVELOPMENT SERVICES – PARKS PLANNING

- (l) The Owner covenants and agrees to complete all Landscaping, as more particularly detailed, described and illustrated in the plans and drawings referred to in Schedule "B" and as more particularly dealt with below:
- a. The Owner shall replace any trees or vegetation shown on the original plans set out in the Development Agreement that have been removed, to the satisfaction of the Development Services (Parks Planning) Department;
 - b. The Owner shall be responsible for retaining the services of a qualified Landscape Architect for the management and implementation of all landscape/streetscape related items, including but not limited to, construction/site supervision, reporting, fencing, boulevard planting, layout, planting, root barrier installation (sidewalks and driveways), boulevard inspections, resident complaints, liaison with Municipal Staff, inspections, Letter of Credit reductions and/or release, inspections at the start or end stages of the Guaranteed Maintenance Period. The Landscape Architect shall be required to maintain inspection logs of all field/site visits and inspections through to the end of the General Maintenance Period;
 - c. To submit an Inventory/Assessment by a qualified Consultant (or Arborist, as applicable) of all existing vegetation and natural features on and adjacent to the site, with preservation recommendations and details to be approved and coordinated with the application for a Site Alteration Permit, and or Grading Plan submissions, all to the satisfaction of the Municipality.
 - d. To ensure that the landscape plans are amended, as required, to reflect recommended revisions concerning landscape areas, treatments, planting densities, screening/fencing, outdoor amenity spaces, site furnishings and pedestrian linkages, in accordance with the City of Barrie Urban Design Manual all to the satisfaction of the Municipality.

FINANCIAL

- (m) The Owner shall pay all reasonable costs as incurred by the Municipality for its solicitor (on a substantial indemnity basis), its administrative costs (as authorized pursuant to the Municipality's current Fees By-Law) and the costs for other staff, agents, officers or consultants for the preparation, registration, administration and enforcement of this Agreement. The Owner shall be responsible for the costs and performance of all the Owner's obligations unless specifically relieved from such responsibility by this Agreement. For the purposes of this Section, reasonable costs shall not include legal fees incurred by the Municipality in any dispute between the Municipality and the Owner as to the interpretation or application of this Agreement where it is determined that costs are to be paid by the Municipality.
- (n) A Finance Administration Fee will be collected at the time of issuance of building permits at a fee of \$165.00 per non-residential building.
- (o) A cash-in-lieu of parkland contribution will be required and will be applicable to the entirety of the Lands. The amount is currently 2% of the appraised land value. A recent land value appraisal will be required to complete the calculation. The required appraisal should determine the market value of the entirety of the Lands using highest and best use and be prepared in accordance with the Canadian Uniform Standards of Professional Appraisal Practice of the Appraisal Institute of Canada.
- (p) In order to guarantee compliance with all terms and conditions contained in this Agreement, the Owner covenants and agrees to provide or file with the Municipality upon execution of this Agreement, cash and/or a letter or letters of credit (the "Security") in the amount(s) determined by the Municipality, acting reasonably. The Security shall be in a form approved by the Municipality, and the Owner covenants and agrees that the Security shall be kept in good standing, maintained at a level satisfactory to the Municipality and in keeping with the provisions of this Agreement and maintained in full force and effect and that the Owner will pay all premiums as any part of the Security becomes due or until such time as the Municipality returns or releases the Security.
- e. The Owner hereby acknowledges and agrees that, should there be a deficiency in or failure to carry out any work or matter required by any clause of this Agreement, and the Owner fails to comply, within thirty (30) days of delivery of written notice, with a direction to carry out such work or matter, the Municipality may draw on the Security to the extent necessary and enter onto the Lands and complete all outstanding External Services, Drainage Works

or Landscaping or such other matters to which the Security relates, and to pay all costs and expenses incurred thereby from the proceeds so drawn.

- f. The Municipality shall have reserved the right to draw on and use the proceeds from the Security held to complete any work or matter required to be done by the Owner pursuant to this Agreement. In the event that the Municipality determines that any reduction in the Security will create a shortfall with respect to securing the completion of any work or matter remaining to be carried out by the Owner pursuant to this Agreement, the Municipality will not be obligated to reduce the Security until such time as such work is satisfactorily completed or the Municipality has been satisfied that it has sufficient security to ensure that such work will be completed.
 - g. Wherever in this Agreement a letter of credit is required to be filed with the Municipality, the Owner may deposit with the Municipality cash or certified cheque in an amount equal to the letter of credit and such deposit shall be held by the Municipality as Security in accordance with this Agreement, provided that no interest shall be payable on any such deposit.
 - h. Upon the transfer of ownership of the Lands, the Municipality shall not be required to return any Security required to be provided under this Agreement until the new owner (transferee) provides the Municipality a substitute cash, letter of credit or such other security as may be permitted in the required amounts.
 - i. Any Security held by the Municipality may be used to pay the cost of completing any of the obligations of the Owner notwithstanding that such obligations may not have been specifically accounted for in the calculation to the amount or value of security to be provided by the Owner.
- (q) Upon execution of this Agreement, the Owner shall deposit with the Municipality cash in the amount of TWO THOUSAND DOLLARS (\$2,000.00) to be used at the discretion of the Municipality for such items as control of debris and dust, emergency works and any other item pertaining to the development of the Lands. The Owner shall maintain the deposit at no less than TWO THOUSAND DOLLARS (\$2,000.00) until occupancy approval and completion of the development of the Lands in accordance with the Approved Plans has been certified and Record Drawings for Drainage Works and Services have been delivered at which time the Municipality shall refund any remaining deposit to the Owner.
- (r) The Owner shall provide to the Municipality, on or prior to the execution of this Agreement, a general comprehensive liability insurance policy in the amount of \$5,000,000.00 (Five Million Dollars) in a form and with an insurer satisfactory to the Municipality, indemnifying the Municipality from any loss arising from claims or damages, injury or otherwise in connection with the work done by or on behalf of the Owner. The policy shall contain a cross-liability clause naming the Municipality as an additional insured. The policy shall be maintained in full force and effect until the public works have been assumed by the Municipality. In the event that any renewal premium is not paid, the Municipality, in order to prevent the lapse of such liability insurance policy, may pay the renewal premium or premiums and the Owner agrees to pay the cost of such renewal or renewals within ten (10) days of the account therefore being rendered by the Municipality. In the event the Municipality is required to pay any premiums in order to keep the insurance in effect, the costs incurred by the Municipality shall be deemed to be taxes to which the provisions of s.349 of the *Municipal Act, 2001* apply. The issuance of such policy of insurance shall not be construed as relieving the Owner from any liability or responsibility for any claims in excess of the aforementioned policy limits.
- (s) The Owner shall purchase an Environmental Policy in the amount of \$5,000,000.00 (Five Million Dollars) to cover third party personal injury to or physical damage to tangible property including loss of use of tangible property, cleanup, or restoration of environmental impairment of lands, the atmosphere or any water course or body of water on a sudden and accidental basis and on a gradual release. The policy shall include bodily injury, including sickness, disease, shock, mental anguish, and mental injury. The policy is to be renewed until acceptance or assumption of the Works by the Municipality and a Certificate of Insurance evidencing renewal shall be filed with the Municipality. If the policy is to be cancelled or non-renewed for any reason, ninety (90) days' notice of said cancellation or non-renewal must be provided to the Municipality. The Municipality has the right to request that an Extended Reporting Endorsement be purchased by the contractor at the contractor's sole expense.

2. REVISIONS AND/OR ADDITIONAL APPROVED PLANS, DRAWINGS, REPORTS AND STUDIES:

All Approved Plans, Drawings, Reports and Studies as provided for in Schedule "C" of the Development Agreement shall remain in effect, and shall not be deleted or replaced, unless as may be specifically set out in Schedule "B" attached to this Agreement.

Schedule "B" to this Agreement provides for all revised and/or additional Approved Plans, Drawings, Reports and Studies as agreed upon by the Parties.

3. ADDITIONAL REQUIRED CONVEYANCES

INTENTIONALLY DELETED

4. SCHEDULES

The following schedules are attached and form part of this Agreement:

SCHEDULE "A"	LANDS AFFECTED BY THIS AGREEMENT: being a description of the lands affected by this Agreement.
SCHEDULE "B"	REVISED AND/OR ADDITIONAL APPROVED PLANS, DRAWINGS, REPORTS AND STUDIES: being a schedule listing the revised and/or additional required Approved Plans, Drawings, Reports and Studies of this Agreement and filed at the offices of the Municipality.
SCHEDULE "C"	LAND INTERESTS TO BE CONVEYED: being a schedule listing of land or interest in land to be conveyed, dedicated or transferred to the Municipality.
SCHEDULE "D"	REVISED / AMENDED ISSUED CERTIFICATE OF PRELIMINARY APPROVAL: being a schedule containing the Revised/Amended Certificate of Preliminary Approval and the conditions contained therein issued by the Municipality's Development Services (Planning & Approvals) Department.

PART III

ADMINISTRATION

1. NOTICE

- a) If any notice is required to be given by the Municipality to the Owner with respect to this Agreement, such notice shall be mailed, electronically mailed, delivered or sent by a confirmed facsimile transmission to:

**Dream Summit Industrial (Ontario) Inc.
110 Cochrane Drive, Suite 120
Markham, ON
L3R 9S1**

**Attn: Victor Settino, VP Development & Construction
Email: vsettino@dream.ca**

or such other address of which the Owner has notified the Municipality, in writing, and any such notice mailed, electronically mailed, delivered or sent by facsimile transmission shall be deemed good and sufficient notice under the terms of this Agreement.

- b) If any notice is required to be given by the Owner to the Municipality with respect to this Agreement, such notice shall include reference to the Municipality's file number and/or approval reference appearing on the cover page of this Agreement and shall be mailed, electronically mailed, delivered or sent by facsimile transmission to:

**CITY OF BARRIE
P.O. Box 400
City Hall - 70 Collier Street
Barrie, ON
L4M 4T5**

**Attn: City Clerk
Tel: (705) 739-4220
Fax: (705) 739-4237
Email: ServiceBarrie@barrie.ca**

or such other address of which the Municipality has notified the Owner, in writing, and any such notice mailed, electronically mailed, delivered or sent by facsimile transmission shall be deemed good and sufficient notice under the terms of this Agreement.

2. REGISTRATION OF AGREEMENT

The Owner hereby agrees that this Agreement, together with any schedules thereto, will be registered upon title to the Lands. The covenants, agreements, conditions and undertakings herein contained on the part of the Owner shall run with the Lands and shall be binding upon it, its successors and assigns as owners and occupiers from time to time and this covenant shall be to the benefit of the Municipality and its lands and highways appurtenant and adjacent to the Lands. The Owner further covenants and agrees to pay to the Municipality the cost of registration of this Agreement as well as any further costs incurred by the Municipality as a result of the registration of any other documents pertaining to this Agreement.

3. POSTPONEMENT AND SUBORDINATION

The Owner covenants and agrees, at its own expense, to obtain and register such documentation from its mortgagees or other encumbrancers as may be deemed necessary by the Municipality and its solicitor to postpone and subordinate their interest in the Lands to the interest of the Municipality to the extent that this Agreement shall take effect and have priority as if it had been executed and registered prior to the execution and registration of the document or documents giving to the mortgagee and/or encumbrancers their interest in the Lands concurrent with the registration hereof.

4. OTHER APPLICABLE AGENCIES

The Owner shall satisfy the Municipality that all other required approvals from other applicable agencies and authorities having jurisdiction have been obtained prior to registration of this Agreement or as development of the Lands proceeds, as necessary but registration shall not be conclusive evidence that the Municipality has been so satisfied. In the event that the Owner fails to provide evidence of any such approvals when reasonably requested to do so by the Municipality, the Owner shall be deemed to be in default of this Agreement until such time as the approvals required have been provided and the Municipality shall be entitled to have recourse to the remedies contained in the Development Agreement until such time and the default has been cured.

5. OTHER APPLICABLE LAWS

Nothing in this Agreement shall relieve the Owner from compliance with all applicable municipal by-laws, laws, regulations, notices or other policies or laws and/or regulations established by any other governmental body that may have jurisdiction over the Lands.

6. INTERPRETATION OF AGREEMENT

- a) The part numbers and headings, subheadings and section, subsection, clause and paragraph numbers are inserted for convenience of reference only and shall not affect the construction or interpretation of this Agreement.
- b) This Agreement shall be construed with all changes in number and gender as may be required by the context.
- c) Every provision of this Agreement by which the Owner is obligated in any way shall be deemed to include the words "at the expense of the Owner" unless the context otherwise requires, including the payment of any applicable taxes (including HST).
- d) References herein to any statute, regulation or by-law or any provision thereof include such statute or provision thereof as amended, replaced, revised, re-enacted and/or consolidated from time to time and any successor statute thereto.
- e) All obligations herein contained, although not expressed to be covenants, shall be deemed to be covenants.
- f) Whenever a statement or provision in this Agreement is followed by words denoting inclusion or example and then a list of or reference to specific items, such list or reference shall not be read so as to limit the generality of that statement or provision, even if words such as "without limiting the generality of the foregoing" do not precede such list or reference.
- g) The Owner and the Municipality agree that all covenants and conditions contained in this Agreement shall be severable, and that should any covenant or condition in this Agreement be declared invalid or unenforceable by a court of competent jurisdiction, the remaining covenants and conditions and the remainder of this Agreement shall remain valid and not terminate thereby.

7. COMPLIANCE

Any action taken by the Municipality or on its behalf, pursuant to this Agreement, shall be in addition to and without prejudice to any security or other guarantee given on behalf of the Owner for the performance of its Agreements and upon default on the part of the Owner hereunder, the Municipality shall, in addition to any other remedy available to it, be at liberty to use all of the applicable provisions of the *Municipal Act*.

8. SUCCESSORS & ASSIGNS

It is hereby agreed by and between the parties that this Agreement shall be enforceable by and against the parties, their heirs, executors, administrators, successors and assigns and that this Agreement and all the covenants by the Owners contained shall run with the Lands.

9. NO FETTERING OF DISCRETION

Notwithstanding any other provisions of this Agreement, the Parties agree with each other that none of the provisions of this Agreement (including a provision stating the Parties' intention) is intended to operate, nor shall have the effect of operating in any way to fetter either the Municipal Council which authorized the execution of this Agreement or any of its successor Councils in the exercise of any of Council's discretionary powers, duties or authorities. The Owner hereby acknowledges that it will not obtain any advantageous planning or other consideration or treatment by virtue of it having entered into this Agreement or by virtue of the existence of this Agreement.

10. ENTIRE AGREEMENT

This Agreement and the schedules and any other documents referred to in this Agreement and on file at the Municipality's office constitute the entire agreement between the parties.

11. WAIVER

The failure of the Municipality at any time to require performance by the Owner of any obligation under this Agreement shall in no way affect its right thereafter to enforce such obligation, nor shall the waiver by the Municipality of the performance of any obligation hereunder be taken or be held to be a waiver of the performance of the same or any other obligation hereunder at any later time. The Municipality shall specifically retain its rights at law to enforce this Agreement.

12. EXTENSION OF TIME

Time shall always be of the essence of this Agreement. Any time limits specified in this Agreement may be extended with the consent in writing of both the Owner and the Municipality, but no such extension of time shall operate or be deemed to operate as an extension of any other time limit, and time shall be deemed to remain of the essence of this Agreement notwithstanding any extension of any time limit.

13. FORCE MAJEURE

- a) "Force Majeure" means the occurrence of an event or circumstance that prevents or impedes a party from performing one or more of its contractual obligations under the contract, if and to the extent that that party proves:
 - (i) that such impediment is beyond its reasonable control;
 - (ii) that it could not reasonably have been foreseen at the time of the conclusion of the contract; and
 - (iii) that the effects of the impediment could not reasonably have been avoided or overcome by the affected party.
- b) In the absence of proof to the contrary, the following events affecting a party shall be presumed to fulfil conditions (i) and (ii) under paragraph (a) of this Clause:
 - (i) war (whether declared or not), hostilities, invasion, act of foreign enemies, extensive military mobilization;
 - (ii) civil war, riot, rebellion and revolution, military or usurped power, insurrection, act of terrorism, sabotage or piracy;
 - (iii) currency and trade restriction, embargo, sanction;
 - (iv) act of authority whether lawful or unlawful, compliance with any law or governmental order, expropriation, seizure of works, requisition, nationalisation;
 - (v) plague, epidemic, natural disaster or extreme natural event;
 - (vi) explosion, fire, destruction of equipment, prolonged break-down of transport, telecommunication, information system or energy;
- c) A party successfully invoking this Clause shall be granted an extension of time for all time limits affected by the Force Majeure event, the onus of proof resting on the Owner, provided that the notice thereof is given without delay. If notice thereof is not given without delay, the relief is effective from the time at which notice thereof reaches the other party. Where the effect of the impediment or event invoked is temporary, the above consequences shall apply only as long as the impediment invoked impedes performance by the affected party. Where the duration of the impediment invoked has the effect of substantially depriving the contracting parties of what they were reasonably entitled to expect under the contract, either party has the right to terminate the contract by notification within a reasonable period to the other party.

14. NO CHALLENGE TO AGREEMENT

The parties covenant and agree with each other not to call into question or challenge, directly or indirectly, in any proceeding or action in court, or before any administrative tribunal, the party's right to enter into and enforce this Agreement. The law of contract applies to this Agreement and the parties are entitled to all remedies arising from it, notwithstanding any provision in s.41 of the *Planning Act* interpreted to the contrary. The parties agree that adequate consideration has flowed from each party to the other and that they are not severable. This provision may be pleaded by either party in any action or proceeding as an estoppel of any denial of such right.

15. GOVERNING LAW

This Agreement shall be interpreted under and be governed by the laws of the Province of Ontario.

16. COUNTERPARTS

The parties acknowledge and agree that this Agreement and any schedules hereto may be signed in any number of counterparts, each of which is an original, and all of which taken together constitute one (1) single document.

[REST OF PAGE INTENTIONALLY BLANK – SIGNATURES ON FOLLOWING PAGE]

SCHEDULE "A"

LANDS AFFECTED BY THIS AGREEMENT

The Owner's lands affected by this Agreement are herein described as follows:

LOTS 15 TO 22 INCLUSIVE PLAN 51M495 AND PT OF LT 23 PL 51M495 BEING PT3 PL 51R32150,
AND PT LT 14 PL 51M495 BEING PT 2 PL 51R32150, BARRIE Being all of PIN 58730-0245 (LT)

SCHEDULE "B"
REVISED AND/OR ADDITIONAL APPROVED PLANS, DRAWINGS,
REPORTS AND STUDIES

Plan/Drawing/Report/Study	Designer / Architect	Plan No.	Date / Revision
Site Plan	Baldassarra Architects Inc.	A-1.0	March 17, 2023 Rev. 5
Overall Floor Plan	Baldassarra Architects Inc.	A-2.0	September 23, 2022 Rev. 1
Partial Floor Plan	Baldassarra Architects Inc.	A-2.1	December 16, 2022 Rev. 1
Elevations	Baldassarra Architects Inc.	A-3.0	December 16, 2022 Rev. 1
Elevations	Baldassarra Architects Inc.	A-3.1	December 16, 2022 Rev. 1
Landscape Plan	Insite Landscape Architects Inc	L-1	March 7, 2023 Rev. 4
Landscape Notes & Details	Insite Landscape Architects Inc	L-2; L-3	March 7, 2023 Rev. 4
Tree Preservation Plan	Amy Choi Consulting	TP-1	September 12, 2022 Rev. 1
Site Grading Plan	Pearson Engineering	SG-1	March 16, 2023 Rev. 3
Site Servicing	Pearson Engineering	SS-1	March 16, 2023 Rev. 3
Pre-Development Storm Catchment Plan	Pearson Engineering	STM-1	March 16, 2023 Rev. 3
Post-Development Storm Catchment Plan	Pearson Engineering	STM-2	March 16, 2023 Rev. 3
Erosion and Sediment Control Plan	Pearson Engineering	EP-1	March 16, 2023 Rev. 3
Civil Notes and Details	Pearson Engineering	ND-1, ND-2	March 16, 2023 Rev. 3
Foundation Plan, Schedules, and Details	Tacoma Engineers	S1 – S3	December 16, 2022 Rev. 2
Electrical Site Plan	Baldassarra Architects Inc. / Manuel Jordao & Associates Ltd.	ESL	September 2, 2022 Rev. 1
Construction Access Plan	Baldassarra Architects Inc.	A-1.0	September 23, 2022 Rev. 1

SCHEDULE "C"
LAND INTERESTS TO BE CONVEYED
Intentionally Deleted

SCHEDULE "D"
REVISED / AMENDED
ISSUED CERTIFICATE OF PRELIMINARY APPROVAL

Refer to the attached 5 pages being the Certificate of Preliminary Approval issued by the Municipality's Development Services (Planning & Approvals) Department.

SITE PLAN CONTROL REQUIREMENTS FOR PROCESSING

Section 41(13) b of *The Planning Act* allows Council to delegate by By-law Council's authority to approve site plans to an appointed officer of the Municipality.

Council By-law 99-312, as amended, has delegated Site Plan Approval authority to the Director of Development Services, Manager of Growth and Development and Manager of Strategic Initiatives, Policy and Analysis. This authority permits the appointed officer(s) to recommend that the City Clerk prepare site plan agreements for execution and registration on title.

The appointed officer hereby grants Preliminary Approval to an Amendment to Site Plan Application File **D11-1324** for lands legally described as Lots 15 to 22 inclusive, Plan 51M495 and Part Lot 14 and 23, Plan 51M495 being Parts 2 and 3 of Plan 51R32150, within 51M495 in the City of Barrie, municipally known as **500 Veteran's Drive** on lands owned by **Summit (500 Veterans Drive) Ltd.** upon registration of the development agreement for the above noted property to be prepared and completed in accordance with the following requirements:

This approval shall serve as an amendment to Development Agreement D11-1324 and includes the following plans as amended, if necessary:

	<u>Designer/Architect</u>	<u>Plan No.</u>	<u>Date/Rev.</u>
a) Site Plan	Baldassarra Architects Inc.	A-1.0	Mar 17, 2023/5
b) Overall Floor Plan	Baldassarra Architects Inc.	A-2.0	Sept 23, 2022/1
c) Partial Floor Plan	Baldassarra Architects Inc.	A-2.1	Dec 16, 2022/1
d) Elevations	Baldassarra Architects Inc.	A-3.0	Dec 16, 2022/1
e) Elevations	Baldassarra Architects Inc.	A-3.1	Dec 16, 2022/1
f) Landscape Plan, Notes and Details	Insite Landscape Architects Inc	L-1; L-2; L-3	Mar 7, 2023/4
g) Tree Preservation Plan	Amy Choi Consulting	TP-1	Sept 12, 2022/1
h) Site Grading Plan	Pearson Engineering	SG-1	Mar 16 2023/3
i) Site Servicing	Pearson Engineering	SS-1	Mar 16 2023/3
j) Storm Catchment Plan (Pre and Post)	Pearson Engineering	STM-1; STM-2	Mar 16 2023/3
k) Erosion and Sediment Control Plan	Pearson Engineering	EP-1	Mar 16 2023/3
l) Civil Notes and Details	Pearson Engineering	ND-1, ND-2	Mar 16 2023/3
m) Foundation Plan, Schedules and Details	Tacoma Engineers	S1 – S3	Dec 16 2022/2
n) Electrical Site Plan	Baldassarra Architects Inc. / Manuel Jordao & Associates Ltd.	ESL	Sept 2, 2022/1
o) Construction Access Plan	Baldassarra Architects Inc.	A-1.0	Sept 23, 2022/1

A conditional permit for footings and foundation(s) under Subsection 8(3) of the *Building Code Act*, may be considered on its individual merits prior to the registration of a development agreement provided that in addition to the requirements under the Ontario Building Code the Owner shall:

- agree in writing to satisfactorily address all conditions listed below;
- provide all required securities;
- provide all required administration fees, payment of costs associated with the preparation of a development agreement;
- comply with zoning by-law requirements;
- pay all applicable fees (i.e. building permit, cash in lieu of parkland, City of Barrie Act, development charges).

In addition to the above, pre-servicing of the site may be considered on its individual merits prior to the registration of a development agreement, provided that the Owner/Applicant enters into a Pre-Servicing Agreement with the City.

CONDITIONS

Notwithstanding this Amendment, the Site Plan Control Requirements for Processing **File D11-1324** executed on August 19, 2003 (attached) shall continue to apply to the development of these lands.

In addition, prior to the appointed officer recommending that the City Clerk execute the amending Agreement to SC179681, registered December 11, 2003, the following requirements shall be satisfied and/or addressed:

Business Performance and Environmental Sustainability – Environmental Compliance

- A. That the Owner/Applicant demonstrate the property will conform to the City of Barrie's Sewer Use Bylaw (2021-002) at the property line. Pre-treatment, if required, must be provided without reliance on downstream stormwater management facilities. The technical response to address this requirement is required from a licensed professional engineer.
- B. A monitoring access point be required at the property to assess stormwater flows quality.

Development Services - Approvals

- C. The Owner/Applicant will be required to provide the following drawings in accordance with the City of Barrie's Site Plan Application Manual and Urban Design Manual:
 - i) Separate site servicing drawing and site grading drawing;
 - ii) Storm drainage catchment drawing (identify/accommodation any external drainage);
 - iii) Sediment and erosion control drawing;
 - iv) Signage and pavement marking drawing in accordance with the Ontario Traffic Manuals. This drawing shall be detailed for use by the paint marking and signage contractor and shall include a legend, details, dimensions and material specifications; and
 - v) Detail and general notes drawing.
- D. The Owner/Applicant will be required to retain a licensed experienced civil consulting engineer to provide a detailed Stormwater Management Report. The consultant will also be required to obtain, if necessary, Ministry of Environment, Conservation, and Parks (previously Ministry of Environment and Climate Change) approvals for the implementation of any stormwater management works on-site, all to the satisfaction of Development Services (Approvals).
- E. Before any site alteration within the subject property, the Owner/Applicant or his agents will apply for a Site Alteration Permit, as described within By-law 2014-100. Prior to the commencement of any

works within the site, all requirements, obligations, and control measures, as described within By-law 2014-100 will be in place and undertaken to the satisfaction of the City of Barrie. Furthermore, it will be the Owner/Applicant's responsibility, through his professional consultant to maintain the said work for the duration of the subject property.

- F. The water distribution system within the limits of this site plan is privately owned and shall be maintained by the Owner/Applicant, and any hydrant installed on-site shall be deemed privately owned. All hydrants have to be maintained as per fire code/insurance requirements.
- G. That the drawings be revised as necessary to reflect the Digital Data Control Requirements. That the drawings be processed in digital format using UTM (Zone 17) NAD83 datum (76 adjustments).

Development Services – Transportation Planning

- H. The Owner/Applicant will be responsible for obtaining a Right-of-Way Activity Permit prior to the commencement of work on the municipal right-of-way and ensure that for the Temporary Site Access, Veteran's Drive be reinstated and restored at the conclusion of the industrial addition project.
- I. That an Electrical Site Plan be submitted and the Owner/Applicant agrees and understands that all site lighting shall be arranged to deflect light away from adjoining properties and adjoining streets, and which will require full cut-off fixtures for exterior parking lot lighting and fully shielded fixtures for wall mounted exterior lighting. Shielded shall mean that 100% of the lumens emitted from the light fixture are projected below an imaginary horizontal plane passing through the highest point on the fixture from which light is emitted; all to the satisfaction of the Department Services Department.

Alectra Utilities Corporation

- J. That the Owner/Applicant shall comply with all requirements of Alectra Utilities Corporation as related to electrical servicing for the development, as stated in their "Conditions of Service" document. In this regard, the Owner shall submit an application for hydro service, receive approval from and execute an Offer to Connect agreement with Alectra Utilities Corporation prior to the commencement of construction. In the case where a transformer is required, any revisions to the site plan that are required as a result of relocating an Alectra owned transformer and high voltage underground service, may be subject to a Site Plan Amendment application.

Bell Canada

- K. The Owner acknowledges and agrees to convey any easement(s) as deemed necessary by Bell Canada to service this new development. The Owner further agrees and acknowledges to convey such easements at no cost to Bell Canada.
- L. The Owner agrees that should any conflict arise with existing Bell Canada facilities where a current and valid easement exists within the subject area, the Owner shall be responsible for the relocation of any such facilities or easements at their own cost.

Development Services – Parks Planning

- M. Any trees and vegetation that have been removed as shown on original approved plans shall be replaced to the satisfaction of Development Services - Parks Planning.
- N. The Owner/Applicant will be required to retain a qualified Landscape Architect (and Arborist as applicable) to provide the design, inspection and certification of all landscape works, all to the satisfaction of Parks Planning.
- O. That the Owner/Applicant submit an Inventory/Assessment by a qualified consultant (or Arborist as applicable), of all existing vegetation and natural features on and adjacent to the site, with preservation recommendations and details to be approved and coordinated with the application for a Site Alteration Permit, and or Grading Plan submissions, all to the satisfaction of Parks Planning.

- P. That the landscape plans be amended, as required, to reflect recommended revisions concerning landscape areas, treatments, planting densities, screening/fencing, outdoor amenity spaces, site furnishings and pedestrian linkages, in accordance with the City of Barrie Urban Design Manual, all to the satisfaction of Parks Planning.
- Q. That the Owner/Applicant provide a letter of clearance pertaining to the Endangered Species Act that demonstrates that the site is clear of any flora or fauna identified under the Act. The letter must be received prior to the commencement of any site works and as a condition of registration. In the event the site contains any endangered species, it is the responsibility of the Owner/Applicant to contact both the City of Barrie and the Ministry of the Environment, Conservation and Parks and to take appropriate action.

Financial

- R. That the Owner/Applicant pay the required cash deposits, securities and administration fees associated with site plan development for the following:
- i) A Finance Administration fee will be collected at the time of issuance of the building permit at a fee of \$160.00 per non-residential building.
 - ii) A cash in lieu of parkland contribution will be required and will be applicable to the entire parcel of land. The amount is currently 2% of the appraised land value. A recent land value appraisal will be required to complete the calculation. The required appraisal should determine the market value of the entire parcel of land using highest and best use and be prepared in accordance with the Canadian Uniform Standards of Professional Appraisal Practice of the Appraisal Institute of Canada.
 - iii) Letters of credit in the approved format and in accordance with Council Policy 07-G-016 for appropriate works (such as drainage, servicing, grading and landscaping) within the boundaries of the site plan, equal to 50% of the value of those works (to a maximum of \$500,000 and a minimum of \$10,000.00) to the satisfaction of the Development Services Department;
 - iv) Letters of credit in the approved format and in accordance with Council Policy 07-G-016 for municipal works (such as roads and servicing) outside of the site plan boundary, equal to 100% of the value of works to the satisfaction of the Development Services Department;
 - v) Proof of the Owner's general comprehensive liability insurance policy in the amount of \$5,000,000.00 naming the City of Barrie as an additional insured;
 - vi) Proof of the Owner's comprehensive environmental insurance policy in the amount of \$5,000,000.00 naming the City of Barrie as an additional insured;
 - vii) Administration fees for the review and inspection of site servicing and landscaping works equal to 5% of the estimated cost of site servicing (minimum \$1,000.00) and 5% for landscaping (minimum \$500.00) plus applicable taxes;
 - viii) Any water service charges arising out of, or attributable to the development of the site plan including tapping fee and water meter payment;
 - ix) Cash deposit for road clean up associated with the site construction (\$2,000.00 refundable deposit made payable to the City of Barrie); and
 - x) A retainer in the amount of \$4,000.00 payable to Legal Services Department, City of Barrie, for legal and administration fees associated with the preparation and registration of the site plan agreement (additional fees may be required).
 - xi) Administration fees of \$1,875.00 associated with the City of Barrie Development Services Department.

Building Services


- S. That the fire access route conforms to the Ontario Building Code and that the Owner/Applicant enters into a fire route agreement, if required.

Sourcewater/Risk Management Office

- T. That the Owner/Applicant agrees to complete the following prior to the issuance of the building permit:
- a. Submission of the finalized Spill Management Plan related to the construction activities to the satisfaction of Business Performance and Environmental Sustainability Department.

Development Services - Planning

- U. That the Owner/Applicant agrees that the construction of the building shall be in conformance with the approved, registered site plans as it relates to the building design.
- V. That the Owner/Agent ensure that all plans are consistent throughout.
- W. That the plans conform to all provisions of the City's Comprehensive Zoning By-law.
- X. That the Owner/Applicant agrees to the dedication of, or cash-in-lieu payment of parkland in accordance with the *Planning Act*, if applicable, in a manner satisfactory to the Finance Department and the Development Services Department.
- Y. That the Owner/Applicant be responsible for obtaining the necessary approvals from any other applicable agency, if and as may be required.
- Z. That all roof top mechanical devices be identified on the plans and shall be screened from public view by way of roof top location or by way of a parapet building extension to the satisfaction of the Development Services Department.
- AA. That prior to the registration of the Site Plan Agreement, the Owner/Applicant shall provide written confirmation that all conditions of Alectra Utilities Corporation, the Development Services Department (Approvals, Parks Planning, Transportation Planning and Planning Sections), Environmental Compliance, Fire and Emergency Services, Sourcewater/Risk Management Office and the Building Services Department have been completed to their satisfaction.
- BB. All final plans must be identified on the Site Plan Application Release form with signatures by the respective Departments and Agencies to confirm acceptance of all final plans. One (1) full size print package of all final plans, stamped and signed by the associated professional consultant, and digital copies (high quality PDF without security settings and AutoCAD versions) are to be provided to Development Services (Planning) prior to registration of the Site Plan Agreement. The Final Plan package forms a Schedule in the Site Plan Agreement.
- CC. The Site Plan Control Requirements shall remain in effect for a period of two (2) years from the date referenced below following which a subsequent application may be required. Any subsequent submissions or applications may result in new and/or amending conditions/requirements.
- DD. That if a building permit is not issued within three (3) years of this approval, this Preliminary Approval shall become null and void.



Tiffany Thompson, MCIP, RPP
Manager of Growth and Development

April 12, 2023

Date