

COMMITTEE OF THE WHOLE MAY 10, 2011

**DEPUTATION – MR. FRANCESCO DI NARDO WITH RESPECT
TO 1101 CLARENCE STREET SEVERANCE
WARD 2**

Recommendation

The Acting Commissioner of Planning and the Director of Development Planning recommend:

1. THAT this report BE RECEIVED.

Contribution to Sustainability

N/A

Economic Impact

N/A

Purpose

The purpose of this report is to respond to the following Council resolution of May 3, 2011, regarding the deputation made by Mr. Michael Manett on behalf of Mr. Francesco Di Nardo, the Owner of 1101 Clarence Street:

“That the deputation of Mr. Michael Manett, Michael Manett Planning Services Ltd., 23 Foxwood Road, Thornhill, L4J 9C4 and Communication C9, on behalf of Mr. Francesco Di Nardo, be received and referred to staff for a report identifying the concerns raised; and

By approving that the staff report identifying concerns raised be provided to the Committee of the Whole meeting of May 10, 2011.”

Background – Analysis and Options

Location

The subject lands shown on Attachments #1 and #2 are located on the east side of Clarence Street, south of Rutherford Road (1101 Clarence Street), City of Vaughan.

History

- | | |
|----------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| May 12, 1989 - | Submission of Draft Plan of Subdivision File 19T-89056 and Zoning By-law Amendment File Z.63.89. |
| July 3, 1990 - | Draft Plan of Subdivision File 19T-89056 (Di Nardo) as shown on Attachment #3 was recommended (to the Region of York) for draft plan approval by Vaughan Council on July 3, 1990 and included red-lined revisions to ensure that all the residential lots and Block 6 have access onto the internal road (Appian Way), and not from Clarence Street. Block 6 on the draft approved plan of subdivision contains an existing residence with an existing access onto Clarence Street. However, a condition of draft plan of subdivision approval requires that the existing driveway to Clarence Street be removed when a building permit is issued for Block 6 and that a new access be provided from Appian Way, |

	consistent with the Official Plan and the approved Neighbourhood 4C Plan.
November 5, 1990 -	The Region of York approves Draft Plan of Subdivision File 19T-89056.
January 29, 1991 -	Zoning By-law Amendment File Z.19.91 was submitted to facilitate a severance of Lot 5 of the Di Nardo Plan to maintain the single family residential dwelling on a lot with access on Clarence Street and to create a second lot with access from Appian Way.
May 6, 1991-	Council considered and refused Zoning By-law Amendment File Z.19.91.
January 1993 -	An application for Consent to sever was filed maintaining access from Clarence Street for the one lot and access to Appian Way for the second lot. The Committee of Adjustment refused to approve the application.
February 1993 -	The OMB refused appeals to the Zoning By-law and the consent application to sever the lot with access onto Clarence Street.
May 31, 2010 -	The OMB dismissed an appeal by Mr. Di Nardo of Draft Plan of subdivision File 19T-89056 to remove the condition requiring that the existing driveway access to Clarence Street be removed upon development of Block 6.
April 12, 2011 -	The Committee of the Whole received a deputation from Michael Manett, on behalf of Mr. Francesco Di Nardo seeking relief from the condition imposed through the Plan of Subdivision approval.
May 3, 2011 -	Draft Plan of Subdivision 19T-89056 containing the restriction on driveway access to Clarence Street was registered as Registered Plan 65M-4260.

Issues Identified in the Deputation of Michael Manett (Attachment #5)

On April 12, 2011, the Committee of the Whole received a letter (Attachment #5) and a deputation from Mr. Michael Manett on behalf of Mr. Di Nardo requesting that Vaughan Council recognize the permanent maintenance of the existing driveway access to Mr. Di Nardo's property on Clarence Street; and, Mr. Di Nardo's desire to sever a portion of Block 6 on approved Plan of Subdivision File 19T-89056 to create an additional lot with frontage on the internal public road (Appian Way).

Mr. Manett's Submission

1. Mr. Manett is of the opinion that the following policies in Official Plan Amendment #240 (Woodbridge Community Plan) do not apply to the Di Nardo lands:

Official Plan Policy 3(g) OPA #240

"Unless approved by York Region or the Ministry of Transportation and Communications, direct individual access to either a highway or an arterial road will not be permitted."

Mr. Manett states that this policy does not apply to the Di Nardo lands since the access to Clarence Street is an existing situation that predates OPA #240 and that no new access is being requested.

2. Official Plan Policy 8.4 (a) OPA #240

"Individual driveways serving individual residences shall generally be discouraged on boundary roads, 4 lane arterial roads, or collector roads within 150 m of the intersection of said road with an arterial road but may be permitted with the approval of the appropriate road authorities having jurisdiction for both roads."

Mr. Manett states:

"It is important to note that this policy is not a prohibitive policy since it uses the term "shall generally be discouraged". It should also be noted that Clarence Street is identified on Schedule "C" of OPA #240 as a 5-Lane Arterial Road, which is not referenced in policy 8.4 (a). However, notwithstanding that fact, it is once again important to note that the request is not for a new access, but to maintain the existing access for the existing residence only."

The deputant on behalf of the Owner has requested the following:

"Council support the continuation of access for the existing dwelling only to Clarence Street in the future and that City Staff be directed to adopt this position in its consideration of any application for Consent and Minor Variance associated with the severance of Block 6 into two lots."

Development Planning Department Response

1. Clarence Street is a 5 lane arterial road and a boundary road as approved in Neighbourhood Plan 4C: In an OMB Decision issued on May 31, 2010, it stated:

"At the hearing the parties did not dispute that Clarence Street is an arterial road"; and,

"Mr. Di Nardo acknowledges that Clarence Street is an arterial, and that Schedule "C" shows Clarence Street as a 4 lane arterial road south of the subject lands."

Mr. Di Nardo was represented by Counsel at this hearing.

2. When all of the relevant Official Plan sections, including Section 3.2.1 'General Policies' and 12.8 "Implementation" are read closely and in their entirety, it is clear that that the intent and purpose of the Plan is to have development access the internal road system and not on arterial or boundary roads, unless there are physical development constraints preventing access to the internal road of which there are none present on the Di Nardo lands.

This interpretation is supported by an OMB Decision dated May 31, 2010, wherein the Board concluded the following:

"Considering OPA #240 as a whole, and reviewing the several sections that speak to limiting individual access to arterial roads, the Board finds that the clear intent of the plan is to limit individual access to arterial roads. The Board further finds that the reference in Section 8.4(a) to 4 lane arterial roads does not exclude all other arterial roads with adjacent residential development from the policies of the Plan that seek to limit individual access to arterial roads, nor does it override these policies."

3. OPA #240 requires that a detailed neighbourhood plan be prepared and adopted to co-ordinate development of individual subdivisions in accordance with the policies of the Official Plan. This requirement was also identified by the OMB in the May 31, 2010 decision which states:

"To enable the town (now City of Vaughan) and the Region to co-ordinate the development of individual plans of subdivision and to establish priorities for the provision of municipal and regional services and facilities, the City shall require the preparation and adoption of detailed neighbourhood development plans prior to permitting major development to proceed in certain areas....".
4. On July 3, 1990, Council approved the Neighbourhood Plan 4C which requires and provides access to all lots from the internal road (Appian Way) and not from Clarence Street which is an arterial boundary road.
5. Draft Plan of Subdivision 19T-89056 was recommended for draft plan approval by Vaughan Council on July 3, 1990 and included red-lined revisions to ensure that the residential lots and block would only have access onto the internal road (Appian Way), and was approved by the Region of York on November 5, 1990.
6. On December 15, 2010, the Owner executed a subdivision agreement which included a condition requiring that the driveway to Clarence Street be removed when a building permit is issued for Block 6 and that the new access be provided from Appian Way, consistent with the approved Neighbourhood 4C Plan. On May 3, 2011, approved Plan of Subdivision 19T-89056 was registered as Plan 65M-4260.
7. The City has consistently maintained and the Ontario Municipal Board has on two separate occasions (1993 and 2010) ruled that the Official Plan policies require that access be obtained from the internal roads. The City of Vaughan has maintained a consistent interpretation of the Official Plan policies and this position is on record since the adoption of OPA #240 in 1988 (not 1995 as indicated by the deputant) and the filing of Mr. Nardo's Draft Plan of Subdivision Application in 1989.

The OMB concurred with the City's position with respect to the provision of driveway access from the internal roads only, not from Clarence Street.

Relationship to Vaughan Vision 2020/Strategic Plan

This report is consistent with the priorities set forth in Vaughan Vision 2020, particularly "Plan & Manage Growth & Economic Vitality".

Regional Implications

N/A

Conclusion

The subject lands represent a large parcel, which on the basis of lot area alone would support the severance into two parcels, and may have merit. However, other factors need to be considered in determining the appropriateness of making an exception to current policies in force.

In particular, regard must be had for traffic safety. It is incumbent upon the Owner to demonstrate that maintaining the existing access to Clarence Street is acceptable and does not represent a traffic hazard. Reconsideration of the access issue should only be done in the context of submission of an Official Plan Amendment application, and a Zoning By-law Amendment Application as may be required to implement appropriate regulation and recognize any variances

that may be created as a result of a severance. These applications must be supported by requisite studies and documentation to support a planning justification for any recommendation and decision flowing from this process given the history of staff recommendations, Council decisions, Committee of Adjustment decisions, and OMB decisions.

Attachments

1. Context Map
2. Location Map
3. Plan of Subdivision – 19T-89056
4. Boyd North Neighbourhood Plan Area 4C
5. Michael Manett's letter dated April 12, 2011

Report prepared by:

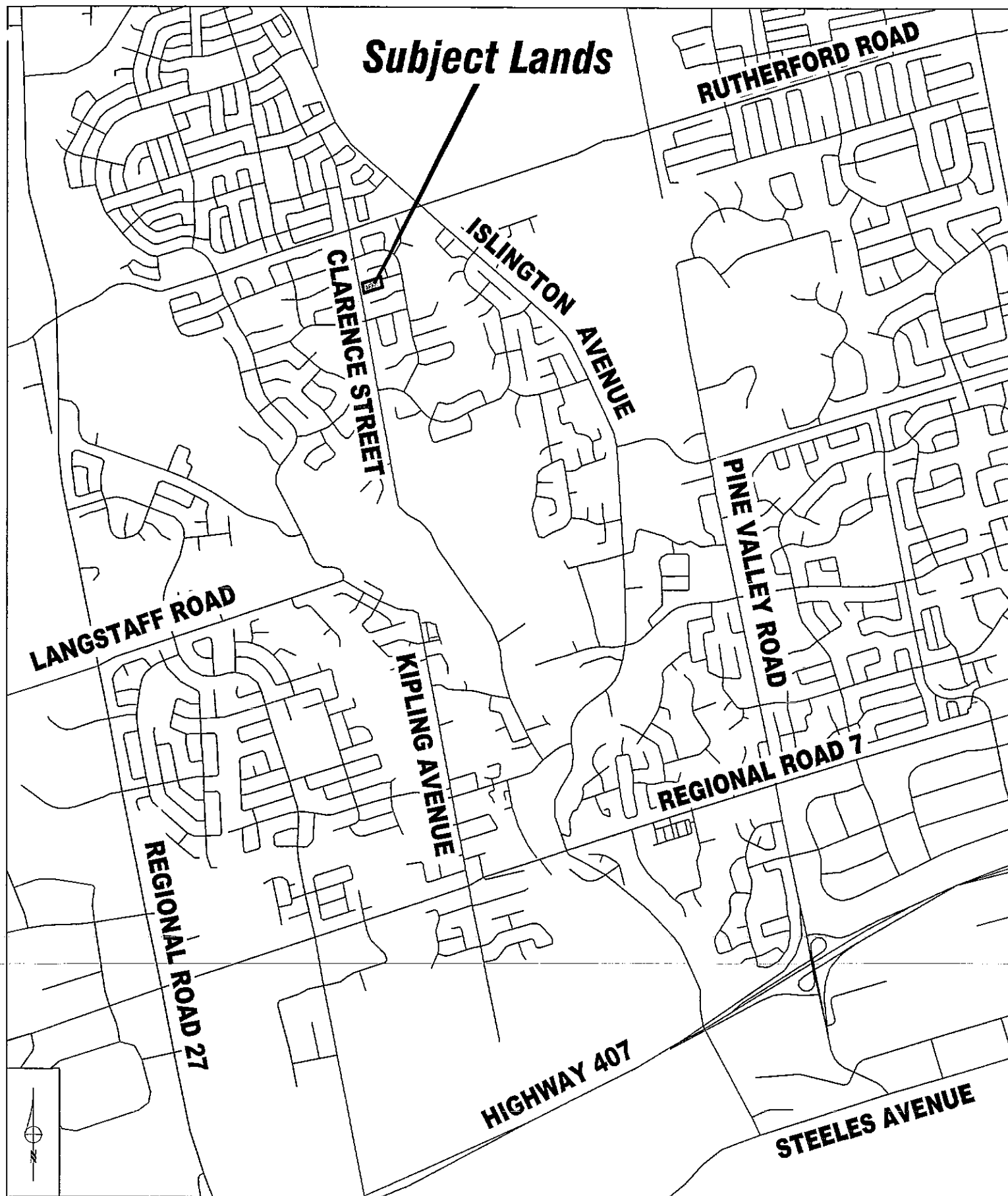
Eugene Fera, Planner, ext. 8064
Mauro Peverini, Manager of Development Planning, ext. 8407

Respectfully submitted,

JOHN ZIPAY
Acting Commissioner of Planning

GRANT UYEYAMA
Director of Development Planning

/CM



Context Location Map

LOCATION:
Part of Lot 15, Concession 7

APPLICANT:
Francesco Di Nardo

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VAUGHAN

Development Planning
Department

Attachment

COV FILE: 19T-89056
OMB FILE: PL090770

DATE:
April 27, 2011

1



Location Map

LOCATION:
Part of Lot 15, Concession 7

APPLICANT:
Francesco Di Nardo

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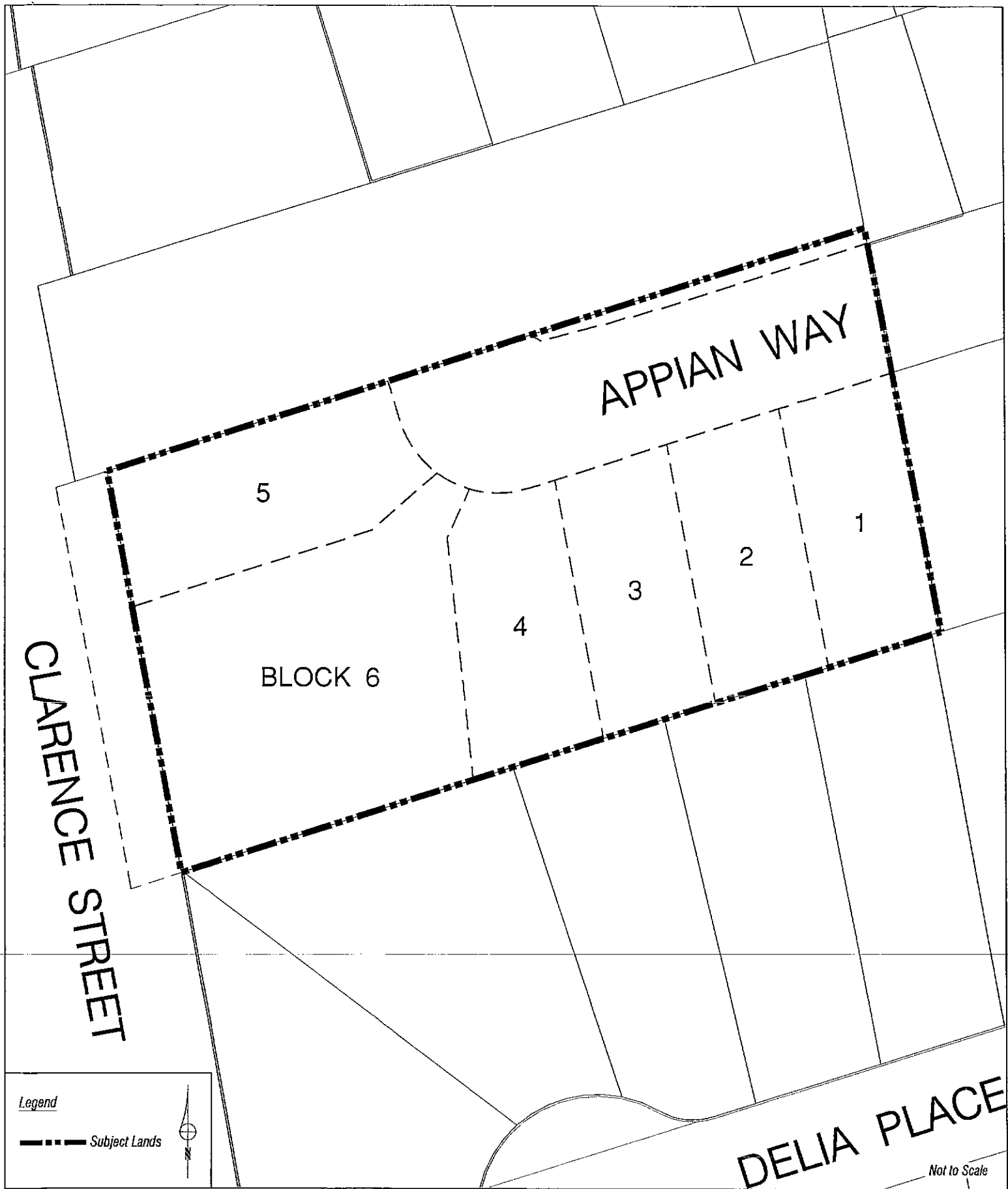


Attachment

COV FILE: 19T-89056
OMB FILE: PL090770

DATE:
April 27, 2011

2



Plan of Subdivision 19T-89056

APPLICANT:
Francesco Di Nardo

LOCATION:
Part of Lot 15, Concession 7

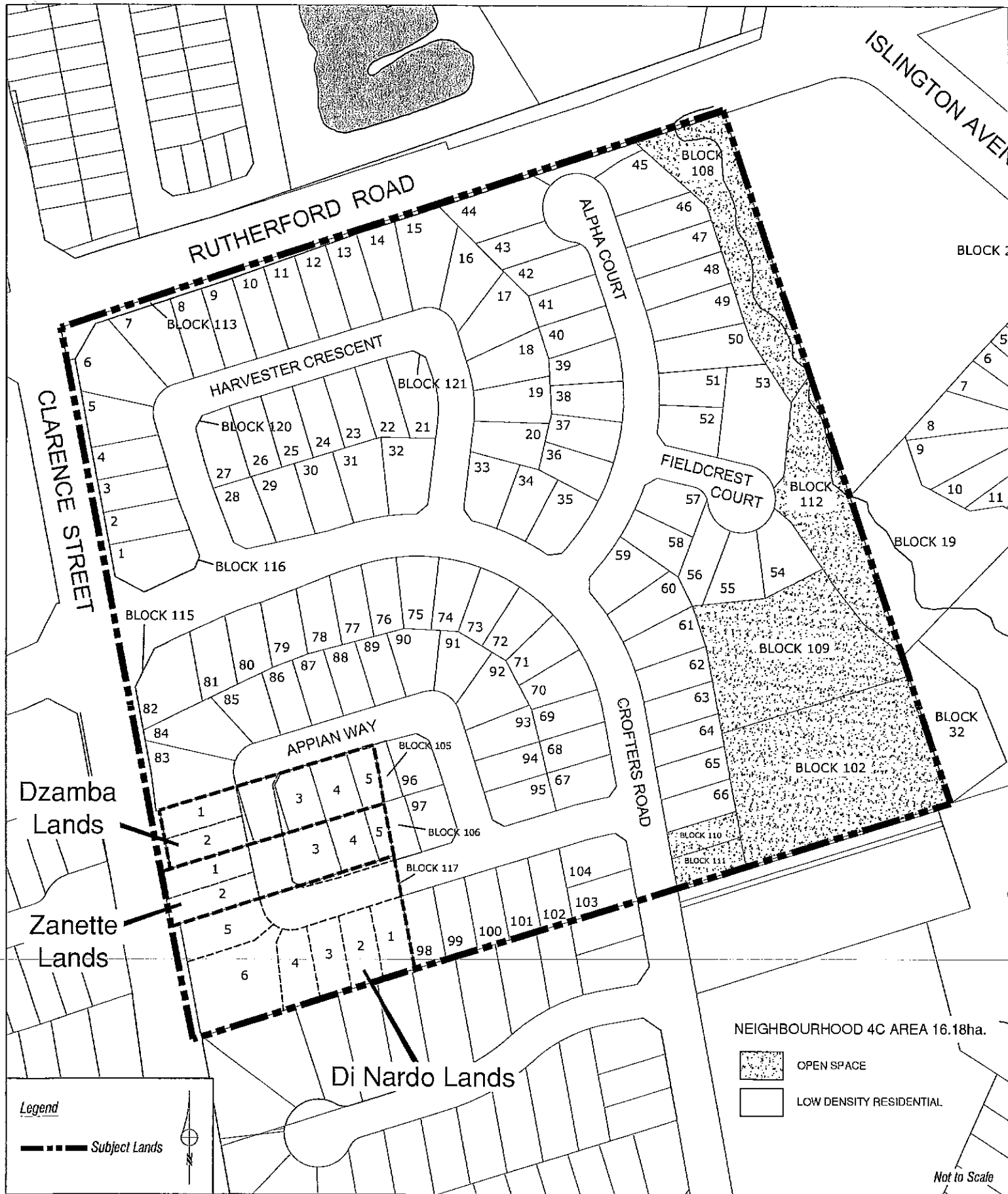


Attachment

COV FILE: 19T-89056
OMB FILE: PL090770

DATE:
April 27, 2011

3



Neighbourhood Plan 4C

APPLICANT:
Francesco Di Nardo

LOCATION:
Part of Lot 15, Concession 7



Attachment

COV FILE: 19T-89056
OMB FILE: PL090770

DATE:
April 27, 2011

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DEPUTATION TO CITY OF VAUGHAN COUNCIL
RE 1101 CLARENCE STREET - APRIL 12, 2011

I act for Francesco Dinardo, the owner and resident of 1101 Clarence Street in Woodbridge. Mr. Dinardo has lived at this location since 1989 and access to the house on this property, prior to and subsequent to his ownership, has always been from Clarence Street. It is Mr. Dinardo's wish to continue to gain access to his residence from Clarence Street in the future, which will create no change from the long-standing access situation on Clarence St. and will have no measurable impact on traffic on the street.

A subdivision plan for 5 lots plus Block 6, which contains the existing Dinardo residence, is currently approved for this 7,898.2 sq.m. (1.95 acre) property. A copy of this plan is attached.

Mr. Dinardo wishes to sever the existing Block 6 to create one additional lot to complete the subdivision, maintain the newer portion of the existing house (which currently includes the original bungalow at the rear) on the retained lot which would continue to front onto Clarence Street, and provide for a lot for his son on the new rear lot. The new severed lot (on which the original bungalow portion of the existing residence would be demolished) would gain access from the internal road, Appian Way, which is the road which serves the other lots in the subdivision.

We are requesting that Council support maintaining the existing access to Clarence Street for the existing house into the future, for as long as this house remains on the lot, while the remaining lots from the subdivision gain their access from the new internal road, Appian Way.

The subject property is within the Woodbridge Community Plan, OPA 240, which was approved in 1995. There are two policies in this Plan that City staff have indicated are applicable to this site which relate to the issue of access. Policy 3 g. indicates that "unless approved by York Region or the Ministry of Transportation and Communications, direct individual access to either a highway or an arterial road will not be permitted."

It is my opinion that this policy is not applicable to this property since the access to Clarence Street is an existing situation that predated OPA 240 and no new access is being requested, only the continuation of the existing, long standing situation.

City staff has also referenced policy 8.4 (a) as being applicable to this property. This policy

Deputation to Council
April 12, 2011

APPLICANT:
Francesco Di Nardo

LOCATION:
Part of Lot 15, Concession 7



Attachment

COV FILE: 19T-89056
OMB FILE: PL090770

DATE:
April 27, 2011

5

states that "Individual driveways serving individual residences shall generally be discouraged on boundary roads, 4 lane arterial roads, or collector roads if within 150m of the intersection of said road with an arterial road but may be permitted with the approval of the appropriate road authorities having jurisdiction for both roads."

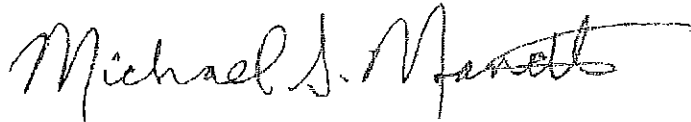
It is important to note that this is not a prohibitive policy since it uses the term "shall generally be discouraged." It should also be noted that Clarence Street is identified on Schedule 'C', of OPA 240 as a 5-Lane Arterial Road, which is not referenced in policy 8.4 (a). However, notwithstanding that fact, it is once again important to note that the request is not for a new access but to maintain the existing access for the existing residence only.

With respect to the future intention to create an additional lot by way of Consent with associated Minor Variances, the entire property is Zoned R1 under By-law 202-93, which requires a minimum lot area of 540 sq.m. Both the retained lot and the additional lot will be greater than 540 sq.m. There will be a need for a minor variance for the rear yard setback for the retained lot since the existing house will have a rear yard setback of less than the required 7.5m from the newly created lot.

In conclusion, we are requesting that Council support the continuation of access for the existing dwelling only to Clarence Street in the future and that City staff be directed to adopt this position in its consideration of any application for Consent and Minor Variance associated with the severance of Block 6 into two lots.

We thank you for your consideration of this request and would be pleased to answer any questions that you may have.

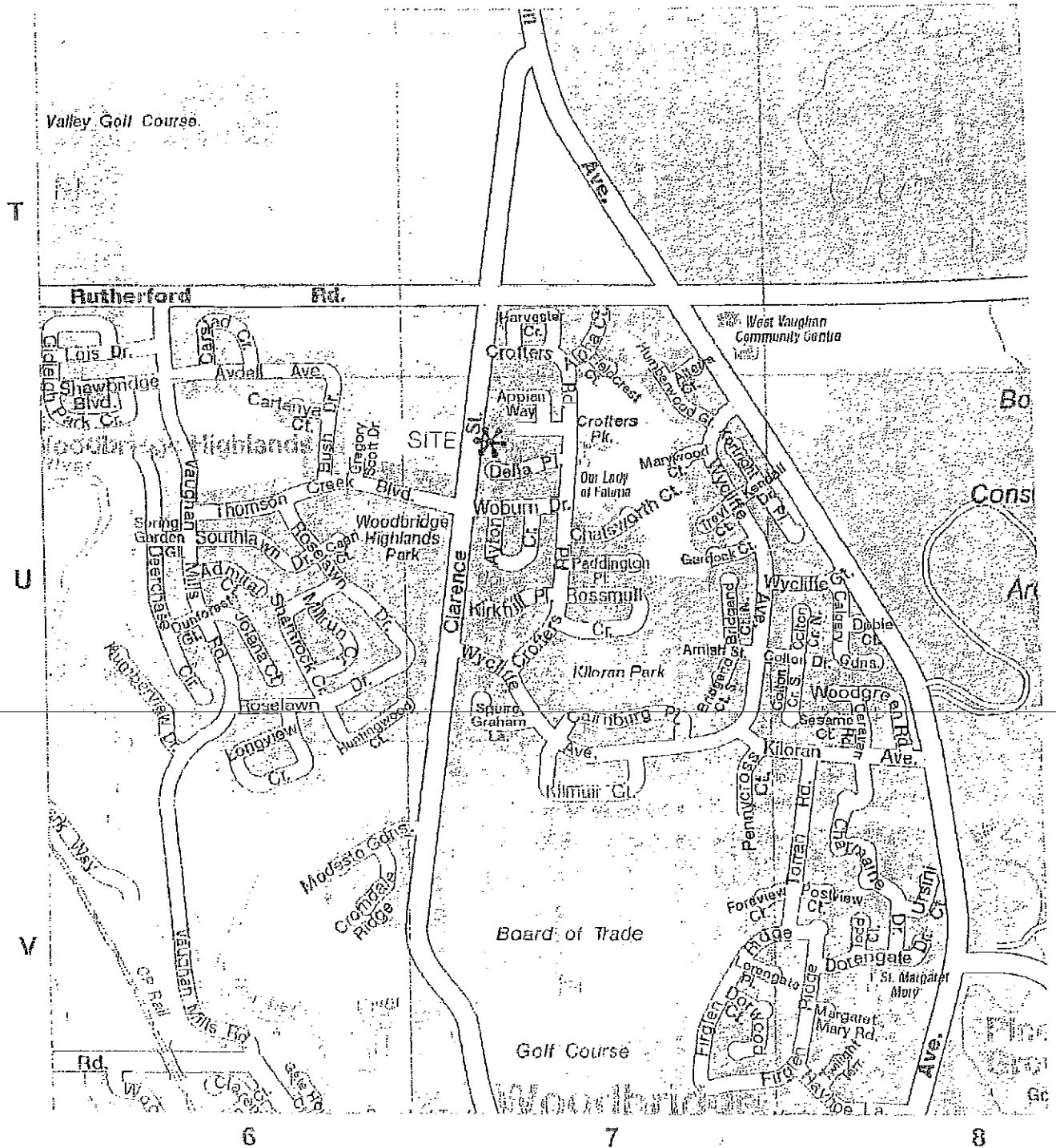
Michael S. Manett, M.C.I.P., R.P.P.



MICHAEL S. MANETT PLANNING SERVICES LTD.

encl.

SITE LOCATION MAP



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PART 1, PLAN 65R-13296
INST. NO. 515426

PART

[illegible]

AERIAL PHOTO OF 1101 CLARENCE STREET, OCT. 26/09

CLARENCE STREET