



Corporate Report

PDC MAR 18 2013

Clerk's Files

Originator's

Files

B '6'/13 W1

'A' 11/13 & 'A' 12/13 W1

DATE: February 26, 2013

TO: Chair and Members of Planning and Development Committee
Meeting Date: March 18, 2013

FROM: Edward R. Sajecki
Commissioner of Planning and Building

SUBJECT: **Appeal to the Ontario Municipal Board
Committee of Adjustment Decision
Consent Application 'B' 6/13 W1 and
Minor Variance Applications 'A' 11/13 and 'A' 12/13 W1
Delfim and Maria Fernandes
372 South Service Road
South of Queen Elizabeth Way,
east of Hurontario Street**

Ward 1

RECOMMENDATION: That the Report dated February 26, 2013, from the Commissioner of Planning and Building regarding the appeal filed by Legal Services by letter be adopted, and that Legal Services, together with other appropriate City staff attend the Ontario Municipal Board hearing in support of the appeal of the decisions of the Committee of Adjustment under files 'B' 6/13 W1, 'A' 11/13 and 'A' 12/13 W1, regarding the property at 372 South Service Road.

**REPORT
HIGHLIGHTS:**

- The subject consent application ('B' 6/13 W1) and minor variance applications ('A' 11/13 and 'A' 12/13 W1) were approved by the Committee of Adjustment on January 3, 2013.
- The Planning and Building Department recommended that the applications be refused since they did not maintain the intent of the Official Plan and Zoning By-law, and were not minor in nature.
- A "Placeholder" appeal has been filed by Legal Services as these decisions could set an undesirable precedent with respect to the interpretation of the Official Plan and Zoning By-law in the context of other Committee of Adjustment matters being considered by the City.

BACKGROUND:

On January 3, 2013, the Committee of Adjustment considered severance application 'B' 6/13 W1 to convey a parcel of land having a lot frontage of approximately 15.56 m (51.04 ft.) and a lot area of approximately 979.30 m² (10,541.44 sq. ft.), for the purpose of creating a new residential lot. Minor Variance applications, under files 'A' 11/13 and 'A' 12/13 W1 were also submitted to permit lot frontages of 15.56 m (51.04 ft.) in each instance. The applications were approved on January 3, 2013 by the Committee of Adjustment with variances for lot frontages.

A "Placeholder" appeal was submitted on January 25, 2013 by Legal Services. The purpose of this report is to seek direction on this matter.

Background information is provided in Appendices 1 to 7.

COMMENTS:

The applicant's authorized agent attended the Committee of Adjustment meeting on January 3, 2013 to present the applications. The authorized agent confirmed that two appropriately sized dwellings could be constructed on the subject property in compliance with the Zoning By-law. The agent specifically noted that no side yard relief would be requested in order to maximize separation distances between dwellings and maintain the intent of the Zoning By-law. The agent confirmed that the letter of concern

from the Ward Councillor referenced the Credit Reserve Association's (CRA) initial objection and that the CRA had sent a second letter withdrawing their objection provided that the two new dwellings were constructed in compliance with the Zoning By-law. The Planning and Building Department recommended that the severance and minor variance applications be refused on the basis that they do not maintain the general intent and purpose of the Official Plan and are not desirable for the appropriate development of the land.

Official Plan

The subject property is designated "Residential Low Density I" in the Mineola Neighbourhood which permits detached dwellings. The Neighbourhood policies of Mississauga Official Plan further outline specific requirements for consent applications.

Section 16.1.2.1 states:

"To preserve the character of lands designated Residential Low Density I and Residential Low Density II, the minimum frontage and area of new lots will general represent the greater of:

- a. the average lot frontage and lot area of residential lots on both sides of the same street within 120 m (393.70 ft.) of the subject property. In the case of a corner lot, lots on both streets within 120 m (393.70 ft.) will be considered; or
- b. the requirements of the Zoning By-law."

The purpose of this policy is to ensure that the lot frontages and lot areas that define and characterize the streetscape in this neighbourhood are maintained.

The Planning and Building Department reviewed the applications and calculated the average of the lot frontages and lot areas within 120 m (393.70 ft.) of the subject lands as per Mississauga Official Plan policy, and the results are as follows:

Average Lot Frontage = approximately 32.20 m (105.64 ft.)

Average Lot Area = approximately $2\,363.24\text{ m}^2$ (25,438.53 sq. ft.)

In this particular instance, the Official Plan policy would be applicable to the consent application, as the proposal does not maintain the average lot frontage or lot area within 120 m (393.70 ft.) of the subject property.

Based on the information provided in the severance application, the retained and severed lots would both have lot frontages of approximately 15.56 m (51.04 ft.) and lot areas of approximately 979.30 m^2 (10,541.44 sq ft.).

Therefore, the proposed severance would result in the creation of 2 lots that do not represent the greater of the average lot frontage and area, and consequently, do not maintain the general intent and purpose of the Official Plan.

Zoning By-law

The subject property is zoned "R1-1" (Residential), which permits detached dwellings. Subsection 4.2.1 of Zoning By-law 0225-2007, as amended, specifies that the minimum required lot area for an interior lot is 750 m^2 (8,073.19 sq. ft.) and the minimum required lot area for a corner lot is 835 m^2 (8,988.15 sq. ft.). The minimum lot frontage for the subject property is 22.50 m (73.81 ft.). The retained and severed lots comply with the minimum required lot area; however, they do not meet the minimum lot frontage requirements in the Zoning By-law.

Criteria for Consents

An application for consent must meet the criteria set out under subsection 51(24) of the *Planning Act*. One of the criteria for evaluating the proposal is whether or not the proposal conforms to the Official Plan. As discussed previously, the proposed severance does not conform to Section 16.1.2.1 of Mississauga Official Plan with respect to lot frontage.

The intent of the Official Plan policy is to prevent the gradual division of lots which are not consistent with the character of the area. As the proposed severance does not conform to the Official Plan policies of Mississauga Official Plan, it does not meet this criterion.

Further criteria under the *Planning Act* are to have regard to the dimensions and shapes of the proposed lots. When taking into consideration the context of the surrounding area, the proposed severance would result in lots that are smaller than the average size of lots along South Service Road (Appendix 7). In particular, the lots would be distinctively different from other properties along South Service Road, which are distinguished by generous lot areas and frontages. In this respect, the requested consent does not maintain the character of the neighbourhood and does not lend itself to the suitable development of lots that are appropriate in terms of size and configuration. Therefore, the proposed severance does not meet these criteria of the *Planning Act*.

Notwithstanding the above, the Committee granted provisional consent, subject to conditions.

With respect to the requested minor variances, the Committee was satisfied that the request was desirable for the appropriate development of the subject property; that the general intent and purpose of the Zoning By-law and the Official Plan would be maintained; and that the requested variances were minor in nature. Accordingly, the Committee granted the requests, as presented.

Ontario Municipal Board Appeal

The Committee of Adjustment's decision to approve the consent was to be final and binding on February 5, 2013, and January 31, 2013 for the minor variances. Based on Council endorsed protocol, the Planning and Building Department prepares a Corporate Report to the Planning and Development Committee recommending that the City appeal a decision of the Committee of Adjustment, when in the Department's opinion, the decision does not maintain the general intent and purpose of the Official Plan. Accordingly, the Planning and Building Department requested that Legal Services prepare the appropriate Notice of Appeal to the Ontario Municipal Board (OMB) and file a "Placeholder" appeal prior to the appeal period expiring pending further instruction from Council.

CONCLUSION:

The consent approved by the Committee of Adjustment under file 'B' 6/13 W1 does not meet the general intent of Mississauga Official Plan.

The variances approved by the Committee of Adjustment under files 'A' 11/13 and 'A' 12/13 W1 do not meet the requirements of the Zoning By-law for lot frontage, and do not conform to Section 16.1.2.1 of Mississauga Official Plan with respect to lot frontage and lot area.

These approvals by the Committee have broad implications and may have significant impacts on future development in the City, resulting in undesirable development patterns in stable residential neighbourhoods.

ATTACHMENTS:

- Appendix 1: Committee of Adjustment Decision 'B' 6/13 W1, 'A' 11/13 and 'A' 12/13 W1
- Appendix 2: Land Use Map
- Appendix 3: Zoning Map

- Appendix 4: General Context Map
- Appendix 5: Aerial Photograph
- Appendix 6: Proposed Plan of Survey
- Appendix 7: Lotting Pattern

Edward R. Sajecki
Commissioner of Planning and Building

*Prepared By: Lauren Eramo-Russo,
Committee of Adjustment Planner*



COMMITTEE OF ADJUSTMENT DECISION

City of Mississauga

'B' - 6 / 13

"B" 006/13

Ward 1

COMMITTEE OF ADJUSTMENT

IN THE MATTER OF SECTION 50(3) AND/OR (5)
of The Planning Act R.S.O. 1990, c.P.13, as amended

- and -

IN THE MATTER OF AN APPLICATION BY

DELFIM & MARIA FERNANDES

on Thursday January 3, 2013

Delfim & Maria Fernandes are the owners of Lot 43, Registered Plan 321, located and known as 372 South Service Road, zoned R1-1, Residential. The applicants request the consent of the Committee to the conveyance of a parcel of land having a frontage of approximately 15.56 m (51.04 ft.) and an area of approximately 979.30 m² (10,541.44 ft²). The effect of the application is to create a new lot for residential purposes.

The subject lands are also subject to Minor Variance Applications 'A? 011/13 and 'A? 012/13.

Mr. T. Correia, authorized agent, attended and presented the application to convey a parcel of land for the creation of a new lot for residential purposes. Ms. Correia advised the Committee that the subject property had been subject to a series of previous Consent and Minor Variance applications with both positive and negative outcomes. She confirmed that all previous Consent applications had lapsed. Ms. Correia indicated that the common concern with the previous Consent and current applications was the proposed deficient lot frontages. She noted that the proposed lots would have two of the smallest lot frontages within the surrounding R1-1 zone. Ms. Correia indicated this this deficiency was misleading and suggested that the properties that fronted along South Service Road that were zoned R1-1 were not appropriately comparable to the identically zoned properties that abutted to the south. She noted that the subject property fronted onto a busy street that was separated from the Queen Elizabeth Expressway by a concrete wall; whereas, the properties to the south formed a desirable and spacious neighbourhood.

Ms. Correia confirmed that the conveyed and retained lands would yield lot areas in excess of the Zoning By-law requirement and frontages compatible with the adjacent R3-1 zone abutting along South Service Road. It was Ms. Correia's opinion that lots in the R3-1 zone were more appropriate to compare the conveyed and retained lands to as they possessed the same street character as the subject lands and did not contribute to the character of the neighbourhood to the south.

Ms. Correia confirmed that two appropriately sized dwellings could be constructed on the subject property in compliance with the Zoning By-law. She specifically noted that no side yard relief would be requested in order to maximize separation distances between dwellings. Ms. Correia confirmed that the letter of concern from Ward Councillor Tovey referenced the Credit Reserve Association's (CRA) initial letter of objection and that the CRA had sent a second letter withdrawing their objection provided that the two new dwellings were constructed in compliance with the Zoning By-law.

The Committee reviewed the information submitted with the application.

The Committee received comments and recommendations from the following agencies:

City of Mississauga, Planning and Building Department (December 21, 2012),
City of Mississauga, Transportation and Works Department (December 20, 2012),
City of Mississauga, Community Services Department, Park Planning (December 20, 2012),
Region of Peel, Environment, Transportation and Planning Services (December 21, 2012),

A letter was received from Ward Councillor Tovey indicating his shared concern with the matters identified in the Credit Reserve Association's first letter.

A letter was received from L. James, a representative of the Credit Reserve Association, expressing her objection to the subject application.

A second letter was received from L. James, a representative of the Credit Reserve Association, withdrawing her objection with the understanding that the proposed dwellings would be constructed in compliance with the Zoning By-law. She noted her concern with the proposed lot frontages of the conveyed and retained lands.

No other persons expressed any interest in the application.

The Secretary-Treasurer reviewed the recommended conditions for the Committee's consideration should the application be approved.

Ms. Correia consented to the imposition of the proposed conditions.

The Committee, after considering the submissions put forward by Ms. Correia, the comments received and the recommended conditions, is satisfied that a plan of subdivision is not necessary for the proper and orderly development of the municipality. The Committee accepted Ms. Correia's analysis that the proposed conveyed and retained lands maintained the characteristics of the adjacent R3-1 zone and suggested that the properties within this zone were the dominant contributor to the character of the streetscape along this portion of South Service Road. The Committee confirmed its acceptance that the properties located within the R1-1 zone located to the south contributed to a separate and distinct neighbourhood that was dissimilar to the character of South Service Road. The Committee was of the

opinion that these properties were not suitable comparisons in evaluating the appropriateness of the proposed lot frontages. They noted that the dwellings that would be constructed on the conveyed and retained lands would be compliant with the Zoning By-law and would respect the necessary side yards to preserve separation distances between dwellings.

The Committee, having regard to those matters under subsection 51(24) of the Planning Act R.S.O. 1990, c. P.13., as amended, resolves to grant provisional consent subject to the following conditions being fulfilled:

1. Approval of the draft reference plan(s), as applicable, shall be obtained at the Committee of Adjustment office, and; the required number of prints of the resultant deposited reference plan(s) shall be received.
2. An application amendment letter shall be received from the applicant or authorized agent confirming that the "severed" land shall be together with and/or subject to services easement(s) and/or right(s)-of-way, if necessary, in a location and width as determined by the Secretary-Treasurer based on written advice from the agencies having jurisdiction for any service or right for which the easement or right-of-way is required; alternatively, a letter shall be received from the applicant or authorized agent confirming that no services easement(s) and/or right(s)-of-way, are necessary.
3. A letter shall be received from the City of Mississauga, Transportation and Works Department, indicating that satisfactory arrangements have been made with respect to the matters addressed in their comments dated December 20, 2013.
4. A letter shall be received from the City of Mississauga, Manager/Supervisor, Zoning Plan Examination, indicating that the "severed" land and "retained" land comply with the provisions of the Zoning By-law, or alternatively; that any variances are approved by the appropriate authorities and that such approval is final and binding. ("A" 011/13 & "A" 012/13)
5. A letter shall be received from the City of Mississauga, Community Services Department, indicating that satisfactory arrangements have been made with respect to the matters addressed in their comments dated December 20, 2013.
6. A letter shall be received from the Region of Peel, Environment, Transportation and Planning Services, indicating that satisfactory arrangements have been made with respect to the matters addressed in their comments dated December 21, 2013.

MOVED BY:

D. George SECONDED BY: J. Robinson CARRIED

Application Approved on conditions as stated.

Dated at the City of Mississauga on January 10, 2013.

THIS DECISION IS SUBJECT TO APPEAL TO THE ONTARIO MUNICIPAL BOARD BY FILING WITH THE SECRETARY-TREASURER OF THE COMMITTEE OF ADJUSTMENT A WRITTEN NOTIFICATION, GIVING REASONS FOR THE APPEAL, ACCOMPANIED WITH THE PRESCRIBED FEE ON OR BEFORE FEBRUARY 3, 2013.

Date of mailing is January 14, 2013.

S. PATRIZIO (CHAIR)
D. GEORGE

R. BENNETT
J. THOMAS

D. KENNEDY
L. DAHONICK

J. ROBINSON

I certify this to be a true copy of the Committee's decision given on January 10, 2013.

DAVID L. MARTIN, SECRETARY-TREASURER

NOTES:

The decision to give provisional consent shall be deemed to be refused if the conditions of provisional consent, have not been fulfilled on or before January 14, 2014.

See "SUMMARY OF APPEAL PROCEDURES" and "FULFILLING CONDITIONS & CERTIFICATE ISSUANCE" attached.



COMMITTEE OF ADJUSTMENT DECISION

City of Mississauga

'A' - 11 / 13

"A" 011/13
Ward 1

COMMITTEE OF ADJUSTMENT

IN THE MATTER OF SECTION 45(1) OR (2)
of The Planning Act R.S.O. 1990, c.P.13, as amended
- and -
IN THE MATTER OF ZONING BY-LAW 0225-2007
as amended
- and -
IN THE MATTER OF AN APPLICATION BY

DELFIN & MARIA FERNANDES

on Thursday January 3, 2013

Delfim & Maria Fernandes are the owners of Lot 43, Registered Plan 321, located and known as 372 South Service Road, zoned R1-1, Residential. The applicant request the Committee to authorize a minor variance to permit the construction of a new two (2) storey detached dwelling on the subject property, being the "retained" lands of Consent Application 'B' 006/13, proposing a lot frontage of 15.56 m (51.04 ft.); whereas By-law 0225-2007, as amended, requires a minimum lot frontage of 22.50 m (73.81 ft.) in this instance.

Mr. T. Correia, authorized agent, attended and presented the application to convey a parcel of land for the creation of a new lot for residential purposes. Ms. Correia advised the Committee that the subject property had been subject to a series of previous Consent and Minor Variance applications with both positive and negative outcomes. She confirmed that all previous Consent applications had lapsed. Ms. Correia indicated that the common concern with the previous Minor Variance and current applications was the proposed deficient lot frontages. She noted that the proposed lots would have two of the smallest lot frontages within the surrounding R1-1 zone. Ms. Correia indicated this this deficiency was misleading and suggested that the properties that fronted along South Service Road that were zoned R1-1 were not appropriately comparable to the identically zoned properties that abutted to the south. She noted that the subject property fronted onto a busy street that was separated from the Queen Elizabeth Expressway by a concrete wall; whereas, the properties to the south formed a desirable and spacious neighbourhood.

Ms. Correia confirmed that the conveyed and retained lands would yield lot areas in excess of the Zoning By-law requirement and frontages compatible with the adjacent R3-1 zone abutting along South

Service Road. It was Ms. Correia's opinion that lots in the R3-1 zone were more appropriate to compare the conveyed and retained lands to as they possessed the same street character as the subject lands and did not contribute to the character of the neighbourhood to the south.

Ms. Correia confirmed that two appropriately sized dwellings could be constructed on the subject property in compliance with the Zoning By-law. She specifically noted that no side yard relief would be requested in order to maximize separation distances between dwellings. Ms. Correia confirmed that the letter of concern from Ward Councillor Tovey referenced the Credit Reserve Association's (CRA) initial letter of objection and that the CRA had sent a second letter withdrawing their objection provided that the two new dwellings were constructed in compliance with the Zoning By-law.

The Committee reviewed the information and plans submitted with the application.

The City of Mississauga Planning and Building Department commented as follows (December 21, 2012):

2.1.0 RECOMMENDATION

The Planning and Building Department recommends that the consent and minor variance applications be refused.

2.0 BACKGROUND

Mississauga Official Plan

Character Area: Mineola Neighbourhood

Designation: Residential Low Density I

Discussion: Mineola is an established and stable residential Neighbourhood. To satisfy compatibility concerns, any proposed development is required to recognize and enhance the scale and character of the existing residential areas by having regard to lot frontages and areas, among other matters. Mississauga Official Plan encourages development in neighbourhoods to be context sensitive and respect the existing or planned character and scale of development.

To preserve the character of lands designated Residential Low Density I and Residential Low Density II, the minimum frontage and area of new lots proposed will generally represent the greater of the average lot frontage and area within 120 m, or the requirements of the Zoning By-law. The requested consent and minor variance applications will result in lots that are less than the average lot frontage within 120 m of the subject property.

The requested severance does not recognize or enhance the scale and character of the existing residential area or streetscape with respect to lot frontage, and therefore, does not satisfy compatibility concerns as outlined in the Mississauga Official Plan.

Zoning By-law 0225-2007

Zoning: "R1-1", Residential

Discussion: The minimum lot frontage for the subject property under By-law 0225-2007, as amended, is 22.00 m (72.17 ft.). The proposed lot frontages of 15.56 m (51.04 ft.) would result in some of the smallest lots along South Service Road. The proposed lots, having reduced frontages, do not

maintain the general intent and purpose of the Zoning By-law.

3.0 OTHER APPLICATIONS

0 Building Permit File: Required - No application received

0 Site Plan File: Required - No application received

4.0 COMMENTS

We note that in the absence of a Building Permit application, we are unable to verify the accuracy of the requested variances or determine whether additional variances will be required. In addition, we advise that demolition permits are required for the existing structures, and the property is subject to Site Plan control.

We advise for the Committee's information that the Committee had approved a severance on the subject property in 1988; however, the Planning and Building Department expressed concerns with the proposal at that time. The conditions of the severance lapsed, and the applicant returned to the Committee for the same severance in 1998 under files 'B' 17/98, 'A' 82/98, and 'A' 83/98. At that time, the Planning and Building Department recommended that the applications be refused, and they were refused by the Committee. The applicant appealed the decision, and the appeal was dismissed at the Ontario Municipal Board (OMB).

Based on the resubmission of the same applications from 1998, this Department continues to have serious concerns with the proposed consent and associated minor variance applications. The proposal would result in lots that are not consistent with the size of the other properties along South Service Road, and would set an undesirable precedence for future development. As such, we advise that the requested variances and consent are not minor in nature nor desirable for the appropriate development of the subject property.

The City of Mississauga Transportation and Works Department commented as follows (December 19, 2012):

?We are noting that any Transportation and Works Department concerns/requirements for this property will be addressed under Consent Application 'B' 6/13.?

A letter was received from Ward Councillor Tovey indicating his shared concern with the matters identified in the Credit Reserve Association's first letter.

A letter was received from L. James, a representative of the Credit Reserve Association, expressing her objection to the subject application.

A second letter was received from L. James, a representative of the Credit Reserve Association, withdrawing her objection with the understanding that the proposed dwellings would be constructed in compliance with the Zoning By-law. She noted her concern with the proposed lot frontages of the conveyed and retained lands.

No other persons expressed any interest in the application.

The Committee, after considering the submissions put forward by Ms. Correia, the comments received and the recommended conditions, is satisfied that a plan of subdivision is not necessary for the proper and orderly development of the municipality. The Committee accepted Ms. Correia's analysis that the proposed conveyed and retained lands maintained the characteristics of the adjacent R3-1 zone and suggested that the properties within this zone were the dominant contributor to the character of the streetscape along this portion of South Service Road. The Committee confirmed its acceptance that the properties located within the R1-1 zone located to the south contributed to a separate and distinct neighbourhood that was dissimilar to the character of South Service Road. The Committee was of the opinion that these properties were not suitable comparisons in evaluating the appropriateness of the proposed lot frontages. They noted that the dwellings that would be constructed on the conveyed and retained lands would be compliant with the Zoning By-law and would respect the necessary side yards to preserve separation distances between dwellings.

The Committee is satisfied that the general intent and purpose of the Zoning By-law and the Official Plan will be maintained in this instance.

The Committee is of the opinion that the requested variance is minor in nature in this instance.

Accordingly, the Committee resolves to authorize and grant the request as presented.

MOVED BY:

D. George SECONDED BY: J. Robinson CARRIED

Application Approved.

Dated at the City of Mississauga on January 10, 2013.

THIS DECISION IS SUBJECT TO APPEAL TO THE ONTARIO MUNICIPAL BOARD BY FILING WITH THE SECRETARY-TREASURER OF THE COMMITTEE OF ADJUSTMENT A WRITTEN NOTIFICATION, GIVING REASONS FOR THE APPEAL, ACCOMPANIED WITH THE PRESCRIBED FEE ON OR BEFORE JANUARY 30, 2013.

Date of mailing is January 14, 2013.

S. PATRIZIO (CHAIR)

D. GEORGE

R. BENNETT
J. THOMAS

D. KENNEDY
L. DAHONICK

J. ROBINSON

I certify this to be a true copy of the Committee's decision given on January 10, 2013.

DAVID L. MARTIN, SECRETARY-TREASURER.

A copy of Section 45 of the Planning Act, as amended, is attached.

NOTES:

- A Development Charge may be payable prior to the issuance of a Building Permit.
- Further approvals from the City of Mississauga may be required i.e. a Building Permit, a Zoning Certificate, a License, etc.



COMMITTEE OF ADJUSTMENT DECISION

City of Mississauga

'A' - 12 / 13

"A" 012/13

Ward 1

COMMITTEE OF ADJUSTMENT

IN THE MATTER OF SECTION 45(1) OR (2)

of The Planning Act R.S.O. 1990, c.P.13, as amended

- and -

IN THE MATTER OF ZONING BY-LAW 0225-2007

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IN THE MATTER OF AN APPLICATION BY

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Mr. T. Correia, authorized agent, attended and presented the application to convey a parcel of land for the creation of a new lot for residential purposes. Ms. Correia advised the Committee that the subject property had been subject to a series of previous Consent and Minor Variance applications with both positive and negative outcomes. She confirmed that all previous Consent applications had lapsed. Ms. Correia indicated that the common concern with the previous Minor Variance and current applications was the proposed deficient lot frontages. She noted that the proposed lots would have two of the smallest lot frontages within the surrounding R1-1 zone. Ms. Correia indicated this this deficiency was misleading and suggested that the properties that fronted along South Service Road that were zoned R1-1 were not appropriately comparable to the identically zoned properties that abutted to the south. She noted that the subject property fronted onto a busy street that was separated from the Queen Elizabeth Expressway by a concrete wall; whereas, the properties to the south formed a desirable and spacious neighbourhood.

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The Committee reviewed the information and plans submitted with the application.

The City of Mississauga Planning and Building Department commented as follows (December 21, 2012):

71.0 RECOMMENDATION

The Planning and Building Department recommends that the consent and minor variance applications be refused.

2.0 BACKGROUND

Mississauga Official Plan

Character Area: Mineola Neighbourhood

Designation: Residential Low Density I

Discussion: Mineola is an established and stable residential Neighbourhood. To satisfy compatibility concerns, any proposed development is required to recognize and enhance the scale and character of the existing residential areas by having regard to lot frontages and areas, among other matters. Mississauga Official Plan encourages development in neighbourhoods to be context sensitive and respect the existing or planned character and scale of development.

To preserve the character of lands designated Residential Low Density I and Residential Low Density II, the minimum frontage and area of new lots proposed will generally represent the greater of the average lot frontage and area within 120 m, or the requirements of the Zoning By-law. The requested consent and minor variance applications will result in lots that are less than the average lot frontage within 120 m of the subject property.

The requested severance does not recognize or enhance the scale and character of the existing residential area or streetscape with respect to lot frontage, and therefore, does not satisfy compatibility concerns as outlined in the Mississauga Official Plan.

Zoning By-law 0225-2007

Zoning: "R1-1", Residential

Discussion: The minimum lot frontage for the subject property under By-law 0225-2007, as amended, is 22.00 m (72.17 ft.). The proposed lot frontages of 15.56 m (51.04 ft.) would result in some

of the smallest lots along South Service Road. The proposed lots, having reduced frontages, do not maintain the general intent and purpose of the Zoning By-law.

3.0 OTHER APPLICATIONS

0 Building Permit File: Required - No application received

0 Site Plan File: Required - No application received

4.0 COMMENTS

We note that in the absence of a Building Permit application, we are unable to verify the accuracy of the requested variances or determine whether additional variances will be required. In addition, we advise that demolition permits are required for the existing structures, and the property is subject to Site Plan control.

We advise for the Committee's information that the Committee had approved a severance on the subject property in 1988; however, the Planning and Building Department expressed concerns with the proposal at that time. The conditions of the severance lapsed, and the applicant returned to the Committee for the same severance in 1998 under files 'B' 17/98, 'A' 82/98, and 'A' 83/98. At that time, the Planning and Building Department recommended that the applications be refused, and they were refused by the Committee. The applicant appealed the decision, and the appeal was dismissed at the Ontario Municipal Board (OMB).

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A letter was received from Ward Councillor Tovey indicating his shared concern with the matters identified in the Credit Reserve Association's first letter.

A letter was received from L. James, a representative of the Credit Reserve Association, expressing her objection to the subject application.

A second letter was received from L. James, a representative of the Credit Reserve Association, withdrawing her objection with the understanding that the proposed dwellings would be constructed in compliance with the Zoning By-law. She noted her concern with the proposed lot frontages of the conveyed and retained lands.

No other persons expressed any interest in the application.

The Committee, after considering the submissions put forward by Ms. Correia, the comments received and the recommended conditions, is satisfied that a plan of subdivision is not necessary for the proper and orderly development of the municipality. The Committee accepted Ms. Correia's analysis that the proposed conveyed and retained lands maintained the characteristics of the adjacent R3-1 zone and suggested that the properties within this zone were the dominant contributor to the character of the streetscape along this portion of South Service Road. The Committee confirmed its acceptance that the properties located within the R1-1 zone located to the south contributed to a separate and distinct neighbourhood that was dissimilar to the character of South Service Road. The Committee was of the opinion that these properties were not suitable comparisons in evaluating the appropriateness of the proposed lot frontages. They noted that the dwellings that would be constructed on the conveyed and retained lands would be compliant with the Zoning By-law and would respect the necessary side yards to preserve separation distances between dwellings.

The Committee is satisfied that the general intent and purpose of the Zoning By-law and the Official Plan will be maintained in this instance.

The Committee is of the opinion that the requested variance is minor in nature in this instance.

Accordingly, the Committee resolves to authorize and grant the request as presented.

MOVED BY:

D. George SECONDED BY: J. Robinson CARRIED

Application Approved.

Dated at the City of Mississauga on January 10, 2013.

THIS DECISION IS SUBJECT TO APPEAL TO THE ONTARIO MUNICIPAL BOARD BY FILING WITH THE SECRETARY-TREASURER OF THE COMMITTEE OF ADJUSTMENT A WRITTEN NOTIFICATION, GIVING REASONS FOR THE APPEAL, ACCOMPANIED WITH THE PRESCRIBED FEE ON OR BEFORE JANUARY 30, 2013.

Date of mailing is January 14, 2013.

S. PATRIZIO (CHAIR)

D. GEORGE

R. BENNETT
J. THOMAS

D. KENNEDY
L. DAHONICK

J. ROBINSON

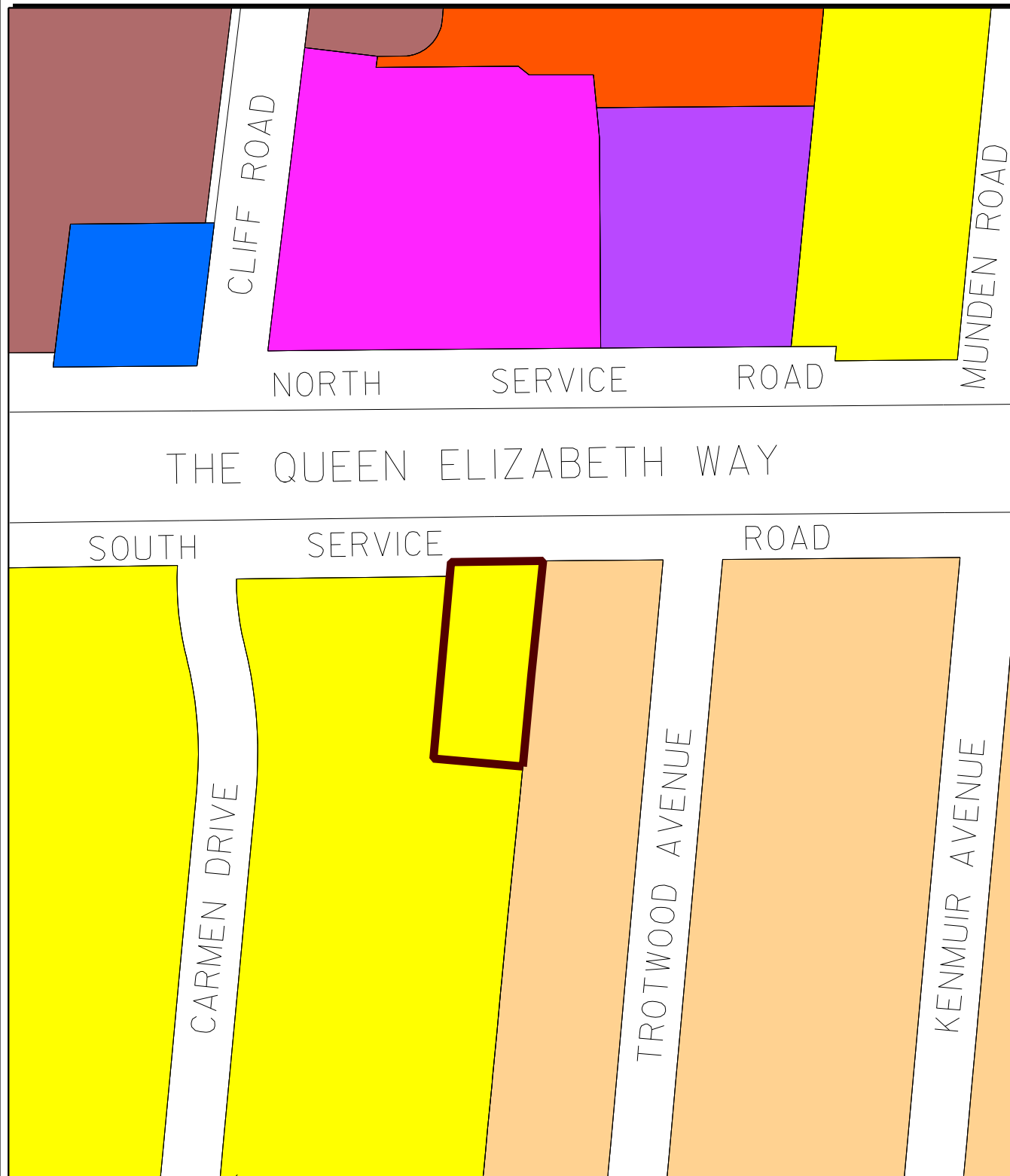
I certify this to be a true copy of the Committee's decision given on January 10, 2013.

DAVID L. MARTIN, SECRETARY-TREASURER

A copy of Section 45 of the Planning Act, as amended, is attached.

NOTES:

- A Development Charge may be payable prior to the issuance of a Building Permit.
- Further approvals from the City of Mississauga may be required i.e. a Building Permit, a Zoning Certificate, a License, etc.



PART OF SCHEDULE 10 LAND USE DESIGNATIONS OF MISSISSAUGA OFFICIAL PLAN

LAND USE DESIGNATIONS

Residential Low Density I	Business Employment
Residential Low Density II	Industrial
Residential Medium Density	Airport
Residential High Density	Institutional
Downtown Mixed Use	Public Open Space
Downtown Core Commercial	Private Open Space
Mixed Use	Greenbelt
Convenience Commercial	Parkway Belt West
Motor Vehicle Commercial	Utility
Office	To Be Determined

LAND USE LEGEND

Heritage Conservation District	Civic Centre (City Hall)
1996 NEP/2000 NEF Composite Noise Contours	City Centre Transit Terminal
LBPIA Operating Area Boundary See Aircraft Noise Policies	GO Rail Transit Station
Area Exempt from LBPIA Operating Area	Public School
Natural Hazards	Catholic School
	Hospital
	Community Facilities

CITY STRUCTURE

Elements

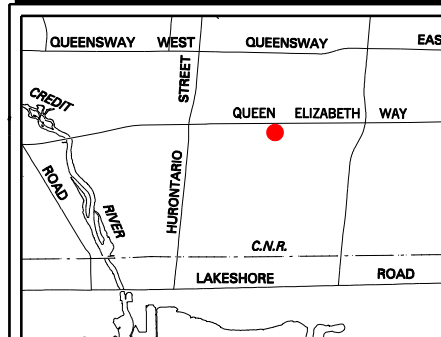
Downtown	Corporate Centre
Major Node	Employment Area
Community Node	Special Purpose Area
Neighbourhood	

ND2 Region of Peel Non-Decision

SUBJECT LANDS



SUBJECT: DELFIM & MARIA FERNANDES



FILE NO:
'B'613,'A'1113,'A'1213

DWG. NO:
B613,'A'1113,'A'1213R

SCALE:
1:2000

DATE:
22 JAN. 201

DRAWN BY:
B. KRUGER

APPENDIX 2

MISSISSAUGA
Planning and Building

Produced by
T&W, Geomatics

RA2-38
APARTMENT

C5-3
COMMERCIAL

CLIFF ROAD

H-C2-21
COMMERCIAL

H-
C1-24
COMMERCIAL

H-RA4-28
APARTMENT

R3
DETACHED
DWELLINGS

MUNDEN ROAD

NORTH SERVICE ROAD

THE QUEEN ELIZABETH WAY

SOUTH SERVICE ROAD

R1-1
DETACHED
DWELLINGS

66.80

R1-1

69.97

30.40

R1-2
DETACHED
DWELLINGS

CARMEN DRIVE

R1-2
DETACHED
DWELLINGS

R3-1
DETACHED
DWELLINGS

TROTWOOD AVENUE

R3-1
DETACHED
DWELLINGS

KENMUIR AVENUE

R3-1

LEGEND:



SUBJECT LANDS
372 SOUTH SERVICE ROAD



SUBJECT:

**DELFIN &
MARIA FERNANDES**



FILE NO:
'B'613,'A'1113,'A'1213

DWG. NO:
B613,'A'1113,'A'1213R

SCALE:
1:2000

DATE:
22 JAN. 201

DRAWN BY:
B. KRUGER

APPENDIX 3

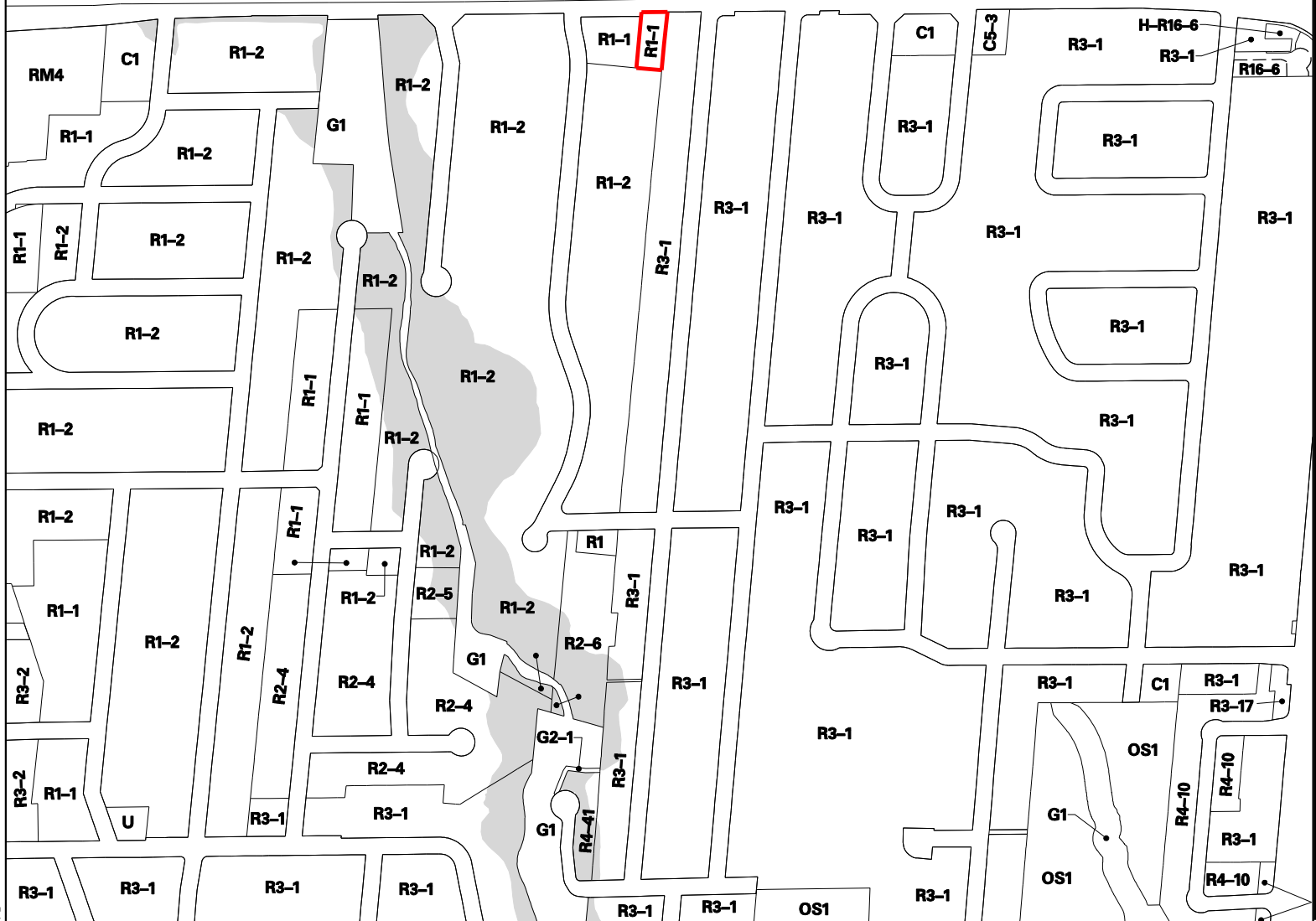
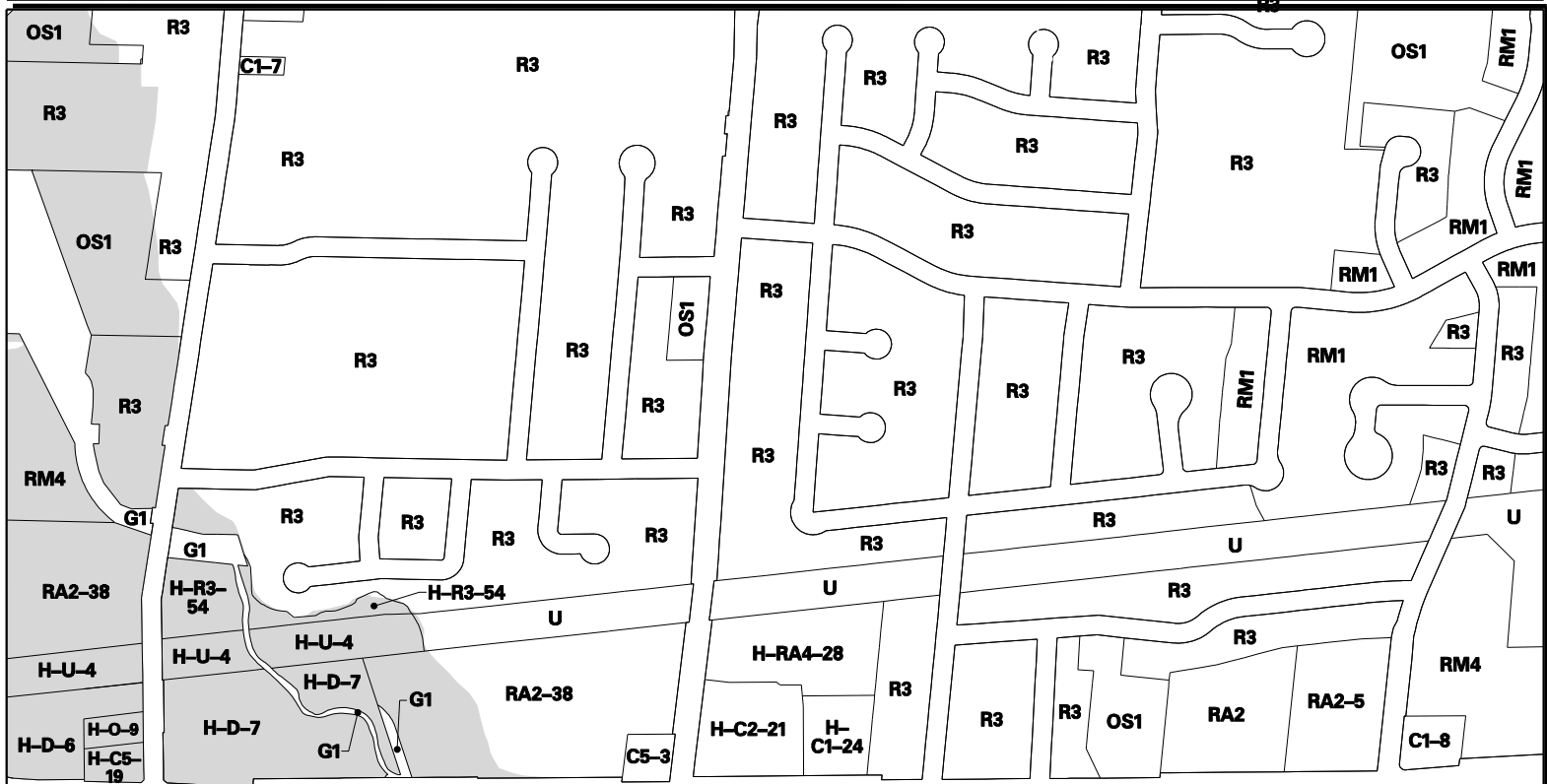
MISSISSAUGA
Planning and Building

Produced by
T&W, Geomatics

GENERAL CONTEXT MAP

'B'6/13,'A'11/13,'A'12/13

APPENDIX 4





LEGEND:



SUBJECT LANDS
372 SOUTH SERVICE ROAD



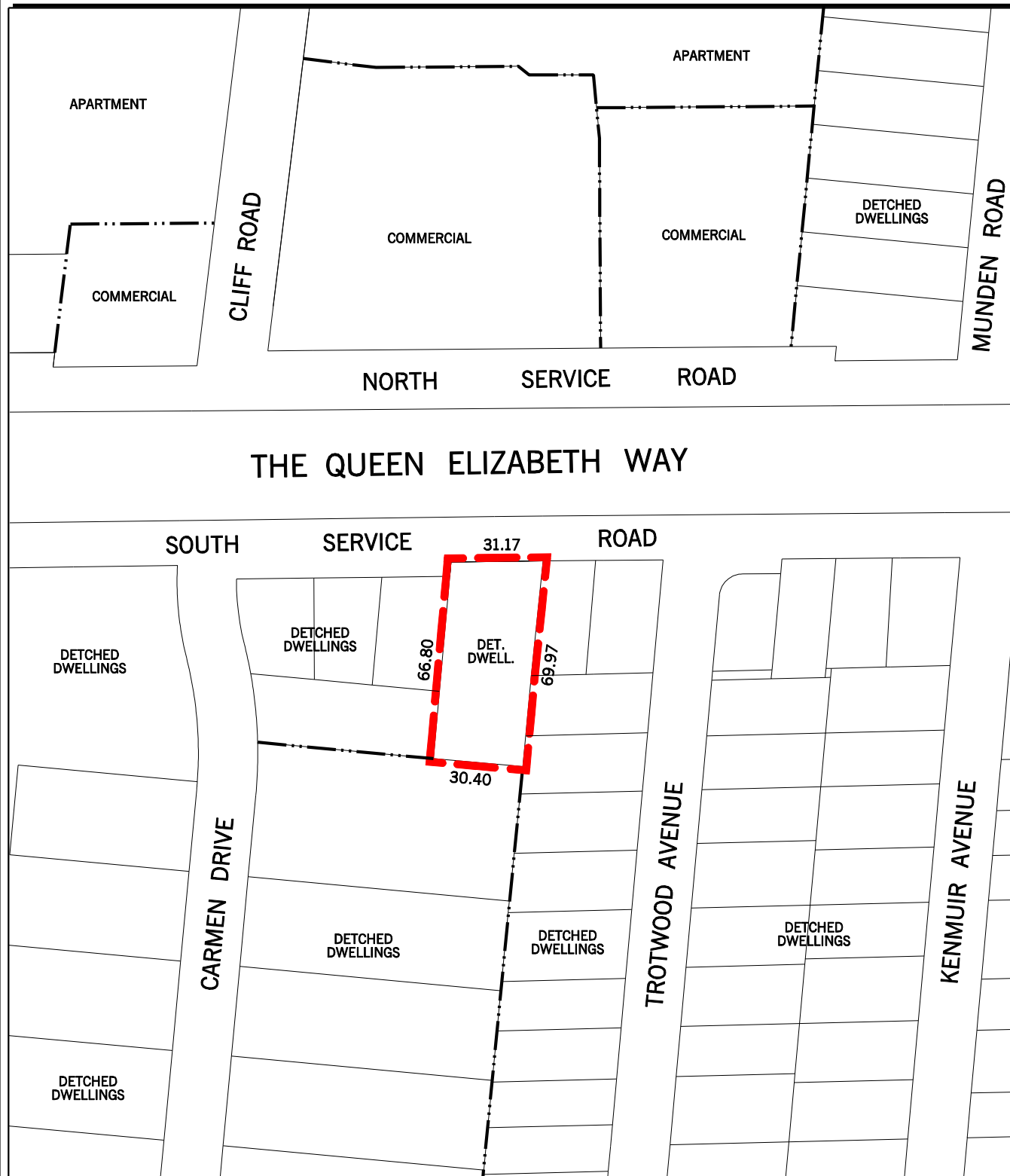
SUBJECT: DELFIM & MARIA FERNANDES

		FILE NO: 'B'613,'A'1113,'A'1213	
		DWG. NO: B613,'A'1113,'A'1213A	
		SCALE: 1:2000	
		DATE: 22 JAN. 201	APPENDIX 5
		DRAWN BY: B. KRUGER	

MISSISSAUGA
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SOUTH DAKOTA				
REPORT	DATE	REPORTED BY	DATE RECEIVED	REPORT NO.
1				1213
2	42	222	77733	7420
3				1773



LEGEND:



SUBJECT LANDS
372 SOUTH SERVICE ROAD



SUBJECT: DELFIM & MARIA FERNANDES

		FILE NO: 'B'613,'A'1113,'A'1213	
		DWG. NO: B613,'A'1113,'A'1213Lots	
		SCALE: 1:2000	
		DATE: 22 JAN. 201	APPENDIX 7
DRAWN BY: B. KRUGER			

MISSISSAUGA
Planning and Building

Produced by
T&W, Geomatics