

Local Planning Appeal Tribunal
Tribunal d'appel de l'aménagement
local



ISSUE DATE: January 04, 2019

CASE NO(S): PL180130

The Ontario Municipal Board (the “OMB”) is continued under the name Local Planning Appeal Tribunal (the “Tribunal”), and any reference to the Ontario Municipal Board or Board in any publication of the Tribunal is deemed to be a reference to the Tribunal.

PROCEEDING COMMENCED UNDER subsection 45(12) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant:	Dave Irwin
Appellant:	David Shorey
Applicant:	Armagh (Lynn Ward)
Subject:	Minor Variance
Variance from By-law No.:	0225-2007
Property Address/Description:	927 Meadow Wood Road
Municipality:	City of Mississauga
Municipal File No.:	“A” 42/18
OMB Case No.:	PL180130
OMB File No.:	PL180130
OMB Case Name:	Irwin v. Mississauga (City)

Heard: November 27, 2018 in Mississauga, Ontario

APPEARANCES:

Parties

Counsel

Armagh (Lynn Ward)

Cynthia MacDougall

David Shorey

Ian Andres

City of Mississauga

Raj Kehar

**DECISION DELIVERED BY ANNE MILCHBERG AND ORDER OF THE
TRIBUNAL**

[1] David Shorey and Dave Irwin (“Appellants”) have individually appealed the City of Mississauga (“City”) Committee of Adjustment (“CoA”) January, 2018 approval of an application for minor variance, with conditions, respecting the property at 927 Meadow Wood Drive (“subject property”/“lands”). The Applicant is Armagh (Lynn Ward) (“Applicant”), a provider of supportive, transitional housing for women and children who have left abusive relationships. The Applicant, a government-funded agency, has been on the property for the last 25 years, and its supportive housing use is permitted as-of-right.

[2] The subject property is located south of Lakeshore Road in the Clarkson-Lorne Park neighbourhood of single detached dwellings, at the corner of Meadow Wood Road and Petrie Way. Currently, access is taken off Meadow Wood Road. The subject property has an area of 1.08 hectares, and contains an existing, heritage-designated residential building with a gross floor area of 1,815 square metres. The building currently has eight self-contained apartment units for clients and one apartment unit for the Applicant’s staff, a total of nine units.

[3] The Applicant proposes to expand the existing building to add 10 self-contained apartment units to the current nine, and this is what gives rise to the variance application. The proposed addition is to the south and east sides of the current building.

[4] Counsel for the Applicant, the City, and Mr. Shorey, one of the Appellants, appeared at the hearing, and advised the Tribunal that they had reached a settlement of the matter as a result of Tribunal-assisted mediation in which they all participated. Mr. Irwin was not present at the hearing, though he did participate in the mediation.

[5] On consent of the Parties, Stephanie Kwast, Registered Professional Planner acting for the Applicant was qualified and permitted by this Tribunal to provide planning opinion evidence in this matter. Ms. Kwast provided details of the settlement and her uncontroverted analysis of the two variances under the four tests for minor variance set out in s. 45(1) of the *Planning Act*.

VARIANCES SOUGHT

[6] The lands are subject to a site-specific Zoning By-law ("ZBL"), Exception R1-42 to the City's ZBL No. 0225-2007, which allows the supportive housing use, limits the number of apartment units, and sets other land use controls as follows:

4.2.2.42.1 – Exception R1-42

In a R1-42 zone the applicable regulations shall be as specified for a R1 zone except that the following uses/regulations shall apply:

Permitted Use

4.2.2.42.1 Lands zoned R1-42 shall only be used for the following:

- (1) Supportive Housing Dwelling Regulations

Regulations

4.2.2.42.2 A supportive housing dwelling shall comply with the R1 zone regulations contained in Subsection 4.2.1 of this By-law except that:

- (1) **maximum number of self-contained apartment dwelling units used to accommodate a maximum of eight (8) adults and sixteen (16) children requiring specialized or group care: 8** [bolding added for emphasis]
- (2) maximum total gross floor area used for an apartment dwelling unit for staff and an office 580 m²
- (3) minimum number of parking spaces required: 10
- (4) "Supportive Housing Dwelling" means a building or part thereof which is licensed, approved or supervised by the Province under the Supportive Housing Program: Family Violence Initiative, approved under the Ministry of Community and Social Services Act, R.S.O. 1990, c.M.20, and its regulations.
- (5) **all site development plans shall comply with Schedule R1-42 of this Exception** [bolding added for emphasis].

[7] Variances are requested with respect to sections 4.2.2.42.2(1) and 4.2.2.42.2(5) of Exception R1-42 to permit:

1. 19 self-contained dwelling units for residents, whereas the ZBL permits a maximum of 8 self-contained dwelling units ["Variance 1"].
2. the proposed development not in accordance with Schedule R1-42 ["Variance 2"].

[8] Schedule R1-42 (referred to in Variance 2) is a map attached to Exception R1-42 which shows the currently approved footprint of the existing building and its setbacks from Meadow Wood Road, Petrie Way and the south and east property lines. The proposed addition of 11 self-contained dwelling units would alter the footprint of the building and its setbacks from the lot lines. Should Variance 1 be approved, Schedule R1-42 would be out-of-date. Instead, the Parties have asked the Tribunal to tie the approval of Variance 1 to Exhibit 5, a five sheet set of development drawings that include: Proposed Site Plan, Exterior Elevations (2 sheets), a Landscape Master Plan and a Lighting Plan [reduced versions of which are all set out in Attachment 1 to this decision].

[9] Though a little unclear on this point at first, the Parties did confirm that no other variances (such as height or setbacks) are required or sought for the proposed development shown in Exhibit 5.

THE ISSUES

[10] The appeal letter from Mr. Shorey's counsel [Exhibit 2, Tab 12] clearly articulated his concerns with respect to the proposed addition of 11 self-contained housing units to the subject property:

To be clear, our client is supportive of Armagh and its efforts to provide secure housing and transitional support for women who have left abusive relationships, and he acknowledges that Armagh provides an important and valuable service to the community.

Our client's concerns with the Application are not based on the use of the Subject Property per se; rather they are based on the negative impacts that will be created as a direct result of the proposed increase in intensity of use. For example, the proposed increase in dwelling units will result in

a substantial escalation of vehicular traffic entering and leaving the site (particularly school buses, service and delivery vehicles), which will exacerbate the traffic disruptions, safety and nuisance issues which routinely arise at the entrance driveway to the Subject Property under the existing conditions. Additionally, our client is concerned that the proposed built form will result in an institutional apartment building being established in a land use designation that clearly does not permit such dwelling types.

[11] Mr. Irwin's letter of appeal [Exhibit 2, Tab 13] cites noise, lighting and "deviation from the current character of structures in the neighbourhood" as his concerns with the variances sought.

[12] Ms. Kwast gave testimony on the ways in which these concerns were addressed in mediation and crystallized in the building and site design depicted in Exhibit 5 [Attachment 1]:

- A second point of access to the subject property will be created from Petrie Way to better manage an increase in vehicles leaving and entering the lands as a result of added housing units.
- Six new on-site parking spaces will be moved to the vicinity of the new Petrie Way access point.
- There will be landscaped screening of the new addition. It is intended to serve as a visual and noise buffer for adjacent properties.
- The elevations of the proposed addition have been changed to break down the scale of what would otherwise be an institutional-looking building. The redesign will better reflect the existing character of the neighbourhood.
- A detailed lighting plan was developed to contain on-site lighting to the subject property.

[13] Counsel for Mr. Shorey confirmed that his client was satisfied that his issues were addressed by the revised building and site design agreed to in mediation and

depicted in Exhibit 5. As for Mr. Irwin, the other Appellant (who did not appear at this hearing), counsel for the Parties present advised that Mr. Irwin participated in the mediation. .

[14] Based on Ms. Kwast's uncontroverted testimony and corroborative comments from counsel for the City and Mr. Shorey, it is the Tribunal's finding that the issues raised have been satisfactorily addressed by the building and site design depicted in Exhibit 5.

ANALYSIS AND DISPOSITION

[15] The Tribunal considered the two variance requests pursuant to s. 45(1) of the Act, which sets out four tests that a minor variance must meet.

[16] The only expert planning testimony on the four tests was given by Ms. Kwast, and it was uncontroverted.

Do the proposed variances maintain the general intent and purpose of the Official Plan ("OP")?

[17] Ms. Kwast testified that the proposed variances are fully consistent with both the Regional Municipality of Peel Official Plan ("OP") and the City's OP. She made detailed reference to Regional and City's OP policies dealing with land use and the provision of special needs housing, and to City's OP policies focusing on character area compatibility [16.5 Clarkson-Lorne Park Urban Design Policies, Exhibit 2, Tab 6].

[18] On the basis of this testimony, the Tribunal finds that the proposed two variances do maintain the general intent and purpose of the OP.

Do the proposed variances maintain the general intent and purpose of the ZBL?

[19] Variance 1 proposes 19 self-contained dwelling units for residents, whereas the ZBL Exception R1-42 permits a maximum of 8 self-contained dwelling units on the

subject property. One of the general intents and purposes of Exception R1-42 is to control the number of dwelling units on the site. Altering the number does not contravene the intent and purpose if potential impacts are addressed and mitigated. The design set out in Exhibit 5 addresses and will mitigate the potential impacts.

[20] The purpose of Variance 2 is to ‘untie’ the proposed development from Schedule R1-42. Instead, the proposed development would be tied (via conditions of variance approval) to the drawings contained in Exhibit 5. This is not contrary to the general intent and purpose of the ZBL.

[21] On this basis, the Tribunal finds that the proposed variances maintain the general intent and purpose of the ZBL.

Are the variances minor?

[22] As the issues raised by the Appellants resolved in the building and site design depicted in Exhibit 5 and as described in Ms. Kwast’s evidence, the Tribunal finds that the two requested variances are minor in nature.

Are the variances desirable for the appropriate development of the subject property?

[23] The Tribunal finds that the variances are indeed desirable for the appropriate development of the subject property because Ms. Kwast’s evidence indicated that the proposed building and site design (arrived at through mediation) will fit better into the neighbourhood with revised elevations/massing and landscaped screening, a lighting design that contains lighting on the lands, and a second access point to manage an increase in vehicular traffic leaving and entering the lands.

AMENDMENT TO THE APPLICATION

[24] Counsel for the Applicant asked the Tribunal to make a finding on whether the Parties’ addition of proposed conditions of approval for the variances [Exhibit 6] constituted an amendment to the original application that required further notice.

[25] The Tribunal notes that the variances themselves are not altered at all (only the building design has been changed), and that almost all the proposed conditions of approval have been arrived at through Tribunal-assisted mediation and on consent of the Parties, with the exception of a small, technical condition dealing with a trench, requested by the Credit Valley Conservation Authority.

[26] Consequently, it is the Tribunal's determination that s.45(18.1) of the Act does not apply, and no further notice is required.

PROVINCIAL POLICY STATEMENT ("PPS") AND GROWTH PLAN FOR THE GREATER GOLDEN HORSESHOE, 2017 ("GGH")

[27] The Act requires decisions affecting planning matters to be consistent with policy statements issued under the Act. Ms. Kwast provided an uncontroverted planning opinion that the proposed variances are consistent with the PPS and GGH.

CONCLUSION

[28] For a variance application to fail, all that is required is that one test under s. 45(1) of the Act is not met. In this case, the Tribunal finds that all four tests have been satisfied for both variances.

ORDER

[29] Accordingly, the Tribunal orders that the appeals are allowed, and that the variances to Exception R1-42 to the City of Mississauga ZBL No. 0225-2007 (as originally approved by the City's Committee of Adjustment on January 25, 2018 and corrected on February 6, 2018) are authorized subject to the following conditions:

1. The access driveways, parking lot, landscaping and any new building addition shall be constructed substantially in accordance with the following plans, and the existing building shall be maintained substantially in accordance with the following plans, which plans were filed with the City of Mississauga Planning

on October 19, 2018 [Exhibit 5 as marked by the Tribunal]:

- (a) Drawing No. A1.1 – Proposed Site Plan, prepared by Hilditch Architect Inc., revised as of October 17, 2018;
 - (b) Drawing Nos. A7.0 and A7.1 – Exterior Elevations, prepared by Hilditch Architect Inc., revised as of October 17, 2018;
 - (c) Drawing No. L3 – Landscape Master Plan, prepared by NAK Design Group, revised as of October 17, 2018; and
 - (d) Drawing No. 2 of 5 – Lighting Plan, prepared by Stanpro, dated October 15, 2018.
2. That the proposed infiltration trench, shown on the drawings referred to in conditions 1(a) and 1(c) above, be removed or revised to the satisfaction of the Credit Valley Conservation Authority, prior to the issuance of a building permit.

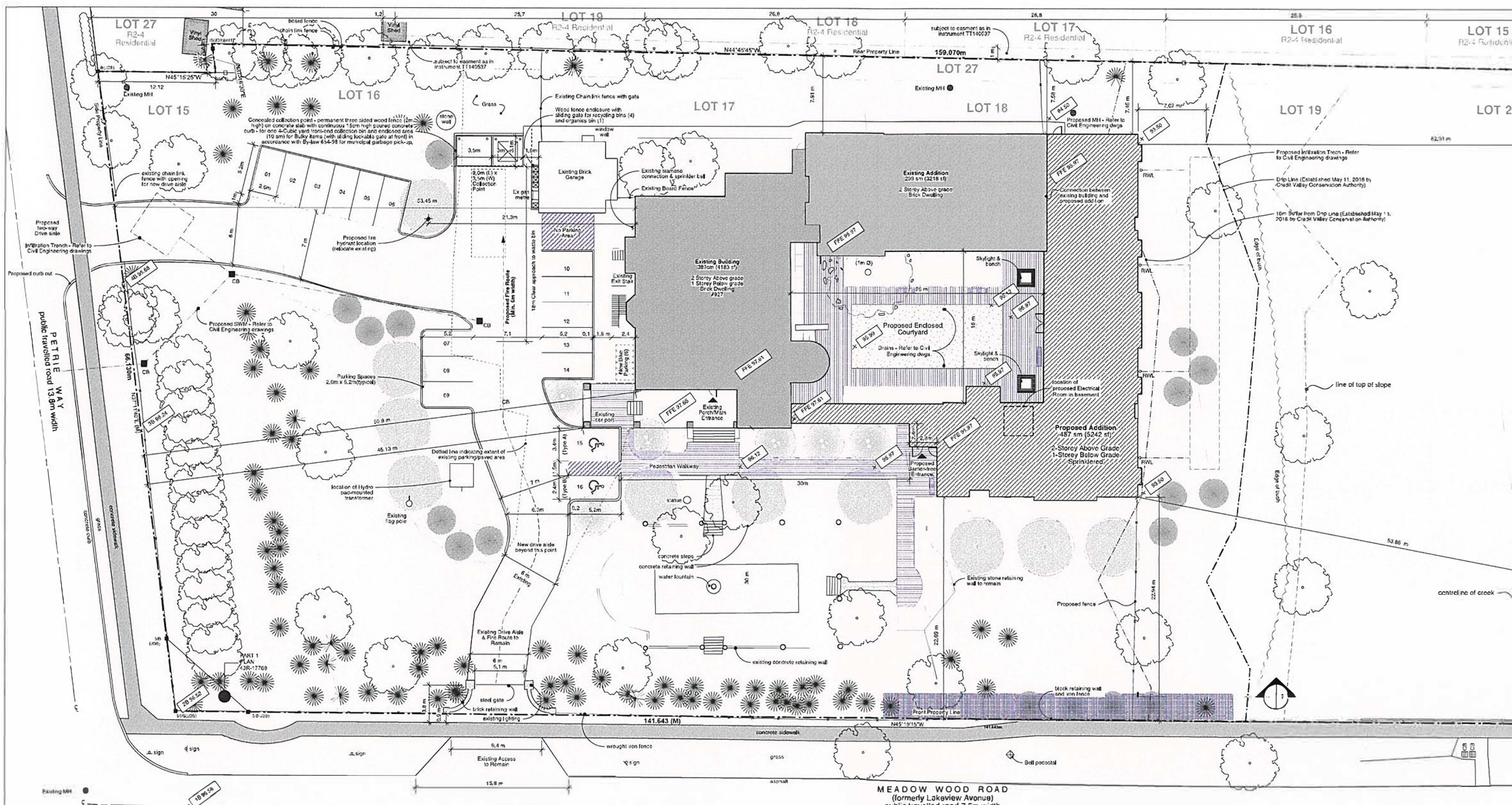
“Anne Milchberg”

ANNE MILCHBERG
MEMBER

If there is an attachment referred to in this document,
please visit www.elto.gov.on.ca to view the attachment in PDF format.

Local Planning Appeal Tribunal

A constituent tribunal of Environment and Land Tribunals Ontario
Website: www.elto.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248



NOTES: Site plan information from Registered Site Survey prepared by KNOXAR SURVEYORS LTD., 2010. Survey completed on the 4th Day of March, 2010. REVISIONS: April 14, 2018 Updated to show location of 3 deciduous trees southeast of... May 12, 2006 Updated to show drop line established by Credit Valley Conservation Authority and bounded on May 11, 2006. Boundary and Topographic Survey of Lot 16 to 19 (Inclusive) and Part of Lot 12 and 20 (Part D-13 and Part of Lot 27, Concession 5 South of Hurontario Street) Formed in the Township of Tecumseh County of Peel, Now in the City of Mississauga, Regional Municipality of Peel.

Site Plan Application No. SP 17-148 W2 / Residential Applicant: David Summers, SHS Consulting 75 East Beaver Creek Rd. Unit 30 Tel: 905.883.7515 Fax: 905.763.7558 Contact: Armagh, Lucy Cameron (Board President) PO Box 15341 1881 Lake Shore Road Tel: 905.835.0229 Cell: 905.875.3195

LEGEND: Proposed Paved/Asphalt Walkway, Proposed Vegetation, Existing Vegetation to remain, Existing Sign, Fire Hydrant, Catching Catch Basin, Proposed Catch Basin, Existing Manholes, Proposed Drains, Proposed Rain Water Leader.

Contractor must verify all dimensions on the job & report any discrepancies to the architect before commencing work. If errors & omissions are found to be the fault of the architect & must be returned to the architect at the time of the work. © 2015 Hilditch Architect Inc.

Hilditch Architect Inc. 401 Richmond Street West, Suite 139 Toronto, Ontario M5V 3A8 Tel: (416) 977-7877 Fax: (416) 977-8460 http://www.hilditch-architect.com

1 Proposed Site Plan A1.1 1:200



SITE STATISTICS: PROPOSED: Existing and Proposed Use, Total Staff and Office Area, Office Floor Area (GFA), Proposed: (no deductions), TOTAL GFA: (Existing and Proposed), Floor Space Ratio: 0.30 (Total GFA/Lot Area)

Building Subbacks: North-East, South-West, North-West, Building Height from AGD, Average Grade Calculation, Established Grade Calculation, Established Grade (EG): 94.69m

If a wall is discovered on the property, it will be decommissioned by a licensed contractor or located in accordance with the Ontario Water Resources Act. Any water systems discovered on site will be decommissioned and removed according to all applicable guidelines and regulations. All existing utility lighting to remain unless otherwise noted. All existing lighting will be directed onto the site and will not illuminate the adjacent properties. Only 'shatter' lighting fixtures are permitted for all equipment, except for outdoor and unshatter shock resistant lighting in 60 m (196.85') or a reasonably close proximity and must conform to the program C-60413 Lighting Plan. The Engineer's Code of Lighting Plan must be signed by the consulting engineer. The Owner consents and agrees to erect and install 'shatter' lighting fixtures on the subject lands in conformity with the Site Plan and Engineer's Code of Lighting Plan to the satisfaction of the City of Mississauga. All roof-top mechanical units shall be screened 'down view' by the applicant. Parking spaces reserved for people with disability may be identified by a sign installed at the applicant's expense, in accordance with the design specifications of the City of Mississauga. Signage shown on this site development plan is for information purposes only. All signs to be erected in accordance with the provisions of Sign Regulation 2004-2007. All entrance and a separate sign application will be required through the Planning Division. Accessible parking spaces and access shall be provided in accordance with City of Mississauga By-law 12-03, 'Barrier-Free Access' and shall be constructed to the standards set out in the International Symbol of Access with a 125mm x 152mm white border and symbol with a blue background and colour at each space, located by an Authorised Parking Sign conforming with Section 116-03 of the By-law 12-03.

Continuous 15 cm high curb of type poured concrete curbing will be provided between all 15m and 15m wide areas throughout the site. The applicant is responsible for ensuring that all site work complies with the City of Mississauga's regulations. The applicant is responsible for ensuring that the protection heading is maintained throughout the duration of the construction and is not disturbed. All surface drainage will be contained, collected and discharged at a location to be approved by the City of Mississauga. The portions of the conveyance on the municipal curb and sidewalk will be continuous through the driveway and a curb depression will be provided for each entrance. At the entrances to the site, the municipal curb and sidewalk will be continuous through the driveway and a curb depression will be provided for each entrance, or by-law 10-02-16. Any existing adjacent to municipal lands to be located 15 cm (6.0 in.) inside the adjacent lot line. The portions of the conveyance on the municipal curb and sidewalk will be continuous through the driveway and a curb depression will be provided for each entrance. Grades will be met with a 3% maximum slope at the property lines and within the site. If the final course of asphalt paving is delayed, install a temporary bit or asphalt at ramps or curb-cuts to ensure they remain accessible.

2 Context Plan A1.1 NTS



1 South Building Elevation
Scale: 1:100



2 Rear Building Elevation
Scale: 1:100



Site Plan Application No. SP 17-146 W2

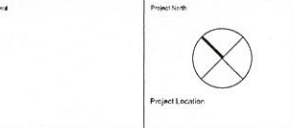
Applicant:
David Hammar, SHS Consulting
70 East Beaver Creek Rd, Unit 30
Tel: 905.763.7555 x114
Fax: 905.763.7558

Owner:
Armagh Lucy Cameron (Board President)
PO Box 22564 - 1951 Lane Shore Road
Tel: 905.855.0939 x103
Fax: 905.855.3189

No.	Description	Date
01	Issued for the Plan Approval - Issued	15/12/2018
02	Revised for the Plan Approval - Revised	03/01/2019
03	Issued for the Plan Approval - Issued	07/03/2018
04	Issued for the Plan Approval - Revised	15/12/2017
05	Issued for the Plan Approval - Revised	15/12/2017
06	Issued for the Plan Approval - Revised	15/12/2017
07	Issued for the Plan Approval - Revised	15/12/2017
08	Issued for the Plan Approval - Revised	15/12/2017
09	Issued for the Plan Approval - Revised	15/12/2017
10	Issued for the Plan Approval - Revised	15/12/2017

Contractor must verify all dimensions on this plan & report any discrepancies to the architect before proceeding with the work. All drawings & specifications are the property of the architect & must be retained upon completion of the work. © 2013 Hilditch Architect Inc.

Hilditch Architect Inc.
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Toronto, Ontario M5V 3A8
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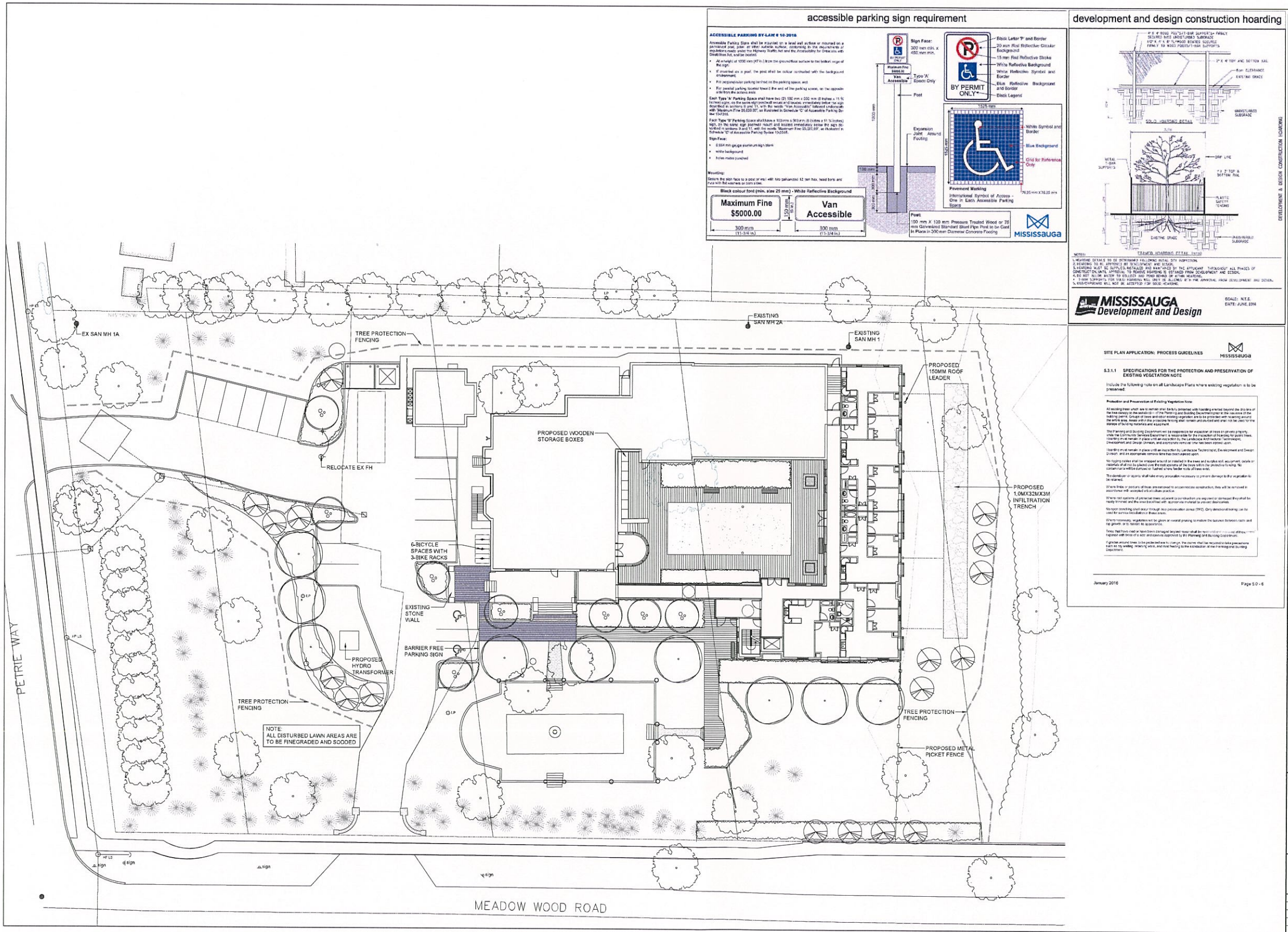


Project:
Armagh Transitional Housing Addition

Client:
Armagh
Municipal Address: No. 127 Meadowood Road, Mississauga, ON L5J 1J6

Drawing Title:
Exterior Elevations

Date:	September 24, 2018	Drawn by:	ML	Checked by:	SA	Approved by:	
Scale:	As Noted	Sheet No.:	A7.0				
Project No.:	1523						



accessible parking sign requirement

ACCESSIBLE PARKING BY LAW # 10-2015

Accessible Parking Signs shall be placed on a level wall or floor or mounted on a permanent post, sign or other device to allow, consistent with the requirements of applicable codes, proper visibility to the driver of the vehicle. The sign shall be placed on the side of the vehicle and shall be placed on the side of the vehicle.

- At a height of 1500 mm (5'0") from the ground surface to the bottom edge of the sign;
- If mounted on a post, the post shall be colour coordinated with the background of the sign;
- For paved parking spaces, the sign shall be placed on the parking space, or the approach to the parking space;
- For unpaved parking spaces, the sign shall be placed on the parking space, or the approach to the parking space.

Sign Face:

- 300 mm (11.8") wide by 450 mm (17.7") high
- 15 mm Red Reflective Stripe
- White Reflective Background
- White Reflective Symbol and Border
- Blue Reflective Background and Border
- Blue Legend

Mounting:

- 100 mm x 100 mm Pressure Treated Wood or 75 mm Galvanized Standard Steel Pipe Post or Cast in Place in 100 mm Diameter Concrete Footing

Placement Marking:

- International Symbol of Access - One in Each Accessible Parking Space

Maximum Fine \$5000.00

Van Accessible

MISSISSAUGA

development and design construction hoarding

MISSISSAUGA Development and Design

SOIL: N.E. DATE: JUNE 2018

SITE PLAN APPLICATION: PROCESS GUIDELINES

5.3.1.1 SPECIFICATIONS FOR THE PROTECTION AND PRESERVATION OF EXISTING VEGETATION NOTE

Include the following notes on all Landscape Plans where existing vegetation is to be preserved:

Protection and Preservation of Existing Vegetation Note:

All existing trees shall be retained and protected to the maximum extent possible. The contractor shall be responsible for the protection and preservation of existing trees and vegetation. The contractor shall be responsible for the protection and preservation of existing trees and vegetation. The contractor shall be responsible for the protection and preservation of existing trees and vegetation.

NOT FOR CONSTRUCTION

Contractor shall check all dimensions on the work and report any discrepancy to the Landscape Architect before proceeding. All drawings and specifications are the property of the Landscape Architect and must be returned at the completion of the work. This drawing is not to be used for construction until signed by the Landscape Architect.

LEGEND:

- PROPOSED DECIDUOUS TREE
- PROPOSED ORNAMENTAL TREE
- PROPOSED CONIFEROUS TREE
- EXISTING TREES TO REMAIN
- PROPOSED SHRUB BEDS
- PROPOSED UNIT PAVERS
- REUSED FLAG STONE
- PROPOSED CONCRETE PAVING
- PROPOSED SEAT
- EXISTING TREE TO REMAIN. PROVIDE TREE PROTECTION FENCING. RETAIN EXISTING GRADE AT BASE OF TREE.

NOT FOR CONSTRUCTION

1	ISSUED FOR SPA REVISION 03	OCT, 17, 18
No.	Description	Date
Revision		

NAK design group

Landscape Architects
Urban Design
Community Planning

385 Adelaide Street W.
Suite 433 Toronto
Ontario M5V 1S2
Tel: 416.340.8100
Fax: 416.340.8200
nak@nakdesigngroup.com

Project: **PROPOSED MIX-USE DEVELOPMENT**
ARMAGH HOUSE

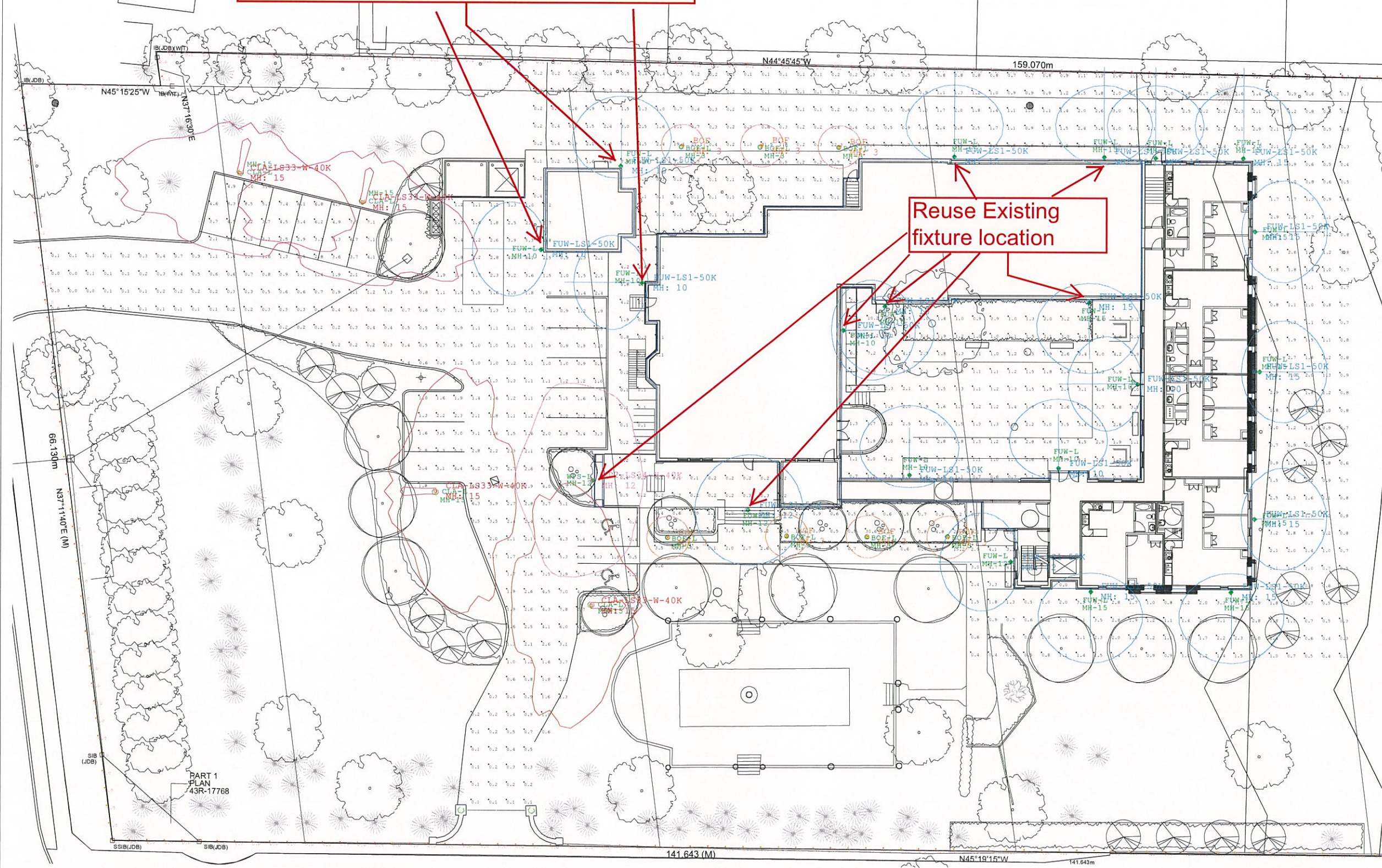
TORONTO ONTARIO

Title: **LANDSCAPE MASTERPLAN**

Date: JUNE 26, 2018 Sheet
Scale: 1:200
Drawn: AP DL
Checked: SVK
Job No.: 216518

L3

Fixture at existing Ltg. location and need to change the mounting from under soffit mount to wall mount



2233 Rue de l'Aviation, Dorval, QC H9P 2X6, CANADA
 Tel: 1-866-280-2332, Tel: 514-739-9984 Fax: 514-739-9912

Project name : Armagh

Date:10/15/2018

Prepared for:

AGi32 Version 19.1.9

Filename: Armagh v2.AGI

Total Time (Hrs.): 2.32

DISCLAIMER: Calculations have been performed according to IESNA & CIE standards and goodpractice. Some differences between measured values and calculated results may occur due to tolerances in calculation methods, testing procedures, component performance, measurement techniques and field conditions such as voltage and temperature variations. Input data used to generate the attached calculations such as room dimensions, reflectances, furniture and architectural elements significantly affect the lighting calculations. If the real environment conditions do not match the input data, differences will occur between measured values and calculated values.

By : Damian Iwanczuk

Units: Feet