

THE CORPORATION OF THE TOWN OF LINCOLN

BY-LAW NO. 2022-37-Z573

A BY-LAW TO AMEND ZONING BY-LAW NO. 93-14-Z1,
AS AMENDED, OF THE TOWN OF LINCOLN
(UPTOPIA WEST- 5103 GREENLANE ROAD)

WHEREAS:

1. The Town of Lincoln Council is empowered to enact this By-law by virtue of the provisions of Sections 34 and 36 of the *Planning Act*, R.S.O. 1990, c. P. 13 ("*Planning Act*");
2. The Council of the Town of Lincoln continues to have the power under Subsection 37(1) of the *Planning Act* as it read the day before Section 1 of Schedule 17 to the *COVID-19 Economic Recovery Act, 2020*, S.O. 2020, c. 18 ("*COVID-19 Economic Recovery Act, 2020*") came into force, whereby the Council may, in a by-law enacted under Section 34 of the *Planning Act*, authorize increases in the density and height of development not otherwise permitted by the by-law in return for the provision of such facilities, services and matters as are set out in the by-law;
3. Subsection 37(2) of the *Planning Act*, as it read the day before Section 1 of Schedule 17 to the *COVID-19 Economic Recovery Act, 2020* came into force, requires that a by-law under Subsection 37(1) of the *Planning Act*, may not be enacted unless the municipality has an official plan that contains provisions relating to the authorization of increases in height and density of development;
4. Sections 3.1.15.5.4.16 and 9.8 of the Official Plan of the Town of Lincoln contains provisions relating to the authorization of increases in density of development otherwise permitted in exchange for the provision of certain facilities, services or matters;
5. Pursuant to Subsection 37(3) of the *Planning Act*, as it read the day before Section 1 of Schedule 17 to the *COVID-19 Economic Recovery Act, 2020* came into force, where an owner of land elects to provide facilities, services or matters in return for an increase in the height or density of development, the municipality may require the owner to enter into one or more agreements with the municipality dealing with the facilities, services or matters;
6. The owner of the land that is the subject of this By-law has elected to provide the facilities, services and matters set out in this By-law;
7. The increase in the height and density of development permitted hereunder, beyond that otherwise permitted on the land by By-law No. 93-14-Z1, are to be permitted in return for the provision of facilities, services and matters set out in this By-law and secured by one or more agreements between the owner of the land and the Town;
8. Town Council has held a Public Meeting to consider these matters, including the increase in height and density; and
9. Town Council deems it desirable to approve an amendment to the Comprehensive Zoning By-law No. 93-14-Z1 pursuant to their decision at the May 30th, 2022 Council Meeting.

NOW THEREFORE, THE COUNCIL OF THE CORPORATION OF THE TOWN OF LINCOLN HEREBY ENACTS AS FOLLOWS:

1. That Schedule 'A1' to Zoning By-law No. 93-14-Z1, as amended, is hereby amended by changing the zoning on the lands shown as the subject lands on Schedules 'A' and 'B', attached hereto and forming part of this By-law, as follows:
 - (a) Part 1 is hereby rezoned from an General Commercial (GC)(H) Zone to a site specific General Commercial (GC-32) (H) Zone with boundary adjustments;
 - (b) Part 2 is hereby zoned as an Agricultural (A) Zone with boundary adjustments; and
 - (c) Part 3 is hereby zoned as an Environmental Conservation (EC) Zone with boundary adjustments.
2. That Subsection 18.4, Special Provisions is hereby amended by adding the following subsections:.

“18.4.32 GC-32 (MIXED USE BUILDING)”

Notwithstanding the provisions of the General Commercial zone, the lands indicated as GC-32 (H) on Schedule A1 shall be subject to the following:

18.4.32.1 PROVISIONS

- | | | | |
|-----|--------------------------------------------|---|------------------------------------------------------------------------------------------------------|
| (a) | Maximum density | - | 347 apartment units |
| (b) | Minimum yard setback | | |
| | (i) South property line | - | 4.0 metres |
| | (ii) East property line | - | 6.5 metres |
| | (iii) North property line | - | 36.4 metres |
| | (iv) Urban boundary | - | 1.6 metres |
| (c) | Minimum building setback | | |
| | (i) South Façade – Floors 2 to 6 | - | 14.7 metres |
| | (ii) South Façade – Floors 7 to 10 | - | 48.9 metres |
| (d) | Maximum building height | - | 10 storeys to a maximum of 32.9 metres |
| (e) | Maximum height to rooftop mechanical suite | - | 36.7 metres |
| (f) | Minimum landscaped open space | - | 60% |
| (g) | Minimum amenity area required | - | 10 square metres per dwelling unit |
| (h) | Minimum parking requirements | - | 1.0 spaces per dwelling unit plus 0.1 visitor spaces per dwelling unit |
| | | - | All other uses in accordance with the provisions of Section 7 |
| | | - | All required visitor parking spaces shall be clearly identified, demarcated, and signed accordingly. |
| (i) | Minimum bicycle parking | - | 0.41 long-term bicycle parking |

- | | |
|--------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| requirements | spaces per dwelling unit.
Long-term bicycle parking spaces shall be for the use of occupants of a building and shall be located in a secure enclosed bicycle parking area. |
| | - 8 spaces of short-term bicycle parking |
- (j) Minimum dwelling unit area
 - (i) One bedroom - 46 square metres
 - (ii) Two bedrooms or more - 60 square metres
 - (k) Minimum gross floor area of commercial space - 302 square metres
 - (l) Maximum height of a parking structure in the rear yard setback - 2.2 metres

18.4.32.2 SECTION 37 PROVISIONS

- (a) Pursuant to Section 37 of the *Planning Act*, as it read the day before Section 1 of Schedule 17 to the *COVID-19 Economic Recovery Act, 2020* came into force and subject to compliance with this By-law, the increase in density permitted by subsection 18.4.32.1 (a) of this By-law shall only be permitted in return for the provision by the owner of the lands, at the owner's sole expense, the facilities, services and matters set out in Appendix 2 hereof and which are secured by one or more agreements pursuant to Subsection 37(3) of the *Planning Act* that are in a form and registered on title to the lands, to the satisfaction of the Town Solicitor.
- (b) Where Appendix 2 of this By-law requires the owner to provide certain facilities, services or matters prior to the issuance of a building permit, the issuance of such permit shall be dependent on satisfaction of the same.
- (c) The owner shall not use, or permit the use of, a building or structure erected with an increase in density pursuant to this By-law unless all provisions of Appendix 2 are satisfied.

18.4.32.3 That the "H" symbol shall, upon application by the landowner, be removed by Town Council passing a By-law under Section 36 of the *Planning Act*. The following conditions shall first be completed to the satisfaction of the Director of Planning of the Town of Lincoln:

- (a) A 3.0 metre road widening has been dedicated to the Town to accommodate future upgrading of Greenlane Road to a full urban cross section,
- (b) Sufficient wastewater services and water (including fire flow) are or will be available to accommodate the proposed development to the satisfaction of the Niagara Region and the Town of Lincoln,
- (c) That the Owner has submitted an approved Transportation Impact Study (TIS) to the satisfaction of the Town of Lincoln, and the Regional Municipality of Niagara identifying and designing any future required upgrades, and validating that sufficient road network functionality is currently or planned to be available to accommodate the proposed development.
- (d) That suitable financial arrangements have been prepared to the satisfaction of the Town of Lincoln, and if required the Regional

Municipality of Niagara, with respect to any cost sharing arrangements, if applicable, pertaining to any servicing infrastructure requirements,

- (e) Registration on title of a Section 37 Agreement per the Planning Act and to the satisfaction of the Town of Lincoln
 - (f) The applicant has entered into a Site Plan Agreement and the Agreement has been registered on title.
3. This By-law shall come into force and take effect on the date of its final passing.

PASSED AND ENACTED on the 30th day of May, 2022.

MAYOR: SANDRA EASTON

CLERK: JULIE KIRKELOS

EXPLANATION OF THE PURPOSE AND EFFECT OF BY-LAW
NO. 2022-37-Z573

This By-law involves a parcel of land located on the north side of Greenlane Road, west of Cedarbrook Lane, east of Lincoln Avenue. The subject lands are known municipally as 5103 Greenlane Road and are legally described as Part Lot 17 – 18, Concession 1, RO711300; S/T RO711300, in the former Township of Clinton, in the Town of Lincoln.

The subject lands are currently vacant of any buildings. The subject lands are to be developed for 10 storey mixed-use building consisting of 347 dwelling units, 302 square metres of commercial space, a community orchard and a recreational trail.

The subject lands are currently zoned as General Commercial (GC) – Holding (H), Agricultural (A) and Environmental Conservation (EC) according to Zoning By-law No. 94-14-Z1, as amended. This By-law changes the zoning on the subject lands to a General Commercial (GC-32) – Holding (H) Zone, and moves the location of the GC, A, and EC zones on the subject lands to accommodate the proposed development. The site specific GC provisions are meant to increase the permitted height of the mixed use building into conformance with the heights permitted on the subject lands as provided in the Beamsville GO Transit secondary plan and to reduce the permitted size of one and two bedroom apartments. In exchange for a greater than permitted density, GC-32 provisions require the provision by the owner of the lands, at the owner's sole expense, of facility, services and matters as set out in Appendix B of this By-law, pursuant to Section 37 of the *Planning Act* as it read the day before Section 1 of Schedule 17 to the *COVID-19 Economic Recovery Act, 2020* came into force.

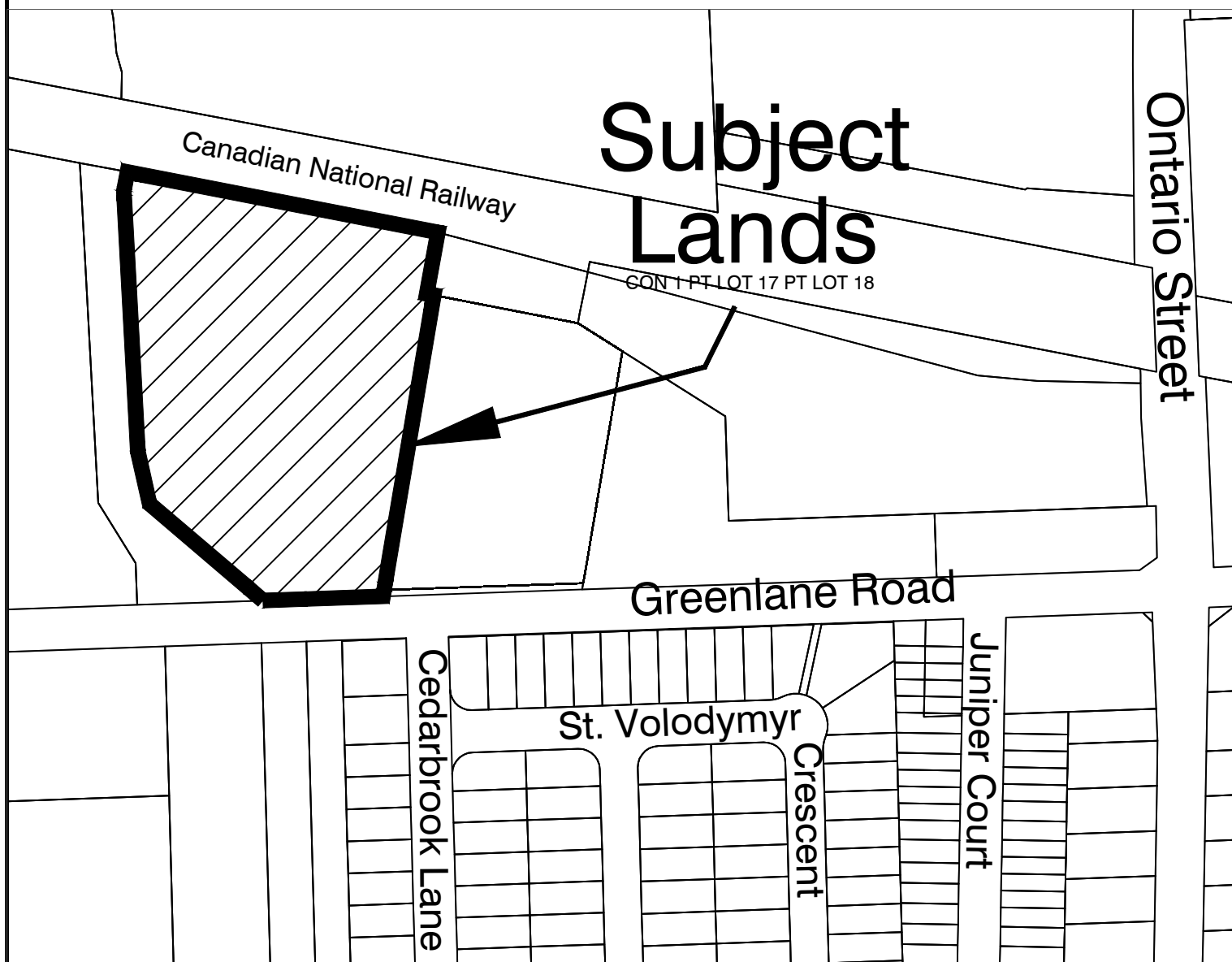
Part 1 has been zoned with a (H) holding provision. This provision ensures that the lands cannot be developed until the (H) is removed by by-law. It is not intended that the (H) be removed until the applicant has satisfied the Town that all on-site and off-site development concerns and constraints have been adequately addressed. That will include the requirement that a 3.0 metre road widening be dedicated to the Town, sufficient water and wastewater services are or will be available, the Traffic Impact Study is finalized to the satisfaction of Town and Regional staff, and the applicant enters into a site plan agreement, the agreement being registered on title, all to the satisfaction of the Town.

SCHEDULE 'A' - KEY MAP

TOWN OF LINCOLN



Metric Scale:
N.T.S.



This is Schedule 'A' to By-law No. 2022-37-Z573 passed the 30 day of
May, 2022.

MAYOR: SANDRA EASTON

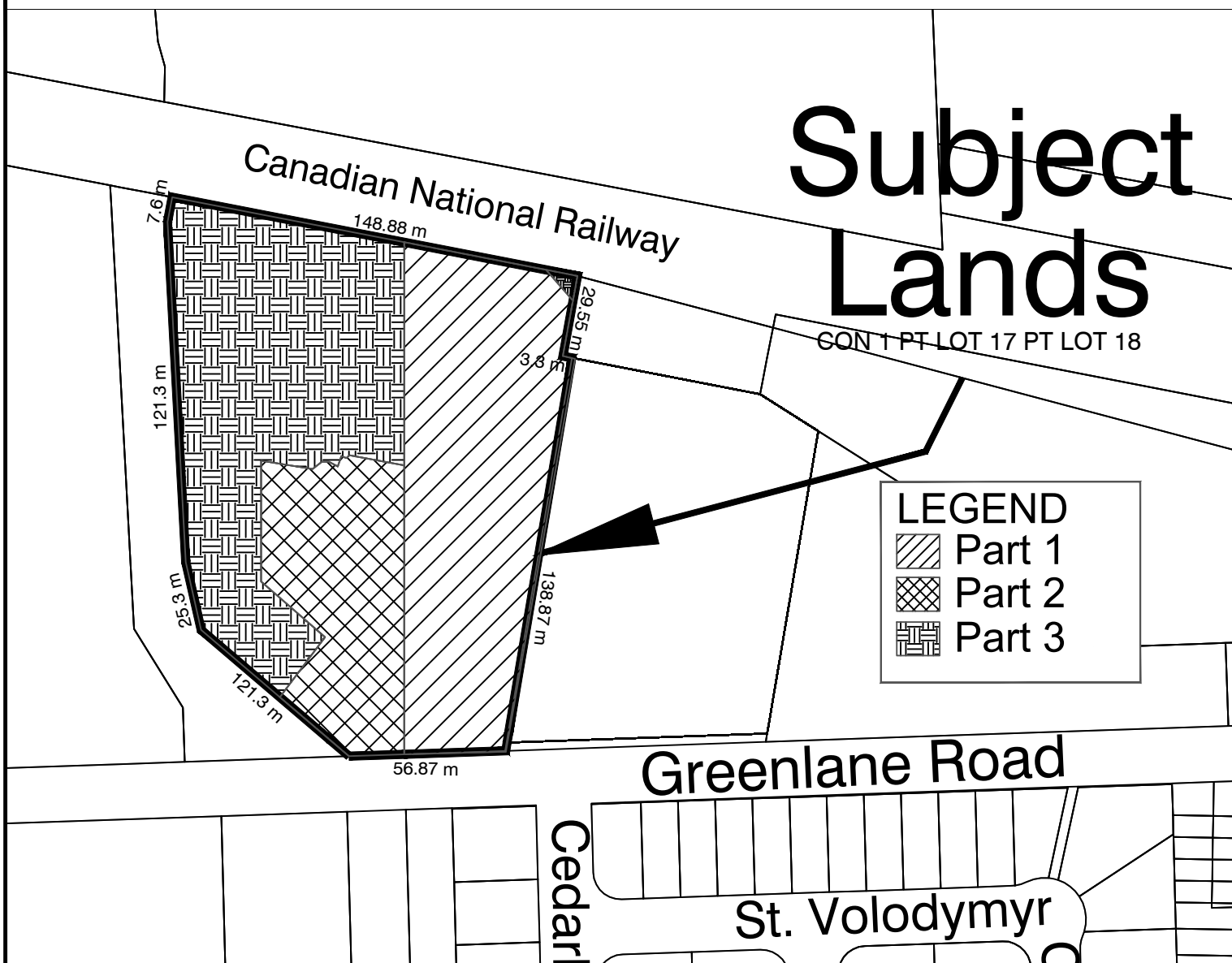
CLERK: JULIE KIRKELOS

SCHEDULE 'B' - DETAIL MAP

TOWN OF LINCOLN



Metric Scale:
N.T.S.



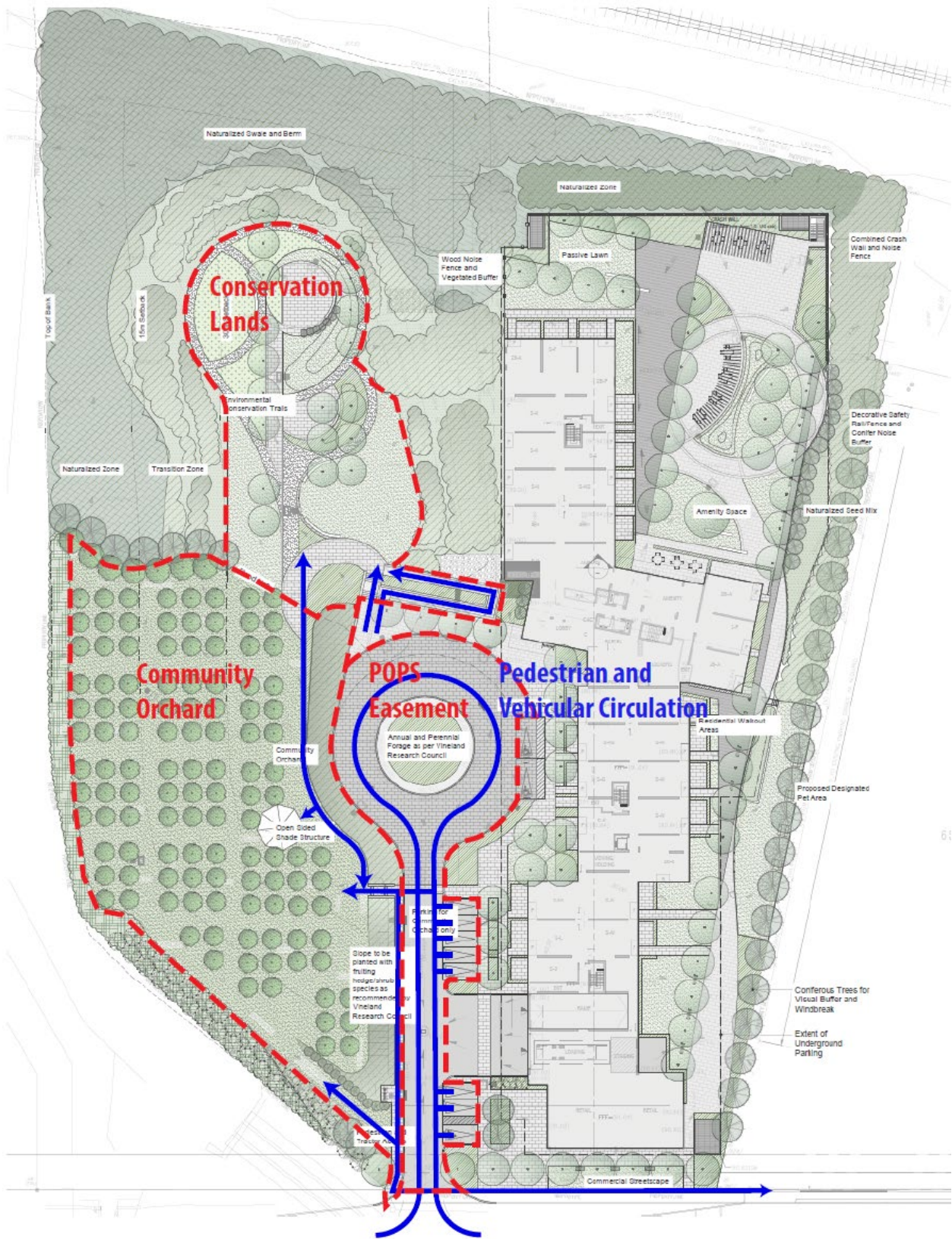
This is Schedule 'B' to By-law No. 2022-37-Z573 passed the 30 day of
May, 2022.

MAYOR: SANDRA EASTON

CLERK: JULIE KIRKELOS

SCHEDULE C

POPS Lands



Appendix 2

Section 37 Provisions

The facilities, services and matters set out herein are all the facilities, services and matters required to be provided by the owner of the lands in accordance with an agreement or agreements, pursuant to Subsection 37(3) of the *Planning Act*, as it read the day before Section 1 of Schedule 17 to the *COVID-19 Economic Recovery Act, 2020* came into force, in a form satisfactory to the Town of Lincoln with conditions providing for indexed escalation of all financial contributions, indemnity, insurance, GST/HST, termination and unwinding, and registration and priority of agreement.

The community benefits recommended to be secured in the Section 37 agreement are as follows:

- (a) To design, construct, repair and thereafter maintain, privately owned publicly accessible space in the nature of a community orchard and passive area, the location of which is outlined in red on Schedule 'C' attached as Appendix "1" of By-law 2022-37-Z573 (the "POPS Lands"), that includes but is not necessarily limited to a community orchard, walkway, landscaping, shade structure, public realm furniture, parking spaces, educational signage and a POPS signage plaque in accordance with a template to be provided by the Town (the "POPS Improvements"), as part of the development on the lands, with the specific configuration and design to be determined and secured in the context of site plan approval all to the satisfaction of the Director of Planning and Development at the Town.

Except as provided for in the Section 37 Agreement, the POPS Lands shall at all times be free and clear of encumbrances for pedestrian use, in perpetuity, including the clearing of snow and ice, at the Owner's sole cost and expense to the satisfaction of the Director of Planning and Development. The POPS Area shall remain open and accessible to the public at hours to be determined to the satisfaction of the Director of Planning and Development;

- (b) To prepare all documents and convey an easement(s) to the Town for public access, free and clear of encumbrances and for nominal consideration, in favour of the Town for use by the Town and the general public, over the aforementioned POPS Lands, at the Owner's sole cost and expense, to the satisfaction of the Town. The easement is to be conveyed to the Town for nominal consideration, and such lands are to be free and clear of all physical and title encumbrances;
- (c) To take out and maintain, at the Owner's sole expense, commercial general liability insurance with respect to the POPS Lands and acceptable as to form, limits and conditions to the Town. The Owner shall fully indemnify and save harmless the Town from and against all actions, suits, claims and other proceedings which may be brought against or made upon the Town, their successors and assigns with respect to the POPS Lands;
- (d) The POPS Improvements shall be comprised of not less than \$500,000 in-kind contribution value;
- (e) To provide and maintain 15 affordable housing units in the development for a minimum period of affordability that shall not be less than 10 years;
- (f) To register on title a covenant(s) on all affordable units and/or the entire property stipulating that all affordable units on the property shall remain affordable for a set period of time not less than 10 years;
- (g) To provide the Town with documentation as to LEED Silver certification of the development and the marketing materials that will include information on LEED Silver certification. Prior to the issuance of occupancy permit, submit documentation of LEED certification to the Town to demonstrate that the as-built project has achieved LEED v4 Silver certification.

Although the following matters are not considered to be Section 37 contributions or benefits, they will be secured in the Section 37 Agreement as a matter of convenience:

- (a) Enter into a Site Plan Agreement to the satisfaction of the Director of Planning and Development under Section 41 of the *Planning Act*.