

**Kagan  
Shastri** <sup>LLP</sup>  
LAWYERS

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**File #: 18044**

April 2, 2018

**By Same Day Courier**

Angela Morgan, City Clerk  
Burlington City Hall  
426 Brant Street  
Burlington, ON L7R 3Z6

Dear Ms. Morgan:

**Re: Appeal pursuant to section 34(11) of the Planning Act  
Appeal filed on behalf of National Homes (Plains Road) LP  
Zoning By-law Amendment for the lands municipally known as 484 and 490 Plains  
Road East, City of Burlington (the “Property”)  
City of Burlington File No. 520-14/17**

We are the solicitors for National Homes (Plains Road) LP (“National Homes”), the owner of the above-noted lands, with respect to the proposed development. By way of this letter and on behalf of our client we hereby appeal the Zoning By-law Amendment (“ZBA”) application to the Ontario Municipal Board pursuant to section 34(11) of the Planning Act. The Draft Plan application was filed on or about November 6, 2017 and deemed complete by letter dated December 6, 2017. Since then more than 120 days have elapsed and the City of Burlington has failed to make a decision on the application.

The Property has a frontage of approximately 154.5 metres (507 feet) on Plains Road East and an area of approximately 1.84 hectares (4.5 acres). The Property is currently occupied by two one-storey and one two-storey commercial buildings. The southerly three-quarters of the site is bounded by existing one and two-storey single-detached dwellings to the east, south and west. An insurance office and commercial building, with frontage on Plains Road East, abut the northerly portion of the site to the west and east.

The proposed development is comprised of 280 apartment dwelling units, 117 stacked back-to-back townhouse dwelling units and 998.5 square metres (10,748 square feet) of commercial uses on the Property. The apartment dwelling units will be in two eight-storey apartment buildings that front onto Plains Road East. The building heights step down to six storeys where they abut the single-detached dwellings. The proposed commercial floor area will be located on the ground floor of the two apartment buildings. The stacked back-to-back townhouse dwellings units are proposed for the interior of the site with a maximum height of 3-storeys. The proposed development has a density of 216 units per hectare (87 units per net acre) and a floor area ratio of

2.14:1. The Development will be accessed by a full-move, signalized access to Plains Road East and served internally by a 6.0 metre (20 feet) private condominium road. Proposed for the Property are 31 surface parking spaces, 421 underground parking spaced and 12 lay-by parking spaces on Plains Road East.

The Property is located within the Region of Halton Official Plan (the “Regional OP”) *Urban Area and Built Boundary*. The Regional OP identifies Plains Road East as a *Multi-Purpose Arterial* road and as such is considered an Intensification Area under the Regional OP policies.

The City’s Official Plan designates the Property as *Mixed-Use Corridor-General*. The Property is located within a *Mixed-Use Activity Area* which contemplate the development of employment, shopping and residential uses. An Official Plan Amendment (“OPA”) has also been filed with the City as it is needed for the increased density proposed on the Property. Although both the ZBA and OPA applications are related, the OPA application is not being appealed to the OMB at this time.

The Property is zoned *Mixed Use Corridor-MXG* pursuant to Zoning By-law 2020. That zoning permits a mix of retail commercial, service commercial, community, office, hospitality, automotive, industrial, entertainment and recreational and residential uses. To facilitate the proposed development, a Zoning By-law Amendment is proposed to rezone the subject lands to *Mixed Use Corridor-MXG- Exception XX*. A site-specific zoning by-law has been prepared to implement the proposed development.

In support of the proposed development the following reports were submitted:

- Plan of Survey
- Planning Justification Report
- Tree Inventory and Preservation Plan
- Landscape Concept Plan
- Geotechnical Investigation
- Environmental Site Assessment Phase I
- Height Survey of Adjacent Buildings
- Transportation Impact Study
- Functional Servicing & Stormwater Management Report
- Grading Concept Plan
- Servicing Concept Plan
- Hydrogeological Study
- Pre-Development Storm Drainage Plan
- Post-Development Storm Drainage Plan
- Environmental Noise Feasibility Study
- Environmental Site Screening Checklist
- Urban Design Brief
- Shadow Impact Analysis
- Draft Official Plan Amendment
- Draft Zoning By-law Amendment

These studies have demonstrated that the proposed development is consistent with the Provincial Policy Statement, conforms to the Growth Plan, conforms to the Region of Halton Official Plan and, subject to the site-specific Official Plan Amendment, conforms to the City's Official Plan. The proposed development represents good planning and appropriate intensification of lands within the City's Built-Up Area.

In support of this appeal please find enclosed the following:

1. The completed OMB Appeal form (A1);
2. Our firm's cheque in the amount of \$300 made payable to The Minister of Finance, Ontario, representing the filing fee; and
3. A draft Zoning By-law Amendment.

We respectfully request that the OMB schedule a Prehearing Conference at the first available opportunity. At this time, we estimate that approximately three (3) hearing days will be required for the consolidated appeals.

Thank you for your kind attention to this mater.

Yours very truly,

A handwritten signature in cursive script that reads "Ira Kagan".

Ira T. Kagan  
Enclos.

cc. National Homes (Plains Road) LP  
Mr. Mark Bradley (GSAI)

KAGAN SHASTRI LLP

9602

DATE : 2018/Apr / 2  
CHE # : 9602  
AMOUNT : \$300.00  
ACCOUNT : GENERAL - 1

PAID TO: Minister of Finance

Zoning By-law appeal fee  
MATTER: 18044

CLIENT: 3441 - National Homes Inc.

THIS DOCUMENT CONTAINS SECURITY FEATURES - SEE REVERSE

**KAGAN SHASTRI LLP**  
GENERAL ACCOUNT  
188 AVENUE ROAD  
TORONTO, ONTARIO M5R 2J1

TD CANADA TRUST  
166 AVENUE ROAD  
TORONTO, ONTARIO M5R 3S4

9602

9602

Three Hundred \*\*\*\*\* 00/100

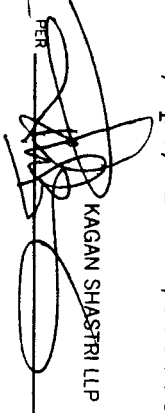
PAY

2018/Apr / 2 \$ 300.00

TO THE ORDER OF  
Minister of Finance

Zoning By-law appeal fee



PER  KAGAN SHASTRI LLP

⑈009602⑈ ⑆10402⑈004⑆ 0503⑈5203935⑈



Environment and Land Tribunals Ontario  
**Ontario Municipal Board**  
 655 Bay Street, Suite 1500  
 Toronto ON M5G 1E5  
 Telephone: 416-212-6349  
 Toll Free: 1-866-448-2248  
 Fax: 416-326-5370  
 Website: [www.elfto.gov.on.ca](http://www.elfto.gov.on.ca)

# Appellant Form (A1)

Receipt Number (OMB Office Use Only)

Date Stamp - Appeal Received by Municipality

## 1. Appeal Type (Please check all applicable boxes) \*

Subject of Appeal	Type of Appeal	Act Reference (Section)
<b>Planning Act Matters</b>		
<b>Official Plan or Official Plan Amendment</b>	<input type="checkbox"/> Appeal a decision by local council that adopted an OP or OPA (exempt from approval by Minister or Approval Authority)	17(24)
	<input type="checkbox"/> Appeal a decision of an Approval Authority that approved or did not approve all or part of a plan or amendment	17(36)
	<input type="checkbox"/> Approval Authority failed to make a decision on the plan within 180 days	17(40)
	<input type="checkbox"/> Council failed to adopt the requested amendment within 180 days	22(7)
	<input type="checkbox"/> Council refused the requested amendment	
<b>Zoning By-law or Zoning By-law Amendment</b>	<input type="checkbox"/> Appeal the passing of a Zoning By-law	34(19)
	<input checked="" type="checkbox"/> Application for an amendment to the Zoning By-law – failed to make a decision on the application within 120 days	34(11)
	<input type="checkbox"/> Application for an amendment to the Zoning By-law – refused by the municipality	
<b>Interim Control Zoning By-law</b>	<input type="checkbox"/> Appeal the passing of an Interim Control By-law	38(4)
<b>Minor Variance</b>	<input type="checkbox"/> Appeal a decision of the Committee of Adjustment that approved or refused the application	45(12)
<b>Consent/Severance</b>	<input type="checkbox"/> Appeal a decision that approved or refused the application	53(19)
	<input type="checkbox"/> Appeal conditions imposed	
	<input type="checkbox"/> Appeal changed conditions	53(27)
	<input type="checkbox"/> Application for consent – Approval Authority failed to make a decision on the application within 90 days	53(14)
<b>Plan of Subdivision</b>	<input type="checkbox"/> Application for a plan of subdivision – Approval Authority failed to make a decision on the plan within 180 days	51(34)
	<input type="checkbox"/> Appeal a decision of an Approval Authority that <b>approved</b> a plan of subdivision	51(39)
	<input type="checkbox"/> Appeal a decision of an Approval Authority that did <b>not approve</b> a plan of subdivision	
	<input type="checkbox"/> Appeal a lapsing provision imposed by an Approval Authority	
	<input type="checkbox"/> Appeal conditions imposed by an Approval Authority	51(43)
	<input type="checkbox"/> Appeal conditions - after expiry of 20 day appeal period but before final approval (only applicant or public body may appeal)	
	<input type="checkbox"/> Appeal changed conditions	

Subject of Appeal	Type of Appeal	Act Reference (Section)
<b>Development Charges Act Matters</b>		
<b>Development Charge By-law</b>	<input type="checkbox"/> Appeal a Development Charge By-law	14
	<input type="checkbox"/> Appeal an amendment to a Development Charge By-law	19(1)
<b>Development Charge Complaint</b>	<input type="checkbox"/> Appeal municipality's decision regarding a complaint	22(1)
	<input type="checkbox"/> Failed to make a decision on the complaint within 60 days	22(2)
<b>Front-ending Agreement</b>	<input type="checkbox"/> Objection to a front-ending agreement	47
	<input type="checkbox"/> Objection to an amendment to a front-ending agreement	50
<b>Education Act Matters</b>		
<b>Education Development Charge By-law</b>	<input type="checkbox"/> Appeal an Education Development Charge By-law	257.65
	<input type="checkbox"/> Appeal an amendment to an Education Development Charge By-law	257.74(1)
<b>Education Development Charge Complaint</b>	<input type="checkbox"/> Appeal approval authority's decision regarding a complaint	257.87(1)
	<input type="checkbox"/> Failed to make a decision on the complaint within 60 days	257.87(2)
<b>Aggregate Resources Act Matters</b>		
<b>Aggregate Removal Licence</b>	<input type="checkbox"/> One or more objections against an application for a 'Class A' aggregate removal licence	11(5)
	<input type="checkbox"/> One or more objections against an application for a 'Class B' aggregate removal licence	
	<input type="checkbox"/> Application for a 'Class A' licence – refused by Minister	11(11)
	<input type="checkbox"/> Application for a 'Class B' licence – refused by Minister	
	<input type="checkbox"/> Changes to conditions to a licence	13(6)
	<input type="checkbox"/> Amendment of site plans	16(8)
	<input type="checkbox"/> Minister proposes to transfer the licence – applicant does not have licensee's consent	18(5)
	<input type="checkbox"/> Minister proposes to refuse transfer of licence – applicant is licensee or has licensee's consent to transfer	
	<input type="checkbox"/> Minister proposes to refuse transfer of licence – applicant does not have licensee's consent to transfer	
<input type="checkbox"/> Revocation of licence	20(4)	
<b>Municipal Act Matters</b>		
<b>Ward Boundary By-law</b>	<input type="checkbox"/> Appeal the passing of a by-law to divide the municipality into wards	222(4)
	<input type="checkbox"/> Appeal the passing of a by-law to redivide the municipality into wards	
	<input type="checkbox"/> Appeal the passing of a by-law to dissolve the existing wards	
<b>Ontario Heritage Act Matters</b>		
<b>Heritage Conservation District</b>	<input type="checkbox"/> Appeal the passing of a by-law designating a heritage conservation study area	40.1(4)
	<input type="checkbox"/> Appeal the passing of a by-law designating a heritage conservation district	41(4)

Other Matters

Subject of Appeal	Act/Legislation Name	Section Number
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**2. Location Information**

Address and/or Legal Description of property subject to the appeal \*  
484 and 490 Plains Road East (Part of Lot 24, Registered Plan 833 and Part of Lot 3, Broken Front Concession)

Municipality \*  
City of Burlington

Upper Tier (Example: county, district, region)  
Regional Municipality of Halton

**3. Appellant/Objector Information**

**Note:** You must notify the OMB of any change of address or telephone number in writing. Please quote your OMB Case/File Number(s) after they have been assigned.

Last Name | First Name

Company Name or Association Name (Association must be incorporated – include copy of letter of incorporation) \*  
National Homes (Plains Road) Inc.

Professional Title

Email Address

Daytime Telephone Number \* | Alternate Telephone Number | Fax Number  
ext.

**Mailing Address**

Unit Number | Street Number \* | Street Name \* | PO Box

City/Town \* | Province \* | Country \* | Postal Code \*

**4. Representative Information**

I hereby authorize the named company and/or individual(s) to represent me

Last Name | First Name  
Kagan | Ira

Company Name  
Kagan Shastri LLP

Professional Title  
Lawyer

Email Address  
ikagan@ksllp.ca

Daytime Telephone Number | Alternate Telephone Number | Fax Number  
416-368-2100 ext. 226 | 416-417-3079 (211) | 416-324-4224

**Mailing Address**

Unit Number | Street Number | Street Name | PO Box  
188 | Avenue Road

City/Town | Province | Country | Postal Code  
Toronto | Ontario | Canada | M5R2J1

**Note:** If you are representing the appellant and are **not** a solicitor, please confirm that you have written authorization, as required by the OMB's Rules of Practice and Procedure, to act on behalf of the appellant. Please confirm this by checking the box below.

I certify that I have written authorization from the appellant to act as a representative with respect to this appeal on his or her behalf and I understand that I may be asked to produce this authorization at any time.

## 5. Appeal Specific Information

Municipal Reference Number(s)  
ZBL 520-14/17

Outline the nature of your appeal and the reasons for your appeal \*  
Please see attached appeal letter.

### Oral/written submissions to council

Did you make your opinions regarding this matter known to council?

Oral submissions at a public meeting     Written submissions to council

### Planning Act matters only

Applicable only to official plans/amendments, zoning by-laws/amendments and minor variances that came into effect/were passed on or after July 1, 2016 (Bill 73)

Is the 2-year no application restriction under section 22(2.2) or 34(10.0.0.2) or 45(1.4) applicable?

Yes     No

## 6. Related Matters

Are there other appeals not yet filed with the Municipality?

Yes     No

Are there other matters related to this appeal? (For example: A consent application connected to a variance application)

Yes     No    ▼

If yes, please provide OMB Reference Number(s) and/or Municipal File Number(s)  
OPA 505-06/17

## 7. Scheduling Information

How many days do you estimate are needed for hearing this appeal?

1 day     2 days     3 days     4 days     1 week  
 More than 1 week

How many expert witnesses and other witnesses do you expect to have at the hearing providing evidence/testimony?

1



Describe expert witness(es)' area of expertise (For example: land use planner, architect, engineer, etc.)  
Land use planner.

Do you believe this matter would benefit from mediation?  
(Prior to scheduling a matter for mediation, the OMB will conduct an assessment to determine its suitability for mediation)

Yes  No


### 8. Required Fee

Total Fee Submitted \* \$ 300

Payment Method \*  Certified cheque  Money Order  Solicitor's general or trust account cheque

### 9. Declaration

I solemnly declare that all of the statements and the information provided, as well as any supporting documents are true, correct and complete.

Name of Appellant/Representative	Signature of Appellant/Representative	Date (yyyy/mm/dd)
Ira Kagan		2018/04/02

Personal information requested on this form is collected under the provisions of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended, and the *Ontario Municipal Board Act*, R.S.O. 1990, c. O. 28 as amended. After an appeal is filed, all information relating to this appeal may become available to the public.

**Draft Zoning By-law  
Amendment**

**Application to Amend the Official  
Plan and Zoning By-law**

**National Homes (Plains Road) LP  
484 and 490 Plains Road East  
Part of Lot 24, Registered Plan 833 and  
Part of Lot 3, Broken Front Concession,  
City of Burlington**

**November 2017**

THE CORPORATION OF THE CITY OF BURLINGTON

BY-LAW

*Number* \_\_\_\_\_

A by-law to amend By-law 2020, as amended; 484 and 490 Plains Road East

\_\_\_\_\_

The Council of the Corporation of the City of Burlington ENACTS as follows:

1. By-law 2020, as amended, is hereby further amended:

(1) by changing on Schedule A thereto, the zoning designation of the lands as shown outlined on Schedule A to this by-law:

From the Existing Zoning of:	To:
MIXED USE CORRIDOR (MXG)	MIXED USE CORRIDOR – EXCEPTION XX (MXG – EXCEPTION XX)

(2) By adding thereto, the following sections:

XX.1 For the purpose of the regulations contained in this by-law, the boundary of Part of Lot 24, Registered Plan 833 and Part of Lot 3, Broken Front Concession, being comprised of Parts 1 and 2 on Reference Plan 20R-XXXXX, shall be deemed to be the lot lines for this purpose and the regulations of the “MXG – Exception XX” zone including but not limited to: lot area; lot frontage; lot coverage; density; building setbacks; separation distances; landscaped areas; amenity areas; parking requirements and accessory buildings, and not from individual properties boundaries of dwelling units created by registration of a condominium plan or created by Part Lot Control.

**XX.2** Notwithstanding Sections 4.0 of this by-law, the lands designated MXG XX on Schedule A to this by-law shall be subject to the following requirements and restrictions:

- I. Minimum Yard abutting a Residential Zone: 7.5 metres
- II. Maximum Floor Area Ratio: 2.14:1
- III. Maximum Density: 216 units per ha
- IV. Maximum Apartment Building Height: 8 storeys
- V. Maximum Back-to-Back Townhouse Building Height: 3 storeys
- VI. Minimum Amenity Area: 19 square metres per dwelling unit

**XX.3** Notwithstanding Table 1.2.6 of this by-law, the number of required parking spaces on the lands designated MXG-XX shall be:

- 1.00 space per one-bedroom dwelling unit for residents
- 0.14 spaces per dwelling unit for visitors
- 1.00 space per 30 square metres of gross floor area for commercial uses

**XX.4** Shall also be subject to the requirements and restrictions relating to the MXG zone and all the general provisions of this by-law, which are not in conflict with those set out in Sections XX. 1 and XX.2.

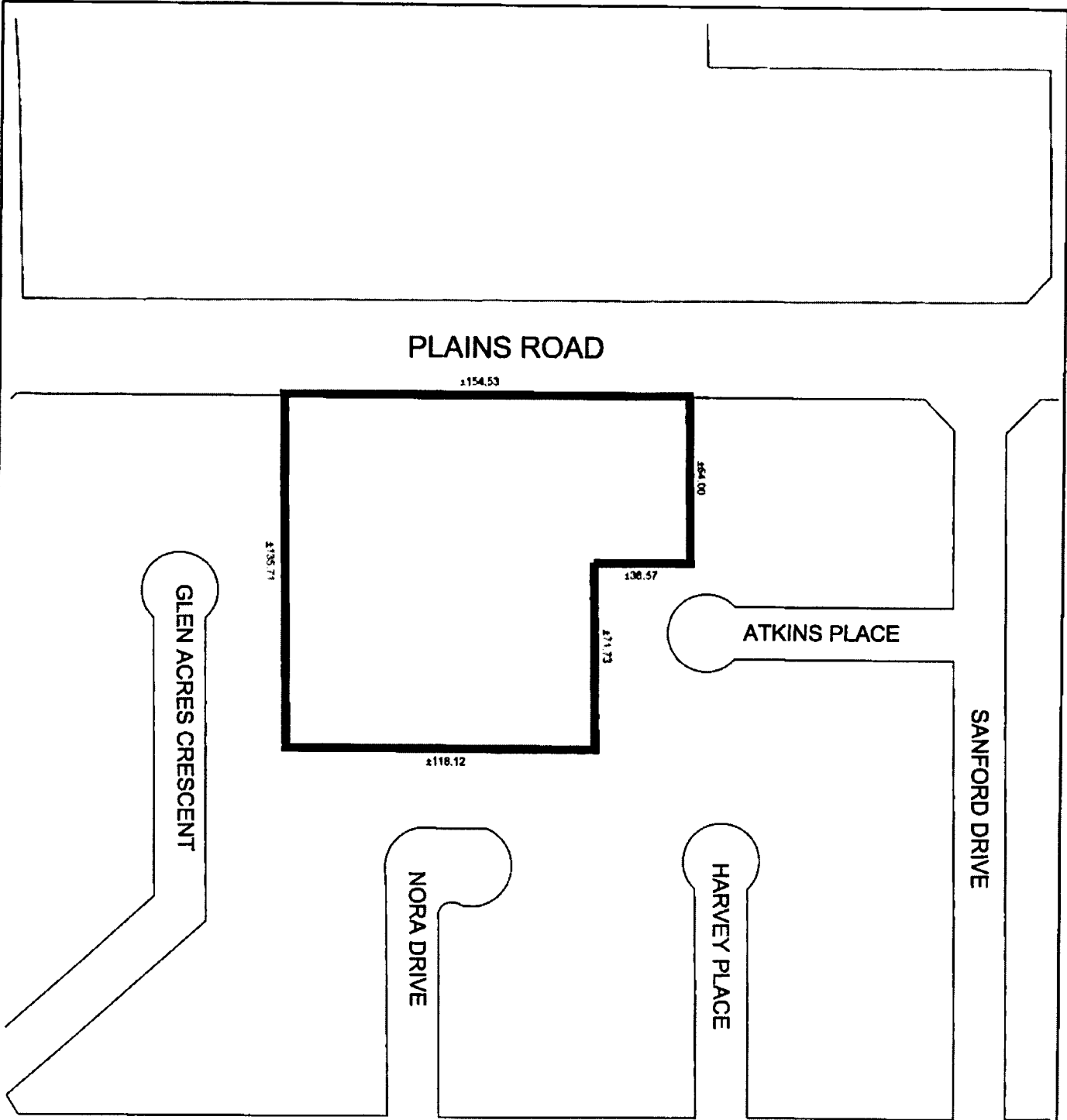
READ a FIRST, SECOND and THIRD TIME and PASSED, in OPEN COUNCIL, this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CITY CLERK

Approved as to content:

\_\_\_\_\_  
Mary Lou Tanner, MCIP, RPP  
Director of Planning and Building



PLAINS ROAD

±154.53

±135.71

64.00

±38.57

ATKINS PLACE

±21.73

SANFORD DRIVE

±118.12

GLEN ACRES CRESCENT

NORA DRIVE

HARVEY PLACE

— ZONE BOUNDARY

PT LT 3 , CON BROKEN FRONT ; PT LT 24 ,  
 PL PF833 , PART 1 & 2 , 20R3294 ;  
 BURLINGTON/E FLAM TWP AND  
 PT LT 3 , CON BROKEN FRONT , PART 3 &  
 4 , 20R3294 ; BURLINGTON/E FLAM TWP

**CITY OF BURLINGTON**

BY-LAW \_\_\_\_\_ SCHEDULE A



1: 2000

Date:

Drawn By: