

**STAFF REPORT: ADMINISTRATION**

**REPORT TO:** Council  
**MEETING DATE:** January 26, 2009  
**REPORT NO.:** A.08.08 (Revised)  
**SUBJECT:** Ministry of Transportation  
 Expropriation – Highway 26  
**PREPARED BY:** Stephen Keast, Clerk

**A. Recommendations**

THAT Council receive Staff Report A.08.08, “Ministry of Transportation Expropriation – Highway 26” for information purposes;

AND THAT Council has no objection to the transfer of lands described as part Lot 35, Concession 10 (Peel Street), Part 1, 16R-9316 to the Province for the amount of \$900.00 together with:

- intersection reconstruction and,
- relocation and reconstruction of a portion of the Georgian Trail and,
- construction of a parking area on a portion of the remaining area of Peel Street that would be surplus following realignment all at no charge to the Town;

AND THAT Council has no objection to the transfer of lands described as parts of the 11<sup>th</sup> Concession and 36<sup>th</sup> Sideroad road allowances, Parts 14, 15 & 16, 16R-9253 to the Provincial Highway network for intersection reconstruction and assumption at no charge to the Town.

**B. Background**

On July 4, 2008 the Town received a Notice of Application for Approval to Expropriate Land from the Ministry of Transportation of Ontario (MTO). There are 44 proposed expropriations in all (12 in The Blue Mountains, the remainder in Meaford) and they are part of proposed improvements to Highway 26 from Thornbury to Meaford.

The expropriations in The Blue Mountains involve intersection improvements at Peel Street north and south of Highway 26, the 10<sup>th</sup> Line north and south and Lora Bay Drive north and the 11<sup>th</sup> Line south. As well, some existing entrances are being removed.

These intersection improvements centre on road reconfigurations such that the intersections with Highway 26 are as close to 90 degrees as possible so as to improve sightlines, traffic flow and safety.

The Town is named in two expropriations, Peel Street north being a portion of the Georgian Trail west of Peel Street (Attachment 1, Part 1) and the 11<sup>th</sup> Line south being a portion of the existing 11<sup>th</sup> Line and 36 Sideroad road allowances (Attachment 2, Parts 14, 16 & 16). It should be noted that while there are many excess Parts identified on various surveys, only Parts specifically required for reconstruction can be included in the expropriation process.

In the case of the Georgian Trail, the travelled Peel Street road surface would be moved west and the former travelled surface would be reconstructed at Provincial cost to form a replacement part of the Trail. The area of land proposed for expropriation is 0.063 hectares or 0.156 acres.

The Georgian Trail Board has requested MTO pay for construction of a parking area on a portion of the remaining area of Peel Street that would be surplus following realignment and this request has yet to be considered by MTO. Two conceptual parking areas are as attached, one showing four spaces, the other twelve. As there is a 30 metre development setback from the Little Beaver River, consultation with the Grey Sauble Conservation Authority would be required prior to any construction, however, no new structures are proposed and the existing road surface would be utilized.

The MTO is currently offering compensation in the amount of \$900.00 (\$400.00 for the land based on an appraisal value of \$2,000.00 per acre plus a \$500.00 "inconvenience" allowance) for the Peel Street/Georgian Trail parcel only. While this amount may appear nominal, the Metrix Realty Group appraisal notes the highest and best use for the land in the area is to continue as a public trail use, which would happen following land transfer and reconstruction.

In the case of the 11<sup>th</sup> Line parcels, the writer was advised it is MTO Policy that portions of municipal road allowances are simply assumed into the Provincial highway network from that of the Town with no compensation offered.

The matter has now been referred to the Ontario Municipal Board with mediation noted as an avenue of settlement. The position of Council in this matter would be presented initially at mediation in an effort to avoid Party status at any full Hearing.

Given the proposed improvements to the transportation infrastructure within The Blue Mountains at no cost to the Town, it is recommended Council accept the offered amount for the Peel Street parcel and authorize transfer of the 11<sup>th</sup> Line parcels based on the aforementioned conditions and direct Staff to indicate same to the MTO and OMB.

### **C. The Blue Mountains' Strategic Plan**

Actions: Advocate with other governments on transportation issues affecting the Town.

#### **D. Environmental Impacts**

Reconstruction of two Highway intersections and a portion of the Georgian Trail.

#### **E. Budget Impact**

\$900.00 received from the transfer of Peel Street lands to roads reserves.

#### **F. Attached**

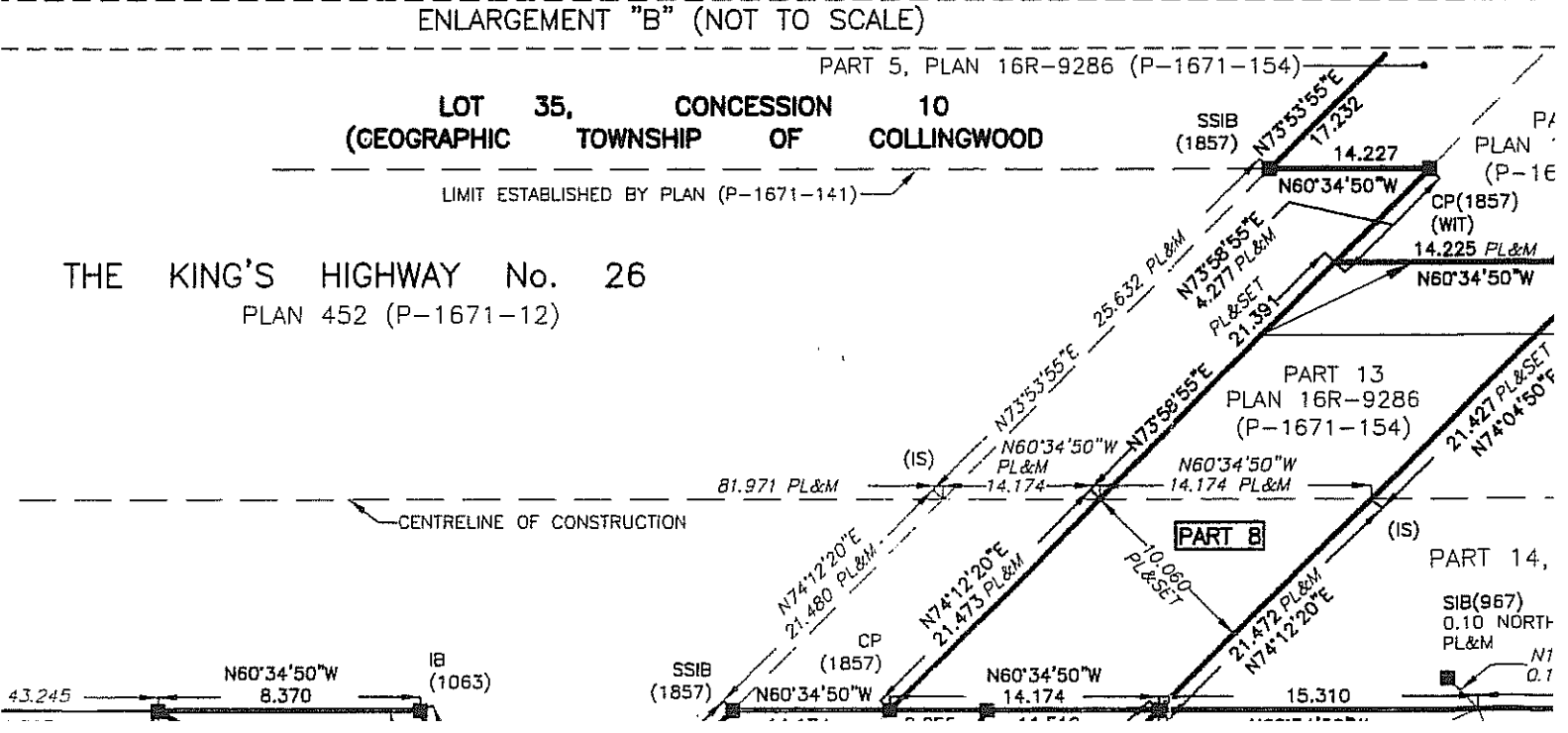
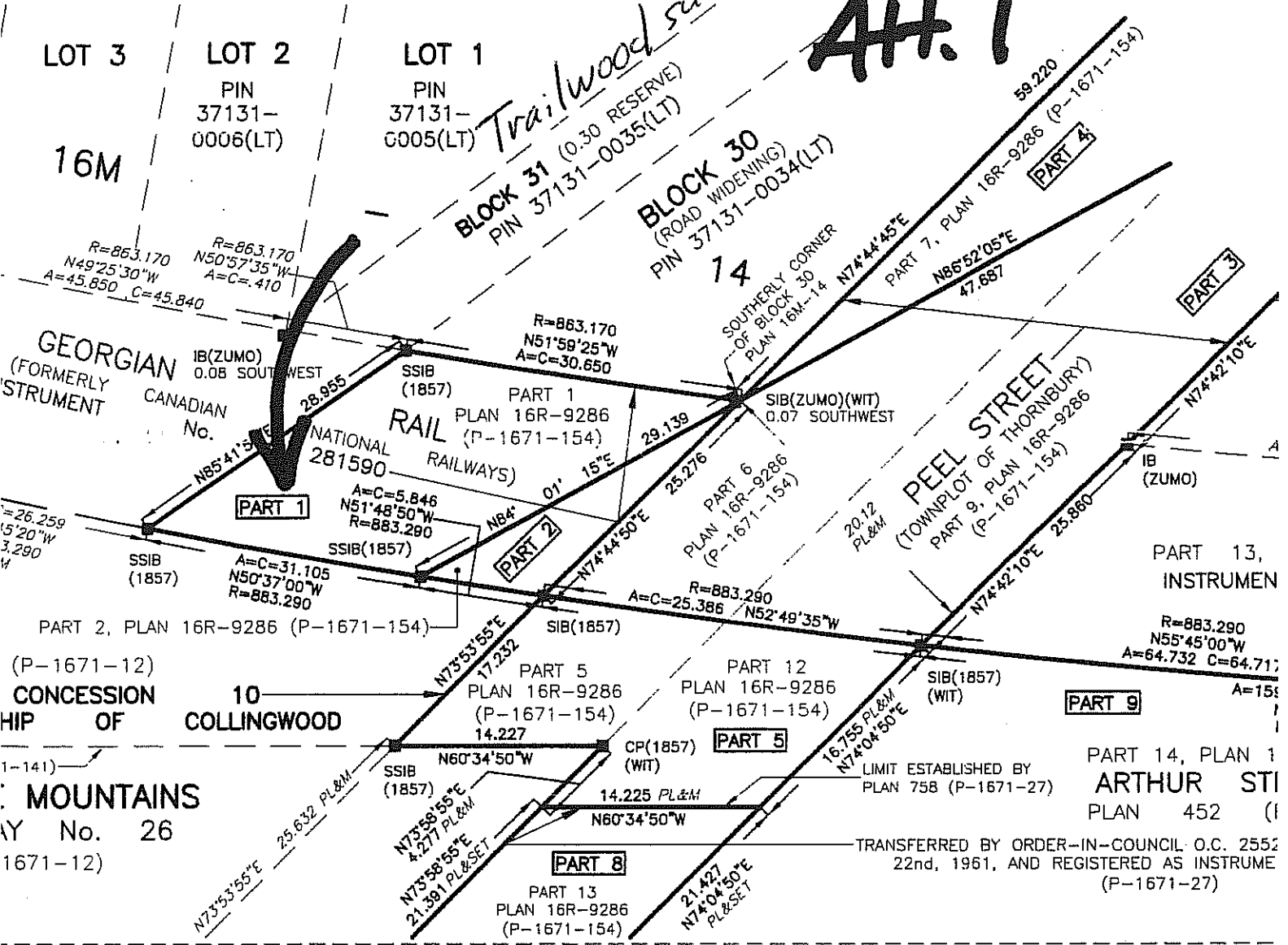
1. Excerpt, 16R-9316, Part 1
2. Excerpt, 16R-9253, Parts 14, 15 & 16
3. Excerpts, Property Appraisal, Metrix Realty Group
4. Correspondence, Mr. Michael Seguin
5. Engineering / Conceptual parking area drawings

Respectfully submitted,

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Stephen Keast, Clerk

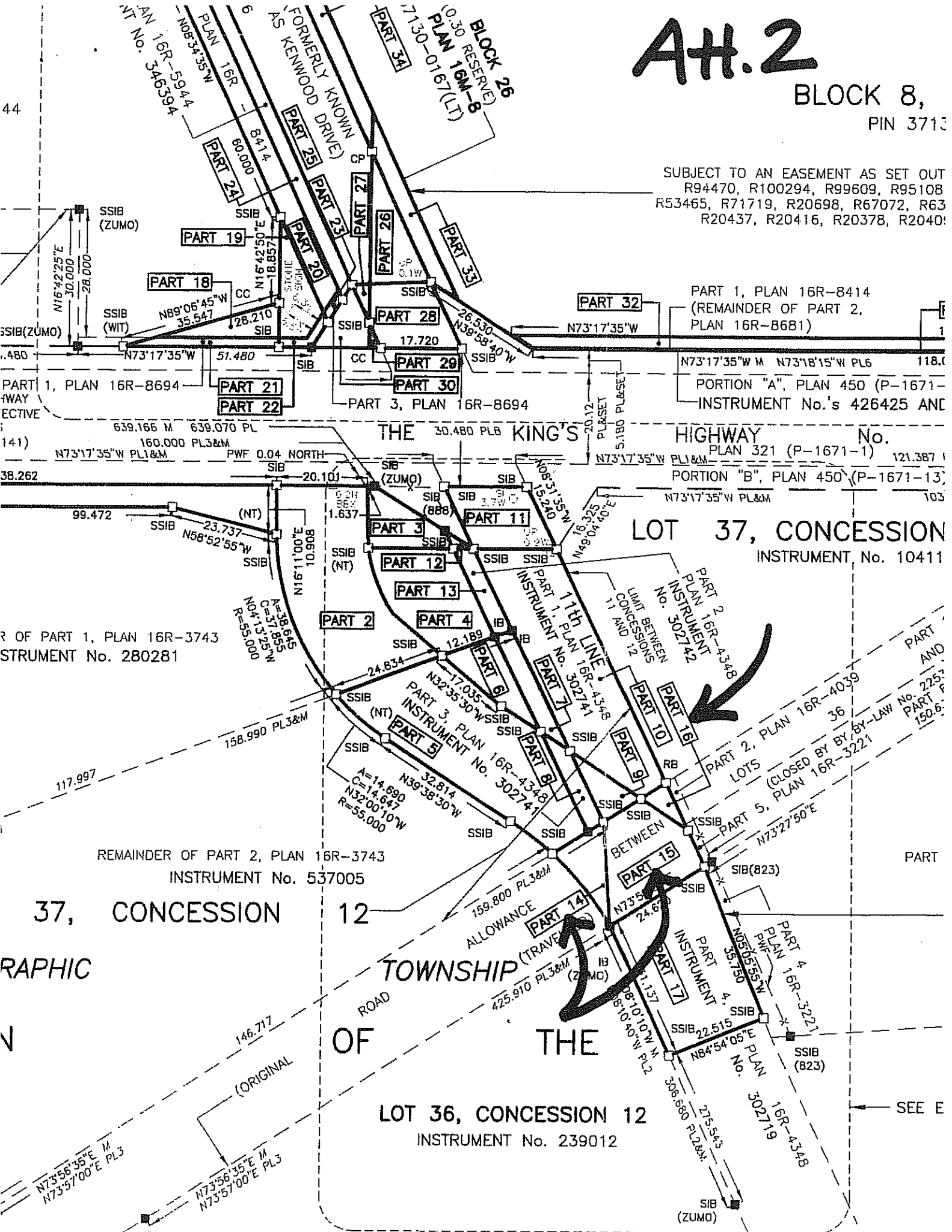
*Trailwood subdiv.*  
**Att. 1**



# Att. 2

BLOCK 8,  
PIN 3713

SUBJECT TO AN EASEMENT AS SET OUT  
R94470, R100294, R99609, R95108  
R53465, R71719, R20698, R67072, R63  
R20437, R20416, R20378, R20401



PART 1, PLAN 16R-8414  
(REMAINDER OF PART 2,  
PLAN 16R-8681)

PORTION "A", PLAN 450 (P-1671-  
INSTRUMENT No.'s 426425 AND

THE KING'S HIGHWAY No. 121.387  
PLAN 321 (P-1671-1)  
PORTION "B", PLAN 450 (P-1671-13)  
103

LOT 37, CONCESSION  
INSTRUMENT No. 10411

PART 2  
PLAN 16R-4348  
INSTRUMENT  
No. 302742  
LIMIT BETWEEN  
CONCESSIONS  
11 AND 12

PART 2, PLAN 16R-4039  
LOTS  
(CLOSED BY BY-LAW  
PLAN 16R-3221

REMAINDER OF PART 2, PLAN 16R-3743  
INSTRUMENT No. 537005

LOT 37, CONCESSION

LOT 36, CONCESSION 12  
INSTRUMENT No. 239012

SEE E

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**OFFICIAL PLAN DESIGNATION**

**Att. 3**

The majority of the subject property is designated as *Open Space*, on the Town of the Blue Mountains Official Plan. Relevant excerpts of the Official Plan have been included in Addendum C of this report.

**ZONING**

The subject property is zoned *D-Development* in the Township of the Blue Mountains Zoning By-Law. Relevant excerpts of the Zoning By-law have been included in Addendum D of this report.

**HIGHEST AND BEST USE OF THE SUBJECT PROPERTY**

Real estate is valued in terms of its Highest and Best Use. Highest and Best Use is defined as:

*The reasonably probable and legal use of vacant land or an improved property, which is physically possible, appropriately supported, financially feasible, and that results in the highest value. The four criteria the Highest and Best Use must meet are legal permissibility, physical possibility, financial feasibility, and maximum profitability.*

Source: *The Dictionary of Real Estate Appraisal*  
*Third Edition, 1993 Appraisal Institute*

The Highest and Best Use of the subject property both "Before" and "After" the Taking, as well as the Highest and Best Use of that portion of the subject property that is to be acquired by the Ministry, has been considered as follows.

**LEGALLY PERMISSIBLE**

▶ According to the Zoning By-Law, as amended, the subject property is zoned *D-Development*. Within the Official Plan for the Town of the Blue Mountains, the subject property is designated *Open Space*

▶ Following a review of the pertinent sections of the Zoning By-Law, the subject property's use as a public trail appears to conform to the permitted uses.

**PHYSICALLY POSSIBLE**

▶ The subject property physically supports the existing use. The narrow configuration of this property limits its utility for more intensive purposes. It has an area of approximately 0.156 acres (0.063 ha), with frontages along the north side of Highway #26. The size, shape, area, topography and accessibility of a site affect its utility. While it would be possible to develop the site with a variety of uses, analysis of the site characteristics indicates that the existing public trail uses are its Highest and Best Use.

**FINANCIALLY FEASIBLE**

▶ The existing use seems a reasonable use in a rural agricultural area.

**MAXIMALLY PRODUCTIVE**

▶ The subject property is located in a predominantly rural agricultural area. After reviewing all of the foregoing criteria, it is my opinion that the maximally productive use of the subject site is for a continuation of its public use, given its location, type of activity, and uses permitted under the existing land use regulations.

**COMMENTARY**

In light of the foregoing, it is my opinion that the *Highest and Best Use* of the subject property is for a continuation of the existing public trail use. The narrow physical configuration of this property limits its utility for more intensive uses, given its location, type of activity, and permitted uses under the existing land use regulations.

### MINISTRY REQUIREMENTS

According to Part 4 on GWP 57-00-00, the Ministry of Transportation requires a rectangular strip of land from the Georgian Trail, just north of Highway #26. Part 4 is required for road widening purposes, and contains, in total, approximately 0.156 acres (0.063 ha) of land.

### EFFECT OF THE ACQUISITION

The effect of the acquisition is the loss of approximately 0.156 acres (0.063 ha) of land. The land requirements are considered to have no deleterious effect on the overall market value of the subject property. As a result, in valuing the lands required by the Ministry, vacant lands sales were considered most comparable and were utilized.

The following chart summarizes the adjustments applied to the major factors affecting each sale as compared with the subject lands.

Vacant Land Sales (50-100 acres) Adjustment Summary						
Sale #	Address	Site Size (acres)	Price per Acre	Adjustments		
				Upward	Downward	Net
1	Lot 5, Concession 9, Sydenham Township	100	\$940	- Inferior market conditions - Inferior physical conditions - Inferior location	-None	Significantly Upwards
2	Part of Lot 15, Concession 10, St. Vincent Township	50	\$1,280	- Inferior market conditions	-None	Upwards
3	Part of Lot 2, Concession 3, Sydenham Township	50	\$2,200	-Inferior market conditions	-Superior location	Slightly Downward
4	Part Lot 26, Concession 1, SCR, Sydenham Township	97	\$2,319	-Inferior market conditions	-Superior location	Downward
5	Part of Lot 22, Concession 7, St. Vincent Township	54	\$3,888	-Inferior market conditions	-Superior location -Superior physical condition	Significantly Downwards
Subject Property: Part of the Georgian Trail		NA				

The above comparables indicate an unadjusted value range of \$940 per acre to \$3,888 per acre of land.

- ▶ All sales are adjusted upward for inferior market conditions. Since March of 2005 the area of Grey-Bruce-Owen Sound has realized a year over year increase of 4.5% in real estate values.
- ▶ Lot #1 is adjusted upward for inferior physical condition. It is mainly forest with some small workable fields and some swamp area
- ▶ Sale #3 #4 and #5 are adjusted downward for superior location. They are situated in areas where these properties would be viewed as recreational properties as well as farmland.

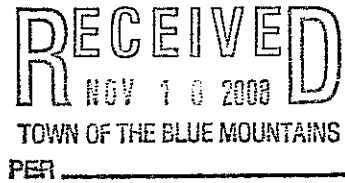
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- ▶ Sale #5 is adjusted downward for superior physical condition. It is a recently established apple orchard with a small storage area and bunkhouse. These improvements are considered to be worth approximately 25% of the per acre value.

An adjusted range of \$1,500 per acre to \$2,500 per acre was considered appropriate for the subject, based on the foregoing adjustments. After considering the available comparable sales and making the necessary weighted adjustments for the various influencing factors, it is concluded that an adjusted rate of \$2,000 per acre was considered most appropriate for the subject property.

November 10, 2008

The Town of the Blue Mountains  
26 Bridge Street  
P.O. Box 310,  
Thornbury, Ontario  
N0H 2P0

*Att. 4*



Attention: Mr. Stephen Keast, Clerk

**Re: MTO Expropriation of Georgian Trail Lands along Highway No. 26 for the Realignment of Peel Street, Town of the Blue Mountains**

With regards to your report (A.08.08) to Council and recommendation to the transfer of Georgian Trail lands at Peel Street, I agree with the relocation and resurfacing of the Trail surface on the former Peel Street road surface but I do not agree at this time to the construction of a parking area on the remaining area of Peel Street that would be surplus following the realignment.

You must give more consideration to the safety issues of a parking lot at the entrance of heavily traveled road and its potential obstruction at an intersection at the highway. Headlights might also cause a safety issue to on-coming traffic along the highway. Finally, you note that the Peel Street portion being expropriated is within the 30 meter setback restriction of the tributary to the Little Beaver River, however, you haven't given any consideration to the parking lot being within 30 meter setback and especially in light of a proposal by a developer to realign the creek bed closer to the trail to permit a high density townhouse development.

Finally, based on my experience as a professional real estate appraiser who has appraised a number of road requirements, I think it would be prudent on the Town's part and in the public's interest to have an independent review the internal appraisal completed by MTO.

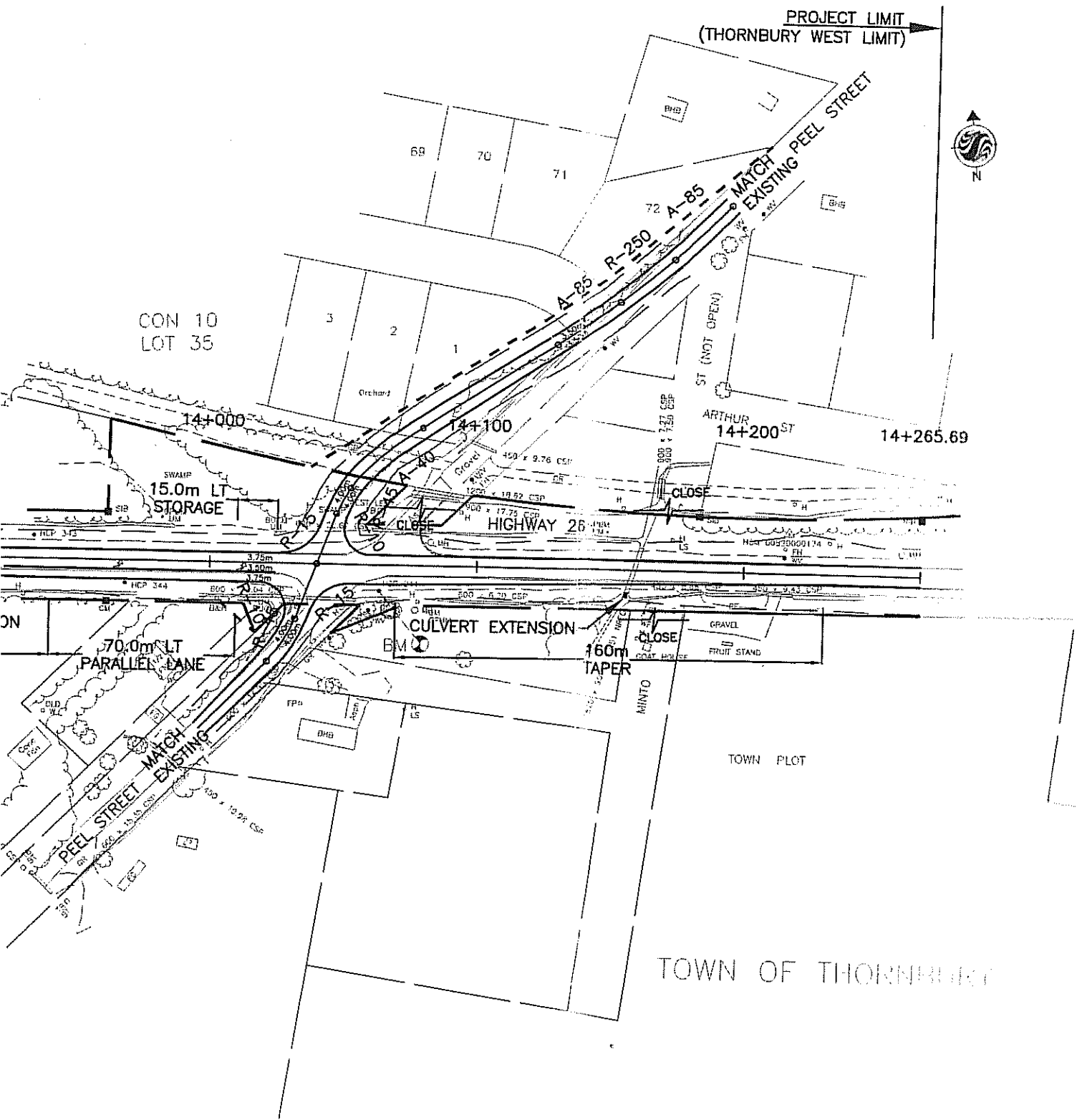
Respectfully submitted,

A handwritten signature in cursive script that reads "Michael P. Seguin". A horizontal line is drawn across the end of the signature.

Michael P. Seguin  
209 Peel Street  
Thornbury, ON N0H 2P0

cc: All Council Members  
Original Signed Copy Delivered to the Town Monday Morning November 10,  
2008

# AH.5



**LEGEND**

- NEW ROADWAY
- NEW GRADING LIMIT
- - - NEW LIMIT OF MTO OWNERSHIP
- EXISTING LIMIT OF MTO OWNERSHIP

**SCALE**



1:2000



Ministry  
of  
Transportation  
Ontario



St

High Bluff Lane

PEEL STREET - RELOCATION

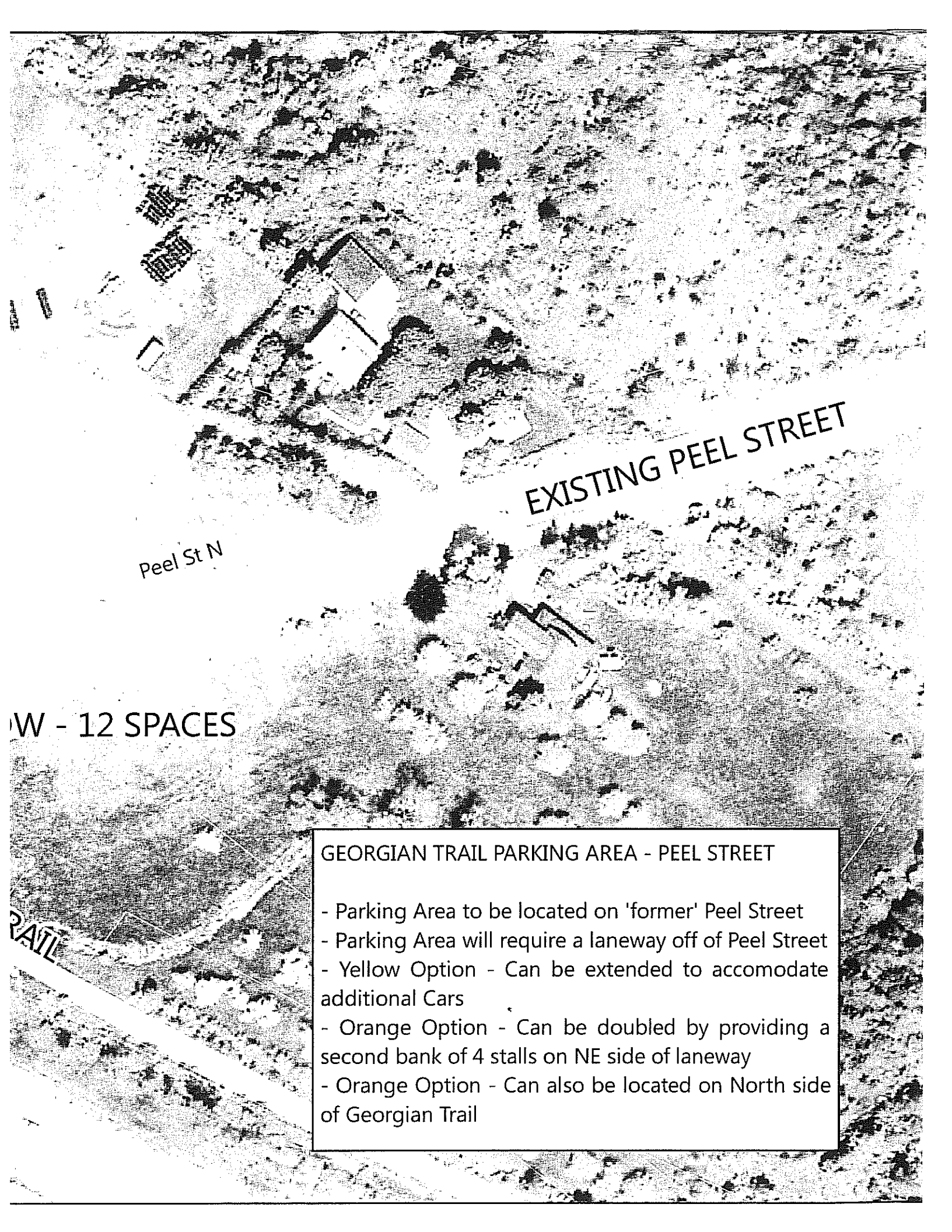
Highway 26

YELLOW - 12 S

ORANJE - 4 SPACES

GEORGIAN TRAIL

Arthur St W



Peel St N

EXISTING PEEL STREET

W - 12 SPACES

RAIL

GEORGIAN TRAIL PARKING AREA - PEEL STREET

- Parking Area to be located on 'former' Peel Street
- Parking Area will require a laneway off of Peel Street
- Yellow Option - Can be extended to accomodate additional Cars
- Orange Option - Can be doubled by providing a second bank of 4 stalls on NE side of laneway
- Orange Option - Can also be located on North side of Georgian Trail