

THE CORPORATION OF THE CITY OF BRAMPTON

BY-LAW

Number _____ 173-82

To authorize the execution of an agreement between Rezaque Limited, The Bank of Credit and Commerce and Canada and The Corporation of the City of Brampton

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

1. The Mayor and the Clerk are hereby authorized to execute a subdivision agreement dated 1982 08 16 between Rezaque Limited, The Bank of Credit and Commerce and Canada and The Corporation of the City of Brampton, and all other documents approved by the City Solicitor required to implement the provisions of this agreement.

READ a FIRST, SECOND and THIRD TIME and PASSED in Open Council this 16th day of August , 1982.

Ken Whillen

KENNETH G. WHILLANS ACTING MAYOR

CLERK RATPH EVERETT

MEMORANDUM OF AGREEMENT made in duplicate this /6 day of AUGUST , 1982.

1. 3. 1. .

BETWEEN:

RAZAQUE LIMITED, a corporation incorporated under the laws of the Province of Ontario, and 462983 ONTARIO LTD., a corporation incorporated under the laws of the Province of Ontario, jointly carrying on business as "Maytime Gardening Products"

Hereinafter called the "Owner"

AND

THE CORPORATION OF THE CITY OF BRAMPTON

Hereinafter called the "City"

OF THE SECOND PART

OF THE FIRST PART,

A N D BANK OF CREDIT AND COMMERCE CANADA, a corporation incorporated under the laws of Canada,

hereinafter called the "Mortgagees"

OF THE THIRD PART

WHEREAS the Owner warrants that it is the owner of the lands more particularly described in Schedule A annexed hereto (herein called the "lands"), and further warrants that the Mortgagees are the only mortgagees of the lands;

AND WHEREAS the Owner wishes to develop the lands and the City is of the opinion that this development would not be proper and in the public interest unless assurances are given by the Owner that the matters and things referred to in this agreement will be done in the manner hereinafter set forth; AND WHEREAS the lands are situate in the site plan control area designated by By-law 50-82 passed pursuant to section 40 of the <u>Planning Act</u>, R.S.O. 1980, c. 379, as amended, and this agreement is required pursuant thereto.

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the City approving the development of the land, approving the plan referred to in this agreement and where necessary rezoning the lands to permit the development, the Owner and the Mortgagee hereby covenant, promise and agree with the City as follows:

For the purposes of this agreement, the "works" shall mean all servicing and landscaping required to be done by the Owner under the terms of this agreement and without limiting the generality of the foregoing, the works shall include all grading, storm drainage works, driveways, ramps, parking areas, landscaping, including boulevard landscaping, road works, including all curbs, gutters and drainage works, sidewalks, facilities for lighting including floodlighting, vaults, central storage and collection areas and other facilities and enclosures for the storage of garbage and other waste material, fencing and all internal sanitary sewers, watermains, storm sewers, service connections and all other matters required to be done by the Owner under the terms of this agreement.

2.1 The Owner covenants and agrees that the lands shall be developed only in accordance with the site plan and drawings referred to in Schedule B attached hereto (herein called the "site plan") and further covenants and agrees to provide all of the works and other matters referred to in this agreement (including Schedule D

l. Works

2. Approved te Plan attached hereto) and shown on the site plan and all other approved plans referred to in Schedule B attached hereto and in addition to the maintenance requirements set out in paragraph 17.3 of this agreement to maintain to the satisfaction of the City and at the sole risk and expense of the Owner, all of the works and other matters required by this agreement and in default thereof, the provisions of section 325 of the <u>Municipal Act</u>, R.S.O. 1980, chapter 325, as amended, shall apply.

Rezoning 2.2 In the event a rezoning is required to permit the development of the lands in accordance with the site plan, this agreement shall be conditional upon this rezoning by-law coming into force, failing which this agreement shall be null and void and not binding upon the Owner.

ENGINEERING, LANDSCAPING AND BUILDING REQUIREMENTS

3. For the purpose of this agreement,
Commis- "Commissioner of Public Works" shall mean the Commissioner sioner of of Public Works for the City of Brampton, except for that
Public work for which the Region is responsible, in which case
Works the "Commissioner of Public Works" shall mean the
Commissioner of Public Works for the Region of Peel.

4. The Owner shall restrict the means of
Ingress vehicular ingress and egress to the lands to those
Egress locations indicated on the site plan and if required by the City, the Owner agrees to convey to the City, free of all encumbrances, the one foot reserves shown on the site plan and referred to in Schedule C attached hereto as a further means of controlling ingress and egress from the lands. All off-street vehicular loading and parking

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areas, access ramps and access driveways including driveways for emergency vehicles shown on the site plan shall be constructed and asphalted in accordance with the approved plans referred to in this agreement.

The Owner shall use only such locations for access for construction purposes as the Commissioner of Public Works may approve.

6.1 During construction, the Owner agrees to employ and keep employed a sufficient number of sweepers or workmen or use such means as may be necessary to keep the adjacent pavement and sidewalks in a clean condition and free from earth and mud. The Commissioner of Public Works may give the Owner twenty-four (24) hours notice to remove and clean up any earth and mud from such pavement and sidewalks and in default the Commissioner may cause such work to be done either by the Municipality's own equipment and employees or by an independent contractor and the cost thereof shall be paid by the Owner forthwith upon being invoiced therefore by the Commissioner.

6.2 The Owner shall take all precautions necessary to protect the public against injury on any lands set out in the site plan and where necessary keep danger signals out at night and at such other times and places as public safety may required.

The Owner will be responsible for any damage caused to the roadways, curbs, pavements, boulevards or plantings thereon caused by the construction carried out on the Owner's site by the Owner, its agents, servants, employees, subcontractors or material suppliers.

All matters incidental to the provision of all the works and other matters referred to in this agreement and shown on the site plan and all other approved plans

7. Construcon

Access

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Clean

Site

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referred to in this agreement, including the removal and planting of trees, cutting, repaving and installing driveways, relocating utilities, pipes, poles, valves and and equipment, resetting drains and manholes shall be carried out by the Owner at its own risk and expense to the satisfaction of the owner of the utilities.

The final grade of the lands shall be so fixed to the satisfaction of the Commissioner of Public Works that the surface water originating on or tributary to the Drainage lands, including the roof water from the buildings, will be discharged into the storm sewer system of the City in the manner shown on the approved plans referred to in Schedule B attached hereto.

The Owner shall, at its own expense: 9.

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Storm

9.1 carry out, provide, install, erect, construct Approved and complete in a good and workmanlike manner to the Plans satisfaction of the City all the works in accordance with and as shown on detailed plans and specifications for these works which have been or shall be approved by the Commissioner of Public Works, the Commissioner of Buildings and By-law Enforcement, and the Commissioner of Planning and Development as the case may be, all of which detailed plans and specifications are more particularly described and referred to in Schedule B attached hereto.

> 9.2 make payment for, perform, fulfill, carry out, provide, install, erect, construct and complete in a good and workmanlike manner to the satisfaction of the City all works and other matters referred to in Schedule D attached hereto, all in accordance with and as shown on detailed plans and specifications for these works or other matters which have been or shall be approved by the Commissioner

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of Public Works, the Commissioner of Buildings and By-law Enforcement and the Commissioner of Planning and Development as the case may be.

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9.3 in the event any of the plans referred to in Schedule B attached hereto, including the site plan, are not approved prior to the execution of this agreement, any such plan, when approved, shall be deemed to be an approved plan within the meaning of this agreement and all of the provisions of this agreement shall apply to it.

10. If, in the opinion of the Commissioner of Addi-Public Works, exercised in accordance with sound and tional reasonable engineering principles, additional works are Works necessary to ensure that the works shown on the approved plans referred to in this agreement function properly, the Owner shall, at its own expense, construct, install or perform such additional works at the request of the Commissioner of Public Works.

All existing trees to be retained as shown on 11. the approved landscape plan shall be fenced and protected Existing during construction in accordance with City specifi-Trees cations. No existing trees, other than those presently approved for removal in accordance with the approved landscape plan, shall be removed without the prior written approval of the Commissioner of Planning and Development. In the event it is intended that a building permit be issued prior to approval of the landscape plan, the Commissioner of Planning and Development shall, prior to the issuing of a building permit, designate the existing trees which are to be retained and these trees shall be fenced and protected during construction in accordance with City specifications.

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Occupancy

The Owner covenants that it will not permit the occupation of any building or parts thereof hereafter erected on the lands:

- 12.1 until the internal sanitary sewers, hydro service, internal watermains, internal storm sewers, service connections, plumbing, off-street vehicular loading and parking areas, access ramps and driveways complete with curbs and asphalt, have been properly installed and approved, and
- 12.2 except in accordance with the provisions of the <u>Building Code Act</u>, R.S.O. 1980, chapter 51, as amended, and all regulations made pursuant thereto, and
- 12.3 the landscape plan required by this agreement is approved by the Commissioner of Planning and Development.

Upon application by the Owner, occupancy may be permitted prior to the completion of the off-street vehicular loading and parking areas and access ramps and driveways, provided that all other requirements for occupancy have been complied with.

13. Landscaping and ncing 13.1 The Commissioner of Planning and Development, may in his sole discretion, not require the landscape plan required by this agreement to be approved prior to the issue of the building permit for the building shown on the site plan. In this event, the Owner agrees that the landscape plan shall be submitted and approved by the Commissioner of Planning and Development prior to the issue of an occupancy permit for any building or parts thereof as shown on the site plan prior to the issue of an

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occupancy permit as required by the City's by-laws and the Owner further acknowledges that this occupancy permit will not be issued until the landscape plan is approved.

13.2 All landscaping shown on the approved landscape plan shall be completed within twelve (12) months following the restricted area by-law amendment coming into force. The Commissioner of Planning and Development may extend the time for completion of the landscaping or part thereof in such circumstances as he in his sole discretion considers advisable.

13.3 The Owner shall construct or erect fencing as and where required by the Commissioner of Planning and Development and the location and type of fencing is shown on the approved landscape plan referred to in Schedule B attached hereto, or shall be shown on the landscape plan to be approved. All fencing shall be completed within the time set for completion of the landscaping except that where deemed necessary by the Commissioner of Planning and Development, fencing can be required to be completed prior to occupancy.

OTHER APPROVALS

Services

The City shall not issue any building permits until provided with confirmation in writing from The Regional Municipality of Peel (herein called the "Region") that the Owner has made satisfactory arrangements with the Region for the provision to the lands of all services under the jurisdiction of the Region. All works, services

and other matters under the jurisdiction of the Region which are required to be provided by this agreement, shall be completed in a good and workmanlike manner to the satisfaction of and in accordance with detailed plans and specifications for such works which have been or shall be approved by the Region.

15. Hydro Services

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The City shall not issue any building permits until provided with confirmation in writing from the proper authority having jurisdiction over hydro services that satisfactory arrangements have been made for the provision of hydro services to the lands.

FINANCIAL

The Owner agrees that all municipal taxes in 16. . arrears and current taxes for which a bill has been issued Taxes shall be paid in full before a building permit is issued.

17.1 Prior to the issuance of any building permits, and if requested by the City, the Owner shall deposit as a Security performance guarantee, cash or a letter of credit from a chartered bank or other negotiable security approved by the City Treasurer (herein called the "security") in the amounts set out in paragraph 17.1.1, 17.1.2 and 17.1.3, being one hundred per cent (100%) of the cost as estimated by the Commissioner of Public Works and the Commissioner of Planning and Development:

> all works shown on Grading & Drainage Plan and 17.1.1 Road Works, Parking Areas & Access Ramp Planlands. to be constructed on

> > Security Required: \$ 5000.00

17.1.2 all landscaping and fencing shown on the approved landscape plan. 3000.00 Security Required: \$

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17.1.3 all services constructed on land being part of the common elements of any condominium corporation and without limiting the generality of the foregoing, shall include all internal sanitary sewers, internal watermains, internal storm sewers, service connections, internal roads, sidewalks, walkways and parking areas. Security Required: \$ NIL

17.2 Upon the failure by the Owner to complete a specified part of the work for which security is deposited when requested by the Commissioner of Public Works and in the time requested, the City Treasurer may, at any time, authorize the use of all or part of the security to pay the cost of any part of such works the Commissioner of Public Works may deem necessary.

17.3 The Owner may, from time to time, apply to the City for a reduction in the amount of the security by an amount up to ninety per cent (90%) of the value of the works for which security was deposited, which the Commissioner of Public Works and the Commissioner of Planning and Development have certified in writing to be satisfactorily completed upon receipt of a statutory declaration that all accounts relative to the installation of the completed works have been paid. The Owner shall maintain all of the works for which security was taken for a period of two (2) years following the date of the certificate of satisfactory completion of such works.

The remaining ten per cent (10%) of the security shall be retained by the City until the expiration of the aforesaid maintenance period and the Commissioner of Public Works and the Commissioner of Planning and Development have finally approved the works for which security is deposited. Prior to the expiration of the maintenance period, the Commissioner of Public Works and the Commissioner of Planning and Development shall inspect the works for which security is deposited and all defects disclosed by such inspection shall be remedied by the Owner at its own expense prior to the release of the remaining ten per cent (10%) of the security to the Owner.

If, in the opinion of the Commissioner of Default 17.4 Public Works, the Owner is not executing or causing to be & Entry executed any works required in connection with this on the agreement within the specified time, or in order that it Lands may be completed within the specified time or is improperly performing the work, or shall the Owner neglect or abandon such works before completion or unreasonably delay the same so that the conditions of this agreement are being violated, or carelessly executed, or shall the Owner neglect or refuse to renew or again perform such work as may be rejected by the Commissioner of Public Works as defective or unsuitable, or shall the Owner, in any manner, in the opinion of the Commissioner of Public Works, make default in performance in the terms of this agreement, then, in such case, the Commissioner of Public Works shall notify the Owner in writing of such default or neglect and if such default or neglect not be remedied within ten (10) clear days after such notice, then, in that case, the Commissioner of Public Works thereupon shall have full authority and power immediately to purchase such materials, tools and machinery and to employ such workmen as in its opinion shall be required for the proper completion of the said works at the cost and expense of the Owner. In cases of emergencies, such work may be done without prior notice but the Owner shall be notified forthwith. The cost of such work will be calculated by the Commissioner of Public Works, whose

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decision shall be final. It is understood and agreed that such cost shall include a management fee of fifteen per cent (15%) of the cost of the labour and materials. Any work done at the direction of the Commissioner of Pubic Works pursuant to the provisions of this clause shall not be an assumption by the City of any liability in connection therewith nor a release of the Owner from any of its obligations under this agreement.

Inspec- 17.5 The Owner hereby grants to the City, its tion of servants, agents and contractors, the licence to enter the Works lands for the purpose of inspection of any of the works referred to in this agreement and to perform such work as may be required as a result of a default.

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18. The Owner shall obtain from an insurance Insurance company acceptable to the City, insurance coverage in respect of liability for property damage and personal injury. Such policy or policies shall:

- 18.1 be issued in the joint names of the Owner and the City (or include as an additional insured, the City);
- 18.2 provide insurance coverage in respect of any one accident or occurrence in the amount of at least One Million Dollars (\$1,000,000.00), exclusive of interest and costs;
- 18.3 be effective for the period of this agreement, including the period of guaranteed maintenance;
- 18.4 -contain a clause indicating that the insurance coverage applies to hazard or damage from "completed operations";

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- 18.5 contain no exclusions for damage or loss from blasting, vibration, the removal or weakening of support or from any other work that may be associated with the development; and
- 18.6 contain a provision that the policy or policies will not be changed or cancelled without at least thirty (30) days prior written notice being given to the City.

The Owner shall deposit with the City, prior to the issuance of a building permit, a certificate of insurance in the form attached hereto as Schedule E without modification.

If required by the City, the Owner shall prove to the satisfaction of the City that all premiums on such policy or policies have been paid and that all insurance is in full force and effect.

The Owner shall file a renewal certificate with the City not later than one (1) month before the expiry date of any policy provided pursuant to this agreement, until the City has indicated in writing that the policy need not continue in force any longer. In the event that such renewal certificate is not received, the City shall be entitled to either renew the policy at the expense of the Owner or to order that all work on the land within the plans cease until the policy is renewed.

The issuance of such a policy of insurance shall not be construed as relieving the Owner from the responsibility for other or larger claims, if any, for which it may be held responsible. GENERAL

19. 19.1 The Owner shall, prior to the issuance of any Convey- building permits and at its own expense, including all ances surveying and registration expenses, convey to the City free of all encumbrances, and with a good and marketable title, the lands and easements referred to in Schedule C attached hereto.

Solicitor's 19.2 The Owner shall provide the City with a Certificate Solicitor's Certificate prior to the issuance of any building permits certifying that the lands to be or already conveyed to the City pursuant to this agreement are free from all encumbrances and that the City and/or the Region as the case may be is the registered owner thereof.

20. All floodlighting on the land shall be Glare designed and oriented so as to minimize glare on adjacent roadways and other properties.

21. The Owner shall, at its own expense, remove Snow all ice and snow from the access ramps and driveways, Removal parking and loading areas and walkways, all as shown on the site plan.

22. The Owner shall indemnify the City against all actions, Indemnisuits, claims, demands and costs, whatsoever arising by fication reason of the Owner, his agents or employees doing, failing to do, or doing incorrectly or negligently anything he is required to do by the terms of this agreement.

23. 23.1 The Owner shall comply with all of the The provisions of the <u>Mechanics' Lien Act</u>, R.S.O. 1980, Mechanics' chapter 261, as amended, from time to time (herein called Lien Act the "Act"), and without limiting the generality of the

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foregoing, shall hold in its possession the statutory holdback and any additional amounts required to be held by reason of any notice received pursuant to the Act. These funds shall not be disbursed except in accordance with the Act.

23.2 The Owner shall, within ten (10) days of receiving written notice from the City to do so, discharge and vacate all claims for lien and certificates of action registered or filed pursuant to the Act which affect any lands owned by the City, including public highways, and which arise out of the performance of this agreement by the Owner.

23.3 The Owner shall indemnify and hold harmless the City and the Region from all losses, damages, expenses, actions, causes of action, suits, claims, demands and costs whatsoever which may arise either directly or indirectly by reason of any failure, neglect or refusal by the Owner to comply with the Act or by reason of any action brought against the City and/or the kegion pursuant to the Act arising out of the performance of this agreement by the Owner.

23.4 The City Treasurer may, at any time, authorize the use of all or part of the cash deposit, letter of credit or other negotiable security referred to in paragraph 17 of this agreement:

23.4.1 to discharge and vacate all claims for lien and certificate of action registered or filed pursuant to the Act which affect any lands owned by the City including public highways, in the event the Owner defaults on the performance of paragraph 23.2 of this agreement; and 23.4.2 to pay to the City and/or the Region any amounts owing to them pursuant to paragraph 23.3 of this agreement.

23.5 The Owner acknowledges that the City shall not be required to reduce or release the cash deposit, letter of credit or other negotiable security in accordance with clause 17 of this agreement until the City is satisfied that all of the provisions of paragraphs 23.1, 23.2 and 23.3, together with all other applicable provisions of this agreement, have been complied with.

24. Notwithstanding any of the provisions of this By-laws agreement, the Owner, its successors and assigns, shall be subject to all of the by-laws of the City presently in force.

25. The lands more particularly described in Lands Schedule A annexed hereto are the lands affected by this Affected agreement.

26. The Owner shall not call into question Agreement directly or indirectly in any proceedings whatsoever in Binding law or in equity or before any administrative tribunal the right of the City to enter into this agreement and to enforce each and every term, covenant and condition herein contained and this agreement may be pleaded as an estoppel against the Owner in any such proceeding.

27. st of Registration The Owner and the Mortgagees consent to the registration of this agreement on the title to the lands and the Owner agrees to pay to the City the cost of this registration and the cost of registration of all conveyances of land, grants of easement, and other documents required by this agreement on the title to the whole or any part of the lands. Prior to the issue of a building permit, the Owner shall deposit with the City a sum of money estimated by the City Solicitor to cover the cost of this registration and this deposit shall be adjusted by additional payments or refunds based on the actual total cost of registration.

28.

Mortgagees

28.1 The Mortgagees hereby covenant with the City and the Region that in the event of having obtained or having transferred to the said Mortgagees the equity of redemption in the lands or title to the lands, then,

- 28.1.1 if any Mortgagee retains all or part of the lands and develops the lands as an owner, either along or in combination with another person, the Mortgagee so developing the lands will be subject to the terms of this agreement in the same manner as if that Mortgagee had executed this agreement in the capacity of owner, and
- 28.1.2 in the event of a sale or the conveyance of the Mortgagee's entire freehold interest in the lands to a person who intends to develop the lands as an Owner, the Mortgagees shall require as a condition precedent to the closing of any such sale or conveyance, that the new owner (the purchaser) will have covenanted with the City and the Region to perform and undertake all of the terms of this agreement in the same manner as if the purchaser had executed this agreement in the capacity of owner.

28.2 The parties hereto further covenant and agree that nothing contained in this agreement shall require the Mortgagees or their successors and assigns to proceed with the development of the lands and whether they do or not,

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the City and the Region may retain and call upon all securities and insurance, if any, required to be furnished herein by the Owner to be used in accordance with the terms of this agreement.

Successors and Assigns The covenants, agreements, conditions and undertakings herein contained on the part of the Owner shall run with the lands and shall be binding upon it and upon its successors and assigns and shall be appurtenant to the adjoining highway in the ownership of the City of Brampton and/or The Regional Municipality of Peel.

IN WITNESS WHEREOF THE PARTIES HERETO have hereunto affixed their corporate seals attested by the hands of their proper officers duly authorized in that behalf.

RAZAQUE LIMITED TITLE

TITLE 462983 ONTARIO LTD. TITLE

TITLE

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AUTHORIZATION BY- NUMBER 173-82	LAW
PASSED BY CITY	
DAY OF ALGUST	19 82.

THE CORPORATION OF THE CITY OF BRAMPTON

nethtwhillow Len ACTING MAYOR AUG 2 3 1982 RALPH A. EVERETT CITY CLERK ٤ BANK OF CREDIT AND COMMERCE CANADA TITLE

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LEGAL DESCRIPTION OF THE LANDS

The land situated in the City of Brampton, in the Regional Municipality of Peel (formerly in the Township of Chinguacousy, in the County of Peel), and being composed of part of the east half of Lot 11, Concession 5, West of Hurontario Street, the boundaries of which said parcel may be more particularly described as follows:

PREMISING that the Northerly limit of Highway Number Seven, as widened, has an assumed bearing of North 38⁰19'30" East, and relating all bearings quoted herein thereto, and COMMENCING at an iron bar 'planted in the east half of the said Lot 11, which may be located in the following manner: BEGINNING at the original southeast angle of the said Lot 11; THENCE North 44⁰58'30" West, along the easterly limit of the said Lot 11, 590.87 feet to an iron bar planted in the same; THENCE South 38⁰37'50" West, 240.0 feet to an iron bar planted at the said point of commencement; THENCE South 44⁰58'30" East, 542.89 feet to an iron bar planted in the northerly limit of Highway Number Seven, as widened; THENCE South 38⁰19'30" West, along the last said limit, 355.24 feet to an iron bar planted in the same;

545.50 feet to an iron bar planted in the same; THENCE North 38⁰37'50" East, along a post and wire fence, 348.54 feet, more or less, to the point of commencement.

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SCHEDULE OF APPROVED PLANS

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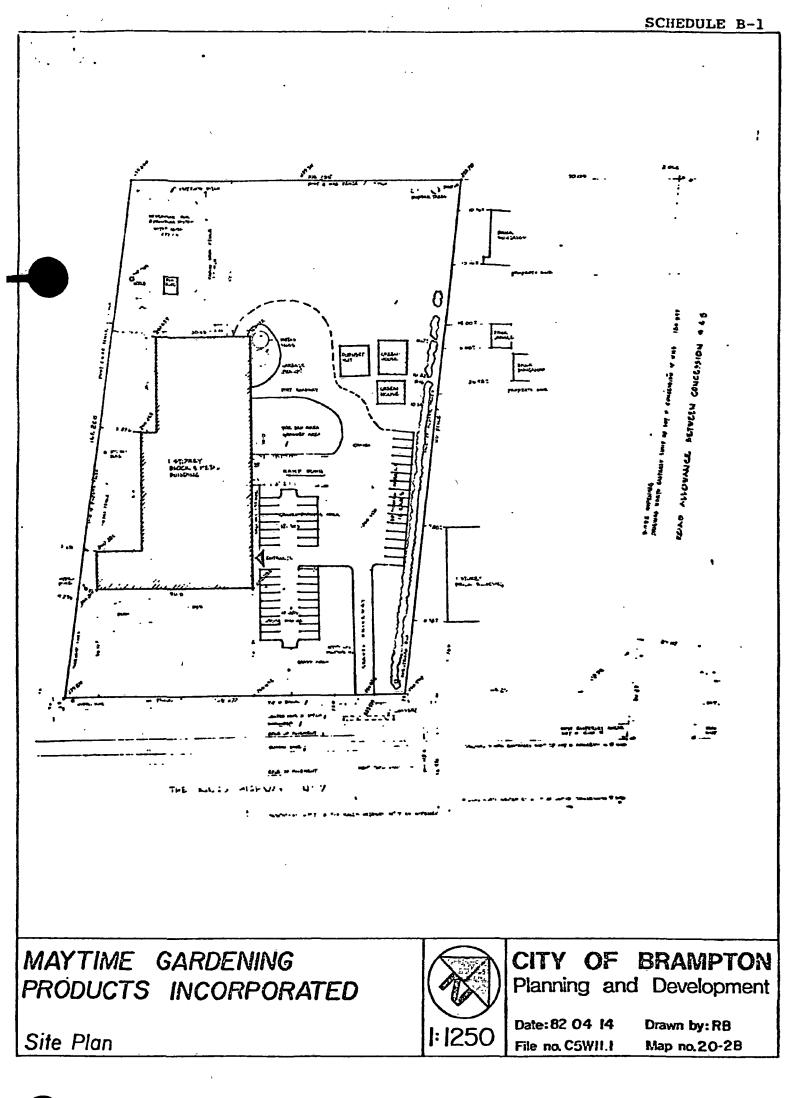
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	DESCRIPTION OF PLAN	PREPARED BY	NUMBER OF PLAN	DATE OF PLAN	DATE OF APPROVAL	APPROVED BY
	SITE PLAN	See Schedul	e B-l attac	heđ		- -
	ELEVATION CROSS-SECTION DRAWINGS	NOT REQUIR	:D			
	LANDSCAPE PLAN				OF PLANNING OF THE REZON	
7	GRADING AND DRAINAGE PLAN	AND THE MIN	ISTRY OF TR		OF PUBLIC WO AND COMMUNIC UNG BY-LAW	
	ROAD WORKS, PARKING AREAS & ACCESS RAMP PLAN	AND THE MI	NISTRY OF T	RANSPORTATIO	R OF PUBLIC W N AND COMMUNI DNING BY-LAW	ORKS CATIONS
	IRE PROTECTION PLAN (INCLUDING INTERNAL AND EXTERNAL FIRE HYDRANTS)					<i>ن</i>



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LANDS TO BE CONVEYED TO THE CITY OF BRAMPTON

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SPECIAL PROVISIONS

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RAZAQUE LIMITED and 462983 ONTARIO LTD.

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THE CORPORATION OF THE CITY OF BRAMPTON

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BANK OF CREDIT AND Commerce banada

AGREEMENT

CITY OF BRAMPTON, LAW DEPARTMENT, 150 CENTRAL PARK DRIVE, BRAMPTON, ONTARIO. L6T 2T9