

## **The Corporation of the Township of Southgate**

### **By-law Number 2022-020**

being a by-law to authorize a development agreement between  
Flato Developments Inc. and the Corporation of the Township of Southgate

**Whereas** the Municipal Act, 2001, Chapter 25, as amended, Section 5 (3), states that municipal power, including a municipality's capacity, rights, powers and privileges, shall be exercised by by-law unless the municipality is specifically authorized to do otherwise; and

**Whereas** Section 8 of the Municipal Act, 2001, Chapter 25, as amended, provides that a municipality has the authority to govern its affairs as it considers appropriate and enables the municipality to respond to municipal issues; and

**Whereas** Section 9 of the Municipal Act, 2001, Chapter 25, as amended, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act; and

**Whereas** it is deemed necessary and desirable that the Council of the Corporation of the Township of Southgate enact a by-law authorizing the Corporation to enter into a development agreement with Flato Developments Inc.,

**Now therefore be it resolved that** the Council of the Corporation of the Township of Southgate enacts as follows:

1. **That** the development agreement between Flato Developments Inc. and the Corporation of the Township of Southgate attached hereto as Schedule A, is hereby ratified, and confirmed; and
2. **That** the Mayor and the Clerk are authorized and directed to sign the agreement, in substantially the same form as the agreement attached hereto as Schedule "A", on behalf of the Council of the Corporation of the Township of Southgate and all other documents as may be necessary to give effect thereto; and
3. **That** this by-law shall come into force and effect upon the final passing hereof.

**Read a first, second, and third time and finally passed this 16<sup>th</sup> day of February, 2022.**

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John Woodbury – Mayor

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Lindsey Green – Clerk

## **SOUTHGATE MINISTRY ZONING ORDER DEVELOPMENT AGREEMENT**

**This Agreement** is made on the 16<sup>th</sup> day of February, 2022.

B E T W E E N:

### **THE TOWNSHIP OF SOUTHGATE**

("Township")

-and-

### **FLATO DEVELOPMENT INC.**

("Developer")

**Together hereinafter referred to as the "Parties"**

#### **RECITALS:**

- A. The Developer and the Township is responsible for the development of lands legally they own described as outlined in **Schedule "A"** and located in Dundalk Northeast, Northwest and Southeast, in the Township of Southgate (the "Lands"). The Lands are partially located within the Dundalk settlement area.
- B. On January 17, 2022, the Developer requested a Minister's Zoning Order ("MZO") to facilitate and provide increased housing stock of a variety of forms in order to address the current Provincial housing crisis, providing aging in place opportunities, providing local employment opportunities, increasing the local rental housing supply, and providing for more affordable housing options.
- C. The Concept Plan attached as **Schedule "D"** demonstrates that the MZO would provide a variety of homes including single detached, semi-detached, various forms of townhomes, apartments, commercial, industrial and associated community uses, the protection and restoration of significant environmental features.
- D. On February 2<sup>nd</sup>, 2022 Council for the Township of Southgate considered Staff Report CAO2022-003 titled Southgate-Flato Municipal Zoning Order Report, and voted in favour of supporting the MZO request.
- E. The Township requires the Developer to enter into this Agreement to address certain matters and requirements with respect to the Lands following the issuance of the MZO by the Province of Ontario. The proposed developments shall be subject to the condition of this agreement, following the Township's approval of the MZO municipal support resolution and the Southgate Municipal Zoning Order Development Agreement approval by the Municipal By-law at the February 16, 2022 Council meeting.

**IN CONSIDERATION** of the mutual covenants contained in this Agreement, and for other good and valuable consideration, the Parties covenant and agree as follows:

#### **ARTICLE I**

##### **RECITALS AND SCHEDULES**

The Parties agree that the recitals hereinbefore set out are true in substance and fact, and form an integral part of this Agreement.

The Parties agree that the following schedules are attached and form part of this Agreement:

**Schedule "A"** – Legal Descriptions

**Schedule "B"** - Southgate Conditions To Be Part Of The Minister's Zoning Order (MZO)

**Schedule "C" - Development Agreement Conditions Following The Minister's Zoning Order**

**Schedule "D" – Draft Concept Plans**

## **ARTICLE II**

### **NATURE OF AGREEMENT**

**Purpose of Agreement:** The purpose of this Agreement is to give effect to requirements of the Township in relation to the MZO.

1. **Obligations of Developer:** The Developer covenants to be bound by and to observe, perform and comply with the provisions, obligations and covenants contained in the Agreement.
- 1.2 The Developer acknowledges and agrees to the following clauses and schedules of this Agreement.
2. **Termination of the Development Agreement:** This Agreement shall terminate in any of the following circumstances:
  - (a) The Province does not approve the MZO;
  - (b) On any date mutually agreed upon by the Parties in writing;
  - (c) At the option of the Township where:
    - (i) the Developer is in default of any of its obligations or covenants under this Agreement;
    - (ii) the Township has delivered a written notice to the Developer describing the nature of the default; and
    - (iii) the Developer fails to remedy the default within sixty (60) days;
  - (d) If this Development Agreement is terminated the Township may seek a request to the Ministry to revoke the MZO if required.

## **ARTICLE III**

### **GENERAL**

3. **Notice:** Any notice, demand or request provided for or permitted to be given pursuant to this Agreement shall be sufficiently made if delivered either personally, by prepaid registered mail or by facsimile transmission from one party to another addressed as follows:

- (a) In the case of notice to the Township:

**THE TOWNSHIP OF SOUTHGATE**

185667 Grey Rd 9, Dundalk, ON N0C 1B0

Attention: Clerk

Email: [info@southgate.ca](mailto:info@southgate.ca)

with a copy to its solicitors:

**STUTZ BROWN SELF PROFESSIONAL CORPORATION**

269 Broadway

Orangeville, ON L9W 1K8

Attention: Stephen Christie

Email: [schristie@sbslaw.ca](mailto:schristie@sbslaw.ca)

- (b) In the case of notice to the Developer:

**FLATO DEVELOPMENTS INC.**

3621 Highway 7 East, Suite 503, Markham, ON L3R 0G6

Attention: Shakir Rehmatullah

Email: [shakir@flatogroup.com](mailto:shakir@flatogroup.com)

with a copy to its solicitors:

**DENTONS CANADA LLP**

Address: 77 King Street West, Suite 400, Toronto, ON M5K 0A1

Attention: Katarzyna Sliwa

Email: [kat.sliwa@dentons.com](mailto:kat.sliwa@dentons.com)

Such notice is deemed to have been received, if by personal delivery on the date of delivery, and if by Email transmission on the date of delivery with electronic confirmation of receipt obtained if received before 4:30 pm on a business day and if thereafter then on the next business day. If notice is given by mail, it is deemed to be received five (5) business days after it was mailed, or upon proof of delivery by return receipt; however in the event of the interruption of postal services, the notice shall not be deemed to have been given during such period of interruption unless the notice has been actually received.

4. **Applicable Laws:** Nothing in this Agreement shall relieve the Developer from compliance with all applicable federal, provincial or municipal statutes, regulations, compliance with Section 24 of the Planning Act, by-laws, County & Township Official Plans, orders, ordinances, rules, policies or resolutions.
5. **Developer's Expense:** Every provision of this Agreement by which the Developer is obligated in any way shall be deemed to include the words "at the cost and expense of the Developer" and "to the Township's satisfaction" unless specifically stated otherwise.
6. **Extensions of Time:** Time is of the essence in this Agreement. Any time limits specified in this Agreement may be extended with the consent in writing of both Parties, but no such extension of time will operate as an extension of any other time limit, time will remain of the essence in this Agreement, and any such extension shall not act as a waiver of the obligations of the Developer or of the Township's rights and remedies.
7. **Interpretation:** References herein to any statute or any provision thereof include such statute or provision thereof as amended, revised, re-enacted and/or consolidated from time to time and any successor statute thereto. The use of words in the singular or plural, or with a particular gender, will not limit the scope or exclude the application of any provision of this Agreement to such party or circumstances as the context otherwise permits. The headings inserted in this Agreement are inserted for convenience only and are not to be used as a means of interpreting this Agreement.
8. **Invalidity:** The Developer will not call into question, directly or indirectly, in any proceeding or action in court, or before any administrative tribunal, the Township's right to enter into and enforce this Agreement. The law of contract applies to this Agreement and the Parties are entitled to all remedies arising from it. The Developer shall not take the benefit of this Agreement and allege entitlement to any greater rights than as set out in this Agreement. The provisions of this paragraph may be pleaded, by either party, in any action or proceeding as an estoppel of any denial of such right. If any of the provisions contained in this Agreement are found by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, the validity, legality or enforceability of the remaining provisions contained herein shall not be in any way affected or impaired thereby.
9. **Binding on Successors:** All obligations contained in this Agreement, although not expressed to be covenants, are deemed to be covenants. This Agreement and the covenants contained in this Agreement are intended and shall be deemed to enure to the benefit of and be binding upon the respective successors and assigns of each of the Parties hereto and all subsequent owners of the Lands.
10. **No Fettering of Discretion:** The Agreement shall not fetter in any way the discretion or authority of Township Council, Grey County Staff, the Township's Planner and Chief Building Official or other Township staff in regard to any further applications with respect to Lands, including applications for site plan approval, building permits, subdivision or condominium approval.

11. **No Joint Venture:** Nothing in this Agreement shall be construed to make the Parties hereto partners or joint venturers or render either of said Parties liable for the debts and obligations of the other.
12. **Solicitor's Responsibilities:** The Developer shall, at the request of the Township Solicitor, provide the Township with a notification of Title from the Developer's solicitor, confirming the ownership of the Lands and that this Agreement shall have the priority over any mortgage, charge, encumbrances or other interest affecting the Lands.

Flato Developments Incorporated (the "Developer") being a corporation in good standing under the laws of Ontario and will be the registered owner in fee simple absolute and have a good and marketable title to the land described in Schedule "A" (the "Lands"). This Southgate Ministry Zoning Order Development Agreement shall be duly and fully executed by the Developer and the Township to include the full name and addresses of all registered owner(s) of the Lands as described in Schedule "A" to this Agreement

The Southgate Ministry Zoning Order Development Agreement that contains a registerable and complete legal description of the Lands shall be registered on the property titles following the Minister's Zoning Order approval as condition of the Agreement.

The Developer's Solicitor shall also certify to the Township that there are no writs of execution or liens filed with the Sheriff of the Judicial District and/or the Land Registry Office against the Owner or any prior registered owner(s) on title to the Lands at the time the Agreement is to be registered. Further that all covenants, obligations, agreements, conditions and undertakings contained in the Agreement on the part of the Developer run with the Lands and are binding upon the Owner, its successors and assigns and subsequent owners of the Lands all in accordance with Section 41(10) of the *Planning Act*, as amended; and,

13. **Schedules:** The Schedules attached hereto form part of this Agreement and have the same force and effect as if the information on them were contained in the body of this Agreement.
14. **Counterparts:** This Agreement may be executed in counterparts.

IN WITNESS WHEREOF the Parties have duly executed this Agreement.

**THE TOWNSHIP OF SOUTHGATE**

Name: \_\_\_\_\_  
John Woodbury  
Title: Mayor

Name: \_\_\_\_\_  
Lindsey Green  
Title: Clerk

We have authority to bind the Corporation.

**FLATO DEVELOPMENTS INC.**

Per: \_\_\_\_\_  
Name: Shakir Rehmatullah  
Title: President

I have authority to bind the Corporation.

**SCHEDULE "A"**

**Legal Descriptions of the Properties**

**Dundalk Northeast**

PT LT 226-227 CON 1 SWTSR PROTON as in R509714;  
LT 225 CON 1 SWTSR PROTON Except PT 19R144;  
PT LT 225-226 CON 2 SWTSR PROTON PT 1 16R7565;  
PT LT 223-224 CON 1 SWTSR PROTON as in R416214, S/T GS141547;  
SOUTHGATE

**Dundalk Northwest**

PT LT 229 CON 3 SWTSR PROTON AS IN R547329;  
AND PART OF PT LT 229 CON 3 SWTSR PROTON PT 1 16R8057;  
AND PT LT 230 CON 3 SWTSR PROTON PT 1 & 2 17R2073  
AND PT LT 230 CON 3 SWTSR PROTON PT 1 16R9094;  
SOUTHGATE

**Dundalk Southeast**

PT LT 238-240 CON 1 SWTSR PROTON; PT LT 238 CON 2 SWTSR PROTON AS IN GS61405 EXCEPT PT 1-2 16R6077, GS76867,  
R492286 & LYING NE OF R492286; AND LT 239 CON 2 SWTSR PROTON NE OF R492286  
SOUTHGATE

## **SCHEDULE "B"**

### **SOUTHGATE CONDITIONS TO BE PART OF THE MINISTER'S ZONING ORDER (MZO)**

1. That the MZO include Flexible Zoning to adjust the development mix of commercial, industrial and residential mixed uses to allow decisions by the "Township" to allocate property for the purpose of Public Service Permitted Facility Uses for the locating future public school, providing utility servicing, recreation facilities, park lands and walking trails for community uses.
2. That the MZO require and establish the mixed residential housing development needed, to include affordable and attainable and mix use intensification housing options, including rental housing stock.
3. That the MZO establish Permitted Uses.
4. That the MZO establish Zoning requirements in each of the commercial, industrial, public institutional and residential areas.

## **SCHEDULE "C"**

### **DEVELOPMENT AGREEMENT CONDITIONS FOLLOWING THE MINISTER'S ZONING ORDER**

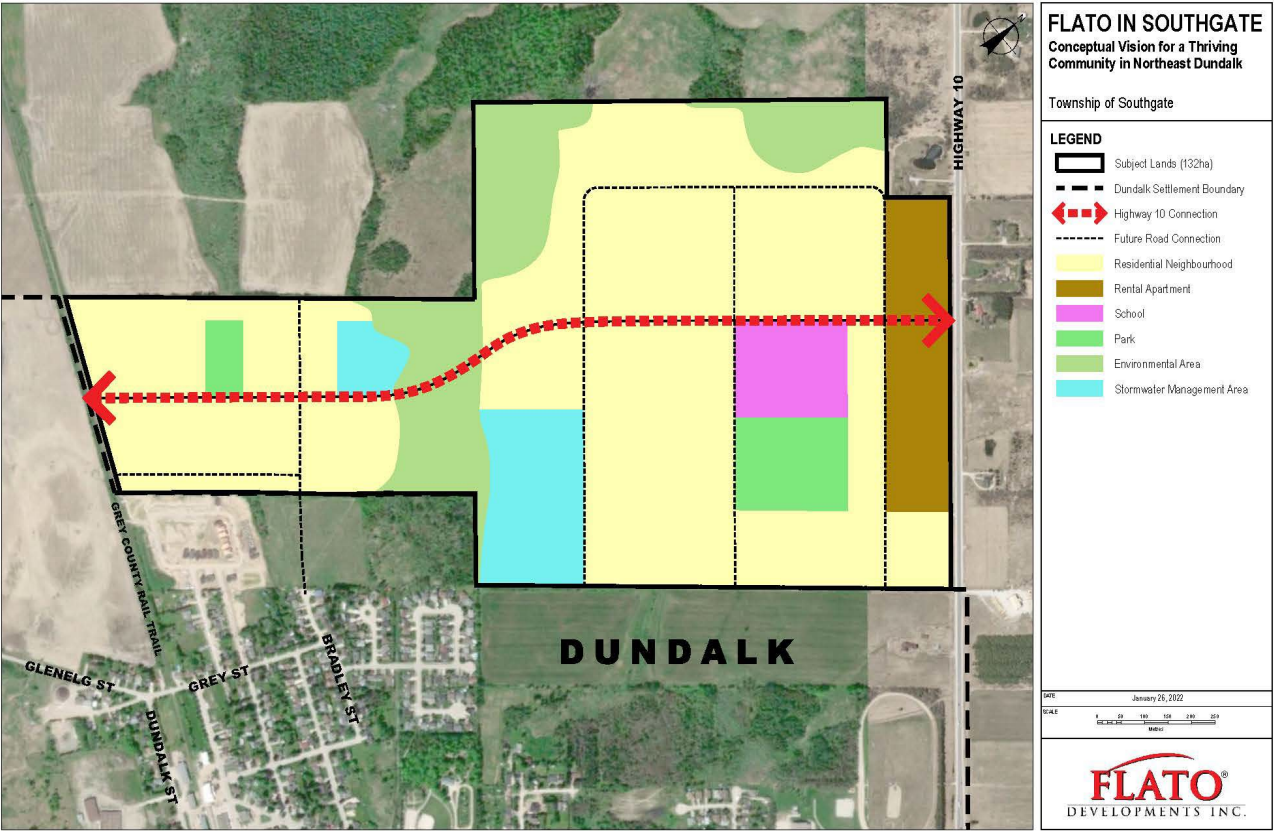
1. That the Developer execute this Southgate MZO Development Agreement with the Township.
2. That a letter from Southgate's Mayor John Woodbury be sent and included with the Township's MZO support submission to the Minister of Municipal Affairs and that the road access request is forwarded to the Ministry of Transportation to permit a roadway traffic accesses onto Provincial Highway #10 from the Dundalk Northeast property and the Dundalk Southeast property (see Schedule "D" Concept Plans) as part of the Ministry request.
3. That all roadway accesses created by this Minister Zoning Order from Flato Developments to Provincial Highway #10, as well as Grey County and Township road accesses come with conditions with costs for road widening and traffic controls will be the responsibility of the "Developer".
4. That the Developer is required as part of this Development Agreement to have the projects reviewed by and acquire Conservation Authority Approval/Permitting and the Sources Water Protection Official review to ensure protection and security of the present Community's Wellhead Protection Zones are protected and future sites are considered.
5. That this Development Agreement includes, as part of the MZO process, site criteria for a new replacement and future school sites.
6. That the Development Agreement would include planning processes and development conditions that shall be required to be completed by the Developer after the approval of the MZO as follows:
  - i. That the Developer will undertake applications with the County and the Township Planning Departments to place the lands identified into the urban development boundary settlement area of Dundalk if required;
  - ii. Amendment of the County Official Plans if required that reflect County OP policies related to minimum density provisions, mixed-use housing, natural heritage policies, natural hazard policies, etc. will be undertaken immediately following MZO approval;
  - iii. Amendment of the Southgate Official Plans if required will be undertaken immediately following MZO approval;
  - iv. Address Official Plan & By-law issues related to compliance with Section 24 of the Planning Act, as required;
  - v. The Developer and the Township initiate an application to amend the Official Plan pursuant to Section 26 of the Planning Act, if appropriate, and as part of the provincial plan conformity exercise to redesignate the lands in accordance with the MZO;
  - vi. That the Developer and the Township request that the County, similarly to section 6 (v), initiate an application to amend the Official Plan pursuant to Section 26 of the Planning Act, if appropriate, and as part of the provincial plan conformity exercise to redesignate the lands in accordance with the MZO;
  - vii. First Nations and Indigenous consultation;
  - viii. Complete a Master Servicing Plan and a Servicing Agreement with the Township for each of the 3 projects with details on the required servicing infrastructure (existing or planned) that will be needed to support the proposed developments;
  - ix. Traffic Impact Transportation Study for each of the 3 project areas related to Provincial, County and Municipal roadways; and
  - x. That development of the 3 project areas proceed utilizing a plan of subdivision process including the submission requirements prescribed by the County of Grey and Township.
7. A condition of this Development Agreement is prior to MZO approval and being executed by Council is a pre-consultation meeting be held with the community, as a developer lead Public Meeting provided by the "Owner" to educate and inform what a Minister's Zoning Order is and is not.



8. A condition of this Development Agreement is that time saved on shortening the zoning process shall be refocused by the developer working with the Township to support project planning and development work through public consulting meetings, with municipal committees and hold public events with the community for each phase of project(s) design and review to support the following:
  - i. Affordable and Rental Housing Projects reviewed by the Affordable-Attainable Housing Committee, Development Committee, Community and Council to provide a definition of affordable housing projects and by developing local affordable housing programs. A structure that would enable ~~require~~ government funding support, construction planning, ownership to manage rent controls through a housing management board.
  - ii. Highway Commercial development reviewed by EDO, Southgate staff Development Committee, Chamber of Commerce, Community and Council.
  - iii. Industrial development projects reviewed by EDO, Southgate staff Development Committee, Community and Council to ensure job creation and community fit.
9. That as part of the Development Agreement and the developer's Master Servicing Plan and Servicing Agreement the "Developer" shall be part of and participate in the upfronting of future Development Charges to support Municipal Capital Infrastructure Project(s) that cannot be funded by existing reserves or external funding from other sources to support capital asset infrastructure investments to support growth and prevent external financing through Township borrowing. The Developer and their consultant shall pre-consult with Township's Engineers in relation to the future servicing strategy for the 3 projects.
10. That the Development Agreement restate that all normal residential subdivision requirements shall still be required and completed as part of the post MZO approval being the following:
  - i. Draft Plan of Subdivision process and local municipal and County approval;
  - ii. Allocation of servicing by agreement and Council approval for water and wastewater by the municipality based on developer request and municipal availability of reserve capacity at the time of the request;
  - iii. Normal Residential Development studies and agreements as part of the subdivision approval process;
  - iv. Environmental Studies;
  - v. Conservation Authority Permitting and Hazard Land assessment ground truthing
  - vi. Archeological Studies;
  - vii. D Series Guidelines Studies if required;
  - viii. Planning Justification Reports;
  - ix. Traffic study if not already addressed as part of the Highway, County and Township road accesses;
  - x. Functional Servicing Studies;
  - xi. Lighting Study;
  - xii. Stormwater Management;
  - xiii. Hydro-Geological Studies,
  - xiv. Geotechnical Studies (for potential public institutional studies), if required
  - xv. Site Alteration and Pre-Servicing Agreements (if required);
  - xvi. Draft Plan Conditions and Approval
  - xvii. Subdivision Agreement Approval; and
  - xviii. Subdivision Agreement Registration.
11. That the Development Agreement restate that all normal commercial, ~~and~~ industrial, institutional and multi-residential complex development requirements shall still be required and completed as part of the post MZO approval being the following:
  - i. Site Plans;
  - ii. Site Plan Agreements;
  - iii. Council approval of Site Plan Agreements; and
  - iv. Registration on title of Site Plan Agreements for Commercial and Industrial Development projects.
12. That the Developer agree to deal with and lead the process required for any MZO Amendment(s) and/or Revoke applications that may be required in the future to achieve the development goals of each project and to be compliant and consistent with our Grey County and Township of Southgate Official Plans.

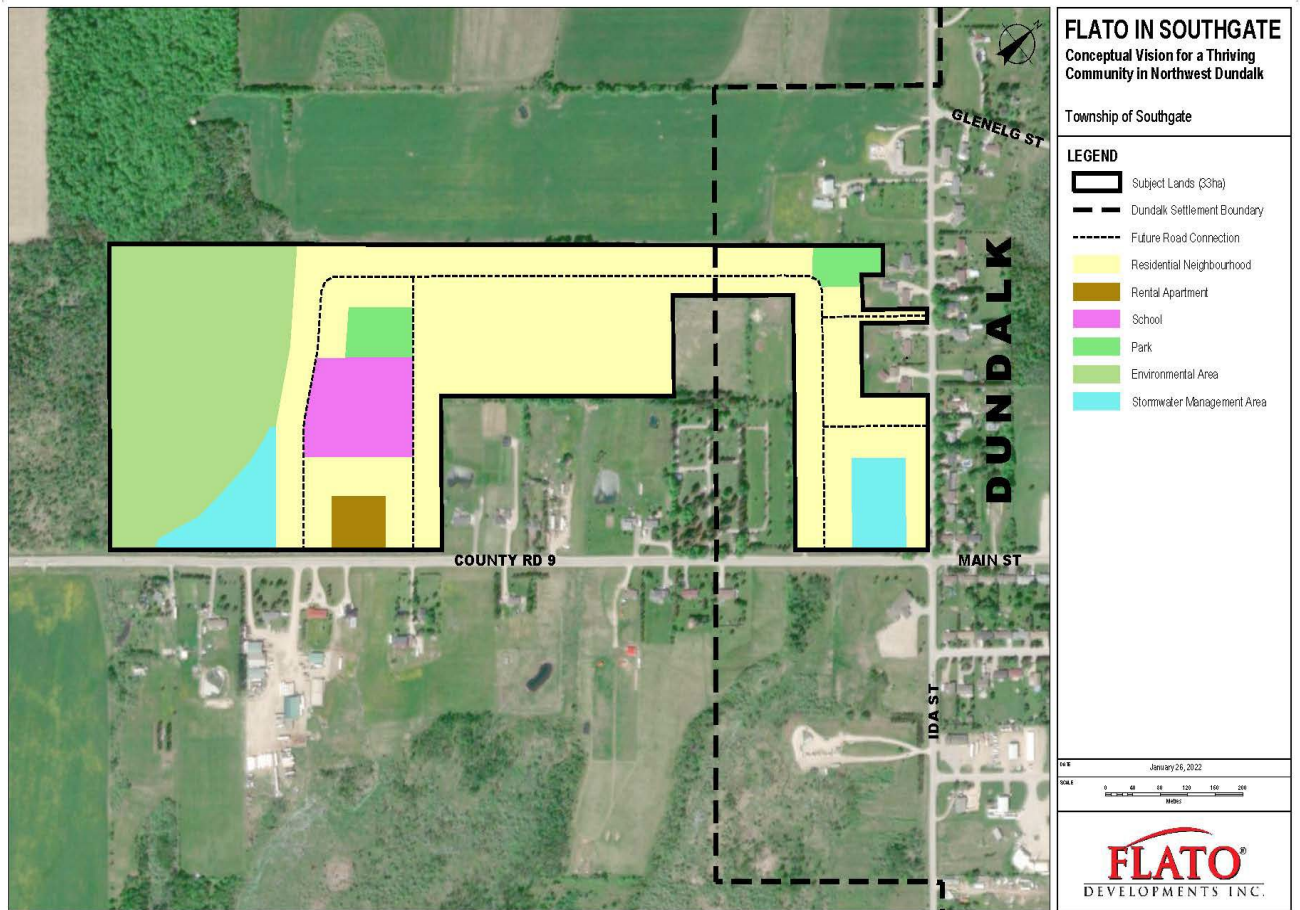
SCHEDULE "D"

DRAFT CONCEPT PLANS



SCHEDULE "D"

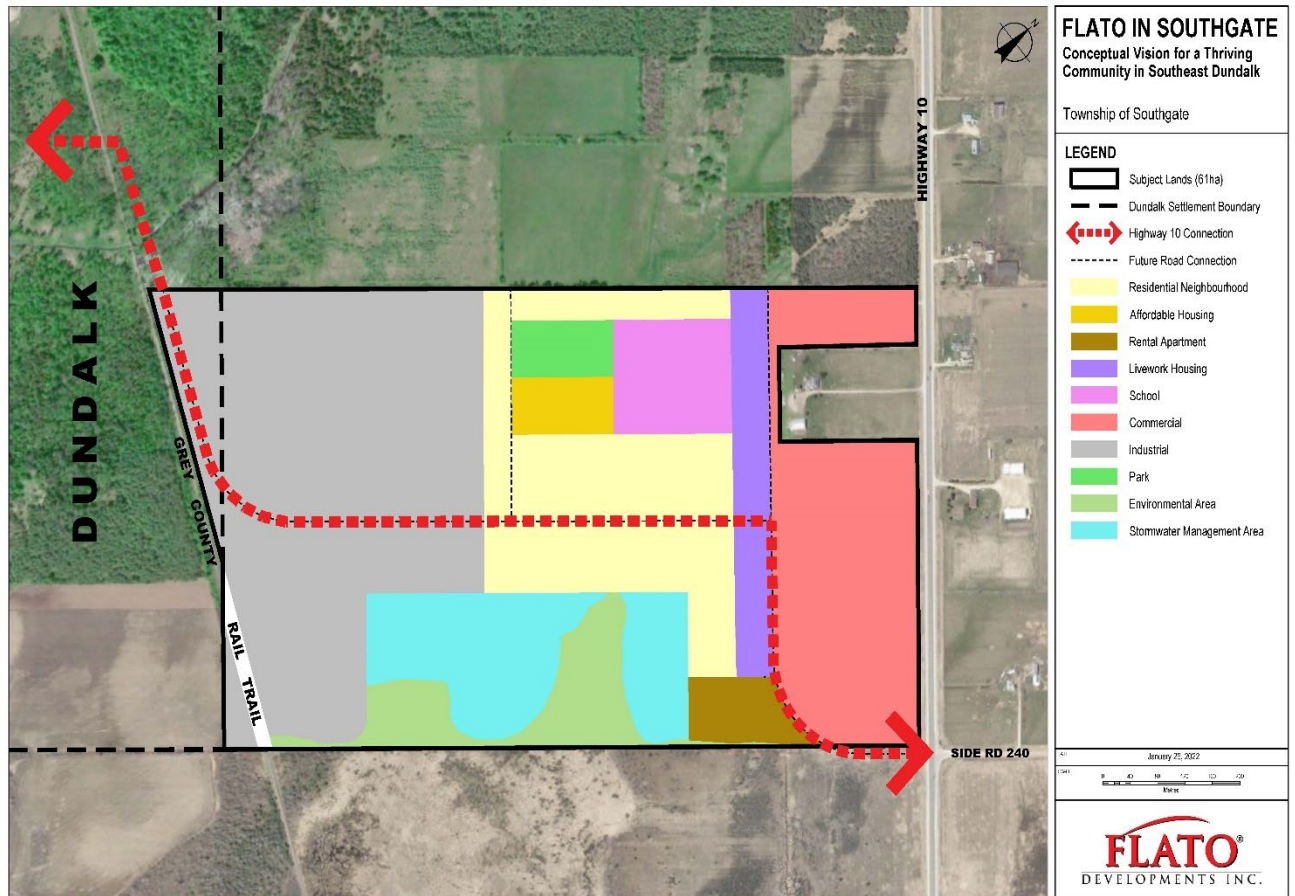
DRAFT CONCEPT PLANS con't.



SCHEDULE "D"

DRAFT CONCEPT PLANS con't.

Dundalk Southeast





## SCHEDULE "D"

### CONCEPT SITE PLANS con't.

Site plan map showing all three projects:

- Flato Northeast
- Flato Northwest
- Flato Southeast

