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File No. 102653

BY EMAIL: john.waller@york.ca

Regional Planning Committee
The Regional Municipality of York
Planning and Development Services Department
17250 Yonge Street
Newmarket, ON L3Y 6Z1



Attention: John Waller, Director of Long Range and Strategic Planning

Dear Mr. Waller:

Re: York Region Official Plan - December 2009

**Report of the Commissioner of Planning and Development Services –
December 2, 2009**

We act on behalf of the North Markham Landowners Group, a group of developers and interested landowners that own or control approximately 902 hectares in North Markham in an area bounded by Major Mackenzie Drive to the south, the Markham municipal boundary to the north, Woodbine Avenue on the west and Ninth Line on the east. Their holdings represent approximately 22% of the gross total area of the Markham Whitebelt.

We write further to correspondence dated September 9, 2009, sent by Malone Given Parsons ("MGP") and correspondence from our firm dated September 10th and October 6th, 2009, respectively. The purpose of the aforementioned correspondence was to communicate to the Region our client's issues and concerns respecting the June, 2009 draft Official Plan ("OP").

Since the release of that correspondence, we have received clarification of certain issues from Regional Staff. We have not repeated those issues in this letter, given the clarifications received. However, we reserve the right to request additional policy modifications to ensure that matters of clarification are adequately addressed in the Plan, prior to adoption.

Along with MGP, we have conducted a preliminary review of the December, 2009 draft OP. A number of the issues that were previously raised on behalf of our client have not been addressed with this new draft OP. To that extent, our client's original concerns remain outstanding.

We do not propose to repeat those basis of our client's concerns and issues through this correspondence; however, we wish to highlight the following major issues that our client continues to identify with the Regional OP:

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1. Failure to identify the urban boundary expansion for the North Markham area. We are disappointed to see that the draft OP before you continues to identify potential urban boundary expansions through the use of an asterisk symbol, versus identification of an urban boundary. For the reasons expressed in earlier correspondence to you, it is our client's position that in order for this OP to conform with the Provincial policies such a boundary should be identified in the Plan.
2. Reflection of Markham's draft natural heritage system in the Regional Greenland map and policies: The Town of Markham is in the process of preparing natural heritage mapping and policies, for future adoption through a local OPA. That process, including input and comments by the public and affected landowners, has not concluded. We remain concerned that Regional council has reflected the draft NHS in its Regional Greenway mapping, without the full public review and comment having been concluded locally. We would request that Map 2, which is based on this draft system, be removed or deferred as it would relate to our client's lands. Additionally, we note that the policies respecting refinements to the mapping (for example, policy 2.2.44) do not address our client's concerns with the basis for the mapping.

The draft OP also fails to outline any policies respecting securement of the lands proposed to be designated Regional Greenlands. Our client's previous concern in this respect remains outstanding.

3. On a related matter, we are in the process of reviewing Map 5 and the policies respecting significant woodlands. Despite the fact that some changes have been made to the policies and mapping, our original concerns remain outstanding. We would request that Map 5 be removed from the Regional OP prior to adoption.
4. Revised Figure 2 and identification of lands as Strategic Employment Area: We note that while Figure 2 is intended to be conceptual in nature, it is cross-referenced in various policies within the Plan. Our client is concerned that the most appropriate lands and land area for employment uses has not been identified for Markham. The combined effect of Figure 2 and companion policies will be to remove consideration of more suitable lands for future employment uses.

Our client remains concerned with the policies restricting uses, particularly major retail uses, within employment areas. Our client does not accept the proposed definition of "major retail" proposed and note that the need identified by the Region for additional lands within Markham for major retail uses has not been addressed through the Official Plan policies.

5. Other Matters Identified:

In addition to those issues outlined above, or through earlier correspondence, we note the following additional matters for Committee's and Council's consideration:

- (i) Policy 2.2.4: We would request that the policy be amended to insert "unacceptable" before "impact" and reference "no net loss of function".

- (ii) Policy 2.2.28 and 2.2.29 respecting fixed buffers: Our client has previously outlined its concerns with a rigid approach to identifying buffers in a regional policy document. We continue to be concerned with the Region's approach regarding this issue.
- (iii) Policy 2.2.43 – Vegetation protection zones act as buffers: We would request that the policy be amended to permit site alteration in vegetation protection zones, to permit consideration of the placement of trails and other infrastructure, such as storm water management facilities, within these areas.
- (iv) Policies 2.3.5 and 2.3.33(d): Given that these are policies intended to guide development in areas of groundwater recharge, we do not agree with the requirement to enhance the quality and quantity of groundwater recharge areas. As we noted earlier, this policy must acknowledge that best efforts may be used, and the policy should require enhancement "where possible."
- (v) Policies 5.1.12(f) and 5.3.3(g): We are concerned that the effect of these policies is to prevent Regional council from considering an urban boundary expansion until such time as a local municipality completes its own growth management conformity exercise, including determination of its policies respecting achieving intensification targets. We note that the Regional OP contains intensification targets for its constituent local municipalities. We would expect that the process of identifying urban boundary expansions would be led by the Region, and determined first through the Region's OP.
- (vi) Policy 3.4.11: The modifications proposed to this policy may be interpreted as requiring landowners to maintain heritage resources *in situ*. We do not believe that this is the intent of the provincial legislation and would ask that staff clarify the change prior to adoption.
- (vii) Policy 3.3.13: Our client had previously identified this policy as an issue. We note the policy has been expanded to reference DC's for both social housing and hospitals. To the extent that the *Development Charges Act* does not support DC's for these matters, we are of the opinion that the policy is beyond Council's jurisdiction.
- (viii) Policy 7.2.88 respecting the Noise Exposure Forecast contour: We note the additional requirement in the revised policy which would require landowners to be "consistent with Transport Canada guidelines". We are very concerned about this reference, particularly since the aforementioned guidelines impose a development restriction (25 NEF) that is not consistent with the current Provincial Policy statement (30 NEP/NEF limit). Accordingly, this additional requirement should be deleted from the policy prior to adoption of the Plan.
- (ix) Map 12 and the companion transportation policies: We are concerned about the basis for, and practical effect of, the proposed regional road

widths identified on Map 12 and the companion policies that together require landowners to assume a greater burden for road infrastructure through the development process.

- (x) Policy 8.4.7 (b): Our client strongly objects to any policy that would support or suggest that lands not identified as part of the urban boundary through this plan, be considered for as candidate lands for an Oak Ridges Moraine or Greenbelt designation. This approach is short-sighted and removes any flexibility to consider future urban expansions, should they be justified on the basis of updated information.

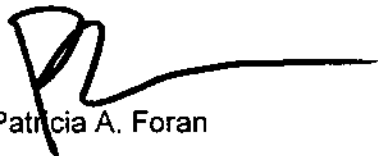
Moreover, there is absolutely no policy or scientific support for such designations to be imposed by the Region or local municipalities, particularly in the absence of any direction through provincial policy.

- (xi) Map 7: We would suggest that Map 7, like other regional maps, be subject to refinement following field confirmation at the time of development applications being filed.

Our client remains committed to working with Regional staff to address these issues prior to any consideration of the proposed Official Plan by Regional Council.

Yours truly,

AIRD & BERLIS LLP



Patricia A. Foran

PAF/jag

c. Barbara Jeffrey, Region of York
North Markham Landowners Group

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