

AIRD & BERLIS LLP

Barristers and Solicitors

Patricia A. Foran
Direct: 416.865.3425
E-mail: pforan@airdberlis.com

May 3, 2011

Our File No. 103864

BY EMAIL

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

Dear Sirs and Mesdames:

Re: Report 4 – Richmond Hill Official Plan (2010)
Planning and Economic Development Committee Meeting – May 4, 2011

We are the solicitors for the North Leslie Residential Landowners Group Inc. Our client's lands form part of the North Leslie Secondary Plan area, in the Town of Richmond Hill.

On April 29, 2011 we were provided with notice of the above-captioned report respecting the Town of Richmond Hill Official Plan. This report responds to appeals made to the Ontario Municipal Board under subsection 17(40) of the *Planning Act* from the failure of the Region to have made a decision respecting the Town's Official Plan within 180 days of the Plan being sent to the Region for decision.

The report before you recommends that the Region request that the Ontario Municipal Board return the approval of the Richmond Hill Official Plan back to the Region. The report suggests at page 3 that by having the Board refer the Plan back to Staff that certain portions of the Plan can come into effect. In our opinion, there is no jurisdiction to do this in the context of appeals from the Region's non-decision under subsection 17(40) of the *Planning Act*.

Our clients are also very concerned that the Region's consideration of the Town's Official Plan has been made without any regard to the concerns expressed to the Town found in the public record forwarded to the Region under subsection 17(31) of the *Planning Act*. **We would request that Committee refer this report back to Staff for review and consideration with the record of submissions made to the Town. On behalf of our client, we would also request that Staff be directed to consult with our client regarding its concerns with the Town's Official Plan.**

This is particularly important to our client given the status of the North Leslie Secondary Plan. Our client continues to seek full recognition of the OMB-approved secondary plan within the Town's Official Plan. The Board's Order approving OPA 257 issued on August 12, 2010, after the Town's Plan was forwarded to the Region for decision. Despite the issuance of such Order, bringing into effect the detailed policies for the secondary plan

May 3, 2011
Page 2

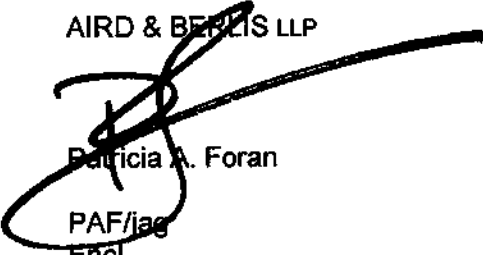
area, your Staff erroneously refer to such Order as "pending" and therefore do not deal with inclusion of these policies within the Town's Official Plan.

In our respectful submission, these issues and others should be reviewed before any position respecting the Richmond Hill Official Plan is adopted by Regional Committee or Council.

A copy of our client's submissions to the Town of Richmond Hill are attached for ease of reference.

Yours truly,

AIRD & BERLIS LLP



Patricia A. Foran

PAF/jag
Encl.

9237776.1

AIRD & BERLIS LLP

Barristers and Solicitors

Patricia A. Foran
Direct: 416.865.3425
E-mail: pforan@airdberlis.com

June 7, 2010

File No. 103864

BY EMAIL: officialplan@richmondhill.ca

Mayor and Members of Council
c/o Official Plan
Planning & Regulatory Services Department
Town of Richmond Hill
225 East Beaver Creek Road
Richmond Hill, ON L4B 3P4

Dear Sir or Madame:

Re: Draft Richmond Hill Official Plan – May 6, 2010

We are the solicitors for the North Leslie Residential Landowners' Group Inc. (the "Group"). Members of this group own 325 ha of land in the North Leslie Secondary Plan area.

We have reviewed the draft Official Plan for the Town dated May 6, 2010 and provide the following comments on behalf of this group.

Brief Background:

As Council is no doubt aware, the planning for the North Leslie Secondary Plan area has extended as far back as 1997, with applications made by the 19th Avenue Landowners Group, and subsequently, applications by the Bayview East Group. Accordingly, the comments provided in this submission to the Town build upon the substantial documentary submissions made to the Town and the Ontario Municipal Board over the course of the intervening period. As a result, Town Council should consider this submission to be a summary of issues already established or substantiated through documentation on the public record with the municipality.

The Group also continues to maintain a comprehensive technical consulting group who have contributed to the review and the comments respecting the Town's draft Official Plan. We are prepared to have our consultants meet with the Town to resolve any outstanding issues, as necessary.

The North Leslie Secondary Plan (OPA 257) (referred to in this letter as "NLSP") was approved by the Board in November, 2006. A portion of the lands which form part of the NLSP area were the subject of a rehearing for which a Decision was issued on March 16, 2010.

The Decisions have determined the appropriate land uses for the NLSP area, while the November, 2006 Decision settled the detailed policies to guide development of the lands. With few exceptions, the policies were arrived at in cooperation with the Town, the Region of York and the TRCA.

While some of the landowners had filed implementing subdivision and zoning applications which remain active, other landowners within the Group have been attempting to proceed to implement the policy direction contained within the approved Secondary Plan through further applications.

To this end, your Town Staff have been asked to prepare for Council consideration updated Terms of Reference for the updated MESP work that will be done to support development in North Leslie. We are advised by our client that despite requests on behalf of the Group, Town Staff have yet to bring forward those Terms of Reference to you for review and endorsement. We would ask that Council direct your Staff to bring forward these updated Terms of Reference immediately.

Need for Clear Recognition within the Plan:

While the draft Town Official Plan ("the Town Plan") acknowledges in some instances that there are Decisions of the Ontario Municipal Board relating to the North Leslie area, the Town Plan fails to appropriately acknowledge that the policies within the NLSP are intended to guide the development of the lands in the area. In particular, and despite the policy proposed in section 7.12 of the draft Town Plan, there is no clear intent expressed in the Town Plan that the NLSP will be the governing policies for development in this area.

Accordingly, we would request that Council amend the draft Town Plan to insert the following requested policy into Part 6 – Exceptions, and/or Part 7 – Interpretation of the Town Plan, in order to recognize the status of the NLSP:

Notwithstanding Part I of the Official Plan, for the lands included within the area of the North Leslie Secondary Plan, the consideration and approval of applications for subdivision, zoning or other matters pursuant to implementation of that Secondary Plan, whether such applications have been submitted or are subsequently submitted, shall be in accordance with the provisions of the North Leslie Secondary Plan and other applicable policies, if any, of the Official Plan of the Richmond Hill Planning Area approved and in force as of November 23, 2006.

Such a policy would most efficiently resolve any policy issues or disconnect between the OMB-approved NLSP policies and the proposed new policies of the Town Plan.

In addition to the foregoing, the Board's Decisions confirm the designation of the preponderance of the North Leslie lands. There is no rationale for the Town not having incorporated the designations in its Town Plan and in particular, reflecting same on the Schedules which form part of the Town Plan. We would request that Staff modify the Schedules to reflect the land uses approved for the NLSP area.

In the absence of an explicit policy recognition for the NLSP area, there are numerous issues and inconsistencies between the proposed draft Town Plan, and the policies approved by the OMB for the North Leslie area. Some of the policy areas of fundamental concern to our clients are highlighted in this cover letter, with detailed submissions provided in the attached summary of issues. **We wish to reiterate that many of the issues may be resolved by the incorporation of the foregoing policy within the Town Plan.**

Inconsistencies in Land Use Policies / Failure to Recognize Detailed Land Use Policies:

We assume that the Town intends to identify North Leslie as Neighbourhood for purposes of Schedule A2. We note that certain Neighbourhood policies and designations differ significantly from the detailed development policies agreed to by the Town and landowners and approved by the Board. Examples are set out below:

- (a) In draft Town policy 4.9.1.2 there is no recognition of the medium/high density residential permissions explicitly provided for in the NLSP.
- (b) Similarly, the limitation on building heights in policy 4.9.1.4 is in direct contradiction to the permissions found in the approved NLSP policies.
- (c) The permitted densities in policy 4.9.1.2.3 are also inconsistent with the NLSP policies, underscoring again the need for a clear policy recognizing the primacy of the NLSP policies in order to resolve these inconsistencies.
- (d) We note that the approved Neighbourhood Commercial sites within the Secondary Plan area are not recognized in Appendix 7 to the Plan. Of even greater concern is the accompanying policy which suggests that development of sites not shown on Appendix 7 in the draft Town Plan would be subject to requirements set out in that section, many of which are not required for the approved Neighbourhood Commercial sites within the North Leslie area. As an example, there is not nor should there be a requirement for a commercial needs study to support the development of the lands which have approved Neighbourhood Commercial designations within the plan area.

Employment Corridor Policies:

Section 3.3.1.4 inappropriately provides for the Town's Official Plan to override the policies of the NLSP respecting lands designated Employment Corridor. We would request that lands that are currently designated Employment Corridor in the NLSP area be subject to the approved Employment Corridor policies in the NLSP only and these lands not be subject to the policies in the proposed draft 3.3.1 of the Official Plan.

Environmental Policies and Schedules:

As Council may be aware, the environmental designations and policies reflected in the NLSP were substantially settled prior to the 2006 OMB hearing. The policies reflected in the NLSP approved by the Board, therefore, reflected the Town's endorsement (in addition to the Region's and the TRCA's) with very few differences between the parties.

Our client objects to any of the policies or designations in the draft Town Plan which may have the effect of changing or undoing the settled policies respecting environmental issues. By way of example, the Town Plan proposes to include (conceptual) SWM ponds locations as natural linkages on Schedule A2 and as part of the Greenway system on other schedules. The identification of such areas would have the effect of imposing a number of additional and inappropriate policies and restrictions on development and infrastructure location.

With minor exceptions, the SWM ponds are located outside of NHS areas or are within tableland areas of the Greenbelt Plan Protected Countryside. As a result of identifying them as part of the Greenway System or as Natural Linkages, a number of new restrictions that are not based upon the agreed upon environmental policies for North Leslie result (for example, through such draft Town policies as sections 3.2.1.7, 3.4.1.37, 3.4.1.61 and 4.10.6.1.4). Application of these policies would restrict the identified areas as being suitable candidate locations for SWM facilities or would impose redundant buffer requirements (in the case of policy 3.4.1.61) in direct contradiction to the policies agreed upon for the North Leslie area.

Oak Ridges Moraine:

While the Town Plan references previous OMB Decisions respecting the Oak Ridges Moraine ("ORM") as they relate to North Leslie, the policies and schedules do not appropriately reflect the OMB dispositions respecting same.

In particular, policy 3.2.1.1.4 of the Town Plan does not appropriately recognize the fully transitioned status of the North Leslie lands under the ORM legislation. This would extend to all applications which seek to implement the approved designations and policies for the lands as established through two OMB hearings.

Servicing Allocation:

Section 3.1.9.1.3 of the Town's Plan suggests that Council consider allocating servicing if a proponent meets criteria for allocation. However, there are no criteria identified within the Plan and we would request that a clear indication of the criteria for servicing allocation be expressed in the Town's OP policies so that landowners and the public are aware of what requirements must be met in order to achieve an allocation.

Schedule A7 - Floodplain identification:

Our clients are particularly concerned with the identification of floodplain areas (TRCA Regulation Limit) on Schedule A7 which is excessive and not consistent with the information that we have had made available through consultation with TRCA to this point

in time. We understand that the line depicted is in fact not the flood line but rather a TRCA regulation line. We would ask that your Staff meet with our client's experts to review and correct same.

Guidelines:

Reference is made in a number of sections within the Town Plan to guidelines. Since guidelines do not have the status of Official Plan policy, and have not undergone the required *Planning Act* process, references to guidelines which suggest that they are mandatory or directive is inappropriate. As an example, proposed policy 3.4.1.2 attempts to elevate design guidelines to Official Plan policy. This should not be approved.

Roads (including Schedule A8):

We note that the draft policy in 3.5.6.3 refers to a minimum right of way width for arterial streets as 36 m. The Secondary Plan policies for North Leslie are approved with arterial road right of way of 36 m. We would request that the Town amend the policies to reflect the approved NLSP.

Our client remains concerned about the identification of a mid-block crossing through the North Leslie Secondary Plan area (Schedule A8). In our client's view, the crossing is neither necessary nor appropriate and does not respect the 2006 OMB Decision for these lands. Additionally, the policies which deal with lands identified in the vicinity of the proposed crossing are unduly restrictive and propose to freeze development until such time as the determination of the crossing is made. This is directly contrary to the approved North Leslie policies, is an attempt to revisit an issue already determined by the OMB and should not be adopted as policy to guide development in the NLSP area.

We would welcome the opportunity to meet with your Staff to discuss this letter and the enclosure as soon as possible.

Yours truly,

AIRD & BERLIS LLP



Patricia A. Foran

PAF/jag
Encl.

- c. Donna McLarty, Town Clerk, Town of Richmond Hill
North Leslie Residential Landowners' Group
W. Sorensen, Sorensen Gravely Lowes

6774398.2

DRAFT OFFICIAL PLAN – MATTERS OF CONCERN	DISCUSSION OF CONCERNS
Inadequate Recognition of North Leslie Secondary Plan	
1. It is usual planning practice in setting out the relationship between municipal-wide Official Plans and Secondary Plans to provide that the more detailed provisions of the Secondary Plans will prevail. However, Interpretation Section 7.12 (page 7-2 of the Draft OP) provides that: “In the case of a conflict between the Part I policies of this Plan and any Secondary Plan in Part II of this plan, the policies of the Secondary Plan shall prevail, except where this Plan expressly provides otherwise.” [emphasis added]	At least two such exceptions have been included in the Draft OP: Sections 3.1.8.2 g and 3.3.1.4, as discussed below The open ended nature of the exception as worded in Section 7.12 is of concern, as exceptions could be found or subsequently inserted in any number of places in this lengthy document.
2. Section 3.1.8 (page 3-11) sets out “Parkland” policies and, in 3.1.8.2, the dedication requirements. These seek to impose the maximum permissible requirements of the Planning Act, but without the flexibility inherent in the Act terminology (“not exceeding”). Section 3.1.8.2 g (page 3-12) provides that: “Where there is a conflict or inconsistency between the provisions of this section and the provisions of a Secondary Plan, the policies of this section shall take precedence.”	The approved and agreed-upon North Leslie Secondary Plan parkland dedication policy states the requirement to be “<u>up to</u> 5%” or “<u>up to</u> 1 ha per 300 units”. This is in accordance with the Planning Act. It is noted that in 2009, York Region, in approving Richmond Hill OPA 249 (an amendment seeking to impose the same mandatory requirement now sought again by the Town), modified the Town’s adopted policies to include the words “not exceeding” in line with the provisions of the Planning Act. The Draft OP should be similarly revised.
3. Section 3.3.1.4 (page 3-57) provides that: “Where there is a conflict or inconsistency between the provisions of Section 3.3.1 of this Plan and the policies of any Secondary Plan, the more restrictive policies shall apply.”	Section 3.3.1 contains policies for “Employment Land Protection” that are more restrictive than those approved for the Employment Corridor designation in the North Leslie Secondary Plan as advanced by the Town and approved by the 2006 OMB decision. The policies proposed in the Draft OP also go beyond the policies of

DRAFT OFFICIAL PLAN – MATTERS OF CONCERN (continued)	DISCUSSION OF CONCERNS (continued)
4. The Draft OP makes specific reference to the North Leslie Secondary Plan on some of the Schedules, but not others.	the 2006 Growth Plan and PPS. All Schedules should reflect the approved land uses for North Leslie. In addition, on all Schedules, the North Leslie lands should be identified as “Subject to North Leslie Secondary Plan (OPA 257)”.
5. Section 3.2.1.1.39 (page 3-34), part of the policies for “Lands on the Oak Ridges Moraine”, includes the following statement: “The North Leslie Secondary Planning Area is a new addition to the <i>settlement area</i> and is shown on Schedule A10 (Secondary Plan Areas) to this Plan. The Secondary Planning area is partially within the Oak Ridges Moraine Conservation Plan area. At the time of writing of this Plan, the matter of an application to amend the Town’s Official Plan to incorporate the North Leslie Area into the <i>settlement area</i> and to approve a Secondary Plan remain before the Ontario Municipal Board in certain respects. The Ontario Municipal Board has already made rulings on the applicability of the Oak Ridges Moraine Conservation Plan (ORMCP) to this area. Once the order of the Ontario Municipal Board is final, this Plan will be amended to conform to the decision of the Ontario Municipal Board.”	This is an outdated and inaccurate description of the status of the North Leslie Secondary Plan.
6. Section 4.10.4.2.1 (page 4-47), part of the policies for “Greenbelt Plan Protected Countryside”, includes the following statement: “It is the policy of Council that: Prior to <i>development</i> occurring within the North Leslie Secondary Plan Area, urban design guidelines shall be undertaken and approved by the Town for the North Leslie Secondary Plan Area including a Parks Master Plan and Block Plan completed as part of the comprehensive MESP.”	The reference to “the comprehensive MESP” is not consistent with OMB-approved North Leslie Secondary Plan provisions, that there may be more than one MESP. This specific North Leslie reference for urban design in connection with the Greenbelt Plan serves no useful purpose, since the requirement for urban design guidelines is already covered extensively by agreed-upon (and Board-approved) policy text in the North Leslie

DRAFT OFFICIAL PLAN – MATTERS OF CONCERN (continued)	DISCUSSION OF CONCERNS (continued)
	Secondary Plan (Section 6.7).
7. Section 5.1 (page 5-1), Secondary Plans, includes the following: “Secondary Plans shall be prepared for the following areas of the Town as shown on Schedule A10 (Secondary Plan Areas) of this Plan: f. North Leslie Area.” Required items for new Secondary Plans in Section 5.1.4 (page 5-1 & 5-2), include many matters not included in the agreed-upon policy text of the North Leslie Secondary Plan. Examples are: • “natural linkages” as part of the “Greenway System” (Section 5.1.4 l) • details re: transit, pedestrian and cycling facilities (Section 5.1.4 m) • policies for “Transportation Demand Management” and parking (Section 5.1.4 n) • “necessary investments” for infrastructure (Section 5.1.4 o) • investigate feasibility of district heating (Section 5.1.4 p) • “timing and phasing” for built-out (Section 5.1.4 q) • strategy for affordable housing (Section 5.1.4 r)	Another outdated and inaccurate reference. This inclusion of North Leslie as if it were a Secondary Plan <u>yet to be prepared</u> is of concern in that it purports to impose additional requirements, which were neither proposed by the Town nor approved by the OMB for North Leslie. Taken together, these Draft OP provisions do not give sufficient regard to the status of the North Leslie Secondary Plan. Despite Interpretation Section 7.12 (page 7-2) that says Secondary Plans prevail except where expressly provided otherwise, concerns remain because other parts of the Draft OP do not acknowledge North Leslie as an existing Secondary Plan. In order to properly reflect the OMB approvals respecting North Leslie, the Draft OP should be revised to provide an unambiguous statement that the North Leslie Secondary Plan will govern development of the North Leslie lands, and the approval of all related implementing planning applications.
Transition- Oak Ridges Moraine (ORM) 8. Section 3.2.1.1.4 (page 3-24) addresses transition in the ORMCP area, and references the transition provisions of the ORMC Act. However, recognition is given only to an extremely narrow set of circumstances involving subsequent applications that are necessary to implement the Secondary Plan through zoning and subdivision	In narrowing the scope for transitioning, these sections of the Draft OP (as in OPA 218) impose restrictions that are not found in the ORMC Act. Further, these sections are entirely inconsistent with the Decision of the OMB on this very point (Order 1111, August 12 2003). At page 12 (endorsing the views of the Town’s own lawyer) the

DRAFT OFFICIAL PLAN - MATTERS OF CONCERN (continued)	DISCUSSION OF CONCERNS (continued)
approvals: "c. Notwithstanding Policies 3.2.1.1.4 (a) and (b), where an application for <i>development</i> has been submitted after November 17, 2001 as a direct consequence of a condition attached to a provisional consent, a draft plan of subdivision or a draft plan of condominium, such an application shall be completed under the same system in effect as the original approval in accordance with Section 17(1) of the <i>Oak Ridges Moraine Conservation Act, 2001</i>. In addition, any development permission established by such further approvals may be recognized in the applicable zoning by-law, as appropriate. d. In no case shall Section 17 of the ORMCP be extended to include decisions on applications commenced subsequent to November 17, 2001 and not specifically identified as a condition to the original application approval." <i>[Section 3.2.1.1.4 c and d]</i>	Decision states: "The logic of the transitional section (section 15) is to provide that lands for which an application is made before November 17, 2001 shall enjoy a certain status. This is a continuation of the Board's common practice of applying the policy regime extant on the date of the application, and not to require a retroactive application of policy. The purpose of section 17(1) is to provide clarity where, as is commonly the case, the planning process requires more than one application for a single proposal. The logic of this section, as Mr. Beaman correctly infers, is that once an application for development is filed -- for instance an amendment to the local plan -- that pre-dates November 17, 2001, then any further applications needed for the development to proceed -- for instance a subdivision or site plan -- should be treated under the same rules and should enjoy the same status as the first application, even if it comes after November 17, 2001." The Draft OP should be changed to respect this decision of the Board for the transitioned North Leslie lands within the ORMCP. The same principles should be applied to all applications that are necessary to implement the Secondary Plan, whether on the ORMCP lands or elsewhere. This would best be accomplished by adding an appropriate set of transition policies to the Implementation and Interpretation sections of the Draft OP, to recognize applications pursuant to the North Leslie Secondary Plan will be processed and approved in accordance with the policies and designations of the Secondary Plan, as well as other applicable policies in force

DRAFT OFFICIAL PLAN - MATTERS OF CONCERN (continued)	DISCUSSION OF CONCERNS (continued)
	and effect at the time of the Secondary Plan.
Designations & Mapping	
9. North Leslie is identified on some, <u>but not all</u>, of the Schedules as "Subject to Decision by the OMB".	On Schedules A4, A5, A7 and A8, North Leslie should be identified as "Subject to North Leslie Secondary Plan (OPA 257)". In addition, some of the other Schedules, despite the identification as "Subject to Decision by the OMB", show North Leslie lands with designations or items of concern and that are not consistent with OMB approvals or agreed-upon provisions of the Secondary Plan. These items are noted in reviewing each of the Schedules.
10. The ORM and Greenbelt lines shown on many of the Schedules do not present an entirely accurate or complete picture.	There is no acknowledgment of the 245 contour as an alternative ORM line. The northerly Greenbelt extensions (by subsequent Regulation) along the stream corridors between the 2 ORM lines are not shown.
11. On Schedule A1, Urban Structure, within the North Leslie area there are items of potential concern: • "Greenway System" as shown does not properly reflect the approved North Leslie Secondary Plan. • "404 Employment Corridor" is shown schematically along 404 itself, from Highway 7 to 19th Avenue. • "Employment Land" is shown as including the Rio-Trin shopping centre as well as the 404/Elgin Mills interchange and the most easterly portion of the already licensed cemetery lands.	"Greenway System" as shown includes a number of questionable areas, such as remnant hedgerows and minor features of no urban structure significance. It includes <u>all of the storm water ponds proposed by the North Leslie Secondary Plan</u>. Two of the SWMPs are located so as to have the effect (on Schedule A1) of creating a continuous linkage between NHS features in the central part of North Leslie (see comment re Schedule A2 below). The characterization of employment land and employment corridor on Schedule A1 does not reflect reality, as existing and approved for the area, and should

DRAFT OFFICIAL PLAN – MATTERS OF CONCERN (continued)	DISCUSSION OF CONCERNS (continued)
	be revised.
12. On Schedule A2, Land Use, all storm water ponds in North Leslie are shown as "Natural Linkages", including the 2 linking SWMPs on Schedule A1 as noted above.	Such designation would impose a number of inappropriate policies and restrictions on development, and possibly on road and infrastructure locations. These concerns are further discussed under Natural Linkages below.
13. Apart from the various open space designations, Schedule A2 does not identify the development land use designations (neither residential nor employment are shown within North Leslie).	Because the Draft OP really only provides the "Neighbourhood" designation as an appropriate category for the residential portions of North Leslie, there may be a concern with the applicable policies – discussed under Neighbourhood Policies below.
14. Schedule A2 includes the same questionable designation of "Employment Area" on lands south of North Leslie (cemetery, highway and shopping centre lands) as does Schedule A1.	The "Employment Corridor" designation is applied very sparingly, as compared with the use of this term in existing Secondary Plans (including North Leslie).
15. Included among the many (and confusing) categories of land use designation on Schedule A2 are "ORM Countryside", "Greenbelt Plan Protected Countryside", and "Countryside".	It appears that the only land designated as "Countryside" is a tiny area on the north side of 19 th Avenue between Leslie and Highway 404, not otherwise designated as Greenway. This should be clarified.
16. Schedule A4, Key Natural Heritage Features and Key Hydrological Features, purports to show "Wetlands" and "Significant Woodlands" within North Leslie.	There are a number of errors on Schedule A4 in the specific identifications of "Significant Woodlands" or "Wetlands". The extent of the ESA identified to the north of, and partly within, the Manson lands may also be in error. Some minor features are shown, despite agreed-upon North Leslie Secondary Plan policies that the features could be removed or relocated.

DRAFT OFFICIAL PLAN – MATTERS OF CONCERN (continued)	DISCUSSION OF CONCERNS (continued)
17. Criteria for identifying “significant woodlands” are set out in Section 3.2.1.2.23: “<i>Significant woodlands</i> include any woodland meeting one of the following criteria: a. Contains <i>globally or Provincially rare plants, animals or communities</i> as designated by the Natural Heritage Information Centre; b. Contains species designated by the Committee on the Status of Endangered Wildlife in Canada or by the Committee on the Status of Species at Risk in Ontario as threatened, endangered, or of special concern; c. Is within 30 metres of a <i>key hydrological feature</i>; d. Is over 2 hectares and: i. Is within 100 metres of another <i>key natural heritage feature</i>; or ii. Occurs within the Greenway System. e. Is 4 hectares or larger in size.”	These criteria are not consistent with the agreed-upon approach in North Leslie or with the approved North Leslie Secondary Plan.
18. On Schedule A7, Floodplain Areas, Special Policy Areas and Flood Vulnerable Areas, the lands subject to identification as “Floodplain Areas (TRCA Regulation Limit)” appear to be excessive.	The areas marked as Floodplain in North Leslie are incorrect. These are not flood lines at all, but rather a different TRCA regulation line. This schedule should be corrected accordingly.
19. On Schedule A8, Street Classification, all of the arterial streets in North Leslie (Bayview, Leslie, 19th and Elgin Mills) as identified as “Arterial Streets (36 Metres R.O.W.)”. The Draft OP policies for Arterial Streets in Section 3.5.6.3 (page 3-89) refer to 36 metres as the “<u>minimum</u> right-of-way width”.	The North Leslie Secondary Plan has no such caveat (Section 5.1.2 a) in specifying 36 metres, and should prevail.
20. Proposed “Mid-Block Crossings” shown on Schedule A8 include a crossing of Highway 404 in the North Leslie area. Policies for these proposed crossings, in Section 3.5.6.2 (page 3-88) include	The Mid-Block Crossing in the North Leslie area, contrary to the 2006 decision of the OMB, is shown adjacent to the north part of the Bawden-Wood lands.

DRAFT OFFICIAL PLAN – MATTERS OF CONCERN (continued)	DISCUSSION OF CONCERNS (continued)
requirements that: “g. The Town shall require that proponents of <i>development</i> identify the alignment of mid-block crossings and that sufficient lands be reserved to accommodate the Provincial highway crossing through the <i>development</i> approval process.” “h. <i>Development</i> of lands within the general vicinity of a planned Provincial highway crossing shall only receive final approval following the final determination of the location and alignment of the Provincial highway crossing. <i>Development</i> that identifies the crossing but does not prejudice the selection of alternative alignments may be approved to proceed in phases.”	Additionally, there is no limitation on what lands would be considered to be “within the general vicinity” of a planned crossing and therefore frozen by this policy.
21. Appendix 1, Existing Natural Cover, includes a number of questionable areas, including some hedgerows and small remnants.	There appears to be no text reference to Appendix 1 anywhere in the Draft OP. Even though Appendices are not an operative policy part of the Plan, there is no reason for the inclusion of this Appendix and it should be removed.
22. Appendix 6, Active Transportation, shows a number of cycling facilities, including: ▪ an east-west route from Leslie to 404, across the Bawden-Wood lands, as “Proposed Town Cycling Route” ▪ Leslie St. as “Proposed Regional Lake to Lake Cycling Route” ▪ 19th Ave from Leslie to 404 as “Proposed Town Cycling Route” ▪ other arterial sections as “Proposed Regional Cycling Routes on Regional Roads”	This is inconsistent with the North Leslie Secondary Plan, which directs that provisions for cycling and pedestrians be included in planning and development of the area, but does not prescribe the specific locations of such facilities in advance.
23. Appendix 7, Existing Neighbourhood Commercial Sites, does not include any of the NC sites established in the North Leslie Secondary Plan. Section 4.9.1.3.1 (page 4-35) refers to Appendix 7 in a manner that improperly gives it policy status.	This is inconsistent with the approved North Leslie Secondary Plan.

DRAFT OFFICIAL PLAN – MATTERS OF CONCERN (continued)	DISCUSSION OF CONCERNS (continued)
Then, Section 4.9.1.3.4 (page 4-36) introduces a restrictive policy for sites not shown on Appendix 7, again an improper use of an Appendix: “<i>Development</i> of new neighbourhood commercial sites not shown on Appendix 7 (Existing Neighbourhood Commercial Sites) may be permitted only where: a. The lands have frontage on an arterial street at the intersection of an arterial street or a collector street; b. There is a need for the proposed use as demonstrated through a Commercial Needs Study conducted by a qualified professional and the proposed <i>development</i> does not exceed a maximum gross leasable floor area (GLA) of 5,575 square metres (60,000 square feet); c. The maximum site density shall be 1.0 FSI; d. The proposed <i>development</i> has a maximum of one supermarket or one anchor tenant and no department stores; e. There is no outdoor storage of materials and/or goods; and f. The proposed <i>development</i> provides adequate on-site parking, access and circulation.”	While some of these are topics dealt with in the Secondary Plan, others are not. The requirement for a Commercial Needs Study, for example, is of concern since the Secondary Plan does not contain such a requirement.
Natural Linkages & Greenway System	
24. The inclusion of the North Leslie storm water ponds as “Natural Linkages” on Schedule A2, and as part of the “Greenway System” on other schedules is a major concern. The applicable policies of the Draft OP exacerbate the concerns in a number of ways. ▪ Section 3.2.1.7 (page 3-22) “Development shall be directed away from the Greenway System ...” ▪ Section 3.4.1.37 (page 3-69) “Backlotting onto ... the Greenway System shall be discouraged.”	With minor exceptions, the North Leslie SWMPs are outside identified natural heritage features and areas although they may, in part, be within tableland areas of the Greenbelt Plan Protected Countryside. These Draft OP provisions create a self-destructing spiral. The proposed designation of these lands as “Natural Linkages” reflects the fact that they are locations planned as SWMPs in the Secondary Plan only and not reflecting any environmental reason, but then the policies that are to

DRAFT OFFICIAL PLAN – MATTERS OF CONCERN (continued)	DISCUSSION OF CONCERNS (continued)
▪ Section 3.4.1.61 (page 3-73) “Development ... abutting the Greenway System shall provide a naturalized transition to the Greenway System.” ▪ Section 4.10.6.1.4 (page 4-50) “The Town shall require that new <i>stormwater management works</i> be located outside of Natural Linkage areas” and then goes on to permit their consideration only if certain conditions can be met.	be applied to those sites (Section 4.10.6.1.4) would prevent (or at least restrict) their use for SWMP purposes. While the SWMPs may provide some opportunity for certain types of visual or functional linkage between other open space or NHS areas (trail connections, perhaps movement of animals), that doesn't make them “natural” or natural linkage in any meaningful sense.
25. The “naturalized transition” requirement of Section 3.4.1.61 (page 3-73) would impose special restrictions on development adjacent to a Greenway, implying the need for additional planting or buffer areas.	For North Leslie this is inappropriate and unnecessary since the NHS features have been delineated so as to include appropriate buffers. In some areas, additional portions of tableland are included because of the expansive boundaries established by the Greenbelt Plan for the Protected Countryside.
26. The provision of roads and other infrastructure may well be constrained as a result of the Draft OP's concept of a “Greenway System” as a continuous network, and as a result of the inclusion of “Natural Linkages” without appropriate differentiation as to whether, for example, they have any real natural attributes or are merely planned SWMP locations. Section 4.10.6.1.2 (page 4-50) provides that: “Essential public works may be permitted on lands within the Natural Linkage designation where the <u>need for the project is demonstrated</u> and there is <u>no reasonable alternative</u> ...” and subject to a number of <u>special measures</u> in planning, design, construction and management.	These policy constraints are not reasonable and serve no useful purpose when the “Natural Linkage” is only a SWMP.

DRAFT OFFICIAL PLAN – MATTERS OF CONCERN (continued)	DISCUSSION OF CONCERNS (continued)
Neighbourhood Policies	
27. Although Schedule A2, the Land Use Plan of the Draft OP, does not show a land use designation for the developable areas of North Leslie (the area is marked as "Subject to decision by the OMB"), the only category in the Draft OP suitable for application to the residential portions of North Leslie would be the Neighbourhood designation, policies for which are set out in Section 4.9 (page 4-33 to 4-36).	There are a number of concerns with the policies of Section 4.9. Note also that the numbering of clauses in this section seems incorrect.
28. There is no recognition of Medium/High Density Residential. The permitted uses listed in Section 4.9.1.2 (page 4-33) include only Low Density and Medium Density forms of residential use.	This is inconsistent with the approved North Leslie Secondary Plan, which includes sites designated as Medium/High Density Residential.
29. Section 4.9.1.4 (page 4-33) restricts building height to 3 storeys, except for arterial streets where 4 storeys are allowed.	In contrast, the agreed-upon North Leslie Secondary Plan permits 3½ storeys for Low Density, 4 storeys for Medium Density, and 10 storeys for Medium/High Density.
30. The Draft OP does not set densities for Low Density Residential. For Medium Density Residential, Section 4.9.1.2.3 (page 4-35) states the maximum density to be 50 uph.	This is inconsistent with provisions of the North Leslie Secondary Plan, which sets both minimum and maximum densities for all types of residential development – 17 to 35 uph for Low Density, 35 to 60 uph for Medium Density, and 1.0 to 2.0 FAR for Medium/High Density Residential.
31. While the Neighbourhood designation is inclusive of Neighbourhood Commercial, that would be subject to a number of limitations and requirements, as discussed 27 above.	Since these are all matters specifically dealt with in the North Leslie Secondary Plan, those policies would prevail. Nevertheless, these inconsistencies may create interpretive confusion.

DRAFT OFFICIAL PLAN – MATTERS OF CONCERN (continued)	DISCUSSION OF CONCERNS (continued)
Floodplain Areas	
32. Large portions of North Leslie are erroneously identified as Floodplain Areas on Schedule A7. For such areas, Section 3.2.2.3.4 (page 3-45) provides that: “<i>Development and site alteration shall be prohibited within floodplain areas, subject to Conservation Authority regulations.</i>”	The Floodplain Area mapping is in error, as noted in paragraph 18 above, and should be corrected.
Guidelines	
33. The Draft OP makes reference to various guidelines in many of its policies. In several of those policies, the references improperly purport to treat guidelines as though they represent policy.	Since guidelines do not have the status of Official Plan policy, and have not undergone the required Planning Act process, there is a concern with policy cross-references of a directive or mandatory nature that can have the effect of elevating the guidelines to become policy requirements that must be met or conformed with.
34. Section 3.4.1.2 (page 3-65) requires that: “Applications for <i>development</i> shall be <u>assessed on the basis of conformity</u> with the relevant design guidelines which have been approved by Council ...”	This overstates the appropriate use of a guideline. Similar requirements appear elsewhere in the Draft OP, for instance in Section 4.9.2.3 (page 4-38) setting out the Design policies for Neighbourhoods.
35. In addition to already existing guidelines approved by Council, Section 3.4.1.1 (page 3-65) calls for the preparation of new guidelines: “The Town shall develop comprehensive design guidelines that provide design guidance for the following ...” and then lists 12 different areas of design considerations to be included in the guidelines.	Presumably, when approved by Council, conformity with any such new guidelines would be retroactively become a policy requirement under Section 3.4.1.2 to be applied to development applications. Again, this is an inappropriate reference.

DRAFT OFFICIAL PLAN - MATTERS OF CONCERN (continued)	DISCUSSION OF CONCERNS (continued)
36. Section 3.5.4.10 (page 3-86) has the effect of elevating a York Region guideline document as though it were policy in requiring that: “<i>Development</i> shall be in keeping with the York Region Transit-Oriented Development Guidelines and the policies of this Plan.”	This, and all similar references in the Draft OP, should be revised to properly reflect the non-policy nature of guideline documents.
Urban Design	
37. In addition to the concern for inappropriate policy references to urban design guidelines, as discussed above, there are a number of concerns with the very lengthy set of urban design requirements set out in Sections 3.4.1.3 through 3.4.1.61 (pages 3-65 to 3-73) of the Draft OP.	While some of these are directed towards public sector undertakings rather than private development, or are expressed as matters to be encouraged, many of the policies have the effect of imposing very detailed and specific design requirements on private development applications. Some of these are so detailed or specific as to be inappropriate as Official Plan policy.
38. Section 3.4.1.26 (page 3-68) requires that: “<i>Development</i> adjacent to the Greenway System shall maximize visual access and appropriate physical access to the system or feature through the incorporation of single-loaded streets and by siting parks, <i>stormwater management works</i> or other public uses adjacent to the system or feature.”	By stating the requirement to “maximize” this could result in the requirement to provide single-loaded streets adjacent to or around every feature. Instead of “shall maximize”, this should say “shall provide appropriate ...”.
39. Although not in the Urban Design section, a similar concern arises with Section 3.4.4.14 (page 3-79) and its requirement that parks be designed to “<u>maximize frontage</u> on the street”.	In order to “maximize frontage”, this again implies parks ringed by single-sided roads. Instead, the requirement should be “appropriate” or “adequate” frontage.
40. Section 3.4.1.43 (page 3-70) requires: “A sun/shadow analysis which demonstrates that at least 5 hours of sunlight daily is available on the majority of public sidewalks within and abutting the <i>development</i> site to maximize comfort in the public realm through all four seasons, shall be required for all <i>high-rise development</i> applications and may be required for <i>mid-rise development</i> applications.”	As an urban design policy, this is inappropriately prescriptive and rigid.

DRAFT OFFICIAL PLAN – MATTERS OF CONCERN (continued)	DISCUSSION OF CONCERNS (continued)
41. Section 3.4.1.44 (page 3-70), deals with the requirements for wind studies, specifying the standard to be met as: “... proposed <i>development</i> does not negatively impact the ability of pedestrians to sit, stand, or walk in the public realm throughout all four seasons ...”	This policy goes too far in specifying such an onerous standard.
42. Section 3.4.1.50 (page 3-71) requires that “<i>Major office development</i> shall provide underground parking or, where not feasible due to groundwater constraints, structured parking to the rear or side of the <i>development</i> site, or incorporated within the base of a building.”	This is not a realistic requirement for all potential major office locations in Richmond Hill. Even where this may be reasonable as a longer-term expectation, such as in transit-served centres, it could well inhibit or preclude successful office development, the initial phases of which may depend on surface parking.
43. Other examples are Section 3.4.1.37 and Section 3.4.1.61, as discussed above.	These and other sections of the Draft OP should be revised.
Population and Employment Density	
44. Section 3.1.2 (page 3-2) sets out growth management policies, including the recognition of “designated greenfield area” and “built boundary” as those terms are used in the Growth Plan. As North Leslie is outside the “built boundary” it forms part of the “designated greenfield area” of Richmond Hill. In the 2nd paragraph (page 3-3), the Draft OP says: “<i>Development</i> within either portion of the <i>settlement area</i> shall be consistent with density targets identified in Provincial and Regional policies.”	This is an incorrect interpretation of Growth Plan policies, which direct that “density targets will be measured over the entire designated greenfield area of each upper- or single-tier municipality” excluding certain features that preclude development (Policy 2.2.7.3). Measurement is not on the basis of a lower-tier municipality, or a “portion” of it.
45. Section 3.1.2.5 (page 3-3) of the Draft OP provides that: “Secondary Plans within the <i>designated greenfield area</i> that are not completely built as of the adoption of this Plan should be re-	This provision could be applied to North Leslie and, although not an absolute policy, could be disruptive of the ongoing planning and development approval process

DRAFT OFFICIAL PLAN – MATTERS OF CONCERN (continued)	DISCUSSION OF CONCERNS (continued)
examined to determine if 50 residents and jobs per hectare in the <i>developable area</i> can be achieved.”	to implement the Secondary Plan.
Employment Policies	
46. As noted above Section 3.3.1.4 of the Draft OP is one of the exceptions to the general rule that Secondary Plans prevail. It provides that the more restrictive Employment Land policies of Section 3.3.1 would apply, rather than those in Secondary Plans.	This is inappropriate for the North Leslie Secondary Plan which has undergone such extensive review and has been approved by the OMB. This would interfere with the implementation of OMB approved policies for certain parcels of land designated Employment Corridor located in the southwest quadrant of Leslie and 19th Avenue, as well as the small parcels at the southeast corner.
47. Section 3.3.2.1 a (page 3-58) of the Draft OP identifies the “employee-to-resident target ratio” as 1:2 (one job for every two residents).	This is internally inconsistent with the population and employment forecasts in Section 3.1.1 (Table 1, page 3-2). For both 2016 and 2031, the forecasts would result in a ratio closer to one job for every 2.5 residents.
48. Section 3.3.2.10 (page 3-59) and Section 3.3.3.3.3 (page 3-63) set out policies for home occupations within residential or neighbourhood areas.	These are, in some respects, more restrictive than the agreed-upon provisions of the North Leslie Secondary Plan.
49. Section 3.3.3.1.4 (page 3-67), dealing with distance separation and mitigation for heavy industrial uses, is unclear in its intent.	As written, this policy appears to express a preference for heavy industrial uses, and contemplates the need for restrictions that would avoid introducing uses incompatible with heavy industrial uses. That approach is inconsistent with the character of the majority of Richmond Hill’s Employment Lands and with existing planning policies that require high performance standards and fully-enclosed employment uses in most such locations.

DRAFT OFFICIAL PLAN – MATTERS OF CONCERN (continued)	DISCUSSION OF CONCERNS (continued)
50. Section 4.8.1.1 (page 4-27) sets out the land use policies for the Employment Area designation, and Section 4.8.2.1 (page 4-30) for the Employment Corridor designation.	Both designations are more restrictive than those approved by the OMB for the Employment Corridor designation of certain parcels of land located in the southwest quadrant of Leslie and 19th Avenue and at the southeast corner.
MESPs and Servicing	There are differences in terminology in the draft OP in contrast to the approved secondary plan policies. "Natural heritage evaluation" is a term used in the ORMCP in describing studies required in certain locations or circumstances, and that is how it is used in the Secondary Plan. In the Draft OP, the term natural heritage evaluation is applied much more frequently and covers many types of studies, including what the Secondary Plan calls an Environmental Impact Statement (EIS). Among others, Sections 3.1.9.1.3, 3.1.9.1.6, 3.1.9.1.7, 3.1.9.1.12, 3.2.3.16, 3.4.6.1, 5.23b.vii, 5.23.i, 5.24.h and 5.24.k raise concerns because of lack of clarity and/or inconsistency with the North Leslie Secondary Plan. In those instances where the North Leslie Secondary Plan does include policies dealing with MESP, study requirements and servicing matters addressed in these sections of the Draft OP, then the Secondary Plan should prevail over OP policies. Nevertheless, if inconsistencies can be identified and dealt with, the potential for interpretation problems or confusion may be lessened.
51. The Draft OP has MESP policies in several sections, notably Section 3.1.9.3 (page 3-16) and Section 5.23 (page 5-25). In addition, there are many other studies and reports required to be incorporated in MESPs, including hydrological, hydrogeological and geotechnical analysis, natural heritage evaluation, transportation study, noise and vibration study, etc. Other sections deal with servicing standards, allocations and other matters.	

DRAFT OFFICIAL PLAN - MATTERS OF CONCERN (continued)	DISCUSSION OF CONCERNS (continued)
Policies not included in North Leslie Secondary Plan	
52. Since some policies of the Draft OP are topics not covered in the agreed-upon North Leslie Secondary Plan, those policies may be considered to apply. The following are examples of policies in this category.	In the absence of a fuller transition provision to properly recognize the approved status of the North Leslie Secondary Plan, these and other policies of the Draft OP are of concern.
53. Section 3.1.5.3 (page 3-9) requires that a minimum of 25% of new housing within the settlement area be affordable housing units. Affordable is defined using the definition of the 1997 PPS.	However, in the 2005 PPS, that definition was deleted, as was the direction that municipalities establish minimum targets for affordable housing. Instead, the 2005 PPS only requires that provisions be made for a full range of housing types by, among others, "encouraging housing forms and densities designed to be affordable to moderate and lower income household" <i>[Policy 1.2.1 c]</i>
54. Sections 3.2.3.6, 3.2.3.7 and 3.2.3.8 (pages 3-51 & 3-52) set out policies for dealing with Climate Change.	While not expressed as mandatory requirements, these sections are very broad and open ended, and therefore uncertain as to intent and practical effect
55. As part of the policies for Local Food Production, Section 3.2.3.10 (page 3-52) singles out high density residential developments for encouragement to provide growing space, solar access and rainwater harvesting.	Again, while not mandatory, the intent and practical effect of this section is unclear.
56. Sections 3.2.3.25 through 3.2.3.36 (page 3-54 & 3-55) provide for a number of energy efficiency and water efficiency measures.	Some of these are encouragement, but others appear to be mandatory requirements which, in the absence of Secondary Plan content, could be deemed to apply to North Leslie.

DRAFT OFFICIAL PLAN – MATTERS OF CONCERN (continued)	DISCUSSION OF CONCERNS (continued)
57. Section 5.1.4 (page 5-1 & 5-2) sets out a long list of matters to be included in “new Secondary Plans”. Although most of the items listed are incorporated in the North Leslie Secondary Plan, some are not, including: “n. Policies related to Transportation Demand Management and parking including policies for the provision of cash-in-lieu of parking and structured or underground parking facilities; o. Necessary investments required for the Secondary Plan area, including requirements for transportation, infrastructure and municipal water and sewage services; p. Investigate the feasibility of incorporating a district heating or cooling system; q. The timing and phasing of build-out within the Secondary Plan area; and r. A strategy to implement the affordable housing policies of this Plan.”	As written, the Draft OP does not recognize the North Leslie Secondary Plan as an existing approved Secondary Plan. The raises concerns of an attempt to re-open aspects of the agreed-upon Secondary Plan with respect to the matters identified in these sections.
58. Section 5.2 (page 5-4) provides that Tertiary Plans prepared by the Town or Concept Plans prepared by an applicant may be required prior to development approval. In those cases, Section 5.2.2 requires that: “Applications for <i>development</i> shall be consistent with a Tertiary Plan or Concept Plan approved by Council and in accordance with the policies of this Plan.”	There is no such provision in the North Leslie Secondary Plan. The requirement that applications be consistent with the Tertiary Plan or Concept Plan is another example of an inappropriate policy, in that a non-statutory document would be used as though it were policy.
59. Section 5.3 identifies the requirements for complete applications. While many of these are carried forward from OPA 245, there are also a number of additional or changed requirements, some of which are of concern.	Among other items, the following submission requirements are of concern: ▪ “Environmental/Natural Heritage” study requirements of Section 5.3.7.a for the “Greenway System” are of concern with respect to the inappropriate inclusion of SWMPs in the Greenway System, as discussed in

DRAFT OFFICIAL PLAN – MATTERS OF CONCERN (continued)	DISCUSSION OF CONCERNS (continued)
	paragraphs 24 and 26 above. ▪ In Section 5.3.7.g “Watershed Plans” are referenced as Provincial Policy Statements and Guidelines, but to our awareness the Province has issued no such plans having application in Richmond Hill. ▪ Section 5.3.7.g requires an applicant to submit a “Tertiary Plan or Concept Plan”, but in this context Tertiary Plan doesn’t fit since, according to Section 5.2.1.a, Tertiary Plans are documents prepared by the Town
Other items	
60. The provisions for Noise and Vibration Analysis in Section 3.1.9.7.4 (page 3-18) include the following unreasonably onerous requirement: “The Noise and Vibration Analysis shall: c. Incorporate appropriate mitigation measures to <u>minimize incompatibility</u> between land uses to the satisfaction of the Town, in consultation with York Region, where applicable ...”	The requirement “to minimize incompatibility” implies an open-ended obligation to provide any and all mitigation measures whatever the cost or impact on other objectives. Rather, the test should be “to provide a compatible relationship”.
61. Section 3.2.1.2.25 (page 3-33) provides that: “Development or site alteration shall not be permitted within woodlands greater than 2 hectares that are not <i>significant woodlands</i> identified on Schedule A4 (Key Natural Heritage Features and Key Hydrological Features) to this Plan or identified through a Natural Heritage Evaluation in accordance with Section 5.24 of this Plan.”	This restriction exceeds that of the PPS, since it is dealing with non-significant woodlands.
62. Among the Transit policies of the Draft OP, Sections 3.5.3.5 and 3.5.3.6 (page 3-85) seek to impose on development new requirements to protect and provide land for transit:	This is inconsistent with the approved North Leslie Secondary Plan., which contains no such requirements.

DRAFT OFFICIAL PLAN – MATTERS OF CONCERN (continued)	DISCUSSION OF CONCERNS (continued)
“3.5.3.5 <i>Development</i> shall be designed to protect for the transportation system including any planned improvements to public transit rights-of-way as part of the requirements for <i>development</i> applications, MESPs and Secondary Plans.” “3.6.3.6 <i>Development</i> may be required to provide, at no public expense, the dedication of public transit rights-of-way and lands for related facilities for the purpose of implementing the regional transit network.”	
63. Sections 4.8.1.1.4 (page 4-27) and 4.8.2.1.4 (page 4-31) provide, in part, that: “Sensitive land uses shall not be permitted to locate near significant known air emissions sources such as controlled access Provincial 400-series highways.”	While this policy occurs in the Employment sections, it makes an unreasonably categorical statement that could potentially create problems. Sensitive land uses are given a very broad definition that would include not only residential or school uses near Highway 404 (as in Bawden-Wood) but potentially amenity areas associated with hotel or office uses. Proximity to Highway 404 is too open-ended a criteria.
64. Section 4.10.4.1.7 (page 4-47) provides for very restrictive zoning of Greenbelt Plan Protective Countryside designations: “Prohibited uses in the Greenbelt Protected Countryside area shall include any urban use or any use associated with, <i>accessory</i> to, or serving, an urban use, such as schools, community centres, arenas, libraries, parks, condominiums and subdivisions.”	This section is unreasonably restrictive in terms of uses that could appropriately be made of tableland areas of the Greenbelt Plan Protected Countryside.
65. Section 5.22.3 b (page 5-24) requires monitoring with respect to progress towards targets, stated as: “An average minimum density of 50 residents and jobs per hectare in the <i>developable area</i> within the <i>designated greenfield areas</i>.”	This section should be <u>amended</u> for consistency with the Growth Plan, so as to read: “An average minimum density of 50 residents and jobs per hectare in the <i>developable area</i> within the <i>designated greenfield areas across the Region</i>”

DRAFT OFFICIAL PLAN - MATTERS OF CONCERN (continued)	DISCUSSION OF CONCERNS (continued)
66. Some of the definitions in Section 7.2 of the Draft OP are not consistent with terminology used in the North Leslie Secondary Plan: ▪ "High-Rise means buildings or structures with a height of 9 storeys or greater" ▪ "Low Density Residential means single-detached, semi-detached, and/or duplex forms of dwellings", ▪ "Medium Density Residential means triplex, fourplex, townhouse, or multi-unit apartment forms of dwelling units" ▪ "Major Office" and "Office" are defined as above or below 10,000 sq.m in floor space	The North Leslie Secondary Plan contemplates low to mid-rise buildings in the Medium/High Density Residential designation, with a height limit of 10 storeys. In Low Density Residential, the Secondary Plan also permits triplex, quadraplexes, street townhouses and other low density housing types which are ground oriented. Secondary Plan permits a wider range of dwelling types also including detached, semi-detached, duplex, quadraplexes, street townhouses, block townhouses, back to back townhouses and other low rise housing forms. The Secondary Plan has no such limits.

6810142.1

AIRD & BERLIS LLP

Barristers and Solicitors

Patricia A. Foran
Direct: 416.865.3425
E-mail: pforan@airdberlis.com

July 9, 2010

Our File No. 103864

BY EMAIL: officialplan@richmondhill.ca

Mayor and Members of Council
c/o Official Plan
Planning & Regulatory Services Department
Town of Richmond Hill
225 East Beaver Creek Road
Richmond Hill, ON L4B 3P4

Dear Sirs and Mesdames:

**Re: Draft Richmond Hill Official Plan – May 6, 2010
Staff Report dated June 30, 2010**

We are the solicitors for the North Leslie Residential Landowners' Group Inc. (the "Group").

We are writing in response to the Staff Report dated June 30, 2010. We have now had an opportunity to review the proposed changes to the draft Official Plan. Our client is very disappointed that its request for a clear transition clause for North Leslie has not been incorporated by Staff in bringing forward the Official Plan.

We note that Staff suggest at p. 171 of the June 30 Staff Report that secondary plans prevail over the Official Plan with only one exception (section 3.3). We believe that the Plan, as currently drafted, may be interpreted differently. For example, proposed section 3.1.8.2 is an additional exception where a secondary plan does not prevail over the policies in the Official Plan. The inconsistencies underscore the importance of ensuring that prior to adoption the Official Plan is modified to express in clear terms the primacy of secondary plans such as OPA 257 for North Leslie. In our letter to the Town dated June 7, 2010, we have set out such language. We would urge Council to amend the Official Plan to reflect this language.

We are very concerned by Staff's suggestion that the Official Plan may be amended later to reflect the secondary plan for North Leslie. To suggest that a further Official Plan amendment process is required to incorporate the OMB Decisions for the development of this area is unacceptable. We circulated to your legal counsel a final version of OPA 257 on June 18, 2010 to facilitate the issuance of a Board Order. We were advised last week that your Staff will not review same. This is counter-productive and leaves our clients in a position where their only option is to appeal the Town's Official Plan. This is most unfortunate and we would suggest that there is an opportunity at this juncture to have the Official Plan modified first, to reflect the North Leslie policies, before proceeding to adoption.

July 9, 2010
Page 2

Yours truly,

AIRD & BERLIS LLP


Patricia A. Foran
PAF/jag

- c. Donna McLarty, Town Clerk, Town of Richmond Hill
North Leslie Residential Landowners' Group
W. Sorensen, Sorensen Gravely Lowes

6928523.1