



Report to: Development Services Committee

Meeting Date: February 8, 2021

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**SUBJECT:** City of Markham Comments to the Province on a Minister's Zoning Order request by Flato Developments Inc. to permit residential development on lands at 5474 and 5662 19<sup>th</sup> Avenue (Ward 2)

**PREPARED BY:** Liliana da Silva, R.P.P., M.C.I.P., Senior Planner, Policy & Research (x. 3115)

**REVIEWED BY:** Darryl Lyons, R.P.P., M.C.I.P., Manager of Policy, Policy & Research (x. 2459)  
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**RECOMMENDATION:**

- 1) That the report entitled, "City of Markham Comments to the Province on a Minister's Zoning Order request by Flato Developments Inc. to permit residential development on lands at 5474 and 5662 19<sup>th</sup> Avenue (Ward 2)", dated February 8, 2021, be received;
- 2) That this report be forwarded to the Ministry of Municipal Affairs and Housing, York Region, and the Town of Whitchurch-Stouffville as the City of Markham's comments on the Minister's Zoning Order (MZO) request submitted by Flato Developments Inc. for 5474 and 5662 19<sup>th</sup> Avenue;
- 3) That the City of Markham not support the Minister's Zoning Order (MZO) request by Flato Developments Inc., for the lands at 5474 and 5662 19<sup>th</sup> Avenue and that the expansion of Markham's urban boundary needed to accommodate the development be considered instead through York Region's current Municipal Comprehensive Review;
- 4) Should the Minister determine it appropriate to issue an MZO, it is recommended that the Minister consider the zoning standards in Appendix 'D' attached to this staff report;
- 5) And further that staff be authorized and directed to do all things necessary to give effect to this resolution.

**PURPOSE:**

This report provides City of Markham's comments on a request for a Minister's Zoning Order (MZO) by Flato Developments Inc. (Flato) to permit 325 to 485 single-detached dwellings, 190 to 380 townhouses, and two 6-8 storey apartment buildings of 240 to 320 units on lands at 5474 and 5662 19<sup>th</sup> Avenue in northeast Markham.

**BACKGROUND:****The Ministry of Municipal Affairs and Housing has asked the City of Markham for comments on a Minister's Zoning Order request from Flato Developments Inc.**

The *Planning Act* authorizes the Minister of Municipal Affairs and Housing to issue an MZO to control the use of land anywhere in Ontario. MZOs prevail over local Official Plans and zoning by-laws, and they are intended to be used to protect matters of provincial interest. A minister's decision on an MZO application is required to be consistent with the Provincial Policy Statement in accordance with the *Planning Act*.

On January 5, 2021, the Ministry of Municipal Affairs and Housing requested City of Markham comments on a November 2020 request by Flato for an MZO to permit residential development on 32 hectares of lands municipally known as 5474 and 5662 19<sup>th</sup> Avenue. The Flato MZO request is attached as Appendix 'A' and Ministry request for comments is attached as Appendix 'B'. The subject lands are shown in Figure 1.

**Site and Area Context**

The subject lands are generally located east of McCowan Road, and north of 19<sup>th</sup> Avenue, wholly within the City of Markham. The request is to permit 325 to 485 single-detached dwellings, 190 to 380 townhouses, and two 6-8 storey apartment buildings containing a total of 240 to 320 units.

The subject lands are to the south and west of two recent MZOs granted to Flato, also shown in Figure 1, one of which included approximately 3.5 ha in Markham near Highway 48. MZO O.Reg. 172/20 permits 353 dwelling units on 8.4 hectares in Whitchurch-Stouffville, and an additional 154 units on 3.5 hectares within the City of Markham. Markham Council supported that proposal on the basis that the MZO require a range of a minimum of 120 to a maximum of 500 purpose built rental seniors units and 34 market ownership townhouse units with accessible ground floor secondary suites; and that Flato be requested to work with the City of Markham to incorporate various housing types including but not limited to bungalow, duplexes, bungalow townhouses, etc.

A second MZO O.Reg. 610/12, was approved in November 2020 for approximately 60.14 hectares of lands owned by Flato in the Town of Whitchurch-Stouffville located to the north and west of the April 2020 MZO lands. The November 2020 MZO permits residential development (estimated at approximately 1,964 units) of various densities along with retail and service commercial uses. According to the August 25, 2020, Whitchurch-Stouffville Council staff report, the November MZO could yield approximately 151 to 238 single-detached dwelling units in the low-density residential areas, 373 to 995 units within the medium density residential area and 418 to 731 units within the high density residential and mixed use areas. A park, a school, mixed-use areas and a neighbourhood commercial block are proposed to provide for local retail, neighbourhood service commercial and employment opportunities for the community.

Both of these approved MZOs are within the study area of the Whitchurch-Stouffville Highway 48 Visioning Exercise, the purpose of which was to identify potential areas of

future urban boundary expansion in Whitchurch-Stouffville. Given the approval of the MZOs, the scope of the study has been recently changed to that of a land use planning study. Markham staff has been participating in the study and will be reporting back to Markham Development Services Committee with an update on the nature of the change of scope and direction for continued staff involvement.

**Proposal**

The MZO request is seeking development permissions in accordance with the Residential One (R1) Zone, Residential Two (R2) Zone, Residential Four (R4) Zone, and Open Space (OS1) Zone in By-law 177-96, with the exceptions to allow the following:

- minimum lot frontage of 11.5 metres and minimum lot area of 345 square metres in the R1 Zone;
- minimum lot frontage on a lot not accessed by a lane of 6 metres and maximum height of 12 metres in the R2 Zone; and
- minimum rear yard setback of 11 metres and number of apartment dwelling units of between 120 minimum and 500 maximum in the R4 Zone.

Figure 2 provides the proposed zoning within the subject lands.

**Official Plan and Zoning**York Region Official Plan 2010

The lands within the Flato MZO request are designated Agricultural Area in the York Region Official Plan (YROP) and outside of the Urban Area. According to the YROP lands outside of the Urban Area can only be considered for urban development through a Municipal Comprehensive Review (MCR).

Markham Official Plan, 2014

The subject lands are designated 'Countryside' and 'Greenway' in the Markham Official Plan (see Figure 1). The lands are located outside of the City's urban boundary and are identified as prime agricultural lands to be used mainly for agricultural uses. Markham's Official Plan policies state that expansions to the urban area shall only be initiated in conformity with the Growth Plan and YROP.

In both the YROP and Markham Official Plan the lands are identified as lands outside the urban area and outside the Greenbelt Plan Area, which could potentially be identified for urban development through a future MCR.

Zoning

The subject lands are zoned A1 (Agriculture) and RR4 (Rural Residential) in zoning by-law 304-87, as amended.

**DISCUSSION:****The MZO request is premature pending completion of York Region's MCR**

York Region is undertaking an Official Plan Review through an MCR to plan for population and employment growth to 2051 in conformity with Provincial Plans including the Growth Plan, Greenbelt Plan, and Oak Ridges Moraine Conservation Plan.

A component of the MCR is a lands needs assessment that considers how the Growth Plan population and employment forecast for York Region to 2051 should be allocated to the nine local municipalities. Taking into account the minimum intensification target identified in the Growth Plan, minimum targets for designated greenfield areas and employment areas, as well as infrastructure needs, the land needs assessment determines how much growth can be accommodated within the current urban boundary and how much, if any, additional land is needed through urban boundary expansions. Undertaking a land needs assessment at a Region-wide scale ensures a comprehensive approach to growth management in an effort to, among other things, ensure efficient use of existing and future infrastructure.

York Region is expected to release a draft land needs assessment for consultation in the coming months which will identify the need and appropriate location for any required urban boundary expansion in Markham or elsewhere in the Region to 2051. Once the draft land needs assessment and forecast for Markham is released, Markham Council will consider the implications of the forecast on a City-wide basis.

As the lands with the Flato MZO request are outside the urban boundary and Markham Council has not yet considered how growth to 2051 should be directed, Markham staff is of the opinion that the request is premature pending completion of York Region's MCR and recommends that Council not support the Minister issuing an MZO in this location.

Notwithstanding the consideration of whether the subject lands are needed, or in the appropriate location to accommodate future growth, any development approvals should be done within the context of a comprehensive study (e.g., a secondary plan) for the area to ensure that appropriate infrastructure and public amenities are available to future residents of these lands. This includes, among other things, the protection and enhancement of natural heritage features, availability of an appropriate transportation network and servicing, and adequate and appropriately located community facilities such as parks and open space, schools, community centres and libraries. City of Markham staff have not had the opportunity to sufficiently evaluate any of these requirements to date. As an example, preliminary municipal servicing concepts propose that municipal drinking water be supplied from Whitchurch-Stouffville. Staff will therefore need further discussions with Legal, the Town and the Region to discuss cross border servicing issues and to confirm compliance with current legislation including the *Municipal Act*.

**Recommendation #1:** That the City of Markham not support the Minister's Zoning Order (MZO) request by Flato Developments Inc., for the lands at 5474 and 5662 19<sup>th</sup>

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Avenue and that the requested urban boundary expansion be considered instead through York Region's current Municipal Comprehensive Review.

**Should the Minister determine it appropriate to issue an MZO, it is recommended that the Minister consider zoning standards in Appendix 'D' attached to this staff report**

Although staff does not support the Flato MZO request for the reasons stated above, the draft MZO from Flato has been reviewed and revisions are recommended to address the following matters:

- That the townhouses be distributed throughout the R1 and R2 designations in the Flato draft MZO to facilitate on-street parking, street tree planting and more appropriate streetscape;
- That the R1 designation be replaced with R2 designations, with uses restricted to only single-detached dwellings, townhouse dwellings, accessory dwelling units, home child care, and home occupations. The proposed R1 designation is not appropriate as it is more typically applied to areas that transition from larger lot developments to urban area developments. The introduction of restricted uses under the R2 designation is in line with City's design principles of two car garages on 11.6 metre lots, and would give flexibility to include housing mix smaller than 9 metre wide single-detached dwellings with single car garages; and
- The Open Space zones be revised to reflect the Greenway designation in the Markham Official Plan, 2014.

For details of the above staff recommended revisions to the draft MZO, refer to Appendix 'D' of the staff report.

**Recommendation #2:** Should the Minister determine it appropriate to issue an MZO, it is recommended that the Minister consider the zoning standards in Appendix 'D' attached to this staff report.

**NEXT STEPS:**

Staff recommends that this report be forwarded to the Ministry of Municipal Affairs and Housing, to York Region, and to the Town of Whitchurch-Stouffville as the City of Markham's comments on the Minister's Zoning Order request by Flato Developments Inc. at 5662 and 5474 19<sup>th</sup> Avenue.

**HUMAN RESOURCES CONSIDERATIONS:**

Not applicable.

**FINANCIAL CONSIDERATIONS:**

Not applicable.

**ALIGNMENT WITH STRATEGIC PRIORITIES:**

The MZO request is not consistent with the Markham Official Plan 2014 which is captured in Goal 3, "Safe, Sustainable and Complete Community", Building Markham's Future Together, 2020-2023.

**BUSINESS UNITS CONSULTED AND AFFECTED:**

Planning and Urban Design, Engineering and Legal Departments were consulted on this report.

**RECOMMENDED BY:**

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**Biju Karumanchery, R.P.P., M.C.I.P.**  
**Director, Planning and Urban Design**

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**Arvin Prasad, R.P.P., M.C.I.P.**  
**Commissioner of Development Services**

**ATTACHMENTS:**

Figure 1: Location of Approved and Requested Minister's Zoning Orders by Flato Developments Inc.

Figure 2: Draft Minister's Zoning Order Zoning from Flato Developments Inc.

Appendix 'A': Minister's Zoning Order Request from Flato Developments Inc.

Appendix 'B': Comment Request Letter from Ministry of Municipal Affairs and Housing

Appendix 'C': Draft Minister's Zoning Order from Flato Developments Inc.

Appendix 'D': City of Markham Staff Recommended Edits to Draft Minister's Zoning Order from Flato Developments Inc.