

SUBJECT: RECOMMENDATION REPORT
Scardred 7 Company Limited
3940 Highway 7 (north side, west of Village Parkway)
Applications for Official Plan and zoning by-law
amendments to permit a townhouse development
File Nos.: OP/ZA 15 128977

PREPARED BY: Scott Heaslip, M.C.I.P., R.P.P., Senior Project Coordinator
Central District, ext. 3140

REVIEWED BY: Richard Kendall, M.C.I.P., R.P.P., Manager,
Central District, ext. 6588

RECOMMENDATION:

- 1) That the staff report dated May 24, 2016, titled "RECOMMENDATION REPORT, Scardred 7 Company Limited, 3940 Highway 7 (north side, west of Village Parkway), Applications for Official Plan and zoning by-law amendments to permit a townhouse development," be received.
- 2) That the applications be denied.
- 3) That Staff be authorized and directed to do all things necessary to give effect to this resolution.

EXECUTIVE SUMMARY:

Not applicable.

PURPOSE:

The purpose of this report is to review applications to amend the City's Official Plan and zoning by-law to permit a townhouse development in place of the currently permitted apartment development on the north side of Highway 7, west of Village Parkway. The staff recommendation is that the applications be denied on the basis that the required "down zoning" is not in keeping with policy objectives for the Highway 7 intensification corridor as outlined in this report.

BACKGROUND:**Subject Property and Area Context (Figures 1 and 3)**

Scardred 7 Company Limited owns a 2 hectare (4.9 acre) property on the north side of Highway 7, west of Village Parkway. The property was previously occupied by a 1½

storey brick dwelling, which has been demolished. The subject applications apply to the southerly portion of the property, having an area of 0.6 hectares or 1.5 acres.

Surrounding uses to the Scardred 7 Company property are:

- To the east, vacant lands owned by the Wyview Group which have been cleared in preparation for development consisting of an 8-storey apartment building and 72 townhouses.
- To the north, single detached homes fronting on Landmark Court and backing onto the Scardred 7 Company property.
- To the west, a property which is occupied by two older bungalows which are being used for office uses, and a vacant warehouse building, formerly occupied by J B and D Company, a distributor of lawn care and farming products. This property is subject to applications for Official Plan and zoning by-law amendment and draft plan of subdivision. The owner is proposing an 8-storey apartment building(s) fronting on Highway 7, with park and school blocks to the north.
- To the south across Highway 7, a newly constructed 8-storey condominium apartment development within the Times Group's Uptown Markham development.

The subject lands currently have permission for a 228 unit apartment/townhouse development

In August, 2013, the Ontario Municipal Board (OMB) approved a site specific amendment to Secondary Plan PD1-15 [Amendment No. 15 to the "in force" Official Plan (Revised 1987)], a corresponding zoning by-law amendment, and conditions of draft plan of subdivision permitting the Scardred 7 property to be developed as follows:

- South block (the subject lands) - a maximum of 228 dwellings units, **of which a maximum of 19 may be townhouse units** (bolding added) and the remainder apartment units in a building having a maximum height of eight storeys.
- Centre block - Up to 36 townhouse units.
- North block - single detached dwellings (these permissions pre-date the 2013 OMB decision). The conditions of draft approval require this block to be set aside for acquisition by the Public School Board.

At the same hearing, the OMB granted similar approvals for the Lee Developments (now Wyview Group) property between the subject property and Village Parkway and the Times Group property on the east side of Village Parkway. These approvals implemented settlements between Times Group, Lee Developments, Peak Gardens (now Scardred 7 Company Limited) and the City. The minutes of settlement between the Owners and the City address the content of the Official Plan and zoning by-law amendments, the Section 37 payments, servicing allocation, cost sharing, and arrangements for the reconstruction of Village Parkway.

The subject lands are designated "Mixed Use Mid Rise" in the Markham Official Plan 2014 (as partially approved by the OMB on October 30, 2015). This designation permits a range of residential building types with heights ranging from 3-8 storeys and a

maximum overall density of up to 2.0 FSI (floor space index). While the development proposed by the applicant conforms with these general policies, the Official Plan 2014 includes a site specific policy incorporating the approvals granted by the OMB in 2013, which are in effect. The development proposed by the applicant does not conform with the site specific policy, which supersedes the general policies of the Official Plan.

The applicant is proposing to develop the subject lands with 47 townhouse units and no apartment units

The applicant has applied to amend the City's Official Plan and zoning by-laws to permit the south block to be developed exclusively with townhouses, whereas the Official Plan and zoning by-law amendments approved by the OMB permit a 228 unit apartment/townhouse development including a maximum of 19 townhouse dwelling units.

The plan submitted with the applications (Figures 4 and 5) show a total of 47 condominium townhouses. The 8 units facing onto Highway 7 are proposed to be 5-storeys high. The remaining 39 units are proposed to be 3 storeys high, consistent with the townhouses proposed for the centre block.

The proposed development would require amendments to the "in force" Official Plan (Revised 1987), the Official Plan 2014 (as partially approved by the OMB on October 30, 2015) and Zoning By-law 118-79, as amended.

The Legal Services Department is currently processing a subdivision agreement pursuant to the OMB approved conditions of draft approval. The applicant has applied for site plan approval for the 36 townhouses in their centre block. Staff are targeting a recommendation report on this application to Development Services Committee in June.

COMMENT:

Staff have significant concerns with the request to "down zone" the subject lands

Staff's concerns include:

- The proposed townhouse development is not consistent with the City's development objectives established for this section of Highway 7 through the City-led Highway 7 Precinct Plan Study, as follows:
 - To transform Highway 7 from an "inter-regional highway" to a "mid-rise urban boulevard."
 - To ensure an appropriate interface with the established residential community to the north.
- All of the subsequent development approvals in this area, including Times Uptown Markham and Sheridan Nurseries (now Wyview) on the south side of Highway 7, and Times, Lee (now Wyview) and Peak Gardens on the north side of Highway 7, were consistent with the City's development objectives.

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- An 8-storey apartment building would contribute to the desired character of Highway 7 as a “mid-rise urban boulevard,” whereas the proposed townhouses would detract from the desired character of Highway 7.
 - York Region is currently reconstructing this section of Highway 7, including widening to 6 lanes, designation of the curb lanes for HOV (high occupancy vehicles) and transit (including VIVA), the introduction of off-road bicycle lanes, and the urbanization of the boulevards with wide sidewalks and planters. An apartment development would be much more supportive of the Regions’ and the City’s TOD (transit oriented development) objectives than the proposed townhouse development.
 - Down zoning to townhouses could set a precedent for down zonings in other areas of the City.
 - Down zoning to townhouses is not supported by York Region Planning staff (York Region comments attached as Appendix “A”)
 - On April 9, 2015, Regional Committee of the Whole considered a staff report analyzing the potential implications of reduced development densities in intensification areas, as identified in the Regional Official Plan and local Official Plans. Specific concerns were identified in the report as follows:
 - Appropriate development densities are required to support city building objectives of Regional centres and corridors and the urban structure articulated in the YROP-2010.
 - Higher density development is required to realize the benefits of investment in rapid transit and other infrastructure.
 - Higher density development built form is consistent with transit oriented development guidelines.
 - Reduced development densities challenge the Region’s ability to meet required intensification targets.
 - The cumulative effect of reduced development densities undermines the Region’s urban structure.
 - Financial implications of reduced development densities (eg. reduced development charges).
 - On April 23, 2015, Regional Council passed the following resolution:
 - “1 Council reiterate its support for high density development in intensification areas, as identified in the Regional Official Plan and local Official Plans.
 - 2 Regional staff be authorized to appear before the Ontario Municipal Board in support of the Region’s position, as required, for all development proposals that seek to reduce approved densities within intensification areas, and that staff inform Regional Council of any and all Ontario Municipal Board proceedings related to this direction.
 - 3 This report be circulated by the Regional Clerk to all local municipalities.”

Staff had the same concerns with the “down zoning” of the Times Group property on the east side of Village Parkway

In 2015, the Times Group applied amend the City’s Official Plan and zoning by-laws to “down zone” to the south block of the Times Group’s lands on the east side of Village Parkway from 393 apartments and 12 townhouses to 55 townhouses and no apartments, subject to a density transfer agreement. Markham and York Region staff had all of the same concerns with this “down zoning” that we have with the subject “down zoning.”

On June 23, 2015, Markham Council approved the Times Group applications subject to the applicant entering into an agreement to guarantee the transfer of the unused density to the lands on the south side of Highway 7, which are also owned by the Times Group. Council gave two readings to the implementing by-laws on June 23, 2015. Third reading of the by-laws did not occur until November 2, 2015, after the applicant had entered into the density transfer agreement required by Council. The opportunity to transfer the unused density to another site owned by the applicant does not appear to apply to the subject applications.

On January 21, 2016 Regional Council approved the amendments to the City of Markham Official Plans. There were no appeals and these amendments and the implementing zoning by-law amendment is now in force.

Public Meeting

A public meeting was held on November 16, 2015 to consider the subject applications. The Committee noted the position of the Region and the City to support higher density that reflects the intensification and transit supportive objectives of the Regional Official Plan. Two residents spoke at the meeting; both supportive of the requested down zoning.

CONCLUSION

For the reasons outlined above, staff are recommending that the subject applications be denied.

We note that the proposed 5-storey townhouse building facing Highway 7 will provide an improved built form relationship to the street. However, this does not address the fundamental concern that the applicant’s townhouse proposal is not in keeping with the City’s development objectives for Highway 7 and is not supported by the policies of the York Region Official Plan.

Staff also note that on May 10, 2016, the Province of Ontario announced proposed amendments to the Growth Plan for the Greater Golden Horseshoe. The proposed amendments would, among other matters increase the minimum amount of residential development to occur within built-up areas (the intensification target). If the proposed amendments to the Growth Plan are implemented, it may become even more important to

achieve higher densities in appropriate locations in order to meet the required intensification targets.

FINANCIAL CONSIDERATIONS AND TEMPLATE:

Not applicable.

ALIGNMENT WITH STRATEGIC PRIORITIES:

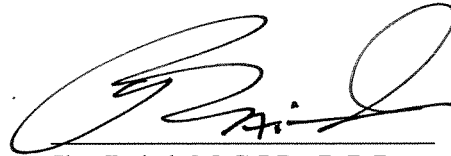
The requested down zoning would conflict with the City's Strategic Priorities, including "Growth Management" and "Transportation and Transit."

BUSINESS UNITS CONSULTED AND AFFECTED:

The proposed development has been circulated to internal City departments and external agencies for review and comment.



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



Jim Baird, M.C.I.P., R.P.P.
Commissioner, Development Services

ATTACHMENTS:

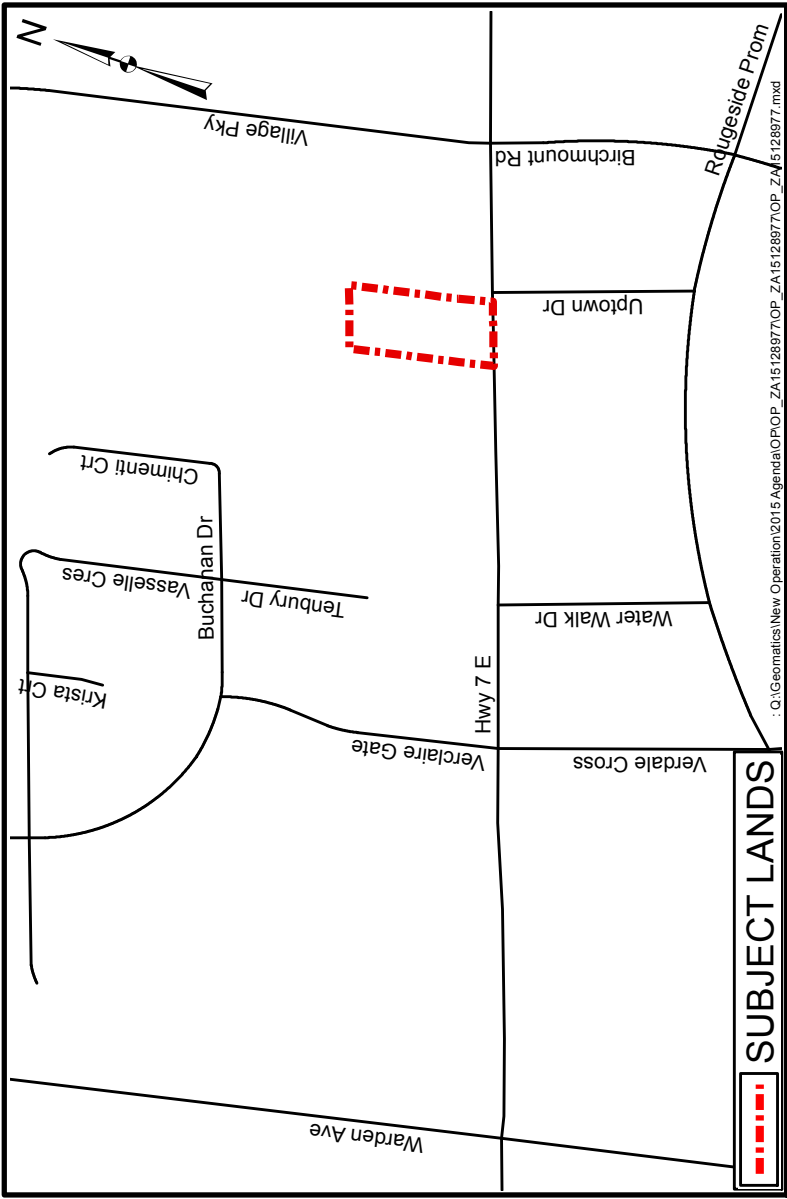
- Figure 1 – Property Location Map
- Figure 2 – Area Context / Zoning
- Figure 3 – Air Photo
- Figure 4 – Site Plan
- Figure 5 – Rendering

Appendix "A" - York Region staff comments dated August 21, 2015

Agent:
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AREA CONTEXT/ZONING

APPLICANT: SCARDRED 7 COMPANY

3940 HIGHWAY 7

FILE No:OP/ZA15128977

 SUBJECT LANDS

 SCARDRED 7 COMPANY PROPERTY


DATE:08/11/15



AIR PHOTO 2015

APPLICANT: SCARDRED 7 COMPANY
3940 HIGHWAY 7

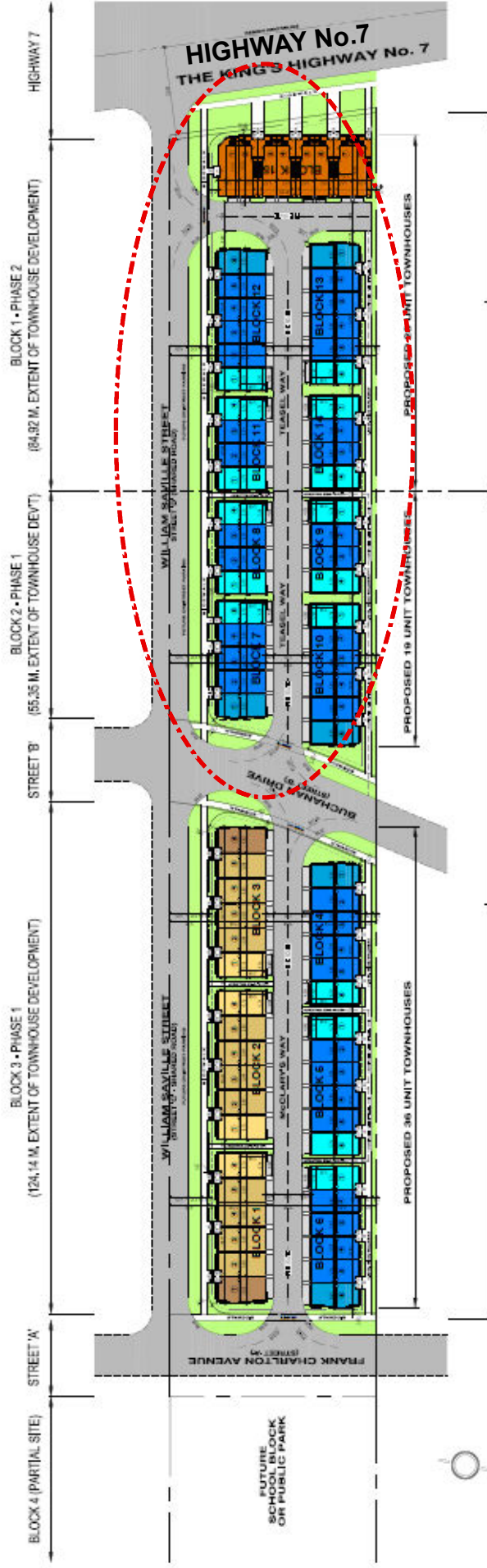
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 SUBJECT LANDS

 SCARDRED 7 COMPANY PROPERTY

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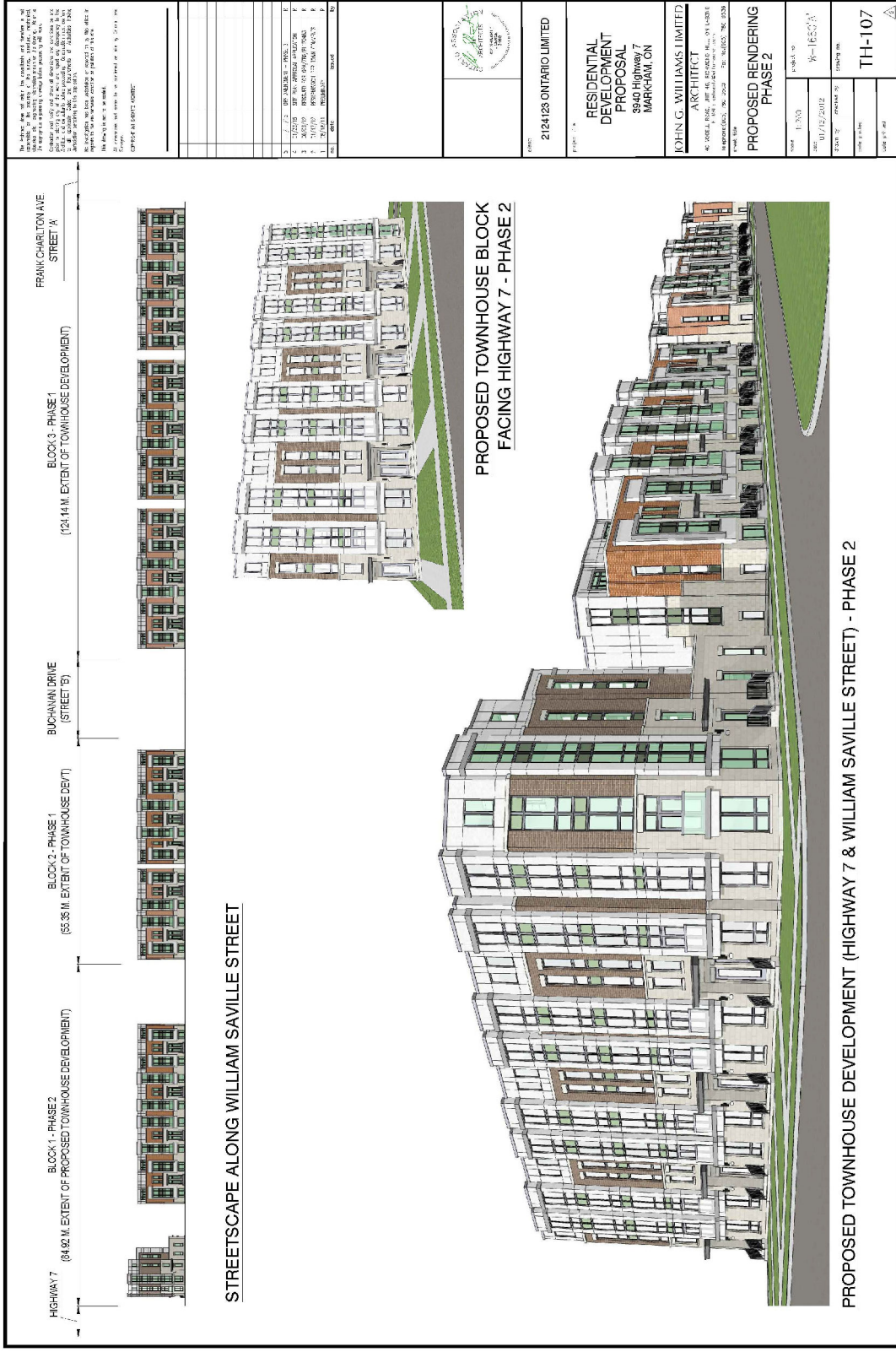


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PROPOSED SITE PLAN

APPLICANT: SCARDRED 7 COMPANY
3940 HIGHWAY 7

FILE No:OP/ZA15128977



RENDERING

APPLICANT: SCARDRED 7 COMPANY
3940 HIGHWAY 7

FILE No:OP/ZA15128977

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APPENDIX "A"

Corporate Services

August 21, 2015

Mr. Ron Blake
Acting Senior Development Manager
Development Services Commission
City of Markham
101 Town Centre Boulevard
Markham, Ontario
L3R 9W3

Attention: Scott Heaslip

**Re: Proposed Official Plan Amendment OP 15 128977
Scardred 7 Company Limited
3940 Highway 7
City of Markham**

Regional staff have reviewed the draft Official Plan Amendment for the above referenced application. The subject lands, which are approximately 1.5 hectares in size, are municipally known as 3940 Highway 7 and are located on the north side of Highway 7, west of Village Parkway in the City of Markham.

The general purpose of the proposed application is to amend Official Plan Amendment No. 212 to permit the proposed development of 47 townhouse units, including 8 stacked townhouse units, and building heights ranging from 3 to 5 storeys.

Background

The subject lands were previously subject to a proposed Official Plan Amendment OP 07 134436, which sought an "Urban Corridor High Density 1" designation to permit an 8-storey 254 unit apartment building.

The application OP 07 134436 was appealed to the Ontario Municipal Board (OMB) where the appeal was allowed and the Board subsequently approved Amendment No. 212 (OPA 212) to the Official Plan of the City of Markham on August 28, 2013. OPA 212 designates the subject lands as "Urban Residential High Density 1" and permits a maximum of 228 dwelling units, of which up to 19 of the dwelling units may be townhouse units. All other dwelling units shall be apartment units in one building having a maximum building height of 8-storeys and a maximum Floor Space Index (FSI) of 3.5.

City of Markham Official Plan (2014)

In June 2014, York Region Council issued its decision to modify and approve the new City of Markham Official Plan. The Region's decision was subsequently appealed to the OMB by various parties.

The new City of Markham Official Plan (2014) designates the subject lands as “Mixed Use Mid Rise”. The intent of this designation is to “encourage intensification that supports existing and planned transit services” and that “residential development be integrated with mixed-use development and will be supportive of retail and service activities”. In addition, it is envisioned that development will provide a minimum building height of 3-storeys, a maximum building height of 8-storeys, and a maximum FSI of 2.0.

Further, the lands are subject to area and site-specific use policies under Section 9 of the new Official Plan. Section 9.19.9(b)(ii) provides that no more than 228 dwelling units shall be permitted on the lands, which may comprise up to 228 apartment units and up to 19 townhouse units.

York Region Official Plan (2010)

The York Region Official Plan was modified and approved by the Minister of Municipal Affairs and Housing on September 7, 2010 and was subsequently appealed to the Ontario Municipal Board (OMB). As of June 20, 2013, a majority of the policies of this Plan have been approved by the OMB. This Plan provides direction on economic, environmental and community building policies in York Region to 2031.

The subject lands are within the ‘Urban Area’ designation as shown on Map 1 – Regional Structure of the York Region Official Plan. Permitted uses within this designation include a wide range of residential, industrial, commercial and institutional uses. The subject lands are also located adjacent to Highway 7, which is identified on Map 11 – Transit Network, as part of the Regional Transit Priority Network. Lands located immediately south of the subject lands form part of Markham Centre - a Regional Centre and strategically significant intensification area.

Policy 3.5.23 of the Regional Official Plan is approved save and except for outstanding site-specific appeals. It is noted that there are no site specific appeals of this policy or any other policy of the Regional Official Plan related to the subject lands. Policy 3.5.23 prohibits the approval of an official plan amendment or zoning by-law amendment that “would have the effect of reducing the density of a site in areas that have been approved for medium- or high-density development, unless the need is determined through a municipal comprehensive review”. It is noted that the new City of Markham Official Plan represents the City’s municipal comprehensive review.

Summary

The Highway 7 corridor adjacent to the subject lands, while not an identified “Regional Corridor”, is a strategically important component of the Region’s transportation and transit network. The policy intent woven throughout the Regional Official Plan is to support and encourage intensification and transit oriented development where appropriate. It is our opinion that the effect and intent of the proposed amendment is to seek approvals for a concept of development whose density is significantly less than what

was envisioned by the City and York Region, and which was previously approved by the OMB in 2013.

Regional staff are in receipt of a Planning and Urban design Justification Report dated March 2015, in support of the proposed development. This report did not address the proposal's conformity to Policy 3.5.23 of the Regional Official Plan. Accordingly, staff request that the applicant provide an addendum to the report addressing the proposed amendment's conformity to Policy 5.3.23 of the Official Plan.

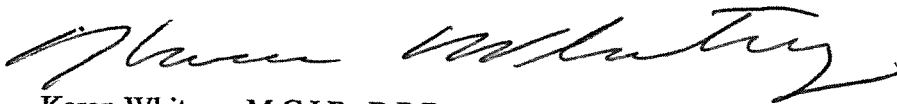
At its meeting of April 23, 2015, York Region Council adopted the recommendations of Clause 9 in Report No. 7 of Committee of the Whole, in which Council reiterated its support for high density development in intensification areas, as identified in the Regional Official Plan and local Official Plans. This report highlights the importance of planning and delivering high and medium density development to ensure that "investments in infrastructure and services, including rapid transit, are supported by appropriate corresponding levels of development density". This report identified a number of proposals and pre-applications (including this application), actively seeking permissions to facilitate reductions in development densities.

Given the proximity of the subject lands to an identified Regional Transit Priority Network, Regional Centre and Provincial Urban Growth Centre, Regional staff encourage the applicant to revise their application to achieve an intended density of development more reflective of the intensification and transit supportive objectives of the Regional Official Plan.

Regional staff welcome this opportunity to work with the City and the applicant towards a development proposal more in-keeping with these objectives.

Please contact Josh Reis, Planner, at 905-830-4444 ext. 71515 or by email at josh.reis@york.ca, should you have any questions.

Sincerely,



Karen Whitney, M.C.I.P., R.P.P.
Director of Community Planning and Development Services

JR/