
AIRD & BERLIS LLP

Barristers and Solicitors

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

March 13, 2013

Our File No. 115947

BY EMAIL

Margaret Wouters
Senior Manager, Policy & Research
City of Markham
Markham Civic Centre
101 Town Centre Boulevard
Markham, ON L3R 9W3

Dear Ms. Wouters:

Re: City of Markham's Draft New Official Plan
Our Client: E. Manson Investments Limited

We are the solicitors for E. Manson Investments Limited. Our client owns 100 Steelcase Road East in the City of Markham ("the subject property"). The subject property currently houses an approximately 8300 m² multi-tenanted building, which includes commercial and trade school tenants. The permission for the existing commercial and trade school tenants is derived from Zoning By-law 2011-243, which was passed by the City in 2011 and applies specifically to our client's property. The effect of By-law 2011-243 is to zone the entirety of our client's property as Select Industrial and Limited Commercial [M.C.(50%)] with an increase in the commercial permissions on the subject property. This zoning recognizes the proximity of the subject property to the commercial corridor along Woodbine Avenue. No appeals were filed from the passage of the By-law (which was the subject of a supporting recommendation from Staff to Council).

Our client has reviewed the City's draft new Official Plan as it relates to its property. The draft Official Plan proposes to designate the subject property as General Employment. The designation would prohibit private and commercial schools on the subject lands. This is of significant concern to our client, particularly as the site specific zoning to permit broader commercial permissions was passed by Council just over one year ago and was deemed to represent good planning for this site.

The City's proposed restrictions for school uses in employment areas is, in our client's view, a significant and unwarranted departure from the City's current Official Plan policy framework. As you are aware, the City's in-force Official Plan contemplates the introduction of private and commercial schools in its employment designations subject to a review of a zoning and site plan application that addresses criteria set out in the Official Plan. We are not aware that the City's framework has posed difficulties for the City or its employment users. In fact, in a recent OMB decision (enclosed), which considered a private school use in one of the City's employment designations (Business Park), the OMB considered the challenges that face private schools in locating in other parts of the

March 13, 2013

Page 2

City. The proposed policies in the draft Official Plan will only exacerbate this challenge. Furthermore, the OMB considered that private schools were complementary to the City's employment areas and supportive of the City's goal to encourage a stronger connection between the education sector and other employment sectors.

Finally, private schools, along with trade and commercial schools, are all employment uses, a recognition that is absent from the City's proposed new Official Plan policies. In light of the foregoing considerations, our client requests that Council restore the use permissions and framework currently existing in the City's Official Plan and permit private, trade and commercial schools within the City's employment areas subject to review of a zoning and site plan application.

Alternatively, and in order to properly recognize the commercial use permission on our client's property at 100 Steelcase Road East, our client requests that its lands be designated Service Commercial rather than General Employment, but with a site specific policy recognizing that the site may be used for private, trade and commercial school uses.

Yours truly,

AIRD & BERLIS LLP



Patricia A. Foran

PAF/jad
Encl.

c. Martha Pettit, Acting City Clerk, City of Markham
E. Manson Investments Limited
Lauren Capilongo, Malone Given Parsons Ltd.

14239163.1

ISSUE DATE:

August 12, 2010



PL100113

Ontario Municipal Board
Commission des affaires municipales de l'Ontario

IN THE MATTER OF subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Appellant: Pinedale Properties Ltd.
Subject: By-law No. 2009-193
Municipality: Town of Markham
OMB Case No.: PL100113
OMB File No.: PL100113

APPEARANCES:

Parties

Town of Markham

Pinedale Properties Ltd.

E. Manson Investments Ltd.

Counsel

Q. Annibale
B. Duguld

S. Leisk
M. Winch
C. Thorne

P. Foran
S. Loiacono

DECISION DELIVERED BY JAMES R. McKENZIE

I. INTRODUCTION

The matter before the Board is an appeal of Town of Markham (Town) By-law No. 2009-193 pursuant to Section 34(19) of the *Planning Act*. By-law No. 2009-193 applies to a property known municipally as 245 Renfrew Drive (Subject Property), owned by E. Manson Investments Ltd. (Manson), and introduces zoning permissions for a private school and daycare in the existing, vacant building on the lot. Pinedale

Properties Ltd. (Pinedale) owns the abutting property to the south, 185 Renfrew Drive. Pinedale opposes the proposed uses and appealed By-law No. 2009-193.

II. BACKGROUND and CONTEXT

The Peoples Christian Academy (Academy) currently operates a private school in the City of Toronto at the north-east corner of Sheppard Avenue East and Wilfred Avenue, a few blocks west of Bayview Avenue. It has been at that location since 1971. Its lease is expiring and the Academy has therefore entered an arrangement with Manson to relocate its school operation, with a new daycare operation, to the Subject Property, which is situated in the north-east portion of the Buttonville Business Park.

The Buttonville Business Park is bounded on the south by Highway No. 7, on the west by Highway No. 404, on the north by Sixteenth Avenue, on the north-east by the Rouge River, and on the east by Woodbine Avenue. It is a component of a larger employment land agglomeration situated around the interchange of Highway Nos. 404 and 407, and represents one of the Town's more mature and successful business parks. It includes the Buttonville Airport; however, the future of that facility is in question, as will be addressed below. Opposite the Rouge River, in the south-west quadrant of the Sixteenth Avenue and Woodbine Avenue intersection, is a small residential community.

The Subject Property is situated on the east side of Renfrew Drive, which terminates in a cul-de-sac north of the Subject Property. It is approximately 2.1 hectares in area and maintains a vacant, one-storey building that formerly housed a warehouse operation (at the rear) with associated offices (in the front). The Academy proposes to maintain the existing building and undertake renovations to facilitate its use for the private school and daycare. The proposed school will have an ultimate capacity for 750 students, (Kindergarten through Grade 12), and the daycare will maintain 48 spaces. There are approximately 415 students currently enrolled in the Academy's existing school.

The proposed uses will maintain vehicular access from Renfrew Drive via two existing driveways. Vehicles will enter from the south by the southerly driveway, circulate through the site around the rear of the building, and exit to the south by the northerly driveway. The south driveway abuts Pinedale's property at 185 Renfrew Drive. While the approval of a site plan is not before the Board, the current plan reflects parking for the school operation along the south property line and at the rear of the existing building, and for the daycare operation along the north side of the existing building. Two separate drop-off/pick-up points at the rear of the building are designated for different school grades, and a third point on the north side of the building is designated for the daycare.

The daycare operation will occupy the north-west portion of the building, and an outdoor play area is proposed immediately in the front yard adjacent to this part of the existing building. A large, outdoor activity area, including a playing field, is proposed in the rear yard of the Subject Property.

The Buttonville Airport is situated opposite the Subject Property and Pinedale's property, on the west side of Renfrew Drive. The Airport maintains two runways: the longer of the two traverses the site in a south-east-to-north-west manner, and the shorter in a south-west-to-north-east manner. Between the runways and Renfrew Drive, situated opposite Subject Property and Pinedale's property, are situated a number of aircraft maintenance hangars as well as what are referred to as "run-up areas" between the hangars. The run-up areas are simply paved areas on which aircraft preparing for take-off run their engines, have key systems and components checked, and are, regardless of season, otherwise readied for flight, (much as an automobile might be warmed-up in cold weather). Aircraft run-up activities generate noise, an issue taken up later in this decision given the proximity of these activities to the Subject Property.

NOVX Industries currently leases the building on Pinedale's property. NOVX, however, is not renewing its lease and will be vacating the building in December 2010. As a consequence, Pinedale is in the process of seeking a new tenant for 185 Renfrew Drive. It is concerned that a private school and daycare adjacent to its property will prejudice its ability to do so by limiting the scope and flexibility of prospective tenants. Suffice to say at this point, however, that at issue in this hearing is whether the proposed private school and daycare uses, implemented as they are by By-law No. 2009-193, are compatible land uses in the Buttonville Business Park and reflective of sound land use planning.

III. ISSUES, EVIDENCE, and ANALYSIS

Over the course of a 12-day hearing, the Board heard from 11 expert witnesses in four professional disciplines: land use planning, traffic, noise, and land economics. Pinedale advanced its case through Scott Burns (planning), Angela Iannuzziello (traffic), Brian Howe (noise), and Gary Stamm (land economics). Manson advanced its case through Lindsay Dale-Harris (planning), Chris Middlebro' and Richard Pernicky (traffic), Al Lightstone (noise), and Douglas Annand (land economics). Finally, the Town advanced its case through Gary Sellars (planning) and Ting Ku (traffic).

A Procedural Order and Issues List established 10 issues for the hearing. Those issues are taken up over the balance of this decision under the following headings: A. Provincial Policy and Land Use Planning; B. Noise; and, C. Traffic.

At the request and on the consent of counsel, the Board visited the site on its own over a weekend during the hearing and reported its activities to counsel on the Monday following.

A. Provincial Policy and Land Use Planning

It is Pinedale's position that the proposed private school and daycare, being sensitive land uses under provincial policy, will deleteriously impact the use of its

property for industrial uses permitted as-of-right by the Town's comprehensive Zoning By-law. Its counsel and planning witness were highly critical of the proposed land uses and especially of the Town and the planning process by which Council approved By-law No. 2009-193. Mr. Burns testified that that process was truncated, that planning staff neglected to undertake any rigorous assessment of the application to rezone within the context of provincial policy or otherwise, that Council approved the By-law without appropriate information, and that its decision was taken without any supporting analysis regarding the compatibility of land uses.

Ms Dale-Harris testified that the planning process culminating in the adoption of By-law No. 2009-193 was consistent with the approach and process used by the Town for other rezoning applications, and that Council, by virtue of having her Planning Justification Study, a required submission with a rezoning application, adopted By-law No. 2009-193 fully cognizant of the planning merits of the proposed land uses on the Subject Property.

Provincial Policy Statement and Growth Plan

The Provincial Policy Statement stipulates that all decisions regarding planning matters, including decisions issued by this Board, must be consistent with provincial policy as enunciated through the Statement. Likewise, planning decisions must conform to the Growth Plan.

Three areas arise within the Policy Statement with respect to the proposed private school and daycare: employment area policies; airport policies; and, land use compatibility policies. Focusing on these particular areas in no way deviates from the requirement that the Policy Statement be read and applied in its entirety – which the Board has done. Rather, the aforementioned policy areas are simply those engaged by the issues concerning Pinedale's appeal. Gauging whether By-law No. 2009-193 is consistent with these policies and in conformity with the Growth Plan is taken up in this

section and in the latter section of this decision concerning Noise given the Subject Property's proximity to the Buttonville Airport.

Given its treatment in the Town's Official Plan, the Buttonville Business Park is an Employment Area under both the Policy Statement and the Growth Plan. Both the Subject Property and Pinedale's property are, therefore, Employment Lands. Pinedale contends that the proposed private school and daycare – and, by extension, By-law No. 2009-193 – are neither consistent with the Policy Statement nor conform to the Growth Plan because, in Mr. Burns's opinion, those uses are not employment uses within the meaning of the Policy Statement and Growth Plan. According to Messrs. Burns and Stamm, the proposed private school and daycare undermine the basic function of the Employment Areas because they do not promote economic development and competitiveness.

Employment Areas are defined as clusters of business and economic activities. The Policy Statement and Growth Plan maintain the exact same definition of Employment Area and there is virtually no daylight between the thrust of their respective intentions concerning the treatment of Employment Lands. Indeed, Mr. Stamm told the Board that these expressions of policy reflect the Province's concern with and response to limitations on future economic opportunities as a consequence of Employment Lands being converted from their intended use. Seeing the proposed private school and daycare as activities that are not of a business or economic nature, Mr. Burns testified that the proposed uses represent a conversion of Employment Lands to non-employment uses. In his view, their approval would require a comprehensive review pursuant to Section 1.3.2 of the Policy Statement and Section 2.2.6.5 of the Growth Plan. Mr. Stamm shared Mr. Burns's conclusions and opinions.

Having evaluated the totality of the evidence with respect to the Provincial Policy Statement, (including noise, which is addressed below with further reasoning), and the Growth Plan, the Board finds that By-law No. 2009-193 is consistent with the Provincial Policy Statement and in conformity with the Growth Plan.

Institutional uses are explicitly identified in the Policy Statement and the Growth Plan as employment uses. Mr. Burns sought to draw a distinction between types of institutional uses in order to sustain his overarching opinions, testifying that the scale of institutional use was in some manner a relevant or differentiating factor. The Board, however, finds nothing in the text of either the Policy Statement or the Growth Plan limiting or otherwise circumscribing institutional uses as permitted in Employment Areas. On this point, provincial policy is clear.

The Board heard testimony that the proposed private school and daycare would generate a total of 63 full-time equivalent jobs, evidence that was not contradicted by either Mr. Burns or Mr. Stamm. In fact, Mr. Stamm acknowledged that that level of employment on the Subject Property was preferable to no employment as is the status quo with a vacant building on the Subject Property. The proposed private school and daycare clearly generate employment.

Mr. Burns and Mr. Stamm testified that a private school and daycare are not appropriate institutional uses within the context of Section 1.3.1 of the Provincial Policy Statement because they do not maintain linkages to the surrounding business park and, therefore, are not employment uses for the purposes of the Policy Statement. The Board cannot countenance such a view. Section 1.3.1(a) explicitly and unambiguously identifies institutional uses as candidates for inclusion in an appropriate mix and range of employment uses. Moreover, Section 2.2.6.2 of the Growth Plan specifically cites institutional uses as a permitted component of employment uses directed at promoting economic development and competitiveness.

Both Ms Dale-Harris and Mr. Annand testified that daycare facilities provide a direct link to a business park by making available potential spaces for employees working at nearby companies. They also testified that private schools provide a linkage, albeit over time, to a business park by nurturing and developing an educated and capable workforce upon which companies located in a business park may one day rely.

Furthermore, the Board cannot countenance Mr. Burns's testimony that the proposed private school and daycare constitute a conversion of Employment Lands to a non-employment use. Such an opinion can only be sustained based on an interpretation that the proposed uses are not Institutional uses and therefore are not employment uses. It remains beyond this Board Panel's comprehension how a private school and daycare do not fall within the purview of institutional land uses; the Board was not shown anything about the nature of this particular school operation to meaningfully suggest otherwise. The fact that it will be privately operated by a proponent that has done so for almost 40 years does not change what it is – a school. Ms Dale-Harris testified that private schools and daycare centres represent a form of community infrastructure; by making available a more full range of services, they are responsive to policies in the Growth Plan encouraging complete communities. Mr. Annand testified that providers of private educational opportunities, like the Academy, do not have access to sites codified in legislation as do public authorities like school boards. As a consequence, they are often forced to look to employment lands – a fact inherently recognized in the Policy Statement and Growth Plan by the inclusion of policies allowing Institutional uses in Employment Areas. Finally, Mr. Stamm's admission that the preference of the anticipated employment associated with the proposed uses is preferable to zero employment is an implicit confirmation that the proposed uses are employment uses. As previously noted, therefore, the proposed uses are employment uses, notwithstanding that some may seek to characterize them strictly as service uses or non-employment uses.

York Region Official Plan

The Region's Official Plan maintains as a policy of economic vitality that Employment Areas be planned to accommodate a variety of business uses, and that industrial and commercial uses requiring separation be located so as to not interfere with potential mixed-use areas or other uses that might be affected.

Mr. Burns testified that the proposed school and daycare do not conform to these policies of the Regional Plan. As previously noted, the proposed uses are service uses in his opinion, do not directly support economic development, and therefore have no place in an Employment Area. The implicit premise in Mr. Burns's analysis and opinions is that the proposed uses will have a deleterious impact on other existing business park uses. The evidence, set out in the following section, shows that premise to be without foundation. The Board finds, therefore, that the By-law No. 2009-193 conforms to the York Region Official Plan.

It is noteworthy, too, that York Region, having received notice of the passage of By-law No. 2009-193, did not deem it necessary to attend upon the hearing to object to the By-law and the proposed uses.

Town of Markham Official Plan

The Subject Property is designated Industrial (Business Park Area) in the Town's Official Plan. The Plan sets out general policies relating to the development of Industrial-designated lands, and includes a goal of providing a range of business activities and mix of compatible uses. It more specifically designates lands for Business Park, General Industrial, or Business Corridor purposes, and establishes that certain non-industrial, employment-related uses are permitted provided that they are compatible with and complimentary to other primary uses. Institutional uses are explicitly identified. Moreover, the Plan's language acknowledges "...the positive and supportive interrelationship and vibrancy that may occur through the mixing of complementary and compatible uses."

The Plan contains policies regarding the approval of a rezoning to permit a specific land use or activity, making such approval conditional upon a review of a specific development proposal to ensure various requirements are satisfied, including, for example, compliance with planned function and compatibility with adjacent land uses. More specifically, with respect to a rezoning to establish a daycare, the Plan also

stipulates various requirements that must be satisfied before any such rezoning may be approved.

Policies specifically relating to the Business Park Area designation establish a planned function – focused exclusively on urban design considerations – and categories of permitted and prohibited uses. Mr. Burns and Ms Dale-Harris were sharply divided on the interpretation of those categories, which include: (1) uses which may be zoned, (2) uses which may be approved subject to a review of a specific development proposal and rezoning, and (3) uses which are prohibited. Daycares are a use listed under the first category; private schools under the second. At issue, therefore, is whether the second category represents permitted uses or not; that is, whether a listed use, subject to the condition of a review, constitutes a de facto permission of the use, or whether a review is a qualifying condition in the first instance before the use is permitted.

Mr. Burns testified that the proposed private school and daycare are neither complementary to the business park nor compatible with adjacent land uses. In his opinion, the approval of By-law No. 2009-193 would remove land from the Business Park that is otherwise reserved for complementary and compatible industrial land uses, and would prejudice industrial uses by creating a situation where concerns arising in connection with the proposed land uses would be impossible to mitigate. Mr. Burns also testified that while the planned function of the Business Park Area designation is directed to urban design, any review of planned function under that policy need not be restricted to urban design because it was planning staff's intent, in preliminary studies, to include considerations beyond urban design.

Mr. Burns also told the Board that private schools are not a de facto permitted use. Ms Dale-Harris, on the other hand, expressed her opinion that, when considering use only, private schools are permitted; the requirement for a review simply introduces a further opportunity for detailed study about the means by which that use is put into operation. In her view, permission for a private school could be refused on the basis of

its development characteristics, i.e., its intensity of use, but not on the basis of what it is, i.e., its fundamental character.

The Board has very carefully evaluated the planning evidence with respect to conformity with the Town's Official Plan and, based on the following reasons, finds that By-law No. 2009-193 conforms to the Official Plan. It is clear that the Official Plan policies contemplate private schools and daycare operations in the Town's business parks. Daycares are clearly permitted; at issue is whether private schools are permitted, and the Board finds that they are.

From a plain reading and operation of the use categories in the Business Park Area designation, it is readily apparent that Council turned its mind to both uses that are complementary to and compatible with a business park and those that are not. Private schools are not listed in the third use category – uses that are prohibited. That they are listed in the second use category is a clear sign that Council deems private schools appropriate in a business park and it therefore follows that Council, from a use-only perspective, considers such a use complementary and compatible. The requirement of being subject to a review of a specific development proposal does not derogate from the appropriateness of the use per se in a business park; rather, it is merely a means by which Council may take additional comfort that the manifestation of that use – as reflected, for example, by its size or intensity – is something that respects and reinforces complementarity and compatibility, and does not jeopardize its intent for its business parks.

The Board also finds that the proposed private school and daycare are consistent with the planned function policies of the Business Park Area designation in the Official Plan. Ms Dale-Harris testified that the appearance of the existing building on the Subject Property will remain virtually unchanged. Except perhaps for signage, a passer-by would not necessarily know a private school occupies the building. The Board was not presented with any evidence suggesting that the urban design aspects of the proposed uses are contrary to the planned function of the Business Park Area

designation. More importantly, however, the planned function of any Official Plan designation is what the Official Plan indicates it to be, and it is Council – and only Council through the adoption of its Official Plan – who determines planned function. That fact supercedes anything planning staff might have had in mind in preliminary work prior to the Plan's adoption and approval.

Finally, the Board is satisfied that the requirements of the Official Plan arising in connection with rezoning applications to establish daycare uses have been fully addressed. The evidence of Ms Dale-Harris on those points was not impeached.

In sum, the Board prefers the planning evidence of Ms Dale-Harris, finding it to be clearly expressed, cogent, and well-reasoned.

B. Noise

Proximity to the Buttonville Airport as well as the presence of an emergency diesel generator on Pinedale's property elevated concerns about noise impacts to a matter for this hearing. Despite numerous points of agreement between them, Mr. Howe and Dr. Lightstone maintained divergent opinions with respect to these two subjects, which they engaged by addressing the Provincial Policy Statement, relevant provincial and federal guidelines – namely, Ministry of the Environment Publications LU-131 and NPC-2005, and Transport Canada Publication TP1247 – and by addressing Certificate of Approval requirements under the *Environmental Protection Act*.

Two other provincial publications were also canvassed – Guidelines D1 and D6 – in addition to those identified above. Both address land use compatibility and encourage the application of minimum specified separation distances between sensitive land uses and classes of industrial land uses as a means by which to mitigate externalities. The Town's comprehensive Zoning By-law generally permits Class I and II industrial uses on Pinedale's property.

There is no dispute that the proposed private school and daycare represent sensitive land uses. Mr. Burns testified that distance between what are considered incompatible land uses is the preferred method of mitigation and, taking a line directly from Guideline D6, testified that the separation distances stipulated in D6 should be sufficient to eliminate adverse effects. Mr. Howe, on the other hand, testified that compliance with minimum distances provides no assurance of removing adverse impacts. Dr. Lightstone concurred with Mr. Howe on that point. Moreover, Dr. Lightstone testified that, from his long experience working with provincial officials, the Ministry of the Environment is relying less on dated, generic standards and is increasingly embracing an approach that takes into account site-specific circumstances. In that regard, he told the Board that the Ministry encourages cooperation among proponents to resolve incompatibilities between land uses, and includes the expectation that one or even both may have to mitigate. Moreover, he testified that the goal remains addressing noise impacts in a satisfactory manner which the proponent of the proposed private school and daycare, in his opinion, have done.

Guideline D6 stipulates a minimum distance of 20 metres between a Class I use and a sensitive land use, and 70 metres between a Class II use and sensitive land use. Mr. Howe testified that the presence of the proposed land uses would effectively preclude Class II uses from Pinedale's property, and otherwise increase the cost, delay, and risk associated with obtaining a Certificate of Approval. He stated in his witness statement that the proposed private school and daycare would "trigger" a need for industries to apply for a Certificate of Approval. In cross-examination, however, he acknowledged that the requirement for a Certificate is legislatively-mandated and is not a consequence of the nature of nearby land uses. To be fair, however, Mr. Howe established that the nature of adjacent uses can affect the stringency with which Ministry staff respond to and evaluate Certificate of Approval applications. As will be shown below under the consideration of Publication NPC-205, the Board is satisfied that the proposed private school and daycare will not deleteriously impact Pinedale with respect to any future application for a Certificate of Approval.

In view of the fact that Guideline D6 explicitly directs matters regarding noise to Publication LU-131 and Dr. Lightstone's uncontradicted evidence regarding the Ministry's present-day approach and expectations, the Board concludes that Guidelines D1 and D6 are not a factor in the case at hand.

Section 1.6.7 of the Provincial Policy Statement deals with airports and its policies are specifically directed at protecting the long-term operation and economic role of airports. For ease of reference, the relevant extracts of Section 1.6.7 are reproduced below:

1.6.7 Airports

1.6.7.1 Planning for land uses in the vicinity of *airports* shall be undertaken so that:

- a) the long-term operation and economic role of *airports* is protected; and
- b) *airports* and *sensitive land uses* are appropriately designed, buffered and/or separated from each other to prevent adverse effects from odour, noise and other contaminants.

1.6.7.2 *Airports* shall be protected from incompatible land uses and development by:

- a) prohibiting new residential *development* and other sensitive land uses in areas near *airports* above 30 NEF/NEP, as set out on maps (as revised from time to time) that have been reviewed by Transport Canada;
- b) considering redevelopment of existing residential uses and other sensitive land uses or infilling of residential and other sensitive land uses in areas above 30 NEF/NEP only if it has been demonstrated that there will be no negative impacts on the long-term function of the *airport*;

(Note: italicized text appears in the original document and represents defined terms.)

There was no disagreement among the parties that the Buttonville Airport will likely be redeveloped: all public funding has ceased; its redevelopment is contemplated and addressed in the respective Official Plan of the Town and York Region; and its owner, the Armadale Group, has issued an RFP inviting proposals for its redevelopment. That said, it was acknowledged that By-law No. 2009-193 is subject to

Section 1.6.7 of the Policy Statement, and with that acknowledgement the debate focused on Subsection 1.6.7.2.

Mr. Burns testified that Section 1.6.7.2(a) explicitly excludes the proposed private school and daycare because they are sensitive land uses and because the NEF 30 contour traverses the Subject Property roughly in-line with the front wall of the existing building. Drawing on his prior experience working with the Greater Toronto Airport Authority (GTAA) in establishing an Airport Operating Area for Pearson International Airport, he expressed his professional opinion that the Subject Property in its entirety should be deemed to fall within (i.e., above) the 30 NEF contour notwithstanding that it is only its front yard that is actually within/above the contour. In Mr. Burns's view, only Subsection 1.6.7.2(a) applies; Subsection 1.6.7.2(b) is not applicable in these circumstances – a conclusion Ms Leisk reinforced by arguing that Section 1.6.7.2(b) does not apply, "...as there are currently no sensitive land uses present or approved on the Subject Lands [Property]...."

The Board has very carefully scrutinized the language of Section 1.6.7 as a foundation for its assessment of the evidence on this particular issue. Setting Subsection 1.6.7.2 aside for a moment, it is patently clear from Subsection 1.6.7.1 that the Policy Statement contemplates the possibility of sensitive land uses in the vicinity of airports. The relationship, however, between Subsections 1.6.7.1 and 1.6.7.2 is murky. For example, if sensitive land uses are appropriately buffered as stipulated in Subsection 1.6.7.1, are those same uses regarded as incompatible land uses as in Subsection 1.6.7.2? What is clear is that it will be for others to explicate precisely how the two policies are intended to interface. In light of the requirement that the Policy Statement be read in its entirety. In this situation though, and based on the following reasons, the Board finds that By-law No. 2009-193 is consistent with Section 1.6.7 of the Policy Statement.

First, given the nature of forecasting noise exposure contours, the delineation of an NEF contour is something that cannot be demarcated with scientific precision. Mr. Burns testified that the determination of an NEF contour is a mathematical exercise, one that takes into account various numerical factors and considerations. Mr. Howe testified that an NEF contour represents an approximation, that the true line can fall somewhere between 50 metres on either side of the plotted contour. Dr. Lightstone confirmed these points in his testimony.

Given this evidence, it is possible that no part of the Subject Property falls within/above the 30 NEF contour. And, to be fair, the opposite could also be the case: that more than simply the front yard may fall within the contour.

The current state of the science inferred from the testimony of these experts points to it being the best evidence available. When it is taken into account with Dr. Lightstone's testimony that, in terms of noise impact, there is virtually no difference between a 29, 30, or 31 NEF contour – evidence that stands uncontradicted – and that the proposed land uses, having appropriate mitigation features, will not negatively impact the airport, the Board finds that the intent of Section 1.6.7, which is the long-term protection of airports, is respected.

The Board, moreover, is not persuaded by Mr. Burns's testimony or Ms Leisk's argument that Subsection 1.6.7.2(b) is not applicable. Ms Leisk sought to draw a distinction between development and redevelopment – both of which are defined terms in the Policy Statement – and leverage support for her argument off that by concluding that only the definition of development applies. On the face of those definitions, the proposed uses of the existing building on the Subject Property could be either development or redevelopment and, therefore, the Board finds that the point of Ms Leisk's argument to be a distinction without a difference. Moreover, the Board is not persuaded by the argument (or its inherent interpretation) that Section 1.6.7.2(b) does not apply in the absence of existing or approved sensitive land uses on a property being considered for redevelopment.

Second, with respect to circumstances where an NEF contour threshold traverses a property, Mr. Burns testified about his experiences with the GTAA and the manner by which it handled such situations. There, he testified that the planning team, of which he was a member, adopted a pragmatic approach and plotted the delineation of the Airport Operating Area (AOA) so as to align with the nearest practical natural or human-made feature, (i.e., a watercourse, a public road, a property line, etc.). (An AOA functions in the same manner as an NEF contour threshold and may be employed as an alternative approach.) For those properties traversed by the AOA delineation, the planning team's pragmatism resulted in their being excluded from the AOA so as to not unduly prejudice the property owner. Mr. Burns told the Board how the exclusion of such properties was not a concern given that the effect of doing so was negligible. Dr. Lightstone confirmed the GTAA approach in his subsequent testimony.

When compared to the present case, what the Board finds peculiar is that the GTAA approach – an approach Mr. Burns expressed no reservation about during his testimony – is completely opposite to how he believes the Subject Property should be treated. Why, the Board was left wondering, would Mr. Burns readily accept being pragmatic in one set of circumstances, yet insist on being pedantic in another? In the face of what appears to the Board to be like circumstances, the Board was left without any satisfactory explanation for what it finds to be a grave inconsistency.

Dr. Lightstone testified that there will be no impact on the long-term functioning of the Airport. His evidence is to be preferred given its inherent logic and consistency.

Section 1.7.1(e) of the Policy Statement addresses long-term economic prosperity by planning so that major facilities (i.e., airports) and sensitive land uses are appropriately designed, buffered, and/or separated from each other to prevent adverse impacts. Given Dr. Lightstone's evidence and the analysis woven through the balance of this subject, the Board finds that By-law No. 2009-193 is also consistent with this policy.

Publication LU-131 is, "... Intended for use in planning of noise sensitive land uses adjacent to facilities such as, but not limited to, airports ... [and] ... industrial facilities..." The Board has carefully reviewed and assessed the evidence regarding Publication LU-131 and finds that the proposed private school and daycare can comply with this Publication's intent.

Mr. Howe drew the Board's attention to the Annex of LU-131 and specifically to the Ministry's position regarding the use of central air conditioning for addressing noise conflicts. While the Annex identifies central air conditioning as being inferior and generally inappropriate, it also identifies exceptions to that position. It explicitly states that central air conditioning, "... could be an effective means of mitigation in facilities such as hospitals or similar institutional uses which are designed with air conditioning as the primary means of ventilation...." Dr. Lightstone testified that the Ministry has applied this exception in other cases and, further, in his opinion, that such an exception is warranted given the nature of the proposed land uses. The Board, accordingly, adopts and relies on Dr. Lightstone's evidence.

Publication NPC-205 establishes sound level limits for stationary sources such as industrial and commercial establishments ... affecting points of reception in Class 1 and 2 Areas (Urban). (A Class 1 Area maintains an acoustical environment typical of a major population centre; a Class 3 Area maintains an acoustical environment that is dominated by natural sounds; and a Class 2 Area maintains an acoustical environment that has qualities representative of both Class 1 and 3 Areas.)

As noted previously, an emergency diesel generator is located on Pinedale's property, on the north side of the existing building facing the Subject Property. It is enclosed only with a visual screen, wood-slat fence, several of which are missing as the Board noted during its site visit.

Dr. Lightstone testified that he sought permission from Pinedale to examine and test the generator – permission which was denied. Nevertheless he accounted for the

generator in his work by assessing a generic proxy and concluded that appropriate mitigation could be implemented. Mr. Howe acknowledged under cross-examination that it was not unusual to seek such cooperation and that the generator was analyzed to the extent possible given Pinedale's refusal of cooperation.

The Board is satisfied with Dr. Lightstone's analysis of the diesel generator as a noise source. He sought information about the generator and permission to examine it, and when those requests were refused, he followed-through on accounting for the generator as a noise source by assessing a proxy. He maintained his professional diligence. Mr. Howe neither assessed the generator nor inquired with his client so as to have even the most basic of information about it. Nor, through his client, did he inquire about its use or testing by NOVX. If anyone was in a position to have ease of access to details about the generator, it would be Mr. Howe. Yet, he provided no explanation for why such details were absent. Moreover, when asked if a Certificate of Approval had been obtained for the generator, he acknowledged that Pinedale had not obtained one and that he did not know whether NOVX had.

In any event, the fact that the generator is an emergency generator must be borne in mind as this has implications for the matter of Certificates of Approval. Through Mr. Howe's cross-examination, the Board was made aware that the operation of the generator as an emergency measure is exempt from the *Environmental Protection Act*. Routine testing, however, is not. There is no requirement in the legislation or in any guideline stipulating the time of day for testing, and the Board is satisfied that testing could occur before or after the typical school day when classes are in session.

Pinedale's witnesses also expressed concern that the proposed private school and daycare would preclude an expansion of the existing building on its property. Mr. Howe testified that complaints filed with the Ministry of the Environment by the Academy or parents of students could motivate Ministry staff to more stringently interpret NPC-205 which, in turn, could make obtaining a Certificate of Approval more difficult. Dr.

Lightstone testified that the existing residential uses to the east of the Subject Property and Pinedale's property are also sensitive land uses and are therefore considered points of reception pursuant to NPC-205. Mr. Burns told the Board, to Dr. Lightstone's considerable chagrin, that a school is a more sensitive land use than is a residential use. Dr. Lightstone testified that he had never heard such a statement over the span of his professional career. Among his professional ilk, it is readily acknowledged that residential uses are the most sensitive. He told the Board that the proposed land uses would not impact the process for obtaining a Certificate of Approval as any such application would have to be responsive to the existing residential uses east of Pinedale's property, regardless of whether a school and daycare were located on the Subject Property.

The Board, therefore, further adopts and relies on Dr. Lightstone's evidence.

TP 1247 describes the operational characteristics of airports that may influence land uses outside of airport boundary limits and recommends, where applicable, guidelines for land uses in the vicinity of airports. The Board has carefully reviewed TP 1247 and finds that the proposed private school and daycare respect its intent.

TP 1247 stipulates that schools may be acceptable in areas below (and near) the 30 NEF contour or between the 30-35 NEF contours, provided that, "...a detailed noise analysis is conducted and the required noise insulation features are considered by the architectural consultant responsible for building design." It also stipulates that athletic fields may be acceptable in areas between the 30-35 NEF contours, provided that, "...serious consideration is given to an analysis of peak noise levels and the effects of those levels on the specific land use under consideration."

Mr. Howe testified that the analysis undertaken by Dr. Lightstone was deficient in that it failed to address ground-related airport activities and failed to consider the impact on outdoor activities. In his opinion, aircraft noise could startle young children or interfere with a student's ability to verbally communicate during outdoor activities.

As noted previously, the Airport lands directly opposite the Subject Property and Pinedale's property are used for maintenance/storage hangers and for outdoor aircraft preparation. Mr. Howe testified that the Subject Property will be exposed to ground-related aircraft activity in these run-up areas. In his opinion, based on noise measurements he took at the front of Pinedale's property, these areas are a source of significant noise and contribute to the Subject Property's inappropriateness for a school and daycare.

While ground-related airport activities in the designated run-up areas represent a source of noise, they are not factored into any calculation of NEF contour thresholds, and therefore any noise associated with such activities is something beyond the purview of TP 1247. More importantly, however, the hanger buildings located between the Subject Property and the designated run-up areas screen it from the noise generated by run-up activities. Unlike the Pinedale property, the Subject Property does not maintain a clear, unobstructed line-of-sight between itself and the run-up areas. Mr. Howe sought to demonstrate from photos tendered as exhibits that the Subject Property is exposed, however that evidence does not accord with what the Board directly observed during its site visit. In cross-examination, Mr. Howe admitted that the Subject Property is shielded. For these reasons, the Board finds that it cannot countenance Mr. Howe's conclusion that the Subject Property will experience a noise impact akin to Pinedale's given its direct exposure to the run-up areas.

With respect to Mr. Howe's evidence regarding the impact of aircraft noise on outdoor activities, the Board finds, for the following reasons, that proximity to the airport will not deleteriously impact outdoor activities. Dr. Lightstone testified that aircraft noise tends to increase and decrease gradually, as a plane approaches and flies away; it is not an instantaneous, sharp and sudden sound. Mr. Howe even acknowledged that habituation to aircraft noise would reduce any startle effect. Given those characteristics, the Board is satisfied that children would not likely be startled by occasional aircraft noise. With respect to the playing field in the rear of the Subject Property and Mr. Howe's evidence regarding speech interference, Dr. Lightstone drew a parallel to parks

located adjacent to train tracks and told the Board that students may have to stop their conversations for some small period of time as a plane passes overhead. Again, the Board is satisfied that, while occasional speech interference may pose an inconvenience, it does not rise to the level of causing harm or a sustained diminution of outdoor experience.

As a concluding remark about noise, the Board would be remiss were it to not address evidence tendered with respect to a peer review of Dr. Lightstone's analysis. The Town retained Delila Guisti, a professional engineer with Jade Acoustics Inc., who, despite some initial reservations, determined that the proposed land uses are "... feasible ... provided specific site plan conditions are incorporated to ensure that the appropriate indoor environment for this type of use can be achieved." Draft conditions were tendered as an exhibit and they include additional requirements which, the Board understands, Ms Guisti helped prepare.

During her cross-examination of Mr. Sellars, Ms Leisk sought to characterize the inclusion of those additional requirements as evidence of Ms Guisti's professional opinion being something different or less than what was presented to the Board. The Board is not persuaded. First, Mr. Sellars is hardly in any position to know Ms Guisti's frame-of-mind were it something different than the content of her memorandum to staff wherein she signed-off on the proposed uses. Ms Guisti could have been subpoenaed, but was not. Second, the additional requirements call for attention to be paid to specific matters and reported in an updated noise report, (being an update to Dr. Lightstone's July 2009 Report). Upon assessing what the additional requirements actually call for, and in the absence of any evidence to the contrary, the Board finds that the extra care directed to those matters through the draft conditions is a reflection of prudence; they do not of necessity suggest a negation of Ms Guisti's professional conclusion.

C. Traffic

The traffic experts met prior to the hearing and produced a statement setting out both agreed matters and issues remaining in dispute. For the reasons set out below, the Board finds that the proposed private school and daycare will not deleteriously impact the Pinedale Property, nor will they, in conjunction with the anticipated redevelopment of the Airport lands, negatively impact the business park and its road network. Having carefully evaluated the traffic evidence, the Board finds that the proposed traffic and parking arrangements will function satisfactorily and that By-law No. 2009-193 is appropriate from a traffic and transportation point-of-view.

Central to any determination and assessment of impact owing to traffic generated by the proposed land uses is determining the trip rate expected for those uses. It is the foundation upon which other analyses and conclusions are based.

Ms Iannuzziello testified that the proposed uses will generate traffic at levels to cause vehicles to spill-over, (that is, cars being backed up out) onto Renfrew Drive, thereby interfering with access to and from Pinedale's property. Messrs. Middlebro' and Pernlcky testified that such a result is not likely, that Ms Iannuzziello's conclusions are based on overstated trip rate estimates, and that the proposed uses will function adequately with respect to traffic and transportation considerations.

Ms Iannuzziello testified that she considered three sources with respect to calculating trip rate: the Academy's existing school on Sheppard Avenue East; a York Region publication, entitled *Safety and Traffic Circulation at School Sites Guidelines Study* (York Region Guidelines); and, a publication of the Institute of Transportation Engineers (ITE), entitled *Trip Generation (8th Edition)*. Messrs. Middlebro' and Pernlcky consulted the York Region Guidelines, but relied on their analyses of the existing school and the ITE publication as the foundation for their analyses.

In those situations where an existing use is relocating to a new location, all experts agreed that the best predictor of impact at the new location is the existing use at

its current location. The Academy shares its current location on Sheppard Avenue East with a church. Like Messrs. Middlebro' and Pernicky, Ms Iannuzziello studied the existing location. She acknowledged in cross-examination that she and her staff were not aware of a shared parking arrangement between the Academy and the church, (the latter having approximately 35 full-time office staff). Nor was she aware, she admitted, that the church/school parking area was shared with a nearby real estate office. As a result, she and her staff did not differentiate between trips, (school- vs. church- vs. office-related) to the existing location, and she admitted that the counts undertaken by her staff could include trips for all three uses. Messrs. Middlebro' and Pernicky differentiated between those uses with respect to the trips each generated and incorporated those findings in their respective analyses. Ms Iannuzziello acknowledged their work in that regard and indicated that she took no issue with it. The Board, therefore, finds the analyses undertaken by Messrs. Middlebro' and Pernicky to be preferred.

Ms Iannuzziello's analysis of trip generation also relied on the York Region Guidelines respecting the design of school sites. Those Guidelines were published in 1999. The context within which those Guidelines were developed is markedly different than the present context of By-law 2009-193. Two key factors account for those differences. First, the Guidelines were developed when Grade 13 was still a part of Ontario's high school curriculum. At that time, the possibility and indeed likelihood of Grade 13 students driving to school was very much a reality. That is no longer the case. Second, the Province has since introduced graduated licensing requirements for new, teenage drivers, meaning that teenagers are not driving without supervision until an age sometime after they graduate from Grade 12.

Taken together, these factors erode the confidence one might otherwise have in the York Region Guidelines, and the Board finds that evidence relying upon them warrants less weight than evidence that does not. Messrs. Middlebro' and Pernicky's analyses accurately accounted for the present-day context, first by acting on a recognition of the inherent limitations in the York Region Guidelines, and second, by

properly relying on the ITS publication and cross-comparing the analysis of the existing school to it – all of which lead to their analyses being preferred by the Board.

In sum, the Board prefers Messrs. Middlebro' and Pernicky's evidence with respect to matters regarding trip rate and the conclusions drawn therefrom.

With respect to the matter of sufficiency of on-site parking and circulation, the Board finds that the proposed arrangement will function adequately through the implementation of a Transportation Demand Management Plan. Ms Iannuzziello and Messrs. Middlebro', Pernicky, and Ku each testified to their expectation that the Town will require such a plan as a condition of site plan approval. Such a plan will address, among other things, staff marshalling and supervision of drop-off/pick-up driver behaviour, staggered start and finish times for junior and senior grades, and school bus activities should the Academy come to implement bussing for its students.

Mr. Middlebro', who has extensive experience in the formulation of such plans, told the Board that the Academy is committed to developing such a plan, and, in his opinion, that such a plan will provide operational consistency. Accordingly, the Board will withhold its Order until such time that it is in receipt of confirmation that a Transportation Demand Management Plan has been approved as a condition of site plan approval.

Finally, with respect to three other areas of concern – the lack of sidewalks on Renfrew Drive, and the impact of the proposed land uses on any redevelopment of the Airport lands, and the impact of the proposed uses on the Renfrew Drive/Hooper Road intersection – the Board finds as follows:

Messrs. Middlebro', Pernicky, and Ku testified that students could safely access the Subject Property without sidewalks, and that the Renfrew Drive right-of-way maintains a sufficient width to accommodate sidewalks. Mr. Ku further testified that the Town makes sidewalk installation decisions on a case-by-case basis. Only Ms Iannuzziello testified that the absence of sidewalks rendered the Subject Property

unsafe and inappropriate for a school use. Ms Leisk argued, in turn, that By-law 2009-193 was not in conformity with the Town's Official Plan because it contains policies that make pedestrian accessibility, convenience, and safety a primary consideration of development and redevelopment.

The Board is not persuaded. The Academy maintains the ability to regulate and restrict students from leaving the school property during the school day. For those students who may need to access public transit stops on Woodbine Avenue, sidewalks have been installed on Hooper Road, and Mr. Ku testified that the grassed boulevard on Renfrew Drive to Hooper Road is of sufficient width to accommodate walking, even though that may be less than ideal in wet weather conditions. The Board, therefore, does not find that the current absence of sidewalks renders By-law No. 2009-193 in contravention of the Town's Official Plan insofar as its policies addressing safety are concerned.

Concerning the redevelopment of Buttonville Airport and whether the presence of the proposed private school and daycare on the Subject Property will compromise the Town's ability to implement future road improvements, the Board finds that they will not. Ms Iannuzziello testified that based on her analysis of an assumed development scenario on the airport lands, improvements would be required to the road network. The Board is satisfied that such improvements will be addressed in the normal course of the planning process concerning the airport's redevelopment.

And finally, concerning the impact of the proposed uses on the level of service of the Renfrew Drive/Hooper Road Intersection, Mr. Pernicky testified that the pavement width on Renfrew is sufficient to accommodate lane markings to ensure that the intersection continues operating at an acceptable level of service. The Board adopts and relies on his evidence in that regard.

IV. DISPOSITION

Given the fullness of the foregoing analysis and findings, the Board dismisses the appeal filed by Pinedale Properties Ltd. against By-law No. 2009-193. The Order is withheld pending receipt of confirmation that a Transportation Demand Management Plan has been approved as a condition of site plan approval. Upon such receipt, the Board's Order will issue.

"James R. McKenzie"

JAMES R. McKENZIE
VICE-CHAIR

AIRD & BERLIS LLP

Barristers and Solicitors

Piper Morley

Direct: 416-865-7724

E-mail: pmorley@airdberlis.com

March 15, 2013

Our File No.: 114585

BY EMAIL

Martha Pettit
Acting City Clerk
Markham Civic Centre
101 Town Centre Blvd
Markham, ON L3R 9W3

Dear Ms. Pettit:

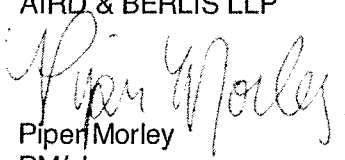
**Re: Markham Draft Official Plan
Metropia (Markham) GP Corporation**

As you know, we represent Metropia (Markham) GP Corporation ("Metropia"). On November 30, 2012 we submitted a letter to the City of Markham based on our review of Markham's Draft Official Plan (attached). We are in receipt of the report on the Draft Official Plan 2012 - Public Consultation Overview to Development Services Committee dated March 19, 2013.

We note that in Appendix C: Submissions Received (item 10) our client is noted as having requested a change from Residential Low Rise to Mixed Use Low Rise. We are actually seeking a change from Residential Low Rise and Mixed Use Low Rise to Mixed Use Mid Rise. We would appreciate if you could correct this error.

Yours truly,

AIRD & BERLIS LLP



Piper Morley

PM/vl

Encl.

cc. Kristy Shortall, MMM Group

14285069.1

AIRD & BERLIS LLP

Barristers and Solicitors

Jane Pepino
Direct: 416.865.7727
E-mail: jpepino@airdberlis.com

November 30, 2012

BY REGULAR MAIL

Mr. Jim Baird, MCIP, RPP
Commissioner of Development and Planning
City of Markham
101 Town Centre Boulevard
Markham, ON
L3R 9W3

Dear Mr. Baird:

**Re: Metropia (Markham) GP Corporation Comments on the September 2012
Draft Official Plan**

We are writing this letter on behalf of Metropia (Markham) GP Corporation (Metropia). As you know, Metropia has submitted an Official Plan Amendment (OPA) and Zoning Bylaw (ZBLA) application for their property at 5112, 5122 and 5248 14th Avenue and 7768, 7778, 7788 and 7798 McCowan Rd (City File Number: OP/OZ 12 117316). MMM Group and Aird & Berlis have reviewed the Draft Official Plan issued September 2012 on behalf of Metropia in relation to these land holdings and offer the following comments.

We are supportive of the strategic growth priorities as identified in Section 1, including emphasizing intensification within the built up areas and the provision for a diverse mix of housing and sustainable community design and investment. However, we note that the draft Official Plan proposes to redesignate the Metropia lands Residential Low Rise, which permits lower scale buildings such as low rise, semi-detached and townhouses to a maximum of 3 storeys, and Mixed Use Low Rise, which recognizes the potential to transition an area from its existing use to allow for a range of uses, including residential and commercial. The Mixed Use Low Rise designation is found in locations that optimize opportunities for access to transit, both existing and planned, and when developed will help achieve a complete community in the existing neighbourhood. Buildings on lands designated Mixed Use Low Rise shall have a minimum building height of 2 storeys and a maximum building height of 3 storeys, implemented by a maximum overall density of 1.5 FSI.

The proposed development contains two integrated components, the first being a 12 storey mixed use building consisting of 175 units and retail uses at grade. The second is 3-storey multiple unit stacked townhouses containing a total of 375 units or 5 units per townhouse complex. Parking will be located underground for both components. The overall density is 2.05 FSI.

Based on the draft Official Plan in our submission, the relevant designation to accommodate the proposed development would fall into the Mixed Use Mid Rise

designation, which permits a maximum of 12 storeys and a FSI of 2.0 to 2.5. This designation is more appropriate for the Metropia lands for the following reasons:

- The proposed development is compatible with surrounding land uses. There is limited direct interface with existing residential land uses except to the community to the west as other surrounding land uses include institutional to the east, commercial to the south and potential future residential to the north. There is no unacceptable land use impact to the west as the 12 storey building has been located at the southeast portion of the site allowing for significant separation and transition and reduced shadow impacts. Further, the stacked townhouses will employ a significant setback from 7.5 m to 10.5 m from the existing residential uses, which will allow for appropriate landscape screening to be provided;
- The site is located within the existing urban area and helps achieve the City's growth strategy by delivering sustainable development that provides a mix of housing types and residential and commercial land uses;
- The proposed development is located at a site that is suitable for intensification of lands that are currently underutilized and that are within an area that has limited opportunity for such intensification due to the built out nature of the neighbourhood;
- The proposed development displays good urban and architectural design. The massing of the mixed use building has been designed to narrow from floors 9-12, which will mitigate the perceived height and mass of the building from the street. Furthermore, the design has been arranged to provide safe movement and circulation of pedestrians and vehicles and offers connections to nearby open space, a mid-block walkway from the existing residential neighbourhood to the west offering a pedestrian connection to the site and to nearby transit. Enhanced landscape elements have been incorporated into the streetscape design and community amenity spaces have been integrated within;
- The proposed development is located and designed in a manner that is consistent with reducing auto dependence and takes advantage of the existing and planned transportation infrastructure;
- The site is adjacent to two regional arterial roads that provide excellent road access, and is already supplied with public transit and direct connections to the Provincial Highway System; and,
- The proposed development is technically feasible as demonstrated in a number of technical reports that were submitted in association with the OPA and ZBLA applications for the Metropia lands.

Further, the Metropia lands meet the development criteria for new mixed use development as outlined in Section 8.3.1.3 of the draft Official Plan:

- **Comprehensive Block Plan:** The development application provided a conceptual

master plan demonstrating how the lands to the north can be developed in a reasonable manner and how servicing could occur;

- **Placement of buildings and relationship to street:** The proposed development concept includes appropriate setbacks from the street and existing residential neighbourhood and have a good interface with the street and internal road network;
- **Enhanced Pedestrian Safety and Comfort:** The mixed use building located on the subject property in order to achieve the highest density and height at the corner intersection, and transitioning down as the built form approaches the existing neighbourhood to the west; thus minimizing shadow and sun impacts and respecting the angular plane requirements;
- **Vehicular access:** The internal road system has been designed to enhance the pedestrian experience through the provision of streetscaping elements, walkways and various connections to the arterial road network, transit and commercial amenities.
- **Location of parking:** Parking has been located entirely underground, with the exception of 8 spaces located at the back of the mixed use building for ease of access to the retail facilities; and loading and garage areas have been appropriately screened; and
- **Landscape buffers:** The provision of a significant side yard setback, allows for enhanced landscape buffers between the multi-unit stacked townhouses and the neighbourhood to the west.

The draft Official Plan was prepared in part to implement the City's Growth Management Strategy. It is also important to note that while the Metropia lands may not have been explicitly identified in Map 1 – Markham Structure of the draft Official Plan as a growth hub, it is our opinion that the redevelopment of this site will not take away from the City's intensification hierarchy for all the reasons list above.

In conclusion, we would request that the draft Official Plan and associated schedules be modified to apply a Mixed Use Mid Rise designation to the Metropia lands.


We request that you consider these comments in your update of the draft Official Plan.

We would be pleased to meet with you to discuss further and would appreciate being notified of any meetings relevant to this process.

November 30, 2012
Page 4

Yours truly,

AIRD & BERLIS LLP


per: Jane Pepino

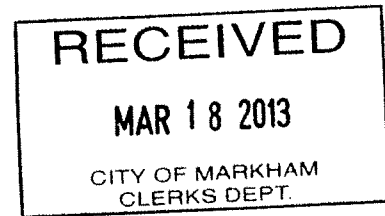
JP/PM

cc. Ryan Millar
Kristy Shortall

13569763.2

MARCH 15, 2013-03-15

TOWN OF MARKHAM
101 TOWNE CENTRE BLVD.
MARKHAM, ONTARIO
L3R 9W3



ATT; CLERKS DEPT.

RE; DRAFT OFFICIAL PLAN COMING TO COUNCIL MARCH 19, 2013-03-15

DEAR SIR;

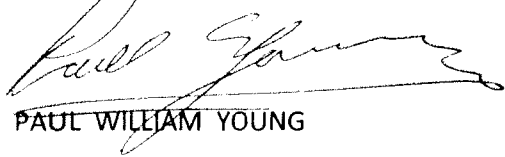
I OWN 5 ACRES AT 4137 HWY 7, IN UNIONVILLE THAT ACCORDING TO YOUR ZONING MAPPING SHOWS ALMOST 75% AS COVERED BY GREENSPACE. NOTHING COULD BE FURTHER FROM THE TRUTH. HAND PLANTED APPLE TREES THAT HAVE NO ECONOMIC VALUE COVER A FEW ACRES OF MY LAND. THEY ARE TOO OLD AND TOO DISEASED. IN 1978 AND 1979 I OBTAINED FROM THE TRCA 2 PERMITS TO FILL SOME WASTE LAND AT THE BACK OF MY HOUSE STRETCHING BACK TO 900 FT OF MY TOTAL DEPTH OF 1229 FT. ACCORDING TO THE PRINCIPALS OF THE MARKHAM CENTRE BYLAW, ALL LANDS AS THEY EXIST ARE CONSIDERED TO BE ACCEPTED AS THEY LAY. MY LAND NOW HAS AT LEAST 3.5 ACRES OF TABLE LAND AND ONCE THE ROUGE PROMENADE PASSES THROUGH THE BACK OF MY LAND I WILL HAVE ONE MORE ACRE OF TABLE LAND AGAIN FROM THE PRINCIPALS OF THE BYLAW SINCE ALL ROAD CROSSINGS ARE CONSIDERED TO GO THROUGH TABLELAND. THE EARTH CO STUDY FOR THE SHERIDAN STORM WATER POND COMMENTS THAT MY LAND CAN SUPPORT A HIGH RISE CONDOMINIUM ON THE SOUTH SIDE OF ROUGH PROMENADE ONE OF ONLY A FEW PROPERTIES THAT WILL BE ALLOWED TO BUILD ON THE SOUTH SIDE. THE FOREST SHOWING ON YOUR PLAN ON 4121 HWY 7 IS NONEXISTENT IN REALITY AND SHOULD BE REMOVED FROM THE PLAN AS SHERIDAN NURSERIES WAS ALLOWED TO REMOVE THE TREES FROM THEIR PROPERTIES.. BEFORE I FORGET THE PERMITS FROM THE TRCA WERE ISSUED BY HANK DUTY WHO VISITED MY PROPERTY MANY TIMES IN THAT ERA. I HAVE COPIES OF THE PERMITS IF YOU WISH TO SEE THEM.

THERE HAS BEEN NO PROPER SCIENCE IN DRAWING THE TRCA LINES ON MY PROPERTY SO THEY SHOULD NOT BE SHOWN AT ALL SO AS NOT TO CONFUSE ANY FUTURE INTEREST IN MY LAND

BY DEVELOPERS. THERE IS NO FOREST ON MY LAND AT ALL, JUST A LOT OF DEAD TREES AS
CONFIRMED BY THE TOWN OF MARKHAM'S OWN ARBORIST FIVE YEARS AGO.

THE NEW MARKHAM OFFICIAL PLAN SHOULD SHOW MY PROPERTY AS SUPPORTING MAJOR HIGH
RISE DEVELOPMENT UP TO 30 PLUS STORIES OVERLOOKING THE ROUGH VALLEY WITH AN FSI OF
BETWEEN 4 AND 5 ON 4.5 USABLE ACRES.

SINCERELY YOURS

A handwritten signature in black ink, appearing to read "Paul Young", written over a horizontal line.

PAUL WILLIAM YOUNG

4137 HWY 7

UNIONVILLE, ONTARIO

L3R 1L5

CC;

YORK REGION COUNCIL

ALL MARKHAM COUNCILLORS

MARKHAM RATEPAYERS ASSOCIATION

JIM BAIRD, PLANNING DIRECTOR

ALAN BROWN, ENGINEERING DIRECTOR

March 25, 2013

Chair and Members
Development Services Committee
Markham City Hall
101 Town Center Boulevard
Markham, ON

Re: Proposed Conversion of Employment Lands Block 1, Registered Plan 65M 2665, Wemat One Limited

Dear Chair and Members of Development Services Committee,

We act as planning consultants for Wemat One Limited, the owner of Block 1, Registered Plan 65 M2665. The site is bounded by Highway 7 to the north, Commerce Valley Drive East to the west, and Highway 404 to the east. The site is approximately 29 acres or 11.7 hectares. It is currently designated “**Industrial**” by the Markham Official Plan, and is proposed for designation as **Priority Business Park** in the Draft Official Plan.

We have been working with our clients on a redevelopment proposal for this important site, which is adjacent to the York Bus Rapid Transit Line along Highway 7. The development concept which is attached, indicates our client’s intended proposal for a continuation of the Business Park on the east side of Commerce Valley Drive East, and contains a mix of uses, including office and hotel, which are permitted uses under the current Markham Official Plan. The current coverage permitted on this site is 90% or 105,494 m² (site area of 117,215 m².) The attached concept achieves a gross floor area of approximately 113,700 m² of office, and hotel uses which provides an excess of almost 8,206 m² in **permitted** employment uses, reflecting the site’s importance as an employment area.

In order to maximize the site’s locational advantages with respect to transportation and transit infrastructure, our client is also proposing to include 500 units (55,580 m²) of residential development and a 16,000 m² performing arts theatre/convention centre. Total gross floor area of the proposal (including 60,000 m² of structured parking) is 245,280 m², at a density of approximately 2.09 fsi,

Site Area		Zoning Density Permission	Permitted GFA (m ²)	Proposed office GFA (m ²)	Proposed hotel GFA (m ²)	Proposed residential GFA (m ²)	Proposed theatre GFA (m ²)	Proposed structured parking (m ²)	Proposed total GFA (m ²)
Acres	m ²								
8.95	117,215	Maximum GFA = 90% of Site Area	105,494	77,700	36,000	55,580	16,000	60,000	245,280

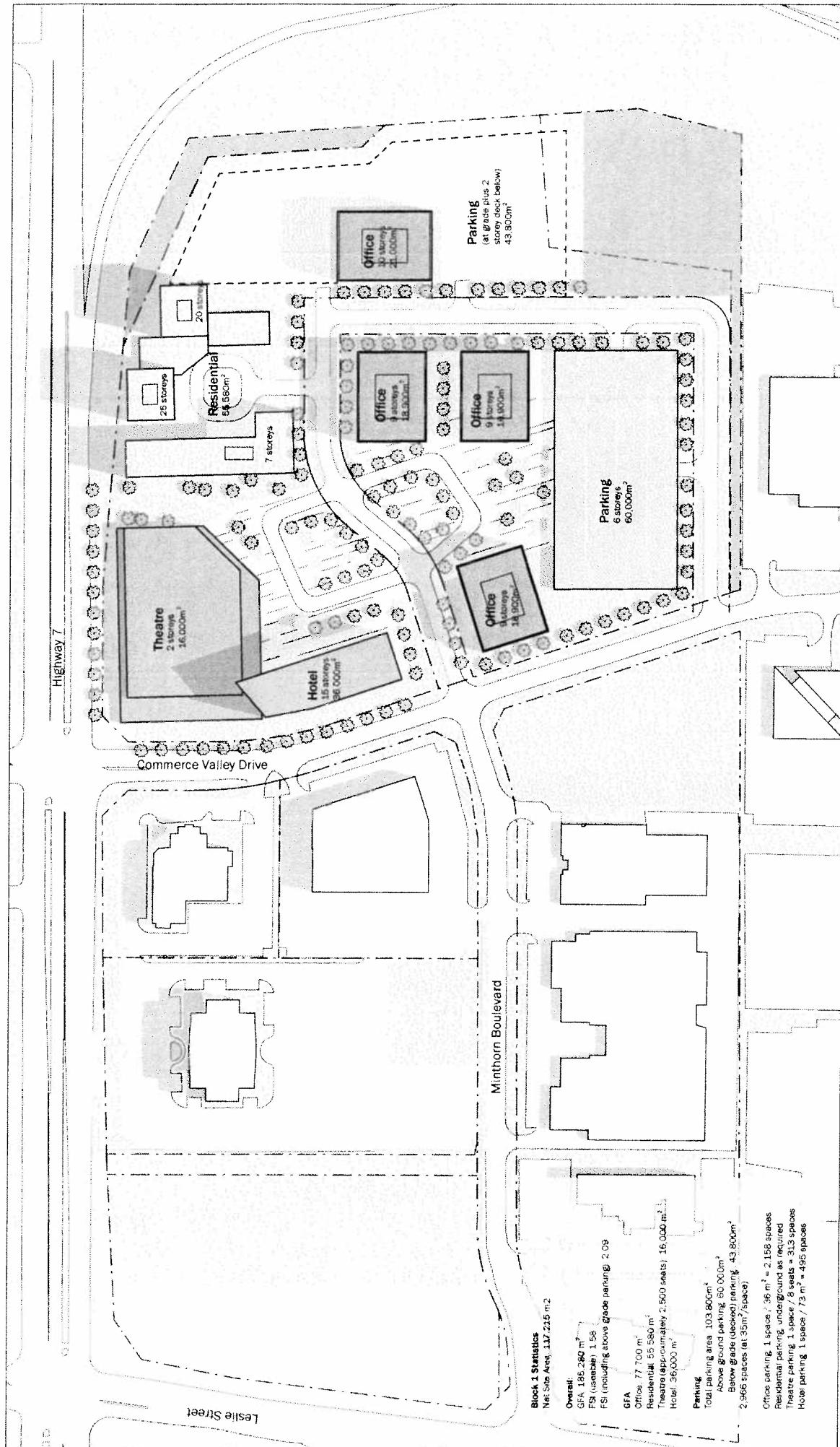
The conversion of employment lands and the integration of additional uses takes maximum advantage of the new transit accessibility afforded this site, and allows for use and activity on the site beyond normal business hours. It is also intended to intensify the utilization of the site for employment use by increasing the coverage intended for office use beyond its current by-law maximum.

We will be submitting our application for a preconsultation meeting with City staff within the next week or so, and look forward to working with the City to bring this plan to fruition.

Yours very truly,
URBAN STRATEGIES INC.

A handwritten signature in black ink, appearing to read 'A. Gabor', with a stylized, cursive script.

Andrea A. Gabor FCIP, RPP
Principal



WEMAT
Block 1 Mixed-use concept
March 2013

HUMPHRIES PLANNING GROUP INC.

March 18, 2013
HPGI File: 12311

**Clerk's Department
City of Markham
101 Town Centre Blvd.
Markham, ON L3R 9W3**

**Attn: Ms. Kitty Bavington
City Clerk**

**Re: 9329 McCowan Road (former Salvation Army Site)
City of Markham Official Plan 2012
Development Services Committee Meeting March 19 2013
Request for Re-Designation by Terra Gold (McCowan) Properties Inc.**

Humphries Planning Group Inc. is submitting the following letter on behalf of Terra Gold (McCowan) Properties Inc., which are new owners of 9329 McCowan Road legally known as Part of Lot 17, Concession 7 in the Town of Markham.

The subject site is located at the north east corner of McCowan Road and 16th Avenue and currently occupied by a cellular telecommunications tower, a single family dwelling and the Salvation Army Church. The property has frontage along 16th Avenue of 43.33 metres and frontage along McCowan Road of 223.29 metres and an area of 2.9 ha. A survey representing the subject site is attached for information purposes.

The subject site is currently designated under the Town of Markham Official Plan as Low Rise Residential and subject to the policies of the Wismer Commons Secondary Plan which designates the site as Institutional. The subject site is zoned RR4 - Rural Residential under By-law 304.87.

Surrounding land uses include, York Region Pumping station to the immediate south, rear yards of semi detached units fronting onto Maria Road to the east, McCowan Road, commercial uses (Gas Station) and flankage yards of single family and townhouse development to the west, existing residential lot with application proposing 3 storey office building (9365 McCowan Road) to the immediate north.

216 Chrislea Road
Suite 103
Vaughan, ON
L4L 8S5

T: 905-264-7678
F: 905-264-8073

www.humphriesplanning.com

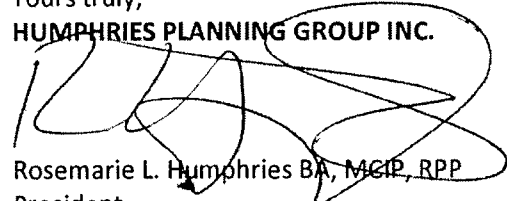
~ Do Something Good Everyday! ~

We are formally requesting that the City of Markham New Official Plan be amended to incorporate specific provisions for the subject site allowing for both Residential Low/Mid Rise land use designation permissions. In support of such a request we advise the municipality that given the location of the site and its relatively large parcel size in addition to the surrounding land use context a briefly described above, a variety of building forms and densities could reasonably be supported on the subject site. It is therefore appropriate for the City to allow the flexibility in its Official Plan for both Low and Mid Rise Residential lands to occur on the subject site.

We would be pleased to meet with staff to discuss this request in greater detail should the need arise.

Yours truly,

HUMPHRIES PLANNING GROUP INC.

A large, stylized handwritten signature in black ink, appearing to read 'RH', is written over the company name.

Rosemarie L. Humphries BA, MCIP, RPP
President

Encl. – site survey

cc. Client
Mr. Jim Baird, Commissioner of Development Services
Mr. Rino Mostacci, Director of Planning and Urban Design
Ms. Marg Wouters, Senior Manager, Policy and Research

CONVERSION NOTE:
DISTANCES SHOWN ON THIS PLAN ARE IN METRES AND
CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048





































































SURVEYOR'S REAL PROPERTY REPORT
PART 1
PLAN OF
PART OF LOT 16
CONCESSION 7
TOWN OF MARKHAM
(GEOGRAPHIC TOWNSHIP OF MARKHAM)
REGIONAL MUNICIPALITY OF YORK
SCALE 1 : 500
2011

© R.G. McKIBBIN LIMITED

PART 2
THIS PLAN MUST BE READ IN
CONJUNCTION WITH SURVEY REPORT
DATED 1 DECEMBER 18, 2011

NOTES

Survey shown herein are approximate and are referred to the
survey of Part 3 in accordance with Dependent Plan
K28-0226, having a bearing of N 10°10'10" E

- Survey Monuments Found: shown as 
Survey Monuments Plotted: shown as 
S.L.S. - shown as 
S.L.S. - shown as 
L.S. - shown as 
L.S. - shown as 
Q/L - shown as 
M - shown as 
M - shown as 
1127 - shown as 
S.S.P. - shown as 
P1 - shown as 
P2 - shown as 
P3 - shown as 
P4 - shown as 
P - shown as 
1177 - shown as 
R - shown as 
R - shown as 
P - shown as 
R - shown as 
R - shown as 
R - shown as 
R - shown as 
R - shown as 
R - shown as 
R - shown as 
R - shown as 
R - shown as 
R - shown as 
R - shown as 
R - shown as 
R - shown as 
R - shown as 
R - shown as 
R - shown as 
R - shown as 
R - shown as 
R - shown as 
R - shown as 
R - shown as 
R - shown as 
R - shown as 
R - shown as 
R - shown as 
R - shown as 
R - shown as 
R - shown as 
R - shown as 
R - shown as 
R - shown as 
R - shown as 
R - shown as 
R - shown as 
R - shown as 
R - shown as 
R - shown as 
R - shown as 
R - shown as 
R - shown as 
R - shown as 
R - shown as 
R - shown as 
R - shown as 
R - shown as 
R - shown as 
R - shown as 
R - shown as 



SURVEYOR'S CERTIFICATE

I CERTIFY THAT

- 1) The survey and plan are correct and in accordance with the Survey Act,
the Land Titles Act and the Regulations and the regulations made under them.
- 2) The survey was completed on the 18th day of December, 2011.

SIGNED 18, 2011

By

Paul McKibbin
Ontario Land Surveyor

THIS REPORT WAS PREPARED FOR
THE SALVATION ARMY IN CANADA AND
THE PARTIES TO THE TRANSACTION
AND THE UNDERSIGNED ACCEPTS NO
RESPONSIBILITY FOR USE BY OTHER
PARTIES

R. G. McKIBBIN LIMITED
ONTARIO LAND SURVEYORS
178 BULLOCK DRIVE, UNIT 10
MARKHAM, ONTARIO L3P 1V2
PHONE (905) 294-3794
FAX (905) 294-4400
Email: 1.R.G.McKibbin@rogers.com



Holborn

PROPERTY INVESTMENTS INC.

71 Buttermill Avenue • Vaughan • Ontario L4K 3X2 • Tel: 905 738-8640 • Fax: 905 738-0105 • info@holbornproperty.com

Town of Markham
Planning and Urban Design
Development Services
101 Town Centre Boulevard
Markham, Ontario L3R 9W3

March 18, 2013

Attn: Jim Baird, MCIP, RPP
Commissioner of Development Services

**RE: Development Services Committee Agenda March 19, 2013 Meeting Number 5
Item 14 – Draft Official Plan 2012 – Public Consultation Overview
And City of Markham Draft Official Plan**

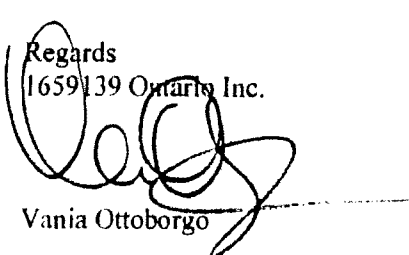
Further to our meeting on January 14, 2013 with respect to approximately 14 acres of land owned by 1659139 Ontario Inc., located on Melborne Street, and legally described as Block 299, 300, 301 on Plan 65M-4026, we would kindly request that consideration be given to our Employment Land conversion request. At our meeting we expressed interest in re-designation of these lands from Industrial to Residential or Commercial or Mixed-use Designation.

We would like an opportunity to meet with you to further discuss our potential employment conversion application so that it can be considered by Committee at the subsequent DSC meeting anticipated to be in May 2013.

For your reference I've attached a General Plan identifying the three parcels referenced above.

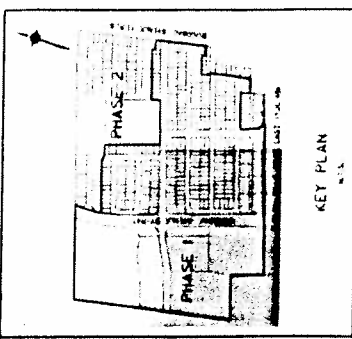
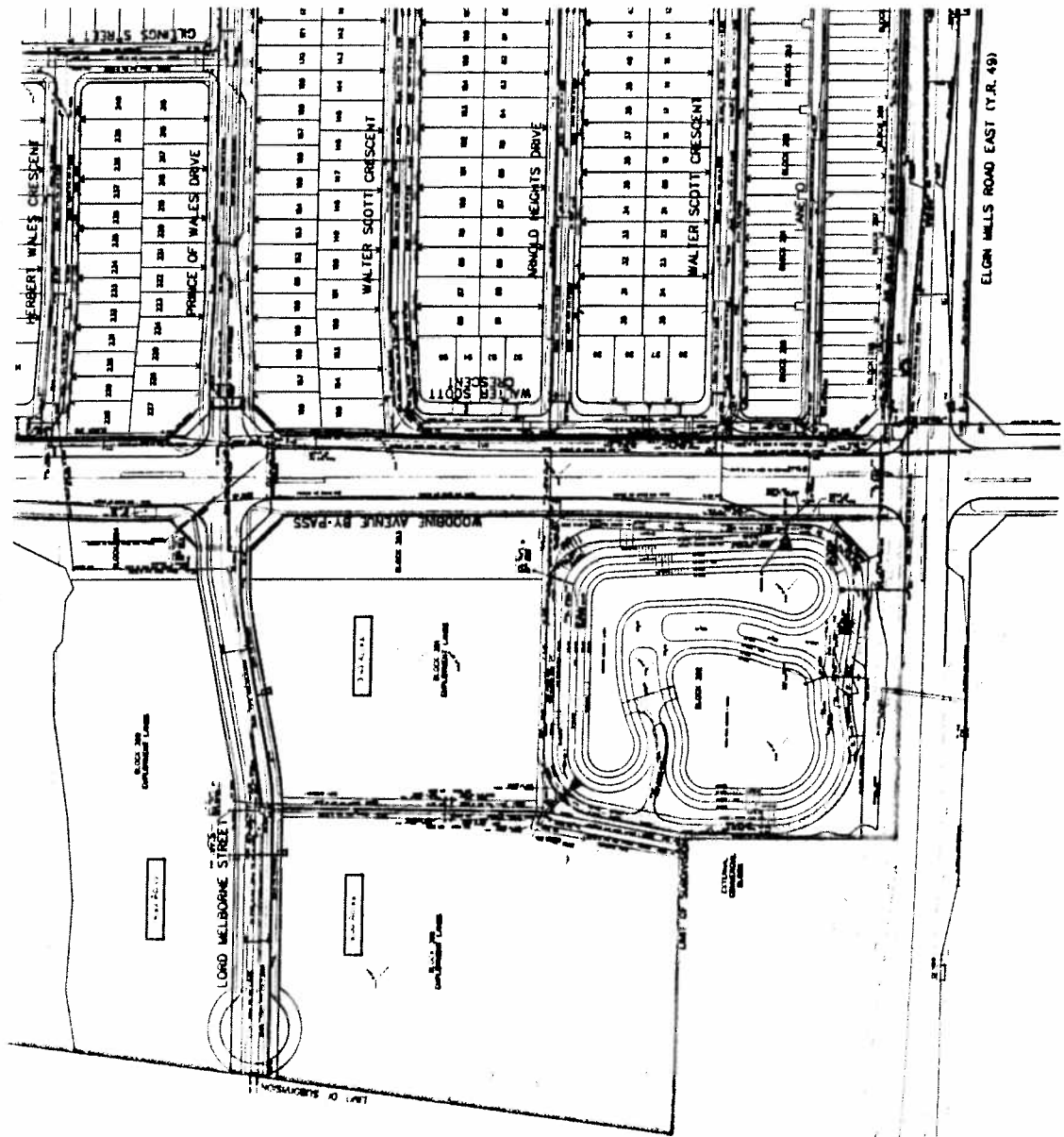
We look forward to further discussion this matter with you and your staff.

Regards
1659139 Ontario Inc.


Vania Ottoborgo

cc. City Clerk – City of Markham via fax 905-479-7771

SEE DRAWING C3



LEGEND

- 1. PROPOSED
- 2. EXISTING
- 3. EXISTING
- 4. EXISTING
- 5. EXISTING
- 6. EXISTING
- 7. EXISTING
- 8. EXISTING
- 9. EXISTING
- 10. EXISTING
- 11. EXISTING
- 12. EXISTING
- 13. EXISTING
- 14. EXISTING
- 15. EXISTING
- 16. EXISTING
- 17. EXISTING
- 18. EXISTING
- 19. EXISTING
- 20. EXISTING
- 21. EXISTING
- 22. EXISTING
- 23. EXISTING
- 24. EXISTING
- 25. EXISTING
- 26. EXISTING
- 27. EXISTING
- 28. EXISTING
- 29. EXISTING
- 30. EXISTING
- 31. EXISTING
- 32. EXISTING

NOTES

1. ALL DIMENSIONS ARE IN METERS UNLESS OTHERWISE SPECIFIED.

2. THE PROPOSED DEVELOPMENT IS SUBJECT TO THE APPROVAL OF THE TOWN OF MARKHAM ENGINEERING DEPARTMENT.

3. THE PROPOSED DEVELOPMENT IS SUBJECT TO THE APPROVAL OF THE TOWN OF MARKHAM ENGINEERING DEPARTMENT.

4. THE PROPOSED DEVELOPMENT IS SUBJECT TO THE APPROVAL OF THE TOWN OF MARKHAM ENGINEERING DEPARTMENT.

5. THE PROPOSED DEVELOPMENT IS SUBJECT TO THE APPROVAL OF THE TOWN OF MARKHAM ENGINEERING DEPARTMENT.

6. THE PROPOSED DEVELOPMENT IS SUBJECT TO THE APPROVAL OF THE TOWN OF MARKHAM ENGINEERING DEPARTMENT.

7. THE PROPOSED DEVELOPMENT IS SUBJECT TO THE APPROVAL OF THE TOWN OF MARKHAM ENGINEERING DEPARTMENT.

8. THE PROPOSED DEVELOPMENT IS SUBJECT TO THE APPROVAL OF THE TOWN OF MARKHAM ENGINEERING DEPARTMENT.

9. THE PROPOSED DEVELOPMENT IS SUBJECT TO THE APPROVAL OF THE TOWN OF MARKHAM ENGINEERING DEPARTMENT.

10. THE PROPOSED DEVELOPMENT IS SUBJECT TO THE APPROVAL OF THE TOWN OF MARKHAM ENGINEERING DEPARTMENT.

11. THE PROPOSED DEVELOPMENT IS SUBJECT TO THE APPROVAL OF THE TOWN OF MARKHAM ENGINEERING DEPARTMENT.

12. THE PROPOSED DEVELOPMENT IS SUBJECT TO THE APPROVAL OF THE TOWN OF MARKHAM ENGINEERING DEPARTMENT.

13. THE PROPOSED DEVELOPMENT IS SUBJECT TO THE APPROVAL OF THE TOWN OF MARKHAM ENGINEERING DEPARTMENT.

14. THE PROPOSED DEVELOPMENT IS SUBJECT TO THE APPROVAL OF THE TOWN OF MARKHAM ENGINEERING DEPARTMENT.

15. THE PROPOSED DEVELOPMENT IS SUBJECT TO THE APPROVAL OF THE TOWN OF MARKHAM ENGINEERING DEPARTMENT.

16. THE PROPOSED DEVELOPMENT IS SUBJECT TO THE APPROVAL OF THE TOWN OF MARKHAM ENGINEERING DEPARTMENT.

17. THE PROPOSED DEVELOPMENT IS SUBJECT TO THE APPROVAL OF THE TOWN OF MARKHAM ENGINEERING DEPARTMENT.

18. THE PROPOSED DEVELOPMENT IS SUBJECT TO THE APPROVAL OF THE TOWN OF MARKHAM ENGINEERING DEPARTMENT.

19. THE PROPOSED DEVELOPMENT IS SUBJECT TO THE APPROVAL OF THE TOWN OF MARKHAM ENGINEERING DEPARTMENT.

20. THE PROPOSED DEVELOPMENT IS SUBJECT TO THE APPROVAL OF THE TOWN OF MARKHAM ENGINEERING DEPARTMENT.

21. THE PROPOSED DEVELOPMENT IS SUBJECT TO THE APPROVAL OF THE TOWN OF MARKHAM ENGINEERING DEPARTMENT.

22. THE PROPOSED DEVELOPMENT IS SUBJECT TO THE APPROVAL OF THE TOWN OF MARKHAM ENGINEERING DEPARTMENT.

23. THE PROPOSED DEVELOPMENT IS SUBJECT TO THE APPROVAL OF THE TOWN OF MARKHAM ENGINEERING DEPARTMENT.

24. THE PROPOSED DEVELOPMENT IS SUBJECT TO THE APPROVAL OF THE TOWN OF MARKHAM ENGINEERING DEPARTMENT.

25. THE PROPOSED DEVELOPMENT IS SUBJECT TO THE APPROVAL OF THE TOWN OF MARKHAM ENGINEERING DEPARTMENT.

26. THE PROPOSED DEVELOPMENT IS SUBJECT TO THE APPROVAL OF THE TOWN OF MARKHAM ENGINEERING DEPARTMENT.

27. THE PROPOSED DEVELOPMENT IS SUBJECT TO THE APPROVAL OF THE TOWN OF MARKHAM ENGINEERING DEPARTMENT.

28. THE PROPOSED DEVELOPMENT IS SUBJECT TO THE APPROVAL OF THE TOWN OF MARKHAM ENGINEERING DEPARTMENT.

29. THE PROPOSED DEVELOPMENT IS SUBJECT TO THE APPROVAL OF THE TOWN OF MARKHAM ENGINEERING DEPARTMENT.

30. THE PROPOSED DEVELOPMENT IS SUBJECT TO THE APPROVAL OF THE TOWN OF MARKHAM ENGINEERING DEPARTMENT.

31. THE PROPOSED DEVELOPMENT IS SUBJECT TO THE APPROVAL OF THE TOWN OF MARKHAM ENGINEERING DEPARTMENT.

32. THE PROPOSED DEVELOPMENT IS SUBJECT TO THE APPROVAL OF THE TOWN OF MARKHAM ENGINEERING DEPARTMENT.

MARKHAM
ENGINEERING

THE CORPORATION OF THE TOWN OF MARKHAM
ENGINEERING DEPARTMENT

HERITAGE AT VICTORIA SQUARE
GENERAL PLAN
SHEET 1 OF 2

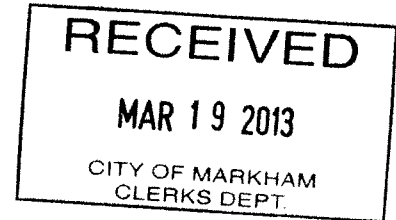
Cole Engineering Group Ltd.
Professional Engineer
Registration No. 10000

PROJECT NO. 10000
DATE: 1/1/2000
SCALE: 1:1000
MOQ-115
G1

March 15, 2013

To:

Town Clerk,
City of Markham,
101 Town Centre Blvd.
Markham, Ontario
L3R 9W3



From:

Mr. Giovanni (John) Amello

Re: Regional Official Plan Amendment 3

Property Description:
4716 Elgin Mills Rd East.
Part Lot 26, Concession 6 EYS
A 46 Acre farm located about 1,000 feet
East of Kennedy Rd on the North side of Elgin Mills.

Please find enclosed the letter I sent to Duncan MacAskill detailing our request for the inclusion of our property into the Urban Area designation.

Sincerely,

A handwritten signature in black ink, appearing to read "John Amello". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

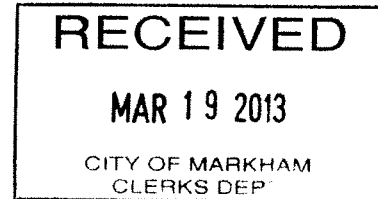
John (Giovanni) Amello

March 15 2013

To

Regional Municipality of York
Planning Department
17250 Yonge St
NEWMARKET ONTARIO
L3Y 6Z1
ATTENTION: DUNCAN MACASKILL

From
Mr. Giovanni (John) Amello



Re: Regional Official Plan Amendment 3

Property Description:
4716 Elgin Mills Rd East.
Part Lot 26, Concession 6 EYS
A 46 Acre farm located about 1,000 feet
East of Kennedy Rd on the North side of Elgin Mills.

Dear Duncan,

Further to our phone conversation on March 14th, I am sending you this letter. My name is John (Giovanni Amello) and I along with my partners own the above described property.

It has come to our attention that the Regional Official Plan is under review and upon our examination we have discovered that our property has not been re-designated Urban Area but remains agricultural. Please refer to attached map.

We are of the opinion that as our lands are surrounded to the west, north and east by the Provincial Greenbelt Plan (Regional Greenlands System) that it only makes good planning sense to include our land for development in conjunction with the Urban Area designated lands to the south. In addition, from a sanitary flow servicing perspective, our lands naturally slope south into the Urban Area designated lands. We also note that small pockets of land to the west of Kennedy Rd surrounded by the Provincial Greenbelt have been designated Urban Area and think it only fair that we be extended the same treatment.

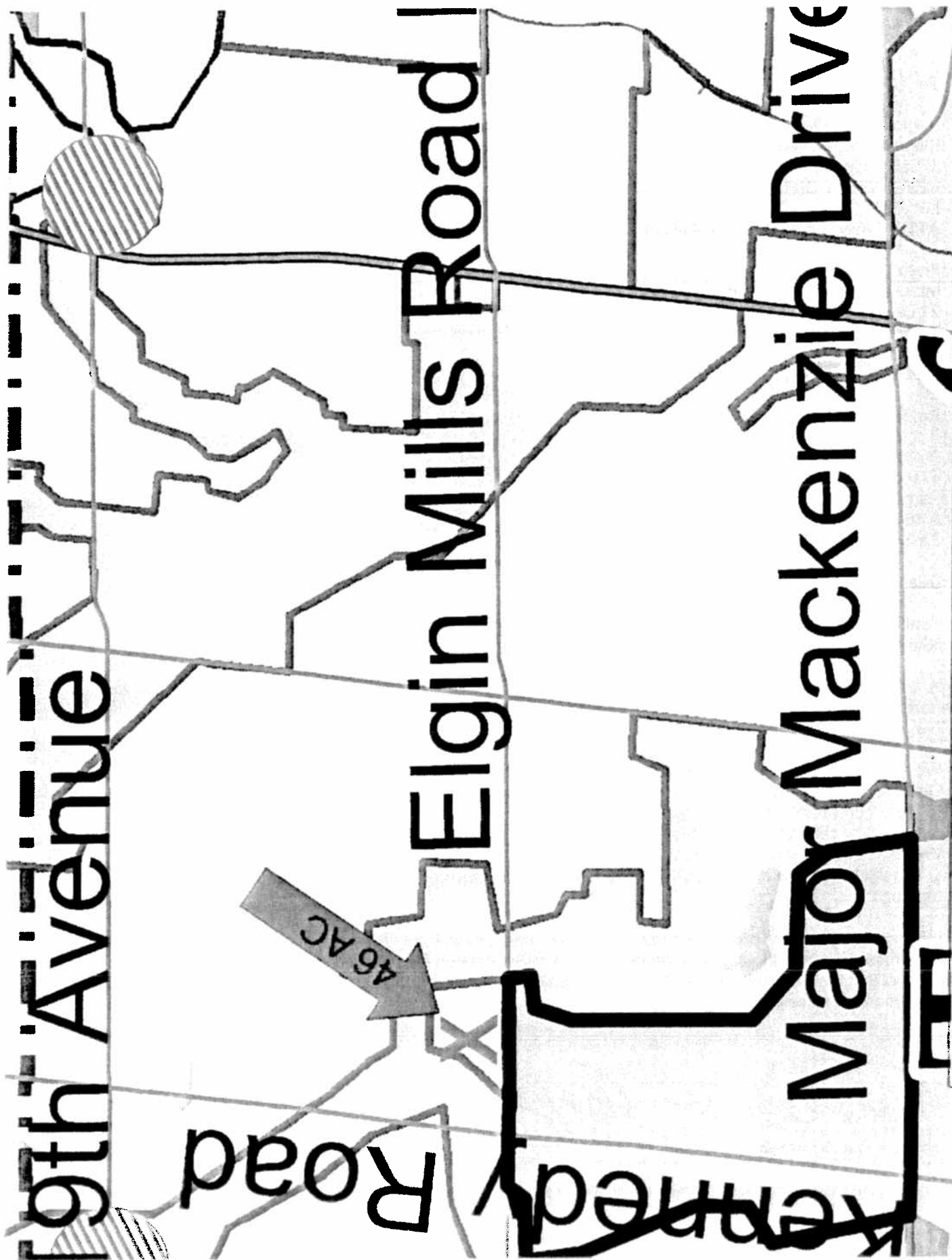
In summary due to the proximity of our lands to the new Urban Area, the shared Greenbelt boundary with the Urban Area, and the inclusion precedent for similar lands on the west side of Kennedy Road we request that the Regional Official Plan 3 give consideration to amended the plan to include our lands into the Urban Area designation.

Regards

A handwritten signature in black ink, appearing to read "John (Giovanni) Amello". The signature is fluid and cursive.

John (Giovanni) Amello.

c.c. Planning Dept Markham, Town Clerk, Markham



YORK REGIONAL OPA #3