



Report to: Development Services Committee

March 5, 2013

SUBJECT: RECOMMENDATION REPORT
**Malone Given Parsons Ltd., on behalf of
North Markham Landowner's Group**
Proposal to Revoke Minister's Zoning Order, Ontario
Regulation 104/72 (Airport Freeze) on Nine Properties, File
No. ZA 12-126313

PREPARED BY: Stephen Corr, B.E.S. - Planner II, Special Projects Team,
ext 2624

REVIWED BY: Tom Villella, CPT, M.C.I.P., R.P.P. – Senior Project
Coordinator, Zoning and Special Projects, ext 2758

RECOMMENDATION:

- 1) That the report dated March 5th 2013, titled "RECOMMENDATION REPORT, Malone Given Parsons Ltd., on behalf of North Markham Landowner's Group, Proposal to Revoke Minister's Zoning Order (MZO), Ontario Regulation 104/72 (Airport Freeze) on Nine Properties", File No. ZA 12-126313 be received;
- 2) That the City of Markham inform the Ministry of Municipal Affairs and Housing that it has no objection to the Minister's Zoning Order (MZO), Ontario Regulation 104/72 (Airport Freeze) being revoked on three subject properties owned by Fieldgate Developments, being 10227 Kennedy Road, 4638 Major Mackenzie Drive East and 4551 Elgin Mills Road East;
- 3) That the City of Markham inform the Ministry of Municipal Affairs and Housing that it has no objection to the Minister's Zoning Order (MZO), Ontario Regulation 104/72 (Airport Freeze) being revoked on the additional six subject properties if the Province and Region of York deem it acceptable;
- 4) That should the Ministry of Municipal Affairs and Housing (MMAH) deem it appropriate to revoke the Ministers Zoning Order (MZO), Ontario Regulation 104/72 (Airport Freeze) for lands at 10566 Highway 48, staff would recommend that the Owner of that property be required to remove the existing storage trailers from the property in order to conform with the City of Markham's Zoning By-laws and Official Plan;
- 5) That this Recommendation Report be forwarded to the Ministry of Municipal Affairs and Housing (MMAH) and the Region of York; and
- 6) That Staff be authorized and directed to do all things necessary to give effect to this resolution.

PURPOSE:

The purpose of this report is to provide comments on an application submitted by North Markham Landowners Group to the Ministry of Municipal Affairs and Housing

(MMAH) to revoke the Minister's Zoning Order (MZO), Ontario Regulation 104/72 (Airport Freeze) from nine properties located in North Markham.

BACKGROUND:

Malone Given Parsons Ltd. has submitted this application on behalf of North Markham Landowners Group, representing five property owners of nine separate land holdings. In general, the nine subject properties are located between Warden Avenue to the west, 9th Line to the east, Major Mackenzie Drive East to the south and 19th Avenue to the North. Additional details regarding the nine subject properties are outlined in Table 1 below.

Table 1

Property No. as shown on Maps	Address	Ownership	Lot Area	General Location
1	11162 Kennedy Road	Fieldgate Developments	48.5 ha	East side of Kennedy Road, north of Elgin Mills Road East
2	4044 Elgin Mills Road East	Romandale Farms Limited	74.5 ha	North side of Elgin Mills Road East, east side of Warden Avenue and west side of Kennedy Road
3	4551 Elgin Mills Road East	Fieldgate Developments	23.6 ha	South side of Elgin Mills Road East, east side of Kennedy Road
4	10227 Kennedy Road.	Fieldgate Developments	64.3 ha	East side of Kennedy Road, north of Major Mackenzie Drive East
5	4638 Major Mackenzie Drive East	Fieldgate Developments	60.3 ha	North side of Major Mackenzie Drive East, east side of Kennedy Road
6	10466 Highway 48	Cavcoe Holdings	20.2 ha	West side of Highway 48, south of Elgin Mills Road East
7	10566 Highway 48	H & R Developments	20.9 ha	West side of Highway 48, south of Elgin Mills Road East
8	10541 Highway 48	Emery Investments	43.3 ha	East side of Highway 48, south of Elgin Mills Road East
9	10192 9 th Line	Emery Investments	40.4 ha	West side of 9 th Line, south of Elgin Mills Road East

Provincial Planning Documents

The nine subject properties are located within the Minister's Zoning Order (MZO), Ontario Regulation 104/72 (Airport Freeze), which is administered by the Ministry of Municipal Affairs and Housing (MMAH). The MZO, Ontario Regulation 104/72 has been in effect since the early 1970s and its purpose is to curtail development upon lands in the vicinity of a possible future airport on lands in Federal ownership in the neighboring City of Pickering. The most recent *Pickering Lands Needs Assessment Study* (March 2010), prepared by the Greater Toronto Airports Authority, concluded that an

additional airport will be needed to accommodate future growth in the Greater Golden Horseshoe, and that the Pickering lands should be protected for future aviation needs.

Markham Official Plan and Zoning

The nine subject properties are all zoned Agricultural One – A1 under By-law 304-87, as amended. Additionally, properties 1, 2, 6 and 7 as identified in *Table 1* have portions of the property which are zoned Open Space One – O1 under By-law 304-87, as amended. The Agricultural One Zone permits agricultural uses, such as active farming operations; seasonal fruit and vegetable stands; and a single detached dwelling, accessory to the agricultural use of the land. The Open Space One Zone prohibits the erection of any buildings or structures within this zone boundary, which on the four effected subject properties generally follows the natural water courses on those properties. No existing buildings or structures appear to be located within the Open Space One zone on three of the subject properties. However, several storage trailers are located within the Open Space One Zone on property 6, as identified in *Table 1*, being 10566 Highway 48, which does not comply with the permitted uses in this zone.

The nine subject properties are all designated Agricultural under the City of Markham Official Plan. Additionally, properties 1, 2, 4, 6 and 7, as identified in *Table 1* have portions of the property that are designated Hazard Lands under the Official Plan. The planned function of lands designated as Agricultural is to ensure the predominant land use remains agricultural, by permitting farming activities, land uses related to and supportive of farming activities, as well as existing rural residential uses. Hazard lands include lands within the Regulatory Flood Lines or stable or predicted stable slope lines defined by the Toronto Conservation Authority. The purpose of the Hazard Land designation is primarily to preserve and conserve the features of the land in its natural state. Farming is a permitted land use within the Hazard Land designation, where appropriate. The existing agricultural uses on the nine subject properties, including the location of any existing dwellings, barns and outbuildings are permitted within the Official Plan. No buildings or structures appear to be located on four of the subject properties, within the portions of the property designated as Hazard Lands. However, there are several trailers stored within the designated Hazard Lands area on 10566 Highway 48, identified as property 6 in *Table 1*, which is not permitted under the Official Plan.

Regional Official Plan and Draft Markham Official Plan

Three of the subject properties, being 10227 Kennedy Road, 4638 Major Mackenzie Drive East and 4551 Elgin Mills Road East are located within the Future Urban Area as outlined in Amendment 3 to the York Regional Official Plan, 2010 (ROPA 3). The remaining six subject properties are located outside of the Future Urban Area under the York Region Official Plan. ROPA 3 is currently under appeal to the Ontario Municipal Board (OMB).

The City of Markham Draft Official Plan is consistent with ROPA 3 and also identifies that three of the subject properties (properties 3, 4 and 5 in *Table 1* and *Figure 1*) are anticipated to be within a Future Neighbourhood Area. The remaining six subject

properties are located outside of the anticipated Future Neighbourhood Area under the draft new City of Markham Official Plan, which is currently under review. Figure 1 is attached to identify the location of the nine subject properties in relation to the Future Neighbourhood Area of the City of Markham Draft Official Plan.

Property of Cultural Heritage Value or Interest

One of the subject properties, being 10227 Kennedy Road, is listed on the Heritage Register of Properties of Heritage Value or Interest. A portion of this 64.3 ha property contains the Pingle Burying Ground and Homer Wilson House and J.P. Carr Cottage, circa 1860. Heritage Planning staff have indicated they would have no objection to removal of the MZO, Ontario Regulation 104/72 (Airport Freeze) on this particular property.

OPTIONS/ DISCUSSION:

It should be noted that through this application, the proponents are not proposing to amend the City of Markham's Zoning By-laws and Official Plan. This proposal is specifically a request to the MMAH to remove the subject lands from the MZO, Ontario Regulation 104/72 (Airport Freeze). Should the MMAH see it appropriate to remove the subject lands from the MZO, the underlying City of Markham Zoning By-laws and Official Plan policies will remain in effect. As noted above, eight of the subject properties do appear to comply with both the applicable Zoning By-laws and Official Plan policies. The one exception is 10566 Highway 48 which currently has several storage trailers located on the portion of the property zoned Open Space One and designated as Hazard Lands in the Official Plan.

The purpose of MZO, Ontario Regulation 104/72 is to curtail development upon lands in the vicinity of a possible future airport in the neighboring City of Pickering. Staff note that three of the subject properties, which are identified as Properties 3, 4 and 5 in *Table 1*, are anticipated to be located within the defined Future Urban Area in the York Region Official Plan through ROPA 3 and the defined Future Neighbourhood Area of the City of Markham Draft Official Plan, currently under review. Staff would therefore support that the MZO, Ontario Regulation 104/72 be revoked on these three subject properties owned by Fieldgate Developments, being 10227 Kennedy Road, 4638 Major Mackenzie Drive East and 4551 Elgin Mills Road East. With respect to the remaining six subject properties, Policy and Research Planning Staff have submitted comments on this proposal, which indicate that they would support the removal of the MZO, Ontario Regulation 104/72 (Airport Freeze) on the additional six subject properties if the Province and Region of York deem it acceptable. It is the opinion of staff that the lands are appropriately dealt with, from a local municipal perspective, under Markham Official Plan policies and zoning even if the Provincial zoning layer were to be removed.

Staff acknowledge that the final decision on this matter resides with the MMAH and should they deem it appropriate to revoke MZO, Ontario Regulation 104/72 (Airport Freeze) for lands at 10566 Highway 48, staff would recommend that Owner of that property be required to remove the existing storage trailers from the property in order to conform with the City of Markham's Zoning By-laws and Official Plan.

FINANCIAL CONSIDERATIONS AND TEMPLATE:

Not Applicable

HUMAN RESOURCES CONSIDERATIONS

Not Applicable

ALIGNMENT WITH STRATEGIC PRIORITIES:

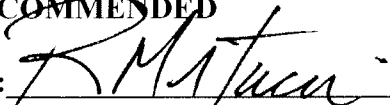
Zoning and Growth Management

BUSINESS UNITS CONSULTED AND AFFECTED:

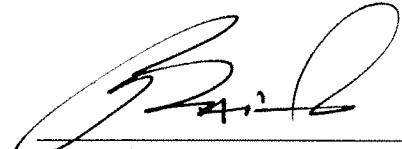
The Legal Department has been consulted in the preparation of this report.

RECOMMENDED

BY:



Rino Mostacci, M.C.I.P., R.P.P.
Director of Planning and Urban Design



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

ATTACHMENTS:

Figure 1 - Property Location Map and Draft Official Plan Designations

File path: Amanda\File 12 126313\Documents\Recommendation Report

Figure 1 - Property Location Map and Draft Official Plan Designations

