



Report to: Development Services Committee

Report Date: September 11, 2012

SUBJECT: Petition for the Deletion of a Sidewalk on Pagnello Court,
Ward 7 (Box Grove)

PREPARED BY: Brian Lee, Sr. Manager, Dev. Eng. & Transportation ext.4838

RECOMMENDATION:

- 1) That the September 11, 2012 report entitled "Petition for the Deletion of a Sidewalk on Pagnello Court, Ward 7" be received;
- 2) And that the installation of a sidewalk on the west side of Pagnello Court as shown in the approved engineering drawings and indicated in the home owner's Agreement of Purchase of Sale be re-affirmed;
- 3) And that the homeowners of Pagnello Court be informed of Council's decision.
- 4) And 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 inform Council of a petition submitted by the home owners of Pagnello Court in Ward 7 which is located to the south of Rouge Bank Drive and to the east of the Old Ninth Line in the Box Grove Community (see Attachment "A"), and to inform Development Services Committee of staff recommendations.

BACKGROUND:

Pagnello Court is a north south municipal street with 17.0 m right-of-way that extends south from Rouge Bank Drive and ends in a cul-de-sac just north of 14th Avenue. This subdivision was approved in 2010. The cross section of Pagenello Court has a 6.0 m boulevard on the west side (where the houses are located), and was designed to accommodate a sidewalk. The east side of Pagnello Court will be the future Box Grove Community Park. Pagnello Court currently services 22 lots with some additional land at the north end for a few more lots.

In June this year, TACC Construction Ltd. gave notice to the home owners that sidewalk construction, final lot grading and sodding will be taking place over the summer months. When the home owners received this notification, they called City staff and complained about the construction of the sidewalk. Around June 12, 2012, City staff received a signed petition (see Attachment "B".) objecting to the sidewalk and said they have been misinformed that there were to have no sidewalks.

OPTIONS/ DISCUSSION:**Managing Growth in Markham**

The City is embarking on a new Official Plan which will be the blueprint of how the City will grow in the next 20 years. Markham's population is expected to grow from 300,000 today to about 421,600, and the employment is expected to increase to 240,000 from 160,000. One of Council's six priorities in the Building Markham's Future Together is "Improving transportation and transit".

Transportation Vision - Increase Travel Choices

The growth strategy endorsed by Council incorporates creating more sustainable, higher density, mixed use communities that reduce reliance on the automobile. The challenge for Markham over the Official Plan period is "*to accelerate the transition from a primarily car dependent community, to one where travel includes other modes such as transit, cycling, walking and carpooling.*" Council identified the four key elements of the transportation vision as:

- Supporting patterns of growth and land use that will ultimately require less travel for everyday activities which encourage more travel by transit, cycling and walking
- Optimizing available transportation infrastructure to increase efficiency of moving people and goods
- Reducing environmental impacts of transportation
- Promoting liveable, active and healthy communities

Council's direction to promote other modes of transportation is very clear and staff have reflected this through community design and infrastructure investment.

Subdivision Design – Creating a Walkable Community with Complete Streets

Based on Council's direction, Markham communities are designed with a mixed of density and uses to allow different amenities to be in close proximity. The design of large tracts of land with a single low density use, dependent on private vehicles for transportation, has proved to be unsustainable. There is now an emphasis on creating walkable communities and complete streets where everyone and different modes of transportation are accommodated and not just the car. Therefore, subdivisions are designed with certain minimum sidewalk requirements. Sidewalks allow residents and visitors to walk in a safe location and are a component of the essential infrastructure just like a watermain or a sanitary sewer. It has also been well documented that communities with more active transportation (e.g. cycling, roller-blading, walking) result in residents with higher activity rate and generally better health. The relationship between communities designed for active transportation correlating to improved public health has been well documented in a number of studies and research. Council has a sidewalk installation policy which was established in 1983 and last updated in 1997 for OPA 5 urban expansion areas. The policy requires sidewalks to be installed in crescents or cul-de-sac's if the sidewalk forms part of a system leading to a school, park or major shopping centre. Staff will review the policy with the intention to make further updates in the future.

Design of the Pagnello Subdivision

The Pagnello Subdivision has a 6.0m wide west boulevard (the part of the right-of-way between the curb and the property line) which is designed to incorporate a 1.5m wide concrete sidewalk, consistent with Council policy. Sidewalks are required to ensure residents and visitors do not have to walk on the street.

Pagnello Court is also located within walking distance to a number of amenities including the Legacy Public School, Box Grove Plaza and neighbourhood retail at 14th Avenue/Box Grove Bypass. The sidewalk will encourage walking trips to these nearby amenities.

Homeowners of Pagnello Court were advised of Planned Sidewalk

As part of the subdivision process, developers are required to advise future home owners about noise issues and presence of easements/sidewalks/walkways. This requirement is specified in the subdivision agreement, and TACC Construction Ltd included warning clauses in the agreement of purchase and sales. An actual extract from the relevant section of the agreement of purchase and sales acknowledgement is provided in Attachment C.

Recommendations

Staff support the installation of a sidewalk on Pagnello Court based on:

- Council's policy to build walkable communities
- Council sidewalk policy
- Engineering standards for installation of a sidewalk on one side of a local street
- Purchasers were advised of a sidewalk in the agreement of purchase and sales
- Not setting a precedent to open up further requests for deletion of sidewalks.

FINANCIAL CONSIDERATIONS AND TEMPLATE: (external link)

There is no financial impact for the construction of the municipal sidewalk as the construction cost is fully the developer's responsibility as stipulated in the Subdivision Agreement. The Operations Department is responsible for maintenance of all municipal sidewalks.


ALIGNMENT WITH STRATEGIC PRIORITIES:

The provision of sidewalks in residential subdivision aligns with Council's direction to provide more choices in travel and to encourage walking.

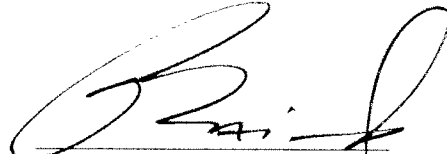
BUSINESS UNITS CONSULTED AND AFFECTED:

The Planning & Urban Design Department has been consulted in the preparation of this report.

RECOMMENDED BY:

A handwritten signature in black ink, appearing to read 'Alan Brown', written over a horizontal line.

Alan Brown, C.E.T.
Director of Engineering

A handwritten signature in black ink, appearing to read 'Jim Baird', written over a horizontal line.

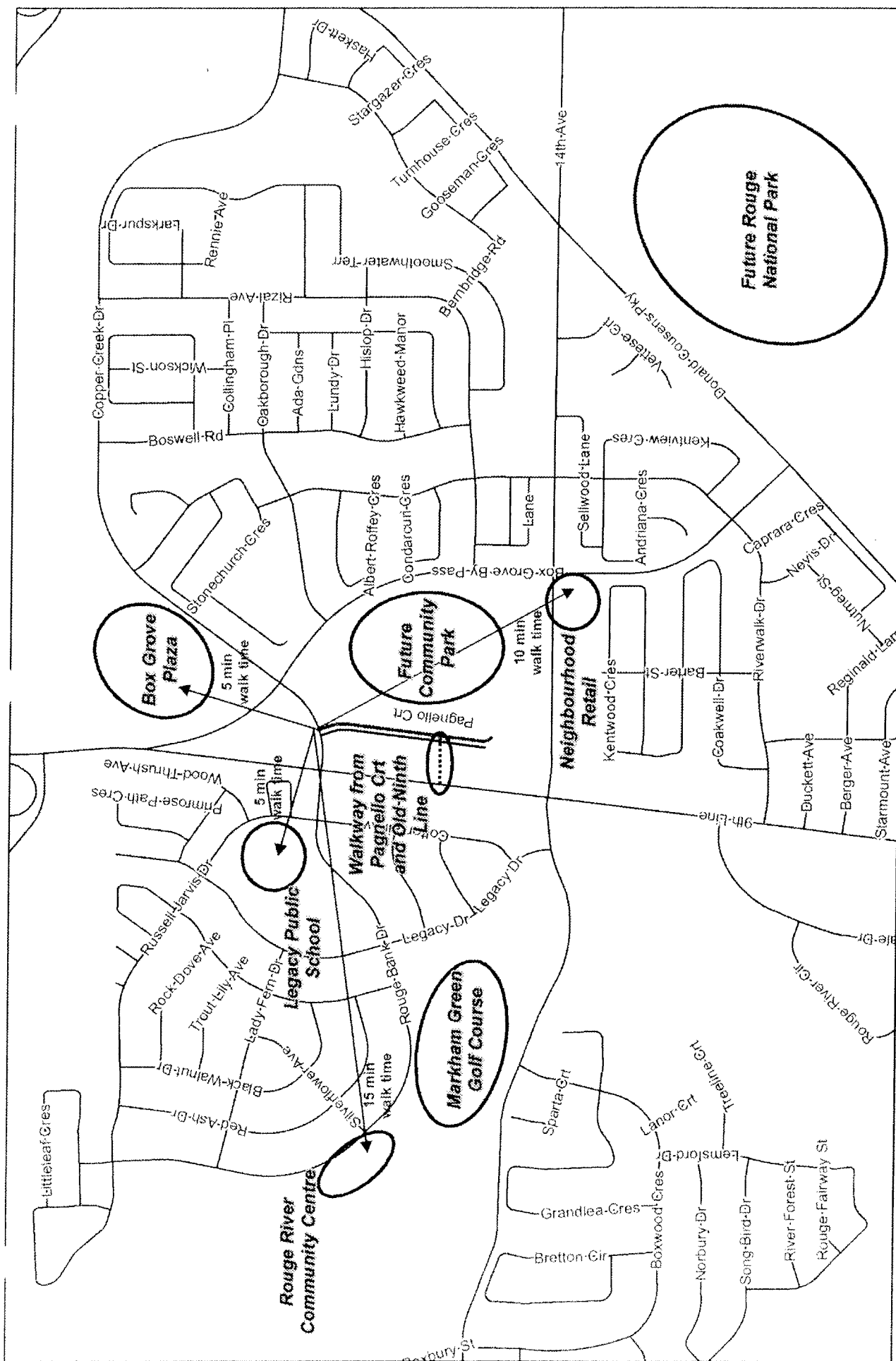
Jim Baird, M.C.I.P., R.P.P.
Commissioner, Development Services

ATTACHMENTS:

Attachment "A" – Site Location Map

Attachment "B" – Petition Letter and Signatures

Attachment "C" – Extract from Pagnello Subdivision Agreement of Purchase & Sales



Location Map Attachment A

Proposed Sidewalk



ATTACHMENT B

Jun 12, 2012

TO WHOM IT MAY CONCERN:

- **Town of Markham** (cc – Mr. Val Acocella)
- **Arista Homes** (cc – Mr. Benny Morano)
- **TACC Development Inc.** (cc – Mr. Tiago Do Couto)
- **SCS Consulting Group LTD** (cc – Scott Lafete)

Please be advised that enclosed is a **FORMAL PETITION** on behalf of the residents from *Pagnello Court* in regards to:

"...concrete pouring for sidewalk and top curb installation for Pagnello Court will be taking place on June 12th, 2012 and continue until approximately June 22nd, 2012"

When the lots were released by the sales office **Arista Homes** on May 14th, 2011, we (the future occupants) were told that there will be no sidewalk, and thus purchased our respective lots and model homes. This being said, on June 11th, 2012, we (the current occupants) received a letter from **SCS Consulting Group LTD** signed by *Scott Lafete* that there will indeed be a sidewalk (as stated above).

This is **absolutely unacceptable**.

There was never any indication that any of the lots were to have sidewalks, and therefore we feel that we were falsely informed at the purchasing time. We are outraged with **Arista Homes** in how they have dealt with this matter because we feel that we have been misinformed and misrepresented. We as purchasers feel very distraught and disgusted with how **Arista Homes** has dealt with every situation from day one, but being excited about new homes, we allowed them to carry on. However, there comes a point in which something needs to be said about the handling and proceedings at **Arista Homes**. We as the current community feel very strong about what we believe to be right, and this is clearly not one of those circumstances.

Once again, enclosed are signatures from the occupants of Pagnello Court requesting that there be no sidewalk, as that is what was originally told to us and we feel that is what we should have. We will take further actions against the builders and/or the city to receive justice if the need be.

SINCERELY

- THE RESIDENTS OF PAGNELLO COURT (please see attached)

RESIDENTS OF PAGNELLO COURT

| NAME | House # |
|----------------------------------|---------------------|
| YOGESWARAN SUBRAJINE | LOT 3E # 16 |
| Thiyanthan Gnanaalingam | Lot 15E # 42. |
| CHING HUA CHANG | Lot 4E # 18 |
| Shanthi Loganathan | Lot 11E # 32 |
| DR SAQIB QURESHI | Lot 18 # 48 |
| Prof Jane Ravichandra | Lot 14E |
| 647-866-1573 | Lot 16E |
| Roshan | Lot 8E (house # 26) |
| Mr Navaid Hegat | Lot 16E # 44 |
| PUNIT SARTU / DHARMATTIE SARTU | Lot 10 # 30 |
| P. Sanyu | |
| Sekman Nagri Yashmin | Lot 20 # 52 |
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RESIDENTS OF PAGNELLO COURT

[illegible]

Schedule "W"

**BOXGROVE PHASE FOUR (PAGNELLO)
WARNING CLAUSES**

"PURCHASERS/TENANTS ARE ADVISED THAT THE TOWN'S PARKING BY-LAW REQUIRES A MINIMUM OF TWO PARKING SPACES. NO MORE THAN ONE REQUIRED PARKING SPACE MAY BE PROVIDED WITHIN THE REQUIRED FRONT YARD OR REQUIRED EXTERIOR SIDE YARD. OUTSIDE A PRIVATE GARAGE PARKING IS ONLY PERMITTED ON A DRIVEWAY"

"PURCHASERS/TENANTS ARE ADVISED THAT THE TOWN'S ZONING BY-LAW RESTRICTS DRIVEWAY WIDTHS, WHICH MAY NOT ALLOW TWO CARS TO, PARK SIDE BY SIDE."

"PURCHASERS/TENANTS ARE ADVISED THAT OVERNIGHT STREET PARKING WILL NOT BE PERMITTED UNLESS AN OVERNIGHT STREET PARKING SYSTEM IS IMPLEMENTED BY THE TOWN."

"PURCHASERS/TENANTS ARE ADVISED THAT A REGION OF YORK INFRASTRUCTURE MAINTENANCE FACILITY MAY BE LOCATED ON THE NORTH SIDE OF ROUGE BANK DRIVE, BETWEEN 9TH LINE AND BOX GROVE BY-PASS, ON THE LANDS WHICH ARE CURRENTLY ZONED TO PERMIT A PLACE OF WORSHIP."

(a) "PURCHASER/TENANTS ARE ADVISED THAT MAIL DELIVERY WILL BE FROM A DESIGNATED COMMUNITY MAILBOX."

(b) "THE DEVELOPERS/OWNERS WILL BE RESPONSIBLE FOR NOTIFYING THE PURCHASERS OF THE EXACT COMMUNITY MAILBOX LOCATIONS PRIOR TO THE CLOSING OF ANY HOME SALE"

The Owner covenants and agrees to provide appropriate information to all perspective buyers of lots adjacent to Blocks 32, 33 and 34 (valley) blocks through all agreements for purchase and sale, sales information, and community maps to ensure that the land owners are well informed that private use and/or access to those blocks shall not be permitted, and reflect the intent of the following:

"The Open Space block adjacent to the subject property is considered to be part of the publicly owned valley corridor and will be maintained for environmental protection, and public use purposes. Please note that uses such as private picnics, barbeque or garden areas; and/or the dumping of refuse (e.g. grass/garden clippings, household compostable goods, garbage etc.) are not permitted on these lands. In addition, access to the valley corridor such as private rear yard gates and/or ladders is prohibited."

"Purchasers are advised that despite the inclusion of noise attenuation features within the development area and within the individual building units, noise levels will continue to increase, occasionally interfering with some activities of the building's occupants".

"PURCHASERS/TENANTS ARE ADVISED THAT DESPITE THE INCLUSION OF NOISE CONTROL FEATURES IN THIS DEVELOPMENT AREA AND WITHIN THE BUILDING UNITS, NOISE LEVELS FROM ROADWAYS WILL CONTINUE TO BE OF CONCERN, OCCASIONALLY INTERFERING WITH SOME ACTIVITIES OF THE DWELLING OCCUPANTS AS THE NOISE EXPOSURE LEVEL MAY EXCEED THE MUNICIPALITY'S AND THE MINISTRY OF THE ENVIRONMENT'S NOISE CRITERIA."

"PURCHASERS/TENANTS ARE ADVISED THAT THIS DWELLING UNIT WAS PROVIDED WITH A FORCED AIR HEATING SYSTEM AND DUCTING, ETC., SIZED TO ACCOMMODATE A CENTRAL AIR CONDITIONING UNIT.

NOTES:

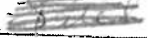
(a) THE LOCATION, INSTALLATION AND SOUND RATING OF THE AIR CONDITIONER MUST HAVE DUE REGARD FOR MOE GUIDELINE NPC 216.

(b) THE MINISTRY OF THE ENVIRONMENT REQUIRES THAT THE CENTRAL AIR-CONDITIONING-DEVICES MUST HAVE A SOUND RATING NOT EXCEEDING 7.6 BEES FOR THOSE MANUFACTURED AFTER JANUARY 1, 1992."

"PURCHASERS AND TENANTS ARE HEREBY PUT ON NOTICE THAT TELEPHONE AND TELECOMMUNICATIONS FACILITIES AND SERVICES ARE AUTHORIZED BY THE CRTC UNDER THE *TELECOMMUNICATIONS ACT*, AND AS SUCH THESE SERVICES MAY BE PROVIDED BY TELECOMMUNICATION CARRIERS OTHER THAN THE TRADITIONAL CARRIERS FOR SUCH SERVICES. PURCHASERS AND TENANTS ARE ADVISED TO SATISFY THEMSELVES THAT SUCH CARRIERS SERVICING THE LANDS PROVIDE SUFFICIENT SERVICE AND FACILITIES TO MEET THEIR NEEDS ",

"PURCHASERS/TENANTS ARE ADVISED THAT A PUBLIC SIDEWALK WILL BE CONSTRUCTED WITHIN THE MUNICIPAL BOULEVARD AT THE FRONT OR SIDE OF THEIR PROPERTY. FINAL SIDEWALK/WALKWAY LOCATIONS ARE BASED ON THE LATEST ENGINEERING DRAWINGS AND THE WARNING CLAUSES FOR SOME OF THE LOTS MAY NOT BE APPLICABLE."

Revised May 12, 2011

Purchaser: 

Date: July 7, 2011

Purchaser: _____

Date: _____