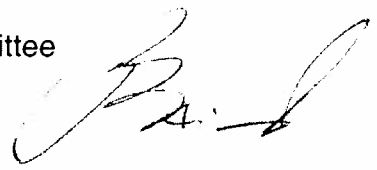




TO: Chair and Members of Development Services Committee

FROM: Jim Baird, Commissioner of Development Services 

PREPARED BY: Ron Blake, Development Manager West District

DATE: June 28, 2011

Re: **Request by Liberty Development Corporation to lift the residential No Pre-sale Agreement on Phase 2 of World on Yonge, 7161 and 7171 Yonge Street.**

RECOMMENDATIONS:

That the memorandum entitled "Request by Liberty Development Corp. to lift the residential No Pre-sale Agreement on Phase 2 of World on Yonge, 7161 and 7171 Yonge Street", be received;

That the Mayor and Clerk be authorized to execute an amendment to the Site Plan Agreement between Liberty Development Corp and the Town of Markham applying to 7161 and 7171 Yonge Street (World on Yonge) dated January 24, 2011 as follows:

- To incorporate clauses addressing the transportation mitigation measures set out in Appendix A to this memo;
- That the owner post securities, to the satisfaction of the Director of Engineering, relating to the implementation of these measures;

That the Mayor and Clerk be authorized to execute an amendment to the No Pre-sale Agreement between Liberty Development Corporation and the Town of Markham, applying to the Phase 2 portion of the development to prohibit only the sale of units with an Outside Occupancy Date later than December 31, 2016;

That the amendment to the Site Plan Agreement be executed in advance of, or concurrently with, the amendment to the No Pre-sale Agreement;

And That staff be authorized to do all things necessary to give effect to this resolution.

BACKGROUND:

On May 3, 2011, a representative of Liberty Development Corporation made a deputation to Development Services Committee requesting that the No Pre-sale Agreement applying to the Phase 2 portion of the World on Yonge development at 7161 and 7171 Yonge Street be lifted. The No Pre-sale Agreement specifies that residential units in the Phase 2 portion of the development (Towers B1 and B2 fronting Meadowview Avenue) must not be offered for sale until:

- The Town has assigned water and sewer capacity;
- The Owners have obtained endorsement of a site plan application in respect of the residential units;
- The Town has lifted the Hold (H3) provisions applying to Towers B1 and B2, in accordance with the By-law; and,
- The Town has lifted the No Pre-sale agreement in connection with Towers B1 and B2.

As noted above, the conditions for lifting the No Pre-sale Agreement set out above also require that the conditions for lifting the H3 provision, set out in the Zoning By-law and applying to the Phase 2 development, have also been met. These conditions include:

- Removal of the H1 and H2 provisions;
- Submission of an updated transportation impact/monitoring study;
- Availability of servicing capacity to provide for the number of dwelling units proposed;
- Confirmation that the final design for the Yonge Street BRT has been completed or construction has commenced or that funding for the Yonge Subway has been confirmed;
- Confirmation that the minimum density on the site shall be 2.5 FSI.

DISCUSSION:

The Owner is proposing to address the transportation-related conditions through Transportation Demand Management Strategies

Two transportation-related conditions must be addressed:

- submission of an updated transportation impact/monitoring study; and
- confirmation that the final design for the Yonge Street BRT has been completed or construction has commenced or that funding for the Yonge Subway has been confirmed.

In order to address the above conditions, the Owners submitted an updated Traffic Impact Study addendum in April 2011, which recommended that the additional traffic generated by the Phase 2 development could be satisfactorily mitigated through enhanced Transportation Demand Management Strategies. These recommendations

were enhanced through further discussions with Town and Regional Transportation staff. Examples of recommended initiatives include a private shuttle service between the site and Finch Avenue; provision of complementary "Presto" cards to all residents for 2 years; provision of car sharing facilities; provision of bicycle supportive facilities such as showers for office uses; and further monitoring of these initiatives. The detailed recommendations are set out in Appendix A to this report.

These TDM strategies have been reviewed by Town and Regional staff and are considered satisfactory. In addition, the owner will be required to post a letter of credit to secure for the implementation of these measures. These requirements will be implemented through revisions to the previously-executed site plan agreement relating to the Phase 1 development. Furthermore, the owner is required to provide a traffic monitoring study to the satisfaction of the Director of Engineering in consultation with York Region as a condition of lifting of the (H3) Holding provision applying to the Phase 2 development.

Conditional servicing allocation has not yet been granted for the Phase 2 Development

Staff anticipate that additional conditional servicing allocation will be available to the Town from the Region in early 2012. Allocation is dependant on construction of the twinned York Durham Sanitary Sewer (YDSS), a major piece of Regional infrastructure. The Region of York advises that the YDSS is to commence construction in the 3rd quarter of 2011, and is projected for completion in late 2014. Town and Regional servicing protocols provide for building permits to be issued prior to the projected in-service date of the related infrastructure in consultation with Town's Chief Building Official. Written confirmation from the Region of the availability of this allocation must be received by the Town before the H3 Zoning provision in effect on the Phase 2 lands can be lifted and building permits for the Phase 2 development can be issued. It is anticipated that conditional servicing allocation could be granted by the Town to this project in the spring of 2012, and that a building permit could potentially be issued in early 2013, for potential occupancy in early 2015, subject to confirmation by the Region.

The owner has provided Town staff with a draft purchase and sale agreement for the Phase 2 development, which will establish an Outside Occupancy Date in the Statement of Critical Dates section of the Agreement. If the condominium unit is not available for occupancy by this date, the purchaser may terminate the transaction according to conditions set out in the agreement. Staff have discussed this matter with Liberty, who have agreed to an Outside Occupancy Date of December 31, 2016, a 5 ½ year time-frame from now, which is reasonable, in staff's view, as it accounts for the normally anticipated timing for the additional servicing allocation for Phase 2 to be confirmed by the Region, plus a reasonable contingency period. If servicing allocation, building permit issuance and occupancy is delayed beyond December 2016, purchasers would have the option of terminating their agreements, in accordance with the terms of the Purchase and Sale Agreement. Staff are concerned that permitting unit sales with an Outside Occupancy Date beyond this time-frame could result in complaints to the Town from purchasers who are dissatisfied with the length of time from pre-sale to

occupancy. The No Presale Agreement was implemented to ensure that unit sales could not occur until servicing capacity had been confirmed to prevent the sale of units prematurely.

Staff recommend that the No Presale Agreement be amended to delete the current clauses prohibiting Phase 2 sales until additional servicing allocation has been confirmed and the H3 Zoning provisions have been removed, and replacing these conditions with a condition that prohibits the sale of units with an Outside Occupancy Date later than December 31, 2016.

Staff do not recommended a complete release of the No Pre-sale Agreement, as requested by Liberty, as it is the only means available to the Town to regulate the premature sale of units in an environment of scarce servicing capacity and timeline risks. Furthermore, the amendment to the Site Plan Agreement noted above should be executed in advance of, or concurrently with, this amendment to the No Pre-sale Agreement

The applicant has submitted a site plan application for the Phase 2 development that corresponds to the original master site plan submitted in 2008

While the conditions for releasing the Phase 2 No Pre-sale agreement require endorsement of the Phase 2 site plan, the site plan application submitted in May 2011 (currently under review) generally implements the master site plan submitted in December 2008. As a result, staff do not anticipate significant revisions to this site plan during the review process and can support amendment of the Agreement to delete this requirement.

Remaining conditions have been met

The remaining conditions for release of the No Presale Agreement have been met as follows:

- Removal of the H1 and H2 provisions was approved at the end of May 2011;
- Confirmation that the minimum density on the site shall be 2.5 fsi. The combined density of the full development (Phases 1 and 2) is in the order of 3.5 fsi. , as permitted by the Official Plan and Zoning.

CONCLUSION:

Staff are of the opinion that the proposed TDM enhancements, to be implemented through revisions to the site plan agreement as set out in this report, and amendment to the No Pre-sale Agreement to prohibit the sale of units with Outside Occupancy Dates later than December 2016 presents a reasonable resolution. The (H3) Holding provision will continue to apply to the Phase 2 lands until the remaining outstanding conditions of (H3) removal have been met, including submission of an updated transportation impact/monitoring study, to the satisfaction of the Director of Engineering in consultation with York Region; and that the Town, in consultation with York Region, is satisfied that sufficient servicing capacity is available and has adopted a resolution

granting additional servicing allocation to provide for the number of dwelling units permitted.

ATTACHMENTS:

Appendix A - Additional TDM Requirements for 7161-7171 Yonge Street (World on Yonge)

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Appendix A: Additional TDM Requirements for 7161-7171 Yonge Street (World on Yonge)

TDM Measures	TDM Measures as per Cole Engineering Letter dated April 15, 2010 (incorporated into Phase 1 Site Plan Agreement)	<u>Additional</u> TDM Measures required
Shuttle Service	No requirement	Owner/Condo Corporation provides shuttle bus, van pools, subsidized YRT/Viva transit or other transportation modes as required by the Director of Engineering (Priority 1)
Transit Usage	Volume discount transit fare for a period of one year Transit fare media outlets within the development, including TDM brochures, transit schedules and related transit information	Owner/Condo Corporation provides a complementary Presto card for all residents of B1 & B2 for a period of 2 years (Priority 2) at the date of occupancy Owner/Condo Corporation provides live YRT and other transit information within the lobbies of the residential and office/hotel towers (Priority 3)
Reduce Auto Ownership		Owner/Condo Corporation enter into agreements with "Car Sharing" service providers to secure as least 6 parking spaces within this site plan (Priority 4)
Parking Management	Unbundled Parking*	- Unbundled parking* - Provide shared visitor parking with commercial uses (*Parking spaces are purchased separately from units)
Car Pooling	Promote TMA and Carpooling	No additional requirements
Bicycle Parking	Provide short term and long term bicycle parking	No additional requirements
Change Room/Shower Facilities	Provide change room and shower facilities for the office uses	No additional requirements
Financial Security		Owner provides Financial Securities at the Site Plan Agreement stage to the satisfaction of the Town

Studies and Monitoring	Clause 19(l) in Phase 1 Site Plan Agreement	Owner/Condo Corporation pay all costs for continuous monitoring of the effectiveness of the TDM measures as required by the Director of Engineering. Survey Phase 1 residents to ascertain their travel patterns and customize the TDM program
Yonge Subway		Developers assistance in obtaining Provincial/Federal Funding

BL/June 15, 2011 (Rev. June 22, 2011)

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