

Feb 10th, 2011

Mayor and Members of Development Services Committee,
Town of Markham

**Re: Official Plan Amendment and Zoning By-law Amendment
Applications For Properties At 65 and 69 Chatelaine Drive and 39
Carolwood Cresc. – Town File #'s OP 10 123245, ZA 10 12346 & ZA 10
130075.**

Your Worship and Councillors:

I have been retained by Mr. Stephen Emmanuel the owner and resident of 61 Chatelaine Drive which abuts one of the 3 lots that are the subject of the Official Plan amendment and rezoning applications on Chatelaine Drive and Carolwood Cresc.. I have also been consulting with other residents of the area.

I understand that the subject Official plan amendment and rezoning applications will be considered, with a Preliminary Report from Planning staff, at your February 22 meeting. I will be making a presentation at that meeting.

The purpose of this letter is to highlight the points I will be making on February 22. This is for your information and for the information of your Planning staff.

We wanted you to be aware of our planning opinion and the level of opposition to these applications at this early point in time of their consideration.

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My client, Mr. Emmanuel, in looking for a new home on a large lot, assessed possible such properties in the Region and concluded there were only 2 or 3 choices. He decided to make 61 Chatelaine Drive, built around 2002, his home after researching the Regional and Town planning policy regime for this area.

The applications now seek to change this regime and my client would respectfully ask that you give very serious consideration to the request considering, among other matters, the reliance he, and likely others, have placed on the existing policies.

1. North Rouge Secondary Plan Provides Strong Policies Regarding the Character of this Area and Sets Out Numeric Lot Size Specifications For The Neighbourhoods In Which The Applications Apply

The subject applications seek to amend the North Rouge Secondary Plan. With respect to the neighbourhoods in which the applications are being made, in my view, the starting point to understanding the policies of the Secondary Plan are found in the Preamble under ‘Plan Concept’ where it is stated (underlining added):

“another significant feature of the community design is the recognition of the existing Chatelaine Drive area which was originally developed as a RURAL RESIDENTIAL area, and is now being incorporated into the Rouge North community under the URBAN RESIDENTIAL designation. Policy provision is made to protect the Chatelaine Drive area as a distinct residential enclave, and to ensure that new residential development adjoining this area is compatible in character”

In my view, this clearly signifies the planned intent to protect the distinct characteristics of the residential enclave to which the subject applications apply.

In the Amendment section of the Secondary Plan the General Policies (Section 4.1) indicate that the basic pattern of land use that is established for the whole Secondary Plan area is further refined and detailed Schedule 'AA' which I attach to this letter.

The Secondary Plan, in Section 4.2.2, deals with Housing Categories through what I would describe as a 'cascading fashion':

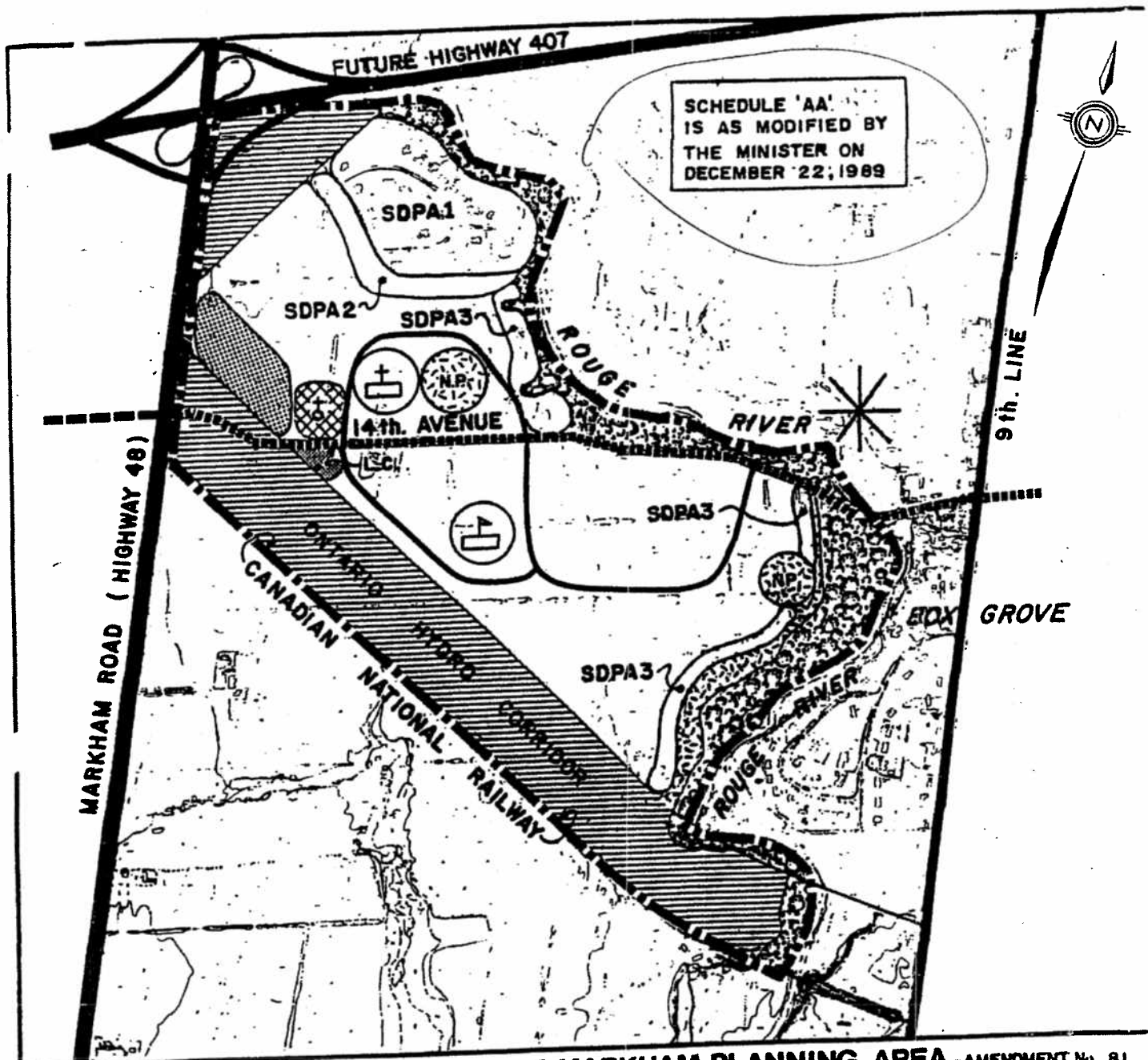
- First the policies define Low Density Housing as per Markham's primary Official Plan (permits different housing types with no specific density or lot size criteria),
- Secondly, in Section 4.2.3 (A) the policies state that notwithstanding the primary Official Plan definition that the only form of housing in the area of the Secondary Plan will be single family detached housing, and
- Thirdly, in Section 4.2.3 (b) policies are set out regarding the specific locations of detailed regulations in terms of minimum lot areas. The two specific areas where the subject applications apply are:

-SPECIAL DEVELOPMENT POLICY AREA 1 (the original Rouge River Estates) which has a minimum lot area of 0.4 ha (1.0 acres), and

-SPECIAL DEVELOPMENT POLICY AREA 2 (which is around the perimeter of the original Rouge River Estates) where the minimum lot area is 0.3 ha (0.75 acres).

I would make the following observations with respect to these policies and the subject applications:

1. These specific policies are at an Official Plan level which in my view indicate a deliberate level of specificity which is usually found at a zoning bylaw level. These policies, given of their numeric nature, leave no doubt as to their intent and purpose.



OFFICIAL PLAN OF THE TOWN OF MARKHAM PLANNING AREA - AMENDMENT No. 81

SECONDARY PLAN FOR THE ROUGE NORTH PLANNING DISTRICT N. 28

URBAN RESIDENTIAL



LOW DENSITY



LOW DENSITY
SPECIAL DEVELOPMENT
POLICY AREAS 1, 2 & 3



MIXED MEDIUM AND
HIGH DENSITY



PUBLIC ELEMENTARY SCHOOL



SEPARATE ELEMENTARY SCHOOL



INSTITUTIONAL



PLACE OF WORSHIP



OPEN SPACE



NEIGHBOURHOOD PARK



HAZARD LANDS



LOCAL COMMERCIAL CENTRE



TRANSPORTATION AND UTILITIES



PROVINCIAL HIGHWAY



MAJOR ARTERIAL ROAD



MINOR ARTERIAL ROAD



MAJOR COLLECTOR ROAD



MINOR COLLECTOR ROAD



WASTE DISPOSAL ASSESSMENT AREA

--- BOUNDARY OF AREA COVERED BY SECONDARY PLAN PD 28-1

2. In my view the subject applications seek major changes to this deliberate policy regime in that they:

- in the case of the Carolwood Cresc. application seek to create a 0.204 ha (0.5 acre) lot were a minimum 0.4 ha (1.0 acre) is required -a decrease in lot size of 50%
- in the case of the Chatelaine Drive applications they seek to reduce the lot size from 0.308 ha (0.76 acres) to 0.1538 ha (0.38 acres) - a 50% decrease in lot size.

3. The Secondary Plan, in these two neighbourhoods, uses lot area as the single policy criteria. In my view, major changes with respect to this criteria are directly related to changes to the character of the neighbourhoods.

4. In my view, such major changes should be considered on a comprehensive planning basis, with appropriate area-wide planning and engineering analysis, and not on an individual or 'spot rezoning basis'.

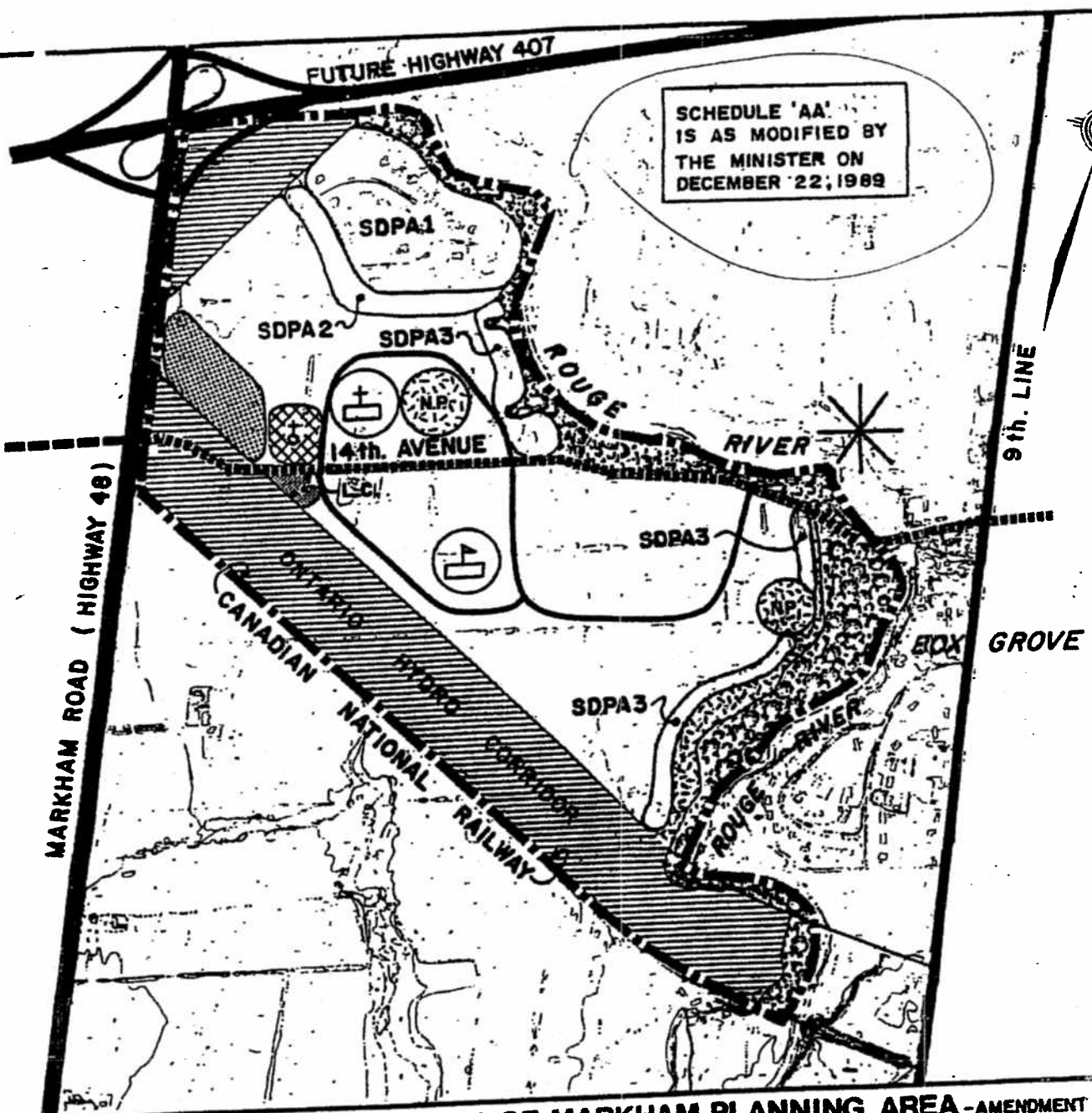
2. One Basic Underpinning of the Secondary Plan policies Is To Preserve the Original Rouge River Estates and To Provide a Buffer/Transition Area Around It's Perimeter

The Rouge River Estates area was developed starting in 1958. I attach a plan of this area labeled 'Greenbelt Residential Subdivision - Rouge River View' that was produced in 1958. This plan is largely intact today. In my view, this plan represents a classic form of 'urban living in a countryside setting'.

The Secondary Plan recognizes that this distinctive enclave neighbourhood needs to be protected and puts in place policies to do that.

FUTURE HIGHWAY 407

SCHEDULE 'AA'
IS AS MODIFIED BY
THE MINISTER ON
DECEMBER 22, 1989



OFFICIAL PLAN OF THE TOWN OF MARKHAM PLANNING AREA - AMENDMENT No. 81
SECONDARY PLAN FOR THE ROUGE NORTH PLANNING DISTRICT No. 28

URBAN RESIDENTIAL

-  LOW DENSITY
-  LOW DENSITY SPECIAL DEVELOPMENT POLICY AREAS 1, 2 & 3
-  MIXED MEDIUM AND HIGH DENSITY
-  PUBLIC ELEMENTARY SCHOOL
-  SEPARATE ELEMENTARY SCHOOL

-  INSTITUTIONAL
-  PLACE OF WORSHIP
-  OPEN SPACE
-  NEIGHBOURHOOD PARK
-  HAZARD LANDS

-  LOCAL COMMERCIAL CENTRE
-  TRANSPORTATION AND UTILITIES
-  PROVINCIAL HIGHWAY
-  MAJOR ARTERIAL ROAD
-  MINOR ARTERIAL ROAD
-  MAJOR COLLECTOR ROAD
-  MINOR COLLECTOR ROAD
-  WASTE DISPOSAL ASSESSMENT AREA

----- BOUNDARY OF AREA COVERED BY SECONDARY PLAN PD 28-1

It also recognizes of that this distinct enclave needs to be buffered and it provides a buffer/transition area around the original estate area's perimeter through specific Official Plan designations labeled "**Special Policy Development Area 1 and 2**".

One of the key features of the Rouge River Estates area and the buffer around it is the generous open space and landscaping. This is what largely gives the 'countryside' feeling.

Currently the two lots on Chatelaine Drive that are proposed to be divided into four lots do not have any significant trees. Trees and greenery are a fundamental to the character of this area and, in my view, the proposed applications will reduce the area available for new forestation and landscaping which would enhance the 'country-side' character of the area.

3. In My Opinion the Subject Applications Will Undermine the Secondary Plan by Compromising the Integrity of the Planned Buffer Area and Thereby Inviting Future Similar Applications

As stated earlier, the subject applications seek to reduce the three lot sizes by some 50%.

For the two lots along Chatelaine Drive, in my view, this will effectively move the outer edge of the buffer area (the transition edge) from the rear lot lines of properties fronting on Chatelaine Drive and on Cresane Street to the front lot line of the Chatelaine Drive properties.

This will, in my view, compromise the streetscape character of Chatelaine Drive by having significantly different lot frontage sizes on the two sides of the street. This would negate the purpose of the currently planned transition/buffer zone around the perimeter of the Rouge Valley Estate neighbourhood.

There are currently 6 lots in the buffer area fronting on Chatelaine Drive. If the applications are approved there will be 8 lots – 4 of which will be

at the reduced frontage. This, in my view, will invite future lot division applications along this frontage.

4. In my View, There Is No Compelling Planning Reason To Approve The Applications - Intensification Policies Do Not Support Them and The Current Situation Is Well Planned

My review of the subject applications does not reveal any planning reason why they should be approved.

The proposed new lot at the rear of the Carolwood Cresc. property functions well as part of the rear amenity area for the existing dwelling.

The two lots on Chatelaine Drive that are proposed to be developed are currently vacant. They are well suited for two new homes which would use this currently under-utilized property and would fill in the current built form ‘gap’ in the streetscape and bring associated new trees and landscaping.

I have reviewed what I consider the relevant intensification policies at the Provincial, Regional and Municipal levels and would make the following ‘overview’ comments:

- (i) The **Provincial Policy Statement (PPS)** contains broad policies including ones that promote intensification. In this regard Section 1.1.3.3 indicates that opportunities for *intensification* should be identified taking into account existing building stock or areas. In my view the proposals do not take these matters into account.

Also, the PPS indicates that this planning judgment is to be done by the “planning authorities” which in this case are the Region of York and the Town of Markham.

- (ii) The Provincial **Growth Plan for the Greater Golden Horseshoe** applies in this case and states (2.2.2.1 b)) that population growth will be accommodated by focusing *intensification* in *intensification*

areas. It goes on to state (2.2.3.6 e)) that municipalities will develop a strategy to phase in *intensification*, which will, among other things, recognize *urban growth centres*, *intensification corridors* and *major transit station areas* as a key focus for development to accommodate *intensification*. The areas to which the applications apply are in none of these areas.

- (iii) The **Region of York** Official Plan policies also support intensification but also direct it to areas that do not include the areas to which the applications apply.
- (iv) The **Town of Markham** Official Plan contains policies (2.13.1m) and n)) which support the principle of residential intensification in developed areas at appropriate locations and of a type, size and scale compatible with adjacent development. In my view, the development proposed in the applications does not meet these policy criteria.

To summarize, it is my opinion that the applications are not supported by relevant intensification policies. The Rouge North Secondary Plan provides for a well planned community that conforms to relevant Provincial, Regional and Municipal planning policies.

5. Since the Last Application Was Considered for this Area, and Refused By The OMB, To My Knowledge No Changes Have Occurred to the Planning Regulations

Since the OMB, in a decision dated March 5th, 1997, denied the previous severance and variance applications for 39 Carolwood Crescent (now subject to one of the current applications) there have, to my knowledge been no further applications, of significance, approved in the area.

6. Large Lot Size is the Critical Measure of Character- It Is Currently Consistent Along The Buffer Area of Chatelaine Drive

Two of the three subject applications are on Chatelaine Drive abutting my client's home. This is in SPECIAL DEVELOPMENT POLICY AREA 2 of the Secondary Plan which restricts minimum lot size to 0.4 ha (0.75 acres).

On this side of Chatelaine Drive there are six lots numbered from 53 to 73. Their lot area ranges from 0.3011ha to 0.3163 ha. This is from 1.00% to 1.05% above the 0.3ha Secondary minimum criteria.- a very consistent lot size distribution.

The proposed lot divisions would result in four new lots of 0.1538 ha (0.38 acres)in size – a 195.1% variation from the 0.3 ha (0.75 acres)Secondary Plan minimum lot size criteria.

The net result would be 4 lots with a 1% variation from the Secondary Plan minimum lot size criteria and 4 lots with a 195% variation. In my view, this would virtually destroy the current lot size consistency along this part of Chatelaine Drive and significantly compromise the integrity of the buffer/transition area in this part of SPECIAL DEVELOPMENT POLICY AREA 2.

7. In My Opinion, the Applicant's Planning Justification Submission Does Not Provide Adequate Reasons For Approval

I have reviewed the August 2010 Planning Justification Report prepared by Brutto Consulting and submitted to the Town in support of the applications.

I do not agree, as per my comments above, with the report's comments regarding the applicability of Provincial and other level planning policies. I would note that the report does not address the policies of the **Growth Plan** or the **Town of Markham Official Plan**.

The report does argue (p. 10-13) that the transitional zone, along Chatelaine Drive, which is provided in the Rouge North Secondary Plan , is not appropriate. With respect, I disagree and have provided a summary of my reasons for this view in this letter.

8. There Is Strong Opposition to these Applications from the Area Residents

I attended a Councillor's Community Meeting concerning the subject applications that was held on Jan. 7th 2011 at the Rouge River Community Centre.

I would estimate that about 60 – 80 people attended the meeting. Other than one of the applicant's and one other person all the people who spoke at the 2 hour meeting were opposed to the applications. This high level of neighbourhood opposition is confirmed from my subsequent conversations and my review of the opposition correspondence in the Planning Dept's file regarding the applications. The vast majority of residents in the area including a vast majority of the members of Rouge River Estates Residents Association are opposed to the applications.

9. Town Has Not Supported These Types of Applications In Similar Neighbourhoods

I have reviewed file material and discussed with Planning staff similar applications in comparable areas – Hughson Drive area, Oakcrest/Sabiston/River Bend area, and Cachet Parkway area.

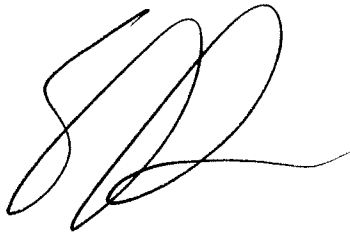
My review indicated that the Town did not support similar applications in these areas.

I would note that in the case of the applications in the North Rouge area there is a complete 'package' of planning policies in place – Secondary Plan, Zoning By-law – to direct your consideration of the applications.

I trust that these comments will be informative in your upcoming consideration of the subject applications.

I would ask that I be notified of any future meetings and be scheduled as a deputation at the Feb. 22nd meeting of the Development Services Committee that will be considering Planning staff's Preliminary Report on these applications.

Yours truly,

A handwritten signature in black ink, consisting of a large, stylized 'S' followed by a series of loops and a long horizontal stroke extending to the right.

R. Scott Burns M.C.I.P., R.P.P., Ec. D.

cc.

Mayor Frank Scarpitti,
Members of the Development Services Committee,

Mr J. Baird, Mr. Bijou Karumanchery, Ms. Stacia Muradali, Markham Planning
and Urban Design Dept.

Mr. Stephen Emmanuel, 61 Chatelaine Drive