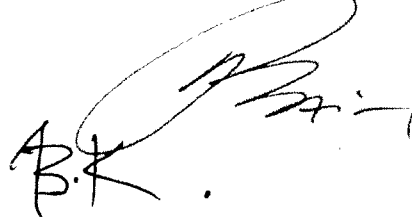




## MEMORANDUM

To: Members of Development Services Committee

From : Jim Baird, Commissioner of Development Services  
Biju Karumanchery, Senior Development Manager 

Date: June 15, 2010

Subject: Landowner Proposal to Remove a 1.2 ha Woodlot at 3575 Elgin Mills Road  
Special Permit application under the Region of York's Forest Conservation By-law  
(TR-0004-2005-036)

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The Town of Markham has been circulated on a Special Permit application under the Region of York's Forest Conservation By-law (TR-0004-2005-036). The owners of 3575 Elgin Mills Road (Lois Frisby, Marguerite Gallone, Charlotte Frisby and Ruth Brock) have applied to remove 1.2 hectares of woodland in its entirety in order to repair an existing agricultural tile drainage system and to reclaim agricultural land. Figures 1 and 2 identify the location of the property. The Region of York Forest By-law applies to woodlands greater than 1 hectare.

In addressing this matter with the Region, Town staff prepared a letter dated April 9, 2010 and met with Regional staff on May 6, 2010.

The subject lands are designated A1 AGRICULTURE by the Town of Markham's Official Plan and A1 Agriculture by By-law 304-87, as amended. The primary and predominant uses provided for in the AGRICULTURE designation and zoning is that of farming activities. On May 11, 2010 the Town endorsed the Preferred Growth Strategy to 2031 which identifies the subject lands within the potential 2031 Urban Growth Area. The endorsed Growth Strategy is to form the basis of a new Official Plan. The current Agricultural designation will remain on the lands until a new Official Plan comes into effect.

The Region of York Official Plan (December 2009) identifies the subject lands as Agriculture. However, Official Plan Amendment No. 3 of the Region of York Official Plan is underway by the Region to redesignate lands in Markham from AGRICULTURE to URBAN to provide capacity for urban development to meet the 2031 growth forecasts. Figure 3 identifies these lands (the

woodlot location is also shown). A Public Meeting on this matter is scheduled by the Region for June 16, 2010.

The 1.2 hectare woodlot in question is not identified as an Environmental Protection Area on Schedule 'I' to the Town's Official Plan. Schedule 'I' Environmental Protection Areas currently only applies to lands within the Urban Development Boundary Area. The rural and agricultural land base of Markham was excluded from Schedule 'I' at the time that OPA 52 "Policies to Protect, Enhance and Restore Natural Features (Urban Development Area)" was adopted in 1997.

The subject woodlot has, however, been identified in the Town's Environmental Policy Review and Consolidation (EPRC) Study. The EPRC Study was endorsed in principle by Council in June 2009, as the basis and framework for environmental policies to be included in the new Official Plan. This layer has been identified through natural heritage features mapping by the Town, TRCA and Region of York. This woodlot is an isolated feature, and as such, has not been proposed for the Greenway System which is a connected system. However, the EPRC Study does recognize that there are isolated features outside of the Greenway System and the policy framework recognizes that site specific policies will be incorporated into the Official Plan to address the management and protection of these features.

Given that the subject lands are proposed by both the Town and the Region to be brought into the urban area, and that the subject woodlot has been identified as a significant natural feature in the Town's latest Environmental Policy Review and Consolidation Study, Town staff raised concerns to the Region of York, in commenting on the special permit application. In the Town's letter to the Region on this matter, staff requested that the proposed application for the removal of the 1.2 ha woodlot be deferred by the Region to provide for the opportunity to evaluate the composition, diversity and health of the woodland area, assess potential alternatives to address the tile drainage issue cited as the justification for the removal of the woodland area, and to review the hydrologic function.

The principles used by the Region to assess applications under the Regional Tree By-law were prepared in 2003 and address agricultural, environmental and planning matters. Principle 2.4 deals with existing Official Plan designations and is intended to discourage tree cutting exceptions in areas subject to an application for a land use designation change to URBAN uses. This application is unusual in that the landowner has not applied for an urban designation, but the Region has prepared a Regional Official Plan Amendment to designate the lands as URBAN AREA, as required to accommodate Growth Plan forecasts to 2031 in Markham, which includes the concession block in which the subject lands are located. As such, although the intent of the landowner is to continue farming at this time, the lands are also intended to be designated for urban land uses by both the Regional and Town Official Plans within the 2031 planning horizon. Town staff feel that this principle of future urban uses should be afforded more consideration by the proponent and the Region, given the long-term and irreversible impacts that large scale tree removal would have. Any application of this type (based on agricultural drainage

justification) should not generally be permitted where the lands are identified for urban uses within the Official Plan growth horizon.

The Town has a multi-faceted approach towards tree preservation and enhancement efforts aimed at increasing the percentage of natural heritage and tree cover. In addition to programs to support new tree planting efforts, the community planning process includes the review of all site features and woodlands as potential open space, parkland and public amenity components. We note that the subject woodland area proposed to be removed is the only tableland woodlot in this concession block. As a future urban concession block, the woodlot would be a valuable public amenity and would be incorporated into the community design. Given the relatively short time frame for future urbanization, the Town and the Region need to be very vigilant in the review of applications requesting the removal of existing healthy woodland areas.

Regional staff have advised the Town that they will be bringing forward a report on June 16, 2010 recommending approval of the Tree Permit application based on the following:

- The landowner is a bona fide farmer and the property has been in the family since the 1870's
- The woodland is successional with the oldest portion being approximately 30 years
- The tire drains are located in the woodlot and are in need of repair – partial removal of the woodlot was not considered to be a viable option
- The removal of the woodlot is to extend the livestock feed operation
- Site does not provide opportunities for tree planting compensation
- There are no endangered species or environmentally sensitive features in the woodlot

It should also be noted that, under the Farming and Food Protection Act, if a farmer is concerned that a municipal bylaw is restricting a normal farm practice that is carried on as part of an agricultural operation, the farmer may apply to the Normal Farm Practices protection Board for an order that the bylaw would not apply at that location.

This matter has been discussed with the Mayor, Chief Administrative Officer and Senior Staff.

Town staff feel that further review should be undertaken by the Region, in consultation with the applicant and the Town, to evaluate the impacts of the proposal and possible alternatives and mitigating measures.

#### **RECOMMENDATION:**

It is recommended that the Region of York be requested to defer consideration of the Special Permit application under the Region of York's Forest Conservation By-law (TR-0004-2005-036), and that further review be undertaken by the Region, in consultation with the applicant and the Town of Markham, to evaluate the impacts of the proposal and possible alternatives and mitigating measures.