



Stantec

January 10th, 2006
File: 60620843

The Town of Markham
101 Town Center Blvd.
Markham, Ontario
L3R 9W3

Attention: Mr. Al Brown

**Reference: Woodbine By-Pass Staff Report
Cathedral Community
Town of Markham**

We are writing on behalf of the West Cathedral Landowner Group. The Group has had the opportunity to review the Draft Staff report as prepared by your office for the January 23rd Committee meeting.

We had previously forwarded you a version of the staff report redlined with some technical comments pertaining to the dollar figures related to the project as you had requested.

The Group has some additional comments that are redlined on the attached report, and has requested that we address some additional issues within the staff report that have not been covered.

The Region has now confirmed that they are not willing to accept a second backstop date to make the Group whole in the event that allocation is not available by 2014. This leaves the Group with an uncertainty of their recoveries for an undisclosed amount of time. As discussed at our meeting on Dec 22nd, 2005 with Mayor Cousins, Deputy Mayor Frank Scarpitti and John Livey. In light of this situation it is imperative to seek the assistance of the Town in providing the landowners the tools to assist in realizing the goal of an early implementation of the by-pass financing burden.

The comments below reflect the considerations and other key issues that the Group will require a positive response to; these 6 principles were raised at the meeting held on Dec 22nd, 2005.

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DRAFT PLANS

As stated in our December 9th, 2005 letter to Valerie Shuttleworth the Group has requested the approval the entire Draft Plan of Subdivision with holding provisions on the lots not yet allocated. The landowners are agreeable to placing restrictions on the sales of lots without allocation. Draft plan approval for all lots is crucial when arranging the financing of the by-pass. Without the draft plan approval for all the lands it will be more of a challenge to secure the necessary bank financing of approximately \$9.2 million until substantial completion of the by-pass works. The planning status influences the landowners' ability to arrange financing.

ALLOCATION

Although the landowners appreciate the Town's provision of a high ranking for any future allocation to the Cathedral Community the landowners feel that the significant financial commitment requested of the landowners with only a partial backstop from the Region necessitates a commitment of a percentage of all future allocation units to the Cathedral West Community. The landowners respectfully have requested that they be given a percentage of any future allocation whether it comes from reserves, updated allocation assumptions due in 2008 or any other source.

OPTIMIZATION

The Group would like to confirm that if there is a benefit from the optimization of the 1100 units of allocation approved for the community, based on the PPU analysis currently underway between the Town and the Region that it will remain within the West Cathedral Community allocation program.

404 EMPLOYMENT LANDS TRUNK SEWER

The Town must commit to advance the timing of the design and construction of the trunk sewer servicing the 404 North Employment Lands as to not impede the development of the site.

The construction must commence by mid 2006.

NON-RECOVERABLE COSTS

The Woodbine By-Pass is a Town supported solution to avoid the widening impact of Woodbine Avenue on the Community of Victoria Square. The West Cathedral Developers Group has worked with this concept with the understanding that it would have neutral financial impact on the landowners as the program was initiated on the premise that it would be on the basis of prepaying of development charges only.

Under the Region's current Principles of Agreement our calculations indicate that as a function of up-fronting the By-Pass the Developers will be expected to pay approximately \$2 million

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dollars of non-recoverable funds in part as a penalty for the advancement of the timing of the project in the Region's capital works program and also in part due to the fact that the Region will not credit the administrative and legal costs associated with the project.

The landowners are seeking a recognition of the financial effort and exposure the landowners are taking on in an environment where there is no tangible go forward commitment from the Region on the expenses associated with the implementation of the project.

We trust this will be a consideration in moving forward with our above requests.

It is the Groups request that the above items be discussed and agreements reached on approach for all the above noted items so that the staff report to council can reflect a final business arrangement for advancing the project.

The attention to these matters is greatly appreciated.

If you have any questions or comments please contact our office.

Sincerely,

STANTEC CONSULTING LTD.



for

Mac Cosburn

Vice President

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Attachment: Redlined Staff Report

c. West Cathedral Developers Group

→ COOK @ PRINCIPLES
→ H'S

RECOMMENDATION:

That the staff report entitled "Woodbine Avenue By-Pass, Cathedral Secondary Plan Tri Party Agreement" be received;

And that the Mayor and Clerk be authorized to execute the necessary agreements with the Cathedral developers and the Region of York and acquire the necessary property for the advancement of the Woodbine Avenue By pass (Phase 1 & 2(a)) to the satisfaction of the CAO and Town Solicitor.

EXECUTIVE SUMMARY:

Council on March 8, 2005 authorized staff to finalize negotiations with the Cathedral Developer Group and the Region of York on an agreement to advance the construction of the Woodbine By pass (Attachment 'A') from it's current construction schedule of 2011/2012.

This report updates Council on the principles of an agreement between the 3 parties for the advancement of construction of Phase 1 and 2(a) of the By pass to 2007/2008 and requests authorization for the Mayor and Clerk to execute formal agreement(s) and acquire property to the satisfaction of the CAO and Town Solicitor.

BACKGROUND:

On February 24, 2005 staff submitted a report to Committee and Council for approval of principles of an agreement with the Cathedral Developers Group, the Region of York and Markham to advance construction of the Woodbine By pass around Victoria Square. On June 23, 2005 Regional staff likewise submitted a report regarding the advancement of the construction of the Woodbine By pass and received approval to finalize the negotiations and execute an agreement.

Negotiations over the past year have centered on resolving the following major issues:

- Updating cost estimates for Phase 1 and 2
- The extend and timing for a refund of the non growth share of the project by the Region to the developers
- The timing of development charges credit for the project by the Region to the

- developers.
- Timing of land dedication for the By pass and refund of appropriate development charges credits by the Region
- Servicing allocation to the Cathedral developers by Markham
- Timing of construction and property acquisition of phase 3 (North of Cathedral)
- Transfer of the Regional Development Charges road components paid by Cathedral developers to this project.

DISCUSSION:**Principles of an Agreement**

The resolution of the previously noted issues with the Regional, Markham and the West Cathedral landowners have resulted in the enclosed "Principles of the Agreement" (Att. 'B'). Regional staff will forward these principles to Regional Council for approval in February 2006. Subject to Regional and Markham Councils approvals a formal agreement will be prepared for execution by June 2006. FEB/MARCH 2006

The Highlights of the Principles are:**1. Cathedral Group**

- Finance the design, approval, construction and engineering fees of Stage 1 and 2(a) totaling ~~± \$9.5 million~~ 10.8 MILLION.
- Deposit a Letter of Credit with the Town for the design and tender upon execution of the three party agreement (MONEY TO BE TRANSFERRED FROM REGION \$302,000)
- Deposit a Letter of Credit with the Town for the construction and administration costs prior to award of the tender by the Town of Markham
- Dedicate at no cost to the Town of Markham the necessary right-of-way for Stage 1 and 2 by December 31, 2006. (COMPENSATION FOR 16M BY LESS TOWN OR REGION)
- Provide the necessary storm outfalls to the Town of Markham at a fair share cost to be negotiated with the Region.

2. Town of Markham

- Markham will be the proponent for the design, approval, tender and construction of Stage 1 and 2(a) and possibly Stage 2(b) and 3
- The Town of Markham would be compensated for all costs associated with this project (i.e. design, contract administration, construction, project management, etc.) by the group (RECOVERABLE AS PART OF C&D)
- Markham would maintain the By-pass as a collector road until Stage 3 is completed
- Markham at no cost would transfer the By-pass upon completion of Stage 3 to the Region no later than 2012
- Markham will provide appropriate ASDC credits for the sidewalk and illumination constructed on the By pass.
- Markham will proceed with the EA study and reconstruct the existing Woodbine Avenue on the basis it will be a future municipal
- MARKHAM TO APPROVE DRAFT PLANS WITH HOLDING PROVISIONS FOR LOTS WITHOUT ALLOCATION AND AREAS OF THE PLAN AS DEEMED NECESSARY.
- ADVANCE TIMING OF SANITARY TRUCK SEWER TO SERVICE 404 EMPLOYMENT LANDS TO SUMMER 2006 CONSTRUCTION.

collector road

- In addition to the 1100 units assigned allocation to date Markham would grant upon its availability servicing allocation for an additional ~~1833~~ ¹⁹⁶³ residential units to the West Cathedral Developers upon receipt of such by the Region ~~in~~ ^{ON OR BEFORE} 2011.

3. Region of York

- Provide development charges credit of the transportation component of their development charges to the participating developers for ~~2934~~ ³⁰⁶³ residential units (~~\$4.73 million~~ ^(\$11.24 million)) and 56.8 ha of employment lands at registration of the plans of subdivisions.
- Compensate the group for additional property beyond the 20 m right of way (\$5.3 million).
- Reimburse the group the non growth share \$3.2 million (tax rate) of the project after completion of Phase I and 2(a).
- Apply future Development Charges transportation component from the East District and non participating West District developers to this project
- Compensate the group for any storm oversizing and stormwater management for the By-pass.
- Forward the Regional transportation component collected to date from Cathedral Phase 1 to Markham by February 6, so Markham can award the design.

Proposed Implementation of By-pass

As per Attachment 'A' the current proposal is to stage construction of the By-pass into 3 components and advance its construction from its current 2011/2012 schedule as follows:

- | | |
|---------------------------|--|
| Stage I | • Major Mackenzie to Elgin Mills – would be constructed in 2008 2008 |
| Stage II(a) | • Elgin Mills to Monarch's collector road – would be constructed in 2007 2008 |
| Stage II(b)&
Stage III | • North of the Cathedral plan – Markham staff are reviewing with the landowners in the Highway 404 Employment land their development schedule and requesting they dedicate the 36m right-of-way by 2008. Once we finalize the availability of property a construction schedule for Phase 2(b) and Phase 3 can be finalized with the Region and incorporated into their Capital program or have the Highway 404 Employment Landowners construct such as a condition of development. |

Servicing Allocation

The upfront financing of the Woodbine By pass by ~~2007~~ ^{16m} 2008 amounts to \$17 million of which 5.35 million is land value (extra ~~2m~~ ^{16m}). The Cathedral developers will receive at least \$ ~~4.4 million~~ ^{4.4 million} million in Development Charges credits upon development of their 1100 residential units and ~~\$2.4m~~ if they develop their employment lands. In addition they will be refunded \$3.2 million out ~~\$3.3/SF (RETAIL) & \$1.73/SF (IND/OFFICE)~~.

of the \$4 million non growth component of the project upon ^{SUBSTANTIAL} completion of stage 1 and 2(a).

In consideration of advancing the By pass the West Cathedral Group has requested Markham provide future allocation to them as a priority. Specifically the group has requested any interim additional allocation from the person per unit (p.p.u) negotiations currently underway be assigned to the higher density development that are the basis of the p.p.u. calculations.

TO BE APPLIED TO
ALL 1100 UNIT.

As staff cannot confirm the extent of additional allocation assign for the p.p.u. calculations or the extent of allocation expected from the Region in 2011 when the infrastructure improvements are in place (S.E. collector, treatment plan expansion) we cannot recommend at this time a pre-commitment for the balance of their ~~1833~~ residential units. Upon confirmation of forthcoming allocation staff will report back to comment with a potential pre-committed allocation for ~~1833~~ ¹⁹⁶³ units for 2011. Cathedral West Community in keeping with present council position has and will continue to be ranked high for future allocation.

Next Steps

The Engineering Department has pre-qualified 5 emergency consultants to submit detailed proposals for design and contract administration services. The draft schedule to implement this project is:

- | | |
|-----------------------------------|---------------------|
| • Release of request for proposal | January 15, 2006 |
| • RFP closure | February 2006 |
| • Project award/design start | March 2006 |
| • Tender issued | February/March 2007 |
| • Tender award | May 2007 |
| • Construction start | June 2007 |
| • Construction completion | December 2008 |

LINKED TO
TIMING OF
DRAFT PLAN
APPROVALS &
TIMING OF
CONSTRUCTION
OF SUBDIVISION
FOR UPFRONT
FINANCING
FROM 1100 UNITS

FINANCIAL CONSIDERATIONS:

As per staff February 28, 2005 report approximately \$40,000.00 per year operating and maintenance costs for the Phase 1 and 2(a) will be incurred by the Town until Phase 3 is completed and the By pass is transferred to the Region. Additional funding in the Operations and Asset Management yearly budget is required starting in 2009.

BUSINESS UNITS

The Legal, Finance and Operations and Asset Management Departments have reviewed and commented on this report.

ATTACHMENTS:

- | | |
|--------------|------------------------------|
| Attachment A | - Map |
| B | - Principles of an Agreement |