

March 14, 2007

Regional Councillor J. Jones
Chairman
Development Services Committee
Town of Markham
101 Towncentre Blvd
Markham, Ontario
L3R 9W3

Next File: 06-108

(Sent by Fax - Original to Follow by Courier)

Dear Councillor Jones,

Re: Development Services Committee Agenda for March 20, 2007
Draft Plan of Subdivision 19TM-95081 (Matrundola et al, Phase 1)
Recommended Conditions of Draft Approval

On February 23, 2007, Gino Matrundola and I attended a meeting with Jim Baird and Biju Karamanchury to discuss proposed zoning for Block 72 of Draft Plan of Subdivision 19TM-95081. As you know, Block 72 is the 2.52 ha parcel of land fronting onto Hwy 48, a portion of which is currently designated *Environmental Protection Area* in the Town of Markham Official Plan, and *Open Space/ Environmentally Significant Area* in the Wismer Commons Secondary Plan.

We are pleased to report that in the absence of a development proposal for Block 72, all of the parties at that meeting agreed to leave the zoning **Agricultural (A)**. It was understood that such an approach was in everyone's best interest - the Town and Matrundola et al.

Also discussed at that meeting, was a desire by Development Services staff to reinforce the policies in the Official Plan and Secondary Plan as noted above as they currently apply to Block 72. The preference of staff was to include recommended conditions of draft approval for Plan of Subdivision 19TM-95081 that would specifically apply to Block 72. We are now in receipt of those conditions (see the attached document), and have the following comments:

1. We are generally in agreement with Conditions 4.3, 4.4, and 4.6. We believe they reflect the discussion held on February 23, 2007. However, we do have some concerns with some of the wording and would ask Development Services Committee to revise conditions 4.3 and 4.6 as follows:

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- "4.3 The owner shall agree in the subdivision agreement that Block 72 shall not be zoned to permit development until a detailed development proposal is approved by the Town."**
- "4.6 The owner shall include Block 72 with the residential portion of Phase 1 in the final 65M plan so it can be referenced in the subdivision agreement."**
2. We do not believe the current wording of condition 4.2 accurately reflects our understanding of referencing past studies with respect to Block 72. We would ask Development Services Committee to change the wording as follows:
- "4.2 The owner shall agree in the subdivision agreement that the report prepared by Harrington and Hoyle Ltd dated February 7, 1998 will be the point of reference with respect to identifying areas of the woodlot which may be retained. The owner will also agree to provide a 10 m buffer on Block 72 (in private ownership), immediately east of the lots fronting in the east side of Hammersly Boulevard"**
- We believe the revised condition 4.2, like the agreement with Development Services staff on zoning noted above, is in everyone's best interest in the absence of a specific development proposal for Block 72.
3. We do not believe condition 4.1 is necessary. The Official Plan designation is in effect. It does not have to be acknowledged in a subdivision agreement.
4. We similarly do not believe condition 4.5 is necessary. This is a requirement that should be dealt with when Phase 2 of the draft plan is being considered by the Town of Markham. It is not a requirement that should be tied to draft approval of Phase 1.

We must state that it is our clients' preference to not have any of the recommended draft approved conditions for Block 72 approved by your Committee and Town Council. Our client is of the opinion, and our experience confirms, that the conditions for Block 72 will have a detrimental affect on the value of the Phase 1 lands at the point of disposition.

In return for this hardship, our client is therefore also requesting further changes to the recommended conditions of draft approval for Plan of Subdivision 19TM-95081 (Phase 1) as follows:

1. In return for agreement to conditions 4.2, 4.3, 4.4 and 4.6 as amended, we would ask Development Services Committee to:
- a) **Revise Condition 1.1, third bullet by not requiring the redline deletion of 6 lots on the west side of Everett Street, south of Street "A".**
2. In return for agreement to conditions 4.2, 4.3, 4.4, 4.6 as amended, we would ask Development Services Committee to amend the wording for Condition 7.11 as follows:

"7.11 The owner acknowledges and agrees that a portion of the servicing allocation for this plan of subdivision (61 units) is part of the total allocation to the Wismer Commons Developers' Group as identified in the Markham Council resolution dated June 27, 2006 and the remaining portion (6 units) will be allocated from the Town of Markham's reserve of allocated units.

Not only do the requested changes with respect to servicing allocation address the hardship suffered by our client with respect to the woodlot conditions, the 67 unit draft plan results in a very clean break between development of the Phase 1 lands in 2007 and the possible development of the Phase 2 lands in 2012 (5 years into the future).

Our last comment concerns condition 7.12, as recommended. We would ask that Development Services Committee amend the condition by:

1. Insert after the word "revoke" in line 1, the words "after 3 years from the date of draft approval".

We do not believe the current wording adequately protects property owners from unforeseen interruptions in the development process that may have an affect on the timing of construction. The revised wording is also consistent with condition 1.2 of Appendix A.

We will be in attendance on March 20, 2007 to discuss the contents of this letter with you and your Committee members.

Sincerely yours,
Next Property Group



Blair Martin, MCIP
Partner

BM/DMW

Attachments

c. Gino Matrondola

4. Woodlot Preservation

- 4.1 The Owner shall acknowledge in the subdivision agreement that the Town's Official Plan and Wismer Commons Secondary Plan designate a portion of the woodlot on Block 72 Environmental Protection Area and Open Space/Environmentally Significant Area respectively.
- 4.2 The Owner shall agree in the subdivision agreement to preserve a portion of the woodlot, including a 10m environmental buffer, on Block 72 (in private or public ownership) in accordance with the woodlot evaluation report prepared by Harrington and Hoyle Ltd., dated February 7, 1998.
- 4.3 The Owner shall agree in the subdivision agreement that Block 72 shall not be zoned to permit development until a detailed development proposal is approved by the Town, with provisions for the retention of the identified portion of the woodlot, to the satisfaction of the Town.
- 4.4 The Owner shall agree in the subdivision agreement that no trees will be removed from Block 72 until the block is rezoned and site plan approved to permit development.
- 4.5 The Owner shall agree in the subdivision agreement that should the woodlot on Block 72 be conveyed into public ownership, that provision shall be made in Phase 2 of the proposed plan of subdivision for pedestrian access to the woodlot from Hammersly Boulevard, to the satisfaction of the Town.
- 4.6 The Owner shall include Block 72 with the residential portion of Phase 1 on the final 65M plan so that the above requirements related to the woodlot and commercial lands can be included in the subdivision agreement and registered on title to this Block.

5. Noise Impact Study

- 5.1 Prior to final approval of the draft plan, the Owner shall submit a detailed Noise Impact Study, prepared by a qualified noise consultant, with recommended mitigation measures for noise generated by road traffic on Markham Road/Hwy. 48 and Edward Jeffreys Avenue and by any other identified noise sources (eg., future commercial uses on Block 72), to the satisfaction of the Town, in consultation with the Region of York. The Owner further agrees to make any revisions to the draft plan that may be required to achieve the recommendations of the detailed Noise Impact Study.