



December 14, 2009

via fax

**Mayor and Members of Council
c/o Kimberley Kitteringham, Town Clerk
Town of Markham
Markham Civic Centre
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Markham, ON L3R 9W3**

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file # 42532-1

Your Worship and Members of Council:

**Re: By-Law 2009-193
Application for Zoning By-law Amendment and Site Plan Approval
245 Renfrew Drive
File No.: ZA 09 119448 and SC 09 119478**

We act as legal counsel for Pinedale Properties, the owner of 185 Renfrew Drive, which lands are immediately south of the lands which are subject to the above noted Application. We are concerned with how Council is rushing this matter through the process without proper consideration as well as with the misinformation provided to us by Planning Staff.

We had been advised by Staff that at the December 1, 2009 Council meeting the application to amend the zoning by-law was not approved and the proposed amendments were not enacted, whereas the Council minutes state that the application to amend the zoning by-law was approved, despite Staff not yet having reviewed the supporting studies submitted by the Applicant and without a Final Report, and the proposed amendments are to be finalized and enacted without further notice.

On Friday, December 11, 2009 at 3:35 PM we received a voicemail message from Planning Staff informing us that they were satisfied with the Application, the by-law was now available for review and that the by-law would be going to Council on Tuesday, December 15, 2009. In our opinion, this is inadequate notice for us to review the background information and is contrary to the principals of natural justice. Moreover, we have had no ability to respond to Staff's position, particularly since no Final Report has been prepared. The Preliminary Report, dated October 20, 2009, states that a Final Staff Report will be presented to Committee at a later date. In our opinion, a Final Staff Report is required, as no planning justification for the Application was provided in the Preliminary Report. Also, despite numerous enquires to Staff, we were not provided

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with copies of the relevant background information nor has the peer review been made available to the public, including affected land owners, such as our client.

The Applicant has provided us with copies of the Noise, Parking and Traffic Reports, which we have in turn provided to our client's consultants. We are happy to meet with the Applicant and its consultants to discuss our client's concerns once our consultants have had an adequate opportunity to complete their review.

Further to our letter, dated December 1, 2009, we wish to reiterate our client's opposition to the above noted Application for the following, among other, reasons:

Adverse Impact on the Community

The Application proposes to amend the zoning for the subject lands by adding nursery and private school uses, which in our opinion represent an incompatible land use. Also, our client is particularly concerned with potential traffic impacts and congestion generated by increased traffic from vehicles and buses. Our client is familiar with the existing Peoples Christian Academy and we understand it generates significant vehicular trips and congestion during drop-off and pick-up. Further, the Application will impact the existing industrial and commercial operations on our client's lands. The Applicant's Reports do not address the impact on these uses, nor do they address the mitigation measures which will be imposed on our client's existing land uses and operations. Accordingly, in our view, the approval of the Application is premature.

Contrary to Official Plan Policies

The York Region Official Plan contains a requirement to consider the impact and compatibility of potentially conflicting land uses on each other and the surrounding area. The Markham Official Plan designates the site as Industrial (Business Park Area) with policies that encourage land use compatibility in industrial areas. While, the Markham Official Plan also states that lands designated Industrial (Business Park Area) may be approved to permit private and commercial schools, this is subject to the review of a development proposal and rezoning, which is to address pedestrian accessibility, convenience and safety, among other development requirements. The Markham Official Plan also requires that the nursery and private school use be complimentary to the Business Park Area. The Preliminary Report, dated October 20, 2009, does not adequately indicate how the Application meets these policies.

Contrary to the Provincial Policy Statement

Moreover, we are unaware of any justification being provided for the conversion of these employment lands. The PPS contains policies providing for the protection of employment areas. In particular, Section 1.3.2 provides that lands may only be converted through a comprehensive review and where not required for employment



purposes over the long term. This has not been done and Council's decision to approve the Application is contrary to the PPS.

I reiterate that once our client's consultants have had adequate opportunity to review the Reports, we welcome the opportunity to meet with the Applicant and/or Town Staff to discuss concerns. However, given the foregoing, our client's have no choice but to object to the passage of the Zoning By-law Amendment.

Yours truly,
Cassels Brock & Blackwell LLP

A handwritten signature in black ink, appearing to read 'Signe Leisk', with a large, stylized initial 'S'.

Signe Leisk

c.c. Pinedale Properties
Lindsay Dale-Harris, Bousfields