



Davies
Howe
Partners
LLP

Lawyers

The Fifth Floor
99 Spadina Ave
Toronto, Ontario
M5V 3P8

T 416.977.7088
F 416.977.8931
davieshowe.com

Please refer to: **Susan Rosenthal**
e-mail: susanr@davieshowe.com
direct line: 416.263.4518
File No. 702960

May 19, 2015

By E-Mail Only

Regional Chair and Members of Regional Council
The Regional Municipality of York
17250 Yonge Street
Newmarket, Ontario
L3Y 6Z1

Dear Regional Chair and Members of Regional Council:

**Re: Report No. 1 of the Commissioner of Corporate Services and
Chief Planner on the 2015 Coordinated Provincial Review of the
Growth Plan for the Greater Golden Horseshoe, the Greenbelt
Plan, and Oak Ridges Moraine Conservation Plan**

We are counsel to Frank Rita and John DiCostanzo, and 1483404 Ontario Limited, the owners of land immediately adjacent to Highway 404 to the west, Woodbine Avenue to the east, Bethesda Road to the north, and an industrial subdivision to the south in the Town of Whitchurch-Stouffville (the "Town") in an area known as Gormley. These lands together with lands owned by the Fragale Family (totalling approximately 29 hectares or 73 acres) (the "Subject Lands") are transitioned under the *Oak Ridges Moraine Conservation Act* (the "ORMCA"), the *Oak Ridges Moraine Conservation Plan* (the "ORMCP") and the *Growth Plan for the Greater Golden Horseshoe* (the "Growth Plan"). A property location map showing the lands outlined in red is enclosed as Attachment 1.

Very recently, our clients have been approached to locate the North American headquarters of Pilosio Corporation within the Subject Lands. Pilosio is an international company based in Italy which provides the construction industry with a wide range of products, including formwork, shoring systems, scaffolding, and other engineering solutions for a diverse range of construction projects, including bridge works, viaducts, hospitals, hockey arenas, residential and industrial development, and other construction projects. A copy of Pilosio's corporate profile is attached together with a copy of a letter from them to Minister Helena Jacek, the area's local Member of Provincial Parliament. These are enclosed as Attachments 2 and 3, respectively.



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We are writing with respect to the above noted matter being considered by the Council at its regular meeting on May 21st and at a Special Meeting on May 28th. In that regard, we are in the process of reviewing Report No. 1 of the Commissioner of Corporate Services and Chief Planner on the 2015 Coordinated Provincial Review of the Growth Plan for the Greater Golden Horseshoe, the Greenbelt Plan and Oak Ridges Moraine Conservation Plan.

The purpose of this letter is to request that the Region make submissions to the Province with respect to the Subject Lands as follows:

1. Ensure that lands currently transitioned under the ORMCA, the Growth Plan and relevant regulations continue to maintain their transition status;
2. Alternatively, re-designate the Subject Lands designated Countryside, from a Countryside designation to a Settlement Area designation on the ORMCP mapping;
3. Request that lands immediately available for strategic employment uses adjacent to Highway 404 be permitted to be developed prior to the 2041 planning horizon, whether in a Plan Area or not, if shown to be appropriate and good planning for these purposes; and
4. Amend Table 2 to the above referenced report to include the Subject Lands as a property included in site specific requests.

Maintaining Transition Status

As noted above, the Subject Lands are transitioned both under the Oak Ridges Moraine Legislation and under the *Growth Plan*. They are subject to appeals of applications for official plan amendments, zoning by-law amendments, and subdivision approval which were filed in 1990 to permit the development of employment land employment and other employment uses on the Subject Lands. At that time, the Board did not make a decision about the appeals, but agreed to reopen the appeals for reconsideration once certain thresholds of industrial development were met in the balance of the Town. This is identified in the attached Decision from the Ontario Municipal Board (Attachment 4).

Since a decision was not made on these appeals which were commenced before the enactment of both the ORMCA and the *Growth Plan* and since they include less than 300 hectares, they are transitioned under both documents. The transition



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status under the ORMCA and ORMCP is confirmed in a letter from the Town (see Attachment 5).

Unlike other lands which are transitioned under the ORMCA and ORMCP which have not been actively pursued, our clients have not “failed to act” on development approvals for their lands, being the stated justification in the report before Council for the sunset clause. The lands in question have not proceeded to development as a result of restrictions imposed by the Ontario Municipal Board prior to their reconsideration. Our clients have been monitoring the circumstances in the Town to allow it to return to the Board as soon as the triggers are reached.

In fact, recently, our clients and the Town have been considering reactivation of the request to re-designate, zone, and subdivide these important lands for industrial purposes. Central to this request is the significant interest shown by Pilosio Corporation in locating their North American headquarters on these lands. The ability to seize this opportunity represents a message to the international community that the Region and Province are open for business and welcomes economic investment. As noted in the Report to Council: *“Attracting and strategically locating employment is especially important for economic sustainability and the delivery of complete communities in smaller municipalities within the Region”*, particularly in a community where development opportunities are considerably reduced by Greenbelt and Oak Ridges Moraine designations.

For the foregoing reasons, we suggest that it is inappropriate to include the Subject Lands in your blanket request for a sunset clause for transitioned lands. To boost international interest and economic development in the Town and Region, which is immediately realizable, we would request that the Region seek continuance of the transition status for the Subject Lands under both the ORMCA and Plan, and the Growth Plan.

Re-designation of Land to Settlement Area

In the alternative, if the Province is unprepared to maintain its transition rules, which we hope will not be the case for our clients’ lands, the Subject Lands are an ideal candidate to be designated Settlement Area rather than Countryside in the ORMCP for the following reasons:

1. They are a logical extension of existing industrial development, including the Gormley Industrial Area Secondary Plan to the immediate south of the Subject Lands and are being sought for immediate development. The extension of industry to these lands has been contemplated for decades. A



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- Settlement Area designation would allow these lands to develop for industrial uses, thus stimulating needed economic investment in the Town and Region.
2. They are being proposed for dry industry, thus alleviating servicing concerns. There would be no major infrastructure upgrades need downstream.
 3. The Subject Lands have no environmental designations on them. They contain no ANSI's, Provincially Significant Wetlands, Provincially Significant Woodlands, or other environmentally significant areas. The lands are not part of the Regional Greenfield designation.
 4. The Subject Lands are not designated for agricultural purposes and are not prime agricultural lands. They are currently designated for rural uses.
 5. The Subject Lands are underutilized are the perfect candidate under the *Growth Plan* for extension of employment land opportunities, particularly given the surrounding development.
 6. In order to best assess the appropriateness of the ORM designation, it is necessary to consider all provincial policy together. The *Growth Plan* is in place to ensure that employment growth occurs in appropriate locations in a sustainable manner effectively utilizing existing infrastructure. This Plan's objectives are to ensure that underutilized lands be better utilized. Plans like the ORMCP are in place to ensure that natural and hydrological features are effectively protected. The Provincial Policy Statement supports and balances all these objectives. Given the location of the Subject Lands, their ability to efficiently use existing infrastructure and the lack of natural features to be protected, it is important to designate these lands in a manner which allows achievement of the *Growth Plan* objectives.
 7. Options for locating employment land employment growth are very limited. As the Region has indicated in all of it growth management analyses, the optimal location for these types of lands are on the 400 series Highways, including Highway 404. This is made clear through the Region's identification of its strategic employment lands to date. The Region should continue to ensure that it is in a position to allow employment uses to locate in the best available locations. As noted above, the Subject Lands are immediately adjacent to existing industrial land uses and are immediately serviceable. In addition, given the small size of the lands, they could be



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developed quickly through a subdivision approval process without the need for a slow, complicated block plan or secondary plan process. This could enable an expeditious opportunity for collection by the Region and the City of development charges, whose collections have been subject to a slow down as a result of delays in development approvals. Given these opportunities, the City should not constrain itself by an unnecessary Countryside designation which is not required by the objectives of the ORMCP.

8. Settlement Areas are intended to provide the development or continuation of urban land uses consistent with growth management strategies in official plans while minimizing encroachment and impact of development on ecological and hydrological features under the ORMCP. The Subject Lands are an ideal candidate consistent with the objectives of the ORMCP and the *Growth Plan* for a request by Region to the Province for re-designation from Countryside to Settlement Area.

Allow for Immediate Designation of Lands for Strategic Employment Uses

We commend the recommendation in the Report suggesting that the Region request the Province to develop a process to allow municipalities to access strategically located employment lands. It is imperative, as the staff have noted, that the Region be in a position to access strategic employment lands whether in or outside of the Plan at this time. However, we would suggest that it is short-sighted to delay this opportunity to wait for the 2041 planning period. In our view, it is imperative that the Region request that lands immediately available for strategic employment uses adjacent to Highway 404 be permitted to be developed prior to the 2041 planning horizon, whether in a Plan Area or not, if shown to be appropriate and good planning for these purposes.

As noted above, Pulosio Corporation is primed to locate its North American headquarters within our clients' lands in an area that no one would dispute is a strategic employment area – immediately adjacent to Highway 404 and part of a critical mass with other existing industrial users immediately to the south. The Subject Lands have the necessary accessibility, visibility, configuration, and size to attract industrial users as is evidenced from interest in them. The wrong message would be delivered to the international investment community if opportunities such as these were squandered because “we are waiting to 2041”. Any process related to strategic employment lands proposed by the Region should include the ability to



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immediately capitalize on available opportunities whether lands are in the Plan or not, provided that the protection of natural heritage, hydrological, and agricultural matters are protected. We therefore request that the Region not impose this limitation on its requested process.

Please add our clients' lands to the list of site specific requests shown on Table 2. I will be attending the Special Meeting on May 28th to make a deputation and would be pleased to answer any questions you may have with respect to the foregoing.

Yours sincerely,

DAVIES HOWE PARTNERS LLP

per: 

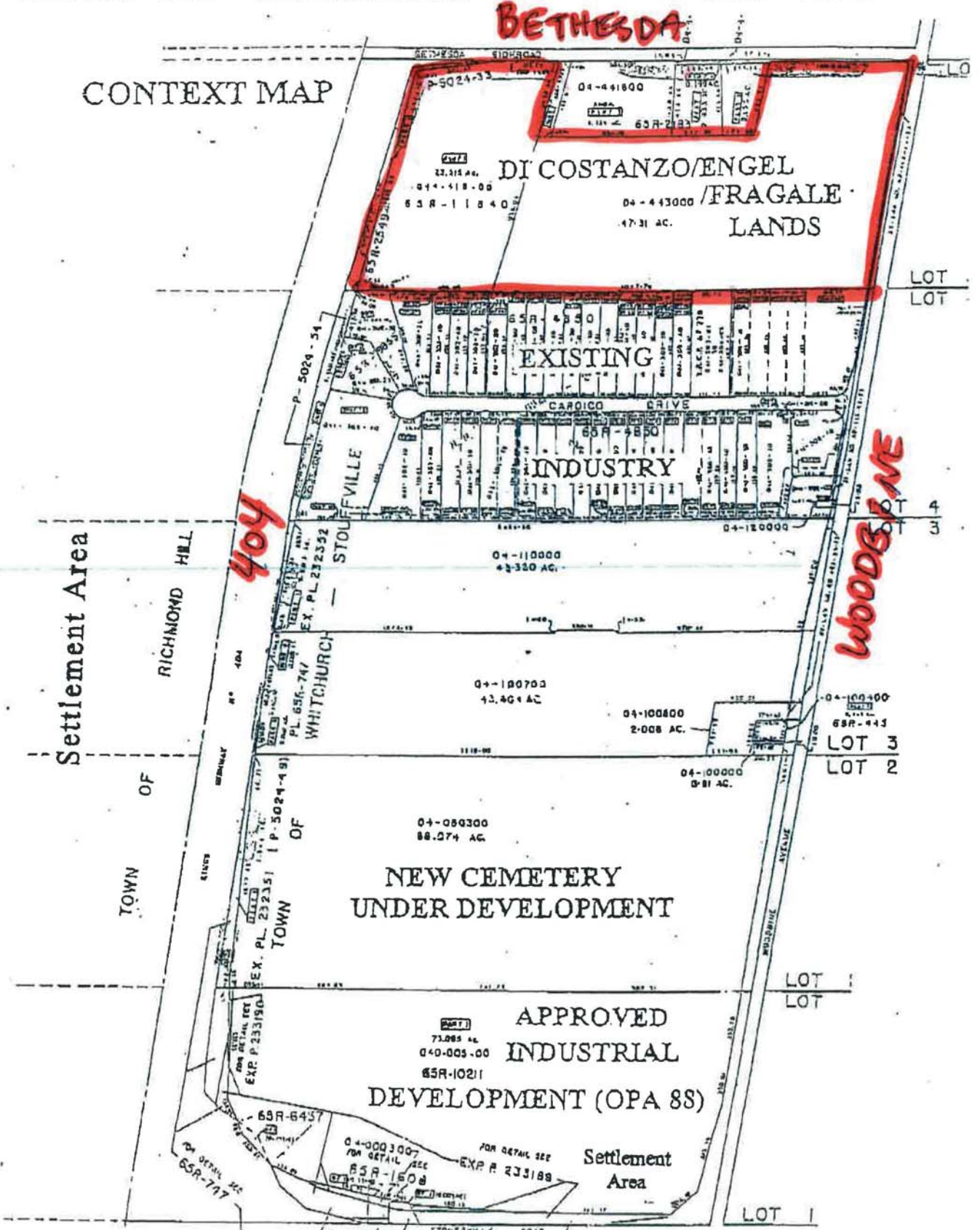
Susan Rosenthal
Professional Corporation

SR:am
encls.

copy: Valerie Shuttleworth, Chief Planner, Regional Municipality of York
Sandra Malcic, Manager, Policy and Environment, Long Range Planning,
Regional Municipality of York
Marisa Talarico, Planner, Long Range Planning, Regional Municipality of
York
Alan Drozd, Manager of Planning, Town of Whitchurch-Stouffville
Barb Konyi, Manager, Greater Golden Horseshoe Greenbelt, Ministry of
Municipal Affairs and Housing
Clients

CONTEXT MAP

BETHESDA



Settlement Area

TOWN OF

RICHMOND HILL

404

WOODS ME

STOFFVILLE ROAD

LOT
LOT

LOT
LOT

LOT 3
LOT 2

LOT 1
LOT

LOT 1

DI COSTANZO/ENGEL
/FRAGALE
LANDS

EXISTING
INDUSTRY

NEW CEMETERY
UNDER DEVELOPMENT

APPROVED
INDUSTRIAL
DEVELOPMENT (OPA 88)

Settlement
Area

27,315 AC
04-413000
47.31 AC

04-110000
43.320 AC

04-180703
13.461 AC

04-080300
88.07+ AC

04-100800
2.008 AC

04-000000
0.81 AC

040-005.00
73.085 AC

04-0003007
04-0003008
04-0003009
FOR DETAIL SEE
EX. P. 233188

65R-6437

65R-1608

65R-717

EX. PL. 232351 (P. 5024-18)

PL. 656-747

EX. PL. 232392

P. 5024-54

510P800

P-5024-33

04-418000

65R-2123

23,315 AC

04-413000

47.31 AC

65R-11840

04-110000

43.320 AC

04-180703

13.461 AC

04-080300

88.07+ AC

04-100800

2.008 AC

04-000000

0.81 AC

040-005.00

73.085 AC

65R-10211

04-0003007

04-0003008

04-0003009

FOR DETAIL SEE

EX. P. 233188

65R-6437

65R-1608

65R-717

EX. PL. 232351

PL. 656-747

EX. PL. 232392

P. 5024-54

510P800

P-5024-33

04-418000

65R-2123

23,315 AC

04-413000

47.31 AC

65R-11840

04-110000

43.320 AC

04-180703

13.461 AC

04-080300

88.07+ AC

04-100800

2.008 AC

04-000000

0.81 AC

040-005.00

73.085 AC

65R-10211

04-0003007

04-0003008

04-0003009

FOR DETAIL SEE

EX. P. 233188

65R-6437

65R-1608

65R-717

EX. PL. 232351

PL. 656-747

EX. PL. 232392

P. 5024-54



COMPANY PRESENTATION

Pilosio is the most important Italian company for construction sites, as well as temporary structures for maintenance and restoration works. Thanks to its wide range of products, the company can serve constructions, oil & gas, industrial maintenance and renovation sector.

Through the acquisition of the **Lama** brand, a name synonymous with expertise in the manufacturing of light aluminium scaffolding, mobile towers and structures for maintenance and restoration, and the contribution provided by the subsidiary **Electroelsa**, a leading manufacturer of self-lifting platforms, lifters and hoists for construction sites, we are able to offer an all-round service based on the expertise of the company's 200 employees who are dedicated to the fulfilment of the company's mission, day in, day out. **Pilosio** offers all this and more, an all-Italian company focused on *quality* and *innovation*, providing a full range of services to clients in the field of construction equipment and building yard maintenance since 1961.

Pilosio brings together **the latest technologies**, a **carpentry lab** for precision machining, five warehouses for finished and semi-finished products, several specialized departments and a logistics centre in premises that cover 56,000 square metres.

PILOSIO NUMBERS

Turnover € 40 mln

Total area 56,000 square metres

26,000 square metres of covered area

3 sheds: trenching, scaffolding, carpentry and painting

5 warehouses for finished products

Lama brand aluminium centre

Logistics service office

200 employees

The turnover of Pilosio has grown over the last three years at a rate of 30% per year

80% the effects of export on total turnover

PILOSIO ASSETS

Quality and reliability of the product

Flexibility

Wide range of products

50 years experience

Qualitative and quantitative implementation of the company's technical dept., which already increased from 8 to more than 30 employees to support Customers in all phases of the project.

WHERE WE ARE

In order to be able to serve its international clients, Pilosio can rely on local partners that at all branches operate offering technical and sales support with the same reliability of the headquarters. Pilosio exports the accuracy, guarantee and discipline of north-eastern Italy along with the innovative spirit and Italian problem solving skills in several countries of the world.



built to build



PILOSIO PRODUCTS RANGE

Scaffolding

Pilosio scaffolding (frame scaffolding, for support structures, prefabricated scaffolding, specials, tube and joint scaffolding, bush or pin type scaffolding, and multidirectional scaffolding) are manufactured in compliance with the highest safety standards to suit any type of worksite, thanks to the modularity of the elements, its easy handling and assembly, and the strength of the materials.

Aluminium Scaffolding

Aluminium scaffolding and LAMA branded mobile working towers on wheel of aluminium realized for any restoration and maintenance work and to satisfy the most demanding client.

Coverings

Lightweight and functional structures suitable both for the protection of the sites from atmospheric elements and for the preservation of the surrounding environment. The modular provisional covers are made of aluminum beams and the covers of PVC.

Formworks

Pilosio formwork stackable modular systems (circular type, beam, ground, and metal formwork used for purification plants, retaining walls, walls, elevator shafts, circular tanks, impost blocks, etc) are designed in compliance with the highest safety standards for be easily integrated in any type of worksite, thanks to the modularity of the elements, its easy handling and assembly and the quality of the materials used.

Slabs

The Pilosio slab formwork system (early removal formwork, slab formwork system, slab support structure, on-site formwork casting and reinforcements, brick slab systems, slab props, etc.) are designed with "drop head" support points that permit quick dismantling and reuse of the panels without affecting the maturation time of the casting.

Shoring systems

Pilosio offers a full range of steel and aluminum shoring structures to satisfy every need of support and in particular for the casting of slabs. The choosing of the equipment best suited to their needs must be weighed against the required flow rates and high employment.

Trenchlining

Trenchlining system (retainers using earth retaining formworks, formwork systems for canalizations, formwork for sewer systems and excavations) designed to ensure safety during worksite operations. Trenchlining: BOX SICURO and DOWN Pilosio trenchlining system with earth retaining formworks, formwork systems for canalizations, formwork for sewers

Structure for events

The range of Pilosio products for entertainment have been designed and built based on the MP modular system. Thanks to the functionality and versatility of the Pilosio MP Multidirectional system, along with all its related accessories, you can set up structures for stages, sound/light towers, bleachers, and grandstands.

PILOSIO IN CANADA

Pilosio has its branch office in Calgary, in the region of Alberta, called Forming System, with a warehouse of its products. Forming System is a structure composed by 5 technicians who are able to support Customers in all phases of the project.

<http://www.pilosio.ca/can>

PILOSIO IN ONTARIO: OUR OBJECTIVE

Pilosio would like to find a partner in the region of Ontario.

These are some examples of our best partner profile:

1. to be involved in construction/maintenance market as supplier/dealer/engineering and looking for supplementing their solutions with formwork/scaffold systems
2. to be interested on investing in formwork/scaffold for selling / renting due to the market expectation
3. to be grew into the market together sharing brands and products
4. to be a small/medium size company with own technical dept. for local support
5. to be financially steady company

built to build



April 14, 2015

The Honourable Dr. Helena Jaczek
 Minister
 Ministry of Community and Social Services
 Member of Provincial Parliament
 for Oak Ridges-Markham
 137 Main Street North, Suite 204
 Markham, Ontario
 L3P 1Y2

Dear Minister Jaczek,

I am Debra Barrow-Hall, Managing Director for Pilosio Canada Inc. Pilosio is an international supplier and manufacture of Construction Equipment in the Global market for shoring, formwork, and scaffolding systems.

As our international headquarters is located in Udine, Italy, we have been searching for many years to move our Canadian main office for the North American Operations, to the Greater Toronto Area (GTA). Now that Pilosio has spent an extensive investment of time, money, and material testing in the North American market, we feel confident that our expansion plan into GTA is the right choice. We currently have a small satellite office in Calgary, but it is our plan to move the main hub to the GTA, where we will support our Canadian and U.S. based clients. The Pilosio headquarters in the Town of Whitchurch-Stouffville will include our finance department, operations/logistics department, engineering department, warehousing, and our technical team. We will certainly be looking at hiring our workforce locally to accommodate our expansion and growth success.

In addition, I am happy to announce that we have identified a site located at the South East Corner of Bethesda Side Road and Hwy 404 as our "Preferred Location". This property offers some unique attributes for our operations. We like the fact that it is on a major highway providing immediate access across the region. It is also in close proximity to our supply chain, and allows our employees with easy access to the new MetroInx Go station nearby, which will grant us the opportunity to recruit future talent. In many ways this site is also unique because it allows for the foundation of a essential business partnership opportunity (Verdi Alliance and Pilosio) that will permit both companies to grow, succeed, hence create jobs and investment in the community.

It is my understanding from discussions with the Town of Whitchurch-Stouffville, that they would be delighted to have us on this property. They have advised us however that certain approvals would have to be obtained at the provincial level, in order to have for Pilosio Canada commence construction of our planned corporate headquarters.

I would appreciate if we could have a meeting with yourself, and the landowners, the Verdi Alliance Group (DiCostanzo family) at your earliest convenience, to see what can be done to expedite this process. As this move is pertinent to growth, I remain at your immediate disposal for any questions or concerns. I can be reached on my cell phone at 416 797 1951

Thank you in advance and looking forward to the opportunity to meet with you.

Best regards,

Debra Barrow- Hall
 Managing Director
 Mobile: +1 416 797 1951

103	FOLIO#	292
ORDER ISSUE DATE		
NOV 04 1994		
OB#	1994-6	FOLIO#
		249



Ontario

Ontario Municipal Board

Commission des affaires municipales de l'Ontario

RECEIVED NOV 7 1994

O 920104	Z 920021
Z 940019	O 940201
Z 940020	O 940200

At the request of Cardico Developments Limited, carried on by John DiCostanzo, Frank DiCostanzo, Rita DiCostanzo, Aniello DiCostanzo and Giovanna DiCostanzo, the Honourable Minister of Municipal Affairs has referred to the Ontario Municipal Board under subsection 22(1) of the Planning Act, 1983, Council's refusal or neglect to adopt a proposed amendment to the Official Plan for the Town of Whitchurch-Stouffville to redesignate lands at the southeast corner of Bethesda Road and Highway 404 from "Rural" to "Prestige Industrial" and "General Industrial" to establish specific land use policies for those lands Minister's File No. 19-OP-0032-A16
O.M.B. File No. O 920104

Cardico Developments Limited, carried on by John DiCostanzo, Frank DiCostanzo, Rita DiCostanzo, Aniello DiCostanzo and Giovanna DiCostanzo has appealed to the Ontario Municipal Board under subsection 34(11) of the Planning Act, 1983, from Council's refusal or neglect to enact a proposed amendment to Zoning By-law 87-34 of the Town of Whitchurch-Stouffville to rezone the lands comprising Part Lot 5, Concession 3, from "Rural" to "Industrial General" and "Industrial Prestige" to permit a broad range of industrial uses on the east portion of the property away from Highway 404 and provide for prestige industrial uses closest to Highway 404
O.M.B. File No. Z 920021

William Engel Realty Ltd. has appealed to the Ontario Municipal Board under subsection 34(11) of the Planning Act, R.S.O. 1990, c. P.13, from Council's refusal or neglect to enact a proposed amendment to Zoning By-law 87-34 of the Town of Whitchurch-Stouffville to rezone land respecting Part of Lot 5, Concession 3, from Rural (RU) to

Industrial General (IG) to permit a broad range of industrial uses
O.M.B. File No. Z 940019

William Engel Realty Ltd. has requested the Minister of Municipal Affairs to refer to the Ontario Municipal Board under subsection 22(1) of the Planning Act, R.S.O. 1990, c.P.13, from Council's refusal or neglect to enact a proposed amendment to the Official Plan for the Town of Whitchurch-Stouffville to redésignate 20.51 hectares with frontage on Bethesda Road and Woodbine Avenue from "Rural" to "General Industrial" to permit a broad range of industrial uses
Minister's File No. (Pending)
O.M.B. File No. O 940201

John Fragale has appealed to the Ontario Municipal Board under subsection 34(11) of the Planning Act, R.S.O. 1990, c. P.13, from Council's refusal or neglect to enact a proposed amendment to Zoning By-law 87-34 of the Town of Whitchurch-Stouffville to rezone land respecting Part of Lot 5, Concession 3, from Rural (RU) to Industrial General (IG) to permit a broad range of industrial uses
O.M.B. File No. Z 940020

John Fragale has requested the Minister of Municipal Affairs to refer to the Ontario Municipal Board under subsection 22(1) of the Planning Act, R.S.O. 1990, c.P.13, from Council's refusal or neglect to enact a proposed amendment to the Official Plan for the Town of Whitchurch-Stouffville to redesignate 20.51 hectares with frontage on Bethesda Road and Woodbine Avenue from "Rural" to "General Industrial" to permit a broad range of industrial uses
Minister's File No. (Pending)
O.M.B. File No. O 940200

C O U N S E L :

- | | | |
|------------------------|---|--|
| Harold G. Elston | - | John DiCostanzo
John Fragale
and William Engel Realty Ltd. |
| Paul W.J. Mingay, Q.C. | - | Town of Whitchurch-Stouffville |
| Suzanne L. Graves | - | Ministry of Municipal Affairs
and Ministry of Natural Resources |
| Isabelle O'Connor | - | Ministry of Environment and
Energy |
| Phyllis L. Carlyle | - | Regional Municipality of York |

DECISION delivered by T. F. BAINES and ORDER OF THE BOARD

This decision is procedural only in nature, but requires background information. The parties hereto are Mr. DiCostanzo, Mr. Engel, Mr. Fragale, Cardico Developments Ltd, the Region of York, the Ministries of Municipal Affairs, Natural Resources, Environment and Energy, Agriculture and Food and Rural Affairs, and the Town of Whitchurch-Stouffville.

The application at this stage is for a Section 22 private O.P.A. to redesignate from Rural (agricultural uses) to Industrial Prestige and Industrial General, to rezone from RU Rural to IG Industrial General and Industrial Prestige, Section 34(11), at the request of the first four parties and is opposed by all the other parties as well as some participants not named. A plan of subdivision is also contemplated. For convenience, the applicants will be described as Cardico as some of these applicants are also the principals in Cardico. Their properties are all abutting, totalling 50 acres along the south side of Bethesda Road and abut a previous Cardico 50 acre industrial development to the south.

Historically, the Town sought to redesignate a much larger parcel of land for industrial purposes, stretching from Bethesda Road in the north to the Town boundary in the south, abutting Highway 404 on the west, all as O.P.A. 60. Cardico and several other landowners in that defined area sought site specific referrals to attempt to get the exact designation they sought, along with accompanying zoning under Section 34(11) and plans of subdivision. There was a great amount of opposition from the Region and the above noted Ministries. The Town, on the advice of its consultants, submitted a further, much reduced, O.P.A. 88, which includes within its boundaries, only those lands found outlined in Schedule "H" of the Town's existing approved O.P. This took place in the fall of 1992, and the Town rescinded it's O.P.A. 60 application at the same time.

The lands in Schedule "H" include what is generally known as the "community" of Gormley and does not include the Cardico lands or several other "would be" parties who had become parties in the O.P.A. 60 matter. All but two of the landowner parties from outside O.P.A. 88, withdrew their applications either before commencement of the O.P.A. 88 hearing on September 8, 1994, or on that date, leaving only Cardico, four full Town lots to the north of O.P.A. 88 lands, and one other applicant seeking the same thing essentially, but with the difference that that other applicant's land abutted the O.P.A. 88 lands on its southern boundary and they sought to have the boundary extended to include their land (Benedetto brothers).

Because of the common elements of access, location, present designation being the same as present designation within O.P.A. 88, common C.L.I Class land, willingness to be also governed by any relevant policy to be established for O.P.A. 88 lands, willingness to be required to supply perhaps greater buffering provisions than applied elsewhere within O.P.A. 88, willingness to have their road access from other than Woodbine Avenue to "improve" appearances, the Board heard the Benedetto application consolidated with and at the same time as O.P.A. 88.

A very substantial issue in the O.P.A. 88 matter was the establishment of "need" for the amount of Industrial land proposed. That would only be for those industries that

do not use water as part of their process or discharge effluent, other than for the domestic purposes of their employees. In the decision issued October 3, 1994 on the O.P.A. 88 matters, the Board concluded that there was presently, and for the twenty year period contemplated by O.P.A. 88 which is a full Secondary Plan, no more need existing than was sufficient to fill the O.P.A. 88 (Gormley) area. Based on that, counsel has, very wisely the Board feels, advised his clients (Cardico) to seek adjournment of the hearing of that portion of the hearing which would now, otherwise, immediately follow. The Town are agreeable to whatever suits the rest of the parties.

The Ministries and the Region, all urge the Board to approve nothing save a withdrawal, given the lengthy time this matter (Cardico) has been on the Board's files (April/92) and their records prior to that. If adjourned sine die, there is no certainty to the matter. The Board suggested, to which the appellant/applicant agreed, that perhaps closing the file without prejudice to reopening it to continue at a later date at the request of Cardico would be better. It would serve to preserve that work already done by all the parties on the matter, it would avoid the necessity of running the matter back through the regular process with likely the same result. It would avoid the fairly regular checking that the Board staff make with parties on an adjournment sine die to determine if it is by then ready. It would cease to be statistically part of the Board's backlog. It would avoid an order dismissing the matter which has the appearance of a decision on the merits. The Board, when questioned, indicated that it would be the intention of Cardico, and confirmed by its counsel, that the appropriate policies and law to then apply, would be that which applied for a new matter being dealt with by the Board for the very first time as of the same date that the request for reinstatement was made. That would save all of the parties the necessity of going through the preliminary stages at the municipality, Region and Ministries unless they preferred to start fresh.

Counsel for the Region points out, quite properly, that there may be some doubt as to the Board's power to stipulate which law and policy would apply. Given the discretionary nature of these proceedings and given the specific undertaking of counsel

for Cardico that his clients undertake in these circumstances to be bound by whatever law and policies apply at that time, the Board seriously doubts this ruling will create problems. The law and policies are unlikely to have changed that much in the private landowner's favour to effect a result that will negatively impact the Ministries, the Region or the Town. The Board and the applicant will be saved the necessity of duplication, itself a worthy objective administratively.

The Region requested that costs be assessed against Cardico. When one weighs up the lateness of the request for adjournment (the day the second portion of the hearing was to commence) and the efforts to which the Region and the Ministries had been put in dealing with these matters when the subdivision matters had been brought on at the last minute, and only just getting completed as of the date of the start of this part of the hearing, a basis for the request is made out and is cited as unreasonable conduct on the part of Cardico. Cardico's counsel did advise other counsel of his intentions verbally prior to the day of the motion but no motion record or other document was circulated.

Cardico were represented until July 1994 by an agent who is also one of their professional consultant witnesses. Legal counsel was then retained and at that point certain extra steps were necessary which made the request for expeditious treatment to fit with the then stipulated hearing schedule, understandable. The steps then taken by counsel to get instructions to seek adjournment without the apparent waste of time for the Board and other parties, given the Board's prior decision on 'need' is, in the Board's view, reasonable. As all the parties know, the test to be made in considering an award of costs before this Board is the reasonableness of the actions of the parties. (See the Board's published and circulated Guideline on Costs). Given the changing nature of the proceedings as between O.P.A. 60 and O.P.A. 88, the change in its legal representative, the changes made during the several prehearing conferences, particularly as to the formatting of the hearing, this has been a difficult hearing to remain abreast of.

The Board therefore will direct that this file be closed and that all exhibits from the first phase of the hearing be retained with the file. This matter may be brought back on

at the request of the then owner of the lands in question, at which point it will then take its place at the end of the hearing queue, with other matters deemed ready for hearing. Specifically, the Board states, and Cardico through their legal counsel agree, that the law and any applicable policies to then apply shall be those in force as of the date the Board reactivates or reinstates the files as a result of such request. Cardico, through their counsel, renounce what rights to law and policies which may now exist but do not survive to the date of requested reinstatement or reactivation. This was requested by counsel for the Ministries.

The Board hereby stipulates that no request for reactivation or reinstatement of this matter should be considered by the Board until 50 per cent or more of the land available for dry industry use at the present time elsewhere in the Town, plus 50 per cent of that land approved for use in O.P.A. 88, has been used up to the stage of permits to build industrial uses upon those lands having been issued by the Town. The acreage in O.P.A. 88 is 175 acres, the acreage presently in the rest of the Town is that set forth for dry industry in the study performed for this hearing on the subject of need, Exhibit 30.

The Board orders the relevant files endorsed accordingly. This member will remain seized so long as available.

DATED at TORONTO this 4th of November 1994.

"T. F. Baines"

T. F. BAINES
VICE-CHAIRMAN



TOWN OF
WHITCHURCH-STOUFFVILLE
 "COUNTRY CLOSE TO THE CITY"

37 SANDIFORD DRIVE, 4TH FLOOR
 STOUFFVILLE, ONTARIO L4A 7X5

MAIN SWITCHBOARD (905) 640-1930
 (905) 895-2125
 AUTOMATED LINES (905) 640-1930
 (905) 895-5299
 FAX (905) 640-7957

July 28th, 2004

Bethesda Rd. / Hwy 404 Landowners' Group
 c/o Mr. John DiCostanza
 Verdi Group Ltd.
 4001 Weston Road
 Weston, Ontario M9L 2S8

Dear Sir:

Re: 'Transitional' Status of Development Files
 Oak Ridges Moraine Conservation Act, 2001 & ORM Conservation Plan

In consideration of the Ontario Municipal Board's letter of January 28th, 2003 and the earlier decision of the Board related to your development files (Board Order, dated November 4/94) arising from the Hearing associated with the approval of the Gornley Secondary Plan, we would deem your files to have "transitional" status with respect to the *Oak Ridges Moraine Conservation Act, 2001*.

The Town as part of conformity exercise to bring our Official Plan / Secondary Plans into compliance with the Oak Ridges Moraine Conservation Plan do not propose to identify all files that have "transitional" status. Rather, the Town has indexed all known files and they are available for review by Staff as required. The Board Case Nos. as identified in the November 4/94 decision affecting the lands that we refer to as the Bethesda Rd. / Hwy 404 Landowners' Group are included in this listing.

Please be advised that the Ontario Municipal Board remains seized of the files, and as such, the Board will be the approval authority for any planning applications.

I trust that the foregoing clarifies and reaffirms the present status of your development files in the context of the Oak Ridges Moraine Conservation Act, 2001.

Yours truly,

Andrew McNeely, MCIP, RPP
 Manager of Planning Services