



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. 931815

May 14, 2014

By E-Mail Only to denis.kelly@york.ca

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

Attention: Mr. Denis Kelly, Regional Clerk

Dear Chair and Regional Council:

Re: Dorsay (Residential) Developments Inc. (subsidiary of Dorsay Development Corporation) ("Dorsay") Comments on City of Markham's Revised Draft Official Plan (November, 2013) May 15th, 2014 Regional Council Meeting, Item F.4

We represent Dorsay which owns approximately 1.045 hectares of land east and west of Circa Drive north of Highway 7 in the Markham Centre Secondary Plan. A map of the subject lands is attached. Dorsay is currently in the process of preparing a development proposal for the subject lands. We have learned that the Region is considering the approval of the City of Markham's Official Plan at its Council meeting tomorrow. We would note that although we had written the Region on January 22, 2014 requesting notice of any meeting at which approval will be considered, we have only just received notice today at 3:11 p.m. advising of a Council meeting tomorrow at 9:30 a.m.

Notwithstanding, we are writing to object to the approval of the City's Plan as currently adopted. One of our client's major concerns is the proposed designation of Dorsay's subject lands as 'Mixed Use Office Priority' in the City of Markham's Revised Draft Official Plan (Nov, 2013). A 'Mixed Use Office Priority' designation does not allow sufficient flexibility to realize the best use of the subject lands. We therefore request Regional Council to designate our client's lands as 'Mixed Use High Rise.' As has been expressed in previous submissions to the City of Markham made April 5th, April 23rd, and November 18th, 2013, copies of which are attached



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for your information, the policy regime for the 'Mixed Use Office Priority' designation requires a minimum office component in any development scenario, regardless of whether the market demand for such use exists on the subject property. Our client has explored opportunities to develop the site for office uses for the past 10 years without success. In our view, it is inappropriate and does not represent good planning to maintain a requirement that office uses be developed on this site, particularly since they will likely not be realized by the next review period of this official plan and longer.

A designation of 'Mixed Use High Rise' would provide more flexibility in the land use permissions on the site. This designation permits, and in fact, encourages the development of office and other commercial uses together with permission for residential intensification, thus allowing an appropriate range of development opportunities to be accommodated on this site. At the same time, it would permit a predominantly residential development should market demands so dictate. This designation is proposed for most of the land within this part of the Highway 7 corridor and is equally appropriate for these lands.

In addition to the previous submissions to the City of Markham, a deputation was made on our client's behalf to Markham City Council. It is our understanding that Markham Council did not have an issue with our client's proposed change in the land use designation from 'Mixed Use Office Priority' to 'Mixed Use High Rise'; rather their concerns were with the proposed height and intensity of uses. It is our opinion that issues such as height and intensity can be more appropriately resolved through the Site Plan application process based on the relevant land use and urban design policies outlined in the Revised Draft Official Plan.

Our previous submissions also raised other concerns with the proposed official plan. Rather than repeating them in this letter, we ask that you review the previous submissions for other concerns raised by our client.

We therefore request Regional Council modify the adopted Markham Official Plan to incorporate the changes requested in our submissions including the designation of our client's lands as "Mixed Use High-Rise". It is our opinion that designating the site 'Mixed Use High Rise' would represent good planning.




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We thank you again for this opportunity to participate in York Region's review of the City of Markham's draft Official Plan.

Yours sincerely,

DAVIES HOWE PARTNERS LLP

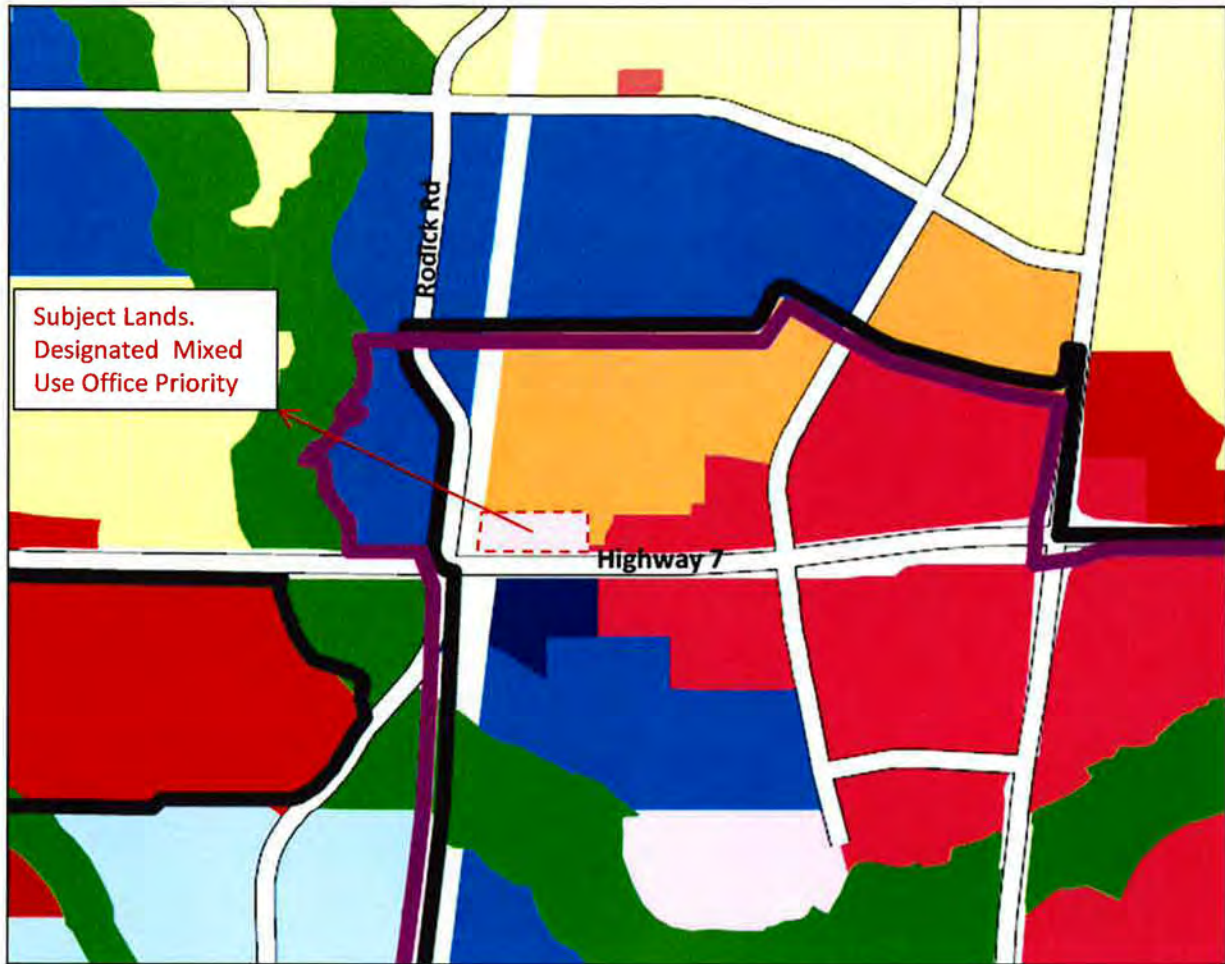
Per: 

Susan Rosenthal
Professional Corporation

SR:am
encls.:

copy: K. Whitney, Director of Community Planning, Region of York
D. Kostopoulos, Commissioner of Transportation and Community
Planning, Region of York
D. MacAskill, Senior Planner, Community Planning, Region of York
City of Markham Council and Planning Staff
M. Cory, Malone Given Parsons Ltd.
Client

Attachment: Subject Lands





140 Renfrew Drive, Suite 201
Markham, Ontario L3R 6B3
Tel: 905-513-0170
Fax: 905-513-0177
www.mgp.ca

April 5, 2013

Ms. Kitty Bavington,
Clerks Department,
Town of Markham
Markham Civic Centre, 101 Town Centre Boulevard,
Markham, Ontario, L3R 9W3
VIA Email: kbavington@markham.ca

MGP File: 13-2185

Dear Ms. Bavington:

**RE: Dorsay (Residential) Developments Inc. (subsidiary of Dorsay Development Corporation)
Comments on Town of Markham New Official Plan**

We represent the Dorsay Development Corporation which owns approximately 1.045 hectares of land east and west of Circa Drive north of Highway 7 in the Markham Centre Secondary Plan. Dorsay is currently in the process of preparing a development proposal for the subject lands.

We have conducted an initial review of the Town's Draft Official Plan and are concerned that the Mixed Use Office Priority designation proposed on the subject site does not appropriately recognize the potential uses which could be developed on the lands nor does it responds to the market demand for land uses on the subject property. We believe that there are opportunities to provide more flexibility in the land use permissions on the site which are not properly addressed in the currently proposed plan.

We thank you for this opportunity to participate in the review of the new Official Plan. We look forward to discussing our comments with you following our more thorough review of the policies of the Draft Official Plan.

Yours very truly,
MALONE GIVEN PARSONS LTD.

Matthew Cory, MCIP, RPP, PLE, PMP
Principal
mcory@mgp.ca

cc: *Clients: S. Rosenthal,
J. Baird, Commissioner of Development Services
M. Wouters, Senior Manager, Policy and Research*



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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. 931815

April 23, 2013

By E-Mail Only to kbavington@markham.ca

Ms. Kitty Bavington
Clerks Department
Town of Markham
Markham Civic Centre
101 Town Centre Boulevard
Markham, Ontario
L3R 9W3

Dear Ms. Bavington:

**Re: Draft City of Markham Official Plan, 2012
Development Services Public Meeting – April 23, 2013
Dorsay (Residential) Developments Inc. (subsidiary of Dorsay
Development Corporation) (“Dorsay”)**

We are counsel to Dorsay which owns approximately 1.045 hectares of land east and west of Circa Drive, north of Highway 7 in the Markham Centre Secondary Plan.

We have had an opportunity to review the draft Official Plan for the City dated September, 2012 (the “2012 draft Official Plan”) which is intended to be considered at tonight’s public meeting. We provide the following comments on our clients’ behalf further to the letter forwarded to you on April 3, 2013 by our client’s planning consultant, Malone Given Parsons Ltd.

Proposed Land Use Designation

It is our view that our client’s lands west of Circa Drive should be designated “Mixed Use High Rise” consistent with most adjacent properties along the Highway 7 Corridor, including our client’s landholdings east of Circa Drive, rather than the ‘Mixed Use Office Priority’ designation proposed in the 2012 draft Official Plan. The current proposal for the subject site does not allow sufficient flexibility or opportunity to realize the property’s highest and best use.

The policy regime for the Mixed Use Office Priority designation requires a minimum office component in any development scenario, regardless of whether



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the market demand for such use exists on the subject property. Our client has explored opportunities to develop the site for office uses for the past 10 years without success. In our view, it is inappropriate and does not represent good planning to maintain a requirement that office uses be developed on this site, particularly since they will likely not be realized during by the next review period of this official plan.

A designation of 'Mixed Use High Rise' would provide more flexibility in the land use permissions on the site. This designation permits, and in fact, encourages the development of office and other commercial uses together with permission for residential intensification, thus allowing an appropriate range of development opportunities to be accommodated on this site. At the same time, it would permit a predominantly residential development should market demands so dictate. This designation is proposed for most of the land within this part of the Highway 7 corridor and is equally appropriate for these lands.

In our view, given the desire to achieve a high intensity of land uses in this corridor and ensure that it is one of the key development areas in the City, it is inappropriate to restrict proposed land uses by requiring as a primacy or a prerequisite to other uses, a land use (office), whose proven track record demonstrates there is little or no market.

Development Criteria for Mixed Uses

Our review of the policies contained in Section 8.3, particularly the policies that set out development criteria for the Mixed Use designations, raises certain concerns. For example (and without limiting the foregoing), policy 8.3.1.3 requires adherence to certain specific requirements, such as an obligation to design buildings to respect the angular plan and to provide consistent setbacks which we suggest should not be generally and universally applied without regard to the specifics of the site. It is more appropriate and better planning to allow a site's design to be determined through the precinct plan, and/or site plan/zoning on a site by site basis. Furthermore, the requirement that developments must prepare a comprehensive block plan in addition to precinct plans is unduly onerous and unreasonable.

The subject lands are within the Markham Centre Secondary Plan and adjacent to Avenue 7. They are planned to have some of the highest intensity uses in the City. Accordingly, it is appropriate to include a site specific exception to Official Plan policy 8.3.4.4 to permit a density of up to 3.5 FSI on this site without the need for



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a supporting comprehensive block plan. This permission could be added as a site-specific policy in Chapter 11 of the Official Plan.

It is also unclear what is meant by “other criteria as identified in plans approved by Council” in a number of policies, including 8.3.1.3(i), 8.3.4.5(g) and 8.3.5.5(e). Further clarity is required in order to assess the implications of this requirement.

In addition, the proposed limit on individual retail establishments to 6,000 sq. m. in Policy 8.4.5.4 is unduly restrictive. Flexibility should be permitted to recognized individual user requirements.

We also respectfully suggest that some of the development standards contained in Policy 5.1.4 with respect to the Mixed Use Office Priority designation are unduly onerous and unreasonable. For example, the requirement in Policy 5.1.4.2 does not provide sufficient flexibility for the provision of parking when considering the potential to develop the site with a variety of uses and built forms.

Implementation Policies

It is unclear how the 2012 draft Official Plan, Part 1 will interact and relate to existing secondary plans and their required implementation processes (e.g. the submission of precinct plans) proposed to be brought forward as Part 2 plans. In particular, it is unclear how existing approvals, policies, designations, and the development approval process contained in the Markham Centre Secondary Plan and Precinct Plan will be transitioned or grandfathered in relation to additional or new requirements arising from the Part 1 Plan. Further clarity is required.

We also have concerns with Policies 9.1.3.1 and 9.1.3.2 and the requirement for a comprehensive block plan that may be imposed on our client's lands. As noted above, where a precinct plan is already required as a precondition for development, it is unreasonable and redundant to also require a comprehensive block plan, particularly for a site the size of our client's. The reasonableness of this requirement is further questionable in light of the ongoing need for further site specific approvals with their associated required studies and plans. We would suggest that that with respect to our client's site, the existing Precinct Plan negates the need to prepare a comprehensive block study, and this Precinct Plan should only be required to be updated prior to development approval to incorporate the results of studies which will have to be undertaken in connection with our client's development approval applications.



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Notwithstanding our objection generally to the requirement for a comprehensive block plan, we also question the list of matters required to be included in the plan, itself as contained in Policy 9.1.3.2, including the requirement for the inclusion of details of targets, which may not be relevant, and the requirement for adherence to sustainable buildings practices in section 6.2.

As we read the sustainable development policies in Policy 6.2, they are permissive, and are being encouraged but not required. To the extent that the 2012 draft Official Plan mandates their use, as in for example Policy 9.1.3.2, the relevant policy(s) should be amended to require “consideration of”, not “adherence to”, the sustainable development practices. In particular, we would have significant concerns with any policy which requires standards that go beyond the requirements of the Ontario Building Code.

Parkland Policies

We are also concerned with other aspects of Section 9, particularly those regarding parkland dedication as it would apply to the subject property. We question the fairness and reasonableness of the proposed cash-in-lieu requirements particularly where they apply to high density residential development sites. We further question how these policies will interact with the implementation of Policy 4.3, especially in light of the arrangements already made with the City with respect to our client’s overall landholdings in Markham Centre.

Affordable Housing

We question the appropriateness of affordable housing targets specified in Policy 4.1.3.2, particularly the requirements for a 35% target in Markham Centre and raise a concern about how a requirement for this minimum amount of affordable housing is to be implemented. We also question the blanket requirement to submit housing statement, whose need should be considered on a site by site basis.

Road Network

The development approvals for our client’s overall landholdings in Markham Centre required that the appropriate right of way for Circa Drive be maintained at 23 metres. The 2012 draft Official Plan identifies a minor collector of up to 24.5 metres in the vicinity of Circa Drive. The 2012 draft Official Plan should be modified to reflect a right of way of 23 metres for Circa Drive.



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We would note that many of the above noted matters are interrelated with various other policies and schedules of the 2012 draft Official Plan, and, as such, we reserve the right to provide further concerns in the future.

We thank you for the opportunity to provide these comments and would appreciate an opportunity to meet with you to discuss these concerns prior to the preparation of the next draft of the proposed City Official Plan and its consideration by Council.

Yours sincerely,

DAVIES HOWE PARTNERS LLP

A handwritten signature in blue ink, appearing to read 'Susan Rosenthal'.

Susan Rosenthal
Professional Corporation

SR:am

copy Client

J. Baird, Commissioner of Development Services
M. Wouters, Senior Manager, Policy and Research
M. Cory, Malone Given Parsons Ltd.

November 18, 2013

Ms. Kitty Bavington,
Clerks Department,
Town of Markham
Markham Civic Centre, 101 Town Centre Boulevard,
Markham, Ontario, L3R 9W3
VIA Email: kbavington@markham.ca

MGP File: 13-2185

Dear Ms. Bavington:

**RE: Dorsay (Residential) Developments Inc. (subsidiary of Dorsay Development Corporation)
Comments on Town of Markham Revised Draft Official Plan (November, 2013)
November 19, 2013 Development Services Committee, Item #7**

We represent the Dorsay Development Corporation which owns approximately 1.045 hectares of land east and west of Circa Drive north of Highway 7 in the Markham Centre Secondary Plan. Dorsay is currently in the process of preparing a development proposal for the subject lands.

Further to our submissions on April 5th and 23rd, 2013, copies of which are attached, we provide this letter with our concerns on the Town's proposed November, 2013 Revised Draft Official Plan. In particular we believe that the 'Mixed Use Office Priority' designation proposed in the Revised Draft Official Plan on the subject site does not allow sufficient flexibility to realize the best use of the subject land, and renew our request that the lands be designated 'Mixed Use High Rise.'

In speaking with your staff on October 10th, 2013 we were told that the land use designations for our client's site were to be finally determined at the secondary plan stage and that the underlying designations shown on Map 3 would not be finalized at this time. It was our understanding that the planning analysis for these lands would occur as part of a secondary plan process. Staff suggested that, as an avenue for addressing our concerns with respect to the proposed land use, they would consider a modification to the proposed official plan which effectively would defer a decision on land use in existing Secondary Plan areas until such time as an update to existing Secondary Plans could occur.

Upon review of the Revised Draft Official Plan (November, 2013) we note that Map 3 continues to show a Mixed Use Office Priority designation on the subject lands, now noting that they are also subject to policy 9.12.4 which reads as follows:

"The land use designations for the Region Centre – Markham Centre lands, shown outlined in purple on Map 3 – Land Use, and the related policies in this Plan, shall be used to inform the update of the Markham Centre Secondary Plan. Until an updated secondary plan is approved for the Regional Centre – Markham Centre lands, the provisions of the Official Plan (Revised 1987), as amended, and Secondary Plan PD 33-1, as amended, shall apply to the lands."

This amendment does not address our concerns; nor does it appropriately defer the designation to a later planning stage. Furthermore, it prejudices and prejudices consideration of the land use designation for the site without a proper planning analysis by the City.

If Committee wishes to proceed with the current policy framework proposed by staff and identify land use designations for these lands in the Schedules to the Official Plan, we request that Map 3 be modified to designate the subject lands Mixed Use High Rise, as set out in our previous submissions. As we previously noted:

- The policy regime for the Mixed Use Office Priority designation requires a minimum office component in any development scenario, regardless of whether the market demand for such use exists on the subject property. Our client has explored opportunities to develop the site for office uses for the past 10 years without success. In our view, it is inappropriate and does not represent good planning to maintain a requirement that office uses be developed on this site, particularly since they will likely not be realized during by the next review period of this official plan.
- A designation of 'Mixed Use High Rise' would provide more flexibility in the land use permissions on the site. This designation permits, and in fact, encourages the development of office and other commercial uses together with permission for residential intensification, thus allowing an appropriate range of development opportunities to be accommodated on this site. At the same time, it would permit a predominantly residential development should market demands so dictate. This designation is proposed for most of the land within this part of the Highway 7 corridor and is equally appropriate for these lands.

Alternatively, rather than identifying any land use designation at this time, the lands could be identified as a "Deferral Area" with no land use designations shown on the subject site on Map 3 of the Official Plan until such time as an update to the Markham Centre Secondary Plan has been completed or the lands are otherwise redesignated through a site specific application. An associated policy to replace proposed policy 9.12.4 could be included in the Official Plan as follows:

"The land use designations for lands within the Regional Centre – Markham Centre, shown outlined in purple on Map 3 – Land Use, and the related policies in this Plan, shall be determined through an update of the Markham Centre Secondary Plan or other appropriate process under the Planning Act. Until an updated secondary plan is approved for the Regional Centre – Markham Centre lands, or other Planning Act approval is obtained for specific lands within the Region Centre – Markham Centre, the provisions of the Official Plan (Revised 1987), as amended, and Secondary Plan PD 33-1, as amended, shall apply to the lands."

In general, we continue to have specific policy concerns outlined in our April 23rd, 2013 submission to staff. We are concerned with the policies of Section 8.3, particularly the policies that set out development criteria, maximum densities, and limit on size of retail establishments, and others in the Mixed Use designations. We are also concerned with other aspects of Section 9, particularly those regarding parkland dedication as it would apply to the subject lands. Lastly, as many of the above noted matters are interrelated with various policies and schedules of the Draft Official Plan we reserve the right to provide further concerns as we are aware of their implications on the subject lands.

TO: Ms. Kitty Bavington, Clerks Department, Town of Markham

November 18, 2013

RE: Dorsay (Residential) Developments Inc. Comments on Draft Official Plan (November, 2013)

We thank you again for this opportunity to participate in the City's Official Plan Review and respectfully request that our concerns be addressed prior to Development Services Committee adoption of the Revised Draft Official Plan (November, 2013) as Markham's new Official Plan.

Yours very truly,

~~MALONE GIVEN PARSONS LTD.~~



Matthew Cory, MCIP, RPP, PLE, PMP

Principal

mcory@mgp.ca

cc: *Clients: S. Rosenthal,
J. Baird, Commissioner of Development Services
M. Wouters, Senior Manager, Policy and Research*

Attach: April 5th and 23rd Letters to City of Markham.