

Clause 7 in Report No. 14 of Committee of the Whole was adopted, without amendment, by the Council of The Regional Municipality of York at its meeting held on October 19, 2017.

7

Referral Request to the Ontario Municipal Board – Town of
Whitchurch-Stouffville

Committee of the Whole recommends:

1. Receipt of the communication from Susan Rosenthal, Davies Howe Partners LLP, dated March 24, 2017 and October 11, 2017.
2. Receipt of the deputation from Marisa Keating, Davies Howe LLP on behalf of 1057524 Ontario Limited.
3. Adoption of the following recommendations contained in the report dated September 29, 2017 from the Commissioner of Corporate Services and Chief Planner:
 1. The referral request by 1057524 Ontario Limited for Official Plan Amendment application file 88.015 to the Town of Whitchurch-Stouffville Official Plan be refused.
 2. The Regional Solicitor be delegated the authority to respond to and defend any challenge to Regional Council's decision on the referral request, in consultation with the Chief Planner.
 3. The Regional Clerk circulate a copy of this report to the Clerk of the Town of Whitchurch-Stouffville and 1057524 Ontario Limited.

Report dated September 29, 2017 from the the Commissioner of Corporate Services and Chief Planner now follows:

1. Recommendations

It is recommended that:

Referral Request to the Ontario Municipal Board, Town of Whitchurch-Stouffville

1. The referral request by 1057524 Ontario Limited for Official Plan Amendment application file 88.015 to the Town of Whitchurch-Stouffville Official Plan be refused.
2. The Regional Solicitor be delegated the authority to respond to and defend any challenge to Regional Council's decision on the referral request, in consultation with the Chief Planner.
3. The Regional Clerk circulate a copy of this report to the Clerk of the Town of Whitchurch-Stouffville and 1057524 Ontario Limited.

2. Purpose

The report addresses a request by 1057524 Ontario Limited for referral to the Ontario Municipal Board (OMB) of an Official Plan Amendment (OPA) application submitted to the Town of Whitchurch-Stouffville in 1988. The application proposed a 24 lot residential subdivision development on lands that are now designated 'Natural Linkage Area' pursuant to the Oak Ridges Moraine Conservation Plan (ORMCP) and that are located outside of the settlement areas of the Ballantrae-Musselman Lake and Environs Secondary Plan. The request is recommended for refusal for the reasons set out in this report.

3. Background

The subject lands are located on the Oak Ridges Moraine outside of a settlement area

The subject lands are adjacent to but outside of the settlement area boundary of the Hamlet of Musselman Lake. The municipal address is 17 Victor Drive in the Town of Whitchurch-Stouffville. The lands have an area of approximately 13.28 hectares (32.8 acres); a residence and accessory buildings exist on the property, which is otherwise undeveloped. The lands include an area cleared of trees in the western half of the property and a significant woodland and wetlands in the eastern half (Attachment 1).

The OPA application to facilitate a 24 lot residential subdivision was filed with the Town in 1988

The OPA application was made to the Town of Whitchurch-Stouffville in 1988. The OPA proposed to re-designate the subject lands from 'Rural' to 'Lakeside Residential' for a 24 lot residential plan of subdivision on individual private services (Attachment 2). A Zoning Bylaw Amendment (ZBA) application was also submitted to the Town. The ZBA application proposed to amend the Town's

Referral Request to the Ontario Municipal Board, Town of Whitchurch-Stouffville

former General Zoning By-law 87-34 to re-zone the lands from 'Rural' to 'Rural Residential'. The applicant submitted a related draft plan of subdivision application in 1989 to York Region, the approval authority for plans of subdivision at the time.

The applicant asked the Minister for a referral of the OPA in 1989, and the Minister did not make the referral

In 1989, the applicant made a request to the Minister of Municipal Affairs (Minister) for referral of the OPA application to the OMB because the Town had not made a decision on the application. Until March 27, 1995, the Minister was responsible for the approval of all official plans and amendments. The *Planning Act* in force until March 27, 1995 (1983 *Planning Act*) did not provide for appeals of decisions by the Minister on official plans, or for appeals of non-decisions on proposed official plan amendments adopted by municipalities. Instead, the Minister could be asked to refer an OPA application or an adopted OPA to the OMB. There was no timeline for the Minister to make a decision on referral requests.

The proposed development was not supported by the Town, Region or the Province at the time of the applications

The applications were not supported by Town, Region or other commenting agencies. In 1990, the Region sent several letters to the applicant advising that the subdivision application was being held in abeyance pending completion of a settlement capability study that would be approved by the Ministry of Municipal Affairs as an OPA. In 1992, the applicant was again advised by the Region that the application was not being processed pending completion of the Town's settlement capability study. In 1993, the Region advised the applicant the subdivision was not supported and offered to provide a refund of application fees. In 1994, the Region advised the applicant that the subdivision did not conform to the Town's official plan, and that the Town, Region and Ministry of the Environment and Energy did not support the OPA application. That correspondence also noted the Ministry of Municipal Affairs had not indicated it will refer the OPA application to the OMB, and advised that the Region would be closing the subdivision application if justification that it remain open was not provided.

The proposed development was not recognized in the Ballantrae-Musselman Lake and Environs Secondary Plan adopted by the Town in 1994

In 1994, the Town adopted OPA 90 (Ballantrae-Musselman Lake and Environs Secondary Plan), which proposed to designate the lands as 'Special Rural Area' and 'Natural Features Conservation Area'. This Secondary Plan established the

Referral Request to the Ontario Municipal Board, Town of Whitchurch-Stouffville

settlement area boundary for the Musselman Lake Community Area. The Secondary Plan did not designate these lands for residential uses, and the lands were not included in the settlement area.

When the OPA and ZBA applications were filed in 1988 and 1989, respectively, the only Provincial policy direction was four Policy Statements on aggregate resources, floodplain planning, wetlands, and land use planning for housing. The Whitchurch-Stouffville Official Plan designated the lands 'Rural'. No secondary plan was in place, and the Regional Official Plan 1994 (ROP 1994) was not yet in place. A chronology explaining the applicable Provincial, Regional and Local Plans at the time the applications were filed and the evolution of those plans is included on Attachment 3.

In 1995, significant amendments to the *Planning Act* delegated York Region approval authority for Official Plans

Pursuant to amendments following the *Planning Act* reform initiative in 1995, York Region was delegated approval authority for local official plans. Subsequently in 1996, the Region was delegated (by regulation) approval authority for applications that were made prior to March 28, 1995, including OPA applications that were not adopted by the councils of local municipalities. Correspondence from the Ministry to the applicant immediately following this delegation in April 1996 noted that the referral request submitted in relation to this OPA would also become the responsibility of the Region.

Also as a result of the *Planning Act* amendments in 1995, upper-tier municipalities were permitted to delegate subdivision approval authority to local municipalities. York Region delegated approval authority for subdivision applications received after March 28, 1995 to its local municipalities.

Region approved the Ballantrae-Musselman Lake and Environs Secondary Plan in 1997 and designations for the subject lands were deferred

OPA 90 was approved by York Region in 1997, following Provincial approval of a groundwater remediation strategy for the area and confirmation that municipal water supply would be provided for the area instead of by individual wells. At that time, the applicant requested the opportunity to pursue development of the lands with 5 residential lots. In order to discuss this option, the land use designations and policies affecting the subject lands were deferred (Deferral 5).

Referral Request to the Ontario Municipal Board, Town of Whitchurch-Stouffville

There was little activity on the applications between 1997 and 2016

In 1997, following approval of OPA 90 with the deferral for the subject lands, the Region advised the applicant that the 1989 subdivision file had been closed. In 1998, the applicant submitted to the Town a revised subdivision application proposing 8 lots (Attachment 4), as well as a revised ZBA application, which proposed to amend the Town's former General Zoning bylaw 87-34.

In response to this submission the Town advised the applicant by letter that prior to proceeding with the subdivision and ZBA applications the principle of development must be established, and that the Region would have to support lifting Deferral 5 in the Ballantrae-Musselman Lake and Environs Secondary Plan.

The applicant subsequently submitted some further application materials in relation to the OPA application. In 2003, the Town adopted its ORMCP conformity amendment designating the subject lands 'Natural Linkage'. In 2004, the applicant submitted to the Town an ORMCP compliance report to address ORMCP transition policies. In 2006, the applicant indicated to Town staff the possibility of abandoning the applications.

Referral Request to the Ontario Municipal Board, Town of Whitchurch-Stouffville

The applicant submitted a further revised subdivision application in 2016 and sought to reactivate the OPA and ZBA applications. The 2016 revised subdivision proposal includes 9 residential lots (Attachment 5). The development is proposed on the basis of individual private wells and individual on-site septic systems, and shows one 0.3 hectare (0.7 acre) block for stormwater management.

A public meeting was held by the Town in 2016 to receive information on the revised applications. At that time, it had not been identified that the OPA application is governed by the 1983 *Planning Act*. The staff report for the public meeting therefore did not acknowledge that the applications were governed by the previous legislation.

4. Analysis and Implications

The applicant is now making the same referral request to the Region that it made to the Minister in 1989

By letter dated March 24, 2017, the applicant made a request to the Region to refer the OPA application to the OMB. In support of the referral request, the applicant submits that:

- The Town failed to adopt the OPA within 30 days of a request to do so as required by the *1983 Planning Act*.
- The OPA and subdivision applications represent good land use planning.
- The subject applications, as revised, are consistent with and conform to applicable Provincial and local policies.
- The request is made in good faith and is in the public interest.

A separate request was made to the Town of Whitchurch-Stouffville for referral to the OMB for the draft plan of subdivision application that was closed by the Region in 1997. As well, a Notice of Appeal for a related ZBA application (ZBA 98.001) was filed with the Town and forwarded to the OMB. Due to the date that application was submitted, it is subject to the *Planning Act* in force on November 29, 2004, which provides a right of appeal for non-decisions on ZBA applications. In 2010, the Town passed a new comprehensive Zoning By-law, By-law 2010-045-ZO, and repealed By-law 87-34.

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Consideration of the referral request for the Official Plan Amendment application needs to satisfy the *1983 Planning Act* requirements

Under subsection 22(3) of the *1983 Planning Act*, Regional Council may refuse the referral request provided a written explanation for the refusal is provided. This report will satisfy the requirement for a written explanation of Regional Council's decision. The decision of Regional Council regarding this referral request is not subject to appeal; however, the applicant could seek judicial review of the decision.

It is noted that the criteria for considering this referral request is different than the criteria for considering requests to refer OPAs that were adopted by the council of a local municipality. In the case of an adopted OPA, the referral request may be refused if it is not made in good faith, is frivolous and vexatious or made only for the purpose of delay. In this case, that criteria does not apply because the OPA was not adopted by the Town.

The Provincial Policy Statement, 2014, is applicable, and the applications are not consistent with it

The Provincial Policy Statement, 2014 (PPS, 2014) came into effect on April 30, 2014 and applies to all planning decisions made on or after that date. The subject lands are located outside of the settlement area boundary (Musselman Lake Community Area) (Attachment 6), and therefore the proposal is considered a settlement area expansion. Policy 1.1.3.8 of the PPS, 2014 states that a planning authority may identify a settlement area or allow the expansion of a settlement area boundary only at the time of a municipal comprehensive review, where certain criteria has been demonstrated. In 2014, the Town adopted an update to the Ballantrae-Musselman Lake and Environs Secondary Plan (OPA 136). The Town's comprehensive review for this official plan update did not identify the need for the subject lands to be included in the settlement area. Therefore, the applications are not consistent with the PPS, 2014.

The applications do not conform to current planning policy

Almost 20 years have passed since the subject lands were identified as Deferral 5 in the Ballantrae-Musselman Lake and Environs Secondary Plan to allow the applicant to pursue a proposal for five residential lots on the subject lands. Since that time, the provincial and municipal planning policy context has changed significantly, and current policy would now prohibit the applications, in particular the ORMCP. Due to transition provisions, the Growth Plan for the Greater Golden Horseshoe (2017) does not currently apply to the OPA application. Due to transition provisions, the Lake Simcoe Protection Plan (2006) applies; however, does not prohibit the applications.

The proposed development is subject to prescribed provisions in Oak Ridges Moraine Conservation Plan

The majority of the subject lands are designated as 'Natural Linkage Area' in the ORMCP, which does not permit multi-lot residential development. Due to transition provisions, the OPA, ZBA and subdivision applications would be subject to prescribed provisions of the ORMCP. This means that any development or site alteration can only proceed if justified by a natural heritage analysis under Sections 22 and 23 of the plan.

The OPA application does not conform to the 1994 Regional Official Plan or the current Regional Official Plan (2010)

The previous ROP 1994, was not in effect at the time the OPA application was submitted in 1988. The ROP 1994 designated the subject lands 'Rural Policy Area'. The objectives of this designation are to retain the rural character of lands and to protect the viability of existing agricultural operations. The subject lands were also designated 'Regional Greenlands System', which limits permitted development.

The Estate Residential Development policies of the ROP 1994 state that areas within, adjacent to or within one concession block of an existing hamlet, town, village or urban area are considered unsuitable for estate residential development. The subject lands are located within such distance relative to the 'Settlement Area' of Ballantrae-Musselman Lake. Therefore, the proposed development on the subject lands would not be permitted by this ROP 1994 policy.

The current Regional Official Plan (ROP-2010) designates the subject lands as 'Rural Area' and also recognizes the subject lands being designated 'Natural Linkage Area' pursuant to the ORMCP. A map showing the ORMCP land use designations is found on Attachment 7. Re-designation of lands for non-agricultural uses within the 'Rural Area' is only permitted where there has been a comprehensive review.

The Agricultural and Rural Areas policies of the ROP-2010 state that new multiple unit or multiple lots for residential dwellings, such as estate residential developments, adult lifestyle, and retirement communities, are prohibited. Therefore, the proposed development is not permitted in accordance with this ROP-2010 policy.

Referral Request to the Ontario Municipal Board, Town of Whitchurch-Stouffville

The proposed development is considered a settlement area expansion and does not conform to the Whitchurch-Stouffville Official Plan

The Town of Whitchurch-Stouffville's Official Plan 1982 was in effect at the time the OPA application was submitted to the Town. At that time, the subject lands were designated 'Rural'.

In 1997, the Ballantrae-Musselman Lake and Environs Secondary Plan (OPA 90) established detailed policies and land use designations for the Ballantrae and Musselman Lake communities and surrounding areas, and established the settlement area boundary within the secondary plan area. The subject lands are outside the development limits of the 'Musselman Lake Community Area' identified by the Ballantrae-Musselman Lake and Environs Secondary Plan.

In 2014, the Town adopted Official Plan Amendment 136 (OPA 136), an update to the Ballantrae-Musselman Lake and Environs Secondary Plan. The subject lands are not identified as being within the 'Settlement Area' boundary. OPA 136 is currently under review by the Region. OPA 136 does not contemplate or propose the subject lands to be within the 'Settlement Area' boundary.

The OPA application effectively would be adding lands to the 'Settlement Area' and therefore would not conform to the new Growth Plan, the PPS, 2014 or the ROP-2010.

It is appropriate for the Region to deal with the OPA referral request before Town deals with the subdivision referral request

It is appropriate for the referral request for the OPA to be determined before a decision is made by the Town on whether or not to refer the 1989 subdivision application to the OMB. This is consistent with the approach taken in 1998 when the applicant was advised that the principle of development must be established for the OPA application before the new ZBA and subdivision applications could be addressed.

Staff is of the opinion this OPA application should not be referred to the OMB, based on the chronology and history of the application, the fact that these lands were not designated residential or added to the settlement area as part of the adopted OPA 136, the applicable policy framework preventing approval of the OPA, the merits of the application, and the legal issues preventing approval of the ZBA application by the OMB.

5. Financial Considerations

In the event that Regional Council's decision is challenged there would be costs associated with defending the Region's position including staff resources and other costs of participation in court or OMB proceedings.

6. Local Municipal Impact

The Town of Whitchurch-Stouffville has received a referral request from the applicant related to the subdivision application. Town staff concur that it is appropriate that Regional Council's decision to refer or not refer the OPA application to the OMB should proceed before the Town's decision on the subdivision application referral request.

7. Conclusion

Decisions were never made on the OPA and ZBA applications submitted in 1988 and related subdivision application filed in 1989. When the applicant requested referral of the applications to the OMB in 1989, the Minister did not respond to the request. Many years passed since the last time the applicant attempted to revise the proposal. The version of the *Planning Act* that applies to the applications did not provide for appeals of decision by the Minister on official plans or for non-decisions. The current revision to this OPA application is now with the Region as the approval authority and as the decision-maker for the referral request.

Staff is of the opinion this OPA application should not be referred to the OMB, based on the chronology and history of the application, the applicable policy framework preventing approval of the OPA, the merits of the applications, and the legal issues preventing approval of the ZBA application by the OMB. Further, the subject lands were not included as part of the 'Settlement Area' through the Town's recent update to the Ballantrae-Musselman Lake and Environs Secondary Plan (OPA 136). For these reasons, it is recommended the referral request be refused.

For more information on this report, please contact Jason Ezer, Senior Planner at 1-877-464-9675 ext. 71533.

Referral Request to the Ontario Municipal Board, Town of Whitchurch-Stouffville

The Senior Management Group has reviewed this report.

September 29, 2017

Attachments (7)

#7897146

Accessible formats or communication supports are available upon request



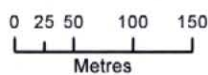
**Lands on 17 Victor Drive
Town of Whitchurch-Stouffville**

- Rural Roads
- Regional Roads
- Subject Lands
- Parcel

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The Regional Municipality of York
Planning and Economic Development,
Corporate Services, September 2017

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Imagery:
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1989 Draft Plan of Subdivision
(24 Lots)

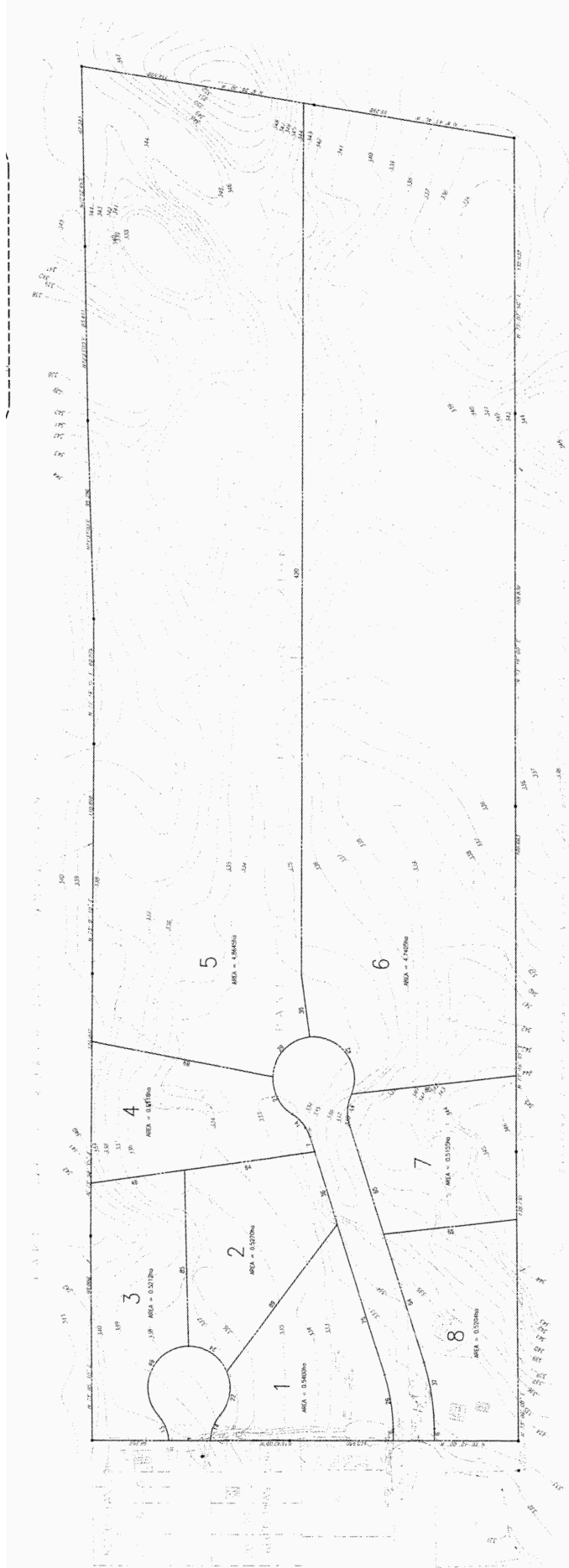


*Modified from the Original Drawing for illustration Purposes, May 15, 2017

APPLICATION CHRONOLOGY AND PLANNING POLICY CONTEXT FOR OP.88.015 AND 19T-89106

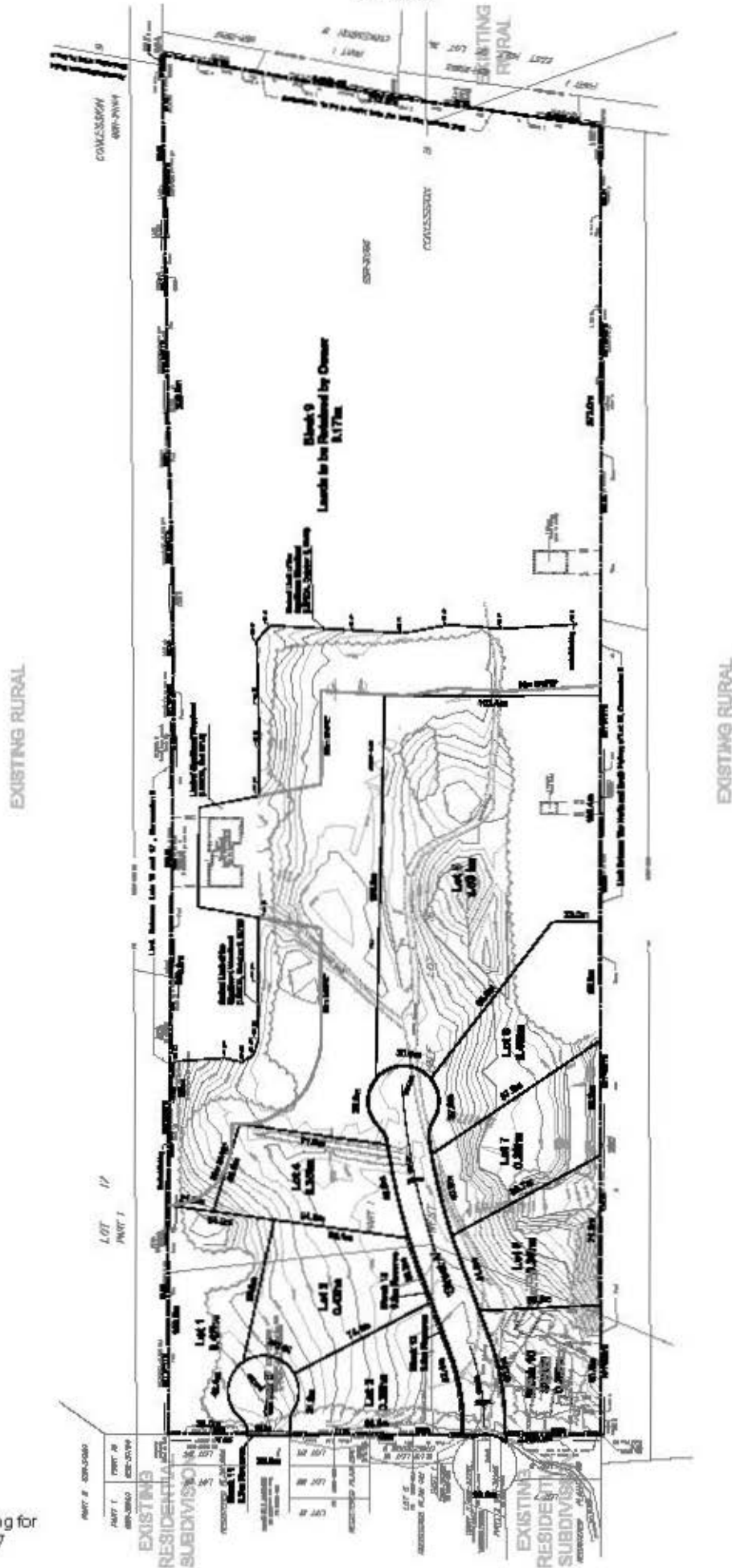
<u>Action Taken on Applications</u>	<u>Year</u>	<u>Legislation/Policy Context</u>
<ul style="list-style-type: none"> • OPA and ZBA application submitted to Town by <u>applicant</u> 	1988	<ul style="list-style-type: none"> • <i>Planning Act</i>, 1983 • Four Provincial Policy Statements • Town of Whitchurch-Stouffville Official Plan, 1982
<ul style="list-style-type: none"> • Draft Plan of Subdivision submitted to Town by <u>applicant</u> • <u>Applicant</u> made request to Ministry of Municipal Affairs regarding referral of applications to OMB 	1989	
<ul style="list-style-type: none"> • <u>Region</u> advises applicant that the Subdivision application be held pending receipt of Secondary Plan for Musselman Lake Community Area 	1990	<ul style="list-style-type: none"> • OPA 70 (Town-wide environmental policies) adopted by Town
	1994	<ul style="list-style-type: none"> • Comprehensive Set of Provincial Policy Statements • First Regional Official Plan in effect • OPA 90 (Ballantrae Musselman Lake and Environs Secondary Plan) adopted by Town
	1995	<ul style="list-style-type: none"> • <i>Planning Act</i> changes - Approval Authority for Official Plan to Region
<ul style="list-style-type: none"> • <u>Region</u> delegated approval authority from Province for OPAs and subdivisions. <u>Region</u> further delegated subdivision approval to local municipalities 	1996	<ul style="list-style-type: none"> • Provincial Policy Statement (PPS)
<ul style="list-style-type: none"> • <u>Regional Council</u> approved OPA 70 and OPA 90 and related Deferral on the subject lands 	1997	<ul style="list-style-type: none"> • Provincial Policy Statement, 1997
<ul style="list-style-type: none"> • Revised ZBA and Subdivision applications submitted by <u>applicant</u> 	1998	
	2001	<ul style="list-style-type: none"> • ORMCP in effect and designates property "Natural Linkage Area"
	2005	<ul style="list-style-type: none"> • Provincial Policy Statement, 2005
	2006	<ul style="list-style-type: none"> • Growth Plan in effect
	2009	<ul style="list-style-type: none"> • Lake Simcoe Protection Plan (LSPP) in effect
	2010	<ul style="list-style-type: none"> • New Regional Official Plan approved
	2014	<ul style="list-style-type: none"> • Provincial Policy Statement, 2014
<ul style="list-style-type: none"> • Revised OPA, ZBA and Subdivision applications submitted to Town by <u>applicant</u> 	2016	
<ul style="list-style-type: none"> • <u>Applicant</u> submits letter to Region to request referral to OMB on OPA application 	2017	

1998 Draft Plan of Subdivision
(8 Lots)



*Modified from the Original Drawing for illustration Purposes, May 15, 2017

2016 Draft Plan of Subdivision
(9 Lots)



*Modified from the Original Drawing for illustration Purposes, May 15, 2017



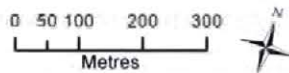
**Musselman Lake
Community Area**
Town of Whitchurch-Stouffville

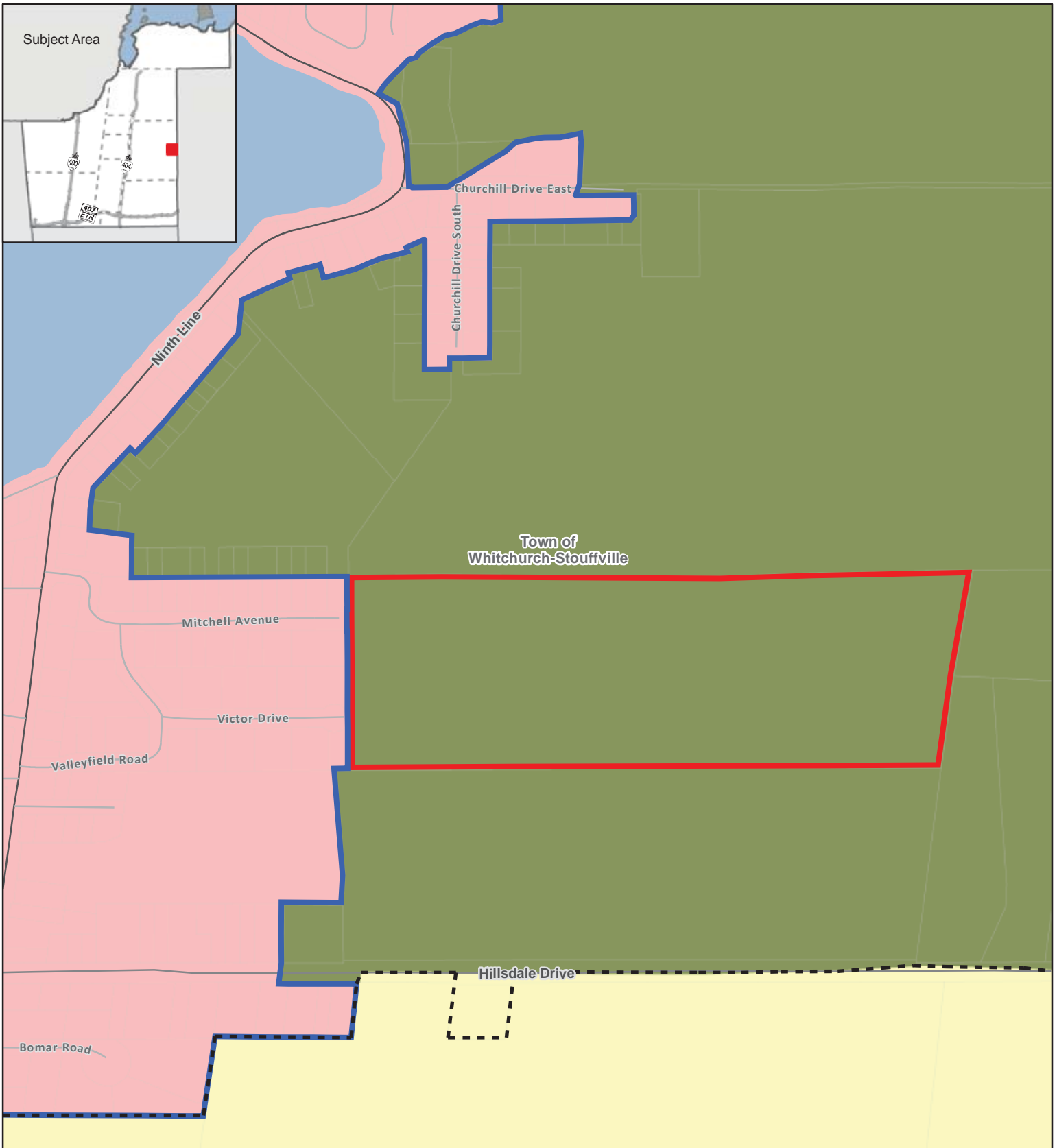
- Rural Roads
- Regional Roads
- Subject Lands (17 Victor Drive)
- Settlement Area Boundary (Ballantrae-Musselman's Lake and Environs Secondary Plan)


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The Regional Municipality of York
Planning and Economic Development
Corporate Services - September 2017.

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Source: Ballantrae-Musselman Lake and Environs Secondary Plan

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Corporate Services, September 2017

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ORM Land Use Designations


17 Victor Drive

Town of Whitchurch-Stouffville

— Rural Roads	ORM Designations
— Regional Roads	■ Natural Linkage
■ Subject Lands	■ Countryside
■ Settlement Area	■ Moraine Aggregate Resource Area
— Boundary (See Attachment 6)	
□ Parcels	
■ Waterbody	

0 25 50 100 150

Metres





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. 703085

March 24, 2017

By Same Day Courier and E-Mail to regional.clerk@york.ca

Mr. Christopher Raynor
Regional Clerk
Regional Municipality of York
17250 Yonge Street
Newmarket, Ontario
L3Y 6Z1

Dear Mr. Raynor:

**Re: Request for Referral pursuant to s. 22(1) of the *Planning Act*,
R.S.O. 1990, c. P. 13, as in force on March 27, 1995 (the "1995
Planning Act")
Application to Amend the Official Plan
Ministry File No. 19-OP-0032-A07
Town of Whitchurch-Stouffville (the "Town")**

We are counsel to 1057524 Ontario Limited, the owner of approximately 13.28 hectares of land legally described as Part of Lot 16, Concession 9 and municipally known as 17 Victor Drive in the Town (the "Subject Lands").

We are writing with respect to a referral request previously made in relation to an application for official plan amendment filed in 1988 for the Subject Lands on behalf of our client (the "Application").

While we were not counsel of record at the time, we understand that a request for referral to the Ontario Municipal Board (the "Board") was made to the Ministry of Municipal Affairs and Housing (the "Ministry") in November, 1989 on the basis that no decision had been made on the Application.

Based on our review of the file, it was unclear whether the Application had been referred to the Board. Therefore, on March 10, 2017 we wrote to the Ministry requesting confirmation of its referral. This correspondence, which summarizes the history of the file and states the reasons for referral, has been attached for ease of reference.



Davies
Howe
Partners
LLP

It has come to our attention that the referral request previously submitted to the Ministry was transferred to the Region in 1996, by virtue of Ontario Regulation 156/96.

We are therefore requesting that the Region proceed to refer the Application to the Board at this time.

We would appreciate receiving confirmation of receipt of our request for referral.

Yours sincerely,

DAVIES HOWE PARTNERS LLP

per.: Susan Rosenthal
Professional Corporation

SR:am
encl.

copy: Barbara Montgomery, Counsel, *Regional Municipality of York*
Joan MacIntyre, *Malone Given Parsons Ltd.*
Miriam Vasni, *Malone Given Parsons Ltd.*
Thomas Kilpatrick, *Malone Given Parsons Ltd.*
Client



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

COPY

Please refer to: **Susan Rosenthal**
e-mail: susanr@davieshowe.com
direct line: 416.263.4518
File No. 703085

March 10, 2017

By Same Day Courier and E-mail to Minister.MMA@ontario.ca

Minister of Municipal Affairs
College Park
777 Bay Street, 17th Floor
Toronto, Ontario
M5G 2E5

Dear Hon. Bill Mauro:

**Re: Request for Referral pursuant to s. 22(1) and 51(15) of the
Planning Act, R.S.O. 1990, c. P. 13, as in force on March 27,
1995 (the "1995 Planning Act")
Application to Amend the Official Plan and
Application for Draft Plan of Subdivision Approval
Ministry File Nos. 19-OP-0032-A07 and 19T-89106
Town of Whitchurch-Stouffville (the "Town")**

We are counsel to 1057524 Ontario Limited (the "Applicant"), the owner of approximately 13.28 hectares of land legally described as Part of Lot 16, Concession 9 and municipally known as 17 Victor Drive in the Town (the "Subject Lands").

Referral Request

We are writing with respect to a referral request made over two decades ago in relation to applications for official plan amendment and subdivision approval filed in 1988 and 1989, respectively, for the Subject Lands on behalf of our client.

On July 8, 1988, the Applicant submitted a site-specific application to amend the 1982 Whitchurch-Stouffville Official Plan (OPA No. A07) to permit residential uses on the Subject Lands (the "OPA Application").

On October 17, 1989 the Applicant submitted a corresponding application for draft plan of subdivision approval to permit a 24 lot residential subdivision (the "Subdivision Application"). The OPA Application and Subdivision Application are collectively referred to as the "Applications".



Davies
Howe
Partners
LLP

While we were not counsel of record at the time, we understand that a request for referral to the Ontario Municipal Board (the "Board") was made in November, 1989 on the basis that no decisions had been made on these applications.

The Board has not issued a Decision with respect to the Applications and we intend to re-activate the Board proceeding. As such, we would be grateful if you could provide us with a copy of the Ministry's referral letter. If this correspondence cannot be located, we request that the Minister proceed to refer the OPA Application and Subdivision Application to the Board at this time.

Background

As noted above, a site specific application for official plan amendment was submitted in 1988. The policies of OPA No. A07 continue to apply to the Subject Lands. While the Town subsequently amended its Official Plan on a number of occasions, including the completion of a Secondary Plan for the Plan area in which the Subject Lands are located, the designations and applicable policies in these plans remain deferred as they relate to Subject Lands. This includes deferral under the Ballantrae-Musselman Lake and Environs Secondary Plan ("OPA 90") and Official Plan Amendment 70 ("OPA 70"), which was a Town-wide amendment that established the general location of environmentally sensitive lands within the boundaries of OPA 90.

In addition to the OPA and Subdivision Applications, the Applicant submitted a zoning by-law amendment application (the "ZBLA Application") and an updated Subdivision Application on January 15, 1998.

On October 15, 2015, the Town acknowledged that the OPA Application, the ZBLA Application and the Subdivision Application remain active.

Throughout 2015 and 2016, discussions took place with the Town and other agencies with respect to the application and potential revisions to same to allow for a reduction in the total proposed lots to be developed on the Subject Lands.

On April 22, 2016, following these discussions, the Applicant updated their Applications and supporting material reflecting a reduction in the total proposed lots (eight new lots and one retained block) being sought for approval (collectively, the "Revised Applications").

While the applications predate current "complete application" requirements, we would note that, in any case, on May 16, 2016 the Town deemed the Revised



Davies
Howe
Partners
LLP

Applications complete pursuant to ss. 22(6.1), 34(10.4) and 51(19.1) of the *Planning Act*.

We enclose copies of the original OPA Application and Subdivision Application, as well as the Revised Applications for your information and assistance.

No decision has been made on any of these applications.

Reasons for Referral

1. The Town failed to adopt the OPA within 30 days of a request to do so as required by the 1995 *Planning Act*.
2. A decision has not been made in respect to the Subdivision Application.
3. This referral request has been made in good faith.
4. The OPA and Subdivision Applications would permit development on the Subject Lands which represents good land use planning, is appropriate for the Subject Lands and is in the public interest.
5. The Applications, as revised, are consistent with and conform to applicable provincial and local policy.
6. While there was no provincial policy statement in effect at the time the OPA Application and Subdivision Application were submitted, the respective applications have been assessed against, and are consistent with, the 1997 *Provincial Policy Statement* and the 2014 *Provincial Policy Statement*.
7. The OPA Application and Subdivision Application pre-dated, and are not subject to, the *Growth Plan for the Greater Golden Horseshoe, 2006* and the *Lake Simcoe Protection Plan, 2009*.
8. The OPA Application and Subdivision Application also pre-dated the *Oak Ridges Moraine Conservation Plan ("ORMCP")*. While the majority of the lands are in the Oak Ridges Moraine Plan Area, they are only subject to the prescribed policies as identified in Section 48 of the Plan. The Applications have been assessed under and conform to the transitional policies of the ORMCP.



Davies
Howe
Partners
LLP

9. The Applications, together with the ZBLA Application, conform with applicable Regional and local policies except to the extent that relief is requested through the amendment applications.

Coincident with this letter, we have filed an appeal of the ZBLA Application and wish to have all of the related applications consolidated and considered together by the Board at its earliest opportunity.

We are therefore requesting that the Ministry confirm its referral of the OPA Application and Subdivision Application by either forwarding its previous referral letter, or if it cannot be located, providing a new referral in this regard.

We would appreciate receiving confirmation of receipt of our request for referral.

We trust that the foregoing provides you with the information that you need. Should you have any questions or if you require any additional information, please do not hesitate to contact me.

Yours sincerely,

DAVIES HOWE PARTNERS LLP

per: Susan Rosenthal
Professional Corporation

SR:am

encls:

copy: Regional Municipality of York, Clerk
Town of Whitchurch-Stouffville, Clerk
Barbara Montgomery, Counsel, Regional Municipality of York
Joshua Silver, Town Solicitor, Town of Whitchurch-Stouffville
Joan MacIntyre, Malone Given Parsons Ltd.
Miriam Vasni, Malone Given Parsons Ltd.
Thomas Kilpatrick, Malone Given Parsons Ltd.
Client

APPLICATION FOR AMENDMENT TO THE OFFICIAL PLAN
AND/OR ZONING BY-LAW

TO: The Mayor and Council,
Town of Whitchurch-Stouffville,
19 Civic Avenue,
P.O. Box 419,
Stouffville, Ontario.
LOH 110

I hereby submit this application for an amendment to The Zoning By-law of the Town of Whitchurch-Stouffville and, if applicable, an amendment to the Official Plan of the Town of Whitchurch-Stouffville in respect of the lands hereinafter described.

-
- (1) Date of application July 7, 1988.....
 - (2) Applicant's name J.C. Amos.....
 - (3) Address c/o Camill Contractors Ltd., R.R. #3, Stouffville, Ont.
Telephone No. 640-4059.....
 - (4) Applicant's Solicitor ALCORN & ASSOCIATES
or Agent
 - (5) Address 66 Centre Street, Thornhill.....
Telephone No. 881-5456.....
 - (6) Registered Owner of
the Property Cam. Amos.....
 - (7) Legal description of subject property
Lot #16.....Concession or Registered Plan #9.....
Street Address
 - (8) Size of Property (i) Frontage 40m.....
(ii) Area 13,316 ha.....
 - (9) Present Use of Property Idle, except for one single family residential dwelling at S-W corner of
 - (10) Proposed Use of Property Residential.....property.
 - (11) Use of Abutting Properties North-Rural, East-Rural.....
West-Residential, South-Rural, (Idle).....
 - (12) Existing Classification: Official Plan Rural.....
Zoning By-law Rural.....
 - (13) Classification Requested: Official Plan Lakeside Residential
Zoning By-law Rural Residential..
 - (14) Applicant's reasons and justification for requesting the

proposed amendment (if not sufficient space, please attach covering letter) .The site is unsuitable for agriculture. .A lakeside residential subdivision is a suitable and appropriate land use for the subject property,

(15) Additional information to support this application: The applicant is to submit the following drawings in triplicate, which will form part of this application:

- (i) Survey Plan showing the limits of the subject property based on an Ontario Land Surveyor's description, the ownership of lands within the limits of the subject property, and all buildings and structures with their uses.
- (ii) Detailed plan of the proposed development showing the location and use of buildings, number of dwelling units, parking or loading spaces, driveways, landscaped areas, screening, etc.

I, ...Julie A. Ground..... of the ..Town of Aurora...
..... in the Regional Municipality of York, solemnly declare that all the above statements contained in this application and all the exhibits transmitted herewith are true, and I make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath, and by virtue of "The Canada Evidence Act".

Declared before me at theTOWN OF VAUGHAN.....
.....
in the Regional Municipality of York, this8.....day of
.....JULY..... 19 ..88.....

.....
A Commissioner, at
ANN
Expires May 9th, 1990.

- NOTES:
1. OWNER'S WRITTEN AUTHORIZATION MUST ACCOMPANY APPLICATION, IF SIGNED BY PERSON OTHER THAN OWNER.
 2. APPLICATION AND PLANS MUST BE IN METRIC UNITS. HOWEVER, PLANS IN IMPERIAL UNITS WILL BE ACCEPTED FOR PRESENTATION PURPOSES.

ALCORN & ASSOCIATES LIMITED
Planning and Development Consultants

October 17, 1989

Mr. H. Weinberg
Regional Municipality of York
Planning Department
62 Bayview Avenue
P.O. Box 147
Newmarket, Ontario
L3Y 4W9

Dear Mr. Weinberg:

Re: Proposed Residential Subdivision
Part of Lot 16, Concession 9
Town of Whitchurch-Stouffville
(C. Amos)

Enclosed please find a completed application for Draft Plan of Subdivision Approval, along with a cheque in the amount of \$600.00, for a 24-lot residential subdivision.

Also enclosed are the following:

- . 45 whiteprints
- . chronoflex reduction
- . 3 copies of a Hydrogeologic Evaluation, dated April 22, 1986, prepared by Trow Hydrology Consultants Ltd.
- . 3 copies of a Septic Suitability Study, dated April 12, 1988, prepared by Trow, Dames & Moore

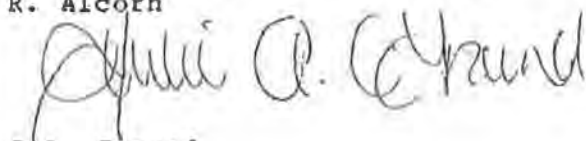
An application has been submitted to the Town of Whitchurch-Stouffville for Official Plan Amendment, Zoning By-law Amendment and Subdivision approval.

The subject lands were originally proposed for "Lakeside Residential" development in conjunction with the abutting property to the south. The Hydrogeologic Evaluation prepared by Trow addressed development on both properties.

The current application with the Town for the subject lands is exclusive of the lands to the south.

Yours truly,

ALCORN & ASSOCIATES LIMITED
R. Alcorn



J. A. Ground
Associate

JAG:bi

Encl.

c.c. Mr. C. Amos

SUBDIVISION & CONDOMINIUM APPLICATION

for applying for approval under the Planning Act
and under the Condominium Act

1. Local Municipality Town of Whitchurch-Stouffville	Lot Number 16	Date of Registration
	Concession Number 9	Registered Plan Number

2. Resubmission of an earlier plan: YES NO DO NOT KNOW
3. Complete the following and place a check mark beside the person or firm to whom correspondence should be addressed:

	NAME	ADDRESS AND TELEPHONE NUMBER
Registered Owner	Mr. J. C. Amos	c/o Camill Contractors Ltd R.R. #3, Stouffville, Ontario. L4A 7X3 640-4059
X Agent, Solicitor or Planning Consultant	Alcorn & Associates Limited	100 Allstate Parkway Ste. 302, Markham, Ontario. L3R 6H3 940-0931
Ontario Land Surveyor	R.G. McKibbin Ltd. O.L.S.	176 Bullock Drive, Unit 10 Markham, Ontario. L3P 1W2 294-3754

4. Proposed Land Use

Indicate the intended uses of land in the proposal. Use the following definitions for residential buildings.

- single family residential - a single family detached dwelling unit.
double or semi-detached row - a residential building containing 2 dwelling units.
row - a residential building containing 3 or more units with individual direct access to the street.
apartment - a building containing 3 or more units each with access to the street via a common corridor.

Intended Use	Residential Units	Number of Lots and/or Blocks	Hectares	* This Section for Condominium Applications Only			
				Date of Construction	Floor Coverage	Parking Provided	Density Proposed (specify units per hectare)
Single Family Residential	24	24	11.538				
Double or Semi-detached Residential							
Row and Town Housing							
Apartments							
Seasonal Residential (cottage or chalet)							
Mobile Home							
Neighbourhood Commercial	Nil						Nil
Commercial, Other	Nil						Nil
Industrial	Nil						Nil
Park or Open Space	Nil						Nil
Institutional (specify)							
Roads	Nil		1.465				
Other (specify) Future Road Allowance		2	.313				
TOTAL		26	13.316				

OFFICE USE ONLY

Ministry File No.	Regional O.P. Conformity:	Cross reference(s)	Status
Planning File No.	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>		
Re-submission of:	Area O.P. Conformity: Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>		

5. Planning Status

From your discussion with area municipal officials what is:

(a) the land use designation of the subject lands in an approved Regional Official Plan or Amendment?

N/A

Amendment Number _____

(b) the land use designation of subject lands in an approved area Official Plan or Amendment?

Rural

Amendment Number _____

(c) the zoning of subject lands in approved zoning by-law or zoning order? _____

Rural

NOTE: If the proposed use of the lands conflicts with an Official Plan designation, this application will not be processed unless an amendment to the Official Plan has been adopted by the municipality and submitted for approval.

SERVICING

6. Indicate what services are proposed:

(a) Water supply

pipd water

individual wells

other (describe)

(b) Sewage treatment

sewers

septic tanks

and tile beds

presewer

other (describe)

(c) Storm drainage

sewers

open ditches

other (describe)

7. Piped Water

If piped water is proposed;

(a) will the extension or inauguration of a system be required? yes no

(b) who owns the existing system, if any? _____

(c) is the piped water supply immediately available? yes no

8. Wells

If wells are proposed, is the site suitable? Yes, as confirmed by the "Hydrogeologic evaluation" dated April 22, 1986, Trow Hydrology Consultants Ltd.

9. Sanitary Sewers

If sanitary sewers are proposed;

(a) will the extension or inauguration of a system be required? yes no

(b) who owns the existing system, if any? _____

(c) is the sanitary sewer system immediately available? yes no

10. Septic tanks and tile beds

If septic tanks and tile beds are proposed, is the site suitable? Yes, as confirmed by the "Sentic Suitability Study", dated April 12, 1988, Trow Dames & Moore

ACCESS

11. Is there direct access from the subject lands to a publicly maintained road? yes no

If no, what provision is there for access to the site? _____

12. If a lakefront development is proposed, without road access;

(a) what type of docking and parking facilities exist on the lake?

(b) what distance are they from the site? _____

SITE APPRAISAL AND EVALUATION

NOTE: Many of the items referred to in this section should also be shown on the draft plan.

13. Existing land use

Briefly describe;

(a) the existing use of the subject lands Presently the subject property is unused, except for an existing residence at the easterly limit of Victor Drive.

(b) If the lands are vacant or idle, describe the most recent productive use of the land

14. Vegetation

What type of vegetation exists on the proposed site (e.g. shrubs, woodlots, orchards)?

Open grassland, grassland with scattered trees, hedgerows, reforestation and mixed forest.

15. Topography

Outline the general topography and any special characteristics that may affect development (e.g. escarpments, rock outcrops, etc.). The plan must include a statement certifying that elevations relate to Geodetic Datum.

The subject property comprises a rolling topography with elevations ranging from a low of 332 metres to a high of 356 metres based on geodetic datum-

16. Drainage

Describe the drainage of the site and any on-site or nearby water sources (e.g. creeks, ponds, lakes, etc.).

Stormwater detention on site to be directed south west to adjacent lands owned by the owner.

17. Existing buildings

Describe any buildings, historical or otherwise, and any man-made features on the site, and their proposed use (e.g. whether retained, modified, demolished, etc.).

Present house and tiled to be retained

18. Natural features

What consideration has been given to preserving the natural amenities of the site (e.g. strong topographical features, pleasant views, mature trees, etc.)?

The proposed development has been designed with large lots specifically suited to the surrounding natural and topographic features.

Tree cutting will be kept to a minimum.

19. Integration into surrounding area

What consideration has been given to ensuring that the proposal will be integrated with the existing character of the surrounding area and that the amenities of the adjoining area (pleasant views, sunlight, etc.) are being preserved or enhanced?

The proposed residential subdivision will be well integrated with the character of the surrounding area.

20. Environmental effects

What measures have been taken to eliminate any adverse environmental effects from the development on the surrounding area (e.g. traffic, noise, odours, pollution of nearby water bodies, run-off, etc.) and to eliminate any adverse effects from the adjacent area on the proposed development (e.g. buffering, berms, setbacks, etc.)? In agricultural areas refer to the Agricultural Code of Practice.

The proposed development is not of a size or nature as to adversely impact the surrounding area. Tile beds will be constructed in accordance with the Region Health Unit and MOE standards.

21. Is C.M.H.C. Funding proposed with respect to this development? No

22. Declaration

I, Julie A. Ground of the Town of Aurora

In the Regional Municipality of York solemnly declare that I am ~~the owner, an officer of the owner,~~ the agent of the owner, and that all the above statements contained in the within application are true, and I make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath, and by virtue of the "Canada Evidence Act".

Declared before me at the Town of Markham in the Region of Markham this 19th day of October 1989.

[Signature]
A Commissioner, etc.

[Signature: Julie A. Ground]

23. Owner's authorization

If an agent is used, the owner must also complete the following and a similar authorization on the face of the draft plan:

I/We, J.C. Amos being the registered owner of the subject lands Julie A. Ground of Alcorn & Associates Limited hereby authorize Alcorn & Associates Limited to prepare a draft plan of subdivision/condominium and to make application to The Regional Municipality of York for approval thereof.
(type or print name of agent)

[Signature: J.C. Amos]
Signature

19 / 10 / 1989
day month year

April 22nd, 2016

Town of Whitchurch-Stouffville
Development Services Department
111 Sandiford Drive
Stouffville, Ontario
L4A 0Z8

MGP File: 15-2383

Attention: Mr. Alan Drozd, MCIP, RPP
Manager of Planning

Dear Mr. Drozd:

RE: 1057524 Ontario Limited
Updated Application Requirements for OPA/ZBA/Plan of Subdivision
Part of Lot 16, Concession 9
17 Victor Drive, Town of Whitchurch-Stouffville, Regional Municipality of York
Town File Nos. OPA88.015, ZBA98.001, 19T(W)98.001

Malone Given Parsons Ltd. represents 1057524 Ontario Limited, the owner of approximately 13.28 hectares of land, with a combined frontage of approximately 40 metres onto the eastern ends of Mitchell Avenue and Victor Drive, which terminate at the western property boundary. The property is located approximately 300 metres southwest of Musselman's Lake within the Town of Whitchurch-Stouffville.

The subject lands have a lengthy history, dating back to 1988. On July 8th, 1988, the Applicant submitted a Site Specific Official Plan Amendment, to amend the 1982 Whitchurch-Stouffville Official Plan and Zoning By-law Amendment application to amend the Town of Whitchurch-Stouffville Zoning By-law 87-34. On October 17th, 1989, the Applicant submitted a Draft Plan of Subdivision application to the Region of York. The 1988 Zoning By-law Amendment Application was appealed to the Board, but the appeal was subsequently dismissed. On January 15th, 1998, the applicant submitted a new application for a Zoning By-law Amendment (to replace the application, which had been dismissed) and an amended Draft Plan of Subdivision application to the Town.

The proposed development consists of 8 new residential lots, a stormwater management facility and a public road system, which will extend and complete Victor Drive and Mitchell Ave. with turning circles consistent with the Town's cul-de-sac standards. The remainder of the property will be left as a block to be retained by the owner.

The 1988 Official Plan Amendment, 1989 Plan of Subdivision, as revised; and 1998 Zoning By-law Amendment applications remain open, with no decision and are subject to the planning regime in place at the time the applications were submitted. In summary, the applications are subject to: the 1994 Region of York Official Plan (RYOP), which permits residential development within the Rural Policy Area; the 1997 Provincial Policy Statement; the transition policies of the ORMCP; the Lake Simcoe Protection Act, and are not subject to the Growth Plan.

A Pre-Submission Consultation meeting was held between the Owner, the Owner's Consultants and the Town of Whitchurch-Stouffville staff on August 7th, 2015 to discuss the updated application requirements, which are outlined in the Town's October 5th, 2015 Updated Application Requirements Letter and Technical Study Checklist. At the meeting and in the corresponding letter, the Town indicated that the applications have commenced status under the Oak Ridges Moraine Conservation Act, 2001 and are subject only to the policy requirements of Section 48 of the ORMCP.

A LSRCA natural heritage feature limit staking took place on October 8th, 2015 and additional meetings were held between the Owner and the Town on December 18th, 2015 and between the Owner, the Owner's Consultants, Town staff, York Region and LSRCA staff on January 22nd, 2016.

It is our opinion the Official Plan and Zoning By-law Amendments and Draft Plan of Subdivision applications are consistent with, comply with and/or conform to the applicable Provincial, Regional and Municipal planning policies. The proposed development represents good planning and is in the public interest.

On behalf of the owner, please find enclosed updated application requirements for the existing applications noted above.

The fees required by the Town of Whitchurch-Stouffville have been provided in three cheques prepared by 1057524 Ontario Limited. A breakdown of the fees required by the Town is indicated in **Table 1** below:

Table 1: Town Requested Fee Breakdown

Cheque(s) Payable to:	Fee Type			
	Recirculation	Public Meeting	Peer Review Deposit	TOTAL
Town of Whitchurch-Stouffville	\$3,502.00	\$1,507.00	\$20,000.00	\$25,009.00

The Regional Municipality of York and the Lake Simcoe Region Conservation Authority (LSRCA) will require additional processing fees for these open applications. These fees are currently being confirmed and will be submitted to these agencies as soon as possible, with copy to the Town of Whitchurch-Stouffville.

Copies of the updated application requirements have been provided as listed in **Table 2** attached. As indicated in the Table, some of the required documents are included within other required reports and plans submitted for these applications. Some documents have been confirmed as not being required or will be submitted later in the approval process.

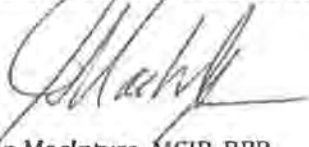
TO: Town of Whitchurch-Stouffville, Alan Drozd, MCIP, RPP
RE: Updated Application Requirements for 17 Victor Drive

April 22nd, 2016

We look forward to working with the Town of Whitchurch-Stouffville to move these open applications through the approval process as expeditiously as possible. Should you have any questions or concerns, or require additional information, please do not hesitate to contact us.

Yours very truly,

MALONE GIVEN PARSONS LTD.



Joan MacIntyre, MCIP, RPP
Principal
jmacintyre@mgp.ca

cc: Barbara Montgomery, Regional Municipality of York
Michelle Moretti, Regional Municipality of York
Charles Burgess, Lake Simcoe Region Conservation Authority
J. Cameron Amos, 1057524 Ontario Limited
Susan Rosenthal, Davies Howe Partners LLP

encl.

Table 2: Updated Application Requirements Checklist

Plans / Studies / Reports	Plans / Studies / Reports Submitted	Copies
General		
Property Survey	Plan of Survey and Topography prepared by Lloyd & Purcell Ltd. Ontario Land Surveyors, November 18 th , 2015	10
Topographic Survey	Plan of Survey and Topography prepared by Lloyd & Purcell Ltd. Ontario Land Surveyors, November 18 th , 2015	10
Planning Justification Report / Letter	Planning Opinion Report prepared by Malone Given Parsons Ltd., dated April, 2016	8
Draft Plan of Subdivision	Draft Plan of Subdivision prepared by Malone Given Parsons Ltd., revised March 18 th , 2016	10
Engineering		
Functional Servicing Study	Functional Servicing and Stormwater Management Report prepared by SCS Consulting Group Ltd., dated December, 2015	8
Drainage & Stormwater Management Report	Functional Servicing and Stormwater Management Report prepared by SCS Consulting Group Ltd., dated December, 2015	8
Site Servicing Plan	Functional Servicing and Stormwater Management Report prepared by SCS Consulting Group Ltd., dated December, 2015	8
Grading Plan	Functional Servicing and Stormwater Management Report prepared by SCS Consulting Group Ltd., dated December, 2015	8
Erosion and Sediment Control Plan	Functional Servicing and Stormwater Management Report prepared by SCS Consulting Group Ltd., dated December, 2015	8
Geotechnical Report	A Soil Investigation prepared by Soil Engineers Ltd., dated December, 1997	8
Geotechnical Report	Updated Geotechnical Investigation prepared by WSP Canada Inc., dated April, 2016	8
Hydrological Assessment / Water Balance	Water Balance Assessment Musselman's Lake Rural Development prepared by WSP Canada Inc., dated December, 2015	8
Hydrological Assessment / Water Balance	Sewage Impact Assessment Musselman's Lake Rural Development prepared by WSP Canada Inc., dated December, 2015	8
Environmental		
Tree Analysis / Inventory	Natural Heritage Evaluation prepared by Beacon Environmental, dated April, 2016	8
Natural Heritage / Hydrological Evaluation - ORM	Natural Heritage Evaluation prepared by Beacon Environmental, dated April, 2016	8
Cultural		
Analysis of and Impact Mitigation to Views and Vistas from the ORM Ridgeline	Confirmation email prepared by John Duncan, Planner, Town of Whitchurch-Stouffville, dated November 6, 2015	8
Stage 1 and 2 Archaeological Assessment	Stage 1 and 2 Archaeological Assessment prepared by Northeastern Archaeological Associates, dated June, 6 th , 1998	8
Additional Application Material		
Conservation Authority – Lake Simcoe & Region Conservation Authority	No additional information required as per the January 22 nd , 2016 Meeting with the LSRCA and other agencies	N/A
Cash-in-lieu of Parkland (Fee for property appraisal due at Building Permit)	To be provided later in the process	N/A
Updated Application Requirements Letter	Updated Application Requirements Letter prepared by the Town of Whitchurch-Stouffville, dated October 5 th , 2015	8
Technical Study Checklist	Technical Study Checklist prepared by the Town of Whitchurch-Stouffville, dated October 5 th , 2015	8
Town Fees	See Table 1 Above	1

October 11, 2017

By E-Mail Only to *regional.clerk@york.ca*

Chairman Regional Councillor Joe Li and Members of the Committee of the Whole –
Meeting 2: Planning and Economic Development
Regional Municipality of York
Regional Clerk's Office
York Region Administrative Centre
17250 Yonge Street
Newmarket, Ontario
L3Y 6Z1

Attention: Mr. Christopher Raynor, Regional Clerk

Dear Chairman Li and Members of Committee:

**Re: Committee of the Whole Meeting, October 12, 2017
Item F.2.5 – Referral Request to the Ontario Municipal Board
Application for Official Plan Amendment
Town of Whitchurch-Stouffville**

As you know, we are counsel to 1057524 Ontario Limited, the proponent of the official plan amendment application (the "Application") that is subject to the above-noted request for referral to the Ontario Municipal Board (the "Referral Request").

We are writing to respond to the Staff Report released on October 6, 2017 recommending refusal of the Referral Request.

In short, it is our position that (1) there is no statutory basis for the Region to refuse the Referral Request and (2) the reasons provided in the Staff Report are not legal justification for refusal of the Referral Request.

We thus request the Region to refer the matter to the Ontario Municipal Board (the "Board"), as required by the legislation, and allow our client to have its Application considered as contemplated by the *Planning Act*. By doing so, the Region is in no way prejudiced and will continue to have its full opportunity to respond to the Application.

Legislative Intent

We suggest to you that the Region is obliged to refer the Application to the Board pursuant to section 22 of the *Planning Act, 1990*, the version substantially in effect on March 27, 1995 (the “Act”). Any reasonable review of the legislation suggests that it cannot have been intended that the Region would have the discretion to refuse to refer the Application to the Board without the Town having made a decision on the merits of the Application.

To do so would deny our clients the opportunity to fully and fairly present their case before the Board, without a Decision ever being made on the Application. This is a breach of procedural fairness, due process and natural justice.

Reasons for Refusal

The Staff Report purports to provide reasons which satisfy the “written explanation” requirement of s. 22(3) of the *Act*.

However, the reasons in the Staff Report do not provide legal justification for the refusal of the Referral Request. The crux of the Staff Report suggests that the Application does not meet current statutory and policy tests for approval. For example, Staff have taken the position that the Application is a settlement area boundary expansion and subject to those policies. While we strongly disagree, it is for the Board to make determinations on policy application when evaluating the Application on its merits.

Factual Inaccuracies

The Staff Report also contains several factual inaccuracies, many of which would be tested during a proper Hearing before the Board. While we have been given limited opportunity to review and respond to the Staff Report, there are two main points that we wish to bring to your attention.

Firstly, the Staff Report implies at the outset that the Application proposes a 24 lot residential subdivision, suggesting that our client is proposing a much more intensive development than is the case. While the original application submitted in 1988 proposed 24 lots, Staff are aware that the Application was subsequently revised in response to Region, Town and Conservation Authority comments, and has proposed a total of eight new lots and one retained lot, through formal revisions to the Application. This should be made clear from the outset of the Staff Report. To suggest to Council that the Application is for 24 lots is misleading.

Secondly, contrary to Staff’s assertion, our client does not recall any communication from the Region advising that the associated draft plan of subdivision file was closed, nor does he recall advising the Town of an intent to abandon the Application.

Conclusion

Based on the foregoing, we urge you to refer the Application to the Board for a proper hearing on the merits. Any other decision is a breach of procedural fairness, due process and natural justice.

Should you refuse to refer the Application to the Board, our client will be forced to consider all available legal options.

Yours sincerely,
DAVIES HOWE LLP



Susan Rosenthal
Professional Corporation

SR:mk

copy: Mr. Earl A. Cherniak, Q.C., Lerner's LLP
Ms. Cynthia B. Kuehl, Lerner's LLP
Ms. Joan MacIntyre, Malone Given Parsons Ltd.
Ms. Miriam Vasni, Malone Given Parsons Ltd.
Mr. Thomas Kilpatrick, Malone Given Parsons Ltd.
Ms. Barbara Montgomery, Legal & Court Services, Regional Municipality of York
Mr. Joshua Silver, Counsel to the Town of Whitchurch-Stouffville
Client

October 11, 2017

By E-Mail Only to *regional.clerk@york.ca*

Regional Clerk's Office
York Region
Mr. Christopher Raynor
17250 Yonge Street
Newmarket, Ontario
L3Y 6Z1

Dear Mr. Raynor:

**Re: Region of York Committee of the Whole Meeting – October 12, 2017
Referral Request to the Ontario Municipal Board – Town of Whitchurch-
Stouffville
Item F.2.5**

We are counsel to 1057524 Ontario Limited, the owner of 17 Victor Drive. Please be advised that I will be attending the October 12th, 2017 York Region Committee of the Whole meeting on behalf of our client and wish to make a deputation with respect to the above-noted item.

Should you have any questions, please do not hesitate to contact me.

Yours truly,
DAVIES HOWE LLP


Marisa Keating

MK:bw

copy: Client