



**TOWN OF WHITCHURCH-STOUFFVILLE  
COUNCIL IN COMMITTEE AGENDA  
TUESDAY, OCTOBER 7, 2003  
3:00 P.M.**

**COUNCIL CHAMBERS  
37 SANDIFORD DRIVE, 4TH FLOOR**

Chair: Mayor Emmerson

**REAFFIRMATION OF CANADIAN CITIZENSHIP -  
RECITING THE OATH OF CITIZENSHIP AND READING OF PROCLAMATION**

1. INTRODUCTION OF ADDENDUM REPORTS
2. CONFIRMATION OF AGENDA
3. DECLARATIONS
4. ADOPTION OF MINUTES  
  
Regular - September 16 and September 23, 2003
5. DETERMINATION OF REPORTS REQUIRING SEPARATE DISCUSSION
6. APPROVAL OF REPORTS NOT REQUIRING SEPARATE DISCUSSION
7. DELEGATIONS - No Delegations
8. CONSIDERATION OF REPORTS REQUIRING SEPARATE DISCUSSION
9. NOTICES OF MOTION
10. RESOLUTIONS FROM MEMBERS OF COUNCIL
11. MOTION TO ADJOURN

NOTES	ITEM	DESCRIPTION	PAGE	RECOMMENDATION
SP MC SS WE PD HB CD <hr/> <hr/> <hr/>	1.	<b>REGION OPERATED CENTRALIZED FIRE COMMUNICATIONS (C10-FR &amp; P03)</b>	1	THAT Council support the establishment of a seven member (6 fire department) Region operated Centralized Fire Communications Centre.
SP MC SS WE PD HB CD <hr/> <hr/> <hr/>	2.	<b>TEMPORARY ROAD CLOSURE - MAIN STREET - KINSMEN SANTA CLAUS PARADE SATURDAY, DECEMBER 6, 2003 (C10-CL &amp; T08)</b>	3	THAT in accordance with Section 42 of the Municipal Act, 2001, as amended, the request of the Stouffville Kinsmen Club for the temporary closure of a portion of Tenth Line from North Street to Main Street and Main Street from the Tenth Line to Palmwood Gate for the purpose of holding the Santa Claus Parade be approved provided that: <ul style="list-style-type: none"> <li>- temporary barricades are easily removed to maintain access for emergency vehicles;</li> <li>- barricades must be erected by the organizers and removed to the side of the road following the event;</li> <li>- the organizers must sign a "Hold Harmless Agreement" releasing the Town from any liability associated with this event.</li> </ul> AND THAT staff prepare a by-law for the temporary closure of the portion of Tenth Line from North Street to Main Street, and Main Street from the Tenth Line to Palmwood Gate on December 6th, 2003 from 2:00 p.m. to the conclusion of the parade (approximately 2 hours).

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SP MC SS WE PD HB CD <hr/> <hr/> <hr/>	3.	<b>CONDITIONAL BUILDING PERMIT AGREEMENT METROPOLITAN PAVING AND CONCRETE INC. AND 1358556 ONTARIO LTD. 45 CARDICO DRIVE (C10-DV &amp; P10)</b>	4	<p>THAT THE Conditional Building Permit Agreement between the Town and Metropolitan Paving and Concrete Inc. and 1358556 Ontario Ltd. for the construction of an 8,000 square foot accessory building be approved subject to any revisions deemed necessary by the Town Solicitor;            AND THAT a by-law be passed authorizing the Mayor and Clerk to sign the Condition Building Permit Agreement.</p>
SP MC SS WE PD HB CD <hr/> <hr/> <hr/>	4.	<b>BIANCA SUBDIVISION - (19T-92009) JOSEPH BIANCA, 913086 ONTARIO LIMITED AND 904265 ONTARIO LIMITED PART LOT 21, CONCESSION 7 (C10-DV &amp; D12)</b>	6	<p>THAT the draft Subdivision Agreement between Joseph Bianca, 913086 Ontario Limited and 904265 Ontario Limited and the Town of Whitchurch-Stouffville be approved subject to any revisions by the Town's solicitor;            AND THAT staff be directed to prepare a By-law to authorize the Mayor and Clerk to sign a Subdivision Agreement between Joseph Bianca, 913086 Ontario Limited and 904265 Ontario Limited and The Town of Whitchurch-Stouffville.</p>

NOTES	ITEM	DESCRIPTION	PAGE	RECOMMENDATION
SP MC SS WE PD HB CD _____ _____ _____	5.	<b>MUNICIPAL CLASS ENVIRONMENTAL ASSESSMENT - MAIN STREET AND TENTH LINE - INTERSECTION IMPROVEMENTS (C10-PW &amp; T00)</b>	9	THAT the status report on the Municipal Class Environmental Assessment - Main Street and Tenth Line Intersection Improvements be received; AND THAT a further report be presented to Council on budget forecasting for this project following the filing of the Class Environmental Assessment for the 30-day review period.
SP MC SS WE PD HB CD _____ _____ _____	6.	<b>VANDORF BRIDGE BEAUTIFICATION (C10-PW &amp; T04)</b>	12	THAT the \$25,000 budgeted for the Vandorf Bridge beautification be carried over to 2004.
SP MC SS WE PD HB CD _____ _____ _____	7.	<b>EXTENSION OF TEMPORARY USE ZONING BY-LAW 928650 ONTARIO INC. (JOE GRELLA)            Part Lot 12, Concession 3, 13932 Woodbine Avenue            Planning File No. ZBA02.019            (C10-DV &amp; D14)</b>	14	1. THAT the Zoning By-law Amendment application by 928650 Ontario Inc. (Grella), Part Lot 12, Concession 3, for the purpose of extending the present temporary use for an additional three year period not be supported; 2. AND THAT the temporary open storage of <u>construction trailers</u> on a portion of the property be permitted for an additional three year period to permit consideration of the Owner's property as part of the planning review for the Vandorf-Preston Lake Secondary Plan area;

NOTES	ITEM	DESCRIPTION	PAGE	RECOMMENDATION
SP MC SS WE PD HB CD <hr/> <hr/> <hr/>	7.	<b>(Continued)</b>  <b>EXTENSION OF            TEMPORARY USE            ZONING BY-LAW            928650 ONTARIO INC.            (JOE GRELLA)            Part Lot 12, Concession            3, 13932 Woodbine            Avenue            Planning File No.            ZBA02.019            (C10-DV &amp; D14)</b>	14	<p>3. AND THAT By-law 2003-149-ZO, being a by-law to rezone a portion of the property from Rural (RU) to Open Space Environmental (OSE) and Industrial General - Water Control (IG-W) to permit the open storage of construction trailers on a portion of the property until October7, 2006, be enacted by Council.</p> <p>4. AND THAT the Owner enter into a Site Plan Control Agreement with the Town so that measures designed to protect the environmental features and functions of the property (protection of Bruce Creek tributary and other environmental features), and to enhance the appearance of the site (removal of rubble and augmentation of screening) are employed, and to ensure that further site alterations (ie: filling) do not take place.</p> <p>5. AND THAT the Site Plan Control Agreement referred to in Recommendation No. 5 include a clause requiring that all lands within the Bruce Creek tributary stream corridor be registered under a Conservation Easement in favour of the Toronto Region Conservation Authority.</p> <p>6. AND THAT, if Council in Committee is satisfied with respect to the matter of Public Notice relating to the application of the Open Space Environmental (OSE) zoning on the property, a resolution pursuant to Section 34 (17) be passed stipulating that further notice in respect of the zoning change not be required.</p>

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SP MC SS WE PD HB CD _____ _____ _____	8.	<b>ZONING BY-LAW            AMENDMENT            BLOOMINGTON LAND            COMPANY LTD.            Part of Lots 9 &amp; 10,            Concession 7 4971            Bloomington Road            File No. ZBA03.002            (C10-DV &amp; D14)</b>	28	THAT By-law No. 2003-150-ZO, that being a By-law to rezone certain lands in Part of Lot 9, Concession 7 from Rural Extractive (RE) to Rural (RU) and Open Space Environmental (OSE), be enacted.
SP MC SS WE PD HB CD _____ _____ _____	9.	<b>SITE PLAN CONTROL            AGREEMENT            1009412 ONTARIO LTD.            (Imperial Centre)            Part Lot 35, Concession            8 (M) 37 Sandiford            Drive, Stouffville            Planning File No.            SPA03.011            (C10-DV &amp; D11)</b>	37	THAT a Site Plan Control Agreement between the Owner and the Town be executed, subject to any revisions that may be required by the Town Solicitor.

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SP MC SS WE PD HB CD <hr/> <hr/> <hr/>	10.	<b>OFFICIAL PLAN AMENDMENT OAK RIDGES MORaine CONSERVATION PLAN CONFORMITY EXERCISE TOWN OFFICIAL PLAN, SECONDARY PLANS FOR THE COMMUNITIES OF STOUFFVILLE, GORMLEY, BALLANTRAE - MUSSELMAN LAKE AND THE MORaine PORTION OF THE VANDORF - PRESTON LAKE SECONDARY PLAN AREA (C10-DV &amp; E05)</b>	39	<p>THAT Council adopt as Official Plan Amendment No. 112, the Oak Ridges Moraine Conservation Plan Conformity Exercise Official Plan Amendment and as Official Plan Amendment No. 113 that portion of the Vandorf-Preston Lake Secondary Plan applicable to the lands in the Oak Ridges Moraine, prior to the deadline for the Oak Ridges Moraine Conservation Plan conformity exercise of October 22, 2003; AND THAT Council requests the Minister of Municipal Affairs and Housing for an extension of the deadline to June 30<sup>th</sup>, 2004 for completion of the conformity exercise with respect to the Town's General Zoning By-law Nos. 87-34 and 72-7.</p>
SP MC SS WE PD HB CD <hr/> <hr/> <hr/>	11.	<b>RONALD and MIRIAM BURTCH PROPOSED ZONING BY-LAW AMENDMENT Part of Lot 20, Concession 7, 4543 Aurora Road Planning File No. ZBA02.010 (C10-DV &amp; D14)</b>	53	<p>1. THAT By-law No. 2003-151-ZO, being a by-law to change the zoning in General Zoning By-law 87-34 on the subject property (Burtch/4543 Aurora Road) from Rural (RU) to Rural Residential 2 (RR2) and Open Space Environmental (OSE), and to recognise existing setbacks for an existing accessory building, be enacted.</p> <p><b>(continued)</b></p>

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SP MC SS WE PD HB CD <hr/> <hr/> <hr/>	11.	<b>(Continued)</b>  <b>RONALD and MIRIAM BURTCH</b> <b>PROPOSED ZONING BY-LAW AMENDMENT</b> <b>Part of Lot 20,</b> <b>Concession 7, 4543</b> <b>Aurora Road</b> <b>Planning File No.</b> <b>ZBA02.010</b> <b>(C10-DV &amp; D14)</b>	53	<p>2. AND THAT, by this recommendation, the Owner be advised that the Lake Simcoe Region Conservation Authority (LSRCA) has identified that the property is within a Fill Regulated Area and that a permit will be required from the LSRCA prior to any on-site works being undertaken (ie: grading, placement of fill, construction).</p> <p>3. AND THAT, by this recommendation the Owner be advised that, should the Zoning By-law Amendment and subsequent severance application be approved, an additional water connection will be required to accommodate the new lot. The cost of this connection will be the responsibility of the Owner.</p> <p>4. AND THAT Council allocate the equivalent of one residential unit of water capacity from the Ballantrae - Musselman Lake water system reserve to accommodate the development proposal.</p> <p>5. AND THAT, if Council is satisfied with respect to the matter of Public Notice relating to the application of the Open Space Environmental (OSE) zoning on the property, and the accommodation of two existing setbacks for an existing accessory building, that a resolution pursuant to Section 34(17) be passed stipulating that further notice in respect of the zoning change not be required.</p>

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SP MC SS WE PD HB CD <hr/> <hr/> <hr/>	12.	<b>EXEMPTION FROM SITE            PLAN CONTROL -            HYPRESCON            Part Lot 4, Concession            8, 5387 Bethesda Road            Planning File No.            SPA03.012            (C10-DV &amp; 11)</b>	64	<p>1. THAT THE Mayor and Clerk be authorized to enter into an Agreement with Hyprescon wherein the Owner shall agree to have a Stormwater Management and Drainage Report prepared by a qualified engineer that will examine the overland flows and assess the stormwater management needs on the site and that will make recommendations relating to the correction of any stormwater management and drainage deficiencies on the property.</p> <p>2. AND THAT the Agreement referred to in Item 1 will include a requirement that the Owner provide a security, the amount of which will be determined by the Director of Development Services, to ensure the provision of the Stormwater Management and Drainage Report referred to in Item 1, and to ensure completion of any works required to implement the recommendations of the Report to the satisfaction of the Town.</p> <p>3. AND THAT the cost of the review of the Stormwater Management and Drainage Report referred to in Item 1 by the Town's Engineering Consultant be the responsibility of the Owner.</p> <p>4. AND THAT, prior to issuance of a Building Permit for any building on the site, the Agreement referred to in Item 1 shall be executed by the Owner and the Town.</p> <p><b>(continued)</b></p>

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SP MC SS WE PD HB CD <hr/> <hr/> <hr/>	12.	<b>(Continued)</b>  <b>EXEMPTION FROM SITE PLAN CONTROL - HYPRESCON</b> <b>Part Lot 4, Concession 8, 5387 Bethesda Road</b> <b>Planning File No. SPA03.012</b> <b>(C10-DV &amp; 11)</b>	64	5. AND THAT a further report be presented to Council in January 2004 relating to the disposition of matters relating to the Stormwater Management and Drainage issues. 6. AND THAT By-law No. 87-47, as amended, be further amended to exempt Hyprescon, 5387 Bethesda Road, from Site Plan Control to permit the construction of a building having a gross floor area of approximately 186 square metres (2000 square feet).
SP MC SS WE PD HB CD <hr/> <hr/> <hr/>	13.	<b>SAVOIA DEVELOPMENTS LTD. (Phase II - Simpson Property)</b> <b>PROPOSED PLAN OF SUBDIVISION &amp; ZONING BY-LAW AMENDMENT PART OF LOT 22, CONCESSION 7</b> <b>15532 HIGHWAY No. 48 COMMUNITY OF BALLANTRAE</b> <b>FILE Nos. 19T(W)-02.001 &amp; ZBA02.014</b> <b>(C10-DV &amp; D12)</b>	66	THAT the Town issue a Notice of Decision to approve Draft Plan of Subdivision File No. 19T(W)-02.001, subject to the Conditions as set out in Schedule 1 to this Report, in accordance with the provisions of Section 51(31) of the Planning Act; AND THAT By-law No. 2003-152-ZO, being a By-law to implement the development of Subdivision File No. 19T(W)-02.001, be enacted; AND THAT Council deem that further Notice with respect to the By-law Amendment is not necessary as the revisions to the Amendment are deemed to be minor in nature in accordance with the provisions of Section 34(17) of the Planning Act; AND THAT Council allocate the equivalent of fifteen (15) residential units of water capacity to Subdivision File No. 19T(W)-02.001 from the Ballantrae-Musselman Lake water system reserve capacity.

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SP MC SS WE PD HB CD <hr/> <hr/> <hr/>	14.	<b>ENACTMENT OF BY-LAWS TO AUTHORIZE AN AGREEMENT WITH 1386416 ONTARIO INC. (PITWAY HOLDINGS), PART LOT 8 AND 9, CONCESSION 5 AND MARIE BRILLINGER, PART LOT 9, CONCESSION 4 (C10-DV &amp; D05)</b>	78	<p>THAT by-laws be passed authorizing the Mayor and Clerk to sign agreements with 1386416 Ontario Inc. (Pitway Holdings) pertaining to the placing of clean fill on their lands in Part Lot 8 and 9, Concession 5 and with Marie Brillinger pertaining to the placing of clean fill on her lands in Part Lot 9, Concession 4 in the Town of Whitchurch-Stouffville subject to any final amendments to the agreement deemed necessary by the Town Solicitor.</p>
SP MC SS WE PD HB CD <hr/> <hr/> <hr/>	15.	<b>SITE PLAN CONTROL AGREEMENT 1358556 ONTARIO INC. (Metropolitan Paving and Concrete Inc.) Part Lot 4, Concession 3, Part 2, Plan 65R-9855 45 Cardico Drive Planning File: SPA02.005 (C10-DV &amp; D11)</b>	93	<p>1. THAT a Site Plan Control Agreement between the Owner and the Town be executed, subject to any revisions that may be required by the Town Solicitor.</p> <p>2. AND THAT the Site Plan Control Agreement referred to in Item No. 1 include a clause requiring the Owner, at his own cost, to demolish the building, or move the building from the property, or move the building to a location on the property that is more than 14 metres distance from the west property line and to a location that is satisfactory to the Town, within 30 days of being directed to do so by either the Town or the Ministry of Transportation of Ontario.</p>

NOTES	ITEM	DESCRIPTION	PAGE	RECOMMENDATION
SP MC SS WE PD HB CD <hr/> <hr/> <hr/>	16.	<b>DAI ICHI INTERNATIONAL PROPOSED SITE PLAN CONTROL AGREEMENT Part Lot 10, Concession 7, 5241 Bloomington Road Planning File No. SPA03.008 (continuation of SPA96.004/Petro 2000) (C10-DV &amp; D 11)</b>	96	<p>1. THAT final approval be obtained from the York Region Transportation and Works Department and the Ministry of Transportation.</p> <p>2. AND THAT, upon completion of Item No. 1, an appropriate Site Plan Control Agreement (Dai Ichi International/5241 Bloomington Road) be prepared for execution between the Owner and the Town, subject to any revisions required by the Town Solicitor.</p> <p>3. AND THAT the Site Plan Control Agreement referred to in Item No. 2 include a clause requiring that the Storm Water Management Pond on the property shall be built to be consistent with the requirements as set out in the Pickering Airport Site Zoning Regulations Guidance Document -TP14026E (Guidance for the Design and Management of Stormwater Management Ponds), TP11500 (Wildlife Control Procedures), and TP13549 (Sharing the Skies), as may be amended. If a permit or similar approval is required from Transport Canada or their authorized agent, the Owner shall complete this task and shall be responsible for any associated fees or expenses.</p> <p>4. AND THAT the Hydrogeological Assessment Revised Report, prepared by Norbert M. Woerns, dated September 26, 2003, be updated to accommodate the comments of the Manager, Water Resources, Transportation and Works Department, Regional Municipality of York and of Gartner Lee Limited.</p> <p>5. AND THAT, once the update referred to in Item 4 has been completed, the Site Plan Control Agreement referred to in Item 2 include the recommendations of the updated Hydrogeological Assessment Revised Report prepared by Norbert M. Woerns, dated September 26, 2003.</p>

NOTES	ITEM	DESCRIPTION	PAGE	RECOMMENDATION
SP MC SS WE PD HB CD <hr/> <hr/> <hr/>	16.	<b>(continued)</b>  <b>DAI ICHI            INTERNATIONAL            PROPOSED SITE PLAN            CONTROL AGREEMENT            Part Lot 10, Concession            7, 5241 Bloomington            Road            Planning File No.            SPA03.008 (continuation            of SPA96.004/Petro            2000)            (C10-DV &amp; D 11)</b>	96	<p>6. AND THAT additional modifications to drawings that will form part of the Site Plan Control Agreement be executed, or additional drawings be included, should they be required to accommodate final comments from the Region of York, the Ministry of Transportation and/or Transport Canada.</p> <p>7. AND THAT, prior to the issuance of an Occupancy Permit for any structure to be built upon the lands, the Owner shall submit a lighting study that will demonstrate that light spillage from the site onto roadways and adjacent properties will be within acceptable standards, to the satisfaction of the Town and the appropriate Road Authorities.</p> <p>8. AND THAT the lighting study referred to in Item No. 4 be submitted to peer review and that the cost of that review be the responsibility of the Owner.</p> <p>9. AND THAT Council request the Region of York and the Ministry of Transportation to establish "No Stopping" restrictions across the property frontage and for a distance of 100 metres beyond the limit of the property.</p> <p>10. AND THAT the Owner be required to connect to the municipal water system and the entire cost of connecting to the system be the responsibility of the Owner.</p>

**REPORT #1**

**REGION OPERATED CENTRALIZED FIRE COMMUNICATIONS  
(C10-FR & P03)**

Report prepared by: Treasurer/Administrator

**RECOMMENDATION:**

THAT Council support the establishment of a seven member (6 fire department) Region operated Centralized Fire Communications Centre.

**BACKGROUND:**

On April 15, 2003, Council endorsed the establishment of a nine member centralized fire dispatch for the Region of York, to replace the current patchwork system, with the proviso that cost for this centralized service be financed through a Regional Levy.

The concept of a centralized dispatch has been under discussion for close to twenty years and has taken many twists and turns. The most recent direction came on June 12, 2003 when Regional Council directed staff to investigate the efficiency of a Centralized Fire Dispatch for seven of the area municipalities (excluding Markham and Richmond Hill). Both Markham and Richmond Hill have indicated to the Region that at this stage they do not wish to join in a Regional Dispatch Service. Following this, Regional staff met with the seven area CAO's and Fire Chiefs to determine the feasibility of having a centralized service for seven municipalities.

After examining the feasibility of this option with stakeholders, including the Fire Marshal's office, a consensus was reached that the Region should proceed with the necessary steps to establish a Region operated seven member fire dispatch, with a special Regional levy to pay for this service.

On September 18, 2003, Regional Council endorsed the seven member dispatch operated by the Region and financed through a special levy. As Markham and Richmond Hill would not be part of this levy, they would continue to bear the cost of fire dispatch at the local level. The Region will proceed with implementation as soon as they obtain approval from local Councils of Aurora, East Gwillimbury, King, Whitchurch-Stouffville, Georgina, Newmarket and Vaughan. A copy of the Region's Fire Services Committee Report of September 11, 2003, which was approved by Regional Council on September 18, 2003, is attached for information.

It is recommended that Council endorse the establishment of a seven member (6 fire department) Region operated Centralized Fire Service, to be financed through a Regional Levy.

## **REPORT #2**

### **TEMPORARY ROAD CLOSURE - MAIN STREET - KINSMEN SANTA CLAUS PARADE SATURDAY, DECEMBER 6, 2003 (C10-CL & T08)**

Report prepared by Council Co-ordinator

#### **RECOMMENDATION:**

The Clerk recommends:

THAT in accordance with Section 42 of the Municipal Act, 2001, as amended, the request of the Stouffville Kinsmen Club for the temporary closure of a portion of Tenth Line from North Street to Main Street and Main Street from the Tenth Line to Palmwood Gate for the purpose of holding the Santa Claus Parade be approved provided that:

- temporary barricades are easily removed to maintain access for emergency vehicles;
- barricades must be erected by the organizers and removed to the side of the road following the event;
- the organizers must sign a "Hold Harmless Agreement" releasing the Town from any liability associated with this event.

AND THAT staff prepare a by-law for the temporary closure of the portion of Tenth Line from North Street to Main Street, and Main Street from the Tenth Line to Palmwood Gate on December 6th, 2003 from 2:00 p.m. to the conclusion of the parade (approximately 2 hours).

#### **BACKGROUND:**

Each year the Kinsmen Club of Stouffville host the "Santa Claus Parade". This year the parade will be held on Saturday, December 6th, 2003 from approximately 2:00 p.m. to 4:00 p.m.

The temporary closure of a portion of Tenth Line from North Street to Main Street, and Main Street from the Tenth Line to Palmwood Gate, is necessary to facilitate the passage of the parade and ensure the safety of participants.

An advertisement noting the intention to have road closures was placed in the local newspaper on September 18th and 25th, 2003 as required by the *Notice Provision* in the new Municipal Act.

**REPORT #3**

**CONDITIONAL BUILDING PERMIT AGREEMENT  
METROPOLITAN PAVING AND CONCRETE INC. AND 1358556 ONTARIO LTD.  
45 CARDICO DRIVE (C10-DV & P10)**

Report Prepared by: Director of Development Services

**RECOMMENDATION:**

The Director of Development Services recommends:

THAT THE Conditional Building Permit Agreement between the Town and Metropolitan Paving and Concrete Inc. and 1358556 Ontario Ltd. for the construction of an 8,000 square foot accessory building be approved subject to any revisions deemed necessary by the Town Solicitor;

AND THAT a by-law be passed authorizing the Mayor and Clerk to sign the Condition Building Permit Agreement.

**BACKGROUND:**

On April 23, 2002 Metropolitan Paving and Concrete Inc. made an application for a site plan control agreement amendment and a building permit to construct an 8,000 square foot industrial building on their property at 45 Cardico Drive in Gormley. The purpose of the building is to provide storage and repair space for their equipment. The site plan control agreement is the subject of a separate report of this Council in Committee agenda.

The building conformed in all respects to the Towns Zoning By-law No. 87-34 which provided for a minimum side yard set back of 3.0 metres.

Since the property is adjacent to Provincial Highway 404 the site plan was circulated to the Ministry of Transportation for their comment. The Town was advised that construction on the lands would require a permit from the Ministry of Transportation pursuant to subsection 38(2) of the Public Transportation and Highway Improvement Act. Ministry permits are required for all new buildings and land use within 45 metres of a controlled access highway and must be set back from the right-of-way a minimum of 14 metres. This requirement is in conflict with the Towns Zoning By-law 87-34 which allows for a side yard set back of 3.0 metres. Unfortunately because of the timing involved and the Owners need to have the building ready for their

summer work season, they commenced construction of the building prematurely and had the building substantially completed before the Building Department became aware of it and issued a Stop Work Order which was subsequently complied with.

Metropolitan Paving have been in discussions with the M.T.O. to resolve this matter and are hopeful to reach a settlement in the next several months. They are in agreement with the inclusion of a clause in the Towns site plan agreement which is registered on title to the property which would provide for the removal or re-location of the building if requested by M.T.O. at any time in the future thereby protecting any long term interests that the M.T.O. may have in the 14 metre set back.

In the meantime Metropolitan wish to pursue obtaining a conditional building permit pursuant to Section 8(3) of the Building Code Act to bring them into compliance with the Ontario Building Code. A conditional building permit can be issued subject to them entering into an agreement with the Town. A copy of the draft agreement is attached as Schedule 1. The draft agreement has been reviewed by the Town Solicitor.

Basically the agreement provides that Metropolitan Paving assume all risks involved in the construction of the building before every requirement for a building permit has been met. They also agree to obtain the approval of the M.T.O. before May 31, 2004 and to remove or relocate the building if all necessary approvals are not obtained by this date.

**REPORT #4**

**BIANCA SUBDIVISION - (19T-92009)  
JOSEPH BIANCA, 913086 ONTARIO LIMITED AND 904265 ONTARIO LIMITED  
PART LOT 21, CONCESSION 7 (C10-DV & D12)**

Report Prepared By: Development Technologist

**RECOMMENDATION:**

The Director of Development Services recommends:

THAT the draft Subdivision Agreement between Joseph Bianca, 913086 Ontario Limited and 904265 Ontario Limited and the Town of Whitchurch-Stouffville be approved subject to any revisions by the Town's solicitor;

AND THAT staff be directed to prepare a By-law to authorize the Mayor and Clerk to sign a Subdivision Agreement between Joseph Bianca, 913086 Ontario Limited and 904265 Ontario Limited and The Town of Whitchurch-Stouffville.

**BACKGROUND:**

On February 9th, 1998, the Region of York granted Approval, subject to Conditions, for a five (5) lot suburban residential subdivision located at the northeast corner of Greenan Road and Aurora Side Road within Part of Lot 21, Concession 7. The location and layout of the proposed subdivision is shown on Attachment No. 1 appended to this report. The subdivision replaces two existing lots occupied by a horse farm and accessory buildings, which will be demolished. The development will be serviced by municipal watermain and service connections and individual septic systems. Access to the proposed subdivision will be via Greenan Road north off of Aurora Side Road.

As a Condition of Draft Plan Approval, the Owner is required to enter into a Subdivision Agreement with the Town. The Subdivision Agreement is an instrument that is registered on the Title of the property that sets out the future obligations of the Owner, the Lot Purchaser and the Municipality with respect to the development of the lands.

Stormwater generated by this development will be conveyed by existing roadside ditches to encourage infiltration and recharge of the upper aquifer. The Lake

Simcoe Region Conservation Authority, through correspondence dated August 6th, 1998, have reviewed the Stormwater Management Report and have deemed it to be satisfactory.

Drainage and driveway access issues discussed at the Council meetings of December 17th, 2002 and June 25th, 2003 in connection with the depth and extent of the ditch along the east side of Greenan Road have been addressed through a revision to the configuration of the lots. The lots will no longer front to the west onto the deep ditch but rather to the north with two driveways off the south side of Greenan Road and south with three driveways off the north side of Aurora Road (Attachment No. 2). The Region of York has verbally responded with their acceptance of the additional entrance on to Aurora Side Road. The elimination of the large driveway culverts onto Greenan Road allows the lot grading to be designed to minimize the impact of the existing ditch along Greenan Road. The installation of a sub-drain rather than a storm sewer in the ditch on the east side of Greenan Road will enhance the ability of the ditch to infiltrate runoff as originally intended and will alleviate concerns in connection with maintenance that were previously expressed.

The Town will receive cash-in-lieu of the dedication of parkland. At the building permit application stage, each lot owner shall pay to the Town in lieu of the provision of land for parks or other public recreation purposes, an amount equal to 5% of the value of the lot determined as of the day before the day the first permit for the development is issued in accordance with Section 42(6) of the Planning Act.

Development Services staff have reviewed the engineering drawings submitted in support of the development of the lands. The drawings are in a generally acceptable form, however some minor revisions will be required due to the revised lot configuration and driveway entrances. The agreement will not be executed until the drawings are in a form acceptable to Development Services staff. The approved drawings will be appended as Schedules to the Subdivision Agreement. Since the road, watermain and water service connections are already in place, development of the subdivision will primarily involve the construction of new homes on the lots.

The draft Subdivision Agreement has been forwarded to the Town's Solicitor to ensure the integrity and completeness of the document. Any authorization by Council to approve the Subdivision Agreement should be made subject to any revisions recommended by the Town Solicitor. A copy of the draft Subdivision Agreement is included in the Councillor's Agenda package.

To execute the Subdivision Agreement, a By-law will be necessary which authorizes

the Mayor and Clerk to sign the Agreement between Joseph Bianca, 913086 Ontario Limited and 904265 Ontario Limited and the Town. By-law No. 2003-137-SU has been included in the Council Agenda to authorize the execution of the Subdivision Agreement.

## **REPORT #5**

### **MUNICIPAL CLASS ENVIRONMENTAL ASSESSMENT - MAIN STREET AND TENTH LINE - INTERSECTION IMPROVEMENTS (C10-PW & T00)**

Report Prepared by: Director of Public Works

#### **RECOMMENDATION:**

The Director of Public Works recommends:

THAT the status report on the Municipal Class Environmental Assessment - Main Street and Tenth Line Intersection Improvements be received;

AND THAT a further report be presented to Council on budget forecasting for this project following the filing of the Class Environmental Assessment for the 30-day review period.

#### **BACKGROUND:**

The purpose of this report is to provide Council with a status report on the Class Environmental Study for Intersection Improvements at the Main Street and Tenth Line intersection.

Although there are no apparent major safety issues, the jog intersection is not ideal.

Issues of concern include:

- several private entrances within close proximity to the intersection
- non-conventional stop control westbound on Main Street and Tenth Line is confusing for motorists not familiar with the intersection
- limited storage on Main Street for left turn movements.

The first Public Information Centre (PIC) was held on July 14<sup>th</sup>, 2003 at the Lebovic Leisure Centre as a 'drop in' centre format.

The PIC provided the opportunity to present various options for the intersection improvements and obtain comments from the public (see attachments).

Residents/Property owners who would be impacted by the various options were hand delivered notices of the meeting or contacted by telephone. The meeting was well

attended by residents in the area. The following comments were received:

- the intersections need immediate attention (“...many near misses”, “an accident waiting to happen”)
- difficult crossing for pedestrians
- major concerns for impact to businesses and residents.

During the summer, URS (the Town’s consultant) and staff met with property owners which would be most impacted by major changes to the intersection configuration.

A second PIC was held at Latcham Hall as a ‘drop in’ format on September 16<sup>th</sup>, 2003. The purpose of this PIC was as follows:

- obtain comments from the public for consideration in the finalization of the project
- present the comments from the previous round of consultation
- present the preferred design
- present the next steps in the process.

## PREFERRED SOLUTION

### Short Term Plan

- convert the intersections to conventional stop control that meet driver’s expectations. This can be accomplished by removing the stop control westbound on Main Street at the east intersection of Main Street/Tenth Line.
- implement designated left turn and right turn lanes
- signalize west intersection of Main Street/Tenth Line within the 1 - 5 year time frame. At the present time, warrants are not met for traffic signalization. Traffic signals located at the west intersection can be utilized in the future if intersection consolidation is warranted.

### Long Term Plan

- signalize east intersection of Main Street/Tenth Line within the 20 year time frame if warranted.
- beyond the 20 year time frame signalization and turn lanes may not provide

the capacity. Therefore a long term alternative such as intersection consolidation may be warranted.

Next Steps

The Town's consultant will finalize the Municipal Class Environmental Assessment and the Environmental Report will be placed on public record for a 30-day review period.

Following the 30-day review period, provided there are no EA bump up requests, staff will present another report to Council on recommendations for inclusion of the project in the Capital forecast.

**REPORT #6**

**VANDORF BRIDGE BEAUTIFICATION (C10-PW & T04)**

Report Prepared By: Director of Public Works

**RECOMMENDATION:**

The Director of Public Works recommends:

THAT the \$25,000 budgeted for the Vandorf Bridge beautification be carried over to 2004.

**BACKGROUND:**

In the 2002 Capital Budget, Council approved the expenditure of \$25,000 for the beautification of the Vandorf Bridge (CN Railway overpass) at the intersection of Woodbine Avenue and Vandorf Road.

The project was brought forward and presented to Council by the Vandorf Residential Association (VRA) as a first phase of a beautification program for the Community of Vandorf.

It is the VRA's proposal to beautify the Vandorf Bridge structure by painting the concrete abutments with a coloured block pattern (to simulate a sandstone blocks) installing wrought iron gates (fixed to the abutments) and landscaping the top of the abutments. The steel structure will be left as is. The wrought iron gates have been eliminated from the proposal as a safety hazard.

Last year the VRA had difficulty obtaining three quotations for the work. This year with the assistance of Town staff, three quotations could not be achieved even though four contractors showed an interest in the project and offered to provide samples of their product.

Although quotations are difficult to obtain, it is still the VRA's position to beautify the structure by cleaning up the graffiti and stains on the concrete abutments.

If painting is not achievable, then a cleaning of the abutments could be done through power washing or sandblasting subject to CN approval.

### Traffic Control

In order to undertake any work on the abutments within the Region of York's right-of-way, a traffic safety plan must be developed to the satisfaction of the Region. Staff have obtained a quotation from a contractor to develop a safety plan, supply all equipment and labour to provide traffic control and lane closures to enable work to be done on the abutments. Based on \$75.00 per hour for approximately nine (9) hours a day, a two week construction period would cost in the order of \$6,750.

In a recent conversation with Region of York representatives, staff have been advised that the Region proposes to resurface Woodbine Avenue from Vandorf Road to Aurora Road including intersection improvements at Woodbine Avenue and Vandorf Road in 2004.

The Region representatives were receptive to including the work on the bridge structure together with the road work in the same contract in that traffic disruption could be done at the same time.

Delaying the work on the bridge abutments will enable VRA and staff to work with CN and secure their approval.

In addition, Council approval will be required to carry over the \$25,000 budgeted amount to 2004 as under normal circumstances, capital budget items need to be re-budgeted if the capital project is not undertaken within two years after the original approval.

## **REPORT #7**

### **EXTENSION OF TEMPORARY USE ZONING BY-LAW 928650 ONTARIO INC. (JOE GRELLA) Part Lot 12, Concession 3, 13932 Woodbine Avenue Planning File No. ZBA02.019 (C10-DV & D14)**

Report Prepared By: Planner

## **RECOMMENDATION**

The Director of Development Services concurs with the following recommendation.

The Manager of Planning Services recommends:

1. THAT the Zoning By-law Amendment application by 928650 Ontario Inc. (Grella), Part Lot 12, Concession 3, for the purpose of extending the present temporary use for an additional three year period not be supported.
2. AND THAT the temporary open storage of construction trailers on a portion of the property be permitted for an additional three year period to permit consideration of the Owner's property as part of the planning review for the Vandorf - Preston Secondary Plan area.
3. AND THAT By-law 2003-149-ZO, being a by-law to rezone a portion of the property from Rural (RU) to Open Space Environmental (OSE) and Industrial General - Water Control (IG-W) to permit the open storage of construction trailers on a portion of the property until October 7, 2006, be enacted by Council.
4. AND THAT the Owner enter into a Site Plan Control Agreement with the Town so that measures designed to protect the environmental features and functions of the property (protection of Bruce Creek tributary and other environmental features), and to enhance the appearance of the site (removal of rubble and augmentation of screening) are employed, and to ensure that further site alterations (ie: filling) do not take place.
5. AND THAT the Site Plan Control Agreement referred to in Recommendation No. 5 include a clause requiring that all lands within the Bruce Creek tributary stream corridor be registered under a Conservation Easement in favour of the Toronto Region Conservation Authority.

6. AND THAT, if Council in Committee is satisfied with respect to the matter of Public Notice relating to the application of the Open Space Environmental (OSE) zoning on the property, a resolution pursuant to Section 34 (17) be passed stipulating that further notice in respect of the zoning change not be required.

## 1.0 SUMMARY

The Owner's land, located in Lot 12, Concession 3, comprises approximately 8.3 hectares (20.5 acres) with a frontage of 171.25 metres (562 feet) on the west side of Woodbine Avenue, as shown on Attachment No. 1. The subject property comprises approximately 4.9 hectares (12 acres) and is shown as the shaded area on Attachment No. 2.

In June 1989, the Owner applied for a zoning amendment to permit the continued use of the property for outside storage of equipment, supplies and trailers on a permanent basis. Council did not support the permanent rezoning of the property to permit the use but did supported the open storage use on a temporary basis for only three years to accommodate a lease arrangement on the property. However, through a series of Temporary Use By-laws, the use was permitted to continue on the portion of the Owner's lands shown shaded on Attachment No. 2.

In November of 2002, the Owner again applied for permission to retain the use for an additional three year period and also requested that consideration be given to allowing the existing uses on a permanent basis, as part of the planning review for the Vandorf/Preston Lake Secondary Plan.

A Public Meeting was held December 17, 2002 to consider the request for continuation of the open storage use. After considering the merits of the proposal, including an environmental report prepared by Stantec Consulting Ltd., staff are recommending that the application be supported provided;

- the outdoor storage use storage use is restricted only to the storage of construction trailers, and;
- environmentally sensitive lands (ie: lands along the Bruce Creek tributary running through the property) are placed in the Open Space Environmental (OSE) zoning category to protect them from development.

It is anticipated that the Vandorf - Preston Lake Secondary Plan Study will be completed within the next one year period and the designation of the lands within the Secondary Plan will establish the Town's position in regard to the future use of the subject property. In view of this, Staff are recommending that the use be permitted only until October 7, 2006. This date should accommodate the expected completion date of the Secondary Plan Study.

An Environmental Report prepared by Stantec Consulting Ltd. identified areas of the property that would benefit from environmental protection. According, By-law No. 2003-149-ZO, in addition permitting the open storage use to continue on a temporary basis within land to be zoned Industrial General - Water Control (IG-W), protects environmental features on the property by zoning them Open Space Environmental (OSE). No development or site alteration is permitted on land zoned (OSE).

In addition, Staff are recommending that the Owner enter into a Site Plan Control Agreement with the Town so that measures designed to protect the environmental features and functions of the property (protection of Bruce Creek tributary and other environmental features), and to enhance the appearance of the site (removal of rubble and augmentation of screening) are employed, and to ensure that further site alterations (ie: filling) do not take place.

By-law No. 2003-149-ZO has been prepared and is included in the by-law section of the Council agenda.

Because the Public Notice did not identify the rezoning of a portion of the property to Open Space Environmental (OSE) as part of the application, Staff are recommending that a resolution pursuant to Section 34 (17) be passed stipulating that further notice in respect of the zoning change not be required.

## **2.0 BACKGROUND**

### 1988

On March 7, 1988, the Owner was informed by the By-law Enforcement Officer that the storage of trailers was unacceptable, and was advised to file a rezoning application. A rezoning would be necessary to legalize the use.

On June 23, 1988, the Owner requested a variance to allow for the expansion of a nonconforming use and to permit open storage as an additional use on his property. The Owner had leased the property for a ten year period for the storage of mobile office units for construction sites. The Owner claimed that this was an expansion of

his existing industrial use; and therefore an enlargement of a legal non-conforming use. The Town did not support the application.

1989

On June 12, 1989, a Zoning By-law Amendment application to rezone the property for industrial use was submitted by Max Sherman, agent for the Owner.

1990

On February 6, 1990, a Staff Planning Report dated December 17, 1989 recommending that the application not be supported was presented at the Planning Advisory Committee meeting. It was the position of the Committee that "decision be deferred pending delegation".

On May 3, 1990, an application for a Temporary Use By-law was received by the Planning Department, to allow open storage of trailers on that portion of the subject property zoned Rural, on a temporary basis for three years only.

A Staff Planning Report dated May 4, 1990, based on the revised proposal, recommended that the application not be supported. The applicant's agent, Max Sherman, requested that the application be deferred. It was the decision of the Committee to defer the application until June 19, 1990.

On June 19, 1990, the May 4, 1990 Staff Planning Report, still recommending that the application not be supported, was presented at the Planning Advisory Committee meeting. Jane Pepino, the applicant's solicitor, requested that the application be deferred. It was the decision of the Committee to defer the application until August 14, 1990.

On August 14, 1990, the May 4, 1990 Staff Planning Report, still recommending that the application not be supported, was presented at the Planning Advisory Committee meeting. It was the decision of the Committee that the recommendation of the Staff Planning Report be supported.

On September 11, 1990, in a letter to the Mayor and Council, Mr. Grella stated "...should Council approve the temporary use By-law, Lamco's present intention is to continue its existing use under that By-law for only three years, and to not apply for an extension."

On November 6, 1990, a Planning Report presented at a Public Meeting of Council

recommended that the application not be supported because a rezoning to allow a new open storage industrial use on the fringe of the Community of Preston Lake would be a conflict in land use, inappropriate due to the environmental sensitivity of the site, and in conflict with the Official Plan. Notwithstanding Staff's recommendation, Council supported the application.

On December 11, 1990, in accordance with Council's decision, By-law 90-204 changed the zoning in General Zoning Bylaw No. 87-34 from Rural (RU) to Industrial General - Water Control (IG-W), for a three year period ending December 11, 1993. Notwithstanding the use in an IG-W Zone, the amendment restricted the use of the subject property to the outdoor storage of construction trailers and of construction materials and equipment owned by the Owner of the subject property for the said three year period. The remainder of the Owner's land, zoned Rural (RU) and Industrial General - Water Control (IG-W), remained zoned as such. The purpose of the Amendment was to permit the existing use to continue for a three year period.

#### 1991

On January 7, 1991, a Notice of Appeal of By-law 90-204 was received by the Town. Subsequently, the appeal to the Ontario Municipal Board was abandoned and the application dismissed.

#### 1993

On November 23, 1993, the Planning Department received an application by the Owner, Mr. Grella, to extend the temporary zoning for an additional three year period. The application was supported by Council and By-law 94-25 extended the use until December 11, 1996.

#### 1996

On August 16, 1996, the Engineering/Planning Department received an application from the Owner to extend the temporary zoning for an additional three year period. The application was supported by Council and By-law 96-201-ZO extended the use until December 11, 1999.

#### 1999

On October 12, 1999, the Development Services Department received an application from the Owner to extend the temporary zoning for an additional three year period. The application was supported by Council and By-law 99-195-ZO extended the use

until December 11, 2002. Council also resolved that the Owner be informed that no additional extensions to the Temporary Use Zoning By-law be granted.

## 2002

On November 20, 2002, the Development Services Department received an application from the Owner to extend the temporary zoning for an additional three year period. The purpose of the application is to permit 928650 Ontario Inc. to continue to lease the property for the outdoor storage of trailers.

The application was considered at a Public Meeting held December 17, 2002. Council resolved that all comments received from members of the Public and Government Agencies be referred back to staff for a further report regarding the disposition of the application.

### **3.0 SUBJECT PROPERTY**

#### **3.1 Location and Size**

The 6.17 hectare (20.267 acre) property is located on part of Lot 12, Concession 3, with road access onto the west side of Woodbine Avenue, as shown on Attachment No. 1.

#### **3.2 Surrounding Land Uses**

The site is bounded on the north by rural land; on the opposite side of Woodbine Avenue to the east by an estate residential development; on the south by an industrial use (Cougar Industries) and farmland west of the industrial use. Highway 404 forms the property's western boundary.

#### **3.3 Site Characteristics**

The property has mixed terrain. The eastern portion is characterized by a partially filled gully. The centre of the site is flat to undulating, while the western one third is depressed and level. A berm has been built parallel to Highway No. 404 about 45 metres (150 feet) from the western boundary of the property.

There is a construction office, a shop and two structures located in the southeast portion of the property. Dozens of construction trailers are being stored in the western third of the property.

A fairly dense line of mature trees grows on the land between the berm and Highway No. 404. Trees grow intermittently along the south and north property lines. A tributary of the Bruce Creek flows through the western portion of the property. The soils on the site are 70% class one and 30% class two.

#### **4.0 PLANNING ACT**

Section 39 of the Planning Act states that “The Council of a local municipality may, in a by-law passed under section 34, authorize the temporary use of land, buildings or structures for any purpose set out therein that is otherwise prohibited by the by-law.” The area affected by the By-law must be defined and the effective period of the by-law must not exceed three years. Section 39 also states “Council may by by-law grant further periods of not more than three years each during which the temporary use is authorized.”

#### **5.0 YORK REGION OFFICIAL PLAN**

The subject property is designated “Rural Policy Area” on Map 6 of the Region of York Official Plan. Under this designation, industrial uses shall generally be directed to urban areas. Rural industrial uses require an amendment to the Official Plan and are subject to the following:

- a) the need and demand for the proposed use at the proposed location;
- b) why the location of the proposed use is required and appropriate;
- c) the impact of the proposed use on the agricultural land base and farming activity;
- d) the impact of the proposed use on environmental functions, attributes and linkages;
- e) the proposed use cannot be accommodated in partially or fully serviced settlements;
- f) the use conforms to the servicing policy of the Plan;
- g) the proposed use is compatible with surrounding uses; and
- h) the ability to provide an adequate potable water supply and sewage disposal system.

#### **6.0 OFFICIAL PLAN**

The subject property is designated Rural in the Town’s Official Plan. This designation does not allow industrial open storage use. A change in designation to

Industrial would be required to allow the use on a permanent basis. The Owner has requested that such a designation change be given consideration as part of the Vandorf/Preston Lake Secondary Plan review.

Notwithstanding the Rural designation, Section 11.11 of the Official Plan authorizes Council to pass temporary use by-laws in accordance with the Planning Act, whether or not the use(s) conform to the Official Plan, for renewable periods of not more than three years. In considering the enactment of a temporary use by-law, Council shall be satisfied that:

- a) The proposed temporary use does not create or aggravate any situation detrimental to adjacent complying uses;
- b) The use does not adversely affect surrounding uses in terms of air pollution, odour, noise, light or traffic generation;
- c) The use does not interfere with development of adjacent areas that are developing in accordance with this Plan; and,
- d) Adequate provision will be made for off-street parking and loading facilities.

## **7.0 MUNICIPAL NATURAL FEATURES AND GREENLANDS STUDY**

The subject property is identified as being impacted by a Variable Recharge Area, a Stream Valley and a small Environmental Policy Area on Figure 6 (Natural Heritage Systems).

### Variable Recharge Area

Land Use activities within a variable recharge area should be designed to protect the important area water resources. Development may be considered provided it can be demonstrated that the groundwater and surface water functions are not adversely impacted.

### Stream Valley

All streams in Whitchurch-Stouffville have been identified as cold water fisheries. Because of the significance of the fisheries resource, it is recommended that a minimum width of 30 metres be provided on both sides of a stream corridor to allow for the restoration of natural vegetation.

### Environmental Policy Area

These features are defined in the Provincial Policy Statement (PPS) as requiring special consideration in proposing land use changes in or adjacent to them. No development or alterations are permitted in Significant Wetlands.

## **8.0 ZONING**

The Owner's land is zoned Industrial General - Water Control (IG-W) and Rural (RU) in General Zoning By-law 87-34.

By-law 99-195-ZO amended the zoning to permit the outdoor storage of construction trailers and of construction materials and equipment owned by the Owner of the subject property as an additional permitted use on those lands shown shaded on Attachment No. 1, until December 11, 2002.

The Amendment would permit the outdoor storage of construction trailers as the only permitted use within the area of the property shown shaded on Attachment No. 3, until October 7, 2006. Please note that the activities permitted within the temporary use are limited to the outside storage of construction trailers. After that date, the use of the land would revert to Rural (RU) uses. In addition, the Amendment would change the zoning on the portion of the property identified as "Change Area" on Attachment No. 4 from Rural (RU) to Open Space Environmental (OSE).

An Open Space Environmental (OSE) Zoning does not permit the erection of Buildings or Structures, or the placing or removal of fill, except for flood control purposes.

## **9.0 OAK RIDGES MORAINÉ CONSERVATION ACT, 2001**

The subject property is within the Oak Ridges Moraine and as such is subject to the Oak Ridges Moraine Conservation Plan (ORMCP). The subject property is designated as Natural Linkage Area on the Oak Ridges Moraine Land Use designation Map. In addition, portions of the southerly portion of the property are identified as being within a High Aquifer Vulnerability Area. The remainder of the property is within an area of Low Aquifer Vulnerability. Large portions of the property have been identified as Landform Conservation Area - Category 2. Key Natural Heritage Features are also present on and/or immediately adjacent to the subject lands.

Notwithstanding the above, Section 6 (1) states (in part) that nothing in this Plan applies to prevent the use of any land, building or structure for a purpose prohibited by this Plan, if the land, building or structure was lawfully used for that purpose on November 15, 2001 and continues to be used for that purpose. The industrial use on the property was lawfully in existence on November 15, 2001 and has continued to be used for that purpose. In view of this, an Oak Ridges Moraine Conservation Plan compliance report is not required.

## **10.0 PROVINCIAL POLICY STATEMENT**

Section 2.3 (Natural Heritage) of the Provincial Policy Statement (PPS) states that Natural Heritage Features and Areas will be protected from incompatible development, and site alterations will not be permitted in significant wetlands south of the Canadian Shield.

## **11.0 PUBLIC COMMENTS**

Abdul Mian, 14004 Woodbine Avenue, indicated support for the amendment.

## **12.0 AGENCY COMMENTS**

The Toronto Region Conservation Authority (TRCA) commented in a letter dated December 10, 2002. Their salient comments are as follows:

- In accordance with Ontario Regulation 158, a permit is required prior to any work taking place that would impact on the water course;
- No development can take place within a stream corridor;
- The limits of a Provincially Significant Wetland located partially on the subject property and the stream corridor boundary should be defined and mapped;
- The property is located on the Oak Ridges Moraine and is designated as a "Natural Linkage Area" and appears to be in an area of High Aquifer Vulnerability and Landform Conservation Area 2. In addition, the stream and wetland on the property are classified as key natural heritage features and hydrologically sensitive features. The Oak Ridges Moraine requires a minimum protection zone of 30 metres for wetlands and for permanent or intermittent streams.

In a letter dated October 1, 2003, the TRCA has further commented that:

- the TRCA wish to confirm the limits of the stream corridor, through a site visit;
- all lands within the stream corridor be placed in an Open Space Environmental (OSE) zoning category that will prohibit structural encroachment; and
- all lands within the stream corridor be registered under a Conservation Easement in favour of the TRCA.

Staff are confident that the boundary of the OSE zoning, which prohibits the construction of buildings or structures within its boundary, as reflected on Schedule 1 to By-law No. 2003-149-ZO, encompasses all stream corridor lands as identified in the Stantec Report. Should further minor adjustments be required to this boundary as a result of the TRCA site visit, they can be applied at the Site Plan Control Agreement stage in the development process. The TRCA request for a Conservation Easement can also be required as part of the Site Plan Control Agreement between the Owner and the Town.

The Ministry of Transportation and Communication, by letter dated December 5, 2002, have indicated the following:

- the storage of construction materials and equipment shall not be permitted within the Ministry's 14 metre setback area (measured from the MTO property line);
- Ministry permits are required for all buildings within 46 metres (150 feet) of the highway property line.

### **13.0 EVALUATION**

#### **13.1 Planning Context**

As previously stated in the background section of this report, it was Staff's position in 1990 that the rezoning of the site to accommodate industrial open storage use on the fringe of the Community of Preston Lake was inappropriate because it represented a conflict in land use; because it would impact on an environmentally significant area; and because it was in conflict with Official Plan Policy.

Notwithstanding Staff's recommendation, Council, in accordance with the provisions of Section 11.11 of the Town's Official Plan, have passed a series of temporary use by-laws to permit the use to continue on a temporary basis.

The use is passive, consequently there is little noise or traffic generated from the site. In addition, the trailers are located in a low area of the property and are, for the most part, not visible from Woodbine Avenue or from Highway 404. The storage use has existed for over 15 years and, other than the 1991 O.M.B. appeal that was subsequently abandoned, Staff have received no complaints relating to the operations on the subject property.

Although the Planning Act (Section 39) and the Official Plan (Section 11.11) both

provide for the temporary use of land, buildings or structures for any purpose set out therein that is otherwise prohibited by the by-law, Staff are concerned that the continual passing of three year temporary use by-laws has meant that measures have not been implemented to protect environmental features on the property.

The purpose of a temporary zoning is to establish a specified use on a property for a fixed period of time with the intent that the use stop at the expiration of the time period. It is not the intent to allow the use to become established by a process of continually extending the temporary use by-law, nor is it the intent to avoid the application of appropriate planning controls, including those designed to protect the environment, through this process.

In regard to the environmental issue, Staff note that the subject property is exempt from the requirement of providing an Oak Ridges Moraine Compliance Report, but also note that other policies, including the Provincial Policy Statement, speak to the importance of protecting environmental features. In view of these policies and to address the comments of the TRCA, Planning Staff required that the Owner provide an environmental study of the property for review by the Town and the TRCA.

The required study, prepared by Stantec Consulting Ltd., identified the location of the stream corridor and other environmental features on the property and also provided recommendations on the appropriate measures that should be employed to protect and restore these features.

The Stantec Study identified the headwater portion of the Bruce Creek that bisects the property as the key environmental feature, although no fish or aquatic organisms were found in the stream. The study recommended:

- that the existing setback for development from this feature be maintained so that the established riparian zone can be protected;
- that the existing large pile of rubble (broken concrete) located just northeast of the stream crossing be removed from the property;
- that the vegetated earthen berm along the south side of the property should remain undisturbed; and,
- that the current vegetation buffer surrounding the Bruce Creek tributary offers adequate protection to the natural environment, and should remain undisturbed.

To implement the recommendations of the Stantec report, the proposed Zoning By-law Amendment will change the zoning along the Bruce Creek tributary to Open Space Environmental (OSE) to provide an environmental buffer ranging in width from

approximately 20 metres (66 feet) at its narrowest point to approximately 80 metres (262 feet) at the widest point.

In addition, a 15 metre (50 foot) strip of land along the north property line where it abuts the stream corridor on the neighbouring property will be zoned OSE. This zoning will serve the dual purpose of encouraging natural growth that will provide a riparian zone for the abutting watercourse and, at the same time, will encourage the growth of vegetation that will assist in the screening of the trailers being stored on the subject property.

A 15 metre (50 feet) strip along the west property line where it abuts Highway 404 will ensure that no trailers or buildings are located within the 14 metre setback required by the Ministry of Transportation (MTO). The buffer will also encourage natural growth that will assist in screening the industrial use from the view of the travelling public.

In regard to the issue of the actual storage of trailers on the property, Staff are recommending that a three year extension be granted. This will allow the use to continue while consideration is given to recognising the outdoor storage on a permanent basis in the Vandorf/Preston Lake Secondary Plan. This process will provide the public with an opportunity to comment on the proposal and will ultimately establish the land use designation for the subject lands within the Secondary Plan. Three years should be a sufficient time period to allow for a thorough planning review.

Staff are also recommending that the Owner enter into a Site Plan Control Agreement with the Town so that measures designed to protect the environmental features and functions of the property and to enhance the appearance of the site are employed, and to ensure that further site alterations (ie: filling) do not take place.

Taking all the aforementioned into consideration, Staff recommend that the Temporary Zoning on the subject property be extended until October 7, 2006.

In the event Council is satisfied that the proposal is in compliance with Section 11.11 of the Official Plan, and supports Staff's recommendations, By-law No. 2003-149-ZO, being a by-law to extend the open storage use on the property until October 7, 2006 and to zone portions of the property Open Space Environmental (OSE) has been prepared and is included in the By-law section of the Council agenda.

The proposed zoning change to implement the Open Space Environmental (OSE)

Zoning was not addressed in the Public Notice for the meeting held December 17, 2002. Staff suggest that this is of little consequence as the OSE zoning will further restrict development rather than allow for any development over and above that identified in the Public Notice. Because of this, Staff suggest that additional notice should not be required. Accordingly, Staff are recommending that if Council in Committee is satisfied with respect to the matter of Public Notice relating to the application of the Open Space Environmental (OSE) zoning on the property, that a resolution pursuant to Section 34 (17) be passed stipulating that further notice in respect of the zoning change not be required.

By-law No. 2003-149-ZO has been prepared and is included in the by-law section of the Council agenda.

## **REPORT #8**

### **ZONING BY-LAW AMENDMENT - BLOOMINGTON LAND COMPANY LTD. Part of Lots 9 & 10, Concession 7, 4971 Bloomington Road File No. ZBA03.002 (C10-DV & D14)**

Report Prepared By: Manager of Planning Services

## **RECOMMENDATION**

The Director of Development Services concurs with the recommendation.

The Manager of Planning Services recommends:

THAT By-law No. 2003-150-ZO, that being a By-law to rezone certain lands in Part of Lot 9, Concession 7 from Rural Extractive (RE) to Rural (RU) and Open Space Environmental (OSE), be enacted.

## **1.0 PURPOSE OF THE DEVELOPMENT APPLICATION**

A Zoning By-law Amendment application has been submitted by the Owner, Bloomington Land Co. Ltd., through their authorized agent, RDJ Planning Consultants Inc.

The purpose of the proposed Amendment to General Zoning By-law 87-34 is to rezone approximately 15.75 hectares (38.9 acres) of the 38.3378 hectare (94.73 acre) property from Rural Extractive (RE) to Rural (RU) and Open Space Environmental (OSE). The area affected by the Amendment is located in the southern portion of the property (within Lot 9, Concession 7) and is identified with the reference to "Change Area" on Attachment No. 1 to this Report. The northern portion of the Bloomington Land Co. Ltd. property is presently zoned Rural (RU) and is not affected by this Amendment.

The Amendment, if approved, would recognize that the former extractive aggregate business on the site has ceased operation, and, the (RU) classification would alter the permitted uses in this area to that of agriculture and related uses. A small portion of land, situated in the extreme southeast corner of the property, is proposed to be zoned (OSE) to recognize and protect a watercourse.

From the period of 1972 to 1998, a License had been issued by the Ministry of

Natural Resources allowing the Owner to extract sand and aggregate material for commercial purposes. In 1998, the Owner surrendered the License to the Ministry and the aggregate business has ceased to operate.

The property is also the subject of a Fill Permit Application which has been appealed by the Owner to the Ontario Municipal Board. The rezoning of the former aggregate site to the (RU) zone would allow the property to be *eligible* for consideration of a fill permit in accordance with the terms and conditions of the Town's Fill Control By-law.

The Zoning By-law Amendment application was the subject of a Public Meeting on August 19<sup>th</sup>, 2003 at which time Council solicited comments from interested members of the community and government agencies. This Report has been prepared to assess the merits of the Amendment request.

## **2.0 SITE DESCRIPTION**

### **2.1 Location**

The subject lands are located to the immediate east of the intersection of Bloomington Road and Highway No. 48, and straddles Part of Lots 9 and 10, Concession 7. The property is located on the south side of Bloomington Road and is identified with the civic address of 4971 Bloomington Road. The location of the property and the area subject to Amendment are noted on Attachment No. 1 to this Report.

### **2.2 Site Description**

The Bloomington Land Company Ltd. property totals approximately 38.3378 hectares (94.73 acres) with an approximate frontage of 542.5 metres (1779 ft.) on Bloomington Road and 121.76 metres (399 ft) on Highway No. 48. The portion of the property that is subject to the Amendment totals approximately 15.75 hectares (38.9 acres) and is located in the southern half of the landholding.

The northern half of the property, which has frontages on Highway No. 48 and Bloomington Road, is used for agricultural practices. No buildings or structures are present on this portion of the property. The lands are gently rolling, with drainage patterns generally oriented to the south. A driveway, in the form of a gravel lane, exists on the northern portion of the property which, in the past, provided access from Bloomington Road through to the former aggregate operation.

The southern half of the property, where the former aggregate operation existed, is

dominated by remnants of the historic excavation of aggregate and sand material. A large excavation area or “bowl” exists in this area. The site has been partially rehabilitated with fill material in accordance with the terms of the former License that had been issued by the Ministry of Natural Resources for the operation of the aggregate operation. A garage and office building are located within the pit area and were historically used when the aggregate business operated from the site.

An intermittent watercourse is located in the extreme southeast corner of the property, starting at a point approximately 40 metres north of the southern property line along the eastern property line. This area is relatively undisturbed.

### **2.3 Surrounding Land Uses**

Land use activities surrounding the subject lands can be summarized as follows:

- ▶ to the north, across Bloomington Road, agricultural uses;
- ▶ to the east, a cluster of rural residential units that frame the west side of Highway No. 48 within Lot 9, Concession 7, and, to the immediate east of the lands subject to the Amendment, an idle aggregate operation;
- ▶ to the south, agricultural and conservation uses;
- ▶ to the west, agricultural uses.

### **3.0 OAK RIDGES MORAINÉ CONSERVATION ACT, 2001**

The subject lands are located within the Oak Ridges Moraine physiographic region as defined by the *Oak Ridges Moraine Conservation Act, 2001* and the implementing Ontario Regulation.

Within the Oak Ridges Moraine Conservation Plan (ORMCP), the subject lands are situated within the ‘Natural Linkage Area’ land use designation. This designation represents areas forming part of a central corridor that supports or has the potential to support the movement of animals among Natural Core Areas, Natural Linkage Areas, etc.

The ORMCP encourages the rehabilitation of pits and quarries with the objectives as set out in Section 35 of the Plan. The rehabilitation of properties and the conversion of land use activities from aggregate operations to alternate activities shall be

completed in such a fashion so as to ensure that as much of the site is rehabilitated, and in the case of prime agricultural lands, restoring the lands so that they can be used for agricultural purposes. Where agricultural activities will not be pursued, the conversion of lands shall support the restoration of natural self-sustaining vegetation.

Agriculture is a permitted land use activity within the Natural Linkage designation.

It is Staff's opinion that the proposed Amendment would not be in conflict with the provisions of the ORMCP.

#### **4.0 OFFICIAL PLAN**

##### **4.1 Region of York Official Plan**

The subject lands are designated "Agricultural Policy Area" in the Region's Official Plan. Agriculture and related uses are the dominant land use activity contemplated within this designation.

Section 5.8 of the Regional Plan directs that exhausted pits and quarries be rehabilitated to uses compatible with agriculture, rural or green space areas.

The Amendment, which proposes to rezone the former aggregate site to the (RU) Zone classification, facilitates the direction charted by the Agricultural Policy Area designation and the policies of Section 5.8.

##### **4.2 Town of Whitchurch-Stouffville Official Plan**

The existing Official Plan (1982) for the Town designates the lands subject to the Amendment as "Extractive Industrial". This designation recognizes areas that were, at the time of the approval of the Plan, licensed for the extraction of aggregate materials. As noted previously, the License as issued by the Ministry of Natural Resources for this property was surrendered in 1998.

In the Official Plan adopted by the Town in 2000 and approved with modifications by the Region of York in 2001, the subject lands are designated 'Agricultural Area'. This document is not yet in force and effect as there has been an appeal of the Plan to the Ontario Municipal Board.

The 'Agricultural Area' designation as it affects this property recognizes that the License for the aggregate operation had been surrendered and that aggregate business practices could no longer occur on the subject lands. By classifying the

lands as 'Agricultural Area', the Town is establishing the future direction of the property from a policy perspective, one that is more oriented to an agricultural setting which is consistent with the dominant land use pattern which is present in the immediate area. The establishment of the Rural (RU) zone classification on the former aggregate site implements the policy framework as contemplated in the 2000 Official Plan.

## **5.0 Zoning By-law 87-34**

### **5.1 Present Zone Classification**

The lands subject to the Amendment are presently zoned Rural Extractive (RE) in General Zoning By-law 87-34. The (RE) Zone permits the extraction of aggregate materials in accordance with a License issued by the Ministry of Natural Resources, and, ancillary uses which are a necessary part of the aggregate operation (ie: washing, screening, crushing of material; weigh scales, etc.). Additionally, agricultural and related uses as set out in the Rural (RU) Zone are also permitted activities within the (RE) Zone classification.

The balance of the property is presently zoned Rural (RU) and is not subject to the Amendment.

### **5.2 Proposed Zone Classification**

The proposed Amendment would change the zoning on the southerly portion (being defined as lands within Part of Lot 9, Concession 7) of the Owner's land from (RE) to (RU) and (OSE).

The (RU) Zone permits agriculture and related uses. This zone classification is consistent with the balance of the property and the dominant land use category in the immediate area.

The (OSE) Zone is proposed to apply to those lands situated in the extreme southeast corner of the property where an intermittent watercourse has been observed. This area can generally be described as adjacent the eastern property limits and extends a distance of approximately 40 metres north from the southern property line. The proposed (OSE) Zone limit has been designed to recognize the watercourse and an associated environmental buffer which extends 30 metres beyond the watercourse. Within lands zoned (OSE) no development or site alteration is permitted.

With the passage of the proposed Amendment, the Owner would be *eligible* for consideration to place fill material in accordance with the Town's Fill By-law for those lands zoned (RU). It is important to note that the passage of the Zoning By-law Amendment does not allow as a right the importation of fill material onto the property. The merits of the site for the placement of fill is a separate and distinct process which requires a separate analysis and decision. The review of the site for the placement of fill material shall be completed in accordance with all the relevant tests and criterion as set out in the Town's Fill By-law, the Oak Ridges Moraine Conservation Plan, etc.

## **6.0 CORRESPONDENCE AND PUBLIC CONSULTATION**

### **6.1 August 19<sup>th</sup>, 2003 Public Meeting**

At the August 19<sup>th</sup> Public Meeting three residents addressed Council to express concerns and/or objections with respect to the proposed Zoning By-law Amendment.

The comments raised in the three deputations can be summarized as follows:

- ▶ the type of fill material that is already present on site and what kind of fill material could be introduced to the property if rehabilitation continues;
- ▶ the concern about the potential contamination of the groundwater and area wells;
- ▶ how will the Town ensure compliance with the community's expectations if rehabilitation occurs on the property;
- ▶ what obligations from the Ministry of Natural Resources License are outstanding

In response to the concerns raised at the time of the Public Meeting, Staff would offer the following comments:

#### *Nature of Fill Material On-Site:*

The Ministry of the Environment in a letter dated August 18<sup>th</sup>, 2000 has indicated that their earlier expressed concerns / objections (Sept. 2, 1999) about historic fill activities occurring on the subject lands were no longer at issue and that filling activities could resume on the property. The August

2000 letter was prompted by the submission of a technical report which was prepared by Green Tech Environmental Engineering Ltd. and submitted to the Ministry which assessed the nature of the material which had been deposited on the subject lands without authorization from the Town or the Ministry and the ensuing remediation program which had been undertaken to rectify the situation. The remediation program involved the removal of approximately 24 tonnes of debris from the site which was ultimately disposed of at the Keele Valley landfill site based upon trenching and an analysis of the material which had been deposited on the site. A copy of the Ministry's August 2000 letter is included as Attachment No. 2 to this report.

In a Report dated March 5<sup>th</sup>, 2003, Green Tech Environmental Engineering Ltd. submitted a Phase 2 Environmental Site Assessment report to the Town on the present status of the site. The purpose of the Phase 2 audit was to identify any potential presence of environmental contamination and to provide an examination of the environmental properties of the sub-surface soil and groundwater on-site. The Phase 2 audit included field inspections, as well as the collection, field screening and laboratory analysis of soil and groundwater samples. As a result of this review and analysis, it has been determined that the historic use of the site has not lead to any adverse impact and that the chemical parameters of the groundwater and soil samples do not exceed the criteria as described in the Ministry of the Environment Guideline for Use at Contaminated Sites in Ontario (published 1997) (Table A - Surface and groundwater criteria for Agricultural Land Use).

*Future Rehabilitation / Placement of Fill Materials:*

With the passage of the proposed Amendment, the Owner would be *eligible* for consideration to place fill material in accordance with the Town's Fill By-law for those lands zoned (RU). It is important to note that the passage of the Zoning By-law Amendment does not allow as a right the importation of fill material onto the property. The merits of the site for the placement of fill is a separate and distinct process which requires a separate analysis and decision. The review of the site for the placement of fill material shall be completed in accordance with all the relevant tests and criterion as set out in the Town's Fill By-law, the Oak Ridges Moraine Conservation Plan, etc.

*Outstanding Obligations of the Ministry License:*

The Ministry of Natural Resources accepted the surrendering of the License to operate an aggregate operation on the subject lands in 1998. With the

surrendering of the License, the Ministry had to be satisfied that the conditions imposed upon the operation of the facility, and more specifically

the rehabilitation of the property, had been completed to their satisfaction. The Ministry typically required the rehabilitation of the former gravel pit to 3 : 1 side slope conditions.

## **6.2 Correspondence**

The Toronto Region Conservation Authority (TRCA) in a letter dated September 30<sup>th</sup>, 2003 has indicated that they have no objections to the proposed Zoning By-law Amendment. The TRCA's support of the Amendment is tied to the following conditions:

- ▶ that all lands within the stream corridor plus a 30 metre wide buffer be placed into a restrictive open space zone classification;
- ▶ that any necessary permits be secured from the Conservation Authority before any work occurs in the immediate area of the watercourse, and, that this would include the removal of the existing sediment pond; and,
- ▶ that a Conservation Easement be granted in favour of the Conservation Authority, which should be registered on Title, for the lands within the (OSE) Zone.

## **7.0 CONCLUSION**

Staff have assessed the nature of the proposal, that being the consideration of a Zoning By-law Amendment which would reclassify the subject lands from Rural Extractive (RE) to Rural (RU) and Open Space Environmental (OSE), and believe that the request is reasonable.

A significant amount of the interest in this property revolves around the historic and unauthorized use of the property for the placement of fill material. While these activities are of concern and cannot be excused, the site has been remediated and there is no evidence of contamination in either the soil or groundwater samples taken from the site.

With the passage of the proposed Amendment, the Owner would be *eligible* for consideration to place fill material in accordance with the Town's Fill By-law for those lands zoned (RU). It is important to note that the passage of the Zoning By-law

Amendment does not allow as a right the importation of fill material onto the property. The merits of the site for the placement of fill is a separate and distinct process which requires a separate analysis and decision. The review of the site for the placement of fill material shall be completed in accordance with all the relevant tests and criterion as set out in the Town's Fill By-law, the Oak Ridges Moraine Conservation Plan, etc. In due course, the analysis and merits of the fill permit application will be brought before Council and the public for review, consideration and a decision.

The By-law as drafted implements the vision of the Town's Official Plan (version 2000) and conforms with the relevant provisions of the Oak Ridges Moraine Conservation Plan with respect to the rehabilitation and reuse of former aggregate sites.

To this end, Staff recommend the passage of By-law 2003-150-ZO which would rezone a portion of lands located in Part of Lot 9, Concession 7 from Rural Extractive (RE) to Rural (RU) and Open Space Environmental (OSE). By-law 2003-150-ZO is included in the By-law Section of the Council Agenda.

## **REPORT #9**

### **SITE PLAN CONTROL AGREEMENT 1009412 ONTARIO LTD. (Imperial Centre) Part Lot 35, Concession 8 (M) 37 Sandiford Drive, Stouffville Planning File No. SPA03.011 (C10-DV & D11)**

Report Prepared By: Planner

## **RECOMMENDATIONS**

The Director of Development Services concurs with the following recommendation.

The Manager of Planning Services recommends:

THAT a Site Plan Control Agreement between the Owner and the Town be executed, subject to any revisions that may be required by the Town Solicitor.

## **1.0 BACKGROUND**

An application for amendment to an existing Site Plan Control Agreement to permit the enlargement of the parking lot and to permit improvements to surface drainage for the property located at 37 Sandiford Drive (Municipal Offices) was submitted by the Owner on October 1, 2003.

A 5,457.71 square metre (58,748 square foot), four storey office building was built on the property under the authority of a 1989 Site Plan Control Agreement between the Town and the Owner. Parking for 183 vehicles was provided as part of the development.

## **2.0 COMMENTS**

The Grading and Drainage Plan showing the enlargement to the parking area, including the additional landscaping, and also showing the proposed alterations to the drainage, is attached to this report. Staff have reviewed the proposal and have the following comments:

The proposed amendment would provide an additional 10 spaces on the east side of the building. Eight Spruce, 6 Pine and 10 Dogwood trees would be planted

adjacent to the new parking area to screen it from Main Street.

The proposal would also improve the drainage on the property and reduce the incidences of flooding of the parking lot and ice build up in the winter. This will be accomplished by the deepening of an existing swale, by the creation of a berm, and by the installation of sub-drains as shown on the Grading and Drainage Plan.

The Toronto Region Conservation Authority, by letter dated September 17, 2003, have commented that "Based on our review of the information submitted in support of the application, TRCA staff have determined that a flood study is not required for the proposed development and that the proposed development will not impact any significant natural features. As such we have no objection to the proposed site plan control agreement as submitted."

### **3.0 CONCLUSION**

The proposed parking lot expansion will mitigate a problem with a lack of parking spaces that exists at certain times. In addition, the improvements to the drainage should eliminate a chronic problem of parking lot flooding.

Taking all the aforementioned into consideration, Planning Staff are recommending that a Site Plan Control Agreement be prepared for execution by the Owner and the Town to facilitate the construction of the parking lot expansion and the drainage improvements.

The full size drawing will be available at the October 7, 2003 Council in Committee meeting.

## **REPORT #10**

### **OFFICIAL PLAN AMENDMENT OAK RIDGES MORaine CONSERVATION PLAN CONFORMITY EXERCISE TOWN OFFICIAL PLAN, SECONDARY PLANS FOR THE COMMUNITIES OF STOUFFVILLE, GORMLEY, BALLANTRAE - MUSSELMAN LAKE AND THE MORaine PORTION OF THE VANDORF - PRESTON LAKE SECONDARY PLAN AREA (C10-DV & E05)**

Report Prepared By: Manager of Planning Services and Conformity Exercise  
Consultant Macaulay Shiomi Howson Ltd.

### **RECOMMENDATION**

The Director of Development Services concurs with this recommendation.

The Manager of Planning Services and the Town's Planning Consultant  
recommend:

THAT Council adopt as Official Plan Amendment No. 112, the Oak Ridges Moraine Conservation Plan Conformity Exercise Official Plan Amendment and as Official Plan Amendment No. 113 that portion of the Vandorf-Preston Lake Secondary Plan applicable to the lands in the Oak Ridges Moraine, prior to the deadline for the Oak Ridges Moraine Conservation Plan conformity exercise of October 22, 2003;

AND THAT Council requests the Minister of Municipal Affairs and Housing for an extension of the deadline to June 30<sup>th</sup>, 2004 for completion of the conformity exercise with respect to the Town's General Zoning By-law Nos. 87-34 and 72-7.

### **1.0 REPORT PURPOSE**

The purpose of this report is:

- summarize the approach taken to the Oak Ridges Moraine Conservation Plan (ORMCP) Conformity Exercise for the Town of Whitchurch-Stouffville Official Plan;
- to update Council on the status of the Conformity Exercise including the Vandorf-Preston Lake portion of the Moraine, and particularly to

summarize the changes made to the draft amendments in response to public and agency input; and,

- to respond to the comments on the draft Conformity Exercise Official Plan Amendment and that portion of the Vandorf-Preston Lake Secondary Plan in the Moraine from interested members of the public and government agencies.

The ORMCP Conformity Exercise Official Plan Amendment and the portion of the Vandorf-Preston Lake Secondary Plan in the Moraine are not attached to this Report. Copies of these Amendments have been circulated separately at an earlier date to members of Council and have been made available to members of the public for their review at various Town buildings since October 1, 2003. The availability of the original amendment documents was advertised in a Notice posted on the Town's WEB site; the Town's page in the Stouffville Tribune; and, on Notices posted at various Town buildings.

## **2.0 BACKGROUND**

In May 2001, the Minister of Municipal Affairs and Housing introduced the *Oak Ridges Moraine Protection Act, 2001*. The Act established a six month moratorium on development on the Moraine.

On November 1, 2001, the Minister announced a comprehensive strategy for the Oak Ridges Moraine which included introducing the *Oak Ridges Moraine Conservation Act, 2001*. The Act was passed by the legislature on December 13, 2001 and received Royal Assent on December 14, 2001.

*The Oak Ridges Moraine Conservation Act, 2001* authorizes the Lieutenant Governor in Council to designate an area of land as the Oak Ridges Moraine Area. Ontario Regulation 01/02 was filed on January 10, 2002. It also permits the Minister, by regulation, to establish the Oak Ridges Moraine Conservation Plan. Ontario Regulation 140/02 which establishes the Plan was filed on April 22, 2002.

The Introduction to the Plan describes the document as

“an ecologically based plan established by the Ontario government to provide land use and resource management direction for the 190,000 hectares of land and water within the Moraine.”

All decisions of provincial ministers, ministries, agencies and municipalities must conform to the Plan. In addition, municipal plans are required to be brought into conformity with the Plan. However, where applications have commenced before November 17, 2001, a range of transitional provisions apply, and the application is generally not required to comply with all provisions of the Plan.

A major portion of the Town is located in the Moraine. As a consequence, the Conservation Plan has significant implications for the Official Plan as any plan for this area must conform with the Conservation Plan. The Town has until October 22, 2003 to bring its Official Plan into conformity with the Conservation Plan to allow the amendment to be approved by the Minister of Municipal Affairs, rather than through the normal process under the Planning Act.

The Town initiated its Conformity Exercise with a background analysis. The "Background & Analysis Report" was reviewed with the public at an open house in April 2003. The purpose of that report was to outline:

- fundamental findings of the background analysis;
- key issues, challenges and opportunities to be addressed by the Town in successfully completing the ORMCP implementation program;
- fundamentals to be considered in the drafting of the Plan amendment;
- provision of perspectives on the implications of the intended policy framework on existing policy;
- comments and recommendations on the Town's position with respect to pending planning applications; and
- comments and observations regarding additional implementation tools.

Based on that analysis, a proposed Official Plan Amendment has been prepared for the lands in the Moraine outside the Vandorf-Preston Lake Area.

With respect to Vandorf-Preston Lake, Macaulay Shiomi Howson Ltd. was commissioned by the Town in 2000 to prepare a Secondary Plan for the communities of Vandorf and Preston Lake, including a significant area in the Moraine. As part of that process, an Advisory Committee was appointed, a "Visioning Workshop" was held, and a Background Study (dated June 2002) was prepared. The Background Study, and interaction with the Advisory Committee and the participants of the Visioning Workshop led to the preparation of a draft Secondary Plan.

In considering the draft Secondary Plan, Council recognized that the portion of the

Plan in the Moraine was subject to the requirements for conformity with the Moraine Plan. They directed in August 2003 as follows:

*“AND THAT Staff be directed to petition the Minister of Municipal Affairs & Housing to seek an extension to March 15<sup>th</sup>, 2004 for the Oak Ridges Moraine Conservation Plan conformity exercise as it affects those lands within the Vandorf-Preston Lake Secondary Plan Study Area, and if the Ministry does not grant the extension, Staff be directed to included the affected lands in the Conformity Official Plan Amendment that is being prepared for the balance of the Moraine lands in the Town.”*

The Minister has not granted an extension, therefore, the Secondary Plan has been modified so that it applies only to those lands in the Moraine to allow Council to adopt it and meet the conformity exercise deadline.

With respect to the General Zoning By-law Nos. 87-34 and 72-7, the Town wishes to prepare a new Comprehensive Zoning By-law. It has not been possible to undertake this within the time line established for the conformity exercise. It is considered prudent, however, to request the Minister for an extension of the conformity exercise as it pertains to the By-law, given the uncertainty which exists with respect to future provincial actions.

### **3.0 OAK RIDGES MORaine PLAN STRUCTURE**

The ORMCP consists of the following sections:

- i) Part I General Provisions;
- ii) Part II Land Use Designations;
- iii) Part III Protecting Ecological and Hydrological Integrity;
- iv) Part IV Specific Land Use Policies; and,
- v) Part V Prescribed Provisions.

The Plan must be read in its entirety to determine its full implications for any specific site.

The land use designations and related policies applicable to the Town are summarized below. It should be noted that existing uses are permitted in all designations subject to the provisions of Section 6 of the Plan.

- i) Natural Core Area

This designation is the most restrictive. Permitted uses are very limited and include:

- a) fish, wildlife and forest management;
- b) conservation projects and flood and erosion control projects;
- c) agricultural uses;
- d) transportation, infrastructure and utilities where the need for the project has been demonstrated and there is no reasonable alternative;
- e) home businesses and home industries;
- f) bed and breakfast establishments;
- g) farm vacation homes;
- h) low intensity recreational uses;
- i) unserviced parks; and,
- j) accessory uses.

ii) Natural Linkage Area

The permitted uses are the same as those for the Natural Core Area designation. In addition, mineral aggregate operations and wayside pits are permitted.

iii) Countryside Area

The permitted uses are the same as those in the Natural Linkage Area. In addition, agriculture-related uses; small scale commercial, industrial and institutional uses; and major recreational uses are permitted subject to a number of conditions. For instance, small scale commercial, industrial and institutional uses are subject to the provisions of Section 40 of the Plan which states that they must be supportive of, complementary to or essential to uses permitted in Countryside Areas and do not require large-scale modification of terrain, vegetation or large scale buildings and structures. Specific uses such as schools and farm implement stores are provided as examples of permitted uses.

iv) Rural Settlement

The Rural Settlement designation forms part of the Countryside Area designation. The permitted uses in Rural Settlements include the uses permitted in the Countryside Area designation; residential development for minor infilling or for the rounding out of Rural Settlements and small scale commercial, industrial and institutional uses normally found in Rural

Settlements.

v) Settlement Area

This designation permits all uses permitted by the applicable official plan.

Part III of the Plan, Protecting Ecological and Hydrological Integrity, is of particular importance. It contains a number of requirements and restrictions for development based on preservation of natural heritage features, water features and landform conservation areas. These provisions apply to all the designations in the Study Area and relate to the following matters:

- i) connectivity;
- ii) minimum area of influence and vegetation protection zones;
- iii) identification of key natural heritage features;
- iv) protection of hydrological features including requirements for watershed plans, and water budgets and conservation plans; identification of hydrologically sensitive features; protection of subwatersheds; establishment of wellhead protection areas and protection of areas of high aquifer vulnerability; and,
- v) identification of landform conservation areas.

Part IV of the Plan provides specific policies related to:

- i) lot creation;
- ii) uses accessory to agricultural uses;
- iii) mineral aggregate operations and wayside pits;
- iv) low intensity recreational uses;
- v) major recreational uses;
- vi) trail system;
- vii) small scale commercial, industrial and institutional uses;
- viii) transportation, infrastructure and utilities;
- ix) official plan provisions, wellhead protection areas, areas of high aquifer vulnerability;
- x) sewage and water services;
- xi) partial services;
- xii) stormwater management; and,
- xiii) rapid infiltration basins and columns.

Part V: Prescribed Provisions, establishes the sections of the Plan which are subject to the transitional provisions of Section 15 (2) of the *Oak Ridges Moraine Conservation Act, 2001*.

#### **4.0 CONFORMITY EXERCISE APPROACH**

The Moraine Plan is a very complex document and many of its sections reference other sections. As a consequence it is extremely difficult to bring the Town's Official Plan into conformity without either incorporating the ORMCP in its entirety into the Town's Official Plan or referencing the Plan as it pertains to specific designations. The approach chosen for Whitchurch-Stouffville was to reference specific sections of the ORMCP in the Town's Official Plan and Secondary Plans, including the Vandorf-Preston Lake Secondary Plan, and to attach the ORMCP to the Town's Plan as an appendix for ease of reference by the public.

It should also be noted that the ORMCP permits only limited modifications to existing uses which do not conform to the Plan. The Town's amendment expands on the permissions in the ORMCP, based on discussions with Provincial staff and a recent Ontario Municipal Board decision (Board Order No. 1222, September 15, 2003), to permit new accessory uses and expansions of existing buildings without a Zoning By-law Amendment.

#### **5.0 OFFICIAL PLAN AMENDMENT SUBMISSIONS AND MODIFICATIONS**

##### **5.1 General Official Plan Amendment**

Table 1 to this report summarizes the submissions received to date from the public and agencies with respect to the general Official Plan Amendment. No significant changes were made to the amendment as a result of the submissions, however a number of typographical errors were corrected and a special policy was added to allow the continuing development of an existing industrial subdivision in Part of Lot 4, Concession 3.

##### **5.2 Vandorf-Preston Lake Secondary Plan**

Table 2 to this report summarizes the submissions received to date from the public and agencies with respect to the portion of the Secondary Plan in the Moraine area. The Secondary Plan was modified to delete those lands outside the Moraine and to correct typographical errors. In response to the public and agency input, the Plan was modified to reflect an existing industrial use on the west side of Woodbine Ave.

#### **6.0 OFFICIAL PLAN AMENDMENTS STATUS**

##### **6.1 General Official Plan Amendment**

In accordance with the Work Program for the Oak Ridges Moraine Conformity Exercise, the Background & Analysis Report has been completed and reviewed. The draft Official Plan amendment has also been completed and reviewed and is now recommended for adoption. The September 16<sup>th</sup>, 2003 public meeting represented the formal and statutory requirements of providing the opportunity to receive comments consistent with the provisions of the Planning Act. Adoption must occur prior to October 22, 2003 to meet the deadline imposed by the legislation. The Plan will then be submitted to the Province for approval.

## **6.2 Vandorf-Preston Lake Secondary Plan**

In accordance with the direction of Council in August 2003, the Minister of Municipal Affairs and Housing has been requested to grant an extension with respect to the completion of the conformity exercise for the portion of this secondary plan in the Moraine. That extension has not been granted. Therefore, adoption must occur prior to October 22, 2003 to meet the deadline imposed by the legislation.

In accordance with the Work Program for the Vandorf-Preston Lake Secondary Plan, the Background Report has been completed and reviewed. The draft Secondary Plan and related Official Plan amendment has also been completed and reviewed and that portion of it related to the Moraine is now recommended for adoption. The August 19<sup>th</sup>, 2003 public meeting represented the formal and statutory requirements of providing the opportunity to receive comments consistent with the provisions of the Planning Act. Adoption must occur prior to October 22, 2003 to meet the deadline imposed by the legislation. The Plan will then be submitted to the Province for approval.

## **7.0 CONCLUSIONS**

By-law Nos. 2003-153-OP (General Town Wide Amendment) and 2003-154-OP (Amendment to the Moraine lands within the Vandorf-Preston Lake Secondary Plan area) have been included in the By-law Section of the October 7<sup>th</sup>, 2003 Council Agenda.

<b>Table 1</b>		
<b>Submissions with respect to General Official Plan Amendment</b>		
<b>Submission Summary</b>	<b>Discussion</b>	<b>Recommended Action</b>
1. Toronto and Region Conservation Authority		
1.1 Identified some typographical errors.		Typographical errors have been corrected.
1.2 Requested that amendment indicate that only selected natural features have be identified.	A review of the mapping indicates that extensive areas of natural features have been identified by the Province. It is our understanding that the mapping is complete with respect to those features considered significant with respect to the Moraine.	That no modifications be made to indicate that the features shown are only “selected” features.
1.3 Requested additional references to the Moraine Plan with respect to Major Recreational Uses.		Reference added to Section 38 of the Moraine Plan.
1.4 Seeks modification to policy 14.15.3.2 ii)	This request seems to reflect a misunderstanding of the policy.	That no modification be made.
1.5 Primary Aggregate Resource Area mapping may over lap Core Areas.	Policies prohibit aggregate extraction in Core Areas. No change required to maps.	That no modification be made.

<b>Table 1</b>		
<b>Submissions with respect to General Official Plan Amendment</b>		
<b>Submission Summary</b>	<b>Discussion</b>	<b>Recommended Action</b>
<b>2. Bethesda-404 Landowners Group</b>		
Request specific mention in the amendment of the transitional status of their application.	There are many applications which are subject to the transitional provisions of the Conservation Plan each with a slightly different status. In reviewing this matter with Town staff, it has been determined that it would be extremely difficult to identify all such applications in an appropriate manner. Therefore, it is recommended that no special recognition be given to this specific application.	That no recognition be added to the Plan of the transitional status of this or any other specific application.  As the development files are deemed to be 'transitional' the future consideration of these applications will be assessed based upon the prescribed provisions of the ORMCP and the Town's planning documents.
<b>3. James and Deborah Teeter</b>		
Reserve the right to sever and construct a new home and workshop on their property at 14960 Durham Road 30.	It is our understanding that no application has been filed. Therefore the proposal is not subject to the transitional provisions of the ORMCP and will be subject to the applicable provisions of that Plan.	The proposal is not transitional and will be subject to the provisions of the Moraine Plan.

<b>Table 2 Submissions with respect to Oak Ridges Moraine Portion of Vandorf-Preston Lake Secondary Plan</b>		
<b>Submission Summary</b>	<b>Discussion</b>	<b>Recommended Action</b>
<b>1. Region of York</b>		
1.1 Indicates that Growth Management Study must be completed in a form that can be endorsed by Regional staff prior to any decision by Regional Council with regarding the Secondary Plan.	The Growth Management Study is still in preparation but could not be completed prior to the deadline for the ORMCP conformity exercise. However, the lands in the ORMCP provide for only limited development.	That the Town continue to prepare the Growth Management Study as requested by the Region and complete it prior to the adoption of the remainder of the Secondary Plan.
1.2 Advises that the Region's plans do not contemplate providing municipal servicing to the Vandorf area.	The Vandorf-Preston Lake is a long term plan and it is recognized that the Region does not have plans to provide servicing.	
1.3 Requests a density of 25 units per net ha in the Potential Vandorf Residential Area similar to that in the portion of Aurora west of the 404.	The Secondary Plan recognizes a need for increased density in Vandorf Village, but balances that with the need to preserve a "village" character for this area.	That no change be made to the proposed density for the Potential Vandorf Residential Area.
<b>2. Mr. Baldassare 13962 Warden Ave.</b>		
Objects to designation of his land including a number of Key Natural Heritage and Hydrological features on his property. Objects to lack of compensation.	The designations reflect the designations in the ORMCP and related mapping provided by the Province.	That no modifications be made to the Secondary Plan with respect to the designations of 13962 Warden Ave.
<b>3. Ministry of Transportation</b>		

<p align="center"><b>Table 2</b>  <b>Submissions with respect to Oak Ridges Moraine Portion of Vandorf-Preston Lake Secondary Plan</b></p>		
<b>Submission Summary</b>	<b>Discussion</b>	<b>Recommended Action</b>
Points out that any development along 404 is subject to review by the Ministry and identifies specific setbacks within which no development may occur.	This is a matter which will be dealt with through the review of specific development applications.	
4. Darlene Rice		
Requests notice of any action related to the Secondary Plan.		That the Clerk be advised of this request.
5. Canadian National Railway		
Requested secondary plan include specific policies with respect to noise and vibration studies and life-safety issues.	The Secondary Plan includes policies in the Development Review section requiring noise and vibration studies and consideration of safety measures.	Policies addressing the CNR concerns are included in the Secondary Plan.

<b>Table 2</b>		
<b>Submissions with respect to Oak Ridges Moraine Portion of Vandorf-Preston Lake Secondary Plan</b>		
<b>Submission Summary</b>	<b>Discussion</b>	<b>Recommended Action</b>
6. J. Grella		
Mr. Grella has an existing industrial use and requests that appropriate policies be provided in the Secondary Plan.	<p>This existing use has a unique background. In consultation with staff a special policy was developed to permit the use to continue while simultaneously working to improve its impacts on the environment.</p> <p>Staff have recommended the extension to the temporary use by-law and the requirement for the Owner to enter into a site plan control agreement which would witness the rehabilitation of certain historically disturbed environmentally sensitive areas. Further, a conservation easement will be pursued to protect these environmentally sensitive areas for the longer term.</p>	A special policy has been added to the Plan to recognize the existing use, while providing for improvements in its impacts on the environment.

<b>Table 2</b>		
<b>Submissions with respect to Oak Ridges Moraine Portion of Vandorf-Preston Lake Secondary Plan</b>		
<b>Submission Summary</b>	<b>Discussion</b>	<b>Recommended Action</b>
7. Peter, Janet and James van Nostrand		
Request that their development proposal put forward in 1990 be reflected in the secondary plan, as all the other applications are, and as it would link Vandorf and Preston Lake and be developed with respect for the environment.	<p>It is anticipated that there will be only limited development potential in the Vandorf-Preston Lake area. The proposed secondary plan reflects that fact, and the directions in the Moraine Plan which concentrate development in existing settlement areas and away from the Moraine and its sensitive natural features. As a consequence, the proposed Secondary Plan would direct any new development which may be permitted to the existing Vandorf community, primarily in areas located off the Moraine, rather than to properties such as the van Nostrands which include sensitive features.</p> <p>With respect to the trail system, the proposed plan is conceptual and the related policies indicate that the creation of a trail system will be encouraged. It is recognized that this will require the permission of landowners.</p>	<p>That no change be made to the Plan to permit development on the van Nostrand lands.</p> <p>The van Nostrand's development files are deemed to be 'transitional' and the merits of their applications will be viewed in the context of the Secondary Plan and the prescribed provisions of the ORMCP.</p>

## **REPORT #11**

### **RONALD and MIRIAM BURTCH - PROPOSED ZONING BY-LAW AMENDMENT Part of Lot 20, Concession 7, 4543 Aurora Road Planning File No. ZBA02.010 (C10-DV & D14)**

Report Prepared by: Planner

## **RECOMMENDATIONS**

The Director of Development Services concurs with the following recommendations.

The Manager of Planning Services recommends:

1. THAT By-law No. 2003-151-ZO, being a by-law to change the zoning in General Zoning By-law 87-34 on the subject property (Burtch/4543 Aurora Road) from Rural (RU) to Rural Residential 2 (RR2) and Open Space Environmental (OSE), and to recognise existing setbacks for an existing accessory building, be enacted.
2. AND THAT, by this recommendation, the Owner be advised that the Lake Simcoe Region Conservation Authority (LSRCA) has identified that the property is within a Fill Regulated Area and that a permit will be required from the LSRCA prior to any on-site works being undertaken (ie: grading, placement of fill, construction).
3. AND THAT, by this recommendation the Owner be advised that, should the Zoning By-law Amendment and subsequent severance application be approved, an additional water connection will be required to accommodate the new lot. The cost of this connection will be the responsibility of the Owner.
4. AND THAT Council allocate the equivalent of one residential unit of water capacity from the Ballantrae - Musselman Lake water system reserve to accommodate the development proposal.
5. AND THAT, if Council is satisfied with respect to the matter of Public Notice relating to the application of the Open Space Environmental (OSE) zoning on the property, and the accommodation of two existing setbacks for an existing accessory building, that a resolution pursuant to Section 34(17) be passed stipulating that further notice in respect of the zoning change not be required.

## **1.0 SUMMARY**

On May 30, 2002, a Zoning By-law Amendment application for the subject property was submitted by Donald Hindson, solicitor for the Owners. The intent of the application is to rezone the subject land from Rural (RU) to the Rural Residential Two (RR2) Zone to facilitate the severance of the property into two estate residential lots.

On September 17, 2002 a Public Meeting was held to consider the application. After the review of a Staff Report presented at the Public Meeting, Council in Committee resolved:

1. THAT the owner submit to the Town and to the Lake Simcoe Region Conservation Authority a report demonstrating how the application conforms to policies of the Oak Ridges Moraine Conservation Plan, as outlined in the LSRCA letter dated July 18, 2002.
2. AND THAT the owner submit to the Town a plan showing the location and extent of the existing hedge row vegetation which is situated at the easterly limits of the property.
3. AND THAT the owner submit a plan designed by a qualified septic system designer demonstrating that a septic system can be located on the lot to be severed.
4. AND THAT all comments received from members of the public and government agencies be referred back to Staff for a further report regarding the disposition of this application.

All the information requested in Items 1, 2 and 3 above has been submitted. Staff and agencies having a mandate to comment on the Zoning By-law Amendment application have examined the proposal in the context of the relevant policies of the Ballantrae-Musselman Lake Secondary Plan, General Zoning By-law No. 87-34, the Region of York Official Plan, the Provincial Policy Statement, the Oak Ridges Moraine Protection Act, 2001 and, the Town's Natural Features and Greenlands Study. In addition to the foregoing, comments received from the Public at the September 17, 2002 Public Meeting have also been considered.

After having taken all the aforementioned into consideration, Staff are recommending that the application be supported, provided the wood lot on the east side of the property is protected. To achieve this, By-law 2003-151-ZO will zone the wood lot area as Open Space Environmental (OSE). The amendment will also recognise a setback of 1.0 metres (3.39 feet) for the southerly yard and 1.8 metres (5.9 feet) for

the westerly yard for an existing accessory building.

## **2.0 SUBJECT PROPERTY**

### **2.1 Location and Size**

The 2.089 hectare (5.16 acre) property is located in Part of Lot 20, Concession 7, at the southeast corner of Aurora Road and McCowan Road, in the Community of Ballantrae, as shown on Attachment No. 1. The property has an exposure of 203.81 metres (668.69 feet) on the south side of Aurora Road and a frontage of 96.46 metres (316.47 feet), on the east side of McCowan Road, as shown on Attachment No. 2. The subject property is municipally known as 4543 Aurora Road.

### **2.2 Site Characteristics**

The rectangular shaped site is generally flat. The most significant vegetation on the property is a mature coniferous hedgerow, which covers most of the eastern one-third of the site. A dwelling and three accessory buildings are located on the easterly portion of the property.

### **2.3 Surrounding Uses**

The property is bounded to the north, on the opposite side of Aurora Road, by a block of Regional Forest; to the east and south by Rural non-farm properties; and, to the west on the opposite side of McCowan Road by a block of Regional Forest. Abutting lands to the east and south are designated "Ballantrae Future Residential Area II" in OPA No. 90.

## **3.0 BALLANTRAE-MUSSELMAN LAKE AND ENVIRONS SECONDARY PLAN**

The applicant's property is designated "Ballantrae Future Residential Area II" in Official Plan Amendment No. 90, the Ballantrae-Musselman Lake and Environs Secondary Plan. The hedgerow along the east side of the property is designated as a "Natural Features Enhancement Area."

## **4.0 REGION OF YORK OFFICIAL PLAN**

The subject property is designated Towns and Villages, according to Map 5, in the Region of York Official Plan. The subject property is located on the Oak Ridges Moraine as shown on Maps 1, 2, 3, and 4 of the Regional Official Plan.

## **5.0 ZONING BY-LAW**

The subject property is currently zoned "Rural (RU)" in General Zoning By-law No. 87-34. A rezoning of the property is required to facilitate the severance of the property into two lots.

## **6.0 PROVINCIAL POLICY STATEMENT**

The Provincial Policy Statement (PPS) states that Planning Authorities shall have regard to the PPS.

## **7.0 OAK RIDGES MORAINÉ CONSERVATION ACT, 2001**

The subject property is designated "Settlement Areas" on the Oak Ridges Moraine Conservation Plan, Land Use Designation Map.

## **8.0 GREENLANDS STUDY**

Figure 5 (Forest Cover) identifies a coniferous plantation on the easterly portion of the subject property. Figure 6 (Natural Heritage System) indicates that the subject property is within a Major Recharge Area.

## **9.0 AGENCY COMMENTS**

The Lake Simcoe Region Conservation Authority (LSRCA) , has provided comment in a letter dated July 18, 2002. In summary, the LSRCA letter has identified that the property is within a Fill Regulated Area of the Authority and notes that the applicant should be informed that a permit will be required from the LSRCA prior to any on-site works being undertaken (ie: grading, placement of fill, construction). In addition, the LSRCA notes that the subject property is within the Settlement Area of the Oak Ridges Moraine Conservation Plan (ORMCP) and must comply with applicable sections of the Plan as outlined in their letter.

The Region of York Transportation and Works Department, by an e-mail dated September 9, 2002, have indicated that they have no comment or objection to the approval of the application.

## **10.0 PUBLIC COMMENTS**

The following comments were received at the September 17, 2002 Public Meeting:

### General Questions

Jim Doble questioned if all 5 acre parcels could be divided.

Dave Probert noted that this location is at a very dangerous intersection.

### In Opposition

Dave Probert objected to the lot size (1.97 acres) and also to the location of the driveway.

Frank Sagebiel is opposed to the lot being severed and considers this a precedent for future requests to divide lots.

## **11.0 EVALUATION**

The principle of development for this site is established in Official Plan Amendment No. 90 (OPA 90), which was approved with modifications by Regional Council on March 27, 1997. Staff have reviewed the application and have the following comments:

### **11.1 Ballantrae-Musselman Lake and Environs Secondary Plan**

The applicant's property is designated "Ballantrae Future Residential Area II" in Official Plan Amendment No. 90, the Ballantrae-Musselman Lake and Environs Secondary Plan. This designation is intended to allow future residential development, subject to stringent controls with respect to negative impact on natural systems and features, particularly with respect to servicing. Residential development is permitted within this designation by plan of subdivision or by a maximum of three lots by consent. Demonstration that a suitable sewage disposal system can be constructed on any lot to be created without impacting neighbouring systems, is required as part of the review of the Zoning By-law Amendment application.

The hedgerow along the east side of the property is designated as a "Natural Features Enhancement Area". The purpose of this designation is to maintain and enhance the hedgerow as a wildlife corridor between the Regional Forest lands located north and south of the subject property. Site specific policies have been established within OPA No. 90 with the objective of protecting and, where possible, enhancing the hedgerow on the Burtch property and adjacent landholdings.

In regard to the issue of servicing, the Owner has submitted a septic design for the

lot that is proposed to be severed. The design has been reviewed by the Town's Engineering Technologist who has indicated that there is sufficient area on the proposed lot to accommodate a conventional inground septic system.

In regard to the issue of protection of the hedgerow, the Owner has submitted a landscape plan indicating the width of the hedgerow along the eastern boundary of the property. This area will be zoned Open Space Environmental (OSE) in Zoning By-law No. 2003-151-ZO.

### **11.2 Region of York Official Plan**

The subject property is designated Towns and Villages, according to Map 5, in the Region of York Official Plan. The intent of the Towns and Villages designation is to recognise Communities within municipalities that are subject to existing Municipal Secondary Plans. The proposed development is within the boundary of the Ballantrae-Musselman Lake and Environs Secondary Plan, and as such, the proposed development conforms with the Regional Official Plan.

The subject property is located on the Oak Ridges Moraine as shown on Maps 1, 2, 3 and 4 of the Regional Official Plan.

### **11.3 Zoning By-law**

The subject property is currently zoned Rural (RU) in General Zoning By-law No. 87-34. The amendment will change the zoning from Rural (RU) to Rural Residential 2 (RR2) and Open Space Environmental (OSE), as shown on Attachment No. 3.

A Rural Residential 2 (RR2) Zone permits a Detached Dwelling Unit on a Lot with a minimum area of .8 hectares (1.97 acres) and a minimum frontage of 45 metres (147.6 feet).

An Open Space Environmental (OSE) Zone prohibits the erection of any building or structures or the placement or removal of fill, except for flood or erosion control purposes.

The purpose and effect of the proposed Amendment is to permit the severance of the property into two residential lots, one with an existing dwelling and accessory buildings, in accordance with the RR2 Zone regulations, and, to protect the existing hedgerow through the application of the Open Space Environmental (OSE) zoning.

In addition, the amendment will recognise an existing setback of 1.0 metres (3.39

feet) and 1.8 metres (5.9 feet) for the southerly and westerly yards respectively for an existing accessory building.

The creation of the Open Space Environmental (OSE) Zone and the accommodation of the existing setbacks for the existing accessory building were not included in the Notice of Public Meeting. However, it is Staff's opinion that because the OSE zoning will further restrict development on the property, it will have little impact on the neighbouring lands and the general intent of the Notice is maintained. Similarly, the recognition of the existing setback for the accessory structure has no significant impact on the nature of the application. Accordingly, Planning Staff are recommending that, if Council is satisfied with respect to the matter of Public Notice relating to the application of the Open Space Environmental (OSE) zoning on the property, and the accommodation of existing setbacks for the existing accessory building, that a resolution pursuant to Section 34(17) be passed stipulating that further notice in respect of the zoning change not be required.

#### **11.4 Provincial Policy Statement**

The Provincial Policy Statement (PPS) states that Planning Authorities shall have regard to the policy statements. Staff have referenced the PPS and in particular Sections 2.3 (Natural Heritage) and 2.4 (Water Quality and Quantity), and are of the opinion that the mitigative measures (protection of the hedgerow) to be employed through the application of the OSE zoning and the approval of the septic system report demonstrate that appropriate regard has been paid to the Provincial Policy Statements.

#### **11.5 Oak Ridges Moraine Conservation Act, 2001**

The subject property is designated "Settlement Areas" on the Oak Ridges Moraine Conservation Plan, Land Use Designation Map. The following sections of the plan have relevance to the subject application:

- Part 11 - (Land Use Designations): This section describes the purpose, objectives, permitted uses for each of the Moraine's four land use designations, and lot creation policies for Countryside Areas. The policies from this section that are applicable to the subject application are in Section 18, specifically Section 18(3).
- Part 111 - (Protecting Ecological and Hydrological Integrity): This section identifies the Moraine's key natural, hydrological and landform features and describes specific planning, design and development restrictions and

requirements that need to be met to protect the integrity of those features. The policies of this section that are applicable to the subject application are Subsections 19(3) and 31(4). Section 19, specifically Section 19(3) refers to additional sections including Sections 21 to 26, Subsection 27(3), Sections 28 and 29, Subsections 30 (1), (12) and (13).

- Part IV - (Specific Land Use Policies): This section identifies specific planning, design and development restrictions and requirements that may need to be met for specific uses and activities. It also provides policies on lot creation. The policies of this section that are applicable to the subject application are Section 31, specifically 31(4) which refers to additional sections including Subsections 41 (1), (4) and (5) and Sections 42 to 47.

To demonstrate compliance with the relevant Sections of the *Oak Ridges Moraine Conservation Act, 2001* and the implementing Oak Ridges Moraine Conservation Plan, the Owner has submitted a report prepared by Martin Rendl Associates, Planning and Development Services. The report examined the application in the context of the applicable sections of the Oak Ridges Moraine Conservation Plan (ORMCP) and concluded that the application conforms to the policies of that document. The report specifically indicated that the protection of the hedgerow along the easterly side of the subject property is in keeping with the goal of tree preservation enunciated in the policies of both the Secondary Plan and the ORMCP.

As previously mentioned, the protection of the hedgerow will be achieved by the application of the Open Space Environmental (OSE) zoning to the portion of the property on which the hedge row is located. No new construction can take place within the portion of the property subject to this zoning classification.

#### **11.6 Lake Simcoe Region Conservation Authority (LSRCA)**

The Lake Simcoe Region Conservation Authority (LSRCA) provided comment in a letter dated July 18, 2002. In summary, the LSRCA letter has identified that the property is within a Fill Regulated Area of the Authority and notes that the applicant should be informed that a permit will be required from the LSRCA prior to any on-site works being undertaken (ie: grading, placement of fill, construction). In addition, the LSRCA notes that the subject property is within the Settlement Area of the Oak Ridges Moraine Conservation Plan (ORMCP) and must comply with applicable sections of the Plan, as outlined in their letter.

In regard to the matter of the TRCA's Fill Regulations, notification to the Owner of the

LSRCA's permit requirements is provided in Recommendation No. 2 to this report.

In regard to the matter of the Oak Ridges Moraine Conservation Plan (ORMCP), the Martin Rendl report has demonstrated that the proposal is in compliance with the ORMCP requirements.

### **11.7 Public Comments**

The comments received at the September 17, 2002 Public Meeting as recorded in Section 10 of this report focussed on four issues. The questions and answers relating to these four issues are identified as follows::

Q. Can all 5 acre lots be divided?

A. The subject property is designated "Ballantrae Future Residential Area II" in OPA No. 90. This designation is intended to allow residential development, subject to stringent controls with respect to negative impact on natural systems, features and site servicing. Any application for severance of a 5 acre lot would be considered on it's individual merits.

Q. Is the small lot size appropriate?

A. The proposed 2 acre lot size complies with the minimum lot size requirement of .5 hectares (1.25 acres) prescribed in OPA No. 90.

Q. Is the driveway location appropriate (dangerous intersection)?

A. The driveway location has been commented on by both the Region of York Transportation and Works Department and the Municipal Public Works Department. Provided the driveway location onto McCowan Road is located at the south side of the property, neither the Region or the Town has objected to the proposed amendment.

Q. Will the severance create a precedent for similar applications?

A. Any application will be considered on it's own merits against the policies of applicable control documents. A precent is not being set as the severance is accommodated in the Official Plan.

### **11.8 Landscape Plan**

The Owner's property is designated Natural Feature Enhancement Area in Official Plan Amendment No. 90. The policies of this section require that the hedgerow on the subject property be protected. Under the authority of Section 3.22.3 ii, the Town can require the applicant to submit detailed mapping and plans, such as grading and

existing landscape plans (showing any modifications to existing vegetation proposed) and other documentation such as stormwater and erosion and sedimentation plans, to assist the Town in it's review of the application.

Although this type of documentation is generally not requested when a single severance is being considered, Staff requested that the Owner submit a landscape plan showing the limits of the hedgerow on the property to facilitate compliance with the policies of this section of OPA No. 90.

The Owner submitted a plan that identified the location of the hedgerow on the property. As previously stated, the portion of the property on which the hedgerow is located will be zoned Open Space Environmental (OSE) in order that this environmental feature can be protected from development and to provide a wildlife corridor between the Regional Forest lands to the north and south.

### **11.9 Septic System**

The Owner has submit a preliminary septic plan, prepared by a qualified septic designer, that indicates that there is a suitable location on the proposed severed (westerly) lot to accommodate a septic tank and tile field without impacting on neighbouring properties. The preliminary septic design has been reviewed by the Development Technologist and found to be acceptable. The detailed septic design will be submitted at the Building Permit stage in the development process.

### **11.10 Water Connection**

The subject property is within the area serviced by the Ballantrae-Musselman Lake Water System and servicing capacity is available to the property. The Owner has been advised through Recommendation No. 3 to this report that, should the Zoning By-law Amendment and subsequent severance application be approved, an additional water connection will be required to accommodate the new lot. The cost of this connection will be the responsibility of the Owner.

In a letter received from the Region of York, they have advised the Town that the Water Take Permit for the Ballantrae-Musselman Lake Water System has been increased from the equivalent of 30 l/s to 37.5 l/s. At the Council meeting of September 16<sup>th</sup>, 2003, it was resolved that the equivalent of 10 residential units of water capacity be held in reserve to accommodate bona fide infill / redevelopment opportunities. It is recommended that Council allocate the equivalent of one residential unit of water capacity from the reserve to accommodate this development proposal.

## **12.0 CONCLUSION**

Having taken all the aforementioned into consideration, Planning Staff is of the opinion that the Zoning By-law Amendment to change the zoning on the property from Rural (RU) to Rural Residential 2 (RR2) and Open Space Environmental (OSE), with a provision to recognise setbacks for an existing accessory building of 1.3 metres (3.39 feet) and 1.8 metres (5.9 feet), is a reasonable and appropriate land use activity at this location. Town Staff's opinion is based on the following:

1. The proposal is not in conflict with the Provincial Policy Statement;
2. The proposal generally conforms with the Regional Official Plan;
3. The proposal generally conforms with the Ballantrae-Musselman Lake Secondary Plan;
4. The preservation of the hedgerow will preserve the connectivity between the Regional Forest lands north and south of the property;
5. Concerns raised at the Public Meeting have been addressed;
6. Both the proposed lots will comply with the RR2 Zoning minimum area and frontage requirements;
7. The application is in compliance with the applicable policies of the Oak Ridges Moraine Conservation Plan;
8. The preliminary septic design has indicated that there is sufficient area on the proposed lot to accommodate a conventional in ground septic system;
9. Water capacity is available to service the lot proposed to be created through the severance process.

By-law No. 2003-151-ZO has been prepared and is included in the By-law section of the Council Agenda.

## **REPORT #12**

**EXEMPTION FROM SITE PLAN CONTROL - HYPRESCON  
Part Lot 4, Concession 8, 5387 Bethesda Road  
Planning File No. SPA03.012 (C10-DV & 11)**

**RECOMMENDATION:**

The Director of Development Services concurs with the following recommendation.

The Manager of Planning Services recommends:

1. THAT THE Mayor and Clerk be authorized to enter into an Agreement with Hyprescon wherein the Owner shall agree to have a Stormwater Management and Drainage Report prepared by a qualified engineer that will examine the overland flows and assess the stormwater management needs on the site and that will make recommendations relating to the correction of any stormwater management and drainage deficiencies on the property.
2. AND THAT the Agreement referred to in Item 1 will include a requirement that the Owner provide a security, the amount of which will be determined by the Director of Development Services, to ensure the provision of the Stormwater Management and Drainage Report referred to in Item 1, and to ensure completion of any works required to implement the recommendations of the Report to the satisfaction of the Town.
3. AND THAT the cost of the review of the Stormwater Management and Drainage Report referred to in Item 1 by the Town's Engineering Consultant be the responsibility of the Owner.
4. AND THAT, prior to issuance of a Building Permit for any building on the site, the Agreement referred to in Item 1 shall be executed by the Owner and the Town.
5. AND THAT a further report be presented to Council in January 2004 relating to the disposition of matters relating to the Stormwater Management and Drainage issues.
6. AND THAT By-law No. 87-47, as amended, be further amended to exempt Hyprescon, 5387 Bethesda Road, from Site Plan Control to permit the construction of a building having a gross floor area of approximately 186 square metres (2000 square feet).

**1.0 BACKGROUND**

Attached is a copy of a letter dated September 18, 2003 from Martin Doran, General Manager of Hyprescon, requesting exemption from Site Plan Control to permit the construction of a 2000 square foot metal clad building (core building).

Also attached is a copy of a Drainage Plan showing the location of all structures on the property and the proposed location of the Core Building that is the subject of this application. The Core Building will be located south of the existing buildings, approximately 150 metres from the southerly lot line, 40 metres from the easterly property line, 210 metres from the northerly property line and 200 metres from the westerly property line.

Drainage patterns on the property are not clearly defined and there has been concern expressed relating to run-off onto neighbouring lands. Because of this, Staff are recommending that the Owner have a Stormwater Management and Drainage (SWM) Report prepared that will examine the overland flows and stormwater management needs on the site. Staff are recommending that the Owner enter into an Agreement with the Town wherein Hyprescon agrees to provide the requested SWM Report. This Agreement should be executed prior to the issuance of a Building Permit for the proposed building. After the SWM Report has been reviewed and approved, a further Staff Report will be presented to Council in January, 2004.

Given the substantial distances that the building will be located from the property lines; the proposed location behind existing buildings on the site; and, the relatively small size of the structure, Planning Staff is of the opinion that there will be limited impact on neighbouring properties and that there is no benefit to the Town in requiring the Owner to enter into a Site Plan Control Agreement. Accordingly, Staff suggest that exemption from site plan control will have no detrimental effect and is appropriate.

## **REPORT #13**

**SAVOIA DEVELOPMENTS LTD. (Phase II - Simpson Property)  
PROPOSED PLAN OF SUBDIVISION & ZONING BY-LAW AMENDMENT  
PART OF LOT 22, CONCESSION 7, 15532 HIGHWAY No. 48  
COMMUNITY OF BALLANTRAE  
FILE Nos. 19T(W)-02.001 & ZBA02.014 (C10-DV & D12)**

Report Prepared By: Manager of Planning Services

### **RECOMMENDATION**

The Director of Development Services concurs with the following recommendation:

The Manager of Planning Services recommends:

THAT the Town issue a Notice of Decision to approve Draft Plan of Subdivision File No. 19T(W)-02.001, subject to the Conditions as set out in Schedule 1 to this Report, in accordance with the provisions of Section 51(31) of the Planning Act;

AND THAT By-law No. 2003-152-ZO, being a By-law to implement the development of Subdivision File No. 19T(W)-02.001, be enacted;

AND THAT Council deem that further Notice with respect to the By-law Amendment is not necessary as the revisions to the Amendment are deemed to be minor in nature in accordance with the provisions of Section 34(17) of the Planning Act;

AND THAT Council allocate the equivalent of fifteen (15) residential units of water capacity to Subdivision File No. 19T(W)-02.001 from the Ballantrae-Musselman Lake water system reserve capacity.

### **1.0 SUMMARY**

Savoia Developments Ltd. has submitted Plan of Subdivision and Zoning By-law Amendment applications to the Town for review and consideration. The applications are designed to facilitate the development of fifteen (15) residential lots and a 1.03 hectare (2.5 acre) commercial block.

The principle access to the development would be from Highway No. 48, with the creation of a new road immediately opposite the entranceway into the Ballantrae Golf & Country Club. This road would continue westerly and connect with the terminus of Ballantrae Road. A second internal road, that is oriented to the south, would connect Ballantrae Road to the terminus of George Pipher Lane situated to the west of the proposed commercial block. The proposed road pattern of the subdivision provides for the connections that were originally designed with the approval of the first phase of the Savoia subdivision lands to the south and west. The proposed subdivision would be serviced by municipal water and individual private sewage disposal systems.

The Zoning By-law Amendment contemplates the reclassification of the 15 residential lots to the Suburban Residential One (SR1) Zone. The SR1 Zone permits single detached residential dwellings and accessory uses. The minimum lot area is 5000 square metres (1.23 acres) with a corresponding minimum lot frontage of 35 metres (115 ft.). It is proposed that a further restriction be imposed on eleven lots within the Draft Plan (Lots 5 to 15 inclusive as shown on Attachment No. 2), which would prohibit the construction of accessory buildings within 5 metres of the rear yard. This restriction has been recommended to protect an existing hedgerow that has been observed along the rear lot lines of the referenced Lots.

The commercial block is proposed to be rezoned to the Local Commercial Holding (LC-h) Zone. The proposed LC Zone would permit a range of commercial activities which include: professional and business offices; clinics; financial institutions; personal service establishments; and, studios. It is also proposed that the LC Zone be affixed with a Holding (-h) symbol to ensure that the future development of the commercial block occurs in a fashion consistent with the Town's expectations.

This Report has been prepared to address the comments received during the initial review of the development proposal, and, to assess the merits of the applications.

## 2.0 PROPOSAL

Owner:	Harry & Marlene Simpson
Applicant:	Savoia Developments Ltd.
Location:	West side of Highway No. 48, north of the Ballantrae Fire Hall Part of Lot 22, Concession 7 Community of Ballantrae
Residential Units:	15 single detached
Commercial:	1 commercial block - 1.03 hectares (2.5 acres) in area
Water Supply:	Municipal water
Sewage Treatment:	Private individual septic systems
Storm Drainage:	Roadside ditch to be drained to two off-site existing stormwater management ponds
Total Land Area:	Approximately 10.2 hectares (25 acres)

The draft plan of subdivision consists of 15 single detached residential lots and a 1.03 ha (2.5 acre) commercial block. The proposed commercial block is sited at the southwest corner of the proposed extension of Ballantrae Road and Highway No. 48, immediately opposite the entranceway into the Ballantrae Golf & Country Club. The fifteen residential lots will be accessed via the internal road system, consisting of an extension to Ballantrae Road from its present terminus easterly through to Highway No. 48, and, an extension northerly of George Pipher Lane from its present terminus where it will intersect the proposed extension of Ballantrae Road. The proposed road network was contemplated in the original development approvals associated with the first phase of the Savoia Development (57 residential lots) situated to the west and south of the subject lands. A reduced copy of the draft plan of subdivision is attached to this Report as Attachment No. 2.

In order to facilitate the proposed plan of subdivision, it is proposed that the residential component of the development be rezoned from Rural (RU) to Suburban Residential One (SR1), and, the commercial block be rezoned from Rural (RU) to Local Commercial Holding (LC-h). Attachment No. 3 to this Report delineates the proposed zone boundaries overlaid on the road and lot pattern associated with the plan of subdivision.

### **3.0 SITE DESCRIPTION**

#### **3.1 Location and Size**

The subject lands are located in Part of Lot 22, Concession 7 within the community of Ballantrae. The property is assigned the civic address of 15532 Highway No. 48. The property is situated on the west side of Highway No. 48, approximately 85 metres (278 feet) north of the property associated with the Ballantrae Fire Hall. The general location of the subject lands is shown on Attachment No. 1 to this Report.

The subject property has an area of approximately 10.2 hectares (25 acres) with a corresponding lot frontage on the west side of Highway No. 48 of 203 metres (667 feet).

#### **3.2 Site Characteristics**

There are no buildings or structures on the subject lands. The lands are under agricultural cultivation.

The subject lands are fairly flat, with a gentle slope to the west. Vegetation in the form of trees and shrubs are found on the perimeter of the property in the form of hedgerows. For the most part, these hedgerows connect with hedgerows that have been protected in the existing Savoia Subdivision Phase 1 lands to the south and west and form part of a linkage to the Regional Forest block to the west.

The soils found on the property and in the immediate area are characterized by fine sand, silt and silty sand surficial deposits, intermixed with occasional deposits of clayey silt. It is estimated that the shallow surficial water table will not be encountered for excavations of less than 3 metres (10 ft.) in depth.

#### **3.3 Surrounding Land Uses**

The subject lands are situated at the northern edge of the settlement area associated with the community of Ballantrae, and as such, the area is dominated by transitional land use activities.

The adjacent land uses can be summarized as follows:

- ▶ to the north, by agricultural uses;
- ▶ to the south, by a vacant commercial zoned block and a suburban residential subdivision that is presently being established;

- ▶ to the west, by a suburban residential subdivision that is presently being established; and,
- ▶ to the east, across Highway No. 48, the Ballantrae Golf & Country Club and an adult lifestyle community comprised of approximately 350 homes (ultimate residential yield is 750 to 900 units).

#### **4.0 BALLANTRAE-MUSSELMAN LAKE & ENVIRONS SECONDARY PLAN**

The subject lands are designated “Ballantrae Future Residential Area II” within the Ballantrae - Musselman Lake & Environs Secondary Plan. The intent of this designation is to permit development by plan of subdivision subject to stringent controls with respect to negative impacts on area natural features and systems.

Development may proceed on the basis of either:

- ▶ a communal water and sanitary sewer system; or,
- ▶ a communal water system and individual private sewage septic systems.

It is further stipulated within this designation that for development which occurs on the basis of communal water and private individual septic systems, as is the case for this proposed subdivision, the minimum residential lot size shall be 5000 square metres (1.23 acres).

The Ballantrae Future Residential Area II designation also permits limited commercial and institutional uses to be developed on lots fronting onto the Highway No. 48 corridor.

Lands within the adjacent subdivision to the west and south of the subject lands are similarly designated “Ballantrae Future Residential Area II”, however, the earlier development also had the overlay designation “Natural Feature Enhancement Area”. This overlay designation recognizes natural heritage attributes that contribute to natural systems and processes. In the case of the earlier subdivision, this overlay designation recognized the mature hedgerows that framed the edge of cultivated fields which eventually connected to the Regional Forest block located further to the west.

As part of the review of this new subdivision proposal, Staff have assessed the opportunity to extend or enhance the hedgerows within this second phase of development and thereby build upon the efforts undertaken in the earlier proposal. In this respect, specific zone restrictions or provisions have been developed to

protect the hedgerow feature(s) and/or requirements that the Owner undertake the planting of native species to augment the feature where it has been thinned out or interrupted. It is recommended that Lots 5 to 15 inclusive (as identified on Attachment No. 2) be required through the implementing Zoning By-law Amendment to prohibit the future erection of accessory buildings within five metres of the rear property line. Further, a Draft Plan Condition has been established which requires the Owner to enhance the hedgerow feature as part of the development of the subject lands.

## **5.0 REGION OF YORK OFFICIAL PLAN**

The communities of Ballantrae and Musselman Lake are designated as “Towns & Villages” within the Regional Official Plan. The intent of this designation is to recognize an area within the Region where moderate growth can occur on the basis of municipal servicing infrastructure.

## **6.0 OAK RIDGES MORAINÉ CONSERVATION ACT, 2001**

The subject lands are within the Oak Ridges Moraine physiographic region, and as such, the applicable provisions of the *Oak Ridges Moraine Conservation Act, 2001* apply in any future decision rendered on these planning applications.

Within the Oak Ridges Moraine Conservation Plan (ORMCP), the subject lands are classified as “Settlement Area”. This designation recognizes the development lands within the larger Ballantrae community area. Urban development is to be directed to Settlement Areas, provided that it is undertaken in a fashion consistent with Secondary Plan policies, and, it is demonstrated that development can occur without impairing the ecological and hydrological features of the area. The Owner must demonstrate through the submission of technical studies that there is no impact on area features, and thus, conformity with the ORMCP.

## **7.0 ZONING BY-LAW**

### **7.1 Present Zone Classification**

The subject lands are currently zoned Rural (RU) in General Zoning By-law 87-34. Agriculture and related uses are the principal activities permitted within the Rural (RU) Zone.

## **7.2 Proposed Zone Classifications**

To facilitate the proposed subdivision, an Amendment to General Zoning By-law 87-34 has been sought to reclassify the lands to the Suburban Residential One (SR1) and Local Commercial (LC) Zones.

The Zoning By-law Amendment contemplates the reclassification of the 15 residential lots to the Suburban Residential One (SR1) Zone. The SR1 Zone permits single detached residential dwellings and accessory uses. The minimum lot area is 5000 square metres (1.23 acres) with a corresponding minimum lot frontage of 35 metres (115 feet). It is further recommended that for Lots 5 to 15 inclusive, a restriction be established that would prohibit the future construction of accessory buildings within 5 metres of the rear lot line. The exaggerated setback for accessory buildings is designed to protect a hedgerow that is present at the rear of the aforementioned lots.

The 1.03 hectare (2.5 acre) commercial block is proposed to be rezoned to the Local Commercial (LC) Zone. The LC Zone permits a range of commercial activities which includes: professional and business offices; clinics; convenience stores; financial institutions; personal service establishments; restaurants; service and repair shops; studios; and, accessory dwelling units. The minimum lot area for the LC Zone is 695 square metres (0.17 acres) with a corresponding minimum lot frontage of 18 metres (60 feet) where municipal water service and a private septic system are proposed.

It is recommended to Council that for this property, the (LC) permitted uses be restricted to: professional and business offices; clinics; financial institutions; and, personal service establishments. It is also recommended to Council that a Holding (-h) symbol be affixed to the (LC) Zone to ensure that the future development of the commercial block advances in a fashion consistent with the Town's expectations.

The proposed boundaries of the two zone classifications are overlaid on the draft plan of subdivision as shown on Attachment No. 3 to this Report.

The utilization of the Holding (-h) symbol, the restriction on the range of permitted uses on the commercial block, and, the exaggerated setback for accessory buildings within certain residential lots was not originally identified in the Notice of Public Meeting. These revisions have occurred since the Public Meeting and reflect the analysis completed by Staff during the review of the development files. It is Staff's opinion that these revisions are minor in nature, and as such, it is recommended to Council that a further Public Meeting is not necessary to advise of the proposed revisions. A Resolution of Council passed under the authority of Section 34(17) of the Planning Act is necessary to affirm this position.

## **8.0 CORRESPONDENCE AND PUBLIC CONSULTATION**

### **8.1 Public Correspondence**

As of the date of submitting this Report for inclusion in the October 7<sup>th</sup>, 2003 Council in Committee Agenda, only one letter has been received.

In a letter dated September 26<sup>th</sup>, 2002, Cam & Julie Kirkby (14 Whiteville Court) have raised concerns about the continual presence of blowing sand arising from the earlier phase of the Savoia Developments and the problems this has caused with respect to enjoying their own property. Further, the noise emanating from the construction of homes (radios and voices) has been excessive and the Kirkby's would like to see the Town regulate this nuisance.

### **8.2 October 1<sup>st</sup>, 2002 Public Meeting**

At the October 1<sup>st</sup>, 2002 Public Meeting, several members of the Public addressed Council to indicate support for or opposition to the development proposal. A summary of the comments is as follows:

- ▶ concern about development on the basis of private septic systems;
- ▶ concern about traffic infiltration from Highway No. 48 through the subdivision into established neighbourhoods to the southwest;
- ▶ concern about the availability of a potable water supply to support the subdivision and the existing community;
- ▶ support for the development as it represents a secondary means to exit / enter the existing subdivision to the south and southwest.

### **8.3 Government Agencies & Utilities**

The Region in a letter dated September 24/02 advised that, once sufficient water capacity is available in the Ballantrae-Musselman Lake system and water supply is allocated by the Town to the development, they would have no objections to the proposal. In subsequent correspondence received from the Region, dated September 15/03, the Town has been advised that the Water Take Permit for the Ballantrae-Musselman Lake water system has been increased to an interim capacity of 37.5 l/s. At the Council meeting of September 16<sup>th</sup>, 2003, Council resolved to create a water capacity reserve equivalent to 55 residential units that could be used to support new residential development proposals such as this Draft Plan of

Subdivision. If Council supports this subdivision, the equivalent of 15 residential units of water capacity would have to be allocated by the Town from the residential reserve capacity.

The York Catholic District School Board (letter dated July 30/02) and the York Region District School Board (letter dated July 22/02) have both indicated that they have no objections to the proposed development.

Enbridge Consumers Gas (letter dated July 22/02) has advised that, as part of any future subdivision agreement to implement development, the Owner be required to co-ordinate the preparation of an overall utility distribution plan to the satisfaction of all affected authorities.

Canada Post (letter dated October 1/02) has advised that they have no objections to the proposed Draft Plan of Subdivision. Canada Post has requested that certain design parameters associated with the siting of super-mailboxes be included as Conditions to Draft Plan Approval.

Ministry of Transportation (letter dated August 21/02) has indicated that they have no objections to the proposed Draft Plan or Zoning By-law Amendment. The Ministry has requested that as Conditions to Draft Plan Approval the following matters be incorporated:

- ▶ 0.3 metre reserve across the Highway No. 48 frontage;
- ▶ the completion of a Traffic Impact Study which is to be submitted to the Ministry for approval;
- ▶ the completion of a Site Servicing/Grading Plan and stormwater management report which is to be submitted to the Ministry for approval;
- ▶ the dedication of a 15 m x 15 m daylighting triangle to the Ministry at the proposed intersection of Ballantrae Road and Highway No. 48;
- ▶ the completion of an illumination plan for the proposed intersection of Ballantrae Road and Highway No. 48; and,
- ▶ the execution of an Agreement with the Ministry whereby the Owner agrees to assume financial responsibility for construction of the Ballantrae Road intersection and all necessary associated Highway

No. 48 improvements.

#### **8.4 Town Departments**

The Fire Department (Memo dated July 11/02) has advised that, if traffic lights are to be installed at the proposed intersection of Ballantrae Road and Highway No. 48, emergency vehicle controllers are to be provided at this location.

#### **9.0 TECHNICAL STUDIES**

In support of the plan of subdivision and implementing Zoning By-law Amendment, the Owner has commissioned the following reports and submitted these documents to the Town for review purposes. The Studies include:

- ▶ Geotechnical Investigations, Bruce A. Brown Associates Ltd., dated May 21/02;
- ▶ Functional Engineering & Preliminary Stormwater Management Report, Higgins Engineering Ltd., June 2002;
- ▶ Noise Control Feasibility Study, SS Wilson Associates, May 31, 2002;
- ▶ Traffic Impact Study, BA Consulting Group, June 2002; and,
- ▶ Stage 1 and 2 Archaeological Assessment, Archaeological Services Inc., June 2002.

The aforementioned Studies have been circulated to the appropriate Town Departments and government agencies for review and consideration. Generally, the conclusions and recommendations contained in the various Reports have been deemed to be satisfactory. The specific details and requirements arising from the Studies have been included as Conditions to the issuance of Draft Plan Approval and will ultimately be reflected in future engineering submissions and/or clauses within a subdivision agreement.

#### **10.0 PLANNING ASSESSMENT**

In considering the advancement of the Draft Plan of Subdivision and the implementing Zoning By-law Amendment, a series of small revisions have been proposed to the layout of the subdivision, and a series of Conditions have been drafted which will assist in directing the future development of the lands consistent

with the objectives of the Municipality.

The key issues include:

- ▶ the restriction in the Zoning By-law Amendment to narrow the range of permitted uses on the proposed commercial block;
- ▶ the imposition of a minimum setback for accessory buildings on Lots 5 to 15 inclusive so that the existing hedgerows can be protected, and where necessary, enhanced;
- ▶ a Condition to Draft Plan Approval which requires the Owner to submit a landscaping plan which identifies planting enhancements at the rear of Lots 5 to 15 to augment the existing hedgerow feature.

With respect to two key issues raised by the Public related to the issue of dust/erosion from the construction sites, and, traffic infiltration issues, Staff have considered these matters and would offer the following comments for consideration by Council.

The issue of dust / blowing sand from the earlier phases of the Savoia Developments has been an on-going and chronic concern for the Municipality and area residents. The issue has been elevated because the soils in this area are dominated by sand and as such it is vulnerable to wind erosion. Site grading and the installation of infrastructure, building sites, etc. do and will continue to cause area soils to be vulnerable to wind erosion. As a means of controlling this matter, Staff are proposing in the subdivision agreement that a concerted effort be pursued to minimize the timeframe when soils are left disturbed and uncovered. It is proposed that, at the time of the building permit, the release of the permit be issued in two stages. Stage 1 would be the foundation and finished floor permit. At the conclusion of this stage, the Owner would be obligated to rough grade the disturbed area of the site and seed/mulch the area. If this event is completed during the winter months, the Owner would be required to install snow fences or equivalent across the property in established intervals to capture any blowing sands. With the re-introduction of the growing season, seed/mulch plantings would be required across the disturbed area. The Stage 2 permit, that being the construction of the balance of the residence, would not be issued until the aforementioned site restorations are completed to the satisfaction of the Town. The Town will also diligently review site grading plans to ensure that only those areas necessary to construct the residence, driveway, tile beds, etc. are disturbed so that as much of the natural grass vegetation present on the property remains in place.

With respect to traffic infiltration, it appears from comments received that this issue

is raised in the form of the potential for traffic to filter through the subdivision as a by-pass to the intersection of Highway No. 48/Aurora Road, and, construction traffic using local neighbourhood roads causing excessive noise, mud-tracking and potential conflicts. With respect to the internal road system being used as a by-pass, it is unlikely that this event will occur with any measure of frequency as the road pattern meanders and does not provide for direct connection to either Aurora Road or Highway No. 48. With respect to construction traffic, we do expect that the Ministry will revoke the interim construction driveway on Highway No. 48 once Ballantrae Road is connected to the provincial highway. There remains five or six lots within the existing Savoia Phase 1 development that have yet to be built upon, and, the fifteen new lots proposed within Phase 2. The direct connection of a proper road at Highway No. 48 should encourage contractors and building suppliers to use Ballantrae Road as their point of access to the subdivision and, with monitoring and enforcement, we can discourage construction traffic from using the Greenan Road connection.

It is Staff's opinion that, with the adoption of the Conditions to Draft Plan Approval (Attachment No. 4 to this Report), the form of development as proposed will be in compliance with the Oak Ridges Moraine Conservation Plan and the Ballantrae-Musselman Lake Secondary Plan.

**REPORT #14**

**ENACTMENT OF BY-LAWS TO AUTHORIZE AN AGREEMENT WITH 1386416 ONTARIO INC. (PITWAY HOLDINGS), PART LOT 8 AND 9, CONCESSION 5 AND MARIE BRILLINGER, PART LOT 9, CONCESSION 4 (C10-DV & D05)**

Report Prepared by: Director of Development Services

**RECOMMENDATION:**

The Director of Development Services recommends;

THAT by-laws be passed authorizing the Mayor and Clerk to sign agreements with 1386416 Ontario Inc. (Pitway Holdings) pertaining to the placing of clean fill on their lands in Part Lot 8 and 9, Concession 5 and with Marie Brillinger pertaining to the placing of clean fill on her lands in Part Lot 9, Concession 4 in the Town of Whitchurch-Stouffville subject to any final amendments to the agreement deemed necessary by the Town Solicitor.

**BACKGROUND:**

Council in Committee at a special meeting on September 2, 2003 passed the following resolution;

“THAT the draft terms of reference for the provision of inspection services for clean fill sites be approved;

AND THAT the Development Services Department be authorized to request proposals from consultants who have experience in monitoring and inspecting site filling operations to provide this service to the Town;

AND THAT the draft site fill agreement between Marie Brillinger and 1386146 Ontario Limited and the Town be approved subject to any modifications as recommended by the Town Solicitor.

AND THAT the Town request a legal opinion regarding imposing conditions of perpetuity on the property;

AND THAT the agreement be reviewed by Council after two years;

AND THAT a letter be sent to the Region of York requesting that the

speed limit on Warden Avenue south of Bloomington Road be reduced from 70 km to 60 km.”

With respect to the draft fill agreements in order to have these agreements executed it is necessary for Council to pass a by-law authorizing the signing of the agreement. A copy of the agreement is appended to the by-law. The agreement has been reviewed by the Town Solicitor and subject to any additional modifications recommended by the Solicitor is generally in its final form. Clauses have been incorporated into the agreement relating to the owners offer to make an additional payment to the Town of 50 cents per cubic metre of clean fill placed on the site.

The site plans for each of the sites that were included in the September 2, 2003 report to Council in Committee are currently being revised to reflect the comments raised at that time and the additional requirements of the Town. These include the provision of a minimum 30 metre vegetative buffer across the east end of the Pitway property and a 30 metre buffer along the hedgerow across the north limit of the lands which would provide an east-west travel route and refuge for animals. These buffers would be subject to a conservation easement in favour of the Town on the Oak Ridges Moraine Land Trust. The bulk of both sites will be rehabilitated for agricultural purposes. The final site plans will be a schedule to the agreements.

The agreement provides that the Town will issue a fill permit when all the conditions of approval set out in the agreement have been met and after Council has passed a by-law to amend fill control by-law 99-122-RE to exempt the owners land from the condition set out in Section 4(a) of the by-law that prohibits placing and dumping of fill on lands zoned Rural Extractive (RE). The by-law amendment will be presented to Council when all the required conditions are fulfilled.

**THIS AGREEMENT** made this 17<sup>th</sup> day of June, 2003

**B E T W E E N:**

**MARIE BRILLINGER**

(hereinafter called the "Owner")

-and-

**PITWAY HOLDINGS**

(hereinafter called the "Operator")

- and -

**THE CORPORATION OF THE TOWN  
OF WHITCHURCH-STOUFFVILLE**

(hereinafter called the "Town")

NOW WHEREAS Marie Brillinger is the Owner of Part of Lot 9, Concession 4, in the Town of Whitchurch-Stouffville, as described in Schedule 'A';

AND WHEREAS Pitway Holdings will be the Operator responsible to co-ordinate and oversee the placement of fill materials on the property on behalf of the owner;

AND WHEREAS the Town has enacted By-law No. 99-147-RE to prohibit or regulate the placing or dumping of fill in areas of the Town of Whitchurch-Stouffville;

AND WHEREAS By-law No. 99-147-RE prohibits the placing or dumping of fill on any lands zoned Rural Extractive in accordance with By-law No. 92-112.

AND WHEREAS the Owner's lands described in Schedule 'A' are zoned Rural Extractive by By-law 92-112;

AND WHEREAS By-law 99-147-RE is not applicable to any rehabilitation or filling activity to original grade in a pit or quarry licensed under the Aggregate Resources Act 1989 and specifically on the approved site plan;

AND WHEREAS Pitway has a license under the Aggregate Resources Act 1989, License No. 6531 and an approved site plan on the Owner's lands;

AND WHEREAS Pitway has agreed to return its licenses to the Ministry of Natural Resources and the Ministry has agreed to accept them;

AND WHEREAS the Owner has requested the Town to provide an exemption to their lands from the provisions of Section 4(a) of By-law 99-147-RE and to issue a fill permit to allow them to fill their lands in accordance with a site plan prepared by Alcorn and Associates Limited dated May 2003;

AND WHEREAS the placing of fill on the lands is in conformity with the policies of the Oak Ridges Moraine Conservation Plan;

AND WHEREAS the Town consents to this exemption subject to the Owner and Pitway entering into this agreement;

AND WHEREAS the Owner and Pitway have agreed not to contaminate the natural environment and to abide by all applicable environmental laws and regulations;

AND WHEREAS the Town requires as a condition of issuing a fill permit that Pitway pay for the Town's inspection costs and Pitway has agreed to pay these costs;

AND WHEREAS the Planning Act provides for the Council of a municipality to have regard to whether development is in the public interest and to have regard to the inadequacies of municipal services prior to approval of the development;

AND WHEREAS Council of the Town has adopted a set of criteria for approval of developments;

AND WHEREAS Pitway's proposal to fill the lands is considered to be a development to which this criteria would apply;

AND WHEREAS Pitway has voluntarily offered and voluntarily agrees to make a payment of 50 cents per cubic metre of clean fill placed on the lands in order to assist the Town in the provision of significant parkland or open space or enhancement of parks and recreation opportunities or for the improving of public infrastructure. This voluntary contribution shall be made above and beyond any other financial contributions owing to the Town as set out in this agreement.

AND WHEREAS Pitway acknowledges the benefit of having the opportunity to meet the criteria adopted by Council and the resulting reduction in the risk of a refusal of their application for exemption from the provisions of Section 4(a) of the fill by-law.

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of good and valuable consideration and the payment of the sum of Two Dollars (\$2.00) the parties hereto covenant, promise and agree with each other as follows:

1. Approval shall relate to the site grading plan prepared by Alcorn and Associates Limited dated May , 2003 titled Brillinger Pit, East half of Lot 9, Concession 4, Town of Whitchurch-Stouffville, and attached as Schedule 'B' and hereafter referred to as the "Lands".
2. The Owner and Pitway agree to retain a qualified engineer or environmental consultant, approved by the Director of Development Services, who is responsible for ensuring that the placing and dumping of fill is in accordance with accepted engineering and environmental practices, is in accordance with the protocol attached as Schedule 'C', is in accordance with the plans submitted in Schedule 'B', and who is responsible for ensuring that all fill used is clean and free of rubbish, glass, garbage, termites, organic materials, liquid and toxic chemicals and any other contaminants as defined in the Environmental Protection Act..
3. The Owner and Pitway agrees to implement the environmental control program set out in Schedule 'C' and to place and dump the fill in accordance with the site grading plan in Schedule 'B'.
4. The consultant retained pursuant to paragraph 2 shall submit to the Town on a semi-annual basis a report certifying that the placing and dumping of fill is in accordance with Schedules 'B' and 'C'.
5. The Owner and Pitway agree to have installed at least six monitoring wells at locations approved by the Town and shown on the site grading plan, and the consultant retained pursuant to paragraph 2 shall submit to the Town an annual groundwater monitoring report as set out in the environmental control program in Schedule 'C'.
6. The Owner and Pitway agree to restrict the operation of the site between the hours of 7:00 a.m. to 5:00 p.m. Monday to Friday.
7. The Owner and Pitway agree to provide continuous control of mud tracking onto Warden Avenue and to clean the road and roadside ditches impacted by the operation, control dust on access roads and on the site, and to provide for erosion and siltation control all to the satisfaction of the Director of Development Services.

If in the opinion of the Director, this work is not being adequately done, than the Town shall so notify Pitway. Pitway shall have 24 hours from receipt of such notice in which to carry out the required work, failing which the Town may do so, and may calculate the amount payable therefor and invoice Pitway; failing receipt of such payment the Town may draw on the cash deposit referred to in Clause 13 to the extent necessary to pay any amount outstanding.

8. Prior to issuance of a fill permit Pitway shall submit to the satisfaction of the Director of Development Services a phase II environmental impact study that

identifies existing soil conditions of the site and a hydrogeological impact study that includes an assessment of surface water, groundwater recharge and impacts on downstream wells.

9. Prior to issuance of a fill permit, the aggregate extraction licenses issued by the Ministry of Natural Resources for the lands shall be terminated.
10. Prior to issuance of a fill permit Pitway agrees to obtain the approval of the Toronto and Region Conservation Authority of the site grading plan referred to in paragraph 1.
11. The Owner and Pitway hereby agrees to indemnify and save harmless the Town from any action, claim, damages or loss whatsoever which may arise in connection with the matters dealt with in the Agreement, including, without limiting the generality of the foregoing any liabilities arising out of the placing and dumping of fill on the Pitway lands.

Pitway shall take out and keep in force throughout the term of this agreement environmental and comprehensive liability insurance in an amount not less than \$5,000,000 per occurrence against all claims including personal injury, death, property damage and environmental damage resulting directly or indirectly from placing or dumping fill on the lands, which policy shall include the Town as a named insured. Pitway shall provide the Town a certificate evidencing such insurance coverage prior to the Town issuing a fill permit.

12. Prior to issuance of a fill permit Pitway agrees to obtain a road entrance permit from the Region of York Transportation and Works Department.
13. Pitway agrees not to permit any truck to enter the site except from the north and not to permit any truck to exit the site except to the north and to notify all haulers of such restrictions.
14. Pitway agrees to install gates at the entrance to the site and to keep the sites closed and locked except during the approved hours of operation.
15. Pitway agrees to pay any and all costs which the Town may incur relating to any inspection of the filling operation, any peer review costs of semi annual operational reports and annual groundwater monitoring reports and the Town's administration costs. The Town will invoice Pitway on a monthly basis for such inspection and review costs including a 15 percent administration fee and, if payment is not received within 15 days of the invoice date, the Town may draw on the securities provided in paragraph 16. Pitway also agrees to pay all legal fees and peer review costs to prepare and administer this agreement, and, the review of technical reports and drawings submitted in support of the fill permit application.

16. Pitway shall provide and maintain at their cost a site office at least 100 square feet in area for the sole use of the Towns inspector including the provision of heat, light and power and washroom facilities to the satisfaction of the Director of Development Services.
17. Pitway agrees to allow the Town to dump clean fill originating from any Town contract or maintenance operation on the lands at no cost to the Town.
18. Prior to issuance of the permit, Pitway shall deposit with the Town a letter of credit in the amount of \$100,000.00 to guarantee that the work will be carried out in accordance with the approved site grading plan, the environmental control plan and the provisions of this agreement. In the event that Pitway fails to comply with any provisions of this agreement, the Town may draw on the letter of credit to bring about compliance with this agreement. The form of the Letter of Credit is set out in Schedule 'D' of this agreement.
19. Pitway agrees to pay the Town on a semi-annual basis the municipal services fee set out in Schedule 'A' to By-law No. 2002-222-FI, as may be amended from time to time, for each cubic metre of fill dumped on the lands during the previous six months as determined by as constructed elevations of fill placed certified by an Ontario Land Surveyor or Professional Engineer. Payment shall be made within 30 days of the end of the six month period.
20. Pitway agrees to pay to the Town 50 cents for each cubic metre of fill dumped on the lands during the previous six months as determined in paragraph 19. The referenced fee is a voluntary contribution made by the Operator to assist the Town in the provision of significant parkland, or open space or enhancement of parks and recreation opportunities, or, for the improving of public infrastructures.
21. Pitway agrees that the Town may draw upon the letter of credit referred to in paragraph 18 for any payment which has not been made in accordance with paragraph 19 and 20.
22. Pitway agrees that they cannot dump fill prior to issuance of a fill permit as provided for in By-law 99-147-RE and until they have complied with all the provisions of this agreement.
23. Pitway agrees to grant to the Town or any other agency a conservation easement on the vegetative buffers shown on the approved site plan.
24. All notices, demands or requests provided for or permitted to be given pursuant to

this Agreement shall be made in writing as follows:

(a) to the Town at:

The Corporation of the Town of Whitchurch-Stouffville  
37 Sandiford Drive, 4<sup>th</sup> Floor  
Stouffville, Ontario L4A 7X5  
Attn: T.E. Parry, P. Eng., Director of Development Services  
Fax: (905) 640-7957

(b) to the Owner at:

25. Failure to comply with any provision of this agreement may result in termination of this agreement as determined by Council.
26. Pitway shall place fill only for a period of two years at which time this agreement may be terminated or extended by Council for a further two year period. On termination of the agreement Pitway agrees to grade any area that has not been completed in conformity with the final site plan to the satisfaction of the Director of Development Services.
27. All notices, demands or requests shall be deemed to have been properly given if delivered personally or sent by prepaid registered mail or facsimile transmission. If notice is given by prepaid registered mail, the same shall be effective five (5) business days upon being deposited with the post office, or upon proof of delivery by return receipt. However, in the event of the interruption of postal services, the notice shall not be deemed to have been given during such period of interruption, unless a notice has been actually delivered personally.
28. This Agreement shall be binding upon the parties hereto and their successors and assigns, and may be registered against title to the Lands, at the Owner's cost.

IN WITNESS WHEREOF Marie Brillinger and Pitway and the Town have hereunto set

their hands and seals, attested to by the hands of their proper signing officers duly authorized in that behalf.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_ 2003.

SIGNED, SEALED AND DELIVERED  
in the presence of:

) MARIE BRILLINGER  
)  
)  
) \_\_\_\_\_  
)  
)  
)  
) PITWAY HOLDINGS  
)  
)  
) \_\_\_\_\_  
)  
)  
)  
) THE CORPORATION OF THE  
) TOWN  
) OF WHITCHURCH-STOUFFVILLE  
)  
)  
) \_\_\_\_\_  
) Wayne Emmerson, Mayor  
)  
)  
) \_\_\_\_\_  
) Michele Kennedy, Clerk  
)

**THIS AGREEMENT** made this 17<sup>th</sup> day of June, 2003

**B E T W E E N:**

**1386416 ONTARIO INC.**

(hereinafter called "Pitway")

- and -

**THE CORPORATION OF THE TOWN  
OF WHITCHURCH-STOUFFVILLE**

(hereinafter called the "Town")

NOW WHEREAS Pitway is the Owner of Part of Lots 8 and 9, Concession 5, in the Town of Whitchurch-Stouffville, as described in Schedule 'A';

AND WHEREAS Pitway Holdings will be the Operator responsible to co-ordinate and oversee the placement of fill materials on the property on behalf of the Owner.

AND WHEREAS the Town has enacted By-law No. 99-147-RE to prohibit or regulate the placing or dumping of fill in areas of the Town of Whitchurch-Stouffville;

AND WHEREAS By-law No. 99-147-RE prohibits the placing or dumping of fill on any lands zoned Rural Extractive in accordance with By-law No. 92-112.

AND WHEREAS Pitway's lands described in Schedule 'A' are zoned Rural Extractive by By-law 92-112;

AND WHEREAS By-law 99-147-RE is not applicable to any rehabilitation or filling activity to original grade in a pit or quarry licensed under the Aggregate Resources Act 1989 and specifically on the approved site plan;

AND WHEREAS Pitway has licenses under the Aggregate Resources Act 1989, License Nos.                      and                      and an approved site plan;

AND WHEREAS Pitway has agreed to return its licenses to the Ministry of Natural Resources and the Ministry has agreed to accept them;

AND WHEREAS Pitway has requested the Town to provide an exemption to their lands from the provisions of Section 4(a) of By-law 99-147-RE and to issue a fill permit to allow them to fill their lands in accordance with a site plan prepared by Alcorn and Associates Limited dated May 2003;

AND WHEREAS the placing of fill on the lands is in conformity with the policies of the Oak Ridges Moraine Conservation Plan;

AND WHEREAS the Town consents to this exemption subject to Pitway entering into this agreement;

AND WHEREAS Pitway has agreed not to contaminate the natural environment and to abide by all applicable environmental laws and regulations;

AND WHEREAS the Town requires as a condition of issuing a fill permit that Pitway pay for the Towns inspection costs and Pitway has agreed to pay these costs;

AND WHEREAS the Planning Act provides for the Council of a municipality to have regard to whether development is in the public interest and to have regard to the inadequacies of municipal services prior to approval of the development;

AND WHEREAS Council of the Town has adopted a set of criteria for approval of developments;

AND WHEREAS Pitways proposal to fill their lands is considered to be a development to which this criteria would apply;

AND WHEREAS Pitway has voluntarily offered and voluntarily agrees to make a payment of 50 cents per cubic metre of clean fill placed on the lands in order to assist the Town in the provision of significant parkland or open space or enhancement of parks and recreation opportunities or for the improving of public infrastructure. This voluntary contribution shall be made above and beyond any other financial contributions owing to the Town as set out in this agreement.

AND WHEREAS Pitway acknowledges the benefit of having the opportunity to meet the criteria adopted by Council and the resulting reduction in the risk of a refusal of their application for exemption from the provisions of Section 410 of the fill by-law.

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of good and valuable consideration and the payment of the sum of Two Dollars (\$2.00) the parties hereto covenant, promise and agree with each other as follows:

1. Approval shall relate to the site grading plan prepared by Alcorn and Associates Limited dated May , 2003 titled Pitway Bolender Pit, West half of Lot 8 and 9, Concession 5, Town of Whitchurch-Stouffville, and attached as Schedule 'B' and hereafter referred to as the "Lands".
2. Pitway agrees to retain a qualified engineer or environmental consultant, approved by the Director of Development Services, who is responsible for ensuring that the placing and dumping of fill is in accordance with accepted engineering and environmental practices, is in accordance with the protocol attached as Schedule 'C', is in accordance with the plans submitted in Schedule

'B', and who is responsible for ensuring that all fill used is clean and free of rubbish, glass, garbage, termites, organic materials, liquid and toxic chemicals and any other contaminants as defined in the Environmental Protection Act..

3. Pitway agrees to implement the environmental control program set out in Schedule 'C' and to place and dump the fill in accordance with the site grading plan in Schedule 'B'.
4. The consultant retained pursuant to paragraph 2 shall submit to the Town on a semi-annual basis a report certifying that the placing and dumping of fill is in accordance with Schedules 'B' and 'C'.
5. Pitway agrees to have installed at least six monitoring wells at locations approved by the Town and shown on the site grading plan, and the consultant retained pursuant to paragraph 2 shall submit to the Town an annual groundwater monitoring report as set out in the environmental control program in Schedule 'C'.
6. Pitway agrees to restrict the operation of the site between the hours of 7:00 a.m. to 5:00 p.m. Monday to Friday.
7. Pitway agrees to provide continuous control of mud tracking onto Warden Avenue and to clean the road and roadside ditches impacted by the operation, control dust on access roads and on the site, and to provide for erosion and siltation control all to the satisfaction of the Director of Development Services.

If in the opinion of the Director, this work is not being adequately done, than the Town shall so notify Pitway. Pitway shall have 24 hours from receipt of such notice in which to carry out the required work, failing which the Town may do so, and may calculate the amount payable therefor and invoice Pitway; failing receipt of such payment the Town may draw on the cash deposit referred to in Clause 13 to the extent necessary to pay any amount outstanding.

8. Prior to issuance of a fill permit Pitway shall submit to the satisfaction of the Director of Development Services a phase II environmental impact study that identifies existing soil conditions of the site and a hydrogeological impact study that includes an assessment of surface water, groundwater recharge and impacts on downstream wells.
9. Prior to issuance of a fill permit, the aggregate extraction licenses issued by the Ministry of Natural Resources for the lands shall be terminated.
10. Prior to issuance of a fill permit Pitway agrees to obtain the approval of the Toronto and Region Conservation Authority of the site grading plan referred to in paragraph 1.

11. Pitway hereby agrees to indemnify and save harmless the Town from any action, claim, damages or loss whatsoever which may arise in connection with the matters dealt with in the Agreement, including, without limiting the generality of the foregoing any liabilities arising out of the placing and dumping of fill on the Pitway lands.  
  
Pitway shall take out and keep in force throughout the term of this agreement environmental and comprehensive liability insurance in an amount not less than \$5,000,000 per occurrence against all claims including personal injury, death, property damage and environmental damage resulting directly or indirectly from placing or dumping fill on the lands, which policy shall include the Town as a named insured. Pitway shall provide the Town a certificate evidencing such insurance coverage prior to the Town issuing a fill permit.
12. Prior to issuance of a fill permit Pitway agrees to obtain a road entrance permit from the Region of York Transportation and Works Department.
13. Pitway agrees not to permit any truck to enter the site except from the north and not to permit any truck to exit the site except to the north and to notify all haulers of such restrictions.
14. Pitway agrees to install gates at the entrance to the site and to keep the sites closed and locked except during the approved hours of operation.
15. Pitway agrees to pay any and all costs which the Town may incur relating to any inspection of the filling operation, any peer review costs of semi annual operational reports and annual groundwater monitoring reports and the Town's administration costs. The Town will invoice Pitway on a monthly basis for such inspection and review costs including a 15 percent administration fee and, if payment is not received within 15 days of the invoice date, the Town may draw on the securities provided in paragraph 16. Pitway also agrees to pay all legal fees and peer review costs to prepare and administer this agreement, and, the revision of technical reports and drawings submitted in support of the fill permit application.
16. Pitway shall provide and maintain at their cost a site office at least 100 square feet in area for the sole use of the Towns inspector including the provision of heat, light and power and washroom facilities to the satisfaction of the Director of Development Services.
17. Pitway agrees to allow the Town to dump clean fill originating from any Town contract or maintenance operation on the lands at no cost to the Town.
18. Prior to issuance of the permit, Pitway shall deposit with the Town a letter of credit

in the amount of \$100,000.00 to guarantee that the work will be carried out in accordance with the approved site grading plan, the environmental control plan and the provisions of this agreement. In the event that Pitway fails to comply with any provisions of this agreement, the Town may draw on the letter of credit to bring about compliance with this agreement. The form of the Letter of Credit is set out in Schedule 'D' to this report.

19. Pitway agrees to pay the Town on a semi-annual basis the municipal services fee set out in Schedule 'A' to By-law No. 2002-222-FI, as may be amended from time to time, for each cubic metre of fill dumped on the lands during the previous six months as determined by as constructed elevations of fill placed certified by an Ontario Land Surveyor or Professional Engineer. Payment shall be made within 30 days of the end of the six month period.
20. Pitway agrees to pay to the Town 50 cents for each cubic metre of fill dumped on the lands during the previous six months as determined in paragraph 19. The referenced fee is a voluntary contribution made by the Operator to assist the Town in the provision of significant parkland, or open space or enhancement of parks and recreation opportunities, or, for the improving of public infrastructures.
21. Pitway agrees that the Town may draw upon the letter of credit referred to in paragraph 18 for any payment which has not been made in accordance with paragraph 19 and 20.
22. Pitway agrees that they cannot dump fill prior to issuance of a fill permit as provided for in By-law 99-147-RE and until they have complied with all the provisions of this agreement.
23. Pitway agrees to grant to the Town or any other agency a conservation easement on the vegetative buffers shown on the approved site plan.
24. All notices, demands or requests provided for or permitted to be given pursuant to this Agreement shall be made in writing as follows:

(a) to the Town at:

The Corporation of the Town of Whitchurch-Stouffville  
37 Sandiford Drive, 4<sup>th</sup> Floor  
Stouffville, Ontario L4A 7X5  
Attn: T.E. Parry, P. Eng., Director of Development Services  
Fax: (905) 640-7957

(b) to the Owner at:

25. Failure to comply with any provision of this agreement may result in termination of this agreement as determined by Council.
26. Pitway shall place fill only for a period of two years at which time this agreement may be terminated or extended by Council for a further two year period. On termination of the agreement Pitway agrees to grade any area that has not been completed in conformity with the final site plan to the satisfaction of the Director of Development Services.
27. All notices, demands or requests shall be deemed to have been properly given if delivered personally or sent by prepaid registered mail or facsimile transmission. If notice is given by prepaid registered mail, the same shall be effective five (5) business days upon being deposited with the post office, or upon proof of delivery by return receipt. However, in the event of the interruption of postal services, the notice shall not be deemed to have been given during such period of interruption, unless a notice has been actually delivered personally.
28. This Agreement shall be binding upon the parties hereto and their successors and assigns, and may be registered against title to the Lands, at the Owner's cost.

IN WITNESS WHEREOF Pitway and the Town have hereunto set their hands and seals, attested to by the hands of their proper signing officers duly authorized in that behalf.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_ 2003.

SIGNED, SEALED AND DELIVERED  
in the presence of:

)  
)1386416 ONTARIO INC.  
)  
)\_\_\_\_\_  
)  
)THE CORPORATION OF THE TOWN  
)OF WHITCHURCH-STOUFFVILLE  
)  
)\_\_\_\_\_  
) Wayne Emmerson, Mayor  
)  
)  
)  
)\_\_\_\_\_  
) Michele Kennedy, Clerk  
)

**REPORT #15**

**SITE PLAN CONTROL AGREEMENT**

**1358556 ONTARIO INC. (Metropolitan Paving and Concrete Inc.)  
Part Lot 4, Concession 3, Part 2, Plan 65R-9855  
45 Cardico Drive Planning File: SPA02.005 (C10-DV & D11)**

Report Prepared By: Planner

**RECOMMENDATION**

The Director of Development Services concurs with the following recommendation.

The Manager of Planning Services recommends:

1. THAT a Site Plan Control Agreement between the Owner and the Town be executed, subject to any revisions that may be required by the Town Solicitor.
2. AND THAT the Site Plan Control Agreement referred to in Item No. 1 include a clause requiring the Owner, at his own cost, to demolish the building, or move the building from the property, or move the building to a location on the property that is more than 14 metres distance from the west property line and to a location that is satisfactory to the Town, within 30 days of being directed to do so by either the Town or the Ministry of Transportation of Ontario.

**1.0 BACKGROUND**

An application for amendment to an existing Site Plan Control Agreement to permit the redevelopment of a 1.0 hectare (2.5 acre) property located at 45 Cardico Drive was submitted by Arrowsmith and Associates, agent for the Owner, on December 2, 2002. The location of the property is shown on Attachment No. 1.

A 185.8 square metre (2,000 square foot) office/warehouse was built on the property under the authority of a 1988 Site Plan Control Agreement between the Town and a previous Owner. A telecommunications tower is also located on the property.

The Owner built a metal storage building approximately 743.20 square metres (8,000 square feet) in size along the west side of the property, behind the existing office/warehouse building, prior to the issuance of a Building Permit. The building location complies with all setback requirements, including the side yard setback requirement of 3 metres for an Industrial General (IG) zone, but does not comply with the 14 metre setback from the Highway 404 property line required by the Ministry of Transportation of Ontario (MTO).

## **2.0 COMMENTS**

Drawings showing the site plan/landscape plan proposed for the site and the elevations of the proposed building are included with this report as Attachment No. 2. Staff have reviewed the proposal and have the following comments:

### **2.1 Official Plan and Zoning**

The subject lands are designated Industrial in the Official Plan and zoned Industrial General - Water Control (IG-W) in General Zoning By-law No. 87-34. The industrial use of the property is permitted in both the Official Plan and the Zoning By-law.

### **2.2 Elevations and Landscaping**

The new building is constructed of pre-fab metal siding in a style commonly used for storage purposes. Its proposed location along the west property line will assist in screening the open storage on the property. However, to improve the screening of the equipment and materials that will be stored openly on the site, the amending agreement will require that 20 conifer trees approximately two metres in height, be planted along the Highway 404 exposure to augment the existing 17 deciduous trees. The additional landscaping, which has an estimated value of \$8,000.00, has been approved by the Town Landscape Consultant, A. Budrevics.

### **2.3 Parking and Loading Spaces**

Thirty-six parking spaces will be located on the property. Twenty-four parking spaces are required in accordance with Zoning By-law parking standards.

The new building will have four loading areas. A red-line comment has been added to the Site Plan Drawing requiring that the loading spaces be paved in accordance with by-law requirements.

### **2.4 Ministry of Transportation of Ontario (MTO) Setback Issue**

As previously noted, the building was constructed prior to the issuance of a Building Permit and prior to the provision of comments from the Ministry of Transportation of Ontario. The building location does not comply with MTO setback requirement of 14 metres. To address this issue, a clause will be included in the Site Plan Control Agreement that will require the Owner, at his own cost, to demolish the building, or move the building from the property, or move the building to a location on the property that is more than 14 metres distance from the west property line and to a

location that is satisfactory to the Town, within 30 days of being directed to do so by either the Town or the Ministry of Transportation of Ontario.

### **3.0 CONCLUSION**

The industrial use on the property is permitted in both the Official Plan and applicable Zoning By-law. All staff and the landscape consultant's comments have been satisfactorily addressed. The additional landscaping will provide improved screening of the industrial open storage on the site.

The clause to be inserted in the Site Plan Control Agreement will ensure that the building is removed or relocated should its removal or relocation be required by the Ministry of Transportation of Ontario.

Taking all the aforementioned into consideration, Planning Staff are recommending that a Site Plan Control Agreement be prepared for execution between the Owner and the Town to facilitate the construction of the proposed storage building.

The full size drawing will be available at the October 7, 2003 Council in Committee meeting.

## **REPORT #16**

### **DAI ICHI INTERNATIONAL PROPOSED SITE PLAN CONTROL AGREEMENT - Part Lot 10, Concession 7, 5241 Bloomington Road, Planning File No. SPA03.008 (continuation of SPA96.004/Petro 2000) (C10-DV & D 11)**

Report Prepared By: Planner

## **RECOMMENDATION**

The Director of Development Services concurs with the following recommendation.

The Manager of Planning Services recommends:

1. THAT final approval be obtained from the York Region Transportation and Works Department and the Ministry of Transportation.
2. AND THAT, upon completion of Item No. 1, an appropriate Site Plan Control Agreement (Dai Ichi International/5241 Bloomington Road) be prepared for execution between the Owner and the Town, subject to any revisions required by the Town Solicitor.
3. AND THAT the Site Plan Control Agreement referred to in Item No. 2 include a clause requiring that the Storm Water Management Pond on the property shall be built to be consistent with the requirements as set out in the Pickering Airport Site Zoning Regulations Guidance Document -TP14026E (Guidance for the Design and Management of Stormwater Management Ponds), TP11500 (Wildlife Control Procedures), and TP13549 (Sharing the Skies), as may be amended. If a permit or similar approval is required from Transport Canada or their authorized agent, the Owner shall complete this task and shall be responsible for any associated fees or expenses.
4. AND THAT the Hydrogeological Assessment Revised Report, prepared by Norbert M. Woerns, dated September 26, 2003, be updated to accommodate the comments of the Manager, Water Resources, Transportation and Works Department, Regional Municipality of York and of Gartner Lee Limited.
5. AND THAT, once the update referred to in Item 4 has been completed, the Site Plan Control Agreement referred to in Item 2 include the

recommendations of the updated Hydrogeological Assessment Revised Report prepared by Norbert M. Woerns, dated September 26, 2003.

6. AND THAT additional modifications to drawings that will form part of the Site Plan Control Agreement be executed, or additional drawings be included, should they be required to accommodate final comments from the Region of York, the Ministry of Transportation and/or Transport Canada.
7. AND THAT, prior to the issuance of an Occupancy Permit for any structure to be built upon the lands, the Owner shall submit a lighting study that will demonstrate that light spillage from the site onto roadways and adjacent properties will be within acceptable standards, to the satisfaction of the Town and the appropriate Road Authorities.
8. AND THAT the lighting study referred to in Item No. 4 be submitted to peer review and that the cost of that review be the responsibility of the Owner.
9. AND THAT Council request the Region of York and the Ministry of Transportation to establish "No Stopping" restrictions across the property frontage and for a distance of 100 metres beyond the limit of the property.
10. AND THAT the Owner be required to connect to the municipal water system and the entire cost of connecting to the system be the responsibility of the Owner.

## **1.0 BACKGROUND AND APPLICATION**

On June 2, 1996 a Site Plan Control Agreement application was submitted by RDJ Planning Consultants on behalf of the owner of a 3.64 hectare (9.0 acre) property located at the southwest corner of Highway No. 48 and Bloomington Road. Lands subject to the Site Plan Control Agreement application include the owner's land and a right-of-way over a portion of adjacent lands to the west.

The 1996 submission was for a 280 square metre (3000 square foot) restaurant and small gas kiosk. After initial circulation and response, the application was left dormant and not pursued until the property was purchased by the present owner, Dai Ichi International, whereupon the application was reactivated.

The proposal has been modified by the elimination of the proposed restaurant use. The present application calls for the construction of a 165.85 square metre (1785.52

square foot) gas bar with accessory convenience outlet with truck refuelling facilities within the portion of the subject property zoned Highway Commercial (HC) subject to the existing restriction. The septic system, stormwater management facility and portions the driveways would be located on the remainder of the property zoned Rural (RU). It is the Owner's intention to operate the facility on a 24 hour basis.

A 238 square metre (2,561 square foot) future expansion, to include a restaurant with a drive-through and an expanded truck parking area, are shown conceptually on the drawings but are not included with this Site Plan approval. A separate application would have to be submitted to the Town for consideration and approval to accommodate the expansions indicated. The applicant should not view the approval of the gas bar as an indication of a commitment by the Town, nor does it place an obligation on the Town, to approve any future development on the site. Any expansion on the site in the future will be assessed on its own merits.

The location of the subject property, which is municipally known as 5241 Bloomington Road, is shown on Attachment No. 1.

The refuelling facilities, the off-street parking, and the location of the proposed septic system and stormwater management pond, as well as the landscaped areas, etc. are shown on the various drawings comprising Attachment No. 2 to the Report

Matters typically addressed through the site plan include landscaping; parking and access; overland drainage; and the massing/elevation of buildings. Staff and agencies having a mandate to comment on the application have examined the proposal in the context of the relevant policies of the Official Plan, General Zoning By-law No. 87-34 as amended, the Oak Ridges Moraine Conservation Act, 2001, and other applicable policies and regulations.

## **2.0 SUBJECT PROPERTY**

The subject property, located in Lot 10, Concession 7, comprises 3.64 hectares (9.0 acres). The property, which is municipally known as 5241 Bloomington Road, is located on the southwest corner of Highway Number 48 and Bloomington Road as shown on Attachment Number 1. This vacant irregularly shape site is relatively flat and devoid of any significant vegetation. The property is part of a rural neighbourhood consisting of agricultural, rural residential, industrial and aggregate extractive uses.

### **3.0 DEVELOPMENT CONTROLS**

#### **3.1 Official Plan**

Official Plan Amendment No. 85 established the principal of commercial development on the subject property. The details of the Amendment limited the use on the property only to a gas bar servicing automobiles and trucks with associated kiosks, and a 14 seat restaurant, with no vehicular washing facilities, no vehicular servicing area and no shower facilities. The restrictions as noted are primarily derived from the size of the property, and the basis of development on private well and septic systems.

Access to Highway No. 48 is restricted to a right-in and right-out commercial entrance subject to the approval of the Ministry of Transportation. A full service access is permitted to Bloomington Road, the design of which is subject to the approval of the Regional Municipality of York. Servicing of the lands shall be by means of a well and sewage disposal system. All buildings shall be set back a minimum distance of 14 metres (45 feet) from the Highway No. 48 property line.

Development is to take place in such a manner as to minimize negative impacts that can result from development, including the use of proper stormwater management and erosion measures both during and after development of the site.

The access to Bloomington Road (YR 40) is to be located approximately 240 metres west of the centre line of Highway No. 48, and the Owner shall provide, at no cost to the Region, an eastbound right turn lane and a westbound left turn lane satisfactory to the Region of York.

#### **3.2 Region of York Official Plan**

The subject property is within an area designated "Rural Policy Area" on Map 6 of the York Region Official Plan (YROP). The objective of this designation is to retain the rural character of lands in the Rural Policy Area and to protect the existing agricultural operations.

Notwithstanding the Rural Area policies, Section 7.6.5 recognizes existing and approved land uses in keeping with the provisions of the Planning Act as amended from time to time to include draft plan of subdivision approvals and official plan approvals, as they existed at the time of the approval of this plan.

### **3.3 Zoning**

The subject property is zoned Highway Commercial (HC) in By-law No. 93-51. Notwithstanding the permitted uses in an HC Zone, the only permitted use on the subject property is a gas bar and a fourteen seat restaurant.

### **3.4 Oak Ridges Moraine**

*The Oak Ridges Moraine Conservation Act, 2001* was established with the objective of protecting, improving and maintaining the ecological and hydrological integrity and function of lands on the Oak Ridges Moraine. This is to be achieved in part by ensuring that any development that does take place on the Moraine is compatible with the objectives of the Oak Ridges Moraine Conservation Plan (ORMCP).

The subject property is designated as “Natural Linkage Area” in the ORMCP.

Section 9 (Part 1) of the ORM regulations states that where an application for zoning was commenced before November 17, 2001 and is approved, then a site plan application is not required to comply with the provisions of the ORMCP. The commercial zoning on the property came into effect in 1993. Accordingly, an Oak Ridges Moraine compliance report is not required in support of the Site Plan Control Agreement application.

Notwithstanding the above, a Hydrogeological Assessment Report prepared by Norbert Woerns has addressed Sections 26 (Hydrologically Sensitive Features), Section 28 (Wellhead Protection Areas) and Section 29 (Areas of High Aquifer Vulnerability).

In regard to Section 26, the report concluded that there are no hydrologically sensitive features on the subject property.

In regard to Section 28, the report identified that the subject property is not within a wellhead protection area and that the nearest Town well is over a mile away from the subject property. In addition, the report noted that containment and monitoring measures recommended for the development of the subject property will address wellhead protection concerns despite the fact the subject property does not lie within a wellhead protection area.

In regard to Section 29, the report indicates that the proposed use is not a use prohibited in this section. Underground storage tanks are permitted provide they are equipped with an approved secondary containment device. The proposed

development will use approved secondary containment devices in the form of double walls for the underground fuel storage tanks and distribution system. Further, it is proposed that an alarm be installed between the inner and outer walls so that if there is a breach, there will be an early warning. Coupled with this system, a series of groundwater monitoring wells are proposed along the perimeter of the site.

#### **4.0 AGENCY COMMENTS**

##### **4.1 Regional Municipality of York**

The Region of York Transportation and Works Department, by e-mail dated August 6, 2003, have commented that they have no objection in principle to the development. Final approval with appropriate Site Plan conditions will be forwarded upon submission and review of the final engineering drawings.

##### **4.2 Ministry of Transportation of Ontario**

The Ministry of Transportation of Ontario by, e-mail dated August 28, 2003, have indicated that they accept the development proposed on the subject property in principle. Final permit approval is subject to some minor pending site plan adjustments and the submission of applications and fees.

##### **4.3 Transport Canada**

The subject property is within a Secondary Bird Hazard zone classification as identified on Schedule A of the Pickering Airport Site Airport Zoning Regulations. Because of this classification, the Stormwater Management Pond to be located on the property is to be designed to conform with specific standards that will lessen its attraction to birds that may present a hazard to airplanes.

Accordingly, a clause will be included in the Site Plan Control Agreement requiring that the Storm Water Management Pond on the property be built consistent with the requirements as set out in the Pickering Airport Site Zoning Regulations Guidance Document -TP14026E (Guidance for the Design and Management of Stormwater Management Ponds), TP11500 (Wildlife Control Procedures), and TP13549 (Sharing the Skies). If a permit or similar approval is required from Transport Canada or their authorized agent, the Owner shall complete this task and shall be responsible for any associated fees or expenses.

#### **4.4 Toronto Region Conservation Authority**

The Toronto Region Conservation Authority, by letter dated August 14, 2003, have commented that they have no objection to the application. They have noted that the property is within the "Natural Linkage Area" as identified in the Oak Ridges Moraine Conservation Plan (ORMCP). They have also noted that the property appears to be in an area of High Aquifer Vulnerability and is adjacent to a key natural heritage feature (Significant Woodlot).

#### **5.0 TECHNICAL REQUIREMENTS**

##### **5.1 Hydrogeological Assessment Review Report**

A Hydrogeological Assessment Review Report, dated September 26, 2003, prepared by Norbert Woerns, has been submitted in support of the proposal. The report commented on the proposed water servicing, the proposed sewage servicing, issues dealing with the Oak Ridges Moraine with reference to Sections 26 (Hydrologically Sensitive Features), Section 28 (Wellhead Protection Areas), and Section 29 (Areas of High Aquifer Vulnerability). The report also provided detailed comments on Fuel Spill Containment Measures, Groundwater Monitoring and Reporting and Contingency Plan in the event that a fuel leak is discovered.

The conclusions and recommendations of the report are included in Attachment No. 3 to this report.

The report has been reviewed by Gartner Lee and Associates on behalf of the Town who have indicated that they are in general agreement with the findings and recommendations of the Woerns report, but require modifications relating to monitoring and handling of fuel leakage and possible spills. Gartner Lee have also recommended that the on-site storage of severely toxic substances should be prohibited. This would also apply to the generation and storage of hazardous wastes and liquid industrial wastes. In addition, Gartner Lee have noted that any expansion on the site (restaurant use) will require that the groundwater quality of the leaching bed be monitored to ensure that the sewage system is capable of handling any increase in flow that would be generated from the expanded operation.

The Water and Wastewater Branch of the Transportation and Works Department of the Region of York, have also reviewed the Woerns report and have indicated their principal concern with the application is the location of the subject property with respect to two municipal wells that service the Community of Stouffville. The proposed site does not likely present a direct threat to water quality of the municipal

wells, however, it is prudent to establish an appropriate level of caution in ensuring that any potential accidental fuel release from the site will not affect the long-term water quality of the municipal wells. The following specific comments have been provided:

- The proposal to install a new well and to properly abandon the test well is warranted. Use of the shallow aquifer with treatment to remove the effects of salt is preferred over drilling a deep well to service this site;
- It should be confirmed that the SWM Pond is to be lined;
- The volume and rate of the proposed water requirements have not been provided. Provisions should be in place to prevent the operation of a car wash. *NOTE: The Official Plan and the Zoning provisions prevent the operation of a car wash.*
- A requirement should appear in the approval that York Region be notified in the event of a spill;
- The intent of the monitoring plan is acceptable;
- Precaution should be taken to ensure that the wells are located and constructed so that they cannot be accidentally damaged;
- Requirement for a program of regular inspections and maintenance of the monitoring facilities to ensure that the monitoring points are secure and cannot act as a pathway;
- Staff should be appropriately trained to handle spills;
- Bentonite should be placed in the entire annulus of the monitoring wells from the top of the well screen to the surface;
- It is important to state that the available information indicates that the risk to the municipal wells is low;
- A standard of impermeability should be established to minimize the potential to affect the vulnerable aquifer resources.

The Woerns Report, including the recommendations, will be updated to address the comments of the Region of York and of Gartner Lee. These updated recommendations will then be incorporated into the Site Plan Control Agreement that will be executed between the Owner and the Town. Town Engineering Staff have noted that the issues in the Woerns report and many of the comments of Gartner Lee and the Region that focussed on the issue of a well on the property could be addressed by simply requiring the Owner to hook into the available municipal water supply. Mandatory hook-up to the system has been made a recommendation of this report in Recommendation No. 10.

Should Council concur with Recommendation No. 10, Mr. Woerns, Gartner Lee and the Region of York will be notified of this requirement so that the mandatory hook-up can be taken into account in their revised comments.

## **5.2 Landscaping**

The perimeter landscaping on the property will consist of 50 Burningbush, 50 Euonymus, 9 Ash, 300 Blue Oak Grass, Snowbell-mock, 24 Colorado Spruce, 100 Spirea, 6 Mountain Ash, 70 Viburnum, 60 Weigela.

The plantings around the building will consist of 1 Norway Maple, 6 Honey Locusts and sodded areas located east and west of the structure.

The Landscaping, which has been approved by the Town's landscaping consultant, has an estimated value of approximately \$64,000.00.

## **5.3 Parking and Loading Area**

By-law No.87-34 requires that 12 parking spaces be provided for the proposed use. 25 parking spaces, including 1 that will be signed for the exclusive use of the disabled, will be provided. A loading space will be located west of the building. Some of the proposed parking stalls have been specifically designed to accommodate tractor-trailers.

## **5.4 Lighting**

Clause 5(c) of the Site Plan Control Agreement requires that light standards and fixtures shall be designed, through adequate altitude and shielding of light sources, so as not to cast glare onto other properties or onto public highways.

Given the nature of the use, and in view of the fact it is the intention of the Owner to operate 24 hours a day, Staff are recommending that a lighting study be prepared for review by the Town. The submitted lighting study should be subject to peer review by Giffels and Associates, the Town Engineering Consultant, to ensure that the requirements of Clause 5(c) are being met.

Staff are recommending that the cost of the peer review be the responsibility of the Owner and that approval of the lighting design be obtained prior to the issuance of an Occupancy Permit for the property.

### **5.5 Garbage Enclosure**

Garbage will be stored within two enclosed garbage bins located south west of the building as shown on the Landscape Plan.

### **5.6 Signage**

The signage does not appear to comply with the standards outlined in the Town's Sign By-law in regard to size. The signage will have to be revised to ensure that it is in compliance with Town standards prior to the issuance of a Sign Permit.

### **6.0 CONCLUSION**

Having taken all the aforementioned into consideration, Planning Staff is of the opinion that it is appropriate to enter into a Site Plan Control Agreement to permit development of the property for the intended use for the following reasons :

- 1) The principal of development has been established by Official Plan Amendment No. 85 and the proposal generally conforms with the enunciated policies of that document;
- 2) The proposed use is permitted in By-law No. 93-51 and complies with the development standards for a Highway Commercial site outlined in General Zoning By-law No. 87-34;
- 3) The application is in compliance with the requirements of the Oak Ridges Moraine Conservation Plan;
- 4) The fuel storage facilities will be designed and monitored to prevent spillage;
- 5) The site will be appropriately landscaped;

- 6) None of the commenting agencies have objected to the proposed development;
- 7) The requires lighting study should ensure that outside light spillage is within acceptable standards.

