
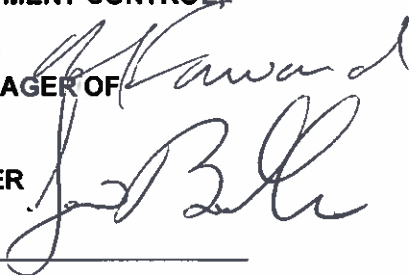


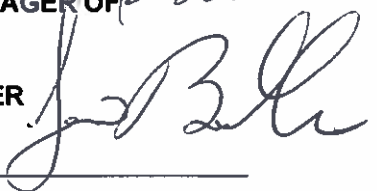
TO: GENERAL COMMITTEE

SUBJECT: PARK PLACE LIFESTYLE CENTRE – AMENDMENT TO SITE PLAN AGREEMENT

PREPARED BY AND KEY CONTACT: R. WINDLE, M.C.I.P., R.P.P., MANAGER – DEVELOPMENT CONTROL, EXT. 4324

SUBMITTED BY: R. WINDLE, M.C.I.P., R.P.P., MANAGER – DEVELOPMENT CONTROL, EXT. 4324 

GENERAL MANAGER APPROVAL: R. FORWARD, MBA, M.SC., P.ENG. GENERAL MANAGER OF INFRASTRUCTURE, DEVELOPMENT & CULTURE 

CHIEF ADMINISTRATIVE OFFICER APPROVAL: JON M. BABULIC, CHIEF ADMINISTRATIVE OFFICER 

RECOMMENDED MOTION

1. That any proposed amendments to the registered Park Place Commercial Development Site Plan Agreement to permit occupancy of any and/or all buildings constructed in Stage 1 prior to completion of the eleven (11) road improvements identified in s. 25 (a) (i) of the Site Plan Agreement, only be considered upon the submission of the following to the satisfaction of City staff and the MTO:
 - a) A detailed summary of proposed building(s) for which occupancy is being requested and the corresponding occupancy dates; and
 - b) A Traffic Study completed by a Qualified Engineer that reviews the potential traffic impacts from the proposed occupancy and confirms what if any of the eleven (11) road improvements would be required to be completed to accommodate occupancy of the proposed building(s); and
 - c) A Functional Servicing Report (FSR) completed by a Qualified Engineer that addresses the need and timing of required services including: stormwater management, sanitary sewer, water, and internal roadways.
2. That staff report back to General Committee with a recommendation and suggested next steps, upon receipt and review of the required material.

BACKGROUND AND PURPOSE

3. On November 1st, 2006, the City received the decision of the Ontario Municipal Board approving the application by North American Inc. for amendments to the City's Official Plan and Zoning By-law to permit the Park Place development. The Park Place Lifestyles Centre is bounded by Maplevue Drive East to the south, Big Bay Point Road to the north, Hwy. 400 to the west and Bayview Drive to the east, with a small portion of the development located on the east side of Bayview Drive south of Churchill Drive. The zoning of the property permits a variety of commercial, office and industrial/employment uses with approximate total gross floor area of 3,000,000 sq.ft. Stage 1 of the development permits up to 74,300 m² (800,000 sq. ft.) of gross floor area (g.f.a.) within the main development area of Park Place, namely the lands bounded by Highway 400, Maplevue Drive East, Bayview Drive and the 21 acre Open Space area that transects the property from Highway 400 to Bayview Drive (see map attached as Appendix A).

4. On February 12, 2007, City Council approved the Site Plan for the above described Stage 1 area and in July 2010 the Site Plan Agreement was registered. Clause 25 (a) (i) of the Agreement stipulates that the design and completion of eleven (11) specified road improvements, satisfactory to the City (and MTO as applicable), is required prior to Stage 1 building occupancy. A Memorandum to General Committee completed by Wendell McArthur, Director of Engineering dated December 13, 2010 is attached as Appendix B to provide additional background information on the required road improvements.
5. The purpose of this staff report is to consider a request by the Lawyer acting for North American Acquisition Inc. ("North American"), in a letter dated January 26, 2011 (See Attached Appendix C, for approval of an Addendum to the Park Place Site Plan Agreement to permit occupancy of the buildings in Stage 1 of the Park Place development prior to completion of eleven (11) identified road improvements.
6. Building permits have been issued and on-site construction of Stage 1 has commenced (one building is currently under construction). North American wishes to ensure that its tenants may occupy Stage 1 as soon as possible. North American has indicated that some buildings may be ready for occupancy by a tenant for fit-out by April 2011 and that there may be buildings ready for full occupancy by July 2011. The required road improvements have not yet been completed and based on current status, there would not be sufficient time to complete the required road improvements prior to the projected occupancy dates. In their letter, North American has indicated that a delay in occupancy would jeopardize leases with incoming tenants. To address this issue they have proposed the above-mentioned Addendum to the Site Plan to permit occupancy prior to final completion of the road improvements, without restriction or conditions.
7. The contract for external road works (including watermain works) has been awarded to Coco Paving by both the City of Barrie and North American. Construction is scheduled to commence mid-March 2011 with construction completion by the end of September 2011.

ANALYSIS

8. City Staff, including the Planning Department, Engineering Department, Legal Department and the Building Department have reviewed the proposed addendum. In staff's opinion, an open ended permission of occupancy for all buildings prior to completion of the road improvements is undesirable. Staff is concerned that significant increases in traffic congestion and public safety concerns may occur if the travelling public patronizes the development in advance of the completion of road improvements. The intent of prohibiting occupancy prior to completion of the road improvements was to ensure the necessary infrastructure was in place to support the traffic volumes generated by the proposed development.
9. Notwithstanding the above concerns, staff wishes to work with the developer to realize appropriate occupancy dates. To that end, staff recommend that 1) a detailed summary of the proposed building(s) for which occupancy is being requested and the corresponding occupancy dates be submitted, 2) a Traffic Study completed by a Qualified Engineer be submitted that reviews the potential traffic impacts from the proposed occupancy and confirms what if any of the eleven (11) road improvements would be required to be completed to accommodate occupancy of the proposed building(s), and 3) a Functional Servicing Report (FSR) completed by a Qualified Engineer that addresses the need and timing of required services including: stormwater management, sanitary sewer, water, and internal roadways.
10. The above submissions would allow staff to fully understand which buildings are requested for occupancy and determine the potential traffic impacts, if any, of allowing occupancy prior to the road infrastructure improvements being completed. The expectation is that if any occupancies present concern, any road improvements or other works required to mitigate the concerns would

be completed in accordance with the Site Plan Agreement. The FSR would determine if there are any other infrastructure issues related to permitting occupancy at this time.

ENVIRONMENTAL MATTERS

11. There are no environmental matters regarding the proposed recommendation.

ALTERNATIVES

There is one alternative available for consideration by General Committee:

Alternative #1

General Committee could approve the proposed Site Plan Addendum.

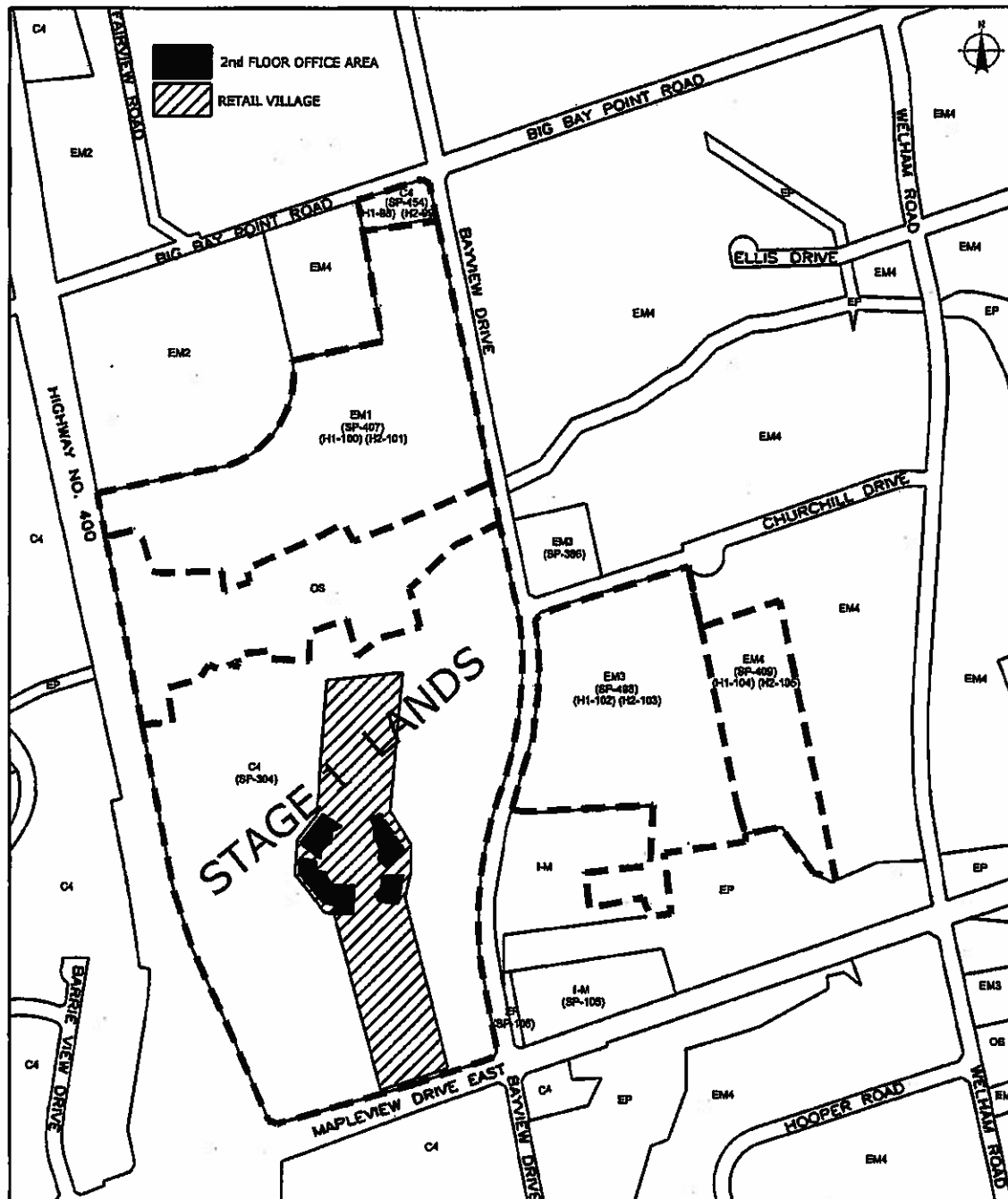
This is not recommended as building occupancy for all buildings would be permitted prior to the road improvements being completed without an understanding of the potential traffic impacts and and/or public safety concerns.

FINANCIAL

12. There are no financial implications regarding the proposed recommendation.

APPENDIX "A"

Park Place – Stage 1 Lands



D14-1305 -85-95
Park Place

APPENDIX "B"

Park Place Development Status – Memo to Council dated December 13, 2011



Engineering Department
MEMORANDUM TO
GENERAL COMMITTEE

TO: Mayor J. Lehman and Members of General Committee

FROM: R. W. McArthur, P. Eng., Director of Engineering

NOTED: R. J. Forward, MBA, M.Sc., P. Eng., General Manager of Infrastructure, Development & Culture
J. M. Babulic, Chief Administrative Officer

RE: PARK PLACE DEVELOPMENT STATUS

DATE: December 13, 2010

The Ontario Municipal Board (OMB) decision approving the Park Place rezoning application required the implementation of 11 transportation improvements by North American (Park Place) Corporation (Park Place), associated with the first phase (800,000 S.F) of floor space including works on the Highway 400 off ramps, additional lanes on sections of Maplevue Drive (from Barrie View Drive to Bayview Drive), additional lanes on Bayview Drive (from Maplevue Drive East to Big Bay Point Road) and other intersection improvements.

As per the Site Plan Agreement the City agreed to be responsible for the construction costs of the following road improvements: the double north bound left turn lanes on Bayview Drive at Maplevue Drive East; traffic signalization of four intersections; and the cost to construct a new entrance into the Barrie Molson Centre.

The Site Plan Agreement contains a condition for the road improvements external to the Park Place site to be completed prior to building occupancy in Phase 1. The road improvements include: widening of the Hwy 400 off ramps to four lanes; eastbound right turn lane on Maplevue Drive West at Hwy 400 southbound ramp intersection; an additional eastbound lane on Maplevue Drive West between Barrie View Drive and the Hwy 400 southbound ramp intersection; additional westbound lane on Maplevue Drive East from Bayview Drive to the Park Place entrance; widening Bayview Drive to five lanes from Maplevue Drive East to Big Bay Point Road; an eastbound right turn lane and taper on Maplevue Drive East at Bayview Drive; and intersection improvements at Maplevue Drive West and Barrie View Drive, Maplevue Drive East and Park Place/Costco driveway, Maplevue Drive East and Bayview Drive and Bayview Drive and Big Bay Point Road.

The City's capital plan includes two proposed transmission watermain on Bayview Drive from Big Bay Point Road to Maplevue Drive East and one transmission watermain on Maplevue Drive East from Bayview Drive to Barrie View Drive extending to the existing Elevated Tank. It was determined that the most practical approach was to have the watermain installation and other civil works for which the City is responsible included with the Park Place external road work contract, with the City paying the associated costs.

Park Place retained consulting engineers to undertake the design of the required external roadworks and external watermain works. City staff reviewed the design drawings and the draft tender document which included the combined works. The City paid design costs associated with its portion of the works. Park Place undertook a publically advertised pre-qualification process for contractors, which resulted in four interested contractors being deemed to be qualified. Tender documents were provided to these four contractors and three submissions were received.

The low bidder was Coco Paving Inc. of Barrie. The total price bid for the City's portion of the works was below the overall budget estimate. The contract for the City portion was awarded under delegated authority; Park Place's award of their portion is expected in the near future.

The City of
BARRIE

Engineering Department
**MEMORANDUM TO
GENERAL COMMITTEE**

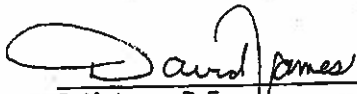
A cost sharing agreement has been prepared with Park Place. The terms are presently being finalized. The City and Park Place will each enter into agreements separately with the successful contractor, Coco Paving, and will make monthly payments as the work progresses. The City and Park Place will each enter into agreements separately with the consulting engineer for provision of contract administration and site inspection services. A 1% construction management fee will be paid to Park Place.

The successful contractor is working on a detailed schedule. In general the plan is to start watermain work on Bayview Drive in mid March 2011, with the 500mm watermain located in the boulevard followed by the 300mm watermain, and road widening on Bayview Drive from Mapleview Drive East progressing north including the construction of the Park Place entrances. On Mapleview Drive East the 500mm watermain and road widenings adjacent to Park Place will be installed first before the remainder of the road widenings and turning lanes on Mapleview Drive West. This work is expected to be complete by mid August, 2011. The widening of the Highway 400 off ramps will then be started with completion expected by late September, 2011.

The successful contractor will be required to obtain a Right-of-Way Activity Permit from the City and to prepare a detailed traffic control plan. There will be lane restrictions but no road closures on Mapleview Drive or Bayview Drive associated with these works.

Regarding work on the Park Place site, to date Building Permits have been issued for the site servicing and for six buildings shells, with one additional building application under review. The site servicing for Phase 1 is approximately 80% complete.

Park Place have indicated that some buildings may be ready for occupancy by a tenant for fit-out by April 2011. In addition Park Place have indicated they may have buildings ready for full occupancy by July 2011. This would be in advance of completion of the external road improvements and would require Council approval of an amendment to the Site Plan Agreement.


D. M. James, P. Eng.,
Senior Project Engineer


for R. S. Kahle, M. Eng., P. Eng.,
Manager of Design and Construction


R. W. McArthur, P. Eng.
Director of Engineering

APPENDIX "C"

Letter from Jane Pepino dated January, 26, 2011

AIRD & BERLIS LLP

Barristers and Solicitors

N. Jane Pepino, C.M., O.C., LL.D.
Direct: 416.863.7727
E-mail: jpepino@airdberlis.com

January 26, 2011

File No. 84682

VIA E-MAIL

Ingrid Peters
Director, Legal Services
City of Barrie
70 Collier Street (Box 400)
Barrie, Ontario
L4M 4T5

Dear Ms. Peters:

Re: North American Acquisition Inc.
City of Barrie
Park Place Development
Addendum to Site Plan Agreement

My client has provided me with a copy of a December 13, 2010 Memorandum from the City's Engineering Department to the City's General Committee (the "Memo"). The Memo acknowledges that the City's Site Plan Agreement with my client contemplates a series of road infrastructure improvements external to the Park Place site being completed prior to Stage 1 occupancy. The relevant section of the Site Plan Agreement is s. 25(a)(i):

25. Additional Special Conditions

In addition to any other special conditions contained in Part VII hereof, the Owner agrees that it shall perform and comply with the following special conditions:

(a) Traffic, Roads and Transit

The Owner shall:

- (i) execute one or more agreements with the Municipality and, where required, with the Ministry of Transportation, to ensure the satisfactory design and completion of the following road improvements (or such modified road improvements as may be required by the Ministry of Transportation and be acceptable to the Owner) prior to Stage 1 building occupancy:

[list of eleven road improvements, hereinafter referred to as the "Stage 1 Road Improvements"]

The Memo goes on to note that the City determined that it would be practical to have Park Place's consulting engineers undertake the design and installation of a transmission watermain and associated City works, planned by and for the City, concurrent with Park Place's undertaking of the Stage 1 Road Improvements. Park Place cooperated and carried out the additional work on behalf of the City.

January 26, 2011
Page 2

The completion of the City's transmission watermain and associated works concurrent with the Road Improvements serves to minimize traffic disruption in South Barrie and achieves economic efficiencies for the City. However, undertaking this additional work delayed the commencement of the Stage 1 Road Improvements, which under the terms of the existing Site Plan Agreement, would delay Park Place's Stage 1 occupancy. A delay in occupancy will jeopardize my client's leases with its incoming tenants.

Recognizing this, Engineering staff concluded the Memo as follow:

Regarding work on the Park Place site, to date Building Permits have been issued for the site servicing and for six buildings shells, with one additional building application under review. The site servicing for Phase 1 is approximately 80% complete.

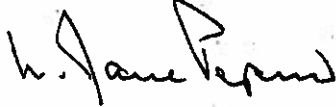
Park Place have indicated that some buildings may be ready for occupancy by a tenant for fit-out by April 2011. In addition Park Place have indicated they may have buildings ready for full occupancy by July 2011. This would be in advance of completion of the external road improvements and would require Council approval of an amendment to the Site Plan Agreement.

My client agrees that the Site Plan Agreement should be altered to ensure that Park Place's tenants may occupy the Stage 1 buildings in advance of the completion of the Stage 1 Road Improvements, the securities for which have already been posted in full. We suggest this could take the form of a formal addendum to the Site Plan Agreement and in this regard, we attach a draft for your review and comment.

I will be out of the province until February 4, 2011. In the interim, please feel free to contact John Mascarin or Patrick Harrington in my office if you wish to discuss the draft addendum further. My client appreciates staff's efforts and we look forward to your response.

Yours very truly,

AIRD & BERLIS LLP



N. Jane Pepino, C.M., Q.C., LL.D
NJP/PJH

cc: R.W. McArthur, P. Eng., Director of Engineering
North American (Park Place) Corporation
John Mascarin
Patrick Harrington

7738137.5

AIRD & BERLIS LLP
Barristers and Solicitors

ADDENDUM TO DEVELOPMENT AGREEMENT D11-1105 BETWEEN
NORTH AMERICAN (PARK PLACE) CORPORATION (the "Owner")
AND
THE CORPORATION OF THE CITY OF BARRIE (the "Municipality")

Part of Lots 7 to 9, Concession 12, Geographic Township of Innisfil, City of Barrie, County of Simcoe, designated as Parts 1 thru 18 inclusive and Part 42 on Reference Plan SLR-31901

This Addendum forms part of the Development Agreement between the above referenced parties pertaining to the development of the above-noted lands.

In consideration of the payment of two (\$2.00) dollars by each party to the other and other valuable consideration, the receipt and sufficiency of which is hereby expressly acknowledged, the parties hereto agree as follows:

1. Where there is a conflict between the terms of this Addendum and the Development Agreement, the terms of this Addendum will govern.
2. Notwithstanding paragraph 25(a)(i) of the Development Agreement, the Municipality acknowledges that:
 - a. as of the date of this Addendum, the Owner has executed the agreements contemplated by paragraph 25(a)(i) to ensure the satisfactory design and completion of the road improvements set out in clauses 25(a)(i)(A)-(K);
 - b. at the Municipality's request, the Owner undertook the design and installation of additional municipal infrastructure, including a transmission watermain and associated works on Mapleview Drive East;
 - c. the Owner has posted securities in the amount necessary to secure the road improvements set out in clauses 25(a)(i)(A)-(K), as required by paragraph 28(a)(ii) of the Development Agreement;
 - d. building permits have been issued by the Municipality and onsite construction of Stage 1 has commenced; and
 - e. the Owner wishes to ensure that its tenants may occupy Stage 1 as soon as possible.
3. In reliance on the foregoing, the Municipality agrees that, notwithstanding paragraph 25(a)(i) of the Development Agreement, the occupancy of Stage 1 may commence prior to final completion of the road improvements listed in clauses 25(a)(i)(A)-(K).

Dated this ____ day of _____, 2011

NORTH AMERICAN (PARK PLACE)
CORPORATION

Per: _____
Name:
Title:
I have authority to bind the corporation.

THE CORPORATION OF THE CITY OF BARRIE

Per: _____
Name:
Title:
I have authority to bind the corporation.