

PUBLIC PARTICIPATION MEETING COMMENTS

10. Property located at 3680 Wonderland Road South (Z-8431)

- Bob Siskind, Decade Group – indicating that they have been associated with Westbury International (1990) Corp. for many years, in several developments; noting that one is across the street from this one, a 50 acre subdivision which is almost completed; noting that they worked with Westbury, many years ago, when they did the Windermere development on the corner of Richmond Street and Windermere Road; indicating that he would have chosen a first time appearance before this Committee, after the Election, other than today; advising that it is their mindset, coming to this Committee and hoping that it is the Committee's mindset, as well, to be open to the suggestion that this matter has been messed up, it has gotten derailed from the last Council; expressing regret that he has to mention this; hoping that they have a solution that will put it back onto the rails and get this resolved, get the Ontario Municipal Board appeal resolved and move forward; outlining that the site, as has been described by staff, is about 25 acres and is at the corner; advising that the history that the Committee received is accurate, but there are other pieces that the Committee should know about; indicating that this property has been zoned Commercial since he wore short pants; noting that it was previously in Westminster Township and was zoned Commercial then; indicating that they submitted, through Stantec, an application for rezoning after the amalgamation in 2011; indicating that they were advised, by staff, at that time, by staff and staff admitted it at the last Planning and Environment Committee meeting, that yes, the staff told the applicant to stop, to wait until the South West Area Plan (SWAP) was approved; advising that they did stop; noting that SWAP was approved in 2012; advising that, what they found out was that two other applications were processed by the Planning and Environment Committee and by the bureaucrats; noting that one was York Developments and one was Greenhills; indicating that, as Jeff Paul, from Stantec, will point out, there was a piece of SWAP that talked about a fair and equitable distribution of the commercial space; advising that, on that basis, they did not object to SWAP, they thought SWAP was a fine idea; noting that it works, it is a nice entrance into the City, there is a limit on it and they are not asking to increase the limit today, that is not their position; indicating that they got stymied, they got shut out and when you look at the corridor now, you are going to have a beautiful new development by York, a beautiful new development by Greenhills and 25 acres of corn on a corner that is surrounded by three commercial streets; indicating that it is absurd, it does not make sense from a planning or an entrance to this City position; advising that they then resubmitted, after SWAP was approved, a pretty straight forward application, like everybody else, except that they are on a corner that should be commercial and we are now before you; expressing that this is the mindset that he would love the Committee to have when Jeff Paul speaks - has the 100,000 square metres been calculated properly and, secondly, has it been allocated properly; advising that those are the two questions for the Committee; advising that Westbury continues to put forward the position that staff was incorrect in turning the fair and equitable distribution guideline in SWAP into a footrace; noting that whoever gets to the line first gets the allocation, particularly when the relationship between staff and the various developers differ so strenuously; noting that that is not why he is here; indicating that he is practical and would love to find an answer within the existing definitions in SWAP, within the existing size; advising that they are asking for a deferment, as staff is asking for a deferment, but only for two meetings or three meetings, where the Committee can direct staff to look at the two issues that they have raised, review the calculation, particularly as it relates to existing commercial, leaving out Greenhills, leaving out York, but if you leave the existing, as is, and they may or may not come back for expansion sometime in the future, they do not know, but if you took those pieces out, this issue goes away, the Greenhills OMB goes away; asking the Committee to direct the staff to look at that; requesting that the Committee also direct the staff to meet with them; advising that they have been before this Committee on several occasions only to have this Committee send it back to staff and they have not been consulted; advising that they appear at the next appropriate Committee meeting and

read the report; indicating that he does not believe that this is the way this City should function; believing that they are intricately involved in this, he would like to meet with staff and present these arguments and see, because if staff agrees with them, then they have resolved all of the issues; responding to questions raised by the Councillors, his understanding of the chronology was that the York application was way in advance of SWAP; indicating that they submitted their application in 2011, went to the staff and they said stop; noting that Mr. Fleming admitted this to the Planning and Environment Committee Chair in a previous Committee meeting; reiterating that staff said, no, back off until SWAP has been approved, which they did; indicating that Greenhills then submitted an application and was processed; advising that they waited until SWAP was approved, then resubmitted and that is what his interpretation of a foot race; indicating that it became a foot race, saying that we are just going to knock them all off, Greenhills has this, York has that and the balance is existing, the balance is Greenhills and then, oh, I am sorry, you stay as a field, that is what he sees as a foot race and they will continue that position; reiterating that that is not what he is hoping for today; and, hoping for a very practical answer. *(Secretary's Note: Councillors asked technical questions that the Civic Administration and the applicant answered with respect to this application.)*

- Jeff Paul, Stantec Consulting, representing Westbury International (1990) Corp. – indicating that Mr. Siskind has posed a couple of questions and he would like to provide a little bit of background to those questions; drawing on some elements and pointing out some things that have been discussed in the past; providing a summary of some of the numbers that Mr. Davis has provided the Committee previously; outlining that there is a total of 100,000 square metres of commercial area to be allocated and, as of today, pending the result of the Greenhills hearing, we have that allocated largely between three essential elements, the York Developments site takes a large majority of that with Greenhills taking a smaller piece and then we have a piece here of existing commercially zoned lands; noting that Mr. Davis alluded to this and pointed out the location; further noting that they are talking about the Hully Gully, TSC and a few lands surrounding that, lands that were zoned commercial prior to the South West Area Plan (SWAP) coming into effect and the commercial zoning remains; indicating that, within those sites, we have existing buildings, a Hully Gully, a TSC and a little over 12,000 metres of existing buildings; advising that this is the point where, as a follower of the SWAP, and he has been following the SWAP since it started in 2009, when this calculation came forward and these numbers started to take shape as part of the Greenhills application; indicating that, this is the point where he was personally scratching his head a little bit; indicating that he did not think that existing commercially zoned property would be considered; indicating that he thought it was all new development; noting that he was a little bit taken aback as to why this was; an interesting thing that he wants to point out here is that the Westbury application involves about 14,000 square metres; noting that the interesting thing here is that, if there were a reinterpretation, if there was a recalculation of the cap and that existing commercially zoned lands were not considered as part of the cap, then the Westbury application could be approved tonight; enquiring as to why existing uses were considered as part of the cap and how was that interpreted; outlining the Policy that speaks specifically to the 100,000 square metres; “Commercial development for the entire Wonderland Road Community Enterprise Corridor designation shall not exceed 100,000 square metres gross floor area. For the purpose of this limit, this shall not include those lands generally located north of the Bradley Avenue extension that are currently developed or are approved/under construction as of October, 2012.”; advising that the policy is silent on anything else in that zone that has been previously commercially zoned; noting that it does not speak to the fact of whether it should or should not be considered part of the commercial cap; indicating that, to him, the Policy is silent and is open to interpretation as to whether you include or exclude existing commercially zoned property as part of the cap calculation; outlining that, as a follower of the SWAP, he wants to dig a little deeper, the Policy does not speak to this definitively, but what was the intent when the Policy was brought forward, what was presented and what was the Council of the day thinking when they passed this Policy; advising that he went back to October 15, 2012, to the staff report that accompanied the SWAP was brought before the Planning and Environment Committee and then brought subsequently before Council, what did the

report say in terms of approval of this cap, what did they speak to in terms of this Policy; advising that this is what he finds interesting and reinforces his understanding of what the cap was; reading a portion of the staff report from October 15, 2012, "up to 100,000 square metres of new commercial development may be permitted"; submitting to the Committee that what was represented to Council and the Committee of the day was that we were creating a cap, we stopped it at Bradley Avenue, we grandfathered lands that are north of Bradley Avenue and said that those are existing and we are not going to include those in the cap and everything south of that to Hamlyn now falls within the Enterprise Corridor and we want to have 100,000 square metres of new commercial development; advising that this is the basis on which the Policy was passed; outlining that, to him, to include those existing uses as part of the cap calculation is not in keeping with the intent of what was passed by Council and Committee of the day; indicating that, to him, the answer to the question – has the commercial cap been calculated properly, he does not believe that it has, he believes that you need to exclude those existing commercially designated properties; moving on to the next question, which is a little bit more complicated, has the commercial cap been allocated properly; indicating that this is where Mr. Siskind has alluded to some policies that were in the SWAP that they drew some comfort from as the SWAP was moving ahead; noting that he has highlighted a couple of the sections in red because he does not want to read the whole Policy to the Committee; reading sections of the Policy, "share in the equitable and fair distribution of commercial uses", and "all Official Plan, subdivision, Zoning By-law amendment and site plan applications shall be required to include a statement of conformity"; pointing out some very strong words there in terms of the Policy speaking to them, as consultants and the development community; reiterating that they want a fair and equitable distribution of the commercial uses and if you bring an application to us, you must demonstrate conformity with this particular Policy; advising that this was reinforced when they came forward with their application for 3680 Wonderland Road when they went to the pre-consultation meeting on April 22, 2014, and the comment that they received back and was discussed at the meeting was that this Policy must be adhered to and the language given to them in the pre-consultation was really very much a mirroring of what was actually in the Policy, "SWAP requires land developers to share in the equitable and fair distribution of Commercial Uses. A statement of conformity with this policy will be required as part of a complete application."; reiterating that staff was saying to them to bring forward an application, make sure that you address the fair and equitable distribution of commercial uses and give us a statement of conformity to say that you are in keeping with this policy, how have you conformed to this policy; advising that, when they submitted their application, they did that, they included something in their report to say that this is how we feel that the commercial uses should be distributed throughout the Corridor and this is how we feel that we are in conformity of that; outlining that they had that in April, 2014 and in about July, 2014, Greenhills came to the Planning and Environment Committee and when Greenhills came to the Planning and Environment Committee, there was not anything about this policy in the reporting that they saw, there was not anything about fair and equitable distribution and there was not a statement of conformity; indicating that it was themselves and other developers in the Corridor who raised this question, who said, if the Greenhills application is coming forward and we have this policy that deals with fair and equitable, where is fair and equitable in this application, how is it addressed in the staff report, how do you analyze that this is the best allocation of commercial, that you have taken this limited resource of commercial space and applied the remainder of it to the Greenhills application, how have you done that in keeping with this policy; advising that when you raise these questions and as Councillor Hubert will recall, there were several meetings that this came forward to; advising that, at the final meeting, where the application was approved, staff then reported back on how is this application in keeping with the fair and equitable because they are basically saying that this has been raised by several other applicants in the area, how is the Greenhills application in keeping with fair and equitable; outlining that this is where, and he has not quoted the entire section, "The plan itself (SWAP) includes a range of policies regarding all types of development which provide for an equitable, a fair distribution of responsibilities and resources"; indicating that the answer back is essentially is to say that an analysis of fair and equitable on the Greenhills application by

itself was not necessary because the SWAP by itself addressed fair and equitable; expressing that he feels that there is a mixed message here, that one application is told that you need to address fair and equitable and you need a statement of conformity, the next application is told that the SWAP covers it, do not worry about it; outlining that, in particular, in regards to the policy, the specific language about statement of conformity, which he has not seen in the Greenhills application, which brings him back to the question of has the commercial cap been allocated properly; going on to another couple of brief points and then he will turn it back over to Mr. Siskind; indicating that the other thing that he started to look at, as a student of the SWAP, as everyone knows, this went to the Ontario Municipal Board, and at the Ontario Municipal Board, there was a significant challenge to the Enterprise Corridor in its physical context; advising that, specifically, it was challenged that should it extend south of Exeter Road, should the Enterprise Corridor go all the way to Hamlyn Road or should it stop at Exeter Road; indicating that some of you will remember that, when it first came to Council, it stopped at Exeter Road and the Council of the day directed that it be extended further south to Hamlyn Road; indicating that the question to the Board member was was that appropriate; advising that what the Board member decided in the end was that he felt it was appropriate, he felt he should side with Council in their wisdom, but he made a couple of comments that he has quoted from the Board members decision; reading "...since York and Greenhills have now agreed to allow the market to determine how the commercial cap will be allocated within the EC ... there will be a fair distribution of resources based on market and not restrictions in planning instruments." And "the permitted amount of commercial space will be spread over a wider area and, consequently, there will be room for as of right development of other complementary uses, thereby resulting in a mix of uses throughout the corridor."; going back to a couple of words from the quote, the amount of commercial space will be spread over a wider area, so there was a thinking from the Board member that we were not just going to take this resource that they had, this 100,000 square metres and just drop it into some succinct sites, that we were not just going to drop it into, as we are sitting right now, two specific new developments that there was some sort of sharing, there was some sort of spreading of that resource across the Corridor; and, turning it back to Mr. Siskind who will summarize where they are at in terms of context.

- Sharmini Mahadevan, Wood Bull, on behalf of Greenhills Shopping Centres Limited – indicating that her clients lands are immediately south of the Westbury property; mentioning that, by way of background, her clients application was actually for 45,000 square metres of commercial gross floor area in a mixed use format; advising that they made very similar submissions to the submissions which were made by the representatives of Westbury that there could be a different interpretation to how the commercial gross floor area cap in the South West Area Plan could be calculated; indicating that they were not successful in that; advising that it is her clients position that Council and staff have interpreted the commercial gross floor area cap in a manner which says that there is only 100,000 square metres of space left over; keeping in mind existing zone sites and if Council makes any decision with respect to permitting commercial gross floor area on the Westbury site, that would not be consistent with the direction of Council with respect to the Greenhills application; advising that, in that context, should Council wish to consider commercial on the Westbury site, it is her submission and her clients' position that, based on the City's interpretation of the commercial gross floor area cap an Official Plan Amendment application would be required to revisit the cap in the South West Area Plan (SWAP); regarding the timing with respect to her client, Greenhills was involved throughout the Secondary Plan process even though it did not have an application, it was one of the parties that was very involved in the Secondary Plan process; and, advising that Greenhills had its pre-consultation meeting, relating to its application, in the Fall of 2013.