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File No. 077710/000008

December 4, 2019

Delivered by Email

Office of the Clerk
City of Richmond Hill
225 East Beaver Creek Road
Richmond Hill, ON L4B 3P4

Attention: City Clerk and Richmond Hill City Council

Dear Richmond Hill City Council:

Re: SRPRS.19.17
8905 Bayview Avenue, City of Richmond Hill (the “Subject Site”)
Zoning By-law Amendment, Draft Plan of Subdivision Applications

We act for *Masjid us Saifee, Anjuman e Burhani (Toronto)* (“Anjuman”), owner of the property at 8929 Bayview Avenue, located directly north of the Subject Site (the “Anjuman Lands”). A place of worship (mosque) is currently located on our client’s property and has been in operation at this location since 1990. Our client, being an immediate neighbour to the Subject Site, has concerns with the development proposal’s potential impacts to its existing mosque operation. Through this correspondence, our client is providing its concerns with respect to the information contained in Richmond Hill Staff Report SRPRS.19.197.

Our clients have previously commented on the applications in letters dated November 17, 2015 and March 16, 2016 (attached as **Attachment 1** and **Attachment 2**, respectively). We note that the proposed development has been altered in summer 2019 to remove the proposed day nursery and propose four additional townhouse units in its place.

Since filing our previous comment letters with the City, we have had the opportunity to review SRPRS.19.197 and the attachments thereto; the Environmental Noise Feasibility Study dated May 16, 2018 prepared by Valcoustics Canada Ltd. (the “Valcoustics Study”); and the Transportation Review dated June 25, 2019 prepared by BA Group (the “BA Group Report”). Our client relies on the concerns submitted in its previous letters attached hereto with the exception of the comments on the day nursery given that it is no longer being proposed. Specifically, we believe that the following comments have not been addressed by the updated studies and the changes to the development:

Detailed Noise Assessment

Section 7.2.1 of the Valcoustics Report identifies various noise sources on the Anjuman Lands from emanating from the kitchen exhaust fan, HVAC, and air conditioning that exceed required sound levels. Valcoustics proposes upgrades to this equipment to mitigate sound issues and states that “It is understood the development is currently actively working with the mosque to determine what upgrades/replacements will be put into place to ensure compliance.” I am advised by the principals of Anjuman that noise testing was conducted on the Anjuman Lands at some point in the past, but there has never been any active requests from the applicant to address noise abatement measures. In addition to mechanical noise sources, religious events result in heavy evening use of the facilities on the Anjuman Lands. These events have not been considered in the Valcoustics Report.

Given the identified impacts, the applicant should be required to provide further information on what and how those impacts will be mitigated prior to approval including warning clauses regarding the neighbouring use. We reiterate our comment in our letter of November 17, 2015 that “Even with mitigations including a warning clause on transfers of new units, advising of the proximity of the mosque could be appropriate.”

Traffic/Access Issues

We have reviewed the updated BA Group Report. The report provides updated trip generation data resulting in the change of use from the day nursery to additional townhouses, but the report does not address our previous concern regarding the potential traffic queuing into the Subject Site and the mosque during the times when events are being held by the mosque. We note that the removal of the day nursery may minimize peak traffic generation to the Subject Site, but this concern has still not been address in either the BA Group Report or SRPRS.19.17.

We thank you again for considering our client’s concerns. Should you have any questions, do not hesitate to contact the undersigned.

Yours very truly,

BORDEN LADNER GERVAIS LLP



Andrew Baker
AB/jcm

cc. Clients: Huzefa Zaki (huzefa.zaki@gmail.com) and Ali Zain (alizain52@gmail.com)
cc. Joanna Fast, Land Use Planner for the proponent (jfast@evansplanning.com)
cc. Simon Fiore, Planner II, City of Richmond Hill (simone.fiore@richmondhill.ca)
cc. Denis Beaulieu, Manager of Development, City of Richmond Hill (denis.beaulieu@richmondhill.ca)

Attachment "1"

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November 17, 2015

Delivered by Email

Ms. Shelly Cham
Senior Planner
Planning Department
Town of Richmond Hill
225 East Beaver Creek Road
Richmond Hill, ON L4B 3P4

Dear Ms. Cham:

**Re: 8905 Bayview Avenue, Town of Richmond Hill (the "Subject Site")
D02-14037; D06-14104; D05-14010
Ward 27
Zoning By-law Amendment, Draft Plan of Condominium and Site Plan
Approval Applications**

We act for *Masjid us Saifee, Anjuman e Burhani (Toronto)*, owner of the property at 8929 Bayview Avenue, located directly north of the Subject Site. A place of worship (mosque) is currently located on our client's property and has been in operation at this location since 1990.

We understand that a Zoning By-law amendment, draft Plan of Condominium and Site Plan Approval applications (the "applications") have been submitted for the Subject Site to facilitate a mix-use development consisting of 22 townhouse units and day nursery building with a gross floor area of 566.7 sq.m. The Kinderschool Adlerian Nursery is currently located at the Subject Site.

Our client, being an immediate neighbour to the Subject Site, has concerns with the development proposal and is concerned with the potential impacts to its existing mosque operation. Through this correspondence, our client is providing its initial concerns with the applications. Further comments may be provided upon receiving and reviewing the Planning staff report and technical reports for the applications.

CONCERNS

Currently, the Subject Site and our client's site are designated Neighbourhood in the Town's Official Plan (the "Official Plan"). The Subject Site is zoned R5 in Zoning By-law 107-86, and further amended by site-specific By-laws 237-86 and 206-92. Our client's site is zoned I2 (Institutional 2).

In the Official Plan, the Town's vision for Neighbourhoods is generally characterized by low-density residential areas and a range of service uses and facilities including day nurseries, and places of worship amongst other uses. Neighbourhoods will accommodate only limited intensification through small-scale infill and redevelopment at a lower scale and intensity than any other area of the urban structure.

There are policies in the Official Plan protecting existing uses when sensitive land uses are being proposed. Particularly, regarding noise, there is a policy that states that the Town requires appropriate mitigation of adverse impacts on sensitive uses from noise, odour and vibration emanating from the generating sources. Furthermore, sensitive uses need to be buffered through mechanisms such as appropriate development standards, building design, location of outdoor living areas, and the provision of landscaping including street trees, fencing, or berms. Where residential development is proposed in proximity to a Provincial highway, an airport, a railway, an arterial road, or an industrial use, proponents of the development shall be required to submit a Noise and Vibration Analysis and implement required mitigation measures to the satisfaction of the Town. The Town requires that the Noise and Vibration analysis:

- a) be undertaken by a qualified person;
- b) use recognize noise and vibration techniques;
- c) incorporate appropriate mitigation measures to minimize incompatibility between land uses to the satisfaction of the Town, in consultation with York Region, where applicable;
- d) contain an assessment of noise levels to which the proposed uses will be subjected before and after abatement measures are installed, from the existing and anticipated situation over a 24-hour period; and
- e) address the Ministry of Environment land use compatibility guidelines.

Our client believes that this policy requirement should be extended to new residential development proposed to be in proximity to any potentially incompatible land uses. In this case the residential development is being proposed in proximity to a mosque.

The Official Plan also has a policy directing development in Neighbourhoods to be compatible with the existing character of the adjacent and surrounding area with respect to built form and types; massing; general patterns of streets, blocks, lots and lands; landscaped areas and general pattern of yard setbacks (policies 4.9.1 and 4.9.2.4). Again, the proposed site design will need to be compatible with the existing character of the adjacent area.

The Town also has policy direction on the types of reports/studies required to be prepared as part of the application submission. The list of reports is identified at the pre-consultation meeting with Town staff. The policy states that the reports need to demonstrate that the residents or users of a proposed development are buffered from nuisances related to noise, dust, odour and vibration. Furthermore, the required reports need to identify all the potential nuisance issues which may impact the proposed development and/or adjacent land uses; need to identify the buffer areas between the proposed development and adjacent land uses and identify any other appropriate mitigation or site design measures that may be required (policy 5.3 (7)(f)).

REQUEST

It is our client's position that the approval of the applications should be subject to the applicant demonstrating that the proposed new sensitive land use can be adequately separated and buffered from the existing surrounding land uses (such as the mosque). We are requesting that City staff require the applicant to submit adequate studies/reports analyzing any impacts the development proposal may have on existing land uses, as per the Town's policies.

Several times a year, religious events result in heavy evening use of the facilities at the mosque complex, which should be understood and anticipated in designing adjoining sensitive uses. If there are impacts, then the applicant should be required to provide information on what and how they will be mitigated. The public and commenting agencies should be given the opportunity to comment on the applicant's recommended mitigation measures. Even with mitigations including a warning clause on transfers of new units, advising of the proximity of the mosque could be appropriate.

We are aware that the applicant has submitted an Environmental Noise Feasibility study by Valcoustics dated July 20, 2015. The report recognizes the mosque as a significant stationary noise source with potential impact to the proposed development. Valcoustics recommends a detailed noise assessment of the mosque facility to determine the level of impact and provide appropriate mitigation measures. We request the opportunity to review this supplementary noise report once available and to provide comments.

Furthermore, we kindly ask to be placed on the circulation list to receive any future public/Committee/Council meeting notices regarding this matter, as well as, Committee/Council decisions relating to same. We would also appreciate reviewing any technical reports submitted by the applicant. Please advise when these documents are available for the public's review.

We thank you in advance for considering our client's initial concerns. Should you have any questions, do not hesitate to contact the undersigned.

Best regards,

BORDEN LADNER GERVAIS LLP


Stephen F. Waqué
SFW:ml

cc. Clients

Attachment "2"

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March 30, 2016

Delivered by Email

Ms. Gloria T. Collier
Acting Clerk
Clerk's Office
Town of Richmond Hill
225 East Beaver Creek Road
Richmond Hill, ON L4B 3P4

Dear Ms. Collier:

**Re: 8905 Bayview Avenue, Town of Richmond Hill (the "Subject Site")
D02-14037; D05-14010 and D06-14104
Ward 27
Zoning By-law Amendment, Draft Plan of Condominium and Site Plan
Approval Applications**

We act for *Masjid us Saifee, Anjuman e Burhani (Toronto)*, owner of the property at 8929 Bayview Avenue, located directly north of the Subject Site. A place of worship (mosque) is currently located on our client's property and has been in operation at this location since 1990.

We are aware that a Zoning By-law amendment, draft Plan of Condominium and Site Plan Approval applications (the "applications") have been submitted for the Subject Site to facilitate a mix-use development consisting of 22 townhouse units and day nursery building with a gross floor area of 566.7 sq.m. We have received and reviewed the notice of the Council Public meeting scheduled for March 30, 2016, as well as the planning staff report (SRPRS.16.048) made available March 23rd.

On behalf of our client, we submitted a letter to the Town of Richmond Hill (the "Town") on November 17, 2015, expressing our client's initial concerns with the applications. Attached for ease of reference is a copy of such letter. In reviewing the planning staff report (SRPRS.16.048), it appears that our client's initial concerns raised in the November 17th have not been addressed and as such, these issues remain outstanding. Additional concerns have been provided in this letter.

In summary, the initial concerns raised related to:

- (i) The incompatibility of the proposed use with the existing character of the adjacent and surrounding area/neighbourhood;
- (ii) The proposal is not appropriate as it is not small-scaled and low density as required in the Neighbourhoods designation in the Town's Official Plan. The Subject Site is designated Neighbourhoods;

- (iii) There is policy to provide Noise and Vibration Analysis for residential development proposed in proximity to a Provincial highway, an airport, a railway, an arterial road or an industrial use. A similar report should be required if residential development is proposed next to an existing mosque which has also been recommended by the applicant's noise consultant (see below);
- (iv) There is a policy direction on the types of reports/studies required to be prepared as part of the development application submission that need to demonstrate that the residents or users of a proposed development are buffered from nuisances related to noise, dust, odour and vibration. Such reports have not been prepared with respect to assessing the impacts from our client's property to the proposed residential use and day nursery.

ADDITIONAL CONCERNS

Detailed Noise Assessment Required

As noted in the November 17th letter, the applicant submitted an Environmental Noise Feasibility study by Valcoustics dated July 20, 2015. The report recognizes the mosque as a significant stationary noise source with potential impact to the proposed development. Valcoustics recommends a detailed noise assessment of the mosque facility to determine the level of impact and provide appropriate mitigation measures. Similarly, the applicant's Planning Justification report also notes that "any noise emanating from the mosque as described in the Sound Attenuation Report will be dealt with through sound abatement and/or mechanical upgrading of the mosque rooftop air handlers." In the November 17th letter, we requested the opportunity to review this supplementary noise report once available and to provide comments.

It is our understanding from Town Planning staff that the referenced detailed noise assessment of the mosque facility has not yet been prepared. Again, our client is requesting for such an assessment to be completed as it is prudent to understand the impacts our client's mosque may have on the proposed residential development, to determine any required mitigation to address any of the issues and who is to implement these measures. This comment was also raised by Lamyaa Salem of Planning and Regulatory Services Department – Policy Division, who requested that the applicant submit the final analysis of the acoustical treatments required by "block B" near the mosque.

Proposed Location of Day Nursery

The Site Plan provided in the staff report (SRPRS.16.048), shows that the day nursery is proposed to be located on the eastern portion of the Subject Site. Staff notes that the proposal should be redesigned to locate the day nursery building in proximity to Bayview Ave and the existing institutional use to the north. It is our client's view that the applicant's proposed location of the day nursery would be more appropriate (to the eastern boundary) than the City's proposed location. Our client is concerned that if the day nursery is relocated closer to Bayview Ave., this may shift the proposed residential buildings closer to the mosque building which would make the location of the mosque and residential uses less compatible.

Most of our client's events are conducted after sunset with the exception of approximately 12 morning events annually. In the evening, the day nursery operation would not be in use and as such, this would reduce any conflicts between the day nursery and mosque from an operations and noise perspective. The applicant's traffic report states that the operation of the day nursery is on weekdays between 8:30am to 4:00pm.

Site Plan – Additional information on buffer between the Subject Site and Client's Property

The site plan in the staff report does not clearly illustrate if or any buffering is to be provided between the Subject Site and our client's property. The applicant's staff report does state that a new wooden fence will be built along the lot line between the Subject Site and our client's property. However, no further details on the fence and or any other buffering are provided in the report.

Further, there are no discussions in the staff report on how the applicant will mitigate against any light pollution from our client's parking area. Our client's property provides street lights in its parking area between sunset to the sunrise the next morning daily.

We believe that additional reports are required to assess other various potential impacts between our client's property and the proposal to determine what adequate mitigation measures are necessary (i.e. dust, odour, etc.). The requirement of these assessments is provided in the Town's Official Plan.

Traffic/Access issues

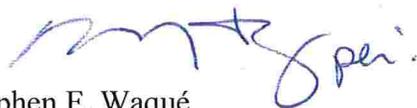
We have reviewed the applicant's Transportation Review, dated July 6, 2015. The review does not appear to assess potential traffic queuing into the Subject Site and the mosque during the times when events are being held by the mosque. Again, it would be important to assess if there are any traffic issues with respect to site access and queuing, particularly during these events when a high volume of traffic will enter our client's property at the same time.

As these issues are significant to our client, we will be in attendance tonight to present the above concerns and to answer any questions Council or staff may have on this matter.

We thank you again for considering our client's concerns. Should you have any questions, do not hesitate to contact the undersigned.

Best regards,

BORDEN LADNER GERVAIS LLP



Stephen F. Waqué

SFW:ml

cc. Mayor and Members of Council, Town of Richmond Hill
Shelly Cham, Senior Planner, Town of Richmond Hill
Clients