

September 12, 2024

Our File No.: 242566

Via Email

Mayor and Members of Council
City of Cambridge
50 Dickson Street, PO Box 669
Cambridge, ON, N1R 5W8

Dear Mayor Liggett and Members of Council:

**Re: Recommendation Report – Official Plan Amendment and Zoning By-law Amendment –
245 Riverbank Drive
Report No. 24-095-CD**

We are solicitors for Intermarket CAM Phase 2 Ltd., the owner of the property located at 245 Riverbank Drive (the “Property”).

Our client is respectfully requesting that Council defer a decision on the official plan and zoning by-law amendment applications for the Property that are the subject of staff report 24-095-CD (the “Report”), as opposed to refusing the applications as recommended by staff.

Deferring the applications will not require the City to refund any planning application fees to our client, contrary to the suggestion in the Report. It is understandable that staff may have mistakenly thought a refund might be required, as the interpretation of the multitude of complex amendments recently made to the *Planning Act* can be challenging. We have set out our detailed analysis of the legislative provisions in Appendix “A”, and are confident no refund is required, and can confirm that none will be sought by our client.

In terms of the rationale for our client’s deferral request, Staff and circulated agencies have raised a number of planning and technical issues with the applications, as outlined in the Report, to which our client has not had a reasonable opportunity to respond. If Council refuses the applications as recommended, our client will have no choice but to immediately appeal Council’s refusal to the Ontario Land Tribunal. Our client would much prefer to have an opportunity to make a resubmission to the City in response to the issues raised, with updates to the various technical reports set out in the Report, and then have an opportunity for further discussion with staff and other agencies with a view to resolving issues.

We would note, for example, that if the deferral is granted our client is prepared to have its resubmission reflect a substantial number of single-detached units, and a lower overall density, consistent with staff's position in the Report. Our client will also attempt to work with staff to resolve all other technical issues.

The reason our client has not been able to make a resubmission to date relates to delays in receiving comments that may largely be attributable to challenges inherent in processing applications in the summer months. Staff's May 21, 2024 complete application letter set a City Comment Deadline of June 21, 2024, with a Resubmission Deadline of July 12, 2024 and a Recommendation Report Completion Deadline of August 6, 2024. However, initial partial staff comments were not received until July 12, with transportation comments not received until July 26. These deadlines were very aggressive to begin with, and there has simply not be sufficient time provided for our client to prepare a resubmission.

In conclusion, we respectfully request that Council defer this matter.

Yours truly,

Goodmans LLP



Robert Howe

cc: David Calder, CAO
Hardy Bromberg, Commissioner of Planning and Development
client

Appendix A

Fee Reimbursement Analysis

Summary

Subsections 34(35) and (36) of the *Planning Act*, in effect, provide that for the purposes of determining whether a planning application fee refund is required under former subsection 34(10.12) of the Act for a rezoning application received between July 1, 2023 and June 6, 2024, Council is deemed to have made a decision on the application on June 6, 2024, if it has not done so previously. Accordingly, Council is deemed to have made a decision on the rezoning application for 245 Riverbend Drive on June 6, 2024. Since June 6, 2024 is within 120 days of the notice of complete application for the application (May 21, 2024), no fee refund is required under former section 34(10.12) of the Act.

Detailed Analysis

- Subsection 34(10.12) of the Act, prior to its repeal by Bill 185 on June 6, 2024, provided that an application for zoning by-law amendment received after July 1, 2023 was subject to a refund of fees if the council did not make a decision on the application before certain timelines. The timeline in which a decision must be made to avoid a fee refund altogether was the 90 day or 120 day timeline in subsections 34(11) and (11.0.0.1) after which an appeal could be submitted if no decision were made.
- When subsection 34(10.12) was repealed on June 6, 2024, transition provisions were added. Subsection 34(35) provides that subsection 34(10.12) would continue to apply to an application submitted before Bill 185 came into effect on June 6, 2024. However, subsection 34(36) goes on to say that, notwithstanding subsection 34(35), if a decision has not been made on the application before June 6, 2024, any refund of fees under former subsection 34(10.12) is determined as though a decision had been made by the council on June 6, 2024.
- Council had not made a decision on the 245 Riverbend Drive rezoning application before June 6, 2024. Accordingly, the determination as to whether a refund of fees is required under subsection 34(10.12) is made as though a decision was made by council on June 6, 2024.
- If council had made a decision on the 245 Riverbend Drive rezoning application on June 6, 2024, no refund of fees would have been required under subsection 34(10.12) because a decision would have been made within the 120 day period that would apply under subsection 34(11.0.0.1). Therefore no refund of fees is required under subsection 34(35) and (36) in respect of the 245 Riverbend Drive rezoning application.