

December 7, 2022

By E-Mail Only to *angelo.ambrico@brampton.ca*

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Department 2 Wellington Street West, 3rd Floor
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Dear Mr. Ambrico:

**Re: Planning and Development Committee Meeting, December 12, 2022
Item 5.1, City File No. OZS-2022-0019 (the “Applications”)
9445 Clarkway Drive, City of Brampton (the “Subject Lands”)
Written Submissions**

We are counsel to JiteshKumar Tripathi, Shankar Sreedhara and Dipteshkumar Patel, the owners of lands in the City of Brampton (the “City”) near the Subject Lands, being the lands municipally known as Ugrasen Street, Versailles Crescent and Apple Valley Way respectively. A map of each address and the Subject Lands is enclosed with this letter.

The purpose of this letter is to express our clients’ concerns regarding the Applications. The Applications propose to facilitate the development of a Place of Worship comprised of a two-storey building with a gross floor area of 3,116 square metres on the Subject Lands (the “**Proposal**”). Our clients are particularly concerned that the Applications will increase the traffic in the area, create safety and environmental concerns, that the building envelope is too large for the Subject Lands and that its proposed ancillary/auxiliary uses do not appropriately fit within the definition of a Place of Worship as they are not compatible with the adjacent residential neighbourhoods.

Background

The Subject Lands are located in the Bram East Secondary Plan area, specifically within the Bram East Sub-Area 1 Block Plan. The Subject Lands are directly west of Highway 50 and east of Old Clarkway Drive, which is a local road that ends in a cul-de-sac. The Subject Lands are 4 km north of the Clareville Conservation Area and within Ecoregion 7E. The Subject Lands, as well as the lands directly north, are predominantly wooded area.

The Applications were submitted on behalf of the Brampton and Regional Islamic Centre (“**BARIC**” or the “**Applicant**”) and require an official plan amendment (“**OPA**”) to the City’s Official Plan (the “**OP**”) and a zoning by-law amendment (“**ZBLA**”) to the City’s Zoning By-law 270-2004 (the “**ZBL**”). The OP designates the Subject Lands “Open Space” and Schedule D of the OP, which outlines the “Natural Heritage Features and Areas” in the City, further categorizes the lands as “Woodland”. The ZBL designates the Subject Lands as “Agricultural Zone-A”, which zone does not permit a Place of Worship as a use.

Increased Population and Corresponding Traffic Concerns

G-force Urban Planners and Consultants (“**G-force**”) submitted a Planning and Justification Report Addendum (revised June 2, 2022) on behalf of the Applicant (the “**PJR**”). In the PJR, G-force acknowledged that the existing BARIC Centre located elsewhere in the City does not have enough space due to an increased number of families visiting the Centre. Further, G-force indicated that the Proposal on the Subject Lands “*should be large enough to accommodate the rapidly increasing people visiting the Centre for the services that they are expecting from BARIC*” (emphasis added).

It is our clients’ position that “*should be large enough*” is not an appropriate planning justification to demonstrate that the Proposal may accommodate the number of individuals who will be using it, particularly without negatively impacting the surrounding neighbourhood and residential community.

For example, policy 4.9.8.1 of the OP provides general and specific criteria that Places of Worship are subject to, to ensure land use compatibility. Policy 4.9.8.1(i) outlines the general policy regarding parking requirements for a Place of Worship and provides that:

“On-site parking shall be provided to accommodate regular worship attendance and other regular events in accordance with the City’s Zoning By-Law standards, which are based on the worship area/person capacity of the Place of Worship. Sufficient parking shall be provided to meet typical peak demand, unless reduced standards or alternative arrangements, including shared parking or on-street parking are approved by the City.”

According to the PJR, the Applicant is proposing a total of 90 parking spaces to accommodate the Proposal and its ancillary/auxiliary uses. While this meets the requirements of the ZBL, the Applicant has not demonstrated that this amount is sufficient to meet the actual amount of parking required when considering the Proposal’s ancillary/auxiliary uses.

The PJR indicates that when more parking spaces are required, BARIC may provide additional congregation as it has done at their existing location when the number of people attending exceeds the building’s capacity. It is notable that the PJR says “when”, not “if”, acknowledging that situations will occur where more parking is required. Notwithstanding this acknowledgement, the PJR does not explain what BARIC will do to provide additional parking during these occasions.

The PJR also acknowledges that in such overflow situations, it is not only the parking capacity but the building's capacity that is exceeded. BARIC originally applied for a building 30% larger than what is currently proposed. It is our clients' submission that this may be a more accurate depiction of the size of building needed to accommodate the congregation, and that the size of the building was reduced in order to squeeze it into the developable area of the Subject Lands. As the developable area cannot accommodate the additional parking spaces required for the expected overflow occasions, if the Proposal is approved, the surrounding neighbourhood will be left to bear the brunt of this overflow parking problem. This overflow may also result in safety concerns as it will bring more vehicles and people into the surrounding area.

The Traffic Impact Study prepared by GHD dated May 19, 2022 (the "TIS") outlines that during peak Friday prayer, it estimates 106 inbound vehicle trips and 106 outbound vehicle trips, but that the 16 trips over the parking spaces provided is normal. That being said, the TIS does not indicate how this would impact the traffic and safety concerns of neighbouring landowners and it does not analyze whether additional parking will be required for the Place of Worship's ancillary/auxiliary uses, which are not all present at the existing BARIC Centre. For example, would the addition of a fitness centre increase parking at peak hours? Would sports leagues be held in the gymnasium that require additional parking on game nights? The proposed ancillary/auxiliary uses and their traffic implications require further analysis, including during these expected over capacity occasions. The TIS should also identify mitigation strategies will be used to mitigate adverse impacts during these occasions.

In terms of safety concerns, policy 4.9.8.1(iv) of the OP provides that:

Places of Worship shall generally be located on arterial and collector roads, and not on local residential roads (emphasis added).

Two accesses are provided for the Proposal: one is from the new Clarkway Drive, which is a collector road; the other is from Old Clarkway Drive, which is a local road.

The new Clarkway Drive has been constructed with a centre median, which would limit that access point to a right-in/right-out configuration unless a median break was approved. The TIS proposed a right-in/right-out access at this location; however, the PJR left open the possibility of an application for a median break to facilitate a full moves access. The access intersects with Clarkway Drive in a curve, which will impact sight lines and intersection geometry. These impacts raise safety concerns. As such, a full moves intersection in this location might require signalization for safety reasons and all of this requires more analysis. If the median break application is anticipated, that analysis should occur prior to approval of the Proposal and not afterwards when such application would be seen as a solution to a problem which would only exist because of the approval of the Proposal.

Old Clarkway Drive is a local road, which can only be accessed from Highway 50, with which it intersects at an extreme angle. There will be a significant amount of traffic accessing the Subject Lands from this local road. The Highway 50/Old Clarkway Drive intersection raises safety concerns, particularly with the increased volume of traffic proposed. This use of the local road does not conform with the above-noted OP policy.

Notably, the Region of Peel has recorded the amount of intersection collisions on Regional Roads from 2017 to 2021. For the intersection at Highway 50 and Bellchase Trail, there have been 30 collisions during this four-year time period, nine (9) of which have been fatal. As the vehicular traffic on both Clarkway Drive and Old Clarkway Drive increases, our clients are concerned that the number of collisions in this area, including fatal collisions, will increase substantially. This is particularly concerning when children in the neighbourhood use these intersections to walk to the three nearby schools.

Environmental Concerns

Upon reviewing the Applicant's Environmental Impact Study ("**EIS**") prepared by Kuntz Forestry Consulting Inc., revised on February 28, 2022, and without limiting our clients' right to identify additional concerns, our client has the following environmental concerns:

1. The EIS correctly identifies that a portion of the Subject Lands is identified by the *Provincial Policy Statement, 2020* (the "**PPS**"), as a Natural Heritage Feature and Area subject to policies 2.1.1 and 2.1.8 of the PPS. However, its analysis as to how the Proposal meets the policy's test that "*there will be no negative impacts on the natural features or on their ecological functions*" lacks a detailed analysis.
2. Neither the PJR nor the EIS analyze whether the Applications conform with policy 4.2.2 of the Growth Plan for the Greater Golden Horseshoe Area, which policy provides that, among other things, new development should have no negative impacts on key natural heritage features or their functions.
3. There will be an overall loss of canopy cover on the Subject Lands. The plan to provide off-site compensation will not make up for this loss of canopy cover on the Subject Lands, as it is the residents of the neighbourhood *surrounding* the Subject Lands that will experience a loss in canopy, *not* the residents of a neighbourhood off-site.
4. There will be a total loss in Natural Heritage Feature area of 0.33 hectares (16.5% of the total wooded area). The EIS justifies this amount by stating that the loss is with respect to a lower value ecological community; however, this community includes many tree species that are valuable to the residents, such as beech, ironwood, sugar maple and white ash trees. The residents of the area will feel the impact of this loss whether or not the species of vegetation is of lower or higher ecological value.

5. The PJR also provides that the inclusion of the Subject Lands in Schedule D of the OP as a Woodland “*is not based on scientific data*” and that “*at best the site is a privately owned treed area with no scientific interest*”. However, the EIS does not corroborate this opinion. In our submission, the PJR should not dismiss this issue without further analysis. City staff themselves have indicated that the Applications’ conformity with the “Woodland” policies of the OP should be analysed.

The Building Envelope is too Large for the Subject Lands and Not Compatible with the Adjacent Land Uses

Policy 4.9.8.1(ii) of the OP provides that:

“Places of Worship shall be properly integrated into the surrounding neighbourhood in a manner that will not adversely impact adjacent land uses. The size, height, massing and scale of the building shall be compatible with the character of the adjacent uses” (emphasis added).

Further, policy 4.9.8.1(v) provides that:

“Applications for a Place of Worship submitted under the Planning Act shall be subject to a planning review that takes into consideration the criteria set out in Section 4.9.8 and other relevant policies of the Official Plan, and shall demonstrate the ability to physically integrate the Place of Worship with the host neighbourhood in an appropriate manner, including but not limited to scale, access and parking. Exceptions to the criteria shall only be accommodated if it can be clearly demonstrated to the satisfaction of the City that the built form and site characteristics of the proposed Place of Worship and the surrounding neighbourhood can support the use” (emphasis added).

The Proposal has not demonstrated that it is properly integrated with the surrounding neighbourhood in a manner that will not adversely impact adjacent residential land uses. In addition, as contemplated by the above noted policy, the Applicant has not clearly demonstrated that the built form and site characteristics of the Subject Lands are sufficient to justify that an exception should be made for the Proposal.

For example, the draft ZBLA proposes to rezone the Subject Lands from Agricultural to Institutional 1 Zone (“**I1 Zone**”). The I1 Zone requires a minimum front yard setback of 7.5 m. The Applications have indicated that the purpose of the front yard setback is to allow for usable outdoor pedestrian areas for gatherings of the congregation along the street. However, the draft ZBLA is seeking a reduced minimum front yard setback of 4.85 m to “*prevent unnecessary encroachment into the treed area to the east and to try and conserve as much lands under existing foliage*”. While our clients appreciate the attempt to conserve as much of the treed area as possible, the fact that the required minimum front yard setback pays this price is unacceptable and demonstrative that the building envelope is simply too large for the Subject Lands. To adequately conserve the treed area and achieve a desirable front yard setback that represents good planning and is in the public interest, the building envelope of the Proposal must be smaller.

It is notable that the Commercial Zone also permits a Place of Worship; however, the minimum front yard setback in this zone is 15 m. Given that the Proposal's setback is proposed to be 4.85 m, which is closer to the minimum prescribed in the I1 Zone, our clients are concerned that the Applicant is "cherry picking" its ZBLA request for the zone that is the most favourable to getting the Applications approved, rather than what is most favourable and appropriate for a designation that is compatible with the surrounding area.

The Proposed Use is Not Appropriate under the Place of Worship Use

Pursuant to policy 4.9.8 of the OP, Places of Worship are:

"religious institutions used for faith-based, spiritual purposes including religious worship, fellowship, teaching and charitable community outreach, and all associated activities that support these objectives". In addition, permitted accessory uses, which are integral to the primary religious use include "classrooms for religious instructions, small-scale nursery or daycare facilities, assembly areas related to faith-based activities, kitchens and eating areas, fellowship halls, recreation facilities and administrative offices related to the place of worship, and one habitable living unit with up to 5 guest rooms" (emphasis added).

The PJR indicates that the Proposal will be used for prayer areas and corresponding classrooms for teaching scriptures and culture, as well as for a gymnasium, fitness room, library, multi-purpose rooms, areas for social gathering and communal eating rooms. The OP continues to state that, where the proposed uses are not integral to the Place of Worship, the uses may be planned if they function together on sites that are of sufficient size to accommodate the use. While we understand that Places of Worship may provide these accessory uses if they are integral to the Place of Worship, it is unclear how a gymnasium and fitness centre are integral to the proposed Place of Worship, particularly where the Subject Lands do not provide enough space for these auxiliary uses without adversely impacting the environment and the neighbouring community.

As such, it is our clients' opinion that the proposed uses of at least the gymnasium and a fitness room are auxiliary uses, not ancillary uses integral to the Place of Worship pursuant to the OP. As such, it must be demonstrated that the Subject Lands are of sufficient size to accommodate these uses. This has not been demonstrated.

Conclusion

We thank you for the opportunity to provide comments and kindly request confirmation of receipt of these written submissions, along with, **notice of all future steps in this matter.**

Yours truly,
DAVIES HOWE LLP



Robert G. Miller

RGM: go

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Clients

Map of the Subject Lands

9445 Clarkway Drive

