

**EXECUTIVE SUMMARY OF THE DECISION OF THE CHAIR OF THE
ONTARIO MUNICIPAL BOARD HEARING RE: NORTH AMERICAN'S
'PARK PLACE' APPLICATIONS, BARRIE, ONTARIO, OCT. 31, 2006**

RE: TRAFFIC

“ON JULY 18, 2003, THE APPELLANT WROTE TO THE CITY'S DIRECTOR OF ENGINEERING SETTING OUT A LIST OF ROAD IMPROVEMENTS IT WOULD VOLUNTARILY UNDERTAKE UPON APPROVAL OF ITS APPLICATION” (P. 7)

“ON JULY 5, 2004, MR. RICHARD FORWARD, THE CITY'S MANAGER OF INFRASTRUCTURE PLANNING, MADE A PRESENTATION BEFORE GENERAL COMMITTEE REGARDING BARRIE'S TRANSPORTATION UPDATE. MR FORWARD CONFIRMED THAT APPROXIMATELY \$71,000,000 HAD TO DATE BEEN INCLUDED IN THE 2004-2013 CAPITAL BUDGET FOR SOUTH END ROAD IMPROVEMENTS. ...NOWHERE IN MR. FORWARD'S PRESENTATION TO COMMITTEE WAS A RESERVATION MADE ABOUT THE TRAFFIC IMPLICATIONS ARISING FROM NORTH AMERICAN'S APPLICATION.” (P. 9)

“IN A LETTER DATED FEBRUARY 13, 2006, MTO PROVIDED COMMENTS ON THE CITY'S ALL-BUSINESS PARK PROPOSAL AND NOTED THAT A 70-HECTARE (200 AC.) BUSINESS PARK WAS 'A LARGE TRAFFIC GENERATOR' AND THAT CONSEQUENTLY, MTO 'WOULD PREFER THAT TRANSPORTATION ISSUES BE RESOLVED PRIOR TO A DECISION BEING MADE ON THESE APPLICATIONS.' WHEN ASKED ON CROSS-EXAMINATION ABOUT MTO'S REQUEST, MR TAYLOR CHARACTERIZED IT AS 'ONLY A PREFERENCE' AND CONFIRMED THAT HE WOULD STILL ASK THIS BOARD TO APPROVE THE CITY'S ALL-BUSINESS PARK PROPOSAL IN THE ABSENCE OF THE CITY'S HAVING SATISFIED MTO.” (P. 16)

“MR. TAYLOR REPORTS AS FOLLOWS: 'WHAT IS UNDERSTOOD IS THAT NEITHER PROPOSAL CAN BE FULLY BUILT OUT WITHOUT ADDITIONAL INFRASTRUCTURE, THE MOST BENEFICIAL OF WHICH WOULD BE AN INTERCHANGE AT HARVIE RD.' ” (/BIG BAY POINT RD. WITH HWY. 400) (P. 16)

“SUBSEQUENT TO THE COMPLETION OF THE HEARING OF THE EVIDENCE ON THE PRINCIPLE OF USE, THE PARTIES (PARK PLACE, THE CITY AND THREE SURROUNDING PROPERTY OWNERS) ADVISED THE BOARD THAT THEY HAD REACHED AN UNDERSTANDING/AGREEMENT AS TO THE EXTENT OF THE TRANSPORTATION FACILITIES REQUIRED AND THE ALLOCATION OF THE COSTS BETWEEN THE PARTIES INCLUDING PHASING OF ANY DEVELOPMENTS ON THE SUBJECT SITE.” (P. 3)

FOR DETAILS OF THE ‘STAGE 1’ AGREED-UPON TRAFFIC IMPROVEMENTS SEE ‘ATTACHMENT 3’ OF THE DECISION.

RE: PLANNING

“...WHILE UNDER CROSS-EXAMINATION, MR. TAYLOR CONFIRMED THAT THE THEN MAYOR’S (PERRI’S) INITIAL REACTION WAS POSITIVE TOWARD THE DEVELOPMENT AND THAT, AT THAT TIME, MR. TAYLOR, AS A REPRESENTATIVE OF PLANNING STAFF, HAD NO OBJECTION TO NORTH AMERICAN’S APPLICATION. HE ALSO AGREED THAT, AS A RESULT OF THIS MEETING, IT WOULD HAVE BEEN REASONABLE FOR NORTH AMERICAN TO CONCLUDE THAT BARRIE WAS OPEN FOR NEW RETAIL BUSINESS.” (P. 5)

“MR. TAYLOR DESCRIBED CITY COUNCIL’S APPROACH TO COMMERCIAL DEVELOPMENT PRIOR TO 2003 AS ‘BULLISH’. ... THE EVIDENCE SHOWS THAT PRIOR TO 2003, MR. TAYLOR SUPPORTED THIS ‘BULLISH’ APPROACH AS GOOD PLANNING UNDER THE CITY’S OFFICIAL PLAN.” (P. 5)

“MR. TAYLOR CONFIRMED WHILE UNDER CROSS-EXAMINATION, THAT HE HAD DRAFTED A REPORT AS OF JULY 2003, WHICH HAD RECOMMENDED THAT PARK PLACE BE APPROVED. HE ALSO ACKNOWLEDGED DURING CROSS-EXAMINATION THAT HE WAS PREPARED TO RECOMMEND APPROVAL BASED ON HIS PROFESSIONAL PLANNING OPINION THAT THE PARK PLACE PROPOSAL, INCLUDING A NEW-FORMAT RETAIL DEVELOPMENT, WOULD ENHANCE THE CITY’S ROLE AS A COMMERCIAL CENTRE, WOULD ENHANCE TOURISM IN BARRIE AND COULD GENERALLY BE SUPPORTED. IN ADDITION TO THE DRAFT REPORT SUPPORTIVE OF NORTH AMERICAN’S APPLICATION, CITY STAFF, IN CONJUNCTION WITH MR. ROWE AND THE FORMER SOLICITOR FOR NORTH AMERICAN, HAD ALSO BEGUN WORK ON DRAFT OFFICIAL PLAN AND ZONING AMENDMENTS TO IMPLEMENT THE PROPOSED DEVELOPMENT. THESE DRAFT PLANNING DOCUMENTS ARE BEFORE THIS BOARD.” (P. 7-8)

'ON AUGUST 11, 2003, AFTER IT BECAME KNOWN THAT CITY PLANNING STAFF WAS PREPARING A SUPPORTIVE DRAFT REPORT WITH IMPLEMENTING DOCUMENTS, A MOTION WAS BROUGHT FORWARD BY ALDERMAN MORRISON EFFECTIVELY STOPPING IN ITS TRACKS STAFF'S REPORTING ON NORTH AMERICAN'S APPLICATION.'" (P. 8)

ON NOVEMBER 10, 2003, MAYOR HAMILTON AND THE CURRENT MEMBERS OF CITY COUNCIL WERE ELECTED AND WERE SWORN INTO OFFICE ON DECEMBER 1, 2003." (P. 8)

"ON JUNE 13, 2005 NORTH AMERICAN FILED ITS APPEALS WITH THIS BOARD AGAINST CITY COUNCIL'S REFUSAL/NEGLECT TO APPROVE ITS APPLICATIONS FOR OFFICIAL PLAN AND ZONING BY-LAW AMENDMENTS." (P. 15)

FINDINGS OF THE CHAIR

PAGES 18-33

"THE BOARD FINDS THAT CONTRARY TO THE CITY'S POSITION, APPROVAL OF THIS PROPOSED DEVELOPMENT WILL NOT RESULT IN THE CONVERSION OF LANDS WITHIN AN EMPLOYMENT AREA TO NON-EMPLOYMENT USES. THE PROPOSAL FOR A MIXED DENSITY, MIXED EMPLOYMENT DEVELOPMENT HAS REGARD FOR THE RELEVANT POLICY DOCUMENTS, INCLUDING THE 1997 PPS, THE 2005 PPS AND THE CITY OF BARRIE OFFICIAL PLAN."

"IT OFFERS A MORE BALANCED APPROACH TO SATISFYING THE POLICIES OF THE 1997 PPS THAN DOES THE CITY'S ALL-BUSINESS PARK PROPOSAL BY MAKING EFFICIENT USE OF LAND, RESOURCES, INFRASTRUCTURE AND PUBLIC SERVICE FACILITIES."

"THE BOARD FINDS THAT THE APPELLANT'S PROPOSAL IS MORE APPROPRIATE THAN THE CITY'S ALL-BUSINESS PARK PROPOSAL IN TERMS OF REALIZING EMPLOYMENT OPPORTUNITIES ON THIS SITE..."

“THE APPELLANT’S PROPOSAL WILL ACCELERATE THE CONSTRUCTION OF MUCH-NEEDED IMPROVEMENTS TO THE ROAD INFRASTRUCTURE AROUND THE MAPLEVIEW NODE AND WILL ALSO ACCELERATE THE DEVELOPMENT OF INDUSTRIAL AND BUSINESS PARK USES IN THE BROADER INDUSTRIAL COMPLEX OF SOUTH BARRIE. THE BOARD FINDS THAT THIS WILL HAVE A GREATER EFFECT IN CREATING NEW JOBS THAN WILL THE CITY’S ALL-BUSINESS PARK PROPOSAL, THEREFORE ADVANCING THE LONG AND SHORT-TERM PROSPERITY OF THE CITY OF BARRIE.”

“ THE CITY’S ALL-BUSINESS PARK PROPOSAL FAILS TO MEET THE ABOVE CRITERIA BY CONCENTRATING SOLELY ON IMPROVING ITS OWN INDUSTRIAL AND/OR BUSINESS PARK LAND OFFERINGS, WHILE IGNORING THE CITY’S KEY ROLE AS THE RETAIL AND SERVICE COMMERCIAL CENTRE OF THE REGIONAL TRADE AREA.”

“WITH RESPECT TO THE IMPACT OF THE PROPOSAL ON DOWNTOWN BARRIE, THE CITY’S OWN CONSULTANTS ADVISED CITY COUNCIL THAT PARK PLACE, ONCE BUILT-OUT, WILL NOT HAVE A DELITERIOUS EFFECT ON THE WELL-BEING OF THE DOWNTOWN.”

“THE BOARD FINDS THAT THE PARK PLACE PROPOSAL WILL ASSIST IN RAISING THE PROFILE OF THE CITY OF BARRIE AND WILL BENEFIT AND COMPLEMENT THE DOWNTOWN.”

“THE BOARD FINDS THAT THE PROPOSAL IS CONSISTANT WITH THE 2005 PPS AND PROVIDES FOR A GREATER MIX OF EMPLOYMENT, A MORE DIVERSIFIED ECONOMIC BASE AND THE MORE TIMELY PROVISION OF NEEDED INFRASTRUCTURE THAN DOES THE CITY’S ALL-BUSINESS PARK PROPOSAL.”

“THE BOARD DOES NOT AGREE WITH THE CITY’S POSITION THAT THE PARK PLACE PROPOSAL CONSTITUTES A CONVERSION OF LANDS WITHIN AN ‘EMPLOYMENT AREA’ AND CONTRARY TO THE 2005 PPS.”

“THE BOARD FINDS THAT THE OFFICIAL PLAN POLICIES IN PLACE AT THE TIME OF THE APPLICATIONS BY THE APPELLANT ARE THE POLICIES BY WHICH THESE APPEALS SHOULD BE ASSESSED AND FURTHER FINDS THAT THE APPELLANT’S PROPOSAL IS SUPERIOR TO THE CITY’S ALL-BUSINESS PARK PROPOSAL IN TERMS OF SATISFYING AND ADVANCING THE GOALS AND OBJECTIVES OF THE CITY OF BARRIE AS EXPRESSED THROUGH ITS APPROVED OFFICIAL PLAN.”

“THE PARK PLACE PROPOSAL WILL ADVANCE THE CONTINUED EXPANSION OF THE INDUSTRIAL, COMMERCIAL AND TOURISM SECTORS, NOT ONLY ON THE SUBJECT SITE, BUT IN SOUTH BARRIE GENERALLY BY PROVIDING NEEDED INFRASTRUCTURE IN A TIMELY MANNER. SUCH IMPROVEMENTS WILL ALLEVIATE THE CITY’S NEED TO FUND SUCH INFRASTRUCTURE FROM TAXES, THUS PROMOTING EXPANSION IN A ‘FINANCIALLY RESPONSIBLE MANNER’.”

“THE BOARD FINDS THAT THE MIXED-USE PROPOSAL BY THE APPELLANT PRESENTS THE CITY WITH THE OPPORTUNITY TO ‘MAINTAIN, ENHANCE AND SUPPORT’ ITS ROLE AS THE COMMERCIAL/SERVICE CENTRE OF THE REGION, WHILE ALSO STRENGTHENING ITS OFFICE AND INDUSTRIAL SUPPLY. THE ‘POWER TOWN’ CONCEPT WILL PRESENT A COMMERCIAL EXPERIENCE UNIQUE IN ONTARIO THAT WILL ATTRACT NOT ONLY SHOPPERS AND RESTAURANT PATRONS TO BARRIE, BUT ALSO PRESTIGE OFFICE AND INDUSTRIAL USERS LOOKING FOR AN EXCLUSIVE, WELL-SUPPORTED AND ATTRACTIVE LOCATION. APPROVAL OF THIS PROPOSAL WILL COMPLEMENT THE EFFORTS OF PRIVATE SECTOR EMPLOYERS TO ATTRACT AND KEEP THE TYPE OF KNOWLEDGE-BASED WORKERS BARRIE IS ACTIVELY SEEKING.”

“...THE EVIDENCE SUGGESTS THAT MANY RESIDENTS OF SOUTH BARRIE MUST TRAVEL NORTH TO BAYFIELD ST. TO ACCOMMODATE MANY OF THEIR SERVICE/COMMERCIAL NEEDS.”

“BY COMPARISON, ‘PARK PLACE’ PRESENTS AN OPPORTUNITY TO BENEFIT THE PUBLIC INTEREST THROUGH THE SYNERGY OF COMBINING BUSINESS PARK, OFFICE AND INDUSTRIAL USES WITH A UNIQUE AND NEEDED COMMERCIAL/SERVICE COMPONENT. ...’PARK PLACE’ IS THEREFORE A SUPERIOR PROPOSAL TO ONE THAT CONCENTRATES SOLELY PROVIDING FOR INDUSTRIAL FACILITIES.”

“...THE PROPOSAL PROVIDES FOR COMMERCIAL OFFICE, BUSINESS PARK AND INDUSTRIAL COMPONENTS, WHICH WILL ACCOMMODATE A VARIETY OF EMPLOYMENT OPPORTUNITIES IN ACCORDANCE WITH THE CITY’S STATED INDUSTRIAL GOALS.”

“... THE PROPOSAL BEFORE THE BOARD IS SUFFICIENTLY FLEXIBLE TO ACCOMMODATE A SINGLE, LARGE INDUSTRIAL USES ON ITS 13.67 – ACRE INDUSTRIAL AREA AND/OR ITS 40.648 – ACRE BUSINESS PARK AREA.”

“... THE EVIDENCE OF VARIOUS BARRIE BUSINESS FORUM MEMBERS, SHOWED THAT WAGE RATES FOR ‘ON FACTORY FLOOR’ WORKERS IN BARRIE ARE SOMEWHAT COMPARABLE TO RETAIL AND SERVICE COMMERCIAL POSITIONS.”

“WITH RESPECT TO THE CITY’S POSITION THAT THE SUBJECT SITE MUST BE PRESERVED AS INDUSTRIAL LANDS BECAUSE APPROVAL OF THE PROPOSAL WILL HAVE DIRE CONSEQUENCES ON THE CITY’S SUPPLY OF INDUSTRIAL LANDS, THE BOARD FINDS THE EVIDENCE BEFORE (IT) SUGGESTS OTHERWISE.”

“THE CITY’S OWN EMPLOYMENT LANDS CONVERSION STUDY PRODUCED ALMOST TWO YEARS AFTER NORTH AMERICAN’S APPLICATION WAS FILED, MADE NO RECOMMENDATION TO RESERVE THE SUBJECT SITE FOR BUSINESS PARK USES.”

“THE BOARD CONCLUDES THAT THE CITY OF BARRIE HAS SUFFICIENT VACANT INDUSTRIAL LAND OF SUFFICIENT SIZE AND QUALITY TO ACCOMMODATE MULTIPLE OR INDIVIDUAL OCCUPANCY AS DICTATED BY CURRENT DEVELOPMENTAL TRENDS WITHOUT THE NEED TO DESIGNATE THE ENTIRETY OF THE SUBJECT SITE AS BUSINESS PARK.”

“...IN ANY EVENT, THE BOARD FINDS THAT THE PARK PLACE PROPOSAL CONFORMS WITH AND DOES NOT OFFEND THE SPIRIT AND INTENT OF THE PLACES TO GROW LEGISLATION.”

“THE BOARD FINDS THAT THE PARK PLACE PROPOSAL APPEARS TO BETTER CONFORM TO AND ENHANCE THE GOALS AND OBJECTIVES OF THE DRAFT OFFICIAL PLAN.”

“IN SUMMARY, THE BOARD FINDS ON THE BASIS OF THE EVIDENCE BEFORE IT THAT THE CITY’S OPPOSITION TO THE ‘PARK PLACE’ APPLICATIONS WAS NOT BASED ON ISSUES OF NON-CONFORMITY WITH ITS OFFICIAL PLAN POLICIES BUT RATHER WAS MOTIVATED BY A POLITICAL VISION FOR THE CITY BY ITS ELECTED REPRESENTATIVES, WHICH WAS NOT ENUNCIATED IN ITS OFFICIAL PLAN. ...IN THIS CASE, THE POLITICAL DESIRES OF THE ELECTED OFFICIALS OF THE CITY OF BARRIE SHOULD NOT OUTWEIGH THE PLANNING MERITS OF THE ‘PARK PLACE’ PROPOSAL, WHICH THE BOARD FINDS TO CONFORM TO THE OFFICIAL PLAN POLICIES IN EFFECT IN THE CITY OF BARRIE AND CONSTITUTES APPROPRIATE PLANNING.”

“THE BOARD IS SATISFIED BASED ON THE EVIDENCE BEFORE IT THAT THE PROPOSED MIXED-EMPLOYMENT DEVELOPMENT REFERRED TO AS ‘PARK PLACE’: HAS REGARD TO THE 1997 PPS; CONFORMS TO THE 2005 PPS; CONFORMS TO THE POLICIES OF THE EXISTING BARRIE OFFICIAL PLAN; ADVANCES THE GOALS OF THE EXISTING BARRIE OFFICIAL PLAN; IS AN APPROPRIATE USE OF THE SITE; AND IS IN THE GENERAL PUBLIC INTEREST. IT ALSO: CONFORMS TO AND ADVANCES THE THRUST AND INTENT OF THE DRAFT BARRIE OFFICIAL PLAN; DOES NOT OFFEND THE CITY’S VARIOUS STUDIES AND CORPORATE STRATEGIES; WILL NOT NEGATIVELY IMPACT UPON THE CITY’S HISTORIC DOWNTOWN; AND WILL NOT RESULT IN A SHORTFALL IN THE CITY’S SUPPLY OF QUALITY VACANT INDUSTRIAL LAND.”

“THE BOARD NOTES THAT THE APPELLANT NORTH AMERICAN ACQUISITION INC. HAS RESERVED THE RIGHT TO MAKE A REQUEST FOR AN AWARD OF COSTS FROM THE DATE OF ITS APPEAL TO THE OMB OF THE MATTERS HEREIN, IN ACCORDANCE WITH RULES 99 AND 100 OF THE O.M.B. RULES OF PRACTICE AND PROCEDURE. NORTH AMERICAN ACQUISITIONS INC. WILL BE PERMITTED TO MAKE ANY REQUEST WITHIN 45 DAYS OF THE DATE OF THIS DECISION HEREIN. THE BOARD WILL THEN DIRECT HOW THE REQUEST WILL BE CONSIDERED.”

“IT IS SO ORDERED.”