

APRIL 4, 2016

Page 1.

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| COMMUNICATION |
| CW (PH) - <u>April 5/16</u> |
| ITEM - <u>1</u> |

TO: THE CLERK'S DEPARTMENT
AND TO: COMMITTEE OF THE WHOLE
AND TO: GRANT UYEYAMA, DIRECTOR OF DEVELOPMENT PLANNING
AND TO: JOHN MACKENZIE, DEPUTY CITY MANAGER, PLANNING & GROWTH
AND TO: MAURO PEVERINI, SENIOR MANAGER OF DEVELOPMENT PLANNING
AND TO: CLEMENT MESSERE, SENIOR PLANNER
AND TO: KATHRYN MOORE, PLANNER

Re: PUBLIC HEARING – APRIL 5, 2016 – 7:00 PM
Draft Plan of Condominium (Common Elements); File 19CDM-15V008; P.2016.8
Stateview Homes (S. Collection) Inc. - Ward 2 - Vicinity of Islington Avenue and
Hartman Avenue

We looked over the report and note that *not all the items are covered in the report* that should be included in the Condominium Documents to be registered and form part of the common elements as were specifically set out in either the Approved Council Report #12 of the Committee of the Whole (adopted without amendment by the Council of the City of Vaughan on March 24, 2015) and the registered Site Plan Agreement as No. YR2324168 for this project which state that these items should be part of the Condominium Agreement and Condominium Declaration:

Of the items that are covered in the report, we have the following comments:

1. **Pipeline/catchbasin:** The report states that:
 - (a) a pipe located along the full length of the south property to convey storm water from a catch basin located at the southeast corner of the property to the storm water sewer on Islington Avenue as shown on Attachment #4.
 - (b) that "a small portion of this pipe would form a common element as it is located under the private road with the balance, including the catch basin, being located on the future lots identified as Parts 5 and 12 on Attachment #3, and the responsibility of the future lot Owners".
 - (c) that "The storm water pipe should form part of the common elements of the future condominium corporation. The appropriateness of the storm water pipe being part of both the private lots and the common elements will be reviewed."

COMMENTS:

The catch basin/storm water pipe is not only for the benefit of the future owners of Parts 5 and 12, but the catch basin/storm water pipe system is for the benefit of, for the most part, the future owners of Parts 6, 7, 8, 9, 10, 11 and 12, if not the whole subdivision, as the runoff from these other lots flow to the catch basin placed on the southeasterly lot to

catch all these flows. So why would you put this burden on the future owners of Parts 5 and 12 with a small portion only of the storm water pipe to be part of the common elements?

What happens if there is a backup/overflow from this catch basin and these future owners do not agree or are unable for whatever reason to deal with and fix the problem in a timely fashion? The result would be a flooding on their lands and to the lands of the adjoining land owners which would include and directly affect us, our property and our vegetation, what then? This could become quite a disastrous situation. We worked very hard for an excessive amount of time with the City of Vaughan staff in order to clarify the water flow for this property and to get a catch basin installed in order not to have flooding towards our property (adjoining lands to the south).

It is our opinion that it would not be appropriate to put the burden and onus of being responsible for the storm water pipe/catch basin onto the future owners of Parts 5 and 12, but the responsibility of the storm water pipe/catch basin system and whatever else is connected with this system to be of the Condominium Corporation and to be included in the Condominium Agreement and Condominium Declaration to make this part of the common elements. An Easement should be registered against the section of property where it is located on Parts 5 and 12 in favor of and form part of the condominium common elements in order to have access to maintain/repair etc. this storm water pipe/catch basin and whatever other connections that are included with this system.

REQUEST: That the Condominium Corporation take sole responsibility and declare that the storm water pipe running along the full length of the southerly lot line from east to west and the catch basin system located on the southeasterly lot line be and form part of the common elements and these items be included in the Condominium Agreement and Condominium Declaration.

2. Landscaped Area: The report states:

- (a) that the landscaped area between the two townhouse buildings and the area along the south lot line as shown on Attachment #4, and the planting details was the subject of negotiations between the City, the applicant and the landowners to the south.
- (b) that the "Landscaped Area" is to be used only for this purpose of soft landscaping and a retaining wall as specifically set out in Zoning By-law 073-2015.
- (c) that the appropriateness of the landscaped area not forming part of the common elements for this development will be reviewed.

COMMENTS:

Firstly, Attachment 4 does not specifically note the "Landscaped Area" on the copy that I have of Attachment 4 (Catch Basin and Storm Water Pipe are clearly set out). To clarify the "Landscaped Area" being referred to is the area running the full length along the southerly lot line (east to west) and between lots Parts 5 and 12 and various other plantings which contain the landscaping as shown in the Landscaping Plan.

We agree with your comment that "the entire landscaped area should form part of the condominium common elements and a clause included in the Condominium Agreement and Condominium Declaration to ensure that it is maintained by the future condominium corporation in accordance with the approved landscape plan."

It is our opinion that it would not be appropriate to put the burden and onus of being responsible for the "Landscaped Area" (or part thereof) on the future owners of Parts 5 and 12, being that this area is for the benefit of the whole subdivision and for the benefit of the adjoining properties. It would be difficult to enforce the proper upkeep of this area on the new property owners and to keep the intent of the implementation of this "Landscaped Area" in the first place.

We have spent a great deal of time in meetings and discussions with City staff and the applicant regarding the landscaping on the subject property and from the Landscaping Plan you will note the amount of plantings that are being installed in this area. The regular maintenance and upkeep of these plantings is vital to the intent of the Landscaping Plan that has been put into place and should be protected.

REQUEST: That the Condominium Corporation (a) take sole responsibility and declare that the "Landscape Area" along the full length of the southerly lot line from east to west and the plantings between Parts 5 and 12 be and form part of the common elements (b) to ensure that the "Landscaped Area" is to be used for the purpose of soft landscaping and a retaining was as set out in Zoning By-Law 073-2015 to ensure that no structures are introduced into this area that could potentially eliminate any landscaping; and these items and provisions form part of the Condominium Agreement and Condominium Declaration.

Items not covered in the report to the Committee of the Whole (Public Meeting) for April 5, 2016, however which are specifically set out in either the Approved Council Report #12 of the Committee of the Whole (adopted without amendment by the Council of the City of Vaughan on March 24, 2015) (referred to as the "Approved Report") and the registered Site Plan Agreement as No. YR2324168 for this project (referred to as "Site Plan") and state that the following items should be part of the Condominium Agreement, Condominium Declaration:

1. The Approved Report, 3. b) i) (Item 22, CW Report No. 12-Page 3) states as follows:

Easement:

That the Owner and future Condominium Corporation shall agree to grant an access easement over the proposed condominium road in favour of landowners ...to the south when these lands develop, and that the requirement to grant the easement be included in the Condominium Agreement, Condominium Declaration and all Offers of Purchase and Sale or Lease to ensure that the Condominium Corporation and all future Owners are aware of this requirement.

COMMENT: This is important to include in the Condominium Documents as it pertains to the future use of these lands and would be an agreement that the Condominium Corporation would have to be a party of. We do not understand why this provision is not part of this report to the Committee of the Whole.

REQUEST: That the above be included in the Condominium Agreement and Condominium Declaration as set out in the Approved Report.

2.

The Approved Report 3. b) vi) (Item 22, CW Report No. 12-Page 3) states as follows:

Windows/Balcony Screens:

a) that a clause be included in the Purchase and Sale Agreement for Units #5 and #12 and in the Condominium Agreement and Declaration advising all future purchasers of these units that all south facing windows shall remain as fritted glass and that the privacy screens on the rear balconies shall remain in place and in good repair.

b) Also set out on page 13 under b) Building Elevations:

The Vaughan Planning Department...recommend that the final plans clearly identify that all south facing windows in Blocks 1 and 3, (Units 5 and 12), as shown of Attachment #3 utilize fritted glass. This requirement implements an agreement made by the Owner to the adjacent residents.

c) Also set out in the registered Site Plan #24, states as follows:

"The following warning clauses shall be included in all Offers of Purchase and Sale or Lease and in the Condominium Agreement and Declaration for Units 5 and 12: All future purchasers of these units that all south facing windows shall remain as fritted

glass and that the privacy screens on the rear balconies shall remain in place and in good repair."

COMMENTS: We negotiated with the applicant and had meetings and numerous discussions with City staff on these points. The above clauses should be included in the Condominium Documents as was set out in the Approved Report and do not understand why they do not form part of this report to the Committee of the Whole.

Just to clarify that at this point, the applicant has not complied with this requirement after numerous discussions and requests from City staff. The applicant has gone ahead and installed windows without fritted glass panes. The applicant has advised City staff and inspectors that the fritted glass windows have been ordered and are to be installed prior to occupancy. We are waiting an update from City staff on this matter.

3. Fencing:

Another item that has not been included nor addressed in this report and should be discussed with a view to include in the Condominium Documents and form part of the common elements is the fencing that runs along the southerly lot line from east to west. This is the same discussion as with the landscaping and the storm water pipe/catch basin.

COMMENTS: Part of the fencing would be in the privately owned properties of Parts 5 and 12, as you have advised and part would form part of the lands under the Condominium Corporation and would be considered common elements. It would become difficult to maintain and have any consistency of repair and upkeep with multiple owners of this fence. The fence to be installed on this southerly limit is to be 2.4m, how will that height be required to be maintained in the future if it is not a common element and included in the Condominium Agreement and Declaration? The fencing maintenance, repair, maintenance of height when replacing to be maintained as 2.4m should be included in the registered Condominium Documents and form part of the common elements. Again regarding the 2.4m fence there was a substantial amount of discussion with the applicant, meeting and discussions with City staff in order to obtain this fencing height.

REQUEST: That the above be included in the Condominium Agreement and Condominium Declaration and form and be part of the common elements in order to keep the intent of the implementation of these provisions.

We had meetings with the City of Vaughan staff, hours and hours of their time and our time and loss of income from time away from work in order to attend these meetings and substantial amounts of time of City Staff to come up with a Report to include all these details in order to satisfy the applicant and adjoining land owners to move forward with this project. The applicant was given a number of concessions regarding the development of the land, that were not in compliance with the Official Plan, nor a development that would have been consistent to the proper use of the land. We did not object to the concessions that they obtained and we did not object to the application for this project for the specific reason certain concessions were also given to us in the Approved Report and submitted Plans. We had at that time an understandable and unquestionable expectation that these items would be implemented. However the reality has been quite different. To date, since this project has commenced it's construction process there have been issues that have not been complied with, i.e. hoarding of trees (tree protection, which were specifically set out in the Plans), the erection of the plywood fence, the fritted glass windows (items listed in the Approved Report) that are yet to be installed, etc. There has been unnecessary damage caused to our property and land, trespassing onto our land, and undue disruption because of the issues that have not been complied with.

After so much effort was put into these negotiations and coming up with an Approved Report and Approved Plans covering these items we continue to be faced with non-compliance of these issues. It is now over 2 years since this process has started and we are still involved and it seems fighting for what we thought we had already resolved.

We are now kindly asking that the Committee of the Whole enforce the items set out in the Approved Report as they pertain to the Condominium portion of this project as is being discussed, which was passed by the Committee of the Whole on March 24, 2015. Make this process be counted otherwise what does this say to your taxpayers, to the public, to us?

Sincerely,

Joanne Federici, Albert Federici – 6 Hartman Avenue
Adele Cortiula, Victor Cortiula – 4 Hartman Avenue