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**THE BIGLIERI GROUP LTD.**

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December 3, 2019

**City of Kawartha Lakes**  
Development Services - Planning Division  
180 Kent Street West  
Lindsay, ON K9V 2Y6

**Attention:** Ian Walker, Planning Officer – Large Developments  
Richard Holy, Manager of Planning

Dear Mr. Walker & Mr. Holy

**RE:** Comments respecting City of Kawartha Lakes File No.: D01-2018-005, D006-2018-026,  
D005-2018-004, and D19-2019-001 on behalf of Ibrans Development  
Northeast Corner of Colborne Street West and Highway 35  
Lindsay 2017 Developments Inc.

The Biglieri Group Ltd. (TBG) represent Ibrans Development Ltd. ("Ibrans"), owners of 126.6ha of land located at the south-east corner of Highway 35 and Thunder Bridge Road and legal described as Part of N1/2 of Lot 24, Concession 4 and Part of Lot 25, Concession 4 and Part of S1/2 Lot 24, Concession 4, in the former Geographic Township of OPS in the City of Kawartha Lakes. Ibrans's Lands are located at the northern limit of an area commonly known as the Jennings Creek Community Development Plan ("JCCDP"), of which Ibrans is the single largest land owner. The southern-most property within the JCCDP is comprised of lands owned by Lindsay 2017 Developments Inc. ("Lindsay 2017") which are currently subject to applications for Official Plan Amendment, Zoning By-law Amendment, Draft Plan of Subdivision and Site Plan Approval (City Files D01-2018-005, D06-2018-026, D05-2018-004 & D19-2019-001).

**EXISTING APPEALS & PREVIOUS CORRESPONDENCES**

Our Client has appealed the CKL 2012 OP and OPA 16 (the Lindsay Secondary Plan) for a number of reasons, several of which have bearing on the approval of the Lindsay 2017 applications; which are more precisely outlined in a letter dated February 5<sup>th</sup> 2019 from Ibrans Council, Parente Borean, to Mr. Ian Walker (copy attached). However, of the concerns mentioned in said letter, issues related to cost sharing appear to be particularly pertinent at this juncture as TBG has received comments from the Ministry of Transportation ("MTO"), dated October 25 2019, as related to the Lindsay 2017 applications. Within this memorandum, the MTO provides the following comment:

*"As we have mentioned in our previous letters, MTO has no legislative authority under the Public Transportation and Highway Improvement Act that would allow us to distribute costs associated with highway improvements collectively triggered by multiple developers. Nor do we have the ability to bind future developers. It is our understanding that the City of Kawartha Lakes has passed a Development Charges By-Law (By-Law 2015-224) under the Development Charges Act that would allow the City to enter into a legal agreement with MTO and re-distribute the highway improvement costs reciprocally to each developer in the Jennings Creek Community Development*

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**PLANNING | DEVELOPMENT | PROJECT MANAGEMENT**

**20 Leslie Street, Suite 121, Toronto, Ontario M4M 3L4**  
**Office: (416) 693-9155 Fax: (416) 693-9133**  
**[tbg@thebiglierigroup.com](mailto:tbg@thebiglierigroup.com)**

*Area. If the City is willing to use the existing Development Charges By-Law by entering into a legal agreement with MTO, we would not require a Letter a Credit from the City."*

Issues of cost sharing as associated with potential MTO infrastructure requirements were discussed at a joint meeting between Lindsay 2017, Ibrans, MTO staff and CKL staff on November 26<sup>th</sup> 2018. At this meeting it was determined that Lindsay 2017 would finalize its Transportation Impact Study and have the same reviewed and approved by the MTO. Once this was complete Ibrans was to prepare a TIS which extended the analysis carried out for the Lindsay 2017 Lands northwards to the limit of the JCCDP. These TIS documents, once reviewed and approved, were to inform cost sharing for any improvements required by the MTO. It was mutually agreed that further discussions with regards to cost sharing would be required at that point in order to (1) determine the appropriate contributing parties, (2) the appropriate manner in which equitable contribution should be determined, and (3) the appropriate mechanism to secure for the same. Ibrans has not been involved in any further discussions as related to cost sharing since this date; however, the MTO comments of October 25 2019 seem to indicate that further discussions to this effect have since occurred between (at the very least) MTO staff and representatives of Lindsay 2017.

Parente Borean's letter of February 5<sup>th</sup> 2019 indicated that it is premature to approve development on the Lindsay 2017 lands prior to a cost sharing framework being agreed upon to the satisfaction of the members of the JCCDP Area, the MTO, and the City and the same being properly secured for. This continues to be the position of our client.

## PRESENT ISSUES

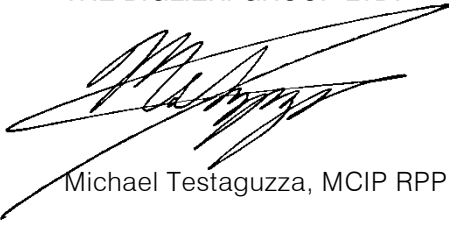
We are generally supportive of urban development on the Lindsay 2017 lands and in the JCCDP more broadly. However, in order to ensure appropriate planning, efficient development, and equitable sharing of costs there are issues of interest to the wider JCCDP which should be determined prior to approval of development within JCCDP, inclusive of the Lindsay 2017 applications. We have recently (November 29<sup>th</sup> 2019) been made aware that **a report recommending approval of the Lindsay 2017 Official Plan and Zoning By-law Amendment Applications as well as the Draft Plan of Subdivision are to be brought forward to a special December 4<sup>th</sup> 2019** meeting of the Planning Advisory Committee. For the reasons above as well as the those indicated in the February 5<sup>th</sup> 2019 letter, **TBG believes that these approvals are premature**. Our concerns have not been adequately addressed by the proposed planning instruments (Draft Plan Conditions and "H" provisions) as provided in the staff report. Lastly our client did not receive notice that these applications were being brought forward for approval, despite having requested the same; which would be a breach of the Planning Act requirements.

We are committed to working with the City, MTO, Lindsay 2017 and other willing members of the JCCDP in order to arrive at a mutually beneficial agreement on these matters in a timely fashion. However, we do note that should the Lindsay 2017 applications (or any others) be granted approval prior to the relevant issues being addressed, and without implementation of appropriate planning instruments, we intend to appeal those decisions to the LPAT.

Further to this end I respectfully request that consideration of the applications by the Planning Advisory Committee be deferred, and a meeting be scheduled between the interested parties to further establish the principles of cost sharing as discussed above as well as other matters as indicated in the February 5<sup>th</sup> 2019 letter.

We trust you will find all in order, however if you have any questions or require additional information, please do not hesitate to contact the undersigned at 416-693-9155.

Respectfully,  
THE BIGLIERI GROUP LTD.

A handwritten signature in black ink, appearing to read 'Michael Testaguzza', is written over a horizontal line.

Michael Testaguzza, MCIP RPP

Planner

Cc: Mr. Gus Sarantopoulos  
Mr. Barkatali Ismail, Ibrans Development Ltd.  
Mr. Gerard Borean, Parente Borean LLP  
Mr. Stephen D'Agostino, Thomson Rogers



PARENTE • BOREAN  
BARRISTERS AND SOLICITORS

Lawyer Direct Dial: (905) 850 -6068

E-mail: [gborean@parenteborean.com](mailto:gborean@parenteborean.com)

Law Clerk: (905) 850 -6066 ext 237

Email: [mmuccilli@parenteborean.com](mailto:mmuccilli@parenteborean.com)

February 5, 2019

DELIVERED BY EMAIL: [critchie@kawarthalakes.ca](mailto:critchie@kawarthalakes.ca) and [iwalker@kawarthalakes.ca](mailto:iwalker@kawarthalakes.ca)

City of Kawartha Lakes  
Development Services - Planning Division  
180 Kent Street West  
Lindsay, ON K9V 2Y6

Attention: Ms. Cathie Ritchie – City Clerk  
Mr. Ian Walker, Planning Officer – Large Developments

Dear Madam/Sir

RE: **Planning Advisory Committee Meeting Agenda Item #3.2 – Submissions on behalf of Ibrans Development Ltd. ("Ibrans")**  
**City Files: D01-2018-005, D06-2018-026 & D05-2018-004**  
**Northeast Corner of Colborne Street West and Highway 35, Lindsay 2017 Developments Inc.**

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Please be advised that we are the lawyers for Ibrans, the registered owners of a parcel of land comprising 126.6ha located at the south-east corner of Highway 35 and Thunder Bridge Road and legally described as Part of N1/2 of Lot 24, Concession 4 and Part of Lot 25, Concession 4 and Part of S1/2 Lot 24, Concession 4, in the former Geographic Township of OPS in the City of Kawartha Lakes (the "Ibrans Lands"). The Ibrans Lands are located at the northern limit of the area commonly known as the Jennings Creek Community Development Plan Area (the "JCCDP Area"), of which Ibrans is the single largest land owner.

The southern-most property within the JCCDP Area is comprised of lands owned by Lindsay 2017 Developments Inc. ("Lindsay 2017") which are currently subject to applications for Official

Plan Amendment, Zoning By-law Amendment and Draft Plan of Subdivision (City Files D01-2018-005, D06-2018-026 & D05-2018-004). These applications are currently before the Planning Advisory Committee and are listed as item 3.2. We have reviewed these applications and note that they generally include a total of 557 residential units made up of a mix of townhomes and single-detached units, an 8ha Commercial Block, two stormwater blocks, 4 future development blocks and several community green spaces and new public roads. Pursuant to the Traffic report provided with the development application, the development will ultimately include 41,000m<sup>2</sup> of commercial space. In total the JCCDP Area is to include 127,850m<sup>2</sup> of commercial GFA per the assumptions of the Northwest Sanitary Sewer Development Area Study (2015) prepared by Watson & Associates Economists Ltd.

As noted above, the lands subject to these applications (D01-2018-005, D06-2018-026 & D05-2018-004) are part of a larger greenfield development area in west Lindsay, often referred to as the JCCDP Area. Ibrans Lands are also located within the JCCDP Area. Upgrades to the City of Kawartha Lake's (the "City") sanitary system have been constructed in order to facilitate development of the JCCDP Area, which is expected to accommodate over 6,000 residential units, and over 145,000m<sup>2</sup> of commercial GFA.

The Ibrans Lands and the lands owned by Lindsay 2017 are subject to the policies of the City's 2012 Official Plan (the "2012 OP") as well as the Lindsay Secondary Plan ("OPA 16"). Ibrans has previously made deputations to Committee and Council with respect to these plans. OPA 16 provides for commercial and residential development on both the Ibrans Lands and the lands owned by Lindsay 2017. Ibrans has appealed the 2012 OP and OPA 16 for a number of reasons, several of which, have bearing on the approval of the Lindsay 2017 applications currently before the Planning Advisory Committee.

Firstly, Ibrans has appealed the allocation of commercial permissions within the JCCDP Area and the associated policies which limit the amount of commercial space on the Ibrans Lands. This appeal has been in place since 2010 and has yet to be addressed to Ibrans' satisfaction. Staff had previously indicated that this issue would be addressed through OPA 16. However, to this point the City has not conducted a comprehensive retail study to justify the commercial permissions included within OPA 16; and therefore, OPA 16 did not address this issue (and as such was subsequently appealed). It is Ibrans position that it is premature to approve commercial development blocks and permissions on the Lindsay 2017 lands prior to these

issues being addressed to the satisfaction of the members of the JCCDP Area and this would be an attempt to circumvent Ibrans appeals of both the OP and secondary plan.

Secondly, Ibrans has also appealed OPA 16 as well as the 2012 OP due to the absence of policies within either plan requiring cost sharing agreement(s) among benefiting landowners to ensure costs associated with development of the JCCDP Area at large are equitably apportioned. This would include, among other things:

- community use lands such as school sites and parkland, as well as the costs for preparation of parkland for dedication;
- local infrastructure, roads and works adjacent to community use lands;
- other local infrastructure which is demonstrated to benefit more than one individual development;
- entry features; and
- area wide studies required to support approval.

These issues are of particular importance to Ibrans as two institutional land uses (schools) have been shown on the Ibrans Lands, in comparison to one institutional land use on the lands of the two southern members of the JCCDP Area; whereas, the two aforementioned southern parcels have received significantly more commercial permissions through OPA 16 as can be ascertained by a review of Schedule F-1 thereto.

Generally, with regards to cost sharing, it is Ibrans position that it is premature to approve development on the Lindsay 2017 lands prior to a cost sharing framework/agreement being agreed upon to the satisfaction of the members of the JCCDP Area, the Ministry of Transportation of Ontario (the "MTO"), and the City.

One such item which deserves some specific consideration is Highway 35. This matter has already been the subject of some discussion between Lindsay 2017 and Ibrans. The MTO has indicated that it is its opinion that Highway 35, being the western boarder of the JCCDP Area, will require significant upgrades inclusive of land takings and widening as a result of the development permissions granted to the JCCDP Area. Although this position has yet to be substantiated by technical study, if, it is ultimately determined that improvements and widenings are required to Highway 35, members of the JCCDP Area should be required to contribute to the costs of said improvements, whatever they may be, in an equitable manner. It

is Ibrans position that all work required to Highway 35 as well as benefiting parties should be identified, and costs appropriately allocated, prior to any approvals being granted.

In summary, Ibrans is generally supportive of urban development on the Lindsay 2017 lands and more broadly, the JCCDP Area. However, in order to ensure appropriate planning, efficient development, and equitable sharing of costs there are issues of interest to the wider JCCDP Area which should be determined prior to approval of a development within JCCDP Area, inclusive of the Lindsay 2017 applications. Ibrans is committed to working with the City, MTO, Lindsay 2017 and other willing members of the JCCDP Area in order to arrive at a mutually beneficial agreement on these matters and in a timely fashion. However, Ibrans does note that should the Lindsay 2017 applications (or any others) be granted approval prematurely, and prior to the issues raised herein being addressed to Ibrans' satisfaction, it shall be in a position to appeal those decisions to the Local Planning Appeal Tribunal.

Yours truly,

*PARENTE, BOREAN LLP*

Per

Gerard C. Borean

GCB/nmm

cc. Richard Holy – by email: [rholy@kawarthalakes.ca](mailto:rholy@kawarthalakes.ca)

Cheryl Tolles – by email: [cheryl.tolles@ontario.ca](mailto:cheryl.tolles@ontario.ca)