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**BY EMAIL**

February 13, 2024

**County Planner**

**Lanark County**

99 Christie Lake Road

Perth, ON K7H 3C6

**Re: A&B Bulat Homes Ltd. – Application for Subdivision 09-T-22005  
Boyd Street, Carleton Place**

We are the lawyers for A&B Bulat Homes Ltd. (“**Bulat Homes**”) with respect to its application for subdivision approval in the above-noted matter. We are writing in connection to the revised submission, in response to the initial comments filed by the Town of Carleton Place, dated November 18, 2022.

***Density bonusing is not required or permitted***

With respect to the planning report filed in support of the initial submission, the Town’s letter suggests that the proposed subdivision exceeds the maximum density permitted by the Town’s Official Plan, and is therefore required to satisfy policy 3.5.5. Bulat Homes rejects the Town’s position because policy 3.5.4.1 does not impose a maximum permitted density, and because there is no longer any statutory authority for the Town to require Density Bonusing as contemplated by policy 3.5.5.

Specifically, the Town states:

The Report declares an approximate density of 44.6 units per net hectare exceeding the permitted range of 26-34 units. It is acknowledging that infill developments of lands less than 3ha in size are exempt from these policies in accordance with policy 3.5.4.2. Notwithstanding a reduction in density resulting

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from the proposed amendments noted earlier in this correspondence, the Town is happy to consider the increased density in accordance with Policy 3.5.5. The Town welcomes feedback from the proponent on how they wish to satisfy this policy.

Bulat Homes disputes the Town's characterization of the targets set by policy 3.5.4.1 as a "permitted range." The policy contemplates the range of 26 to 34 units per net hectare as "the average density target for new development in the Residential District," but expressly does not prohibit development in excess of 34 units per net hectare. As acknowledged by the Town's submission, policy 3.5.4.2 contemplates higher densities on infill sites smaller than 3 hectares, such as the Subject Property:

2. Notwithstanding Section 3.5.4.1, where development is proposed on infill sites or sites which are the result of lot consolidations, and which infill sites or consolidated sites have areas of 3 hectares or less, residential density may be increased. In such cases density will be controlled through the regulatory framework of the Development Permit By-law.

Policy 3.5.5, cited by the Town, only applied to increases to heights or densities beyond those permitted by the Development Permit By-law and is not triggered by the exception contemplated in policy 3.5.4.1.

More important, however, is that policy 3.5.5 was intended to implement the former section 37 of the *Planning Act*, which allowed for amendments to a zoning by-law or development permit by-law to permit increased height or density in return for the provision of such facilities, services or matters as set out in the by-law. The former section 37 of the *Planning Act* was replaced with provision for Community Benefits Charges in September of 2020.

The applicable transition provisions are imposed by section 37.1 of the *Planning Act*. These provide that a by-law passed under the former section 37 (for the collection facilities, services, or matters in return for increased density), would continue in force until the earlier of:

- (a) The date a municipality passes a Community Benefits Charge By-law under the new section 37; or
- (b) September 18, 2022.

As of September 18, 2022, the Town of Carleton Place no longer has any jurisdiction to require the provision of benefits contemplated by policy 3.5.5 of its Official Plan.

***No authority has been cited for the Town's request that a new tree be provided on each lot***

On page 2 of its submissions, the Town states that:

Overall the blocking of units appears to be too tight to accommodate functional requirements of the development. The municipality requires a minimum of one (1)

tree per dwelling lot, with a 2m offset from service lines, curbs, sidewalks and driveways.

The submission does not cite any official plan policy or requirement of the Development Permit By-law in support of this requirement.

With respect to the removal of vegetation and site alteration, section 3.44 of the Development Permit By-law contemplates the replacement of trees over 200mm in diameter at a rate of 1 new tree for every three removed. The by-law further provides that the replacement trees may be located anywhere within the proposed development:

Tree planting and tree preservation will occur so that all areas of the Town are provided with sufficient number of trees to maintain high standards of amenity and appearance. Where new development will result in the loss of existing wooded areas, a condition of development approval shall require that the lost trees be replaced at a 1-3 ratio (1 new tree for every 3 trees removed). The replacement ratio will only apply to trees having a caliber of 200mm or more. The new trees will be planted within the boundary of the proposed development.

Section 4.1.6.4 of the Town's Official Plan imposes a similar requirement, but additionally contemplates the provision of replacement trees in public parks or on other public lands, where they cannot be accommodated within the boundary of the proposed development.

Bulat Homes agrees that maintaining appropriate landscaping, including trees, is desirable, but submits that the requirement for one tree per lot is not practical or reasonable in the context of the proposed townhome development.

***Off-site trip generation is not relevant to the proposed development***

On page 3 of its submission, the Town asserts:

TIS has failed to consider the impact of traffic resulting from the opening of Boyd Street and the cumulation of trip data from recent development.

Conditions of subdivision approval must be reasonable, necessary, relevant and equitable having regard to the proposed development. Works or studies that serve a Town-wide function, or that provide a benefit to lands outside of the proposed development are not reasonable or appropriate conditions of approval.

The proposed connection of the existing north and south portions of Boyd Street is not exclusively attributable to Bulat Homes' proposed development. As shown by the extract below, Schedule B of the Town's draft Official Plan identifies this connection as a proposed new roadway.



Extract from Schedule B – Carleton Place Draft Official Plan

Likewise, the connection is shown throughout the Town’s Transportation Master Plan, dated in October of 2022:



The connection of Boyd Street is therefore planned to proceed regardless of the proposed development currently being advanced by Bulat Homes.

Traffic generated by off-site development, or impacts arising from the proposed connection of Boyd Street, are not relevant considerations arising from the proposed plan of subdivision. Consequently, a Traffic Impact Statement assessing the impact of the proposed connection is not an appropriate condition of development approval.

Our client would be pleased to discuss any outstanding comments, and looks forward to continuing to work with County and Town toward the appropriate development of the site.

Yours very truly,



Philip Osterhout  
PO/po

c.c. Niki Dwyer, Director of Development Services, Town of Carleton Place  
Ankica Bulat, A&B Bulat Homes Ltd.