

**WESTON
CONSULTING**

planning + urban design

**C49
COMMUNICATION
COUNCIL – June 28, 2022
CW (2) - Report No. 30, Item 8**

Development Planning Department
City of Vaughan
2141 Major Mackenzie Drive, Level 200
Vaughan, ON
L6A 1T1

June 27, 2022
File 4782-5

Attn: Mayor and Members of Council

**RE: Planning and Development Report DA.19. 070
2057 Major Mackenzie Drive West
City of Vaughan**

Weston Consulting is the authorized planning consultant for 2640174 Ontario Limited (herein referred to as “our Client”), the registered owner of the property located at 2057 Major Mackenzie Drive West in the City of Vaughan (herein referred to as the “subject property”). We have reviewed the Planning and Development Report dated June 21, 2022 for the subject property and the Recommendations and Conditions of Site Plan Approval attached therein. This correspondence proposed two modifications to the Staff Report and Conditions of Approval as it relates to the Draft Approval of DA.19.070.

In the Attachment Communication: C 33 to the aforementioned Staff Report (Appendix 1), there are two conditions that are proposed for modification. The first is:

- 1m) *“The Owner shall provide the Development Engineering Department with a clearance letter from the Trustee of the Block 18 Landowners Group, that they have paid their proportional share and satisfied all obligations to the Developers Group for the municipal water, storm and sanitary infrastructure connections on Petticoat Road and Major Mackenzie Drive, as well as other community use lands and costs for community lands, works, services and infrastructure provided by the Block 18 Landowners Group under the Block 18 Cost Sharing Agreement to the satisfaction of the City of Vaughan Development Engineering Department.”*

The Owner of the subject property are in agreement with the proposed modification as noted above.

The second condition identified as 1x) that has been recommended as a condition of approval is:

- 1x) *“That 2640174 Ontario Limited develop block 64 on Plan 65M-4190 in conjunction with their abutting lands. The City shall not issue a building permit for the said block until the lands are combined to the satisfaction of the City.”*

The Owner of the subject property are not agreement with the proposed inclusion of condition 1x) noted above.

In a June 24, 2022 conversation with Mr. Sal Crimi, P.Eng. Block Manager Block 18 Landowner Group, Weston Consulting was advised that Block 64 of Plan 65M-4190, adjacent to the subject property is under the ownership of the Block 18 Landowner Group. In this circumstance, condition 1x) is not required because the Owner's obligations are satisfied by their agreement with condition 1m).

On June 20, 2022 written correspondence by Goldman, Spring, Kichler & Sanders LLP signed by Mr. Sheldon B. Spring (Appendix 2) was submitted to Council. The letter presumes that the subject adjacent land (Block 64 on Plan 65M-4190) (identified as Block 64 on Figure 1) is held in private ownership. The submitted letter references Section 21.3.18 of the Subdivision Agreement Instrument Number YR1539548 which indicated that a building permit cannot be issued for Block 64 on a stand-alone basis. This condition does not place an obligation on our Client to acquire such lands.

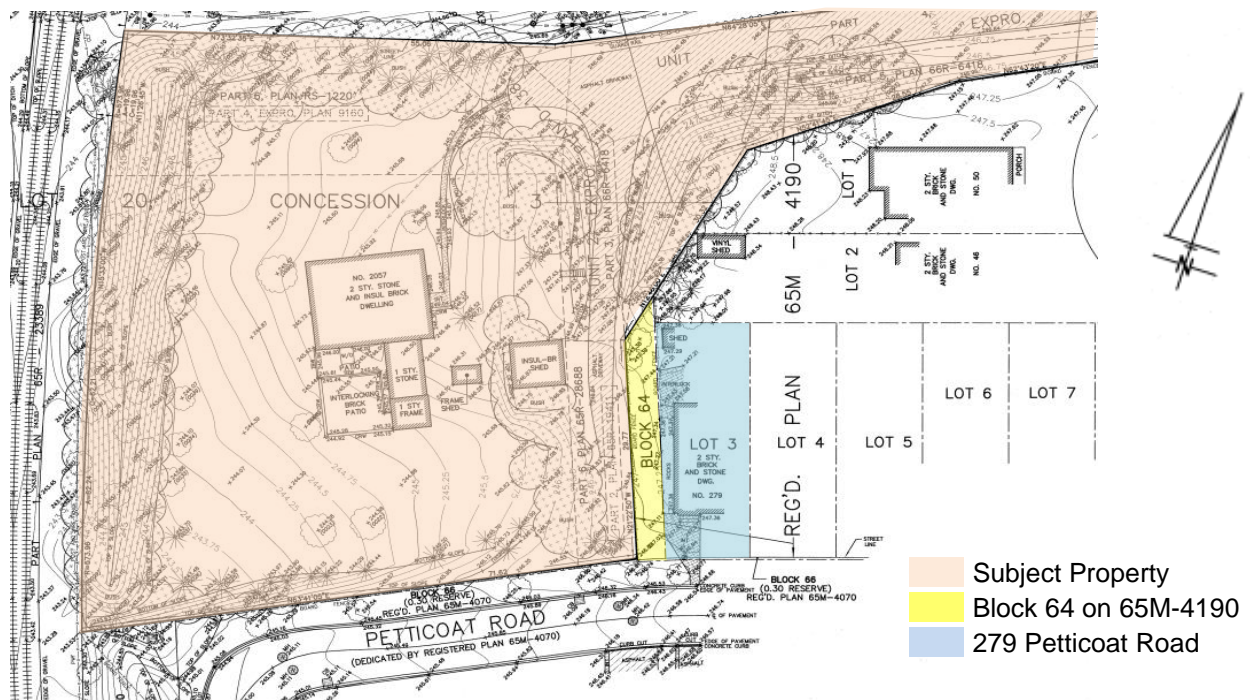


Figure 1: Registered Plan 65M-4190 Excerpt

Committee of the Whole Report No. 18 which was adopted by Council on May 23, 2018 (Appendix 3) provides for the following Clause (listed as #4 in the Report) respecting the disposition of Block 64 on Plan 65M-4190 states the following:

“THAT the Owner continue to work with the adjacent property owner to the east to acquire Block 64 on Registered Plan 65M-4190, as shown on Attachments #2 and #3, as identified in Condition 21.3.18 of the Subdivision Agreement for Registered Plan 65M-4190.”

This Clause imposes a “best efforts” provision on our Client to acquire such lands and incorporate them into the project. Our Client approached the landowner of Block 64 on Plan 65M-4190 following the preparation of the Staff Report and was unable to come to terms on a price for Block 64. Again, this condition does not place an obligation on our Client to acquire such lands as a condition of development.

The subject property was such to LPAT Hearing (Case No. 170305). The City of Vaughan was content that Clause #4 of the Committee of the Whole Report No. 18 be carried forward without modification. No representation was made at the Hearing on this or any other matters by the Block 18 Landowner Group representatives, individual land owners within the Landowner Group or area residents.

Mr. Spring’s correspondence to the Committee on June 20, 2022 is an eleventh-hour request to force our Client to acquire Block 64 on Plan 65M-4190, under terms and conditions to be dictated by his Client, as a condition of issuance of building permit. Our position is that neither Council nor the LPAT Hearing imposed this condition and that it is inappropriate to do so now.

Block 64 on Plan 65M-4190 is not subject to any servicing easements or restrictions and is currently being maintained and utilized as a "lot extension" by the residential neighbour (279 Petticoat Road) as seen in Figures 2 and 3. It is certainly open to Mr. Spring's Client, if they are indeed the owner of Block 64, to formalize this arrangement through the sale of the parcel. At any rate, these lands are neither derelict or neglected.



Figure 2: Aerial Photo of Lotting Fabric

Subject Property
Block 64 on 65M-4190
279 Petticoat Road



Figure 3: Google Streetview Screen Grab of 279 Petticoat Road and Block 64 on Plan 65M-4190

We request that Council will move forward with the removal of Condition 1x).

Should you have any questions, please contact the undersigned at 90-738-8080 ext. 236.

Yours truly,

Weston Consulting

Per:

Kevin Bechard, BES, MSc, RPP
Senior Associate

c. 2640174 Ontario Limited

Attachments:

- Appendix 1: Communication C 33 Committee of the Whole Report June 21, 2022 Agenda Item #8
- Appendix 2: Written Correspondence by Goldman, Spring, Kichler & Sanders LLP signed Mr. Sheldon B. Spring
- Appendix #3: Committee of the Whole Report No. 18 which was adopted by Council on May 23, 2018 Excerpt

**Appendix 1 Communication C 33 Committee of the Whole Report June 21, 2022 Agenda
Item #8**

DATE: June 21, 2022

TO: Mayor and Members of Council

FROM: Vince Musacchio, Deputy City Manager Infrastructure Development

RE: **Item 8 - Committee of the Whole (2), June 21, 2022,**

**2640174 ONTARIO LIMITED SITE DEVELOPMENT FILE DA.19.070
2057 MAJOR MACKENZIE DRIVE WEST VICINITY OF MAJOR
MACKENZIE DRIVE AND PETER RUPERT AVENUE**

Recommendations

That the conditions of site plan approval in attachment No. 1 in the staff report for 2640174 Ontario Limited Site development file DA.19.070 be amended as follows:

1. That condition of approval 1m) be amended as follows:
 - i) 1m) be deleted and replaced with the following:

“1m) The Owner shall provide the Development Engineering Department with a clearance letter from the Trustee of the Block 18 Landowners Group, that they have paid their proportional share and satisfied all obligations to the Developers Group for the municipal water, storm and sanitary infrastructure connections on Petticoat Road and Major Mackenzie Drive, as well as other community use lands and costs for community lands, works, services and infrastructure provided by the Block 18 Landowners Group under the Block 18 Cost Sharing Agreement to the satisfaction of the City of Vaughan Development Engineering Department.”
 - ii) Adding the following condition of approval:

“1x) That 2640174 Ontario Limited develop block 64 on Plan 65M-4190 in conjunction with their abutting lands. The City shall not issue a building permit for the said block until the lands are combined to the satisfaction of the City.”

Background

A condition which already speaks to cost sharing between the Block 18 Landowners Group and 2640174 Ontario Limited has been inserted into Attachment 1 for the development application identified as item 1m). As 2640174 Ontario Limited is already required under this condition to cost share for infrastructure costs, an amendment is being made to this condition to also capture any community use lands and costs for community lands that may be realized. Condition 1m) listed above is being amended for this reason.

A prior development application over lands identified as draft plan of subdivision 19T-00V18 phase 2A, Plan 65M-4190, Fernbrook Homes (Block 18 Gulf), required that block 64 on the plan be developed only in conjunction with the abutting lands located immediately to the west, and that the City would not issue a building permit until the lands were combined to the city's satisfaction. 2640174 Ontario Limited is the developer immediately to the west and will be required to comply with this condition to manage this part block. Accordingly, a new condition 1x) is being added to capture this requirement.

In consideration of the above, Staff recommends Condition 1m) be amended to ensure cost sharing obligations are adhered to by landowners in block 18 and that condition 1x) be added to manage a part block of land within plan 65M-4190 which abuts 2640174 Ontario Limited.

For more information, contact, Frank Suppa, Director, Development Engineering ext. 8255.

Respectfully submitted by,

A handwritten signature in black ink, appearing to read 'V. Musacchio', with a stylized flourish at the end.

Vince Musacchio
Deputy City Manager Infrastructure Development

**Appendix 2: Written Correspondence by Goldman, Spring, Kichler & Sanders LLP signed
Mr. Sheldon B. Spring**

CITY OF VAUGHAN

EXTRACT FROM COUNCIL MEETING MINUTES OF MAY 23, 2018

Item 2, Report No. 18, of the Committee of the Whole, which was adopted without amendment by the Council of the City of Vaughan on May 23, 2018.

2 ZONING BY-LAW AMENDMENT FILE Z.16.006 ACE DEVELOPMENTS (2057 MAJOR MACKENZIE DRIVE) LTD. VICINITY OF MAJOR MACKENZIE DRIVE AND PETER RUPERT AVENUE

The Committee of the Whole recommends:

- 1) That the recommendation contained in the following report of the Deputy City Manager, Planning and Growth Management dated May 8, 2018, be approved;**
- 2) That the applicant be requested to include an assessment of the slope leading to, and access onto, Major Mackenzie Drive as part of their studies in the site plan application process;**
- 3) That the following deputations be received:**
 - 1. Mr. Kevin Bechard, Weston Consulting, Millway Avenue, Vaughan, on behalf of the applicant;**
 - 2. Mr. Peter Badali, Eagle Hills Ratepayers' Association, Butterfield Crescent, Vaughan; and**
 - 3. Mr. Martin O'Halloran, Lealinds Drive, Maple; and**
- 4) That the following Communications be received:**
 - C8. Mr. Paul M. DeMelo, Kagan Shastri LLP, Avenue Road, Toronto, dated May 8, 2018; and**
 - C11. Mr. Sunil Ghai, dated May 8, 2018.**

Recommendations

That the Local Planning Appeal Tribunal (the "LPAT") be advised that City of Vaughan Council ENDORSES the following recommendations:

- 1. THAT Zoning By-law Amendment File Z.16.006 (ACE Developments (2057 Major Mackenzie Drive) Ltd.) BE APPROVED IN PRINCIPLE, to amend Zoning By-law 1-88, specifically to rezone the Subject Lands shown on Attachments #1 and #2 from A Agricultural Zone to RM2(H) Multiple Residential Zone with the Holding Symbol "(H)" and OS1 Open Space Conservation Zone, in the manner shown on Attachment #3.**
- 2. THAT the Holding Symbol "(H)" shall not be removed from the Subject Lands zoned RM2(H) Multiple Residential Zone with the Holding Symbol "(H)", as shown on Attachment #3, until Vaughan Council has identified and allocated water supply and sewage**

CITY OF VAUGHAN

EXTRACT FROM COUNCIL MEETING MINUTES OF MAY 23, 2018

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servicing capacity to the Subject Lands.

3. THAT should the LPAT approve Zoning By-law Amendment File Z.16.006, that the LPAT be requested to withhold its final Decision/Order regarding the implementing Zoning By-law until such time that the following matters are addressed to the satisfaction of the City and external commenting agencies, which may result in changes to the development proposal, including but not limited to, the number of units, building setbacks, site organization, and building height:
 - a) The Owner shall submit a Site Development Application for the Subject Lands, which must be approved by Vaughan Council to address the following, but not limited to:
 - i) The Owner shall satisfy all requirements of Metrolinx, including but not limited to, the minimum required building setback to the Metrolinx right-of-way, the location and design (e.g. width and height) of the safety berm, the location of the underground parking structure, and an updated Noise and Vibration study addressing noise and vibration measures;
 - ii) The Owner shall explore the feasibility of relocating the existing heritage dwelling (the Joshua Oliver House) located on the Subject Lands, as shown on Attachment #3, closer to Petticoat Road in order to provide an appropriate transition with respect to building massing, setbacks, height, and create the opportunity for improved site organization. The final location of the heritage dwelling shall be to the satisfaction of the Development Planning Department;
 - iii) Should the review to relocate the Joshua Oliver House determine that the dwelling shall remain in situ, the Owner shall:
 - Update the tree preservation plan and landscape plan in order to preserve existing vegetation to the greatest extent possible as required by the Vaughan Official Plan 2010 (“VOP 2010”), and submit an Arborist Report prepared by a qualified arborist to demonstrate that the existing heritage tree can survive in the proposed development scenario, to the satisfaction of the Development Planning Department; and
 - Undertake an independent third-party Peer Review, at the expense of the Owner, of the Stability Study for the Joshua Oliver House, to the satisfaction of the City of Vaughan;

CITY OF VAUGHAN

EXTRACT FROM COUNCIL MEETING MINUTES OF MAY 23, 2018

Item 2, CW Report No. 18 – Page 3

- iv) The Owner shall submit an updated Traffic Impact Study that includes recommendations to improve the operation of the intersection of Peter Rupert Avenue and Lealinds Road/Freedom Trail, to the satisfaction of the Development Engineering Department;
 - v) The Owner shall submit a Conservation Plan and updated Cultural Heritage Impact Study for the existing heritage dwelling (the Joshua Oliver House) located on the Subject Lands, to the satisfaction of the Development Planning Department;
 - vi) The Owner shall satisfactorily address the compatibility and development criteria stipulated in Sections 2.2.5.13 f), 9.1.2.5, and 9.2.3.3 in VOP 2010, to the satisfaction of the Development Planning Department. The proposed development shall be designed to achieve an appropriate transition in scale to areas of lower intensity located east and south of the Subject Lands, specifically:
 - the Owner shall ensure the building height for Block 4, as shown on Attachment #3, reflects an appropriate transition between the proposed development and the existing detached dwellings on Petticoat Road. The Owner is required to provide architectural building elevation drawings to confirm the building height of each block;
 - the Owner shall increase the front yard setback for Blocks 3 and 4, as shown on Attachment #3, to provide consistent building setbacks with the existing established front yard setback of the adjacent detached dwellings on Petticoat Road; and
 - b) the Owner shall confirm the intended use of the Joshua Oliver House, which may result in additional zoning exceptions to the RM2 Multiple Residential Zone; and
 - c) The final implementing Zoning By-law shall be to the satisfaction of the City of Vaughan.
4. THAT the Owner continue to work with the adjacent property owner to the east to acquire Block 64 on Registered Plan 65M-4190, as shown on Attachments #2 and #3, as identified in Condition 21.3.18 of the Subdivision Agreement for Registered Plan 65M-4190.
5. THAT City of Vaughan staff and external legal counsel, as required, be directed to attend the LPAT Hearing in support of the

CITY OF VAUGHAN

EXTRACT FROM COUNCIL MEETING MINUTES OF MAY 23, 2018

Item 2, CW Report No. 18 – Page 4

Recommendations contained in this report regarding Zoning By-law
Amendment File Z.16.006.

(A copy of the attachments referred to in the following report have been forwarded to each Member of Council and a copy thereof is also on file in the office of the City Clerk.)

Appendix #3: Committee of the Whole Report No. 18 which was adopted by Council on May 23, 2018 Excerpt

**GOLDMAN, SPRING,
KICHLER & SANDERS^{LLP}**
BARRISTERS & SOLICITORS

Sheldon B. Spring
Direct: 416-225-9400 ext. 303
E-mail: sspring@goldmanspring.com

June 20, 2022

BY EMAIL

The Corporation of The City of Vaughan
Planning Department (Development Planning Division)
2141 Major MacKenzie Drive
Vaughan, ON
L6A 1T1

Attention: Todd Coles

Dear Sirs:

**Re: 2057 Major MacKenzie Drive West, City of Vaughan (the "Lands") OWNED BY
2640174 ONTARIO LIMITED ("2640174")
AND Re: SITE PLAN APPROVAL DEVELOPMENT FILE DA.19.070
AND RE: BLOCK 18 DEVELOPMENT AREA**

Further to my letter to Mark Antoine dated March 24, 2017 dealing with a prior development application for the Lands, we are the solicitors for Fernbrook Homes (Block 18 Gulf) Limited the owner of the property abutting the Lands. Our client's abutting property is Block 64, Plan 65M-4190. Our client is the subdivider of Plan 65M-4190 and entered into a Subdivision Agreement with the City of Vaughan registered as Instrument Number YR1539548. Included in that Subdivision Agreement is Section 21.3.18 which provides that:

"Block 64 on Schedule "A1" shall be developed only in conjunction with the abutting lands immediately located to the west. The City shall not issue a building permit for the said Block on Schedule "A1" until the lands are combined to the satisfactory of the City."


The Lands in the above application owned by 2640174 are the abutting lands located to the west of Block 64, Plan 65M-4190 as mentioned in the above Section of our client's

Subdivision Agreement. Accordingly, our client requires that the City of Vaughan impose a condition of approval for 2640174 that they comply with the provisions of our client's Subdivision Agreement and acquire Block 64, Plan 65M-4190 from our client.

Please acknowledge receipt of this letter and confirm that the City will comply with this obligation.

Yours very truly,

GOLDMAN, SPRING, KICHLER & SANDERS LLP



Sheldon B. Spring

SBS:la

cc: Fernbrook Homes (Block 18 Gulf) Limited