

THE CITY OF VAUGHAN

BY-LAW

BY-LAW NUMBER 033-2019

A By-law to designate by Number an amendment to City of Vaughan By-law Number 1-88, as effected by the Local Planning Appeal Tribunal.

The Council of The Corporation of the City of Vaughan **ENACTS AS FOLLOWS:**

1. THAT the Amendment to City of Vaughan By-law 1-88, as effected by the Ontario Municipal Board Order Issue, dated the 17th day of September 2018 (OMB File No. PL 110420), attached hereto as Attachment “B”, is hereby designated as By-law Number 033-2019.

Enacted by City of Vaughan Council this 19th day of March, 2019.

Hon. Maurizio Bevilacqua, Mayor

Todd Coles, City Clerk

Authority: Local Planning Appeal Tribunal Decision/Order issued September 17, 2018 in

Board File No. PL 110420

Dulcina Investments Inc.

BY-LAW NUMBER 033- 2019 (LPAT)

A By-law to amend City of Vaughan By-law 1-88.

The Local Planning Appeal Tribunal orders:

1. That City of Vaughan By-law Number 1-88, as amended, be and it is hereby further amended by:

- a) Rezoning the lands shown as “Subject Lands” on Schedule “2” attached hereto from C1 (H) Restricted Commercial Zone with the Holding Symbol “(H)” to RA3 (H) Apartment Residential Zone with the Holding Symbol “(H)” and OS2 Open Space Park Zone, in the manner shown on the said Schedule “2”.

Adding the following Paragraph to Section 9.0 “EXCEPTIONS”:

“(1472) A. The following provisions shall apply to all lands zoned with the Holding Symbol “(H)” as shown on Schedule “E-1603”, until the Holding Symbol “(H)” is removed pursuant to Subsection 36(3) or (4) of the *Planning Act*.

- a) Lands zoned with the Holding Symbol “(H)” shall be used only for a use legally existing as of the date of the enactment of By-law 033-2019. Notwithstanding the foregoing, the following are permitted prior to the removal of the Holding Symbol “(H)” symbol:
 - i) one (1) temporary sales office, in accordance with Subsection 3.25 respecting Temporary Sales Office in the City of Vaughan By-law Number 1-88;
 - ii) an Underground Parking Structure;
 - iii) the permitted interim commercial uses with a maximum Gross Floor Area of 1,970 m² within the Phase 2 Lands as shown on Schedule “2”, attached hereto, and in accordance with the provisions of the C1 Restricted Commercial Zone of Section 9(1030);
- b) Upon the enactment of a by-law, or by-laws to remove the Holding Symbol “(H)” from any portion of the Subject Lands, development of the Subject Lands will occur sequentially in two Phases on the lands identified as the “Phase 1 Lands” and the “Phase 2 Lands”, as shown on Schedule “E- 1603”. Development within each Phase may be staged in accordance with a staging plan, to the

satisfaction of the City of Vaughan and York Region. The boundary between the Phase 1 Lands and the Phase 2 Lands may be adjusted from what is shown on Schedule “E-1126B” provided Blocks ‘A’, ‘B’, and the OS2 Open Space Park Zone lands remain within the Phase 1 Lands, and Block ‘C’ remains in the Phase 2 Lands;

c) “Phase 1 Lands” (2021 Horizon) – Holding Symbol “(H)” Removal Conditions:

A By-law to remove the Holding Symbol “(H)” from the “Phase 1 Lands” identified on Schedule “E-1126B”, or any portion thereof, shall not be enacted until the following conditions are satisfied:

- i) A Development Concept Report, including supporting studies, has been submitted to the satisfaction of the City of Vaughan and York Region;
- ii) A subdivision agreement or development agreement has been executed and registered with respect to the Subject Lands securing the conveyance and construction of the public street, the conveyance of the Jane Street widening along the frontage of the Subject Lands, the conveyance of public parkland within the lands zoned OS2 Open Space Park Zone, the payment of cash-in-lieu of parkland in accordance with Section 42 of the *Planning Act*, and the extension of public services with respect to the development of the Phase 1 Lands and, if efficient and practical, the Phase 2 Lands;
- iii) Arrangements have been made satisfactory to the City of Vaughan and York Region for the completion of the extension of Bass Pro Mills Drive to Jane Street;
- iv) Final approval of a Site Development Application(s) has been obtained for the Phase 1 Lands, or portion thereof from which the Holding Symbol “(H)” is being removed, in accordance with Section 41 of the *Planning Act*;
- v) An agreement pursuant to Section 37 of the *Planning Act* has been executed and registered, providing for the payment of \$1,471,622 with respect to increases in height and density for the development of the Phase 1 Lands and Phase 2 Lands, and for the provision of a Public Indoor Recreation Space (“PIRS”) within Block ‘B’ of the

Phase 1 Lands, if the City of Vaughan identifies a need for such space. Payment of the Section 37 amount shall be pro-rated based upon the percentage of the approved number of units and payable prior to the issuance of the first Building Permit for any above grade structure(s) (other than the temporary sales office). A preliminary Park Master Plan, a preliminary Facility Fit Study and a cost estimate for the PIRS shall be provided, if required, to the satisfaction of the City of Vaughan;

- vi) At the City of Vaughan's request, entering into a Park Developer Build Agreement with the City to construct the entire public park block in accordance with the City of Vaughan's Developer Build Parks Policy (Policy No. 07.2.05), which agreement will include "Schedule 'D' – Base Work Requirements for Assumption of a Conveyed Park Block", as shown on Schedule "E- 1603A", attached hereto as Schedule "3", to the satisfaction of the City of Vaughan Manager of Parks Development Planning Department;
- vii) A cost sharing agreement has been executed to the City's satisfaction to secure the proportionate share of the works required to service and deliver the entire public park block(s).
- viii) Water supply and sewage servicing capacity has been identified by York Region and allocated to the Phase 1 Lands, or portions thereof, by the City of Vaughan;
- ix) Any necessary agreements required to ensure the orderly development of the Phase 1 Lands, or portions thereof, have been executed among benefiting landowners, and the City of Vaughan and/or York Region where appropriate, for municipal servicing;
- x) If required, a Stratified Arrangement Agreement shall be executed, to the satisfaction of the City of Vaughan, for underground parking in the OS2 Open Space Park Zone for the use of the residents, employees or visitors of the Phase 1 and the Phase 2 Lands;
- xi) Prior to the removal of the Holding Symbol "(H)" for Block 'B', if required by the City, an Agreement shall be

executed, to the satisfaction of the City of Vaughan, to provide any necessary easements to facilitate the PIRS respecting access, servicing utilities, and maintenance;

xii) Prior to the removal of the Holding Symbol “(H)” for Block ‘B’, a final Park Master Plan, a final Facility Fit Study and cost estimate for the PIRS shall be provided, if required, no later than six (6) months prior to paragraph xiii) below, to the satisfaction of the City of Vaughan;

xiii) Prior to the removal of the Holding Symbol “(H)” for Block ‘B’, a PIRS Agreement shall be executed meeting the City's requirements with respect to the PIRS, but only in the event that the City decides it wishes to acquire the PIRS, which decision shall be made by no later than the later of:

- i. twelve (12) months from the Board's Order approving Schedules A and B; and
- ii. three (3) months after the release for sale of the units in Building A2, provided that the City is provided written notice not less than three (3) months from the intended date of the release for sale of the units in Building A2;

d) “Phase 2 Lands” (2031 Horizon) – Holding Symbol “(H)” Removal Conditions:

A By-law to remove the Holding Symbol “(H)” from the “Phase 2 Lands”, identified on Schedule “E-1126B”, shall not be enacted until the following conditions are satisfied:

- i) A scoped comprehensive “Jane Street Corridor Area Development Concept Report” has been submitted to the satisfaction of the City of Vaughan and York Region;
- ii) A Comprehensive Transportation Assessment, has been prepared to the satisfaction of the City of Vaughan and York Region, demonstrating development capacity for either complete or staged removal of the Holding Symbol “(H)” for the Phase 2 Lands;
- iii) An updated Development Concept Report for the development of the Phase 2 lands has been submitted, to the satisfaction of the City of Vaughan;
- iv) Final approval of a Site Development Application(s) has

been obtained for the Phase 2 Lands, in accordance with Section 41 of the *Planning Act*, to the satisfaction of the City of Vaughan;

- v) A subdivision agreement or development agreement has been executed and registered with respect to the Subject Lands securing the conveyance of lands required for any remaining public streets and road widenings and the construction thereof, the payment of cash-in-lieu in accordance with Section 42 of the *Planning Act*, and the extension of public services, to the satisfaction of the City of Vaughan;
- vi) Water supply and sewage servicing capacity have been identified by the York Region and allocated to the Phase 2 Lands by the City of Vaughan;
- vii) Adequate provision has been made for school sites and community facilities to support the development of the Phase 2 Lands, or portion thereof from which the Holding Symbol is being removed, to the satisfaction of the City of Vaughan;

B. Subject to the requirements of Paragraph A above, notwithstanding the provisions of:

- a) Subsection 2.0 respecting the Definition of Lot, Building Height, Car Share, Gross Floor Area, Parking Space, Parking Space – Handicapped, Place of Worship, Service or Repair Shop, Stratified Arrangement, and Underground Parking Structure;
- b) Subsection 3.8 (a) respecting Parking Requirements;
- c) Subsection 3.9 respecting Loading Requirements;
- d) Subsection 3.13 respecting Minimum Landscape Area;
- e) Subsection 3.17 respecting Portions of Buildings Below Grade;
- f) Subsection 4.1.4 respecting Parking and Access Requirements;
- g) Subsection 4.1.6 respecting Minimum Amenity Area;
- h) Subsection 4.1.8 and Schedule “A” respecting the minimum Zone Standards in the RA3 Apartment Residential Zone;
- i) Subsections 4.1.7 respecting Uses Permitted in All Residential Zones and 4.1.2 respecting Uses Permitted in the RA3 Apartment Residential Zone;
- j) Subsections 7.1.2 respecting Uses Permitted in All Open Space Zones and 7.3 respecting Uses Permitted in the OS2 Open Space

Park Zone;

the following provisions shall apply to the development of the lands shown as “Subject Lands” on Schedule “E- 1603” upon the removal of the Holding Symbol (“H”):

- ai) For the purpose of this Exception Paragraph:
 - i) The Subject Lands shall be deemed to be one lot, regardless of the number of buildings or structures constructed thereon, the creation of separate units and/or lots by way of plan of condominium, conveyance, consent, or other permissions, and any easements or registrations that may be granted, shall be deemed to comply with the provisions of this By-law;
 - ii) The definition of Building Height shall exclude accessory roof construction, elevator(s), mechanical room, antennae, parapet wall, canopies, landscape features, or roof-top equipment. Any residential floor area on the same storey at, or adjacent to, the roof-top equipment shall not be considered a storey, provided that the said residential floor area is less than 50% of the floor area for that storey and does not increase the maximum number of permitted Dwelling Units on the Subject Lands;
 - iv) Car Share means a service for local users in support of community transit and environmental goals. It is a membership-based on service offering members access to a dispersed network of shared vehicles 24 hours, 7 days a week. It is primarily designed for shorter times and shorter distance trips providing a public service to enhance mobility options. It does not include a dealership, rental uses or car brokerage use. Car Share parking spaces may be set aside within a covered area on the Subject Lands, and will not count towards satisfying the minimum parking supply requirements of this by-law;
 - v) Gross Floor Area (GFA) shall mean the aggregate of the floor areas of all storeys of a building, measured to the exterior of the outside walls, but not including the areas of any cellar, any car parking area above or below grade within the building or within a separate structure, or any public indoor recreation space;

- iv) The minimum dimensions of a Parking Space are 2.7 metres by 5.8 metres;
- v) Accessible Parking Spaces and Aisles shall be provided in accordance with Ontario Regulation 413/12, as amended, with a minimum parking space length of 5.8 metres;
- vi) Place of Worship shall mean a building used for religious worship and may include accessory facilities such as an assembly hall, auditorium, shrine, and rectory;
- vii) Service or Repair Shop shall only include the servicing or repairing of small household appliances and electronic devices;
- viii) Stratified Arrangement means an agreement registered on title by two or more parties for the determination of ownership or use of land in a vertical manner above and/or below grade;
- ix) An Underground Parking Structure shall mean a building or structure constructed below finished grade used for the temporary parking of motor vehicles and shall not include the storage of impounded or derelict motor vehicles;
- bi) Parking spaces and areas shall be permitted in the OS2 Open Space Park Zone within an underground parking structure and may be used to satisfy the parking requirements of the uses within the abutting RA3 Apartment Residential Zone to the north and east;
- bii) The minimum Residential – Apartment Dwelling parking ratio shall be 0.95 parking spaces per Dwelling Unit;
- biii) The maximum Residential – Apartment Dwelling parking ratio shall be 1.15 parking spaces per Dwelling Unit;
- biv) The minimum Residential – Apartment Dwelling, Visitor parking ratio shall be 0.20 spaces per Dwelling Unit and may be located in the commercial parking area. The parking spaces provided to satisfy the requirements for the Commercial uses will also count towards satisfying the residential visitor parking requirements and vice versa;
- bv) The minimum Commercial parking ratio shall be 3.0 parking spaces per 100 m² Gross Floor Area;

- ci) Subsection 3.9 (a) shall not apply;
- di) The following minimum landscape strip widths shall be provided:
 - i) 2.2 m along Jane Street;
 - ii) 8.0 m along Vaughan Mills Circle;
 - iii) 0.0 m along the north boundary of the lands zoned RA3;
 - iv) 3.0 m along Street “A”;
 - v) 0.0 m along the south boundary between the lands zoned RA3 and OS2;
 - vi) 0.0 m along a sight triangle;
- ei) The minimum setback of the nearest part of the building below finished grade from the front lot line (Jane Street) and a lot line abutting the public street shall be 0.0 m;
- fi) Subsection 4.1.4 (b) shall not apply;
- gi) The Minimum Amenity Area provided on the Subject Lands shall be based on 2.5 m² per Dwelling Unit;
- hi) The minimum setback to a daylight triangle shall be 0.0 m;
- hii) The minimum front yard setback from Block ‘A’ and Block ‘B’ to Jane Street shall be 2.2 m;
- hiii) The minimum rear yard setback (Vaughan Mills Circle) shall be as follows:
 - i) Block ‘A’ – 12.0 m;
 - ii) Block ‘C’ – 8.0 m;
- hiv) The minimum side yard setback (from the north boundary of the lands zoned RA3 Apartment Residential Zone) for Block ‘A’ shall be 6.0 m;
- hv) The minimum side yard setback from the OS2 Open Space Park Zone shall be as follows:
 - i) Block ‘B’ – 0.0 m;
 - ii) Block ‘C’ – 9.0 m;
- hvi) The minimum side yard from the “Public Street” shall be as follows:
 - i) Block ‘A’ – 3.0 m;
 - ii) Block ‘C’ – 3.0 m;
- hvii) The maximum permitted Building Height shall be as follows:
 - Block ‘A’ (Phase 1 Lands):
 - i) Building A1 – 24-storeys (79.5 m);
 - ii) Building A2 – 26-storeys (85.5 m);
 - Block ‘B’ (Phase 2 Lands):

- i) Building B1 – 26-storeys (85.5 m);
- ii) Building B2 – 28-storeys (91.5 m);

Block 'C' (Phase 1 Lands):

- i) Building C – 28-storeys (91.5 m);
- hviii) The minimum distance between buildings above 7-storeys shall be 20.0 m;
- hix) The maximum permitted number of Dwelling Units within the Phase 1 Lands shall be 1,125;
- hix) The maximum permitted number of Dwelling Units within the Phase 2 Lands shall be 342;
- hxi) The total maximum Gross Floor Area on the Phase 1 Lands and Phase 2 Lands shall be 131,702 m², consisting of 128,962 m² of residential GFA and 2,740 m² of non-residential GFA;
- hxii) A maximum Gross Floor Area of 2,740 m² devoted to Commercial uses shall be permitted on the ground floor on the buildings on the lands zoned RA3 Apartment Residential Zone, where the floor to floor height of a commercial unit shall be a minimum of 4.5 m;
- ii) In addition to the uses permitted in all Residential Zones and in the RA3 Apartment Residential Zone, the following commercial uses shall be permitted only if they are carried on within a wholly enclosed building with no open storage:
 - i) Bank or Financial Institution;
 - ii) Brewers Retail Outlet;
 - iii) Business or Professional Office;
 - iv) Car Share;
 - v) Club or Health Centre;
 - vi) Community Centre;
 - vii) Day Nursery;
 - viii) Eating Establishment;
 - ix) Eating Establishment, Convenience
 - x) Eating Establishment, Take-Out;
 - xi) Independent Living Facility;
 - xii) L.C.B.O Outlet;
 - xiii) Long Term Care Facility;
 - xiv) Personal Service Shop;
 - xv) Pet Grooming Establishment;
 - xvi) Pharmacy;
 - xvii) Photography Studio;

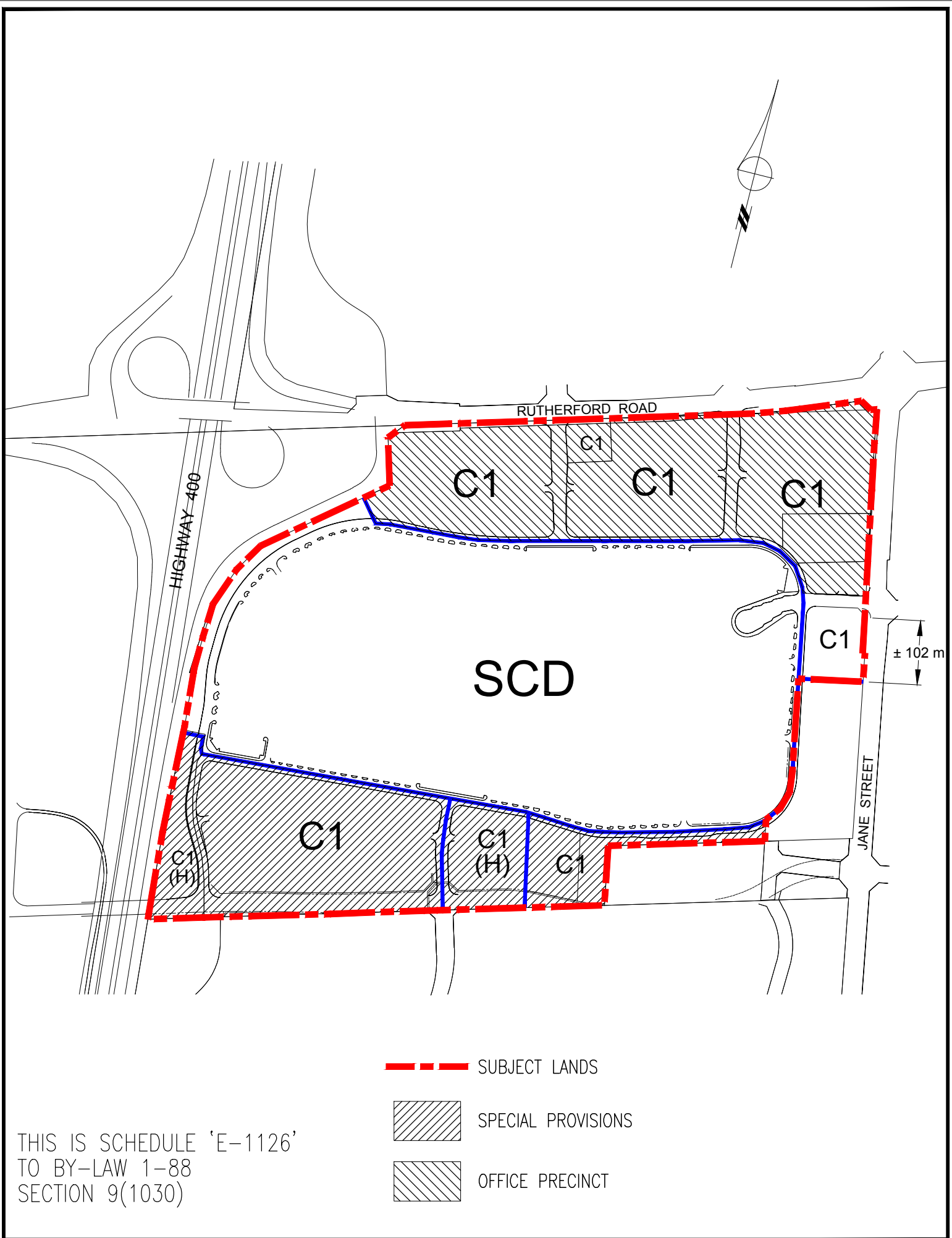
- xviii) Place of Entertainment;
 - xix) Place of Worship;
 - xx) Public, Technical or Private School;
 - xxi) Public Library;
 - xxii) Recreational;
 - xxiii) Retail Store;
 - xxiv) Service or Repair Shop;
 - xxv) Supermarket;
 - xxvi) Underground Parking Structure;
 - xxvii) Veterinary Clinic;
 - xxviii) Video Store;
- iii) An outdoor patio shall only be permitted as an accessory use to an Eating Establishment, Convenience Eating Establishment, or Take-Out Eating Establishment and then only in accordance with the following provisions:
- i) The outdoor patio shall not exceed fifty percent (50%) of the gross floor area devoted to patron use of the eating establishment in conjunction with which the outdoor patio use is permitted;
 - ii) Parking shall not be required for the outdoor patio;
 - iii) An outdoor patio may be permitted in any yard;
 - iv) Any lighting facilities illuminating an outdoor patio shall be arranged so as to deflect light away from adjoining properties and streets;
 - v) The use of musical instruments, or other mechanical or electrical music equipment, and dancing, theatrical performances or audio-visual presentations, music concerts and shows, may be permitted in areas designated for outdoor patio use;
 - vi) The ground surface of an outdoor patio shall be of concrete or other hard surface;
 - vii) An outdoor patio shall only be permitted in accordance with an approved Site Development Application;
 - viii) An outdoor patio of an eating establishment licensed to serve alcohol, in accordance with approvals from the Alcohol and Gaming Commission of Ontario, shall be completely enclosed by a physical barrier with access only from the interior of the said eating establishment, with

the exception of at least one (1) exit to be used only in the case of emergency and which is not from the interior of the main building;

ji) As an additional use in the OS2 Open Space Park Zone, an Underground Parking Structure that services the adjacent lands zoned RA3 Apartment Residential Zone is permitted and the parking spaces contained therein will count towards satisfying the parking supply requirements for the RA3 Apartment Residential Zone lands.”

- c) Deleting Schedule “E-1126” and substituting therefor the Schedule “E-1126” attached hereto as Schedule “1”.
 - d) Adding Schedule “E- 1603” attached hereto as Schedule “2”.
 - e) Adding Schedule “E- 1603A” attached hereto as Schedule “3”.
 - f) Deleting Key Map 5C and substituting therefor the Key Map 5C attached hereto as Schedule “4”.
2. Schedules “1”, “2”, “3”, and “4” shall be and hereby form part of this By-law.

PURSUANT TO THE DECISION OF THE LOCAL PLANNING APPEAL TRIBUNAL ISSUED September 17, 2018 AND ORDER ISSUED [Not Given] IN FILE NO. PL110420



NOT TO SCALE

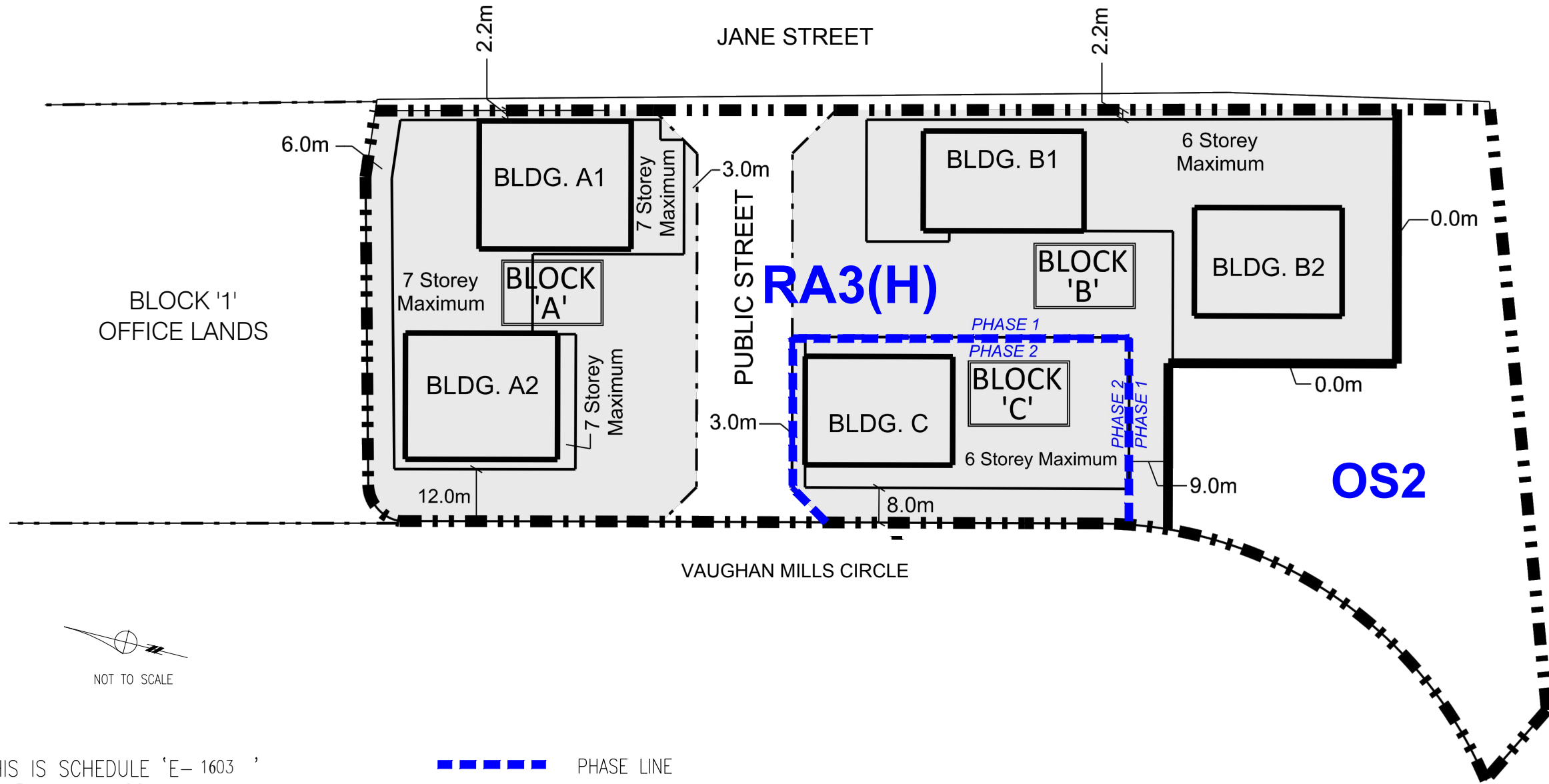
THIS IS SCHEDULE '1'
TO BY-LAW 033 - 2019
PASSED THE 19TH DAY OF MARCH, 2019

FILE No.: Z.09.038
RELATED FILES: DA.11.072, DA.12.110, Z.11.024, & Z.12.044
LOCATION: PART LOTS 14 & 15, CONCESSION 5
APPLICANT: DULCINA INVESTMENTS INC.
CITY OF VAUGHAN

SIGNING OFFICERS

BOARD ORDER #110420
SEPTEMBER 17, 2018

MAYOR
CLERK



NOT TO SCALE

THIS IS SCHEDULE 'E- 1603'
TO BY-LAW 1-88
SECTION 9(1472)

--- PHASE LINE
- - - SUBJECT LANDS

FILE No.: Z.09.038
RELATED FILES: DA.11.072, DA.12.110, Z.11.024, & Z.12.044

LOCATION: PART LOTS 14 & 15, CONCESSION 5
APPLICANT: DULCINA INVESTMENTS INC.
CITY OF VAUGHAN

THIS IS SCHEDULE '2'
TO BY-LAW 033 - 2019
PASSED THE 19TH DAY OF MARCH, 2019

SIGNING OFFICERS

BOARD ORDER# 110420
SEPTEMBER 17, 2018

MAYOR

CLERK

SCHEDULE “D”

Base Work Requirements for Assumption of a Conveyed Park Block

I. Part I

1. Archaeological Assessment, Stage I and II is required to determine limits of public park block(s). Proposed public park lands are to be clear of all historically significant heritage features.
2. Proposed public park block(s) grading must not negatively impact adjacent properties with overland flow routes. The public park block(s) cannot be encumbered by overland flow routes from adjacent properties.
3. The public park block(s) shall not be encumbered by any easements for utility services, transformer boxes, temporary or permanent building structural elements, building overhangs, Canada Post mail boxes and/or access, buffers, and the like with the exception of cross easements for servicing, utilities, maintenance and access.
4. A storm water management brief and grading plan for all required storm water services is required to ensure that proposed grading works have been designed to accommodate storm water flows in accordance with the Engineering Department Design Manual at interim and final phases of the public park block(s) development to the satisfaction of the City, acting reasonably.
5. A Park Master Plan to the City’s standard level of service shall be prepared and include the following information:
 - a) Boundaries of proposed parkland dedication and the total size of individual blocks;
 - b) Existing conditions plan illustrating topographic information in order to assess slopes and drainage, and vegetation, identifying species, age, size and condition;
 - c) Layout plan which illustrates proposed park program requirements, phasing plan based on adjacent construction activities, pedestrian circulation, and required setbacks as determined by the Parks Development Department;
 - d) Grading plan illustrating proposed storm water run-off, surface drainage patterns and sub-surface storm water servicing requirements including development proposed over lands encumbered with strata conditions and to the Parks Development Department’s satisfaction, acting reasonably; and
 - e) A preliminary construction cost estimate.

The plans listed above are to be completed by a registered Landscape Architect and are required to provide sufficient information to confirm facility and program

THIS IS SCHEDULE ‘E-1603A ’ TO BY-LAW 1-88, SECTION 9(1472)

THIS IS SCHEDULE '3'
TO BY-LAW 033 - 2019
PASSED THE 19TH DAY OF MARCH, 2019

FILE No.: Z.09.038

RELATED FILES: DA.11.072, DA.12.110, Z.11.024, & Z.12.044

LOCATION: PART LOTS 14 & 15, CONCESSION 5

APPLICANT: DULCINA INVESTMENTS INC.

CITY OF VAUGHAN

SIGNING OFFICERS

BOARD ORDER #110420
SEPTEMBER 17, 2018

MAYOR

CLERK

requirements to the satisfaction of the Parks Development Department, acting reasonably.

II. Part II: Public Park Base Condition Works

1. A geotechnical investigation shall be conducted by a qualified Professional Engineer for all public park block(s) in the Park Master Plan to the satisfaction of the Parks Development Department, acting reasonably. In addition, a Phase Two Environmental Site Assessment shall be conducted by a qualified Professional Engineer in accordance with O.Reg. 153/04 (as amended) assessing all public park block(s) in the Park Master Plan for conformity with the applicable MOECC Site Condition Standards for parkland use to the satisfaction of the Parks Development Department, acting reasonably. For both the geotechnical investigation and the Phase Two Environmental Site Assessment a minimum of 4 boreholes are to be taken at regular intervals along the full length of the proposed public park block(s). Borehole reports for the geotechnical investigation will indicate soil type, water content, and density (general compaction). For the Phase Two Environmental Site Assessment all samples are to be tested in a laboratory to determine their physical properties, including levels of various chemical elements and contaminants, as required under O.Reg. 153/04 (as amended). Should additional fill be placed to meet required grading levels, the results of the Phase Two Environmental Site Assessment shall be supplemented with a letter report addressed to the City from the Owner's environmental consultant that includes: confirmation of the area where fill has been placed and details regarding dates, sources, volumes, and certification that the placed fill material meets the applicable MOECC Site Condition Standards referenced above and compacted to the standard referenced below. For greater certainty, it is understood and agreed that all obligations under this paragraph will be satisfied for the Casertano Park Block and Mammone Park Block where geotechnical reports for such lands have been prepared by a qualified Professional Engineer in accordance with the attached borehole plans and where Phase Two Environmental Site Assessments have been conducted on such lands by a qualified Professional Engineer in accordance with O.Reg. 153/04 (as amended) and the attached borehole plans.
2. Adequate sized servicing connections are required along the main public park frontage and shall include a water chamber manhole, complete with a curb stop, sanitary manhole and a storm water manhole. All structures are to be located a minimum of 5 meters from adjacent property lines. [Ensure compliance with the most updated Engineering Design Criteria and Standard Drawings.]
3. The approved electrical distribution plan will include a 120/240 volt, single phase, three wire power supply to the public park block(s). The power supply drop will consist of a 3 conductor #3/0 aluminum underground cable drop located one metre from the street line and one metre from the property line inside the block(s). The cable feed will originate

THIS IS SCHEDULE 'E- 1603A ' TO BY-LAW 1-88, SECTION 9(1472)

**THIS IS SCHEDULE '3' (Con't.)
TO BY-LAW 033 - 2019
PASSED THE 19TH DAY OF MARCH, 2019**

FILE No.: Z.09.038
RELATED FILES: DA.11.072, DA.12.110, Z.11.024, & Z.12.044
LOCATION: PART LOTS 14 & 15, CONCESSION 5
APPLICANT: DULCINA INVESTMENTS INC.
CITY OF VAUGHAN

SIGNING OFFICERS

**BOARD ORDER #110420
SEPTEMBER 17, 2018**

MAYOR
CLERK

from the closest (within 75 metre cable length) single phase pad mounted transformer and will be left coiled and attached to a 2"x4" wood stake, visible above grade.

- Public park block(s) grading shall be completed using clean engineered fill compacted to 95% Standard Proctor Dry Density (SPDD) inclusive of any civil work required such as retaining structures, rip rap, swales, and the like to meet grading levels as determined by the City approved grading plan. The park block shall generally be graded to meet and match surrounding levels and allow for a minimum 2% and no greater than 5% gradient over 75% of the total block area.
- No fill shall be placed on existing topsoil and the stockpiling of topsoil is prohibited on the public park block(s). Topsoil for fine grading shall be fertile and friable, natural loam soil with two percent (2%) minimum organic matter for sandy loams and four percent (4%) minimum organic matter for clay loams. Acidity of topsoil shall range from 6.0pH to 7.5pH and shall be capable of sustaining vigorous plant growth. The owner shall complete all necessary chemical analysis and topsoil fertility tests by a qualified testing laboratory to the satisfaction of the Parks Development Department, acting reasonably, and results of testing provided to the Parks Development Department for review and approval. Topsoil shall be placed to a minimum depth of 300mm over the entire public park block(s), with the exception of area falling within strata limits, which are to be determined following the detailed design stage. Prior to placement of topsoil, the owner shall add all amendments as required to amend the existing soils to meet the recommendations of the fertility testing and demonstrate that these standards have been met.
- All temporary sediment control management measures are to be removed prior to rough grading.
- The public park block(s) shall be seeded with a seed mix approved by Parks Development Department.
- Any dead, damaged and hazardous trees based on an arborist's report recommendations shall be removed and disposed of off-site.
- The perimeter of the public park block(s) shall be fenced off with fencing approved by the City and "No Dumping" signs shall be placed along the perimeter of the public park block(s).
- The Owner shall be responsible to maintain the public park block(s) until such time as the public park's construction commences or assumption is granted. Maintenance shall entail maintaining sufficient grades to prevent standing water, cutting the grass/vegetation a minimum of twice summer, erosion repairs, cleaning of catch basins, repair of perimeter

THIS IS SCHEDULE 'E- 1603A ' TO BY-LAW 1-88, SECTION 9(1472)

THIS IS SCHEDULE '3' (Con't.)
TO BY-LAW 033 - 2019
PASSED THE 19TH DAY OF MARCH, 2019

FILE No.: Z.09.038
RELATED FILES: DA.11.072, DA.12.110, Z.11.024, & Z.12.044
LOCATION: PART LOTS 14 & 15, CONCESSION 5
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CITY OF VAUGHAN

SIGNING OFFICERS

| | |
|---|-------|
| BOARD ORDER #110420 SEPTEMBER 17, 2018 | MAYOR |
| | CLERK |

fencing and removal of any debris that is dumped on the site, to the satisfaction of the City, acting reasonably.

III. Part III: Public Park Development Works to the Ultimate Condition

The following are the general principles that shall be incorporated into and form part of the Development Agreement based on the Option A of Section 13: Compensation and Payment Schedule to Developer(s) under the Developer Build Parks Policy No.: 07.2.05.

Part II: Public Park Base Condition Works and the Part III: Public Park Development Works shall collectively be referred to as the “Ultimate Condition”.

1. General:

- 1.1 The Owner shall design, tender a construction contract and construct the Public Park in accordance with the Landscape Construction Drawings and Specifications approved by the City. These works constitute projects incorporated in the City’s Development Charges By-law 045-2013 and in accordance with the “Developer Build Parks Policy, No. 07.02.05” or the applicable policy version in force at the time of start of the first phase of construction of the Public Park for the Public Park Development Works only and not any works that are required to ensure that the Parklands meet the Part II: Parkland Base Condition Works.
- 1.2 All works necessary to ensure that the Public Park is delivered to the City in the Ultimate Condition shall be at the sole cost and expense of the Owner.
- 1.3 The Owner shall obtain all approvals and permits required to construct the Public Park.
- 1.4 The Owner shall award all contracts and shall supervise all construction and provide all necessary certifications by its Consultant(s) to the satisfaction of the City, acting reasonably.

2. Consultant(s) Services:

- 2.1 The Owner shall retain all necessary construction, landscape architecture, structural & mechanical engineers, electrical engineers, surveying, geotechnical, or other professionals/consultants to complete the Park Design and Construction Supervision and Contract Administration services.
- 2.2 The Consultant(s) shall be qualified in constructing municipal park development projects and have sufficient resources to satisfactorily design, construct and

THIS IS SCHEDULE ‘E– 1603A ’ TO BY-LAW 1–88, SECTION 9(1472)

**THIS IS SCHEDULE '3' (Con't.)
TO BY-LAW 033 - 2019
PASSED THE 19TH DAY OF MARCH, 2019**

FILE No.: Z.09.038
RELATED FILES: DA.11.072, DA.12.110, Z.11.024, & Z.12.044
LOCATION: PART LOTS 14 & 15, CONCESSION 5
APPLICANT: DULCINA INVESTMENTS INC.
CITY OF VAUGHAN

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|---|-------|
| BOARD ORDER #110420 SEPTEMBER 17, 2018 | MAYOR |
| | CLERK |

administer Public Park development and the Owner shall provide such evidence to the City as requested in this regard.

2.3 The Owner’s agreements or contracts with its landscape architect shall include design, general supervision and resident supervision on the construction of the Public Park to the Ultimate Condition and shall provide that the representatives of the City’s Parks Development Department shall be entitled to inspect the construction of the Parklands to the Ultimate Condition and to stop any work in the event that the work is being performed in a manner that may result in a completed installation that would not be satisfactory to the City.

2.4 All design drawings shall bear the seal and signature of the professional engineer or landscape architect who is responsible for the relevant designs.

3. Contractor selection and construction costs:

3.1 All design drawings, specifications, and detailed cost estimates shall be approved by the City before any agreement is entered into for the construction of the Public Park to the Ultimate Condition and the total cost shall not exceed available Development Charge funding including all construction costs, landscape architectural services, structural & mechanical engineers, electrical engineers, and geotechnical consultants, testing, surveying, geotechnical certifications, applicable taxes, obtaining approvals and permits, construction contract administration and supervision, contingencies, applicable taxes and all costs reasonably relating to the Public Park to ensure the Park Development Works comply with City Standards and Criteria.

3.2 Prior to awarding a contract for the construction of the Public Park, the Owner shall provide the City with documentation that confirms to the satisfaction of the City, acting reasonably, that a competitive bid process was followed, with a minimum of three (3) qualified landscape general contractors, to tender the construction contract for the Public Park including a copy of the tender document and a summary of unit and total bid price for review and approval by the City. The City shall be satisfied that the selected landscape general contractor is qualified in constructing municipal park development projects, having at least five (5) years’ experience in site servicing and park development and has sufficient resources to satisfactorily construct the Public Park prior to the Owner awarding the construction contract. The Owner shall provide the City with an updated cost of the Public Park based on bid prices for information following the tender closing.

3.3 Prior to the commencement of the Public Park works, should the total cost exceed the approved construction budget, the scope of the project will be amended accordingly subject to approval by the Owner and the City. The actual certified cost shall not include any of the Public Park works which are the Owner’s obligation to construct The Part II: Parkland Base Condition Works, including but not limited to, design, administration and construction for the clearing and grubbing, tree

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CITY OF VAUGHAN

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| | |
|---|-------|
| BOARD ORDER #110420 SEPTEMBER 17, 2018 | MAYOR |
| | CLERK |

preservation/removal and protective measures, rough grading, topsoil spreading, drainage, seeding, supplying water, storm and electrical service stubs (including chambers and meters as required to property line), temporary perimeter fencing, construction signage and sediment control fencing or all other required Parkland Base Condition Works.

3.4 In the event that there are additional Public Park works requiring use of contingency funds attributable to unforeseen circumstances or other problems encountered during construction by the Owner, the Owner shall notify the City of the use of the contingency. However, the Owner shall not be obligated to obtain the City’s consent to authorize such minor additional work or increase in the cost of the Public Park through use of the contingency, except for any major changes that affect quality or facility delivery, or changes that cumulatively exceed 80% of the available contingency of the project, in which case the City’s consent shall be required. As construction proceeds, the Owner shall provide copies of all supplementary contracts and change orders to the City for verification.

4. Payments:

4.1 The Owner shall submit a monthly statement on progress payment (invoice) on Public Park works performed during the previous monthly payment period and as agreed upon by the City for works completed. The invoice shall include a certificate sealed by the Landscape Architectural consultant confirming the Public Park works have been inspected and completed as per the approved construction drawings and specifications; copies of invoices from the Consultant, Suppliers and Contractors; a standard Statutory Declaration and a certificate from the Workplace Safety and Insurance Board (WSIB). The City shall reimburse the Owner the total payments for the Public Park works, which shall not exceed the reimbursable consulting fee and construction cost of the Public Park, subject to the funds being available in the approved City Capital Budget.

4.2 Subject to the Developer Build Parks Policy, the Park works’ payments will be subject to a five percent (5%) Maintenance Holdback, which will be released thirteen (13) months after the date a certificate of Substantial Performance has been issued, subject to no outstanding deficiencies. In addition, a ten percent (10%) Holdback will be required and shall be released as per the requirements of the Construction Lien Act. All reimbursable consulting fees are to be invoiced separately from the Public Park works and shall not be subject to the five percent (5%) Maintenance Holdback and ten percent (10%) Holdback.

4.3 Prior to the City making the final payment to the Owner for the Public Park works, a comprehensive reconciliation of the costs and payments shall be undertaken to the satisfaction of the City, acting reasonably.

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CITY OF VAUGHAN

SIGNING OFFICERS

BOARD ORDER #110420
SEPTEMBER 17, 2018

MAYOR

CLERK

4.4 Once the Public Park works are Substantially Performed, the City will begin the process to release the ten percent (10%) Holdback pursuant to the provisions of this Agreement and as per the requirements of the Construction Lien Act, once the following have been confirmed and/or provided:

4.4.1 Substantial Performance of the Public Park works was approved and confirmed by the professional consulting Landscape Architect and 45 days after publication of such in the Daily Commercial News by the Owner and/or his agent has transpired;

4.4.2 The proof of publication has been submitted to the City;

4.4.3 A Statutory Declaration from the Owner confirming that all accounts in connection with the design and construction of the Public Park have been paid in full and that there are no outstanding claims related to the subject works; and

4.4.4 No liens have been registered in regard to this contract, to the satisfaction of the City.

4.5 Notwithstanding that the City will be responsible for the maintenance of the Public Park from the date of Substantial Performance, the Owner shall remain responsible for (i) any and all guarantees for the Public Park for a period of thirteen (13) months; and (ii) all new plant material for a period of 24 months pursuant to the approved Construction Drawing and Specifications.

4.6 The City shall release the five percent (5%) Maintenance Holdback to the Owner for the Public Park once the following have been confirmed/or provided:

4.6.1 Thirteen (13) months have passed from the publication date of the certificate of Substantial Performance;

4.6.2 A thirteen (13) month warranty inspection has been conducted by City staff which shall be scheduled by the Owner twelve (12) months following Substantial Performance;

4.6.3 All noted deficiencies from the thirteen (13) month warranty inspection have been rectified to the City's satisfaction, acting reasonably;

4.6.4 The Owner's professional consulting Landscape Architect has issued a certificate certifying the warranty period has expired and that the noted deficiencies have been completed in general conformance to the construction drawings, specifications and reports; and

4.6.5 Any liens registered in regard to the contract have been released and/or paid by the Owner.

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CITY OF VAUGHAN

SIGNING OFFICERS

| | |
|---|-------|
| BOARD ORDER #110420 SEPTEMBER 17, 2018 | MAYOR |
| | CLERK |

5. Final Inspection:

- 5.1 The City shall conduct a final inspection of the Public Park and Services to the satisfaction of the City, acting reasonably, prior to the City issuing Substantial Performance Confirmation as defined below.
- 5.2 Prior to scheduling the Final Inspection and the Public Park being considered ready for use by the public to the satisfaction of the City, the Owner shall provide the City with the following information:
- 5.2.1 A certification from the professional consulting Landscape Architect that confirms that the Public Park have been constructed in accordance with the approved construction drawings, City standards and specifications, and sound engineering/construction practices;
- 5.2.2 A grading certification from either the professional consulting Landscape Architect or an Engineer based on the review of the Ontario Land Surveyor (OLS) completed survey for the rough grades, confirming the Public Park works have been constructed to the approved construction drawings and specifications;
- 5.2.3 A copy of the Canadian Safety Association (CSA) certificate for all playground equipment and associated safety surfacing in accordance with CAN/CSA Z614-14 Children's Playspaces and Equipment;
- 5.2.4 A copy of a third party CSA Children's Playspaces inspection for all playground equipment and associated safety surfacing;
- 5.2.5 A copy of the Electrical Safety Authority (ESA) clearance letter for the pedestrian pathway lighting associated with the Public Park and a certificate from the electrical design Consultant indicating the electrical load of the pedestrian pathway lighting and a photometric plan of the Public Park confirming a minimum of five (5) lux horizontal average light level maintained along all pathway surfaces;
- 5.2.6 A copy of the City building permits and required sign-offs from the City building inspector(s) for all works required to construct the Public Park;
- 5.2.7 A detailed breakdown of the final as-constructed costs of the Public Park certified by the professional consulting landscape architect to the satisfaction of the City, acting reasonably;
- 5.2.8 Copies of all final executed construction contracts, approved contract extras and change orders related to the construction of the Public Park to the satisfaction of the City, acting reasonably;

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CITY OF VAUGHAN

SIGNING OFFICERS

**BOARD ORDER #110420
SEPTEMBER 17, 2018**

MAYOR
CLERK

- 5.2.9 Copies of all quality assurance test results, supplementary geotechnical reports and construction related reports;
- 5.2.10 All project close out information required for all Public Park’s facilities and equipment, which shall include, but is not necessarily limited to, maintenance manuals, touch up paint, tool kits, warranty information and weigh bills (for topsoil amendments, fertilizer applied on site, etc.);
- 5.2.11 Storm Water Management certification from the block engineering consultant that confirms that the park blocks have been designed and constructed in accordance with the approved storm water engineering requirements for the park blocks; and
- 5.2.12 A Structural Engineer certification from a professional engineer for all structural footings, foundations and structures (shade structure, etc.), confirming that the necessary structures have been designed and constructed in accordance with the associated building permits, drawings and specifications.

6. Inspection and testing by City

- 6.1 The City may conduct, at the expense of the Owner, any tests that the City, in its absolute discretion, considers necessary to satisfy itself as to the proper construction, installation or provision of the Parklands to the Ultimate Condition.
- 6.2 The City, its employees, agents and contractors or any other authorized persons may inspect the construction and installation of the Public Park to the Ultimate Condition under any contract, but such inspection shall in no way relieve the Owner from its responsibility to inspect the said construction and installation. If the construction and installation of the Public Park to the Ultimate Condition is not, in the opinion of the City, being carried out in accordance with the provisions of this Park Development Agreement and/or the Final Park Development Agreement, the City may issue instructions to the Owner and/or the Owner’s landscape architect or arborist to take such steps as may be deemed necessary to procure compliance with the provisions of this Park Development Agreement and/or the Final Park Development Agreement. Such instructions may be written, or may be verbal, in which case the City shall confirm them in writing within three (3) business days. In the event that neither the Owner nor the Owner’s landscape architect or arborist is present at the Site to receive such verbal instructions, the City may instruct the contractor(s) to cease work forthwith.

7. Maintenance until Substantial Performance of the Public Park

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CITY OF VAUGHAN

SIGNING OFFICERS

| | |
|---|-------|
| BOARD ORDER #110420 SEPTEMBER 17, 2018 | MAYOR |
| | CLERK |

7.1 The Owner shall be responsible to maintain the Public Park until Substantial Performance is issued by the City pursuant to the provisions of this Agreement and once the following have been confirmed and/or provided:

- 7.1.1 The City conducted a final inspection and is satisfied that the Public Park works have been completed to its satisfaction, acting reasonably, and the City is in agreement with the issuance of the certificate of Substantial Performance;
- 7.1.2 The Owner’s professional consulting Landscape Architect has submitted a certificate, under seal, certifying that the consultant has inspected the construction and the Public Park have been constructed as per the approved drawings and specification and confirms rectification of any major deficiencies identified during the final inspection;
- 7.1.3 Two (2) cuts of the turf/grass areas have taken place;
- 7.1.4 All garbage and debris has been removed from the Park blocks;
- 7.1.5 A complete set of hardcopy (3 full sized sets) and digital (AutoCAD and PDF) “As Constructed” Construction Drawings for the Public Park prepared by an Ontario Land Surveyor and shall include a topographical survey of the final grades at 0.25m contour intervals, servicing structures/inverts, and the location of above-ground Public Park facilities, planting beds and tree bases, electrical items, site furniture, play structures, and play area limits.

8. Emergency Repairs

- 8.1 At any time prior to the acceptance and/or assumption of the Parklands by the City, if any of the park services do not function or do not function properly or, in the opinion of the City, require necessary immediate repairs to prevent damage or undue hardship to any persons or to any property, the City may enter upon the Parklands and make whatever repairs may be deemed necessary and the Owner shall pay to the City, immediately upon receipt of a written demand, all expenses (including landscape approval fees), based upon the cost of the work incurred in making the said repairs. If the Owner fails to make the payment as demanded by the City, the City shall be entitled to draw upon any security filed pursuant to the Park Development Agreement. The City covenants and agrees to advise the Owner within three (3) business days from the date of entry by the City of the nature and extent of the emergency and repairs which were necessary. Such undertaking to repair shall not be deemed an acceptance of the Parklands by the City or an assumption by the City of any liability in connection therewith and shall not release the Owner from any of its obligations under the Final Park Development Agreement.

9. Damage and Debris

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CITY OF VAUGHAN

SIGNING OFFICERS

| | |
|---|-------|
| BOARD ORDER #110420 SEPTEMBER 17, 2018 | MAYOR |
| | CLERK |

- 9.1 All lands owned by the City outside the limits of the Site Plan that may be used by the Owner or parties employed by the Owner or others during construction staging area(s) in connection with the construction of the Public Park to the Ultimate Condition shall be kept in a good and usable condition and, if damaged by the Owner or parties employed by the Owner in the construction staging area(s) in connection with the construction of the Parklands to the Ultimate Condition will be repaired or restored immediately;
- 9.2 Not foul the public roads, outside the limits of the Site Plan, leading to the Parklands, and the Owner further agrees to provide the necessary persons and equipment to be available on reasonable notice at all times to keep such roads clean and that all trucks making deliveries to or taking materials from the Site Plan lands shall be adequately covered and reasonably loaded so as to not scatter refuse, rubbish, or debris on the abutting highways and streets;
- 9.3 If in the opinion of the City, in its sole discretion, the aforementioned requirements are not complied with, the City may elect to complete the work as required and the Owner shall forthwith upon demand pay to the City the full cost thereof and that the City may draw on any security filed pursuant to this Park Development Agreement and/or the Final Park Development Agreement if the Owner fails to make the payment demanded by the City;
- 9.4 Not allow and restrain, insofar as it is able to do so, all others, from depositing junk, debris, or other materials on any lands within the Site Plan, including lands to be dedicated for municipal purposes, vacant public land and private land;
- 9.5 Clear debris and garbage on any land within the Site Plan if so requested in writing by the City and that the City shall have the authority to remove such debris and garbage at the sole cost of the Owner if the Owner fails to do so within seventy-two (72) hours of written notice.

4 Part IV: Strata public park specific requirements

1. Surface strata to be conveyed to the City for use as public park shall be free of any further easements, structures and systems that would negative impact the design, construction and use of the proposed park facilities including but not limited to requirements for encumbrances such as vents, shafts, fire exits and related access routes.
2. The conveyance of a strata public park, shall be based on partial parkland credits and shall be based on an appropriate formula/calculation as deemed appropriate by the City. Any encumbrances within the public park that may require the registration of an easement in favour of the Condo Corporation that will ultimately own the underground parking in order to facilitate day to day operations and maintenance activities as well as any major capital maintenance projects and/or repairs. As such, any areas included within the easement(s) will be discounted of any parkland credit calculation. The size and location of such easement shall be finalized prior to the final approval of the Site Plan.

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CITY OF VAUGHAN

SIGNING OFFICERS

| | |
|---|-------|
| BOARD ORDER #110420 SEPTEMBER 17, 2018 | MAYOR |
| | CLERK |

3. Parkland encumbered by strata dedication shall be subject to the following conditions:
- a) Parks Development Department have approved the area, depth of soils, configuration and boundaries of the proposed parklands over the strata limits;
 - b) The Owner shall enter into an agreement with the City to be registered on title to the lands, to secure the following:
 - i. agreement to provide public access to the parkland.
 - ii. arrangements for the design, engineering and development of the park, including any special features and upgrades above and beyond the available Development Charges for the proposed park project.
 - iii. regulation of the reciprocal easement for the maintenance of the parking garage beneath the public park (not the responsibility by the City) and continuing indemnity from the owner in favor of the City in respect of damages that may occur to the park as a result of the development, use, maintenance, repair or replacement of the parking garage.
 - iv. Parkland over the strata shall be reinstated in the event of damages or repairs due to the parking garage at no cost to the City.
 - v. The Owner shall pay for the costs of the preparation and registration of all relevant documents. The Owner shall provide to the satisfaction of the City Solicitor all legal descriptions and applicable reference plans of survey inclusive of horizontal parcels for the parkland over the strata limits.
 - vi. Pay all costs associated with the City retaining a third-party peer reviewer including a 3% administrative fee. Peer review scope shall include but not limited to structure, mechanical, electrical, water proofing, construction method statements, materials, architectural details, safety, and security.
4. The site plan agreement and condominium agreement shall include conditions requiring the Owner and/or the Condo Corp to enter into an agreement with the City and to the satisfaction of the City to maintain the area around and underneath the strata public park, to provide adequate and necessary liability insurance by the Owner, to perform routine inspection arrangements by the Owner, to allow for emergency maintenance requirements by the City, and to include indemnification requirements in favour of the City.

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SIGNING OFFICERS

| | |
|---|-------|
| BOARD ORDER #110420 SEPTEMBER 17, 2018 | MAYOR |
| | CLERK |

- 5. Easements may be required over adjacent private lands (driveways, walkways, etc..) to allow for public access along all boundaries of the public park.
- 6. Vertical easements may be required through the structures below the public park (garage parking structure, etc..) to allow public park related services such as storm water drainage, sub drainage or other required services and utilities.
- 7. Design specifications for the surcharge load and structural design of the portion of the parking garage which is to be constructed beneath the public park includes plans, cross sections and details of the loading schedule in respect of such portion of the parking garage, which loading schedule shall take into account live and dead loads as required by the building Code Act, with allowances for loading such as, but not limited to, construction vehicles, playground structures, water fountains, trees, shrubs, ground cover, growing medium, public use, landscape features, planters, small structures for utilities or public washrooms and public art.
- 8. Treatment of visible encumbrances within the public park such as vents, shafts, fire exits and related access routes shall be to the satisfaction of the City, acting reasonably.
- 9. The life expectancy of the parking garage membrane, waterproofing, structural deck and associated systems shall be guaranteed for a minimum of no less than 50 years or greater.
- 10. The planting medium for all trees, shrubs and perennials shall be consistent with industry standards for roof deck installations. A minimum planting soil depth of 1.5 meters between proposed FFE (at grade) proposed elevation within the Park and the top of the underground parking structure throughout all the parkland and shall meet and match grades along the perimeter of the parklands encumbered by strata. The 1.5 m depth shall be clear of any encumbrances such as: parking structure concrete slab, insulation and waterproofing system, drainage layer and/or other elements that are to protect the integrity of the underground parking structure.
- 11. Drainage system for surface strata shall be designed to complement the proposed park design and satisfy the City’s Storm Water Engineering requirements.
- 12. Upon completion of the construction of the Park, the Owner shall provide a certificate prepared by a qualified professional engineer and landscape architect to the City to certify the works have been installed in accordance with the approved public park design and As-Built Drawings of the underground parking structure.

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SIGNING OFFICERS

| | |
|---|-------|
| BOARD ORDER #110420 SEPTEMBER 17, 2018 | MAYOR |
| | CLERK |



KEY MAP 5C
BY-LAW 1-88

NOT TO SCALE

THIS IS SCHEDULE '4'
TO BY-LAW 033 - 2019
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CITY OF VAUGHAN

SIGNING OFFICERS

BOARD ORDER #110420
SEPTEMBER 17, 2018

MAYOR

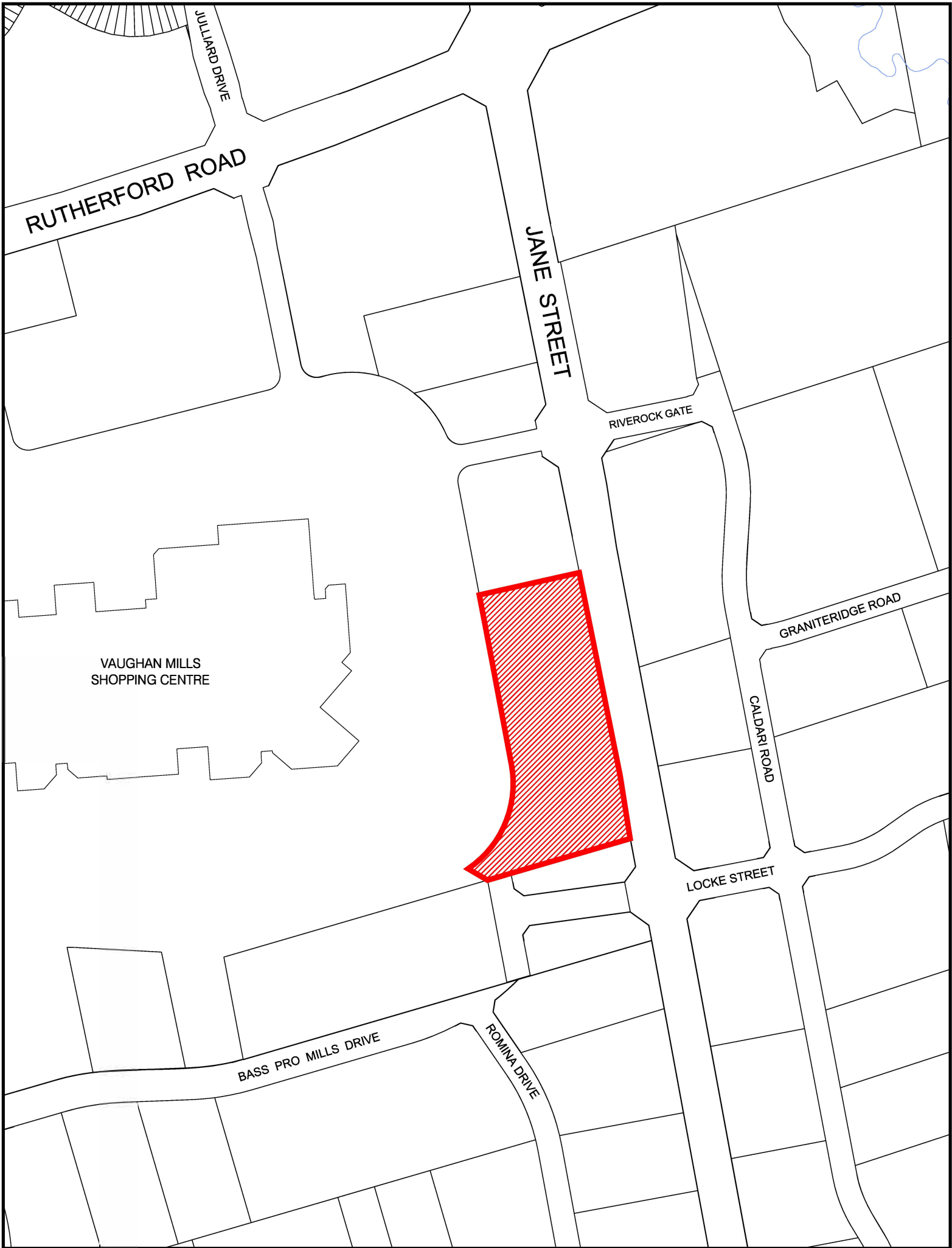
CLERK

SUMMARY TO BY-LAW 033- 2019

The lands subject to this By-law are located on the west side of Jane Street, south of Rutherford Road, in part of Lots 14 and 15, Concession 5, City of Vaughan.

The purpose of this By-law is to rezone the Subject Lands from C1 (H) Restricted Commercial Zone with the Holding Symbol "(H)" to RA3 (H) Apartment Residential Zone with the Holding Symbol "(H)" and OS2 Open Space Park Zone. The conditions for removal of the Holding Symbol "(H)" are two-phased to coincide with the orderly and sequential development of the Subject Lands and includes conditions for Section 37 Contributions. This By-law removes the lands subject to this By-law from the Exception 9(1030) and Schedule "E-1126" and creates a new Exception and Schedules thereby including the following site-specific zoning exceptions:

- a) site-specific definitions of "lot", "building height", "car share", "gross floor area", "parking space", "parking space – handicapped", "place of worship", "service or repair shop", "stratified arrangement", and "underground parking structure"
- b) reduced parking requirements
- c) reduced minimum setbacks from public streets to portions of the building below grade
- d) reduced setbacks to daylight triangles
- e) the provisions for building envelopes
- f) maximum building heights
- g) maximum number of residential apartment dwelling units
- h) provisions for density bonussing for the Subject Lands
- i) maximum ground related commercial areas
- j) site-specific commercial uses with no open storage in addition to the uses permitted in all residential zones and the RA3 Apartment Residential Zone
- k) minor relief to the outdoor patio provisions to permit flexibility
- l) provisions for development in two phases
- m) provision for interim commercial uses within the Phase 2 Lands



NOT TO SCALE

LOCATION MAP TO BY-LAW 033 - 2019

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CITY OF VAUGHAN



SUBJECT LANDS

Local Planning Appeal Tribunal
Tribunal d'appel de l'aménagement
local



ISSUE DATE: September 17, 2018

CASE NO(S):

PL140839

PL110419

The Ontario Municipal Board (the "OMB") is continued under the name Local Planning Appeal Tribunal (the "Tribunal"), and any reference to the Ontario Municipal Board or Board in any publication of the Tribunal is deemed to be a reference to the Tribunal.

PROCEEDING COMMENCED UNDER subsection 17(36) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

| | |
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| Appellants (jointly): | Casertano Developments Corporation and Sandra Mammone |
| Appellants (jointly): | Limestone Gallery Investments Inc. and Damara Investment Corp. |
| Appellants (jointly): | Granite Real Estate Investment Trust and Magna International Inc. |
| Appellants (jointly): | H & L Title Inc. and Ledbury Investments Ltd. |
| Appellant: | Canadian National Railway |
| Appellant: | Rutherford Land Development Corporation |
| Appellant: | 281187 Ontario Ltd. |
| Appellant: | Anland Developments Inc. |
| Subject: | Proposed Official Plan Amendment No. 2 to the Official Plan for the City of Vaughan (2010) |
| Municipality: | City of Vaughan |
| OMB Case No.: | PL140839 |
| OMB File No.: | PL140839 |
| OMB Case Name: | Mammone v. Vaughan (City) |

PROCEEDING COMMENCED UNDER subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

| | |
|--------------------------|--|
| Applicant and Appellant: | Casertano Development Corporation |
| Subject: | Request to amend the Official Plan - Failure of the City of Vaughan to adopt the requested amendment |
| Existing Designation: | "General Commercial" |

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|-------------------------------|---|
| Proposed Designation: | "High-Density Residential/Commercial" |
| Purpose: | To permit the development of six (6) residential apartment buildings ranging from 26 to 40 storeys containing approximately 2,050 residential units and two (2) freestanding 2-storey office/commercial buildings and ground floor retail commercial uses totaling 4,234 square metres (45,574 square feet) in gross floor area in Blocks "B" and "C" |
| Property Address/Description: | 9060 Jane Street |
| Municipality: | City of Vaughan |
| Approval Authority File No.: | OP.07001 |
| OMB Case No.: | PL110419 |
| OMB File No.: | PL110419 |
| OMB Case Name: | Casertano Development Corporation v. Vaughan (City) |

PROCEEDING COMMENCED UNDER subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

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|-------------------------------|---|
| Applicant and Appellant: | Casertano Development Corporation |
| Subject: | Application to amend Zoning By-law No. 1-88, as amended – Refusal or neglect of the City of Vaughan to make a decision |
| Existing Zoning: | "C1(H) Restricted Commercial Zone" |
| Proposed Zoning: | "RA3(H) Apartment Residential Zone" |
| Purpose: | To permit the development of six (6) residential apartment buildings ranging from 26 to 40 storeys containing approximately 2,050 residential units and two (2) freestanding 2-storey office/commercial buildings and ground floor retail commercial uses totaling 4,234 square metres (45,574 square feet) in gross floor area in Blocks "B" and "C" |
| Property Address/Description: | 9060 Jane Street |
| Municipality: | City of Vaughan |
| Municipal File No.: | Z.09.038 |
| OMB Case No.: | PL110419 |
| OMB File No.: | PL110420 |

PROCEEDING COMMENCED UNDER subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

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|-------------------------------|---|
| Applicant and Appellant: | Sandra Mammone |
| Subject: | Request to amend the Official Plan - Failure of the City of Vaughan to adopt the requested amendment |
| Existing Designation: | "General Commercial" |
| Proposed Designation: | "High-Density Residential/Commercial" |
| Purpose: | To permit the development of six (6) residential apartment buildings ranging from 25 to 35 storeys containing approximately 1,600 residential units and two (2) freestanding 2-storey office/commercial buildings (Blocks "D" and "E") and ground floor office/commercial uses in Blocks "A", "B" and "C" |
| Property Address/Description: | 8940 Jane Street |
| Municipality: | City of Vaughan |
| Approval Authority File No.: | OP.09.006 |
| OMB Case No.: | PL110419 |
| OMB File No.: | PL110455 |

PROCEEDING COMMENCED UNDER subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

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| Applicant and Appellant: | Sandra Mammone |
| Subject: | Application to amend Zoning By-law No. 1-88, as amended – Refusal or neglect of the City of Vaughan to make a decision |
| Existing Zoning: | "EM1(H) Prestige Employment Area Zone" and "EM2 General Employment Area Zone" |
| Proposed Zoning: | "RA3(H) Apartment Residential Zone" |
| Purpose: | To permit the development of six (6) residential apartment buildings ranging from 25 to 35 storeys containing approximately 1,600 residential units and two (2) freestanding 2-storey office/commercial buildings (Blocks "D" and "E") and ground floor office/commercial uses in Blocks "A", "B" and "C" |
| Property Address/Description: | 8940 Jane Street |
| Municipality: | City of Vaughan |
| Municipal File No.: | Z.09.037 |
| OMB Case No.: | PL110419 |
| OMB File No.: | PL110456 |

Heard: January 25 and 26, 2018 in Vaughan, Ontario

APPEARANCES:

Parties

Counsel*Representative

City of Vaughan

R. Coburn* and C. Storto*

Dulcina Investments Inc. (formerly
Casetano Development
Corporation), and Sandra Mammone

M. Flynn-Guglietti* and A. Forristal*

Tesmar Holdings Inc.

M. McDermid*

Rutherford Land Development
Corporation

Q. Annibale* and B. Ruddick*

Granite Real Estate Inc. and Magna
International Inc.

A. Skinner*

Anland Developments Inc.

C. Barnett*

281187 Ontario Limited

G. Borean*

Region of York

B. Ogunmefun*

Canadian National Railway

A. Heisey*

H & L Tile and Ledbury Investments
Ltd.

M. Flowers*

Ivanhoe Cambridge II Inc.

J. Alati*

York Region School Board

J. Easto*

Toronto and Region Conservation
Authority

C. Bonner

DECISION DELIVERED BY C. CONTI AND ORDER OF THE TRIBUNAL

INTRODUCTION

[1] A Pre-hearing Conference (“PHC”) was held before the Ontario Municipal Board (“Board”), now the Local Planning Appeal Tribunal (“Tribunal”), with regard to appeals of the Vaughan Mills Centre Secondary Plan (“Secondary Plan”) and related to applications for amendments to the City of Vaughan (“City”) Official Plan and the Secondary Plan, and for Zoning By-law Amendments (“ZBA’s”) by Dulcina Investments Inc. and Sandra Mammone (“Dulcina and Mammone”) to permit the development of lands at 9060 Jane Street (“Dulcina Lands”) and 8940 Jane Street (“Mammone Lands”).

[2] The Secondary Plan sets out proposed land use designations and policies for an area generally bounded by Rutherford Road to the north and Bass Pro Mills Drive to the south, generally extending to Jane Street to the east and Weston Road to the west. An area to the east of Jane Street and south of Rutherford Road is also included in the Secondary Plan area. Multiple appeals were filed regarding the Secondary Plan, but through discussion among the parties and as a result of Board conducted mediation a number of the appeals were settled and motions were brought forward at the PHC for approvals related to the settlements.

[3] The applications by Dulcina and Mammone have undergone an extensive appeal process which included a number of PHC’s. Through this process, the appeals of the Dulcina and Mammone applications were consolidated with the appeals of the Secondary Plan. At the PHC, the Board heard that many of the issues regarding the Dulcina and Mammone appeals had been settled.

[4] This decision deals with the appeals as they relate to lands owned by Dulcina and Mammone, including a motion for partial approval of modifications to the Official Plan and Secondary Plan and for approval of the ZBA’s to facilitate development of the lands.

MOTION

[5] In support of their motion, Dulcina and Mammone filed a Motion Record (Exhibit 13) which included the Affidavit of Allan Young, a Registered Professional Planner who is President of A. Young Planner Ltd. Mr. Young also provided oral testimony at the PHC. He was qualified by the Board as an expert in land use planning.

[6] The intent of the motion was to approve in principle certain modifications to the City's Official Plan and the Secondary Plan, and to also approve in principle ZBA's for Dulcina Lands and the Mammone Lands in order to permit development of the properties. The Board heard that the Dulcina Lands and the Mammone Lands are two adjoining parcels on the west side of Jane Street, south of Riverrock Gate. According to the evidence, the functional gross areas of the properties for the proposals are 2.83 hectares ("ha") for the Dulcina Lands and 3.08 ha for the Mammone Lands. The lands are located adjacent to the Vaughan Mills Mall and in proximity to the Region of York ("Region") Transit bus terminal. The lands are well removed from the nearest low rise residential area.

[7] The Board heard that the proposal has been revised and the number of proposed units has been reduced as a result of discussions among the parties and Board led mediation. The current proposal for the Dulcina Lands includes the construction of five towers of 24, 26, 26, 28 and 28 storeys containing 1,467 units. The Mammone Lands proposal includes five towers of 18, 18, 24, 26 and 26 storeys containing 1,397 units. Ground level commercial uses are proposed for each site. In addition, Dulcina and Mammone will dedicate approximately 1.54 ha for a public park and contribute to the expansion of the public street network in the area.

[8] According to Mr. Young's evidence, the properties are located within the Vaughan Mills Primary Centre, which is a high priority intensification area. Jane Street is designated as a Regional Rapid Transit Corridor in both the City and the Regional

Official Plans. The lands are designated as High-Rise Mixed Use in the Secondary Plan, which was adopted by the City through Official Plan Amendment No. 2 (“OPA 2”) and was approved by the Region on June 26, 2014.

[9] Mr. Young indicated that the draft Official Plan Amendment modifies OPA 2 by adding a new section 18, which incorporates site specific policies for the Dulcina and Mammone lands (Exhibit 14). The provisions require the development of the lands to be undertaken in two phases, the first phase of which would permit up to 1,125 units for the Dulcina Lands and up to 871 units for the Mammone Lands. Development of the second phase is dependent on the completion of a comprehensive transportation assessment. Height and density requirements are included, as well as provisions for the construction and dedication of required public roads and the dedication of the public park. Holding symbols will be placed on each phase of the proposed development.

[10] Mr. Young’s evidence was that a ZBA has been prepared for each site, which provides appropriate zoning to permit the development and sets out the requirements for land use, gross floor area height, setbacks, parking and other standards for the development of each property (Exhibit 13, Tab 2E and 2F). The ZBA for the Dulcina Lands also includes clauses to accommodate providing for indoor public recreational space if required by the City.

[11] Mr. Young’s opinion was that the proposed Official Plan Amendment and the ZBA’s are appropriate and will permit a level of development in a prime intensification area that is consistent with the Provincial Policy Statement, 2014 (“PPS”), conforms to the Growth Plan for the Greater Golden Horseshoe (“Growth Plan”), and conforms to the policies of the Region’s Official Plan and the City’s Official Plan. It was his opinion that the proposals will provide significant public benefits including the expansion of the public street network and the provision of a public park. Furthermore, he indicated that s. 37 benefits have been secured. He recommended that the Official Plan Amendment and the ZBA’s be approved.

[12] Responses to the Motion were filed by Canadian National Railway Company (“CNR”) and Manga International Inc., Granite Real Estate Inc., and Granite Reit Inc. (“Magna and Granite”) in Exhibits 26 and 28 respectively. Magna and Granite did not oppose the motion. CNR did not oppose the motion, as long as the Board’s approval would be without prejudice to the balance of policies appealed by CNR as set out in Schedule B of Exhibit 26.

[13] Magna and Granite and CNR operate facilities in the area which may be impacted by locating sensitive uses in the vicinity. Mr. Young indicated that the requirements of the Ministry of the Environment’s NPC-300 Noise Guideline would be met for the proposal to deal with any noise impact concerns. He recommended that the final order be withheld until there was a review of the siting and configuration of the proposed buildings in relation to the guideline.

[14] At the PHC, the Board was asked to approve in principle the Amendment to the Official Plan which will modify the Secondary Plan, and approve the ZBA’s in principle with final approval to be withheld. The parties filed a draft order (Exhibit 18) which includes a number of conditions for final approval, and includes requirements that must be fulfilled before Phase 2 can be approved. These include completion of an updated Transportation Impact Study for the Phase 2 development, accommodation of transportation infrastructure improvements, and appropriate implementation of a non-auto modal split for each development.

[15] At the PHC, the Board also heard that the final order should be withheld until the noise issue has been reviewed under the NPC-300 Noise Guideline and until the Board received confirmation that the planning instruments are in their final form.

[16] Also included in the motion was a request for an order of the Board accepting the withdrawal of the appeal of Damarra Investments Corp. (“Damarra”) and scoping of the

appeal of Limestone Gallery Investments Inc. (“Limestone”) as set out in Exhibit J of Mr. Young’s affidavit (Exhibit 13, Tab 2J). The Board heard that Damarra, Limestone and Starburst Investments Inc. (“Starburst”) own lands in the Secondary Plan area and that as a result of meetings with the City a number of issues have been resolved and scoped. The Board heard that Damarra had withdrawn its appeal, Limestone intends to continue in the appeal process based upon the scoped issues list, and Starburst will continue its party status sheltering under the Limestone appeal. There was no opposition to this request.

[17] The draft order also included an order related to above-noted withdrawal and scoping matters.

[18] Mark Flowers indicated that he did not oppose the requested approvals provided that they were specific for the subject lands and that the Board’s approval orders included certain “without prejudice” clauses. The draft order contained the appropriate clauses.

FINDINGS

[19] The Board considered the evidence and the submissions of the parties. The opinion evidence of Mr. Young was uncontested and no party opposed the requested approvals.

[20] In consideration of the above, the Board agreed with the evidence provide by Mr. Young and found that the proposed modifications to the Official Plan which will amend the Secondary Plan and the proposed ZBA’s were consistent with the PPS, conformed to the Growth Plan, conformed to the Regional Official Plan and the City Official Plan and they should be approved.

[21] The Board issued an oral decision approving in principle the modifications to the Official Plan and the Secondary Plan and approving the ZBA's in principle subject to the matters set out in the draft order (Exhibit 18). The final order was to be withheld until a review of the proposal in relation to the NPC-300 Noise Guideline was completed and until confirmation was received from the City, and Dulcina and Mammone that the planning instruments were in their final form.

[22] Subsequent to the PHC, the Tribunal has been informed that the requirements for issuing the final approval of the modifications to the Official Plan and Secondary Plan, for the final approval of the ZBA's have been fulfilled. Based upon the above, the Tribunal finds that it is appropriate to issue final approval of these instruments. The order is provided below.

ORDER

[23] The Tribunal orders that the motion is allowed and the appeal is allowed in part. The City of Vaughan Official Plan, the Vaughan Mills Centre Secondary Plan and the City of Vaughan Zoning By-law No. 1-88 are amended as set out and subject to the matters and conditions included in Attachment 1.

"C. Conti"

C. CONTI
VICE-CHAIR

If there is an attachment referred to in this document,
please visit www.elto.gov.on.ca to view the attachment in PDF format.

Local Planning Appeal Tribunal

A constituent tribunal of Environment and Land Tribunals Ontario

Website: www.elto.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248