

THE CITY OF VAUGHAN

BY-LAW

BY-LAW NUMBER 158-2018

A By-law to adopt Amendment Number 2 to the Vaughan Official Plan 2010 for the Vaughan Planning Area as effected by the Ontario Municipal Board.

NOW THEREFORE the Council of the Corporation of the City of Vaughan ENACTS AS FOLLOWS:

1. THAT the attached Amendment Number 2 to the Vaughan Official Plan 2010 of the Vaughan Planning Area, as effected by the Ontario Municipal Board Order Issue, dated the 27th day of August 2018 (OMB File No. PL 140839), attached hereto as Attachment “1” consisting of the attached text is hereby adopted.

Enacted by City of Vaughan Council this 27th day of September, 2018.

Hon. Maurizio Bevilacqua, Mayor

Todd Coles, City Clerk

ATTACHMENT 1

AMENDMENT NUMBER 2

TO THE VAUGHAN OFFICIAL PLAN 2010

OF THE VAUGHAN PLANNING AREA

The following text constitutes Amendment Number 2 to the Vaughan Official Plan 2010 of the Vaughan Planning Area.

Authorized by Item No. 2 of Report No. 11
of the November 7, 2017 Committee of the Whole,
Adopted by Vaughan City Council on March 18, 2014
and approved by the Region of York on June 26, 2014.

That the Vaughan Mills Centre Secondary Plan ("VMCSP"), being Official Plan Amendment Number 2 to the City of Vaughan Official Plan 2010 ("VOP 2010"), be amended by:

- a) Adding the new Section 18.4 "Special Provisions Governing the Development of Block B5" as set out below.
- b) Modify Policy 3.2, Part B, Table "Units, Population, and Job Projections by Area" to show 3,631 units and a population of 7,371 for the Jane Street Corridor, and to show 672 units and a population of 1407 for the Bass Pro Mills Area and the Rutherford Road Area,
- c) Delete Table 2: "Transportation Network Improvements" and substitute with Table 2 attached hereto.
- d) Modify Policy 7.3.1, Part C, to replace the reference to 3,371 residential units with 3,631 residential units.
- e) Delete Schedules A, B, C, D, E, F, G, H and I to remove the hatching and note with reference to the OMB Hearing and replace with the Schedules A, B, C, D, E, F, G, H, I attached hereto.

18.4 – Special Provisions Governing the Development of Block B5

The following policies will apply to the development of the lands shown as "b5" on Schedule "I":

- 1) The following is permitted on the subject lands which may be developed in phases:
 - i. Residential uses having a total maximum Gross Floor Area (GFA) of up to 45,000 m²,
 - ii. A maximum total of 600 residential units,
 - iii. The maximum building height for the two residential buildings shall not exceed 23 and 20 storeys for Phase 1a and Phase 1b respectively. Individual building heights shall be prescribed in the implementing zoning by-law.
 - iv. Notwithstanding Policy 3.5.7, Part B, and policies 1i, ii, and iii above, non-residential uses including Office and Commercial uses having a minimum Gross Floor Area of 5000 m² consisting of the following are permitted:
 1. Office uses having a minimum GFA of 4200 m²;
 2. Commercial uses as defined in the implementing Zoning By-law, having a maximum GFA of 800 m² with no outdoor storage.

- v. A maximum FSI of 3.7 is permitted for the residential and non-residential uses combined, subject to the policies in this Plan.
 - vi. Private Outdoor Amenity Space having a minimum size of 1840 m² shall be located at grade level and subject to an easement for public access in favour of the City of Vaughan. Residential, commercial/retail and employment uses are not permitted on the Private Amenity Space. Private Amenity Space shall not count toward parkland dedication.
- 2) The required non-residential office uses and permitted retail uses shall be located in a building having no less than 3 storeys.
 - 3) Should the non-residential uses identified in clause 1)iv above not be included as part of Phase 1, the required non-residential uses shall be required in Phase 2 of development.
 - 4) The consideration of additional residential uses exceeding the permitted 600 units can occur in the second phase, in addition to the required office/commercial uses, and would be subject to a further Official Plan Amendment and Zoning By-law Amendment.
 - 5) The boundaries of the Phase 1 and Phase 2 areas will be confirmed in the implementing zoning by-law or any amendment thereto. Development within each Phase may be staged through a site development application(s) in a manner satisfactory to the City and York Region.
 - 6) The removal of the Holding Symbol ("H") may be staged within each Phase, which is set out in the implementing Zoning By-law, to the satisfaction of the City and York Region.
 - 7) In each Phase, all new development requiring the conveyance of land for streets, parks and / or other public facilities shall be subject to a draft plan of subdivision or development agreement as per Policy 14.0 (Part C) of this Plan.
 - 8) The following policies shall apply to the removal of the Holding Symbol ("H") for the Subject Lands or portion(s) thereof, and shall be included, without limitation, as conditions for the removal of the Holding Symbol ("H") in the implementing zoning by-law under Section 34 of the *Planning Act*:

Phase 1 (2021 Horizon)

- i. The provision of the following:
 - a. Satisfactory arrangements are in place for the completion of the northerly extension of Caldari Road from Riverrock Gate to Rutherford Road, as set out in more detail in the zoning by-law, to the satisfaction of the City.

b. Satisfactory arrangements for the construction of an east-west public road along the north boundary of Block B5 between Jane Street and Caldari Road, to the satisfaction of the City,

c. The execution and delivery of a development agreement securing the following:

- i. The conveyance of lands that are required for the northern extension of Caldari Road between Riverrock Gate and the proposed east-west road between Block B4 and B5;
- ii. The conveyance of lands for an east-west public street along the north boundary of Block B5 between Jane Street and Caldari Road as identified on Schedule F of this Plan.
- iii. The payment of cash-in-lieu in accordance with Section 42 of the Planning Act and;
- iv. The extension of public services with respect to the development of Phase 1 in the implementing Zoning By-law;
- v. Water supply and sewage servicing capacity required for development of Phase 1 to proceed have been identified by York Region and allocated by the City;
- vi. Any necessary agreements required to ensure orderly development of the land have been executed among benefitting landowners, and the City and/or York Region where appropriate, for municipal services, parkland and community services; and
- vii. Environmental requirements to permit development to proceed have been secured to the satisfaction of the City.

9) In addition to the Built Form policies in Section 3.8, Part B of this Plan, the following site-specific building design criteria shall apply:

- a) The podium fronting Riverrock Gate and the new east-west road between Blocks b4 and b5 shall have a minimum height of 1-storey and 6.0 metres.
- b) Podium design shall incorporate active street related dwellings, and/or retail and amenity uses with building frontages oriented toward public streets and the Private Amenity Space and connections.
- c) Towers above the podium shall generally be setback a minimum of 6.0 m from any public street and setback 3.0 m from the Private Amenity Space.

- d) Notwithstanding Policy 3.8.2, Part B, the tower elements of high-rise buildings shall be designed as slender towers with floorplates not exceeding 770 m² in area. The towers shall be designed to minimize shadow and wind impact, particularly on open spaces and publicly accessible privately-owned amenity space. Sun/shadow and wind impact analysis and mitigation studies shall be submitted to the satisfaction of the City.
- e) Notwithstanding Policy 3.8.2, Part B, the distance between any portion of the high-rise building above twelve storeys and another tower shall be a minimum of 28 metres.
- f) Site Design shall incorporate a minimum 1,840 m² of Private Amenity Space which shall be subject to an easement for public access in favour of the City of Vaughan.
- g) The Private Amenity Space shall be connected to Jane Street by a mid-block at-grade landscaped pedestrian connection with a minimum width of 6 m. Other landscaped/streetscaped connections on the development site will be secured at the site plan stage.
- h) Pedestrian access to buildings will be integrated with adjacent public streets to ensure access is convenient and safe. Multiple entrances and active grade related uses should be provided along Jane Street and along the mid-block pedestrian connection where possible.
- i) Safe, efficient and convenient vehicular access which minimizes pavement and is pedestrian friendly shall be provided.
- j) Buildings shall be designed with high-quality materials, selected for their performance, durability, and energy efficiency. The use of Exterior Insulation Finish System (EIFS) is not permitted.

Site Plan Control and Land Use Compatibility

For development on Block b5 as identified on Schedule I, the following policies shall be applicable to any application for Site Plan Approval on these Development Blocks.

- a) In this section the McMillan Rail Yard is referred to as the "Rail Yard" and the Maple Stamping Plant is referred to as the "Existing Industrial Lands".
- b) Residential development on Block b5 shall be designed to minimize adverse impacts from the adjacent "Rail Yard" and "Existing Industrial Lands" and any required mitigation measures shall be addressed in the studies required in this section.
- c) When considering development approval applications on Block b5, regard shall be had to all applicable Federal, Provincial and municipal policies, regulations and guidelines to ensure that compatibility will be achieved and maintained with regard to noise, vibration, dust, odour and air quality, so as to achieve the goals of:

- i. Preventing undue adverse impacts from the existing and future operations of the "Rail Yard" and the "Existing Industrial Lands", onto the proposed residential uses to be located on Block b5;
 - ii. Minimizing and where possible, preventing complaints from residents of residential development on Block b5.
 - iii. Permitting the "Existing Industrial Lands" to comply with existing and/or future Environmental Compliance Approvals (ECA) issued by the Ministry of the Environment.
 - iv. Ensuring the continued operation of the "Rail Yard" on a 24 hour, 365 day/year basis.
 - v. Sensitive land uses may be limited in the implementing zoning (through massing, siting, buffering, and design mitigation measures) in proximity to the "Rail Yard" and "Existing Industrial Lands" to ensure compatibility.
- d) Block b5 has been confirmed by Vaughan Council by resolution as a "Class 4 Area" pursuant to the MOE *Environmental Noise Guideline Stationary and Transportation Sources – Approval and Planning Publication NPC 300* ("NPC 300"), as amended from time to time, subject to compliance with the City's requirements. The classification shall be implemented through this OPA, the use of a Zoning By-law with the holding symbol "H", a site plan approval and an amendment to the City's Noise By-law that, among other things, implements the classification of the lands as a Class 4 area and appropriately accommodates adjacent industrial lands being operated under a valid Environmental Compliance Approval. The implementing Zoning By-laws shall include the following conditions for the removal of the holding symbol "H":
- i. Site plan approval;
 - ii. The submission of a Noise Impact Study satisfactory to the City which addresses any noise mitigation and control measures required in conjunction with the detailed building design;
 - iii. The provision and/or securing of any required noise mitigation and control measures at the Owner's expense, as the City may require;
 - iv. If appropriate, the execution of agreements satisfactory to the City between the Owner and owner(s) of neighbouring lands containing stationary noise sources to secure any noise mitigation measures which may be required on those neighbouring lands, as the City may require;
 - v. The execution of a site plan agreement, or other such agreement, satisfactory to the City which obligates the Owner to register noise warning clauses on title to the Subject Lands and provide notice of the Class 4 Area classification to prospective purchasers of residential units on Block b5.
 - vi. A resolution is passed by Vaughan Council classifying the site as a Class 4 Area.

Environmental Noise Impact Study

- 10) A detailed environmental noise impact study and detailed design plans shall be required in support of a development application for sensitive land uses on Block b5. Such report is to specify how compatibility will be achieved and maintained between the *"Rail Yard"* and *"Existing Industrial Lands"* and the proposed development on the Block and shall include measures aimed at eliminating or minimizing impacts.
- 11) The environmental noise impact study and design of noise attenuation measures shall be based on the relevant noise criteria of the City of Vaughan, the Region of York and the Ontario Ministry of Environment and Climate Change and approved by the City in consultation with other public agencies, and the operator of the *"Rail Yard"* and the *"Existing Industrial Lands"*.
- 12) The environmental noise impact study shall include:
 - a. The assessment of the Block in accordance with the applicable MOECC Guidelines.
 - b. A determination of the planned and predictable worst case noise impact from all relevant noise sources, taking into account expansion or alteration plans identified by the stationary source(s) that can reasonably be expected to be implemented in the future.
 - c. A determination of the impact from all noise sources at the Rail Yard, taking into account the existing 2013 operation processing approximately 1,000,000 rail cars a year, CargoFlo, diesel shop, truck terminal, general rail operations and future capacity of the Rail Yard that could include, in addition to the existing operations, the processing of in excess of 1,000,000 rail cars a year, attendant additional truck movements, a new CargoFlo operation in the northwest quadrant of the Rail Yard and other rail operations operating 24 hours a day, 365 days per year.
 - d. The identification of all receptor locations in the proposed development with the potential to experience adverse noise impacts;
 - e. A determination of the numerical noise excess at such receptors, if any;
 - f. The preparation of specific recommendations for mitigation at receptor and/or at source to create an appropriate sound environment for future occupants/users of the proposed development;
 - g. An assessment of: applicable Ministry of the Environment and Climate Change regulations and guidelines, and existing Certificates of Approval, or Environmental Compliance Approval, if publicly available, for those industries that are the source of the relevant noise emissions.
 - h. The environmental noise impact study shall be prepared by a qualified acoustical engineer and shall be consistent with professional standards and good practice for such studies.
- 13) Where an environmental noise impact study completed to the satisfaction of the City identifies and recommends appropriate mitigation measures, the recommendations shall be implemented

in the Zoning By-law or as conditions of Site Plan and/or Condominium Approval, where appropriate. Mitigation Measures may include:

- (a) Sound isolation or sound reduction measures, construction techniques, and materials including the acoustical performance of exterior walls, windows and doors;
 - (b) Layout and design of the structure including the size and location of windows and doors, or outdoor living areas, and the location of non-noise sensitive space within the structure to further mitigate impacts;
 - (c) Spatial separation from the noise source, including the insertion of permitted non-sensitive land uses between the source and the receptors; and/or
 - (d) Where needed, the construction of the residential buildings may incorporate balconies that are enclosed to act as a barrier to the noise experienced at the interior living room and/or bedroom windows.
- 14) The analysis and design of any mitigation measures and their architectural details shall take into account the full frequency spectrum characteristics of sound sources, in accordance with good engineering practice and the noise guidelines.
- 15) Mitigation to be installed at the source will be at the cost of the proponent of the sensitive land use, subject to acceptance and agreement of the user.
- 16) New technologies may offer opportunities for innovative noise and vibration abatement techniques not yet contemplated. The development and use of such techniques shall be considered and encouraged, where appropriate.

Environmental Vibration Report

- 17) A detailed environmental vibration report and detailed design plans may be required in support of a development application for sensitive land uses on Block b5. Such report is to specify how compatibility will be achieved and maintained between the "Rail Yard", the "Existing Industrial Lands" and the proposed development on the Block and shall include measures aimed at eliminating or minimizing impacts.
- 18) The environmental vibration report, if required, and design of any necessary vibration attenuation measures shall be based on the relevant criteria of the Ontario Ministry of Environment and approved by the City in consultation with other public agencies and the operators of the "Rail Yard" and the "Existing Industrial Lands".
- 19) The environmental vibration report, if required, shall include a study of vibration from transportation sources, and stationary source(s) and include specific recommendations for mitigation features to be incorporated into the design of the development taking into account commonly used criteria in Ontario for assessing vibration in building(s).
- 20) The environmental vibration report, if required, shall be prepared by a qualified engineer and shall be consistent with professional standards and good practice for such studies.

Environmental Emissions Report

- 21) A detailed environmental emissions report and detailed design plans may be required in support of a development application for sensitive land uses on Block b5. Such report is to specify how compatibility will be achieved and maintained between the *"Rail Yard"*, the *"Existing Industrial Lands"* and the proposed developments on the Block and shall include measures aimed at minimizing adverse impacts.
- 22) The environmental emissions report and design of emissions attenuation measures, if required, shall be based on the relevant emissions criteria of the Ontario Ministry of Environment and Climate Change and approved by the City in consultation with other public agencies and the operators of the *"Rail Yard"* and the *"Existing Industrial Lands"*.
- 23) The environmental emissions report, if required, shall include a study of emissions from transportation sources, and stationary source(s) and include specific recommendations for mitigation features to be incorporated into the design of the development taking into account commonly used criteria in Ontario for assessing emissions abatement.
- 24) The environmental emissions report, if required, shall be prepared by a qualified engineer and shall be consistent with professional standards and good practice for such studies.

Environmental Site Assessment Report

- 25) Environmental site assessment reports shall be required in support of development applications, in accordance with City policy.

Warning Clauses

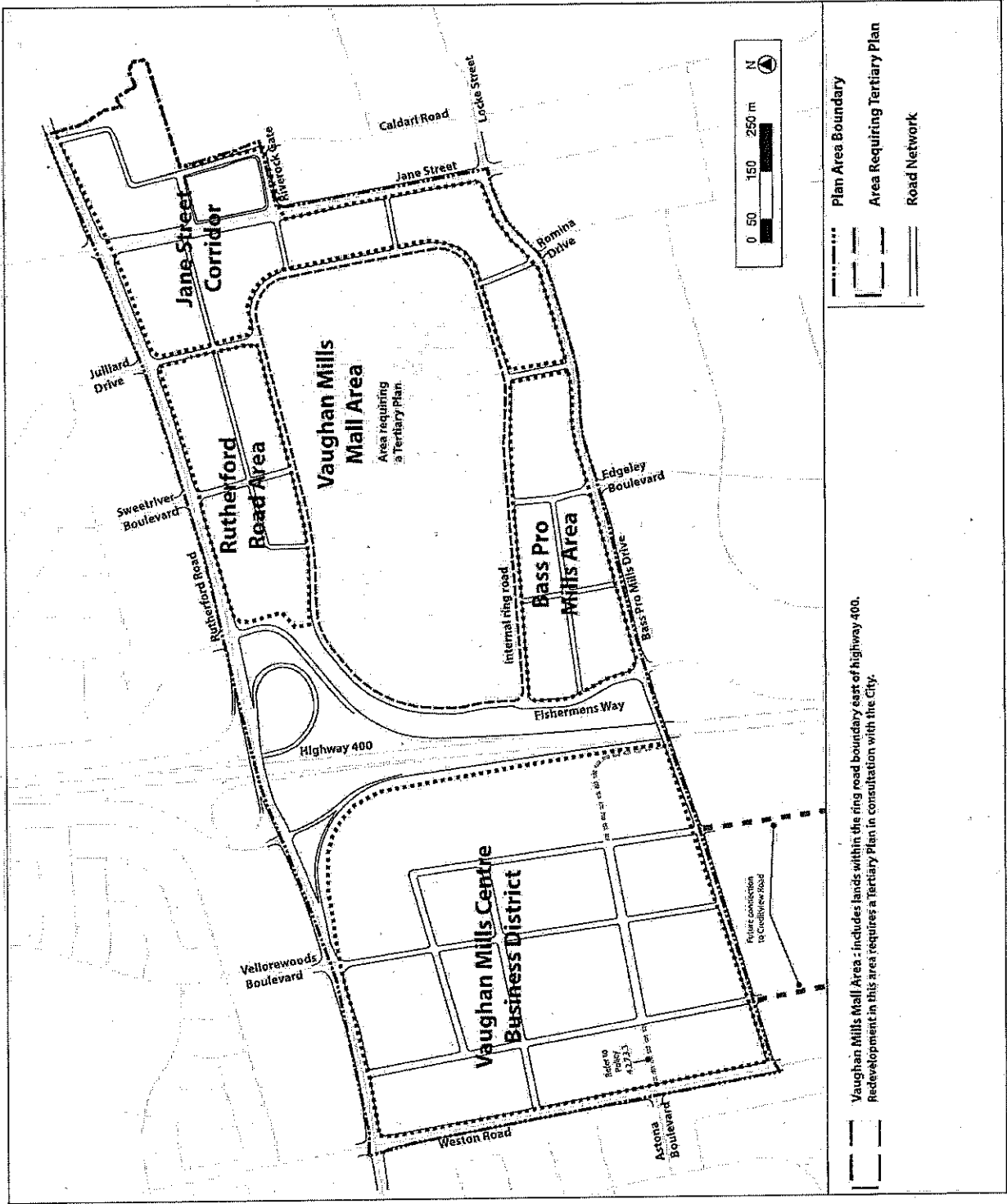
- 26) Specific warning clauses shall be included in all agreements of purchase and sale and lease, including agreements pertaining to the resale or lease of individual residential condominium units, site plan agreements and condominium declarations. Such warning clauses shall specify that, notwithstanding the inclusion of certain mitigation features within this development to lessen potential noise, air emissions, dust, odour, vibration, and visual impact from *"Rail Yard"* and the *"Existing Industrial Lands"*, from time to time noise is likely to be audible, odours may be unpleasant, and dust and light emissions may be bothersome and such potential noise, air emissions, dust, odour, vibration, and visual impact may impact the enjoyment of indoor and outdoor areas of the development.

Implementation of Environmental Studies

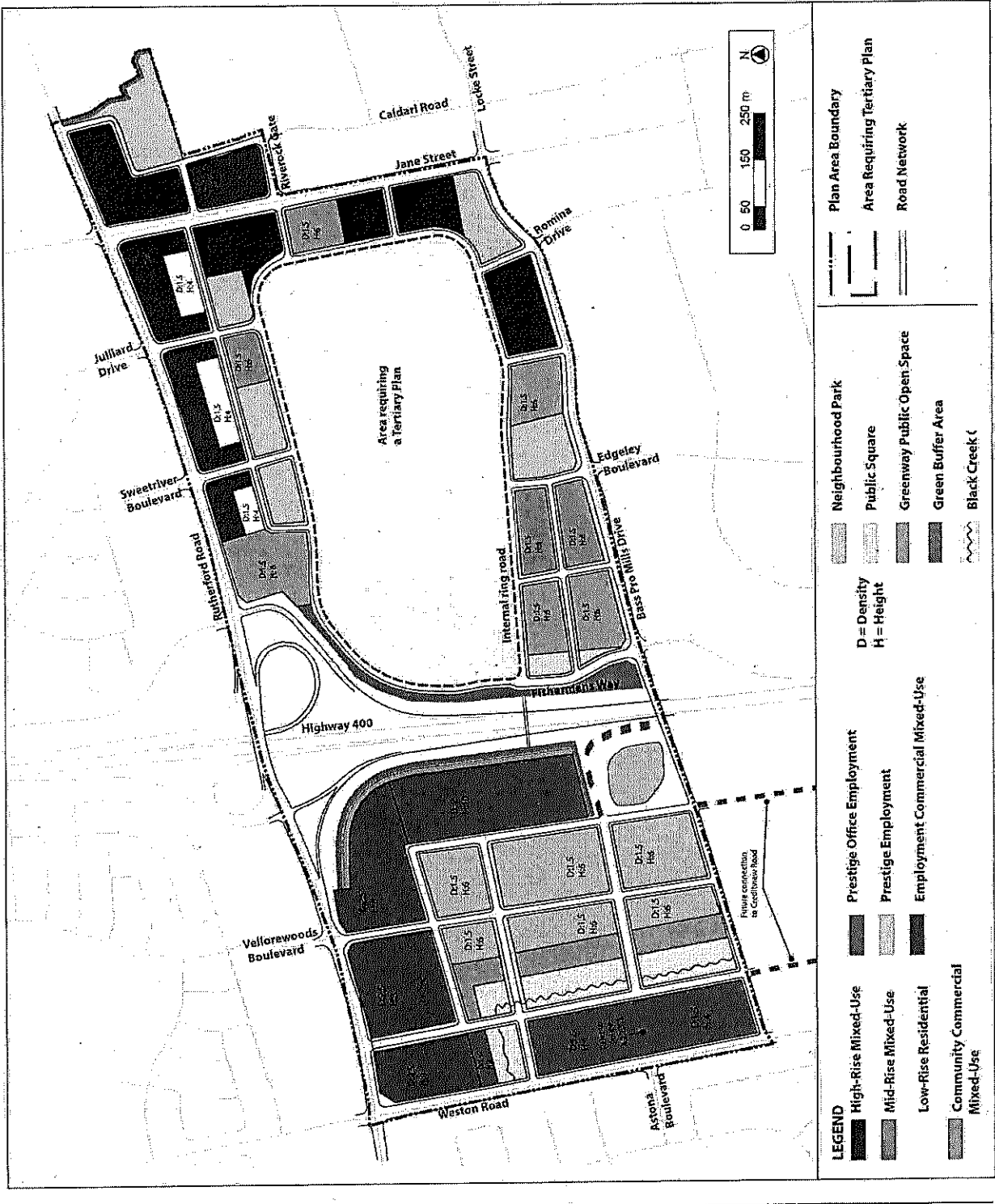
- 27) The recommendations of the Environmental Reports described above shall be incorporated into the design of the residential buildings on Block b5 and shall be included in the drawings required to be approved pursuant to the Site Plan Control provisions of the Planning Act, to the satisfaction of the City.

- 28) Prior to issuance of building permits, the architectural drawings shall be reviewed and certified by a qualified acoustical engineer indicating that any required noise mitigation measures have been incorporated into the building design.
- 29) Prior to occupancy of the residential units, any required mitigation measures will be inspected by a qualified acoustical engineer and a letter prepared certifying that the noise mitigation measures have been installed in accordance with the approved drawings.
- 30) Where the environmental noise report completed to the satisfaction of the City identifies and recommends that actual or potential noise impacts should be indicated to future tenants or purchasers, the recommendations may be implemented through conditions of Site Plan and/or Condominium approval, and may include noise impact advisories such as warning clauses, or clauses in subdivision and condominium agreements.

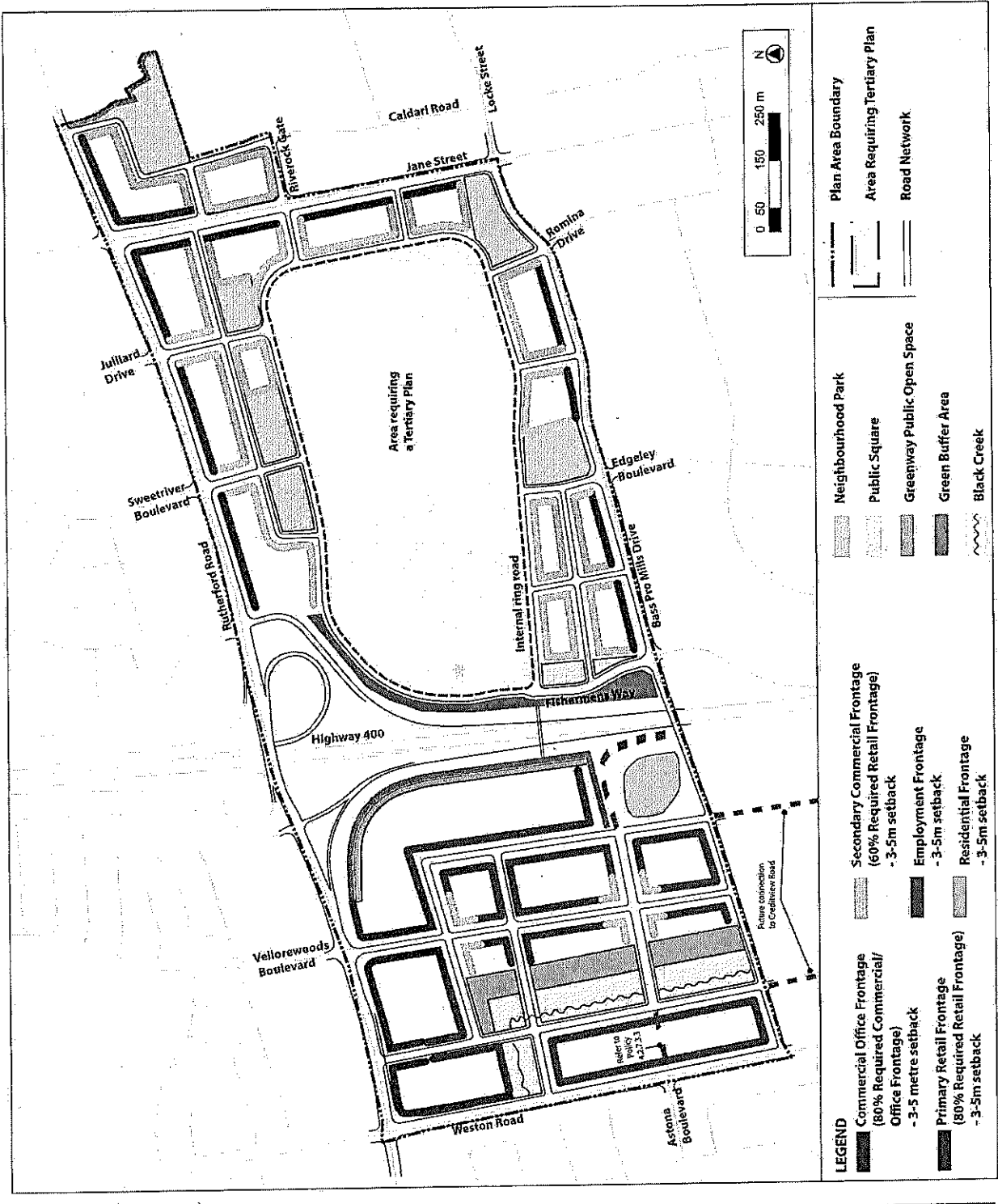
Schedule A: PLAN AREA



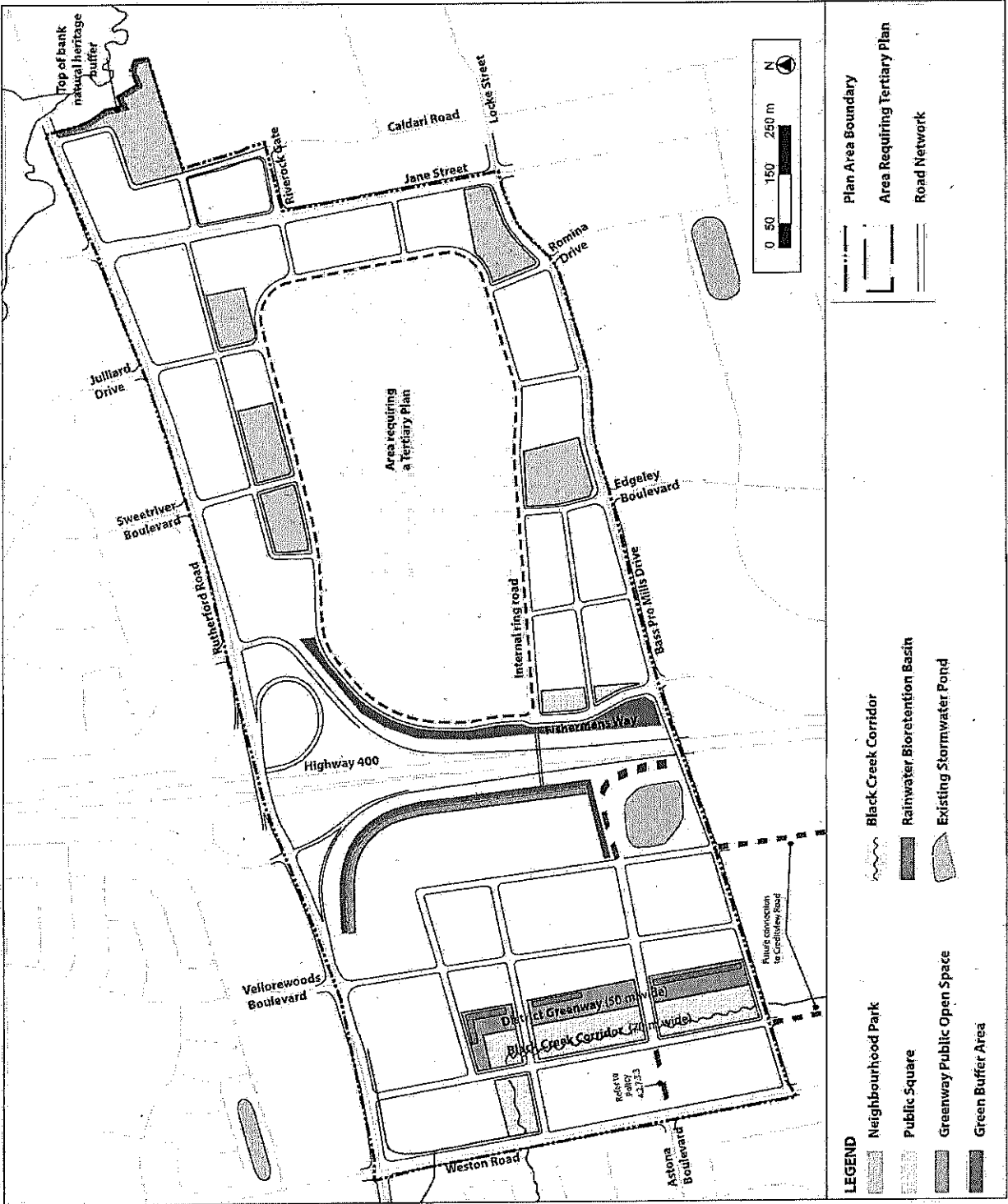
Schedule B: HEIGHT AND DENSITY



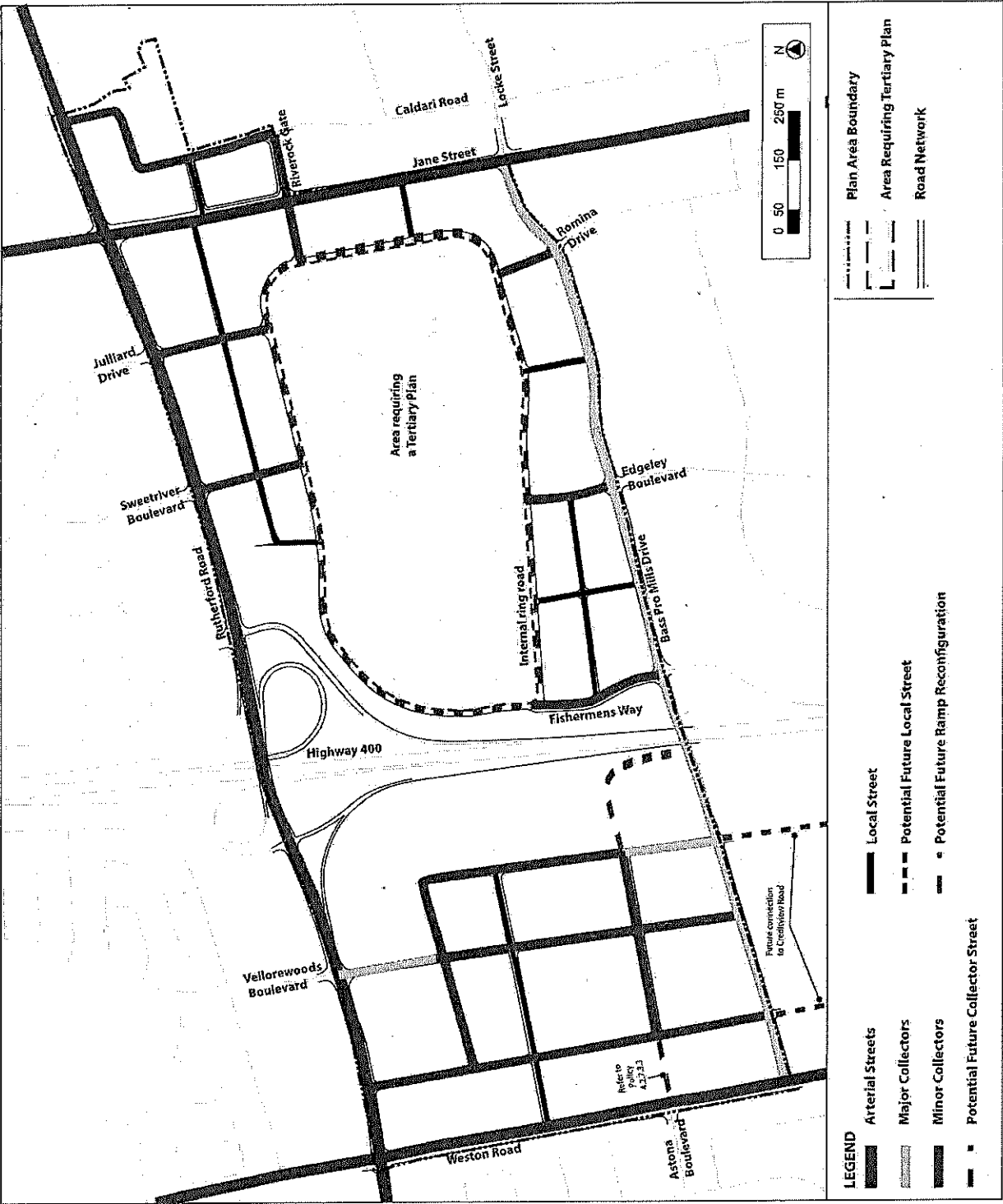
Schedule D: GROUND FLOOR FRONTAGE TYPES



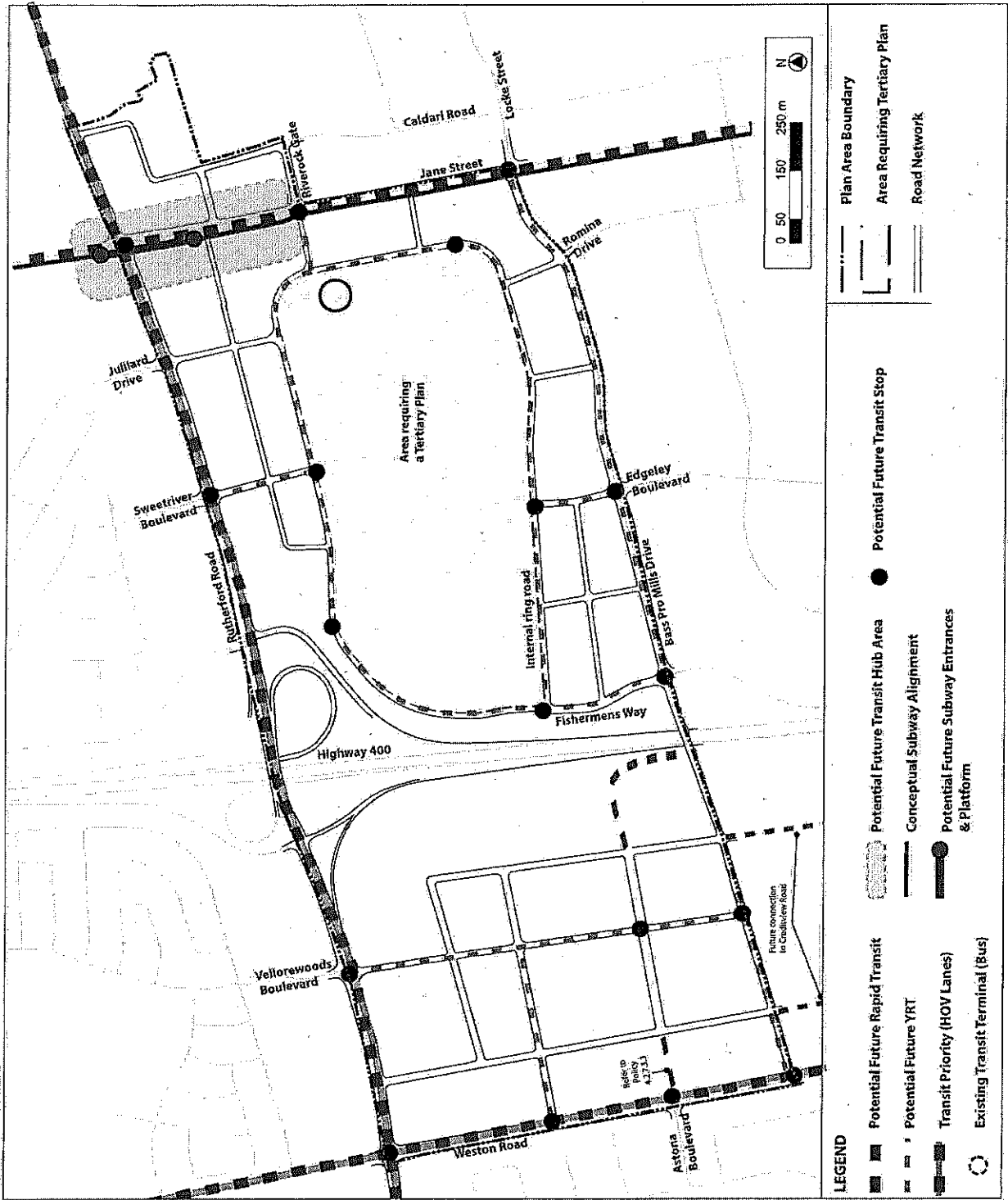
Schedule E: OPEN SPACE NETWORK



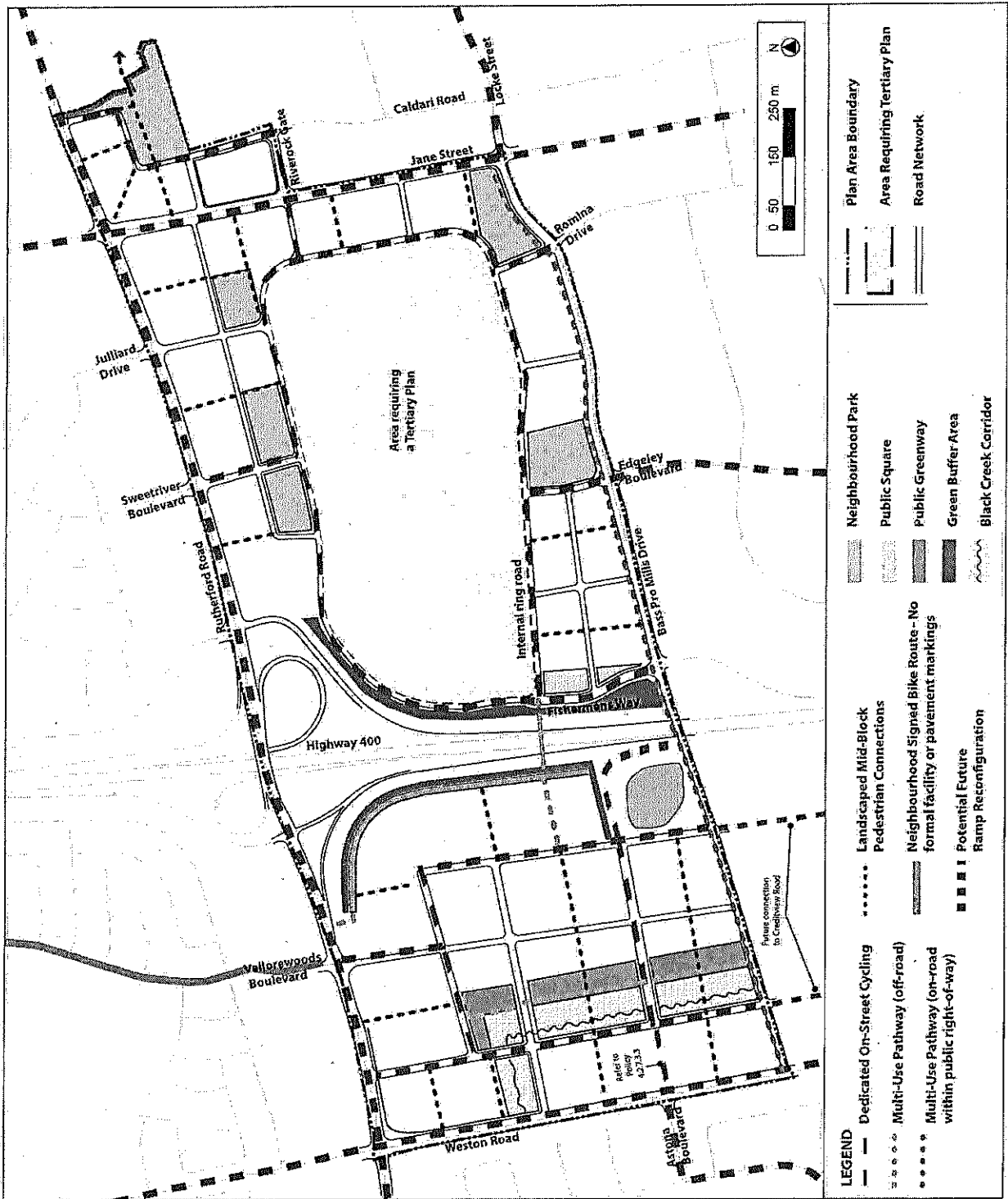
Schedule F: TRANSPORTATION NETWORK



Schedule G: TRANSIT NETWORK



Schedule H: ACTIVE TRANSPORTATION NETWORK



Schedule I: DEVELOPMENT BLOCKS

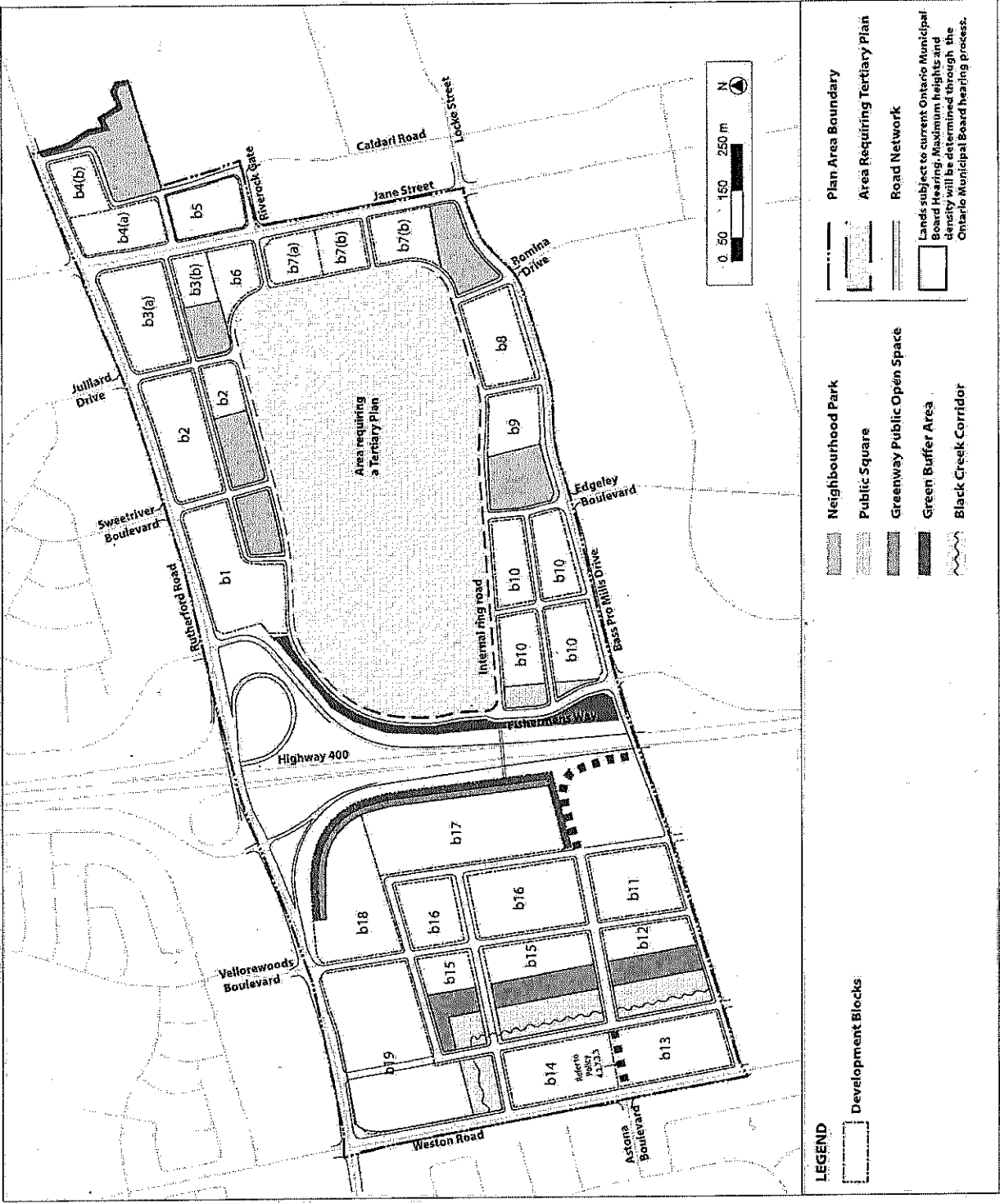


Table 2
Recommended Transportation Network Improvements

HORIZON	DEVELOPMENT LEVEL	RECOMMENDED NETWORK IMPROVEMENTS TO ACCOMMODATE THE PROPOSED DEVELOPMENT LEVEL AT THE STATED HORIZON
PHASE 1: Horizon 2021	Includes all of the Jane Street Corridor Area as shown in Schedule A of the Vaughan Mills Centre Secondary Plan (70% of all proposed development east of Highway 400) *	<p><i>Road Network Improvements: (Jane Street Corridor Area)</i></p> <ul style="list-style-type: none"> Complete Bass Pro Mills Drive extension to Jane Street. Complete Caldari Road extension to Rutherford Road. Complete Romina Drive extension to Vaughan Mills Ring Road. Implement a full-moves signalized access on Jane Street midblock between Riverrock Gate and Bass Pro Mills Drive as part of planned development applications. Provide an additional right-turn lane on southbound Fisherman's Way at Bass Pro Mills Drive.
	<p>Within the Vaughan Mills Business District as shown in Schedule A of the Vaughan Mills Centre Secondary Plan (40% of all development west of Highway 400) *</p>	<p><i>Road Network Improvements: (Vaughan Mills Centre Business District Area)</i></p> <ul style="list-style-type: none"> Northbound dual left-turn lanes on Weston Road at Rutherford Road (dependent on effects of the improvements on Major Mackenzie Drive at Highway 27). Implement the internal road network as shown in the Vaughan Mills Centre Secondary Plan, Schedule F. Plan for a four-lane cross-section for Vellere Woods Boulevard south of Rutherford Road, and for Creditview Road north of Bass Pro Mills Drive. Provide an additional right-turn lane on northbound Vellere Woods Boulevard at Rutherford Road. <p><i>Other Transportation Improvements:</i></p> <ul style="list-style-type: none"> Implement a strong internal grid network as outlined in the Secondary Plan to enhance traffic connectivity across the site. Viva Quick Start rapid bus service on Jane Street, from Rutherford Road to the planned Spadina Subway extension station at Highway 7. Transit signal priority and queue jump lanes on Jane Street, Weston Road and Rutherford Road. Enhancement of YRT bus service on Rutherford Road and to the YRT Vaughan Mills bus terminal. Proactive and aggressive programs and initiatives to reinforce the need to create change in modal split behavior, to promote greater use of transit, to attract more riders and to achieve the assumed modal split. Create an organized Passenger Pick-up and Drop-off (PPUDO) area adjacent to the Vaughan Mills transit terminal. Collaborate with car share operators to introduce car-sharing. Revise parking standards for developments to discourage single-occupancy vehicle use. Consider use of shared parking, and preferred parking for hybrid and electric vehicles.

HORIZON	DEVELOPMENT LEVEL	RECOMMENDED NETWORK IMPROVEMENTS TO ACCOMMODATE THE PROPOSED DEVELOPMENT LEVEL AT THE STATED HORIZON
PHASE 2: Full Build-Out (Horizon 2031)	<p><i>Includes development within the Rutherford Road Area, and the Bass Pro Mills Area, as shown in Schedule A of the Vaughan Mills Centre Secondary Plan.</i></p> <p><i>Includes the remainder of development within the Vaughan Mills Business District as shown in Schedule A of the Vaughan Mills Centre Secondary Plan *</i></p>	<ul style="list-style-type: none"> Implement intelligent parking information systems across the Vaughan Mills Centre area parking lots for more effective distribution of parking demands. Implement transportation demand management strategies within the Vaughan Mills Centre area to discourage heavy car uses and encourage developing less auto-dependent travel behaviours. Integrate comprehensive pedestrian and cycling route facilities and network to promote active transportation. Promote self-contained neighbourhood living/working and recreation within the Vaughan Mills Centre area to help reduce traffic demands on the area's road network. <p>Road Network Improvements: (West of Highway 400)</p> <ul style="list-style-type: none"> Completion of Bass Pro Mills Drive extension to Weston Road. Install traffic signals at the intersection of Bass Pro Mills Drive at Weston Road. <p>Other Transportation Improvements:</p> <ul style="list-style-type: none"> Higher-order transit service on Jane Street, in the form of BRT or LRT, with its dedicated right-of-way connecting the Spadina Subway extension to Vaughan Mills Centre and up to Canada's Wonderland and the future Mackenzie Vaughan Hospital on Major Mackenzie Drive. Enhancing priority transit service on Rutherford Road and introduce Viva service; Pedestrian and cyclist bridge crossing over Highway 400 midblock between Bass Pro Mills Drive and Rutherford Road to provide additional non-auto connection within the Secondary Plan. Continue to promote sustainable transportation (transit, walking, cycling) and other transportation demand management programs and measures to encourage a greater shift in travel mode patterns to achieve the assumed modal split.

* Up to 80% of the proposed development east of Highway 400 could be accommodated if the full extension of Bass Pro Mills Drive to Weston Road is also completed by 2021.

* Development thresholds and transportation improvements will be determined through the Block Plan process as identified in Part C, Section 7.4.3 of the Secondary Plan for lands located in the Vaughan Business District Area (west of Highway 400). The Block Plan application will address the matters set out in Policies 10.1.1.15 of VOP 2010 and shall constitute a complete application to the satisfaction of the City of Vaughan.

** The total unit counts for Phase 1 are based on the June 2015 Transportation Assessment Addendum Report for the Vaughan Mills Centre Secondary Plan, subject to Policy 7.3 Part C, and the other policies of Section 7, Part C of this Plan.

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



ISSUE DATE: August 27, 2018

CASE NO(S):

PL140839
PL070347

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

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 17(40) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant:	Tesmar Holdings Inc.
Subject:	Failure of Regional Municipality of York to announce a decision respecting Proposed Official Plan Amendment No. 653
Municipality:	City of Vaughan

OMB Case No.: PL070347
OMB File No.: O070048
OMB Case Name: Tesmar Holdings Inc. v. Vaughan (City)

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

Applicant and Appellant: Tesmar Holdings Inc.
Subject: Application to amend Zoning By-law No. 1-88
– Refusal or neglect of City of Vaughan to
make a decision
Existing Zoning: Service Commercial (C7) Zone
Proposed Zoning: Specific Apartment Residential (RA3) Zone
Purpose: To permit two twenty-eight (28) storey high-
rise residential condominium buildings
Property Address/Description: Part of Lot 15, Concession 4
Municipality: City of Vaughan
OMB Case No.: PL070347
OMB File No.: PL120974

PROCEEDING COMMENCED UNDER subsection 41(12) of the *Planning Act*, R.S.O.
1990, c. P. 13, as amended

Subject: Site Plan
Referred by: Tesmar Holdings Inc.
Property Address/Description: Part of Lot 15, Concession 4, Parts 1 to 12 on
Reference Plan 65R-32119
Municipality: City of Vaughan
OMB Case No.: PL070347
OMB File No.: PL141275

Heard: January 25 and 26, 2018 in Vaughan, Ontario
and on March 23, 2018 by Telephone
Conference Call

APPEARANCES:

Parties

City of Vaughan

Counsel/Representative*

R. Coburn, C. Storto

Dulcina Investments Inc. (formerly Casertano Development Corporation), and Sandra Mammone	M. Flynn-Guglietti, A. Forristal
Tesmar Holdings Inc.	M. McDermid
Rutherford Land Development Corporation	Q. Annibale, B. Ruddick
Granite Real Estate Inc., Granite Reit Inc. and Magna International Inc.	A. Skinner, S. Zakem
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] This is the decision resulting from a pre-hearing conference ("PHC") and a Telephone Conference Call ("TCC") before the Ontario Municipal Board ("Board"), now the Local Planning Appeal Tribunal ("Tribunal"), with regard to appeals related to the City of Vaughan ("City") Official Plan, the Vaughan Mills Centre Secondary Plan ("Secondary Plan") and applications for a Zoning By-law Amendment ("ZBA") and Site

Plan approval by Tesmar Holdings Inc. ("Tesmar") to permit the development of lands at Part Lot 15, Concession 4 in Vaughan.

[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. The parties filed Minutes of Settlement among the City, Tesmar, Rutherford Land Development Corporation, Caldari Land Development Corp., Magna International Inc., Granite Real Estate Investment Trust and Granite Reit Inc. and 805062 Ontario Limited (Exhibit 23).

[3] This Decision deals with the appeals related to the Tesmar lands including the motion brought forward by Tesmar for partial approval of modifications to the City Official Plan and the Secondary Plan and for approval of the ZBA, and with matters related to the appeal of Site Plan application. It should be noted that although the appeal of the Site Plan (File: PL141275) was dealt with through the same PHC it was not formally consolidated with the other appeals. It should also be noted that the TCC was attended only by Ms. Ogunmefun, Mr. Coburn, Ms. Storto, Ms. McDermid, Mr. Heisey and Mr. Zakem. Ms. Skinner represented Magna International Inc., Granite Real Estate Inc., and Granite Reit Inc. ("Magna and Granite") at the PHC, which was not attended by Mr. Zakem.

MOTION

[4] In support of the motion, Tesmar filed a Motion Record (Exhibit 20), which included the Affidavit of Ryan Mino-Leahan, a Registered Professional Planner who is a

Partner at KLM Planning Partners Inc. Mr. Mino-Leahan also provided oral testimony at the PHC. He was qualified by the Board as an expert in land use planning.

[5] In addition to the Minutes of Settlement noted above, separate Minutes of Settlement between Tesmar and Canadian National Railway Company ("CNR") were also filed.

[6] The intent of the motion was to approve in principle certain modifications to the City Official Plan and the Secondary Plan in order to permit development of the Tesmar lands and to also approve in principle the proposed ZBA. Tesmar is proposing high rise towers for mainly residential use with some non-residential space. The Board heard that the Tesmar lands are located in the eastern part of the Secondary Plan area to the east of Jane Street and south of Rutherford Road.

[7] Tesmar had applied to have the lands included within the Secondary Plan area and also for a high density use of the subject lands through OPA 653. According to Mr. Mino-Leahan's evidence, when the City Official Plan was adopted, the property was not included in the Secondary Plan area and the property was designated as Commercial Mixed Use. Subsequent to Tesmar filing an appeal, the City and Region passed resolutions endorsing a High Rise Mixed Use designation on the lands and including the lands within the Secondary Plan area. The Secondary Plan included the Tesmar lands but identified them as being subject to a Board hearing and provided no land use designation for the lands.

[8] According to the evidence, the settlement of the Tesmar appeals resulted in a revised proposal which includes two residential towers with heights of 23 and 20 storeys located on top of a six-storey podium fronting on Riverrock Gate and Jane Street. The residential use will consist of 600 residential units and a maximum of 45,000 square metres ("sq m") of residential gross floor area ("GFA"). A minimum of 5,000 sq m of non-residential GFA will be provided through Phase 2 of the development. The settlement also requires that the lands be identified as a Class 4 area pursuant to the

Ministry of the Environment's NPC-300 Noise Guideline. Receptor based mitigation measures have been incorporated into the design of the residential buildings. Construction of a new east-west road and an extension of Caldari Road are also proposed through the settlement.

[9] The identification of the property as a Class 4 area and the noise mitigation measures respond to concerns raised by CNR, Magna and Granite, which both filed responses to the motion (Exhibit 26 and 28). The responses did not oppose the proposed modifications to the City Official Plan and the Secondary Plan as set out in the Motion Record. The response to the motion by Magna and Granite indicates that it does not oppose approvals requested by Tesmar based upon paragraph 1 (a) to (d) of Tesmar's Motion and the Minutes of Settlement (Exhibit 23). Magna and Granite own lands and operate facilities in the vicinity of the Tesmar lands. The Minutes of Settlement include provisions for identifying the Tesmar lands as a Class 4 Area under the NPC-300 Noise Guidelines, implementing noise mitigation measures and requirements for Tesmar to provide noise studies. The intent is to ensure compatibility between the Magna and Granite facilities and the Tesmar development.

[10] The response by CNR indicated that it did not oppose the approval sought by Tesmar based upon the settlement agreement (Exhibit 22). The settlement agreement includes similar provisions for the noise mitigation and measurement including that the property should be identified as a Class 4 area under the NPC-300 Noise Guideline. A CNR facility, the MacMillan Rail Yard is located in the area and the proposed provisions are intended to ensure compatibility to that of the proposed use of the Tesmar lands and the facility.

[11] Mr. Mino-Leahan explained the proposed modifications to the Official Plan, the Secondary Plan and the provisions of the ZBA. The modifications to the Official Plan are set out in Exhibit K of his affidavit (Exhibit 20, Tab 2K) and include identifying the Tesmar lands in the Primary Centres intensification area and recognition that the lands are within the Secondary Plan area on Schedules 13 and 14-A.

[12] Mr. Mino-Leahan indicated that the proposed modifications to the Secondary Plan are contained in Exhibit L of his affidavit (Exhibit 20, Tab 2L). They include modifying Schedules A to I to designate the Tesmar lands as High Rise – Mixed Use, modifications to Schedule B to indicate a height of 23 storeys and density of 3.7 and modifications to Schedule D with regard to setbacks along street frontages. The projected number of residential units is also modified and a site specific policy is applied to the area which provides details regarding the development of the site as well as land use compatibility policies including noise mitigation measures.

[13] Mr. Mino-Leahan described the proposed ZBA contained in Exhibit M of his affidavit (Exhibit 20, Tab 2M) and revised in Exhibit 21. He indicated that the ZBA will change the zoning of the Tesmar lands from C7, Service Commercial, to RA3, Apartment Residential Zone, subject to site specific exceptions and a Holding symbol. The ZBA provides standards to permit the development of the site as has been proposed. The Holding symbol will be applied to both the first and second phase and includes a number of requirements for the symbols to be lifted, including confirmation of servicing capacity, the submission of a Noise Impact Study, and approval of the site plan.

[14] Mr. Mino-Leahan also provided evidence on the Site Plan, which covers Phase 1 of the development (Exhibit 33). He stated that the Site Plan includes the details of the proposal including the Phase 1a building, which is the 23-storey south building and Phase 1b, the 20-storey north building. Both are on six-storey podia. The drawings show all details of the proposal including the floor plates for each floor, elevations and cross sections. He indicated that the Site Plan implements the City Official Plan and Secondary Plan as modified, and the ZBA.

[15] It was Mr. Mino-Leahan's opinion that the proposed modifications are appropriate and provide for intensification in the Jane Street corridor. His expert planning opinion was that the modifications conform to the York Region Official Plan, the City Official Plan, they are consistent with the PPS and they conform to the Growth Plan for the

Greater Golden Horseshoe ("Growth Plan"). He recommended that the Board approve the modifications to the City Official Plan and Secondary Plan, and the ZBA in principle and requested that the Tribunal issue an oral decision.

[16] Mr. Mino-Leahan provided the opinion that the Site Plan has regard for s. 41 of the *Planning Act*, it conforms to the Growth Plan, the York Region Official Plan, the City Official Plan and the Secondary Plan as modified and it should be approved. He requested that the Board issue an oral approval.

FINDINGS

[17] The Board considered the evidence and the submissions of the parties. The opinion evidence of Mr. Mino-Leahan was uncontested and based upon the terms of the Minutes of Settlement and no party opposed the motion.

[18] In consideration of the above, the Board found that the proposed modifications to the Official Plan, the Secondary Plan and the proposed ZBA were consistent with the PPS, conformed to the Growth Plan, conformed to the York Region Official Plan and the City Official Plan and should be approved.

[19] The Board agreed with the evidence provided by Mr. Mino-Leahan and found that the site plan complied with the Growth Plan, York Region Official Plan, and the City Official Plan and the Secondary Plan as modified and that it should be approved.

[20] The Board issued an oral decision approving the modifications and the ZBA in principle as set out in the attachments to a draft order, which had been submitted by the parties in Exhibit 24 and subject to the matters included in the attachment. The Board indicated that the final order would be withheld until the matters identified in paragraph 1 (d) of Tab 1 of the Motion Record (Exhibit 20) had been satisfied. These are the same requirements that are included in paragraph 6 of Exhibit 24.

[21] The Board also issued an oral decision approving the Site Plan in principle subject to the matters set out in the draft order submitted by the parties.

[22] Subsequent to the hearing, the Tribunal has been informed that the requirements for issuing the final approval of the modifications to the City Official Plan and Secondary Plan, for the final approval of the ZBA and for final approval of the Site Plan for Phase 1 have been fulfilled. The Tribunal has also received a revised draft order for approval of the ZBA and the modifications to the City Official Plan and Secondary Plan, and a separate draft order for approval of the Site Plan. The Tribunal adopts the orders, which are included with this decision as Attachments 1 and 2. It should be noted that while the order approving the modifications to the City Official Plan and Secondary Plan and approving the ZBA refers to the Board, it is an order of the Tribunal.

ORDER

[23] The Tribunal allows the motion and the Tribunal orders that 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;

[24] And furthermore, the Site Plan is approved subject to the matters and conditions set out in Attachment 2.

"C. Conti"

C. CONTI
VICE-CHAIR

If there is an attachment referred to in this document,
please visit www.elfo.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.elfo.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248