

THE CITY OF VAUGHAN

BY-LAW

BY-LAW NUMBER 157-2018

A By-law to designate by Number an amendment to City of Vaughan By-law Number 1-88, as effected by the Ontario Municipal Board.

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 27th day of August 2018 (OMB File No. PL 120974), attached hereto as Attachment “1”, is hereby designated as By-law Number 157-2018.

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

Hon. Maurizio Bevilacqua, Mayor

Todd Coles, City Clerk

The City of Vaughan BY-LAW

BY-LAW NUMBER 157 - 2018

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

WHEREAS the matters herein set out are in conformity with the Official Plan of the Vaughan Planning Area, which is approved and in force at this time;

AND WHEREAS there has been an amendment to the Vaughan Official Plan adopted by Council but not approved at this time, with which the matters herein set out are in conformity;

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

1. That City of Vaughan By-law Number 1-88, as amended, be and it is hereby further amended by:
 - a) Deleting Exception 9(1032) from Section 9.0 "EXCEPTIONS" and substituting therefor the following paragraph:

"(1032) Notwithstanding the provisions of:

 - a) Subsection 6.1.2 and Schedule "A" respecting zone requirements in Employment Area Zones,

the following provisions shall apply to the lands shown as "Subject Lands" on Schedule "E -1128";

 - ai) A minimum 10 metre setback from an OS1 Open Space Conservation Zone shall apply to all buildings and structures."
2. 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 "1" attached hereto from C7 Service Commercial Zone, subject to Exception 9(1032), to RA3 Apartment Residential Zone, subject to site specific zone exceptions and with addition of the Holding Symbol "(H)" in the manner shown on the said Schedule "1" and Schedule "2".
 - b) Adding the following Paragraph to Section 9.0 "EXCEPTIONS":

"9(14)⁶⁷

 - A. The following provisions shall apply to all lands zoned with the Holding

Symbol "(H)" as shown on Schedule "E-1597", until the Holding Symbol "(H)" is removed pursuant to Subsection 36 (3) or (4) of the Planning Act:

- i) Lands Zoned with the Holding Symbol "(H)" shall only be used for a use legally existing as of the date of enactment of By-law ~~157~~ 2018, being for the production of field crops, an Underground Parking Structure and a Temporary Sales Office;

B. Removal of the Holding Symbol "(H)" from the Subject Lands shall be contingent on the following:

Phase 1a

- i. Water and sewer servicing capacity being identified and allocated by the City of Vaughan;
- ii. City of Vaughan being in receipt of confirmation of the Ministry of Environment's Acknowledgement/Registration of the Record of Site Condition;
- iii. The submission of an Environmental Noise Impact Study and an Environmental Vibration Report, prepared in consultation with the operator of the "Rail Yard" and the "Existing Industrial Lands", to the satisfaction of the City of Vaughan. For the purposes of this Zoning By-law a "Rail Yard" is defined as the McMillan Rail Yard and the "Existing Industrial Lands" are defined as the Maple Stamping Plant;
- iv. The provision and/or securing of any required noise mitigation and control measures at the Owner's expense as the City of Vaughan may require;
- v. If necessary, the execution of agreements satisfactory to the City of Vaughan between the Owner and owner(s) of neighbouring lands containing stationary noise sources to secure any noise mitigation measures which may be required on these

- neighbouring lands, as the City may require;
- vi. The approval of a Site Development Application by Vaughan Council or the Ontario Municipal Board for the proposed development;
 - vii. The execution of a site plan agreement, or other such agreement, satisfactory to the City of Vaughan to be registered on title which obligates the Owner to include in all Offers of Purchase and Sale, warning clauses for the Subject Lands and to provide notice of the Class 4 Area classification to prospective purchasers of residential units on the Subject Lands;
 - viii. A resolution is passed by Vaughan Council classifying the site as a Class 4 Area;
 - ix. The execution of an agreement with the City of Vaughan to construct the proposed public road "A" (extension of Caldari Road) to the new proposed public road "B" (east-west road) and the construction of proposed public road "B" to Jane Street, or suitable interim alternative to the satisfaction of the City of Vaughan, and requiring said public roads to be completed prior to first occupancy of Phase 1a; and,
 - x. Submission of a Traffic Impact Study for Phase 1 to the satisfaction of the City of Vaughan and York Region.

Phase 1b

- i. Water and sewer servicing capacity being identified and allocated by the City of Vaughan;
- ii. City of Vaughan being in receipt of confirmation of the Ministry of Environment's Acknowledgement/Registration of the Record of Site Condition;
- iii. The submission of a noise and vibration impact study, prepared

in consultation with the operator of the "Rail Yard" and the "Existing Industrial Lands", to the satisfaction of the City of Vaughan;

- iv. The provision and/or securing of any required noise mitigation and control measures at the Owner's expense as the City of Vaughan may require;
- v. If necessary, the execution of agreements satisfactory to the City of Vaughan between the Owner and owner(s) of neighbouring lands containing stationary noise sources to secure any noise mitigation measures which may be required on these neighbouring lands as the City of Vaughan may require
- vi. The approval of a Site Development Application by Vaughan Council or the Ontario Municipal Board for the proposed development;
- vii. The execution of a site plan agreement, or other such agreement satisfactory to the City of Vaughan to be registered on title which obligates the Owner to include in all Offers of Purchase and Sale, warning clauses for the subject lands and to provide notice of the Class 4 Area classification to prospective purchasers of residential units on the Subject Lands;
- viii. A resolution is passed by Vaughan Council classifying the site as a Class 4 Area;
- ix. That public road "A" (extension of Caldari Road) to public road "B" (east-west road) and public road "B", or suitable interim alternative, are constructed to the satisfaction of the City of Vaughan;
- x. The execution of an agreement with the City that provides for the extension of public road "A" (Caldari Road) north of public road

"B" to a signalized (when warranted) intersection with Rutherford Road, including the signalized intersection and any required, related upgrades to Rutherford Road and public road "B" in its ultimate form, to the satisfaction of the City of Vaughan and York Region. Said agreement shall require that these roads be constructed prior to first occupancy of Phase 1b unless construction at a later phase is supported by a Traffic Impact Study to the satisfaction of the City of Vaughan and Region of York; and,

- xi. Submission of a Traffic Impact Study to the satisfaction of the City of Vaughan and York Region.

Phase 2

- i. Water and sewer servicing capacity being identified and allocated by the City of Vaughan;
- ii. City of Vaughan being in receipt of confirmation of the Ministry of Environment's Acknowledgement/Registration of the Record of Site Condition;
- iii. The submission of a noise and vibration impact study, prepared in consultation with the operator of the "Rail Yard" and the "Existing Industrial Lands", to the satisfaction of the City of Vaughan;
- iv. The provision and/or securing of any required noise mitigation and control measures at the Owner's expense as the City of Vaughan may require;
- v. If necessary, the execution of agreements satisfactory to the City of Vaughan between the Owner and owner(s) of neighbouring lands containing stationary noise sources to secure any noise mitigation measures which may be required on these

- neighbouring lands as the City of Vaughan may require
- vi. The approval of a Site Development Application by Vaughan Council for the proposed development;
 - vii. The execution of a site plan agreement, or other such agreement satisfactory to the City of Vaughan to be registered on title which obligates the Owner to include in all Offers of Purchase and Sale, warning clauses for the subject lands and to provide notice of the Class 4 Area classification to prospective purchasers of residential units on the Subject Lands;
 - viii. A resolution is passed by Vaughan Council classifying the site as a Class 4 Area;
 - ix. The extension of public road "A" (Caldari Road) north of public road "B" to a signalized (when warranted) intersection with Rutherford Road, including the signalized intersection and any required, related upgrades to Rutherford Road is constructed to the satisfaction of the City of Vaughan and York Region.
 - x. Submission of a Traffic Impact Study to the satisfaction of the City of Vaughan and York Region; and,
 - xi. Confirmation that the non-residential component of a minimum of 5,000 square metres (GFA) is being provided.

C. Notwithstanding the provisions of:

- a) Section 2.0 respecting the Definition of a "Lot", "Lot Line, Front", "Parking Space", "Underground Parking Structure", and "Accessory Building";
- b) Subsection 3.8 a) respecting Minimum Parking Requirements;
- c) Subsection 3.8 g) respecting the access and/or driveway requirements;
- d) Subsection 3.9d) respecting Loading Space Requirements;

- e) Subsection 3.13 respecting Minimum Landscaped Areas;
- f) Subsection 3.17 respecting Portions of Buildings Below Grade;
- g) Subsection 3.16 respecting Accessory uses, Building and Structures and Subsection 4.1.1a), c), e), g), h) and k) respecting Accessory Buildings and Structures;
- h) Subsection 4.1.4 b)i) and 4.1.4 b)ii) respecting Parking Areas for Multiple Family Dwellings;
- i) Subsection 4.1.6 a) and c) respecting Minimum Amenity Areas;
- j) Schedule "A" respecting the zone requirements in the RA3 Apartment Residential Zone; and,
- k) Subsection 4.12 respecting permitted uses within the site specific RA3 Apartment Residential Zone.

the following provisions shall apply to the lands shown as "Subject Lands" on Schedule "E-¹⁵⁹⁷"

- ai) The subject lands are designated as a Class 4 area pursuant to Ministry of Environment and Climate Change *Environmental Noise Guideline: Stationary and Transportation Sources – Approval and Planning – Publication NPC-300*
- aii) LOT – Means a parcel of land fronting on a street separate from any abutting land to the extent that a consent contemplated by Section 50 of the Planning Act, R.S.O. 1990, CP. 13 would not be required for its conveyance. For the purpose of this paragraph, land defined in an application for a Building Permit shall be deemed to be a parcel of land and a reserve shall not form part of the lot. For the purposes of zoning conformity the lands shown as "Subject Lands" on Schedule "E-¹⁵⁹⁷" shall be deemed to be one lot regardless of the number of buildings or structures erected and regardless of any conveyances,

consents, subdivisions, easements, or condominiums, or other permissions granted after the approval of this By-law, shall be deemed to comply with the provisions of this By-law;

- aii) For the purposes of this By-law, the LOT LINE, FRONT shall be deemed to be Jane Street;
- aiv) PARKING SPACE – means a rectangular area measuring at least 2.7 metres by 5.7 metres, exclusive of any aisles or ingress and egress lanes use for the temporary parking of motor vehicles;
- av) UNDERGROUND PARKING STRUCTURE – Means 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;
- avi) ACCESSORY BUILDING - Means a subordinate building or structure, whether separate or attached, located on the same lot as the main building, the use of which is clearly incidental to that of the main building, not used for human habitation and shall not include a private garage or carport;
- bi) The minimum number of parking spaces shall be as follows:
 - 0.85 parking spaces per one bedroom unit;
 - 0.95 parking spaces per two bedroom unit;
 - 0.20 parking spaces per residential unit for visitors;
 - 74 parking spaces for the 5,000 m² of non-residential gross floor area (GFA). For non-residential GFA above 5,000 m², additional parking shall be provided at a rate of 1.5 spaces per 100 m²;
 - Additional parking will not be required for outdoor patios.All parking spaces, either in part or in whole, dedicated

to parking either above or below ground shall remain fully unenclosed.

- ci) A two-way access driveway shall be provided with a maximum width of 15.0 m and shall include a minimum 2 m wide landscaped island/median;
- di) Loading and unloading shall only be permitted between a building and Street "A", provided it is incorporated into the building design;
- ei) A strip of land not less than 3.0 m in width shall be provided along a lot line which abuts a street line, and shall be used for no other purpose than landscaping. This shall not prevent the provision of access driveways across the said strip and shall include both soft and hard landscaping including but not limited to trees, shrubs, flowers, grass, unit pavers, patio stones, concrete, decorative stonework or other architectural elements designed to enhance the visual amenity areas of the property;
- fi) The minimum setback from a lot line to the nearest building or structure below finished grade shall be 0.0m;
- gi) The maximum Gross Floor Area of all accessory buildings and structures shall not exceed 500 m², of which a maximum of 20% shall be permitted on the lands to be used for publicly accessible private amenity space located at grade level and subject to an easement for public access in favour of the City of Vaughan;
- gii) Any accessory building or structure may be located between any portion of the building and the rear lot line, and within the roof-top amenity area located above the podiums;
- giii) In addition to Section 4.1.1 k) Accessory buildings or structures and architectural features may be permitted within the roof top

amenity areas. Where any accessory structure or building or architectural feature is located within the roof top amenity areas, the maximum height of the accessory building or structure or architectural feature shall be measured from the top of the roof surface and shall not be included in determining the overall building height of the podiums;

hi) Landscaping and screening is not required around the periphery of an outdoor parking area;

ii) A Minimum Amenity Area of 16,000 m² shall be required over the total site area; and shall include a *publicly accessible privately-owned amenity space* having a minimum area of 1840m² and subject to an easement for public access in favour of the City of Vaughan. For the purposes of this By-law *Publicly accessible private amenity space* shall be defined as follows:

Publicly Accessible Private Amenity Space: "Means Publicly Accessible Private Amenity space as shown on Schedule "E-1597, and including a pedestrian connection to Jane Street, that are open space lands owned by a Condominium Corporation(s) with an easement for public access in favour of the City of Vaughan located at grade level. Underground parking may be permitted below the *publicly accessible private amenity space* to the satisfaction of the City of Vaughan. Residential, commercial/retail and employment uses are not permitted on the *publicly accessible private amenity space*;

ji) The Minimum Lot Area shall be deemed to be 1.67 ha in accordance with subsection (a) of this By-law;

jiii) The Minimum setback from any public street to any portion of the podium shall be 3.0m;

jiv) The following uses shall be permitted on the subject lands as shown on Schedule "E- * 1597

Phase 1a – One Apartment Dwelling with a maximum building height of 23-storeys and 80m, and;

Phase 1b – One Apartment Dwelling with a maximum of 20-storeys and 73 m,

Phase 2: A minimum 3-storey building that shall include a minimum of 5,000 m² of non-residential uses. No building in Phase 2 shall exceed 44 m in height.

For the purposes of this By-law, the maximum building height shall exclude accessory roof construction and architectural roof features, such as elevators, mechanical room, antenna, parapet wall or roof top equipment;

jv) The following provisions shall apply:

- i. A podium shall be a minimum of 3-storeys along Jane Street. The podium shall not exceed 6-storeys;
- ii. Any portion of the podium above the first storey may be set back a maximum of 2.0 m;
- iii. A podium with a minimum height of one-storey and 6.0m shall be provided along Road "B" (north) and may include an open mezzanine area not exceeding 40 percent of the open area of the unit and in accordance with the provisions of the Ontario Building Code;
 - An open mezzanine within a podium shall not be located along the exterior wall facing a street.
 - An open mezzanine shall not be considered to be a storey;
- iv. Any podium provided along Riverrock Gate shall have a

minimum height of one-storey and 6.0 metres.

- v. A pedestrian connection from Jane Street to the *Publicly Accessible Private Open Space* with a minimum width of 6.0m is required;
 - vi. A minimum of 80% of any podium fronting on Jane Street or Riverock Gate shall be built to the podium setback line.
 - vii. All residential, and commercial units at grade shall provide a direct entrance to the street, pedestrian connections, or *publicly accessible private amenity space*;
 - viii. The ground floor of any building and any entrance to any unit facing a public street shall be no greater than 0.5 m above the average finished grade;
 - ix. Towers above the podium shall be setback a minimum of 6.0 m from any public street and a minimum of 3.0 m from any *publicly accessible private amenity space*;
 - x. The maximum floorplate of a residential apartment tower above the podium shall not exceed 770 m²; and
 - xi. The minimum distance between any portion of a tower to another tower above the podium shall be a minimum of 28 m
- ki) The permitted uses within the site-specific RA3 Apartment Residential Zone on Schedule "E-1597" shall include the following:
- i. Residential uses having a total maximum Gross Floor Area (GFA) of 45,000m² and a maximum total of 600 units;
 - ii. Non-residential uses having a minimum Gross Floor

Area (GFA) of 5,000 m² consisting only of:

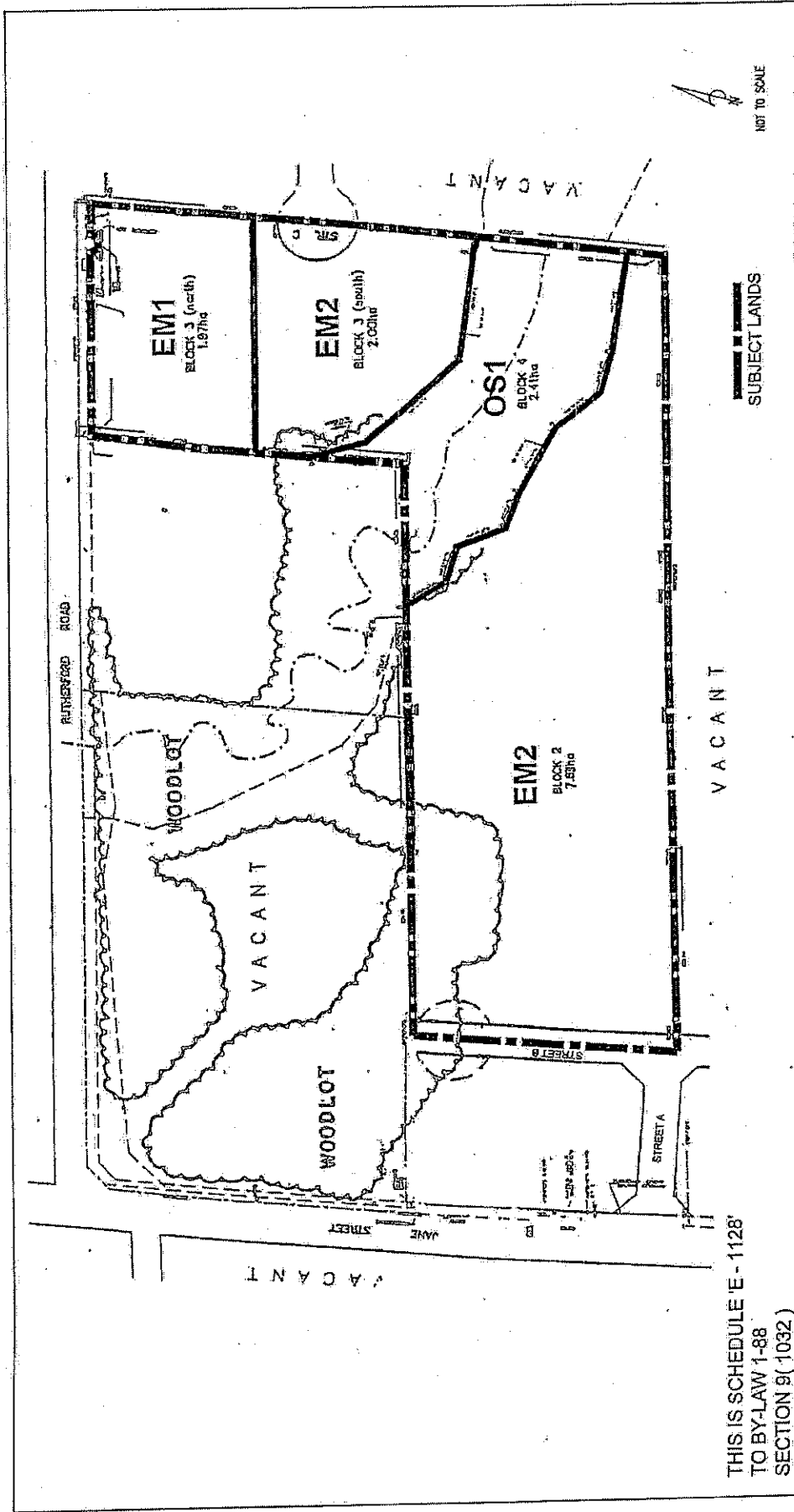
- Business or Professional Office uses having a minimum GFA of 4,200 m², within a minimum 3 storey building; and Commercial uses restricted to the following and having a maximum combined GFA of 800 m² with no outdoor storage as follows:

- Banking or Financial Institution;
- Club or Health Centre;
- Day Nursery;
- Dry Cleaning Depot
- Eating Establishment;
- Eating Establishment – Take Out;
- Eating Establishment – Convenience;
- Outdoor patio accessory to an Eating Establishment;
- Personal Service Shop;
- Pharmacy;
- Museum or Art Gallery
- Retail store; and
- Studio including Photography Studio;

- The total maximum Gross Floor Area (GFA) for all development on the subject lands as shown on Schedule "E-¹⁵⁹⁷" shall be 50,000 m²

- c) Deleting Schedule "E1032" and substituting therefor the Schedule "E-1032" attached hereto as Schedule "1".
- d) Adding Schedule "E-¹⁵⁹⁷" attached hereto as Schedule "2".
- e) Deleting Key Map 4C and substituting therefor the Key Map 4C attached hereto as Schedule 3.

3. Schedules "1", "2", and "3" shall be and hereby form part of this By-law.



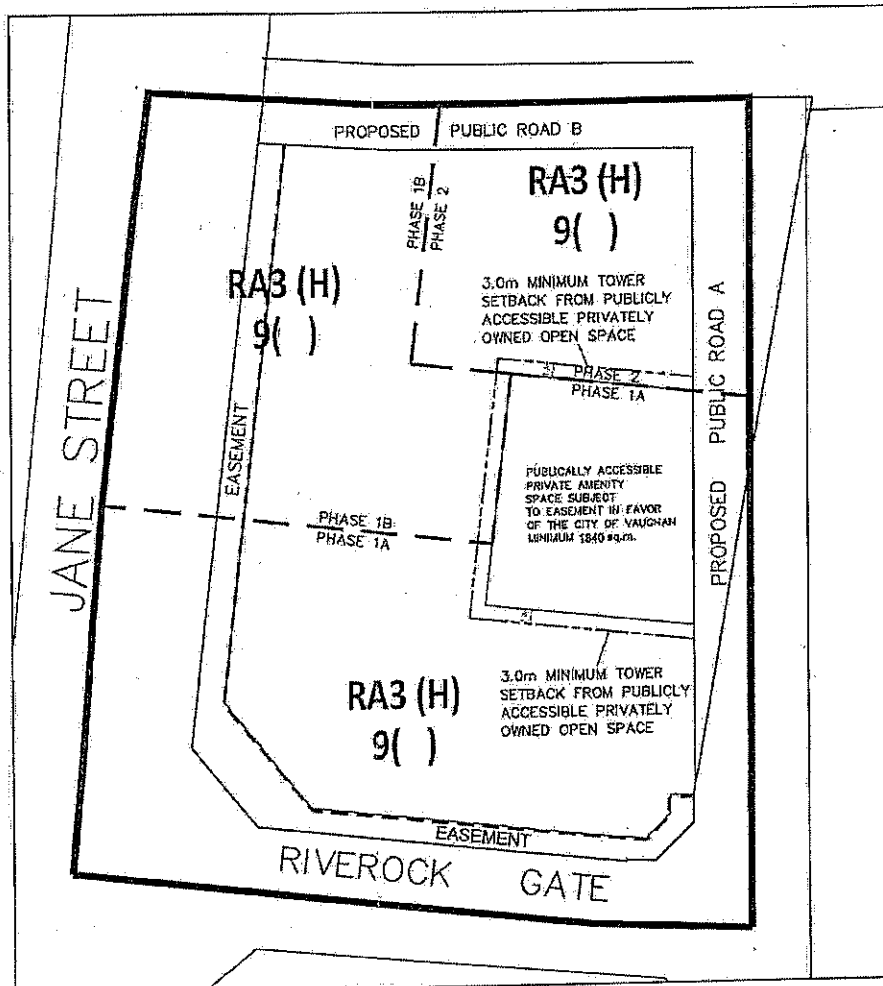
LEGEND

— SUBJECT LANDS

— PHASE BOUNDARIES



The subject lands are designated as a Class 4 Area pursuant to NPC-300



THIS IS SCHEDULE 'E - 1597'
TO BY-LAW 1-88
SECTION 9(1467)

NOT TO SCALE

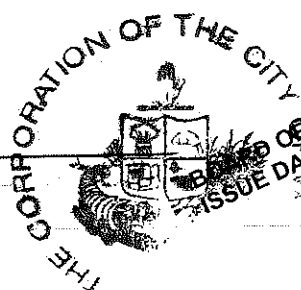
THIS IS SCHEDULE '2'
TO BY-LAW 157 - 2018
PASSED THE 27th DAY OF Sept, 2018

FILE No. Z.07.029
RELATED FILE: OP.05.020
LOCATION: Part of Lot 4, Concession 15
APPLICANT: TESMAR HOLDINGS INC.
CITY OF VAUGHAN

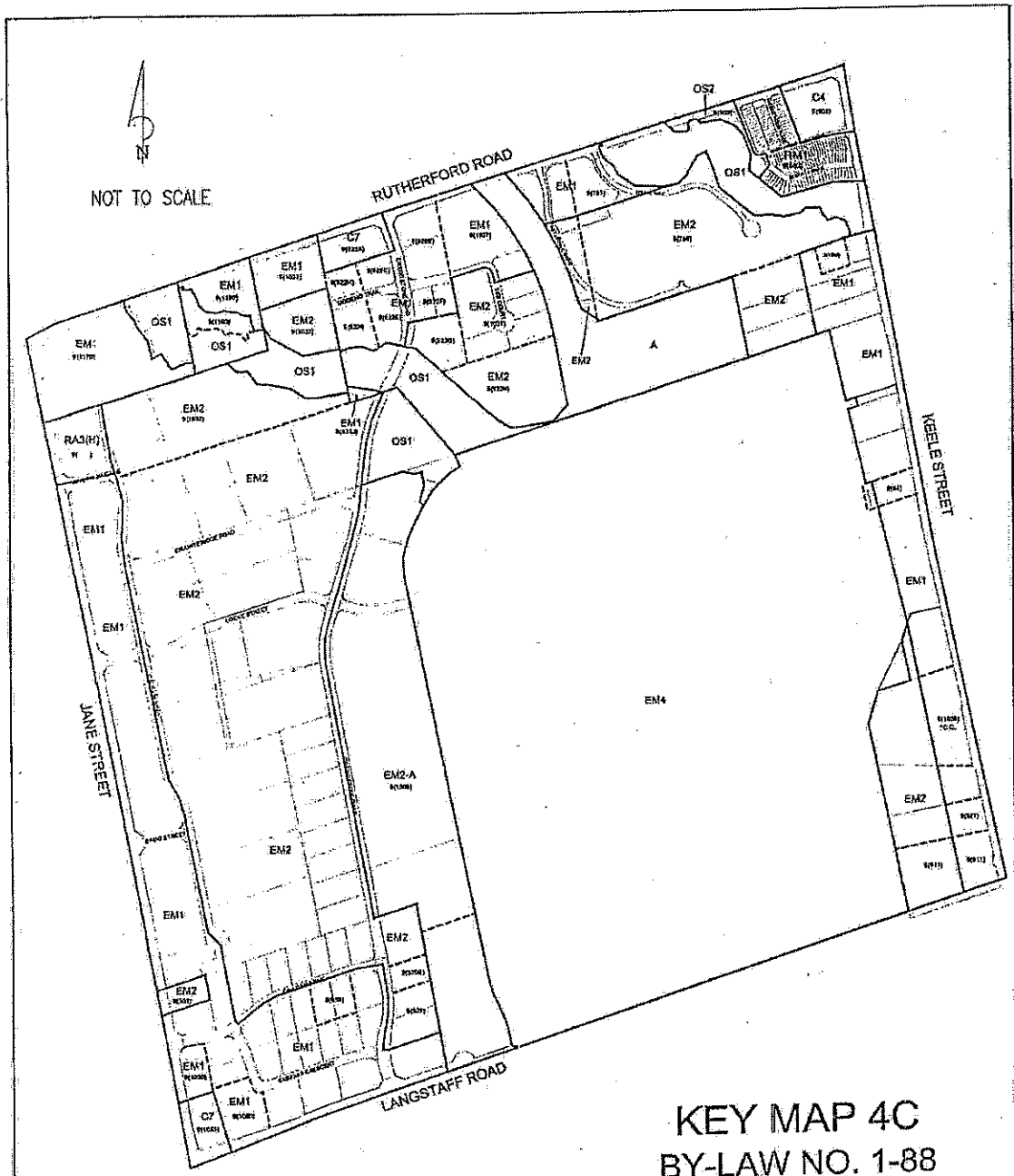
SIGNING OFFICERS

MAYOR

CLERK



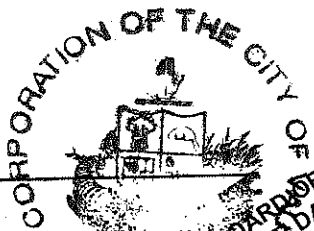
ORDER PL# 120974
ISSUE DATE: August 27, 2018



KEY MAP 4C
BY-LAW NO. 1-88

THIS IS SCHEDULE '3'
TO BY-LAW 157 - 2018
PASSED THE 27th DAY OF Sept, 2018

FILE No. Z.07.029
RELATED FILE: OP.05.020
LOCATION: Part of Lot 4, Concession 15
APPLICANT: TESMAR HOLDINGS INC.
CITY OF VAUGHAN

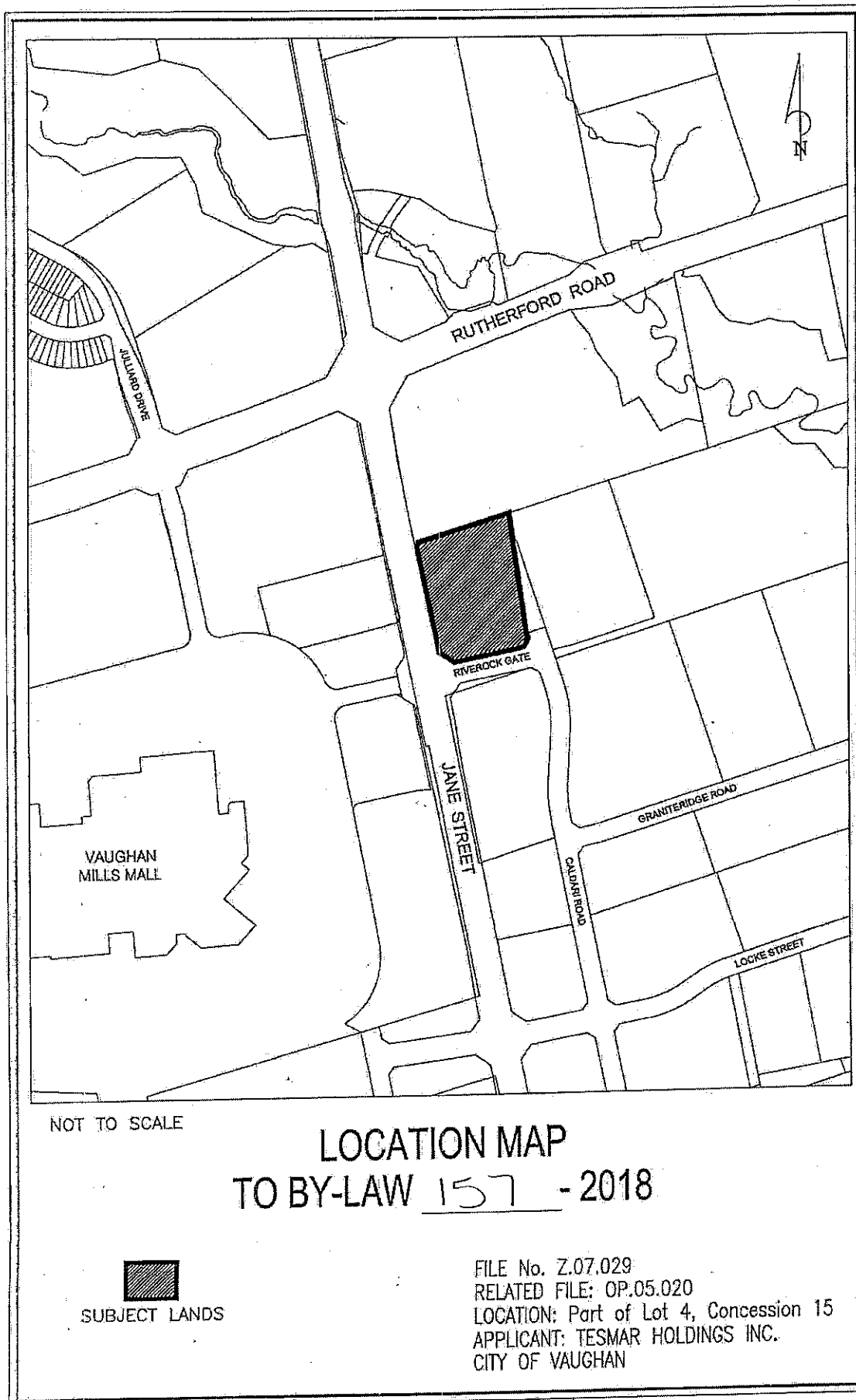


BOARD ORDER PL# 120974
ADOPTED DATE: August 27, 2018

SIGNING OFFICERS

MAYOR

CLERK



SUMMARY TO BY-LAW 151 - 2018

The lands subject to this By-law are located on the northeast corner of Jane Street and Riverrock Gate, in Lot 15, Concession 4, City of Vaughan.

The purpose of this By-law is to rezone the Subject Lands from C7 Service Commercial Zone to a site specific RA3 Apartment Residential Zone with the addition of the Holding Symbol "(H)". The development requires the following site- specific exceptions to facilitate the proposed use of the lands:

- The lands will be zoned with the "(H)" Holding Symbol and may permit legally existing uses and a Temporary Sales Office until such time that the conditions to remove the Holding Symbol are fulfilled and subject to the requirements in the zoning by-law;
- An amendment to the definition of a *lot* is proposed that would allow the subject lands to be considered one lot for purposes of zoning irrespective of any future severances, conveyances after the day this By-law is approved;
- For the purpose of this By-law, Jane Street is deemed to be the Lot Line, Front;
- Establishes a minimum parking ratio requirement for the proposed development;
- Permits a maximum driveway width of 15 m;
- A provision that will allow a loading space between a building and Street "A";
- A reduction in the landscape strip requirements to 3.0 proposed adjacent to a street line;
- A reduction in the minimum setback to a lot line of 0.0m for those portions of building below grade is proposed;
- Accessory building and structures and architectural features shall be permitted between any part of the building and the rear lot line and within the rooftop amenity area, up to a maximum GFA of 500 m² for all buildings and structures;
- An exemption from the landscaping and screening requirements required in 4.1.4 is proposed for any surface parking proposed including but not limited to the provision of lay-by parking;
- A Minimum Amenity Area of 16,000 square metres shall be required and includes the requirement for a publicly accessible but privately-owned amenity space area of 1840 m²;
- Minimum *lot* area is deemed to be 1.67 hectares;
- Minimum setback of 3.0 m to a podium is proposed;
- Maximum building heights of 20-storeys (73 m) and 23-storeys (80 m), exclusive of any architectural roof features, mechanical rooms, roof top equipment, etc. is proposed;
- Establishes the following additional buildings standards:
 - o Requirement for a minimum 3-storey podium along Jane Street and 1-storey and 6.0 m podium along Riverrock gate and Road 'B' (north);
 - o Any portion of the podium above the first storey may be set back a maximum of 2.0 m;
 - o The 1-storey/6.0 m podium may include an open mezzanine/loft area not exceeding 40 percent of the open area of the unit and in accordance with the provisions of the Ontario Building Code;
 - An open mezzanine/loft shall not be located along the exterior wall facing a street;
 - An open mezzanine/loft shall not be considered to be a storey;
 - o Requires a pedestrian connection from Jane Street to the publicly accessible private amenity space with a minimum width of 6.0 m;
 - o Requires 80% of the building frontage in the podium to be built to the setback line along Jane Street;
 - o Residential and commercial and/or office units at grade shall provide direct entrance into the public realm;
 - o Ground floor of buildings no greater than 0.5 m above the average finished grade;
 - o Minimum floor to floor height of 4.5 m for commercial and/or offices uses at grade;
 - o Towers above the 3 storey podium are required to be setback a minimum of 6.0m from a public street and 3.0 m from publicly accessible private amenity space;

- Maximum residential apartment tower floor plate above 3 storey podium shall not exceed 770 square m;
 - Minimum distance between apartment residential towers above 3 storey podium shall be 28 m;
- Permits residential uses with a maximum gross floor area of 45,000 m² and a maximum total of 600 units;
- Permits non-residential uses with a minimum gross floor area of 5,000 m²;
 - Business and Professional Office uses shall have a minimum gross floor area of 4,200 m²;
 - Commercial uses shall have a maximum gross floor area of 800 m²;
- Total maximum gross floor area for all development on the subject lands shall be 50,000 m²;
- The By-law includes provisions regarding the phasing of development;
- The By-law includes provisions that confirm the site is classified as a Class 4 Area and includes requirements such as the submission of a noise impact study, among other things.

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 Riverock 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 podiums. 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.elfto.gov.on.ca to view the attachment in PDF format.

Local Planning Appeal Tribunal
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