

THE CITY OF VAUGHAN

BY-LAW

BY-LAW NUMBER 081-2020

A By-law to designate by Number an amendment to City of Vaughan By-law 1-88, as effected by the Local Planning Appeal Tribunal in its' decision dated the 3rd day of January 2020 in LPAT Case File No. PL180665.

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 Local Planning Appeal Tribunal Order Issue, dated the 3rd day of January 2020 (LPAT File No. PL180665), attached hereto as Attachment "2", is hereby designated as By-Law Number 081-2020.

Enacted by City of Vaughan Council this 29th day of June, 2020.

Hon. Maurizio Bevilacqua, Mayor

Todd Coles, City Clerk

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



ISSUE DATE: January 03, 2020

CASE NO(S): PL180665

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

Appellant:	Mackenzie Ridge Ratepayers' Association
Subject:	Proposed Official Plan Amendment No. 28 (OPA 28)
Municipality:	City of Vaughan
LPAT Case No.:	PL180665
LPAT File No.:	PL180665
LPAT Case Name:	Mackenzie Ridge Ratepayers' Association v. Vaughan (City)

PROCEEDING COMMENCED UNDER subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant:	Mackenzie Ridge Ratepayers' Association
Subject:	By-law No. 151-2018
Municipality:	City of Vaughan
LPAT Case No.:	PL180665
LPAT File No.:	PL180666

PROCEEDING COMMENCED UNDER subsection 51(39) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant:	Mackenzie Ridge Ratepayers' Association
Subject:	Proposed Plan of Subdivision
Property Address/Description:	1600 Teston Road/ Part of Lot 26, Concession 3
Municipality:	City of Vaughan
Municipal File No.:	19T-17V009
LPAT Case No.:	PL180665
LPAT File No.:	PL180685

Heard: June 26, 2019 in Vaughan, Ontario

APPEARANCES:

Parties

Counsel

City of Vaughan

P. Patterson, J. LeSage

McKenzie Ridge Ratepayers'
Association

D. Donnelly, A. Whyte, M. Fletcher (student-at-law)

Teston Sands Inc.

M. Di Vona, L. Zuliani (student-at-law)

MEMORANDUM OF ORAL DECISION DELIVERED ON JUNE 26, 2019 BY C. CONTI AND JOHN DOUGLAS AND ORDER OF THE TRIBUNAL

INTRODUCTION

[1] This is the memorandum for a decision for an appeal by the McKenzie Ridge Ratepayer's Association ("Appellant") against the adoption by the City of Vaughan ("City") of applications by Teston Sands Inc. ("Applicant") for an Official Plan Amendment ("OPA"), Zoning By-law Amendment ("ZBA") and Draft Plan of Subdivision for a property at 1600 Teston Road ("subject property" / "property") in Vaughan. Two proceedings were convened on the above noted date for the appeals. A Case Management Conference, the second for the appeals, dealt with the proposed OPA and ZBA, and the first Pre-hearing Conference ("PHC") dealt with draft plan of subdivision.

[2] Prior to the proceedings the Tribunal had been informed that the parties had reached a settlement regarding the OPA and ZBA. A settlement agreement is included in the joint document book at Exhibit 5, Tab 17. Prior to the PHC, there had been no proceedings dealing with the draft plan of subdivision and it was not clear if others with an interest in the appeal would seek party or participant status and if the appeal of the subdivision would be fully settled. At the PHC the Tribunal heard a request for participant status for Junge S. Lee who was represented by Y.S. Min of Min and

Associates Inc. Architect. Participant status was granted to Mr. Lee on consent. Through the course of the PHC the concerns of Mr. Lee were resolved and therefore the appeal of the plan of subdivision was also fully settled.

[3] The appeals were considered under the provisions of the *Planning Act* (“Act”) and the *Local Planning Appeal Tribunal Act* (“LPATA”) that were in force under Bill 139. Under the provisions the grounds for appeal of the OPA and ZBA were limited to concerns for consistency with a policy statement under s. 3(1) of the Act, lack of conformity or conflict with a provincial plan, or lack of conformity with an applicable official plan. Through the first hearing event under Bill 139, the Tribunal could not, on its own initiative, revise and approve the OPA and ZBA. However, under s. 17(49.4) and s. 34 (26.3) of the Act, the Tribunal shall approve a revised application that has the consent of the parties if the consistency and conformity tests are met.

[4] In addition, under the provisions of LPATA that were in force through Bill 139 no party could adduce evidence for the OPA and ZBA appeals, but the Tribunal could call and examine witnesses.

[5] For the subdivision appeal under s. 51 (39), the provisions of the Act and LPATA under Bill 139 did not impose the same restrictions on the ground for appeal or on the Tribunal’s authority to approve a revised proposal. In addition the parties were permitted to adduce evidence.

THE PROPOSAL

[6] The Applicant owns the subject property at 1600 Teston Road which consists of a 13.69 hectare (“ha”) parcel located approximately 150 metres (“m”) west of Dufferin Street, south of Kirby Road in the area of north Maple. The property is within the Urban Boundary of the City and it fronts onto approximately 346 m of the unopened road allowance of Teston Road located at the southern boundary.

[7] The proposal involves the construction of 90 single-family lots on approximately

6.5 ha of the property. Access to the subdivision is proposed from the frontage on the unopened road allowance. Teston Road will be extended to the west and Street A is proposed to run northerly to provide access to the subdivision lots. The proposed lots have frontages of 12, 17, 18 and 20 m. The 20 m lots are proposed to abut the larger lots on adjacent lands to the north and east. The part of the subject property to the west of the developable portion has been identified as a natural heritage area. The proposal includes a buffer adjacent to the natural heritage area and a fenced buffer adjacent to existing residential development to the north and east.

EVIDENCE

[8] The Tribunal called two witnesses to provide evidence regarding the proposed OPA and ZBA. The Tribunal heard from Peter Smith, a Partner at Bousfields Inc. Mr. Smith is a Registered Professional Planner with approximately 38 years of experience. Mr. Smith provided opinion evidence in land use planning.

[9] The Tribunal also heard evidence from Tom Hilditch of Savanta Inc. Mr. Hilditch has approximately 38 years of experience in the field of ecology. He provided opinion evidence in natural heritage evaluation and analysis.

[10] With regard to the draft plan of subdivision, Mr. Di Vona called Mr. Smith who provided opinion evidence in the area of land use planning.

OPA and ZBA

[11] The Tribunal heard that the proposal has been amended in order to achieve the settlement. The original proposal was for 87 lots with a density of approximately 13 units/hectare (Exhibit 6, para. 14). The revised proposal now consists of 90 lots with a proposed buffer adjacent to the natural heritage area and a fenced 10 m buffer adjacent to the residential areas to the north and east. According to the evidence, the revised proposal will have a density of approximately 13.8 units/hectare.

[12] Mr. Smith's opinion was that the proposed OPA (Exhibit 2) and ZBA (Exhibit 3) meet the tests for consistency and conformity as set out in the Act under Bill 139. Mr. Smith's evidence was that the proposed OPA and ZBA are consistent with the Provincial Policy Statement ("PPS"). Mr. Smith indicated that the proposal will provide for the efficient use of infrastructure and assist in providing a range and mix of housing as required through PPS policies. He also indicated that the proposed buffer will help to maintain biodiversity.

[13] Mr. Smith's evidence also addressed the natural heritage provisions of the PPS. He indicated that the proposal does not include development or site alteration within a significant natural feature and that a Natural Heritage Evaluation has been prepared by Savanta Inc. which demonstrates that the proposal will have no negative impacts on adjacent natural heritage features.

[14] With regard to provincial plans, the subject property is subject to both the Growth Plan for the Greater Golden Horseshoe ("Growth Plan") and the Oak Ridges Moraine Conservation Plan ("ORMCP"). Mr. Smith's evidence was that the Growth Plan emphasizes the need to make use of the existing land supply in proximity to existing roads and services. He indicated that the proposal is adjacent to existing services and is intended to use an extension of Teston Road.

[15] Mr. Smith referred to the greenfield density targets and noted that the York Region Official Plan requires designated greenfield areas to achieve an average minimum density of 50 residents and jobs per hectare. His opinion was that the proposed density of the proposal is in keeping with the greenfield density target.

[16] Mr. Smith's opinion was that the proposal conforms with the Growth Plan.

[17] Mr. Smith stated that the natural heritage evaluation prepared by Savanta addressed the requirements to the ORMCP.

[18] Mr. Smith indicated that the subject site is within an Urban Area as identified in

the York Region Official Plan and is adjacent to lands identified as an Environmentally Significant Area and a Life Science Area of Natural and Scientific Interest. In addition, the subject property and adjacent land are identified as being within a Highly Vulnerable Aquifer. Mr. Smith indicated that the Natural Heritage Evaluation has demonstrated that the proposal will have no negative impacts.

[19] Mr. Smith stated that the OPA and ZBA conform to the York Region Official Plan. He noted that a Holding Symbol will be placed on specific lots and blocks at the request of the Region related to the alignment of the extension of Teston Road. The areas to which the Holding Symbol applies are set out in the By-law.

[20] Mr. Smith's evidence was that the subject property is within the Urban Area and is designated as Natural Areas and Countryside in the City's Official Plan. He indicated that a site specific policy applies to the site which allows for limits of an Enhancement Area to be determined through environmental studies. The Natural Heritage Evaluation prepared by Savanta Inc. has delineated the appropriate boundaries in this case of the development and the natural heritage area to be protected.

[21] The subject property is also identified as Community Area in the City's Official Plan. Policies related to Community Areas set out minimum densities for greenfield areas and require that new development respect and reinforce the existing scale, height, massing, lot pattern, building type, character, form and planned function of the immediate area. Mr. Smith's opinion was that the proposal meets these policies.

[22] Mr. Smith's evidence also referred to policies in the City's Official Plan regarding protection of the Oak Ridges Moraine. He indicated that the proposal conforms to these policies.

[23] It was Mr. Smith's opinion that the proposal conforms with the City's Official Plan subject to final approval of the OPA, and the ZBA conforms to the Official Plan as amended by the OPA.

[24] Mr. Hilditch discussed the Natural Heritage Evaluation that he prepared (Exhibit 5, Tab 13). He stated that the majority of the natural features are on the western part of the property, but that the natural heritage evaluation covered the entire property. According to his report, the portion of the lands that are intended for development are designated as Settlement Area in the ORMCP, while the remaining portion is designated as Natural Core Area (Exhibit 5, Tab13, p. 299).

[25] Mr. Hilditch indicated that there are significant woodlands to the west of the property, but the woodlands on the property are too small to be significant. However, there is some significant wildlife habitat on the property. Mr. Hilditch also stated that there are no provincially significant wetlands in proximity to the property, however, there are unevaluated wetlands in the area.

[26] Mr. Hilditch's evidence was that any impacts of the proposal will be avoided and mitigated through measures undertaken as part of the proposal including the establishment of the buffer. He stated that there will also be restoration planting undertaken in the buffer area.

[27] Mr. Hilditch's opinion was that the proposal will have no negative impact on the natural heritage features and functions. He stated that the proposal is consistent with the PPS, and meets the requirements of the ORMCP, Regional Official Plan and City's Official Plan.

[28] The Tribunal heard that the measures to deal with natural heritage features in the area were acceptable to the Toronto and Region Conservation Authority.

[29] The Tribunal reviewed the submissions and considered the evidence. The opinion evidence provided by Mr. Smith and Mr. Hilditch was uncontested. The proposed OPA will redesignate areas of the property that are suitable for development as Low Rise Residential and rezone the property from Agricultural and Open Space Environmental Protection to Residential and Open Space Conservation. As noted Holding provisions are placed on specific areas.

[30] The Tribunal accepted the evidence and the expert opinions provided by Mr. Smith and Mr. Hilditch. In view of the above, the Tribunal found that the proposed OPA and ZBA were consistent with the PPS, conform with the Growth Plan and the ORMCP, conform with the Regional Official Plan and the City's Official Plan.

[31] The parties requested that the Tribunal issue an oral decision and that direction be provided regarding provisions in the settlement agreement related to the implementation of the fenced buffer.

[32] The Tribunal issued the following oral decision:

Based upon the uncontradicted opinion evidence, the Tribunal finds that the proposed OPA and ZBA as amended in Exhibits 2 and 3 are consistent with the PPS, conform to the Growth Plan and ORMCP, and conform to the York Region Official Plan, and the ZBA conforms to the City of Vaughan Official Plan as amended. Based upon the above the appeals are allowed in part. In consideration of s. 17 (49.4) and 34 (26.3) of the Act the OPA and ZBA are approved.

The Tribunal directs that items 3, 4, 5, 6, and 7 of the Minutes of Settlement be implemented in conjunction with this approval.

Draft Plan of Subdivision

[33] At the PHC for the proposed draft plan of subdivision, the Tribunal heard that Mr. Lee's concerns involved stormwater management, traffic and safety concerns. The Tribunal was informed that the conditions of draft plan approval (Exhibit 2 filed at the PHC) had been amended to address Mr. Lee's concerns. In particular, condition #10 was amended to provide for an enhanced landscaping along the boundary with Mr. Lee's property at 1500 Teston Road. Also condition #45 was amended to require preparation of a report in consultation with Mr. Lee.

[34] Mr. Di Vona called Mr. Smith to provide evidence in support of the plan of subdivision and he referred to the evidence provided in his affidavit related to the subdivision (Exhibit 6, para. 79). He confirmed that the plan of subdivision has regard for all requirements in s. 51(24) of the Act. Pursuant to s. 51 (24) (a) the plan has regard

for matters of provincial interest. It is not premature and is in the public interest. The plan conforms to the Official Plan as amended by the proposed OPA as required in s. 51(24) (c). Furthermore the land is suitable for the purposes for which it is to be subdivided as required in s. 51(24) (d). The sizes of the lots in the subdivision provide for compatible relationships with existing development.

[35] Mr. Smith's planning opinion was that all requirements of s. 51 (24) of the Act have been met by the proposed subdivision. He stated that the plan of subdivision is consistent with the PPS, conforms with the Growth Plan and the ORMCP, conforms with the Regional Official Plan and the City's Official Plan. He also indicated that the proposed conditions of draft plan approval are appropriate.

[36] The Tribunal heard that the Region's conditions were satisfactory to counsel, but they may require some revisions. Mr. Di Vona requested that the Tribunal issue an oral decision approving the subdivision and approving all draft plan conditions except those of York Region, and that the final order be withheld until the Region confirms that it is satisfied with the conditions. He also requested that final approval be delegated back to the City, pursuant to s. 51 (56) of the Act.

[37] The other parties agreed with Mr. Di Vona's submissions.

[38] After considering the evidence and submissions, the Tribunal accepted the opinion evidence provided by Mr. Smith. The Tribunal found that the plan of subdivision is consistent with the PPS, conforms to the Growth Plan and ORMCP and conforms to the York Regional Official Plan and the Vaughan Official Plan as amended. The Tribunal found that the subdivision has regard for the requirements of s. 51 (24) of the Act and that the conditions of draft plan approval are reasonable with regard to s. 51 (25) of the Act.

[39] In view of the above the Tribunal provided the following oral decision:

In view of the uncontested opinion evidence in support of the draft plan of

subdivision and conditions of draft plan approval, the Tribunal orders that the appeal is allowed in part and the plan of subdivision is approved subject to the draft plan conditions filed as Exhibit 2 except for the conditions of York Region. The final order approving the conditions of York Region will be withheld until the revised conditions are submitted to the Tribunal.

Pursuant to s. 51 (56.1) of the Act final approval of the plan will be referred back to the City.

CONCLUSION

[40] The Tribunal carried out these proceedings according to the provisions of the Act and LPATA that were in force under Bill 139. Through the submissions of the parties including the Case Synopsis and Responding Case Synopsis and the evidence provided by the witnesses the Tribunal was satisfied that the legislative tests were met for the OPA and ZBA, and except for some potential revisions to York Region's conditions of draft plan approval, were met for the plan of subdivision.

[41] The parties expressed some concern about the potential effect of the transitional regulation for Bill 108 on the appeal. For clarity purposes, the Tribunal is making this decision for the OPA, the ZBA and the subdivision effective on the date that the oral decisions were issued pursuant to Rule 24.3 of the Tribunal's *Rules of Practice and Procedure*.

[42] The parties are directed to provide to the Tribunal, the final conditions of draft plan approval after the Region of York is satisfied so that final approval can be given.

[43] The Tribunal's order is provided below.

ORDER

[44] The Tribunal orders that the appeals are allowed in part and the City of Vaughan Official Plan is amended as set out in Attachment 1 and City of Vaughan Zoning By-law No. 1-88 is amended as set out in Attachment 2;

[45] Furthermore, the Tribunal finds that the proposed draft plan of subdivision

provided in Exhibit 4 is approved subject to the conditions set out in Exhibit 2 entered at the Pre-hearing Conference for the plan of subdivision appeal, except for the conditions of York Region. The final order related to the conditions of York Region will be withheld until revised conditions are submitted or the Tribunal is informed that York Region has been satisfied;

[46] The Tribunal orders that pursuant to s. 51 (56.1) of the *Planning Act* final approval of the plan of subdivision is referred to the City;

[47] Items 3, 4, 5, 6, and 7 of the Minutes of Settlement shall be implemented in conjunction with this approval; and

[48] The effective date of this decision and order is June 26, 2019 the date of the oral decision.

“C. Conti”

C. CONTI
VICE-CHAIR

“John Douglas”

JOHN DOUGLAS
MEMBER

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 Tribunals Ontario – Environment and Land Division
Website: www.elto.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

ATTACHMENT 2

BY-LAW NUMBER 081-2020

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

WHEREAS the matters herein set out are in conformity with the Vaughan 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) Rezoning the lands shown as "Subject Lands" on Schedule "1" attached hereto, from A Agricultural Zone and OS5 Open Space Environmental Protection Zone to RD1 Residential Detached Zone One, RD3 Residential Detached Zone Three, RD3 (H) Residential Detached Zone Three with the Holding Symbol "(H)", OS1 Open Space Conservation Zone, OS1 (H) Open Space Conservation Zone with the Holding Symbol "(H)", and OS5 Open Space Environmental Protection Zone in the manner shown on the said Schedule "1".
 - b) Adding the following Paragraph to Section 9.0 "EXCEPTIONS":
 - (1466) A. The following provisions shall apply to all lands zoned with the Holding Symbol "(H)" as shown on Schedule "E-1596 " until the Holding Symbol "(H)" is removed pursuant to Subsection 36(3) or (4) of the Planning Act and the following matters have been addressed to the satisfaction of the City, York Region and the Toronto and Region Conservation Authority:
 - i) The Holding Symbol "(H)" shall not be removed from Lots 1 to 7 and Block 94 until:
 - a. York Region has completed and approved the design of the Teston Road extension and is satisfied with the likelihood of its ultimate construction; or
 - b. York Region has sufficient certainty regarding the potential alignment(s) of the Teston Road extension, or in the likelihood of its ultimate approval and construction; and
 - ii) The Holding Symbol "(H)" shall not be removed from Lots 48 to 56, Lots 1 to 9 and Blocks 90 and 94 until such time as the design of Teston Road has been completed and approved by York Region, the temporary stormwater management pond is

decommissioned, and the ultimate stormwater management pond that interfaces with the landscape and features is constructed to the satisfaction of the City, York Region and the Toronto and Region Conservation Authority."

B. Notwithstanding the provisions of:

- a) Subsection 4.23 and 4.25 and Schedule "A3" respecting the zone standards in the RD1 Residential Detached Zone One and the RD3 Residential Detached Zone Three;

the following provisions shall apply to the lands shown as "Subject Lands" on Schedule "E-1596":

- ai) A maximum of 90 lots for detached dwellings shall be permitted;
- aii) The minimum lot frontage shall be as follows:
- 20 m for lots 26 to 28
 - 19 m for lots 16 to 20,
 - 18 m for lots 25, and 29;
 - 17 m for Lot 21;
- aiii) The minimum exterior side yard shall be 3.0 m for lots 1, 56, 57, 63, 68, 74, 75, 81, 85, and 90; and.
- aiv) The minimum interior side yard shall be 1.2 m on a lot abutting a non-residential use including a walkway, Greenway, buffer block or stormwater management pond.

c) Adding Schedule "E-1596" attached hereto as Schedule "1".

d) Deleting Key Map 3F and substituting therefore the Key Map 3F attached hereto as Schedule "2".

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

Authorized by Addendum Item No. 5.35 of Report No. 21
of the June 5, 2018 Committee of the Whole
Adopted by Vaughan City Council on
June 19, 2018

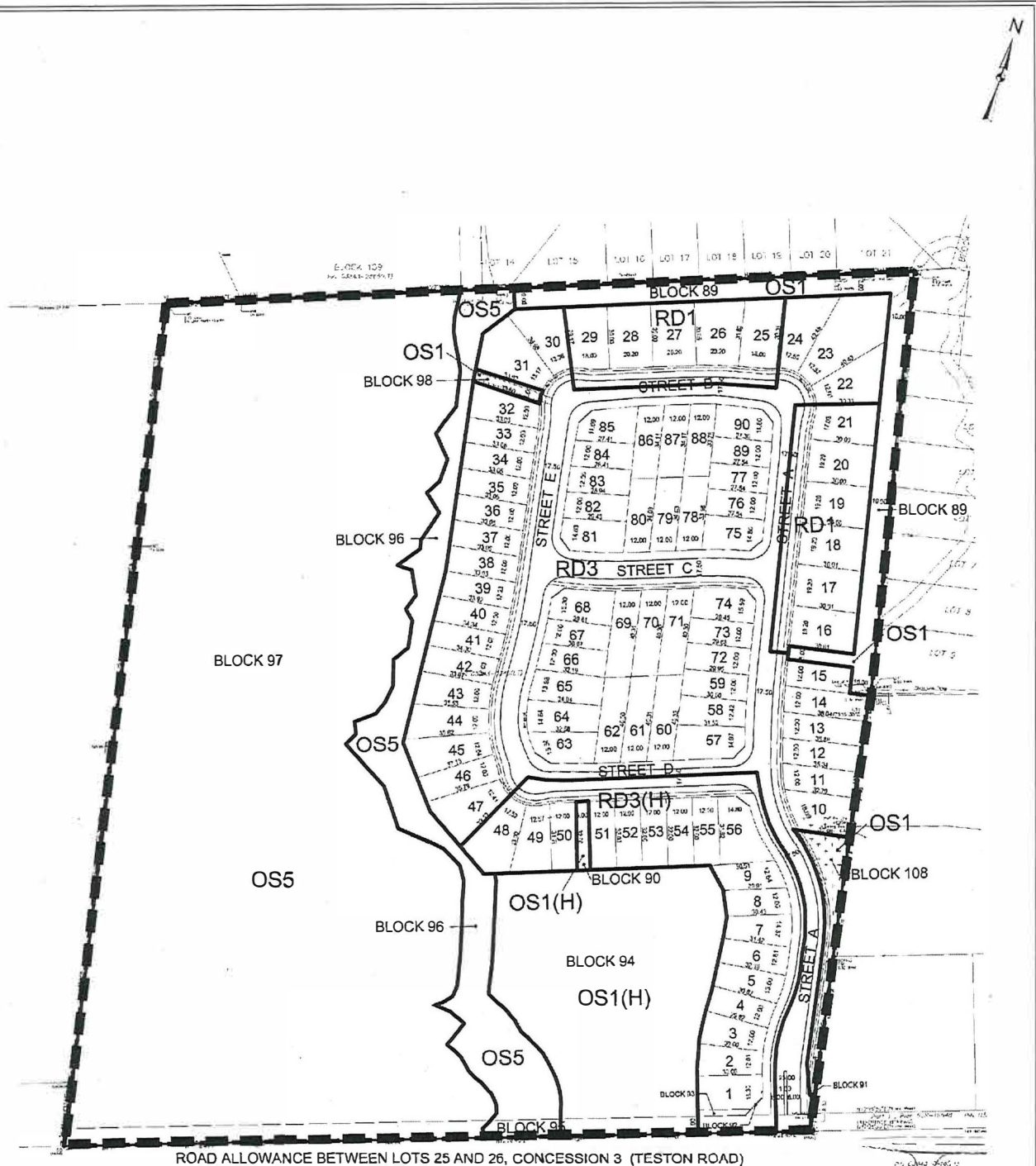
SUMMARY TO BY-LAW 081-2020

The lands subject to this By-law are located on the north side of Teston Road, west of Dufferin Street, in Part of Lot 26, Concession 2, City of Vaughan.

The purpose of this By-law is to rezone the subject lands from A Agricultural Zone and OS5 Open Space Environmental Protection Zone to RD1 Residential Detached Zone One, RD3 Residential Detached Zone Three, RD3 (H) Residential Detached Zone Three with the Holding Symbol "(H)", OS1 Open Space Conservation Zone, OS1 (H) Open Space Conservation Zone with the Holding Symbol "(H)", and OS5 Open Space Environmental Protection Zone.

The Holding Symbol "(H)" shall not be removed from Lots 1 to 9 and 48 to 56 and Blocks 90 and 94 until such time as the conditions prescribed by this By-law are satisfied.

This By-law also permits a maximum of 90 lots for detached dwellings and establishes a minimum lot frontage for lots 16 to 21 and lots 25 to 29 to facilitate Draft Plan of Subdivision File 19T-17V009, consisting of a maximum of 90 lots for detached dwelling units, a storm water management pond, two pedestrian connections, a core features block, a vegetation protection zone block, an open space block, public roads, reserves and a road widening.



THIS IS SCHEDULE 'E-1596'
TO BY-LAW 1-88
SECTION 9(1466)

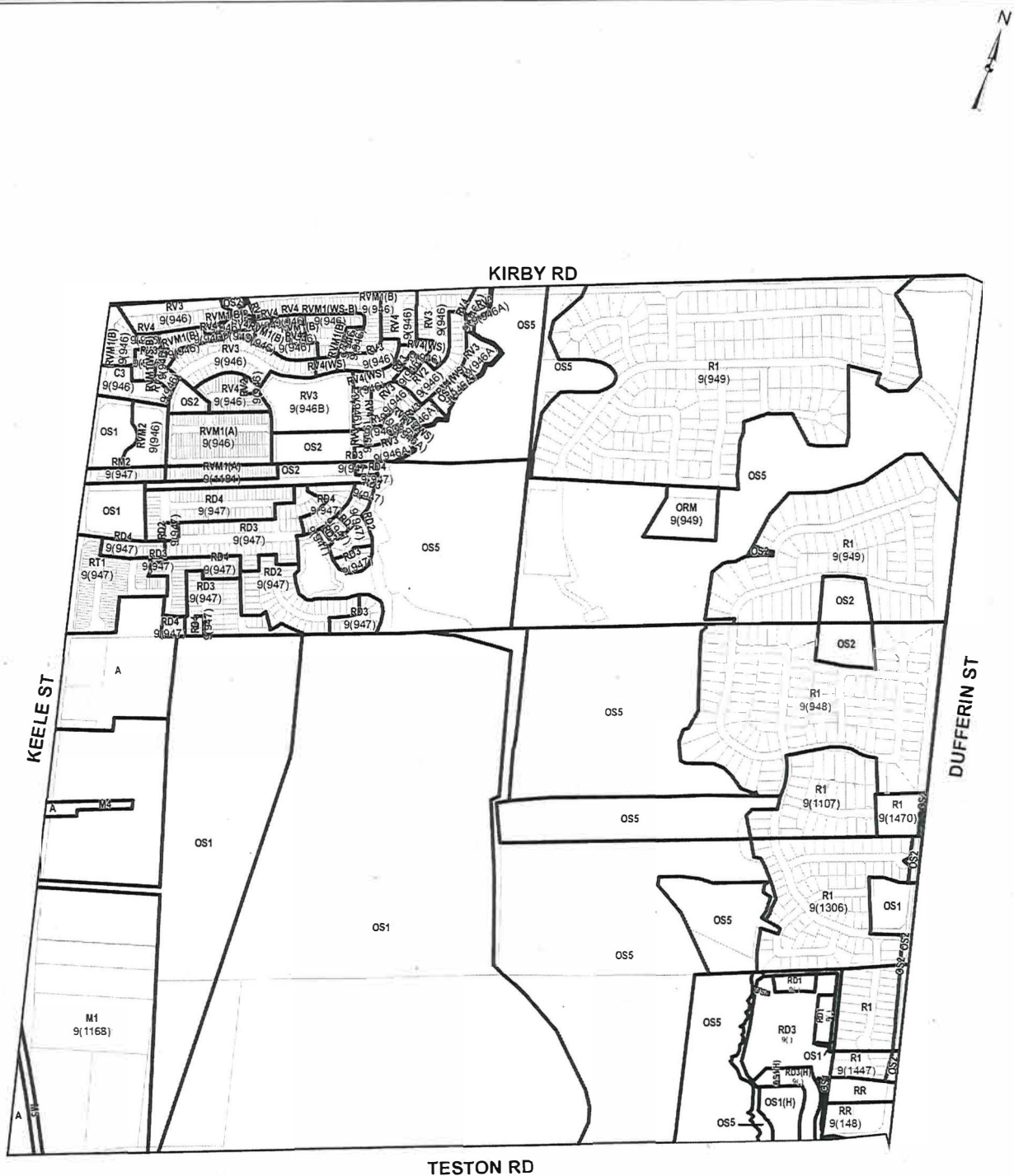
 Subject Lands
0 25 50 100 Metres

THIS IS SCHEDULE '1'
TO BY-LAW 081-2020
PASSED THE 29th DAY OF JUNE, 2020

FILE: Z.17.026
RELATED FILES: OP.17.010, 19T-17V009
LOCATION: PART OF LOT 26, CONCESSION 3
APPLICANT: TESTON SANDS INC.
CITY OF VAUGHAN

SIGNING OFFICERS

TRIBUNAL ORDER: PL180665
JANUARY 3, 2020
CLERK



KEY MAP 3F
BY-LAW NO. 1-88

0 125 250 500 Metres

THIS IS SCHEDULE '2'
TO BY-LAW 081-2020
PASSED THE 29th DAY OF JUNE, 2020

FILE: Z.17.026
RELATED FILES: OP.17.010, 19T-17V009
LOCATION: PART OF LOT 26, CONCESSION 3
APPLICANT: TESTON SANDS INC.
CITY OF VAUGHAN

SIGNING OFFICERS

**TRIBUNAL ORDER: PL180665
JANUARY 3, 2020**

CLERK