



**WESTON
CONSULTING**

planning + urban design

COMMUNICATION – C62

ITEM 1

**Committee of the Whole (Public Meeting)
October 29, 2020**

Office of the City Clerk
City of Vaughan
2141 Major Mackenzie Drive
Vaughan, Ontario L6A 1T1

October 28, 2020

File 5415

Attn: City Clerk

**RE: City-Wide Comprehensive Zoning By-law Review
Committee of the Whole (Public Meeting) – Item 1
11650 & 11700 Keele Street**

Weston Consulting is the planning consultant for the owners of the lands located at 11650 and 11700 Keele Street in the City of Vaughan (herein referred to as the 'subject lands'). We have reviewed the third draft of the City-wide Comprehensive Zoning By-law (the "CZBL") and provide the following comments on behalf of the owners.

The in-force and effect City of Vaughan Zoning By-law 1-88, zones the subject lands as "A" Agricultural Zone. In 2011, a Zoning By-law Amendment application (Z.11.035) was submitted and later appealed to the Local Planning Appeal Tribunal (LPAT) on the basis of a non-decision by the City. A decision from the LPAT was issued on January 3, 2019 (PL180330) and the LPAT approved the site-specific Zoning By-law Amendment in principle. The issuance of the final order is being withheld until certain conditions have been satisfied. The Zoning By-law seeks to rezone the lands from "A" Agricultural Zone to "OS1" Open Space Conservation Zone and "A" Agricultural with site specific provisions allowing for agriculture-related uses. A copy of the Decision is attached for ease of reference.

The third draft of the CZBL zones the subject lands as "Agriculture" Zone. This proposed zoning by the CZBL does not recognize the LPAT site-specific zoning which has been approved in principle for the subject lands.

We have reviewed Section 1.6 – Transition of the CZBL and recognize that there are transition provisions under Section 1.6.3 which apply to in-process planning applications, that would be applicable to the subject lands given the current active status of Site Development Applications (DA.17.031 and DA.17.032), as well as the LPAT approval granted in principle for a Zoning By-law Amendment application. With respect to the LPAT approval in principle, Section 1.6.3.4 states that:

"The requirements of this By-law do not apply to a lot where the Ontario Municipal Board or Local Planning Appeal Tribunal has, on or after January 1, 2015 and on or before the

passing of this By-law, granted approval in principle for a zoning by-law amendment or minor variance to Zoning By-law 1-88, a provisional consent, or conditional or final Site Plan Approval, but has decided that the final Order shall come into force or be issued at a future fixed date or upon the performance of terms imposed by the Ontario Municipal Board or Local Planning Appeal Tribunal, as the case may be, and a building permit has not yet been issued, the lot has not yet been registered at the Land Registry Office, or the applicable easement or agreement has not yet been registered on title, as the case may be."

It is our understanding that upon approval of the CZBL, transition provision 1.6.3.4 will ensure that the site-specific Zoning By-law approval for the subject lands will be incorporated into the CZBL. We are in support of this transition provision as it provides a process by which decisions made by the LPAT on or after January 1, 2015 and on or before the passing of the CZBL, will be recognized and consolidated with the approved CZBL. However, section 1.6.4 as it relates to the lapse of transition provisions, has the effect of revoking the Board Order after 5 years which we have concerns with and object to.

The file for the subject lands Zoning By-law Amendment appeal is still open with the LPAT and the owners are in the process of addressing the conditions imposed by the LPAT decision. It is our expectation that once the LPAT issues its final order, the City will update the CZBL to recognize the site-specific Zoning By-law approved by the LPAT. We reserve the right to provide further comments as part of the ongoing CZBL review process as it relates to this matter.

We thank you for the opportunity to provide these comments and will continue to monitor the CZBL process on behalf of the owners. We request to be notified of any future reports and/or meetings regarding the CZBL and any decisions regarding this matter.

Please contact the undersigned at extension 245 should you have any questions regarding this submission.

Yours truly,

Weston Consulting

Per:



Sandra K. Patano, BES, MES, MCIP, RPP
Associate

- c. Nick Spensieri, Deputy City Manager, Infrastructure Development
- Brandon Correia, Manager of Special Projects
- H. Kreiner, Kreiner Real Estate
- B. Charters, Bren-Coll Holdings
- David Bronskill, Goodmans LLP
- John Zipay

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



ISSUE DATE: January 03, 2019

CASE NO(S): PL180330

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

Applicant and Appellant:	Joseph Kreiner and Bren-Coll 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:	"A" Agricultural Zone
Proposed Zoning:	"A" Agricultural Zone with Site Specific provisions
Purpose:	To permit a Motor Vehicle Sales Establishment Use, Open Storage and Display Area and Employee Parking
Property Address/Description	11650 and 11700 Keele Street
Municipality:	City of Vaughan
Municipality File No.:	Z.11.035
OMB Case No.:	PL180330
OMB File No.:	PL180330
OMB Case Name:	Joseph Kreiner and Bren-Coll Holdings Inc. v. Vaughan (City)

Heard: November 21, 2018 in Vaughan, Ontario

APPEARANCES:

Parties

Joseph Kreiner and Bren-Coll
Holdings Inc.

City of Vaughan

Counsel

David Bronskill

Effie Lidakis

**MEMORANDUM OF ORAL DECISION DELIVERED BY PAULA BOUTIS ON
NOVEMBER 21, 2018 AND ORDER OF THE TRIBUNAL**

[1] The within appeal relates to a zoning by-law amendment ("ZBLA") application for two properties at 11650 and 11700 Keele Street ("Subject Site"). The lands are zoned "A" Agricultural. The purpose of the application was to rezone the subject lands to permit the following agricultural related uses:

- a. a motor vehicle sales establishment use for heavy trucks and equipment related to agricultural activities;
- b. open storage and display areas for the sale and display of heavy equipment and trucks related to agricultural activities; and
- c. to allow employee parking for the existing retail nursery establishment abutting to the north (11800 Keele Street) on the Subject Site.

[2] The Tribunal filed as Exhibit 1 the Affidavit of Service for notice of the hearing.

[3] No one appeared seeking Party or Participant status.

[4] The matter proceeded by way of settlement hearing.

[5] The Applicant filed the ZBLA in October 2011, which application was deemed complete in October 2012.

[6] Processing of the application was delayed as a result of the Toronto and Region Conservation Authority ("TRCA") issuing a notice of violation on regulated lands located on 11650 Keele Street. The Applicant is now working to complete the necessary works, which are to be completed by March 20, 2020.

[7] Two Site Plan applications (one for each property) for the existing one-storey buildings together with an open storage and display area have since been filed and processed along with a resubmission of the ZBLA application.

[8] Ultimately, the appeal was filed on the basis of a non-decision by the City of Vaughan ("City").

[9] The Tribunal heard uncontested evidence from John Zipay, whom the Tribunal qualified to provide opinion evidence in the area of land use planning. It was Mr. Zipay's opinion that the proposal satisfied all the tests of the *Planning Act* ("Act") and was good planning.

[10] The application was assessed against City Official Plan Amendment 600 ("OPA 600") as the OPA in force at the time of the application.

[11] One of the conditions of the ZBLA requires that the "farm-related uses" identified in section 6.1.1b of OPA 600 will be defined as "the processing of locally grown agricultural products, the servicing of farms, and farm product outlet sales, but shall not include a farmer's market, a retail nursery or a landscaping business." The Subject Site is located within a Special Policy Area, which recognizes that these lands are within an area which is "physically separated from the larger, predominantly agricultural area to the west of the rail line." Mr. Zipay testified the viability of field crop farming on the Subject Site is reduced and is of low capability for agriculture.

[12] Amongst others, one of the outstanding conditions of approval in respect of the ZBLA relates to "identifying the limit of the Natural Heritage System and associated 30 m Vegetation Protection Zone ("VPZ") from the most conservative natural feature limit, as required by the Greenbelt Plan, to the satisfaction of the City and the TRCA", along with the conveyance of lands to be zoned "OS1 Open Space Conservation Zone" to public ownership. This relates to a provincially significant wetland.

[13] Mr. Zipay testified that the proposal was consistent with the Provincial Policy Statement, 2014 ("PPS"). Of particular interest are natural heritage policies and the protection of agricultural land for the long-term, which includes agriculture-related uses. The existing uses around the site include a gas bar, eating establishment, retail nursery, agricultural lands and a motor vehicle establishment for farm equipment. It was Mr.

Zipay's opinion that the proposed support agricultural operations found to the west and east and will not hinder land uses in proximity to the Subject Site.

[14] Mr. Zipay opined similarly for the Growth Plan for the Greater Golden Horseshoe, 2017 ("2017 Growth Plan") and the Greenbelt Plan, i.e. that the proposal conforms to the 2017 Growth Plan and the Greenbelt Plan. Both plans address the protection of agriculture and agriculture-related uses appropriately within their context and the protection of natural features.

[15] Mr. Zipay opined that the proposal conforms to the York Region Official Plan, which also speaks to agricultural uses and agriculture-related uses. He opined that it meets the intent of providing farm-related industrial and commercial uses to serve the surrounding agricultural lands located outside of the Greenbelt.

[16] The Tribunal adopts the opinions of Mr. Zipay and concludes that the proposal is consistent with the PPS, conforms to the 2017 Growth Plan, the Greenbelt Plan, the Regional Municipality of York Official Plan, and OPA 600. The Tribunal is satisfied that the proposal has sufficient regard to s. 2 of the Act.

ORDER

[17] The Tribunal allows the appeal. It withholds its final order all in accordance with Attachment 1, and conditions included therein at Appendix A.

[18] The Tribunal may be spoken to in the event issues arise during the course of satisfying conditions in Appendix A.

"Paula Boutis"

PAULA BOUTIS
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 Environment and Land Tribunals Ontario

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

ATTACHMENT 1

CASE NO(S).: PL180330

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

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OMB Case No.:	PL180330
OMB File No.:	PL180330
OMB Case Name:	Joseph Kreiner & Bren-Coll Holdings Inc. v. Vaughan (City)

BEFORE:

BOUTIS, P.)	THE 21 ST DAY OF
MEMBER)	November, 2018

WHEREAS an application for a zoning by-law amendment was filed with the City of Vaughan (the “City”) on October 12, 2011, on behalf of Joseph Kreiner and Bren-Coll Holdings Inc. (the “Applicant”), to permit, *inter alia*, certain agriculture related uses on the properties known municipally as 11650 Keele Street and 11700 Keele Street in the City of Vaughan (the “Application”).

AND WHEREAS the Applicant filed an appeal of the Application, as revised, to the Local Planning Appeal Tribunal (the “Tribunal”) by letter dated March 29, 2018 (the “Appeal”);

AND WHEREAS City staff prepared a Staff Report (the “Staff Report”) that recommended that the City support the Application at the Tribunal, subject to certain conditions to be satisfied prior to issuance of any final order by the Tribunal;

AND WHEREAS City Council, at its meeting on September 27, 2018, accepted the recommendation of City staff in the Staff Report;

AND WHEREAS these matters having come on for a public hearing before the Tribunal on November 21, 2018, at which the Tribunal heard uncontradicted and independent land use planning opinion evidence called on behalf of the Applicant in support of approval of the Application, subject to the conditions to be satisfied prior to issuance of any final order by the Tribunal, which evidence included opinions that approval of the Application would: (1) be consistent with the Provincial Policy Statement (2014); (2) be in conformity with the Growth Plan for the Greater Golden Horseshoe (2017); (3) be in conformity with the Greenbelt Plan; (4) be in conformity with the Official Plan for the Regional Municipality of York; (5) be in conformity with the Official Plan for the City of Vaughan in force at the time of the Application (OPA 600); (6) represent good planning; and, (7) be in the public interest.

AND WHEREAS the Tribunal, having heard and accepted the above-noted opinion evidence, determined that the Appeal should be allowed and that the proposed zoning by-law amendment should be approved, but the final order be withheld pending completion of certain matters;

THE TRIBUNAL ORDERS that:

1. the Appeal in respect of the above-noted matter is allowed;
2. the Application is approved, in principle, for an amendment to City of Vaughan Zoning By-law No. 1-88 to rezone the lands from “A” Agricultural Zone to “OS1” Open Space Conservation Zone and “A” Agricultural Zone with the following site-specific provisions, in accordance with Exhibit 3A, Tab 18, p. 124:
 - a. A Motor Vehicle Sales Establishment for farm/heavy equipment and trucks, and the open storage and display and service of such equipment, all related to agricultural activities;
 - b. Businesses that provide products or services, or both, directly to farm operations as a primary activity, and shall be limited to the processing of locally grown agricultural products, the servicing of farms, and farm product sales outlets, but shall not include a farmer’s market, a retail nursery or a landscaping business; and
 - c. Parking for the employees for the adjacent property to the north (11800 Keele Street) to be located on the subject lands.

but the final order is withheld pending being advised in writing by the City solicitor that the conditions in Appendix A have been satisfied which may result in changes to the approval in principle; and,

3. the Tribunal may be spoken to in the event issues arise during the course of satisfying the conditions in Appendix A.

APPENDIX A
CONDITIONS TO ISSUANCE OF FINAL ORDER

1. The zoning by-law amendment is in a final form, to the satisfaction of the City.
2. The Owner shall identify the limit of the Natural Heritage System and associated 30 m Vegetation Protection Zone (“VPZ”) from the most conservative natural feature limit, as required by the Greenbelt Plan, to the satisfaction of the City and the Toronto and Region Conservation Authority.
3. The outside storage and display of vehicles shall only be permitted in the areas identified on Exhibit 3A, Tab 18, p. 125 and 126, subject to being outside the above-identified Natural Heritage System and associated 30 m VPZ, and shall be appropriately screened by an enclosed stone, masonry wall or chain link fence no less than 2 m in height with appropriating landscaping, to the satisfaction of the City.
4. The Owner shall submit a Noise Report, Phase 1 Environmental Site Assessment, Letter of Reliance and Traffic Impact Study, to the satisfaction of the City.
5. The Owner shall submit a functional servicing report (“FSR”) to address the City’s recommendations to service the lands with municipal water and sanitary services. Should the FSR conclude that the lands can be serviced with local well and septic systems, the Owner shall also submit a Hydrogeological Report to determine water quantity and quality, to the satisfaction of the City.
6. The Owner shall pave all driveway, parking, display and open storage areas with hot-mix asphalt in accordance with Zoning By-law 1-88 and the City’s Engineering Design Standards Criteria.
7. The Owner shall submit a Geotechnical Report (including soil testing of the existing subgrade) recommending a pavement design in accordance with the Transportation Association of Canada publication, “A Guide to the Structure Design of Flexible and Rigid Pavements in Canada”, including consideration of the effect of proposed underground services and non-ideal conditions, to the satisfaction of the City.