WESTON
CONSULTING
planning + urban design

COMMUNICATION – C79
ITEM 1
Committee of the Whole (Public Meeting)
October 29, 2020

City of Vaughan
Planning and Growth Management
2141 Major Mackenzie Drive
Vaughan, Ontario L6A 1T1

October 28th, 2020
File 5264-1

Attn: Chair and Members of the Committee of the Whole

RE: City-Wide Comprehensive Zoning By-law, The Corporation of the City of Vaughan
Item 3: Agenda for Committee of the Whole of the City of Vaughan, October 29th 2020
5859 Rutherford Road, City of Vaughan
Tien De Religion Canada

Weston Consulting is the planning consultant for Tien De Religion, the owner of the property municipally known as 5859 Rutherford Road, (herein called the "subject property") in the City of Vaughan. The subject property is located on the south side of Rutherford Road, east of Highway 27 and is an irregular shape. The subject property also maintains direct access and frontage on Rutherford Road and currently contains residential uses consisting of a one storey building with a two storey addition, several wooden decks, a swimming pool, retaining wall and accessory structures and a farming operation with a storage barn. These uses have been continuous. Through discussions with the property owner, it is our understanding that uses relating to agricultural operations have also continuously existed on the site for many years.

The subject property is located in a valley branch of the Humber River and is bounded by dwelling units to the north and east and open space to the south and west. Lands further west of the property are developed with a large residential subdivision.

The property is subject to an appeal of the City of Vaughan Official Plan to the Ontario Municipal Board file PL 111184. The appeal is with regard to the Vaughan Official Plan 2010 which has policies that prohibit most forms of land use development at the subject site. The policies contained prohibit site alteration or expansion in order to protect and enhance the function of the natural areas and countryside of the Municipality. As such, an appeal was filed in December of 2012 and is still outstanding and pending resolution.

A previous submission, a copy of which is attached, was provided to the City on February 4th, 2020. No formal response has been provided regarding the issues outlined in the letter, and subsequent drafts of the By-law have not reflected our concerns.



Figure 1- Air Photo of Subject Property

Purpose

This submission is made on behalf of the owners as it relates to the subject property and the proposed regulatory and schedule changes proposed through the third draft of the City-wide comprehensive review of its Zoning By-law being considered.

It remains our opinion that that the proposed zoning category should be revised to reflect the existing uses on the property, which are residential and agricultural in nature. It is our opinion that the subject property should be zoned *First Density Residential Zone (R1)* or a similar residential zone. The purpose of this zoning is to recognize the existing uses, which is a single-family dwelling. It is also our understanding that historic uses of the property were also for agricultural purposes.

Additionally, the current By-law allows for an existing Legal Non-Conforming building to be *"enlarged or extended provided the building or structure is used for the purpose permitted by this By-law in the zone in which it is located and further provided that such extension or enlargement complies with all such zone requirements"*. Section 1.10.2 of the proposed By-law states that a Legal Non-Conforming building may only be *"enlarged, expanded or otherwise altered, provided that a) the use is permitted by this By-law; b) the enlargement, expansion or alteration does not cause further contravention of any aspect o this By-law that is not complied with and c) the enlargement, expansion or alteration does not cause non-compliance with any other provision of this By-law.*

It is our opinion that the policies regarding Legal Non-Conforming uses in the proposed Zoning By-law be revised in order to maintain the policies in the existing Zoning By-law regulations in this regard.

Current Planning Permissions

The property is currently zoned *Open Space Conservation Zone (OS1)* in the City of Vaughan Zoning by-law 1-88. Permitted uses in this zone include recreational uses such as driving range, golf course; institutional uses such as cemetery, mausoleum, crematorium and conservation uses such as conservation projects or forestry projects.

City of Vaughan Comprehensive Zoning By-law Review

Within the proposed third draft mapping of the City of Vaughan comprehensive review, the subject property is proposed to be zoned *Environmental Protection Zone (EP)*. It is our opinion that that the proposed zoning category should be revised to reflect the existing use, which is residential in nature. It is our opinion that the subject property should be zoned *First Density Residential Zone (R1)* or similar residential zone. The purpose of this zoning is to recognize the existing uses, which is a single-family dwelling.



Figure 2- Proposed Comprehensive Zoning Review Mapping

In conclusion, we wish to make this submission on behalf of the owners as it relates to the subject property and the proposed policy and schedule changes proposed through the third draft of the City-wide comprehensive review of its Zoning By-law being considered. It is our opinion that that

the proposed zoning category is not consistent with the existing uses and we request the proposed zone be modified. We reserve the right to provide further comments in relation to further revised by-law. Please provide written notice of any Zoning By-law passed pursuant to this process to the undersigned.

If you have any questions or require further information in the meantime, please contact the undersigned below or Liam O'Toole at ext. 316.

Yours truly,
Weston Consulting
Per:

Ryan Guetter, BES, MCIP, RPP
Senior Vice President

c: Tien De Religion
Alan Heisey, Papazian, Heisey, Myers
Peter Chee

Attachments
1. Submission dated February 4th 2020

WESTON
CONSULTING

planning + urban design

City of Vaughan
Planning and Growth Management
2141 Major Mackenzie Drive
Vaughan, Ontario L6A 1T1

February 4, 2020
File 5264-1

Attn: Brandon Correia, Manager, Special Projects

Dear Sir,

RE: City of Vaughan Comprehensive Zoning By-law
5859 Rutherford Road, City of Vaughan
Tien De Religion Canada

Weston Consulting is the planning consultant for Tien De Religion, the owner of the property municipally known as 5859 Rutherford Road, (herein called the "subject property") in the City of Vaughan. The subject property is located on the south side of Rutherford Road, east of Highway 27 and is an irregular shape. The subject property maintains direct access and frontage on Rutherford Road and currently contains a residential dwelling with several wood decks, a swimming pool, retaining walls and accessory structures built in the 1960s pursuant to 5147 and 62-315, respectively. This use has been continuous.

The subject property is abutting on a branch of the Humber River and is bounded by dwelling units to the north and east and open space to the south and west. Lands further west of the property are developed with a large residential subdivision.

The Lands currently are zoned OSI and A, under the current zoning bylaw 1-88. The A (Agricultural), permits Agricultural Uses, Single Family Dwelling, Church, Community Centre and School, in addition other uses,

The property is subject to an appeal of the City of Vaughan Official Plan to the Ontario Municipal Board file PL 111184. The appeal is with regard to the Vaughan Official Plan 2010 which has policies that prohibit most forms of land use development at the subject site. The policies contained prohibit site alteration or expansion in order to protect and enhance the function of the natural areas and countryside of the Municipality. As such, an appeal was filed in December of 2012 and is still outstanding.



Figure 1- Air Photo of Subject Property

Purpose

We wish to make this submission on behalf of the owners as it relates to the subject property and the proposed policy and schedule changes proposed through the first draft of the City-wide comprehensive review of its Zoning By-law being considered. It is our opinion that that the proposed zoning category should be revised to reflect the existing uses which is residential in nature. It is our opinion that the subject property should be zoned *First Residential Zone (R1)* or a similar residential zone. The purpose of this zoning is to recognize the existing uses, which is a single family dwelling.

Current Planning Permissions

The subject lands are designated *Natural Areas* and *Countryside* in the City of Vaughan Official Plan (2010) and is also identified within the City of Vaughan Official Plan as Natural Areas. This designation prohibits development other than natural area management; flood or erosion control projects; transportation, infrastructure and utilities and low-intensity recreational activities.

The property is currently zoned *Open Space Conservation Zone (OS1)* in the City of Vaughan Zoning by-law 1-88. Permitted uses in this zone include recreational uses such as driving range, golf course; institutional uses such as cemetery, mausoleum, crematorium and conservation uses such as conservation projects or forestry projects. Residential uses are not permitted.

City of Vaughan Comprehensive Zoning By-law Review

The City of Vaughan is undertaking a City-wide comprehensive review of its Zoning By-law that aims to create a progressive By-law with updated, contemporary uses and standards. The new Zoning By-law will implement the Official Plan and accurately reflect the intent of policy direction under one consolidated, streamlined Zoning By-law.

Within the proposed first draft mapping of the comprehensive review, the subject property is zoned *Conservation Zone (C)* which only permits conservation uses and passive recreational uses. It is our opinion that that the proposed zoning category should be revised to reflect the existing uses which is residential in nature. It is our opinion that the subject property should be zoned *First Residential Zone (R1)* or similar residential zone. The purpose of this zoning is to recognize the existing uses, which is a single family dwelling.



Figure 2- Proposed Comprehensive Zoning Review Mapping

Furthermore, Weston Consulting is working with the Toronto and Region Conservation Authority (TRCA) to recognize said uses. Weston Consulting has coordinated and attended several meetings with the TRCA and City Staff from 2015 to present, with the most recent being August 7, 2019. Below is a chronology of Weston's involvement with the TRCA.

Previous Discussions with the TRCA

- June 12, 2015 – Initial meeting;
- March 30, 2016 – Meeting to discuss the scope of required technical review;
- August 31, 2016 – Technical studies submitted to TRCA for review;
- June 5, 2017 – Meeting to discuss TRCA comment letter regarding August 31, 2016 submission;
- July 11, 2017 – Subsequent submission to the TRCA with respect to the June 5, 2017 meeting;
- November 23, 2017 – TRCA comments provided regarding July 11, 2017 submission;
- August 3, 2018 – Subsequent submission to TRCA to support recognition of existing structures;
- September 18, 2018 – TRCA permit submitted for remedial works;
- November 2018 – TRCA permit issued for restoration works;
- March 1, 2019 – Meeting with TRCA regarding position on existing structures;
- August 1, 2019 – Response letter issued to TRCA including an update to geotechnical Analysis;
- October 2, 2019- Site Visit with TRCA.

The purpose of these meetings was to discuss legalizing the existing structures provided that the majority of the existing residential building is beyond the TRCA floodplain limit. To support this case, Weston Consulting has made several submissions to the TRCA, which included supporting technical studies to confirm and recognize the location of the TRCA floodplain limit and the geotechnical analysis of the slopes in and around the dwelling.

The meeting of August 7, 2019 included staff and legal counsel for the City of Vaughan, TRCA, legal counsel and Tien de Religion involved the to discuss comments from May 31, 2019, response letter and next steps to address re-sloping/retaining wall and building within floodplain. The TRCA acknowledged that some of the structures are legal non conforming except for the two-storey addition and use of the portion of the building within floodplain as a residential habitation.

Planning Opinion

It is our opinion that the subject property's proposed zone should be altered to reflect the existing use.

In addition, the lands should not be zoned *Conservation Zone* and should be zoned within a residential zone category. The uses permitted in said *Conservation Zone* does not reflect the existing use and intent of the subject property, which is an existing single family home, located beyond the TRCA floodplain limit. Also, through the VOP 2010 appeal, Weston Consulting is working with City of Vaughan policy staff regarding amended policy to recognize the residential uses by amending the designation to an appropriate residential designation.

In conclusion, we wish to make this submission on behalf of the owners as it relates to the subject property and the proposed policy and schedule changes proposed through the first draft of the

City-wide comprehensive review of its Zoning By-law being considered. It is our opinion that that the proposed zoning category is not consistent with the existing uses and proposed amending Official Plan designation for the property.

If you have any questions or require further information in the meantime, please contact the undersigned below or Julia Pierdon at ext. 307.

Yours truly,
Weston Consulting
Per:

Julia Pierdon, BURPI, MCIP, RPP
Senior Planner

c: Tien De Religion
Ryan Guetter, Weston Consulting
Alan Heisey, Papazian, Heisey, Myers
Peter Chee
Coreena Smith, TRCA
David Marcucci, City of Vaughan
Bruce Engell, Weirfolds
Jonathan Wigley, Gardiner Roberts LLP