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October 28, 2020

VIA EMAIL

Mayor Maurizio Bevilacqua and Members of City Council
City of Vaughan
2141 Major Mackenzie Drive
Vaughan, ON L6A 1T1

Attention: Brandon Correia
Manager, Special Projects

Your Worship and Members of Council:

RE: City of Vaughan New Comprehensive Zoning By-law
5317 Highway 7
Proposed Zoning and Recent VOP 2010 Approval (PL111184)

We are the lawyers for Liberata D'Aversa (the "**Owner**"), the owner of the lands municipally known as 5317 Highway 7 in the City of Vaughan (the "**Site**").

The Site was the subject of a recent settlement between the City of Vaughan (the "**City**") and Owner of an appeal of the 2010 Vaughan Official Plan ("**VOP 2010**"). A copy of the November 26, 2019 Order of the Local Planning Appeal Tribunal is enclosed with this correspondence.

In our submission, in addition to recognizing existing permissions for the Property, the City's New Comprehensive Zoning By-law (the "**New Vaughan ZBL**") should conform to the recently-approved Official Plan policy for the Site and recognize the increased height and density approved by the LPAT as part of a settlement agreed to with the City.

In this context, we are providing our comments on the third draft of the New Vaughan ZBL.

Background

The Site is located on the south side of Highway 7, west of Kipling Avenue and currently contains a commercial building, residential apartments, and surface parking. The Site is within an intensification corridor along Highway 7 as recognized by the Regional Official Plan and by the VOP 2010.

The Owner appealed the proposed designation of the Site in VOP 2010 as "Low-Rise Mixed-Use" with a maximum height of 4 storeys and a maximum 1.5 Floor Space Index ("**Appeal No. 148**").

COMMUNICATION – C7
Council – November 17, 2020
Committee of the Whole (Public Meeting)
Report No. 50, Item 1

The Owner and the City reached a settlement of Appeal No. 148 whereby the permitted height was increased to 5 storeys, with the potential for a limited use sixth storey, and an increase to 1.95 FSI. The City's planner, Mr. David Marcucci provided evidence to the LPAT in support of the settlement, testifying that the modifications allow for intensification within the built boundary along the Highway 7 corridor with convenient access to transit, and facilitate the efficient use of land, infrastructure, and community services. The approved policies applicable to the Site also ensure that appropriate consideration is given to surrounding uses in the design of any redevelopment. The approved land use designation under VOP 2010 permits a mix of uses, including residential.

Current Zoning

The Site is currently zoned C1 Restricted Commercial Zone, with site-specific permissions for commercial uses and 4 second-floor residential apartment units, as set out in Section 9(884) of By-law 1-88.

The in-effect zoning does not give effect to the more intense height and density recognized in the 2019 LPAT settlement, and now included as part of the City's Official Plan.

The New Vaughan ZBL (3rd Draft)

We have reviewed the third draft of the New Vaughan ZBL released in October 2020. As currently drafted, the New Vaughan ZBL now proposes to zone the Site as GMU (General Mixed Use), with site-specific Exception No. 573.

While the GMU zone provides for a mix of commercial, office, and institutional uses, residential uses are not permitted. However, Exception No. 573 generally imports the provisions of previous Section 9(884) and permits, in addition to commercial uses, a maximum of 4 residential, second-floor apartments.

The current draft of the New Vaughan ZBL does not recognize the LPAT-approved Official Plan designation of Low-Rise Mixed-Use (which includes commercial permissions as well as permissions for an entirely residential building), the permitted height of 5 storeys (with additional uses permitted on a sixth floor), or the 1.95 FSI, or the additional building elements and performance standards secured through the settlement of the Owner's appeal.

In our submission, the proposed GMU-573 zoning for the Site is not in conformity with the City's Official Plan or the recently concluded LPAT settlement. Revisions to the New Vaughan ZBL should be considered prior to adoption by City Council that would recognize, in addition to the ongoing commercial and residential uses permitted on the Property (as seems to be the intention of the current draft), also the intensification potential for these lands along an important transportation corridor, as has been done in the City's Official Plan.

In our view, it is not appropriate to only replicate or approximate the current C1 zoning (with site-specific exception) in considering a new zoning regime for the Site. Although it is appropriate to recognize existing permissions so as not to create an issue of legal non-conforming status, the City should also consider the more recent planning determinations that have been made for the

Property in the City's Official Plan. Under Sections 24(1) and 26(9) of the *Planning Act*, zoning by-laws are required to conform with the municipality's Official Plan and are required to be updated within a specified time in order to achieve such conformity.

We note that the City's website for the New Vaughan ZBL states the following (emphasis added):

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 City's Official Plan (VOP 2010) is in place to help shape the future of Vaughan and guide its continued transformation into a vibrant and sustainable city of the future. 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.

Thank you for providing the opportunity to comment on the draft New Vaughan ZBL. Would you kindly ensure that we receive a copy of any notices for public meetings, revised draft of the by-law, and any consideration or decisions made by City Council and committees of Council with respect to the New Vaughan ZBL.

Please provide notice to each of the following. Our mailing address is shown above. Our email addresses are as follows:

- Christopher Tanzola (ctanzola@overlandllp.ca)
- Greg Smith (gsmith@overlandllp.ca)

Yours truly,
Overland LLP



Per: Christopher J. Tanzola
Partner

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



ISSUE DATE: November 26, 2019

CASE NO(S): PL111184

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

Appellant:	1042710 Ontario Limited (aka Royal Centre)
Appellant:	1096818 Ontario Inc.
Appellant:	11333 Dufferin Street et al
Appellant:	1191621 Ontario Inc.; and others
Subject:	Failure to announce a decision respecting Proposed New Official Plan
Municipality:	City of Vaughan
OMB Case No.:	PL111184
OMB File No.:	PL111184
OMB Case Name:	Duca v. Vaughan (City)

Heard: November 20, 2019 by telephone conference call

APPEARANCES:

Parties

City of Vaughan ("City")

Liberata D'Aversa ("Appellant")

Counsel

C. Guerette

C. Tanzola

MEMORANDUM OF ORAL DECISION DELIVERED BY S. TOUSAW ON NOVEMBER 20, 2019 AND ORDER OF THE TRIBUNAL

PROCEEDINGS

- [1] This Decision approves a settlement reached by the Parties pertaining to a 0.22 hectare property in the southwest part of the City at 5317 Highway 7 ("property"). This settlement resolves Appeal 148 by Liberata D'Aversa to the City of Vaughan Official Plan, 2010 ("VOP").
- [2] In support of the settlement, David Marcucci, Registered Professional Planner and Senior Planner with the City, provided an affidavit testifying to the proposed modifications to the VOP to resolve the appeal. Mr. Marcucci has been qualified by the Tribunal previously in these proceedings to provide opinion evidence in the area of land use planning.
- [3] Mr. Marcucci explains that the property fronts on the south side of Highway 7, 200 metres to the west of Kipling Avenue. The property is located within the Low-Rise Mixed-Use designation in the VOP and within the intensification corridor of Highway 7 in the VOP and the Regional Municipality of York Official Plan ("ROP"). The property contains a commercial building and is proposed for redevelopment with a five to six storey mixed use or residential building. The surrounding land uses are stacked townhouses abutting to the east, detached dwellings abutting to the south and west, and commercial and office uses across Highway 7 to the north.
- [4] The proposed modifications to the VOP permit a height increase from four storeys to five storeys with the potential for a limited use sixth storey, and an increase from 1.5 Floor Space Index ("FSI") to 1.95 FSI. The policies permit commercial uses on the ground floor, require a 45 degree angular plane from the south lot line, ensure minimum shadow impacts on adjacent sensitive uses, require appropriate landscaping, and provide for an access easement in favour of the townhouses to the east if required.
- [5] Mr. Marcucci considers the proposed modifications to fit with the urban structure and policies of the VOP for the Low-Rise Mixed-Use designation and to conform with the ROP. The modifications allow for intensification within the built boundary along the

Highway 7 corridor with convenient access to transit, and facilitate the efficient use of land, infrastructure and community services. The policies ensure that appropriate consideration is given to surrounding uses in the design of any redevelopment.

[6] Based on the above, Mr. Marcucci opines that the modifications have regard for s. 2 of the *Planning Act*, conform with the A Place to Grow: The Growth Plan for the Greater Golden Horseshoe, 2019, are consistent with the Provincial Policy Statement, 2014, conform with the ROP and represent good planning.

[7] In response to the settlement of the Parties and having accepted the uncontradicted planning evidence of Mr. Marcucci, the Tribunal finds that the modifications satisfy all statutory tests as noted above and approves the modifications as set out below.

ORDER

[8] The Tribunal orders that, in accordance with the provisions of s. 17(50) of the *Planning Act*, in respect of the City of Vaughan Official Plan, 2010 ("VOP"), as adopted by the City on September 7, 2010 subject to Council modifications on September 27, 2011, March 20, 2012 and April 17, 2012, and as modified and endorsed by the Regional Municipality of York on June 28, 2012, the appeal of Liberata D'Aversa (Appeal 148) is allowed in part and the VOP, Volume 2, policy 12.10.1.5 and Map 12.10.A are modified in accordance with Attachment 1 to this Order, and the VOP as modified is approved in respect of the property at 5317 Highway 7.

"S. Tousaw"

S. TOUSAW
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

Proposed Amendments to Policy 12.10.1.5 Volume 2 VOP 2010

1. Renumber Policy 12.10.1.5 to 12.10.1.6
2. Add the following new policy 12.10.1.5

"12.10.1.5 For lands identified as Area C on Map 12.10.A, the following criteria apply:

- a. Residential units shall be permitted up to 5 storeys; in addition, the second floor of two-storey residential units and/or residential amenity space, and/or mechanical penthouse, or a combination of these elements shall be permitted above 5 storeys;
- b. Portions of new development exceeding a height of 12.8 m shall generally respect a 45-degree angular plane measured from the south property line;
- c. The maximum Floor Space Index (FSI) shall not exceed 1.95 FSI;
- d. The ground floor frontage may or may not contain commercial/office/retail uses;
- e. As a condition of Site Plan approval, an access easement over the subject lands to be granted in favour of the lands to the east for the purpose of providing mutual pedestrian and vehicular access to Hwy 7, if needed to the satisfaction of the City and Region;
- f. New development shall minimize shadow impacts on adjacent sensitive land uses demonstrated through the preparation of sun/shadow diagrams to the satisfaction of the City; and
- g. A landscape buffer area shall be provided abutting all lands designated Low-Rise Residential."

3. Amend Map 12.10.A as identified

Map T2.10.4: Kipling Avenue and Highway 7 Land Use

Amend to
H5 D1.95



Current Designation is H4 D1.5