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October 29, 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
89 & 99 Nashville Road and Part of 10515 Highway 27**

We are the lawyers for Highview Building Corp Inc. ("**Highview**"), the applicant with respect to applications for Official Plan Amendment, Zoning By-law Amendment, Draft Plan of Subdivision, and Site Plan Approval pertaining to the lands municipally known as 89 & 99 Nashville Road and part of 10515 Highway 27 (the "**Property**").

We are writing to provide comments on behalf of Highview regarding the third draft of the City of Vaughan Comprehensive Zoning By-law (the "**New Vaughan ZBL**").

Background – Proposed Development and Settlement at LPAT

The Property is located at the southeast corner of Nashville Road and Regional Road 27. The Property includes two addresses on Nashville Road, Nos. 89 and 99, as well as a portion of the property at 10515 Highway 27 that was severed off from a larger landholding pursuant to a consent approved by the Committee of Adjustment.

Highview proposes to develop the Property with 25 dwelling units (4 townhouse dwellings, 2 semi-detached dwellings, 19 detached (above-grade) dwellings), all connected by a below-grade parking structure, while the two heritage homes on the Property would be conserved (the "**Proposed Development**").

On September 9, 2016, the then-owner of the Property made applications to the City of Vaughan for an Official Plan Amendment (City File No. OP.16.009), Zoning By-law Amendment (City File No. Z.16.036), and Draft Plan of Subdivision (City File No. 19T-18V006) (the "**Applications**"). On May 18, 2017, on behalf of the owner, we appealed the Applications to the Ontario Municipal Board, now the Local Planning Appeal Tribunal ("**LPAT**"). The Local Planning Appeal Tribunal has designated these as Case No. PL170602 (the "**Appeals**").

**COMMUNICATION – C18
Council – November 17, 2020
Committee of the Whole (Public Meeting)
Report No. 50, Item 1**

Highview has since assumed responsibility for the Appeals and has subsequently made an application for Site Plan Approval (City File No. DA.18.028).

In addition to the LPAT adjudication process, the Proposed Development was the subject of a public review and thorough consultation process as follows:

- On June 25, 2018, Highview hosted a community open house to present the Proposed Development local residents, and respond to questions and comments;
- On September 17, 2018, the Vaughan Committee of the Whole received a report and public comments at the statutory public hearing for the Proposed Development;
- On May 15, 2019, Heritage Vaughan considered the proposed relocation and restoration of the heritage homes on the Subject Property, and recommended that council approve the Proposed Development; and
- On June 12, 2019 City Council adopted the Committee of the Whole recommendation that Council endorse the approval of the Proposed Development, and to settle the Appeals at the LPAT on that basis.

To that end, a settlement between the City and Highview was presented to the LPAT on October 10, 2019 in respect of the Proposed Development.

In its Order issued October 23, 2019, the LPAT approved the Development Proposal, including the Official Plan Amendment and the Zoning By-law Amendment, in principle, with its Final Order withheld pending the finalization of the functional servicing report, Site Plan Approval conditions, and the final form of the planning instruments.

The LPAT decision of October 23, 2019 is appended to this letter.

The New Vaughan ZBL (3rd Draft)

Transition

We have reviewed the third draft of the New Vaughan ZBL released in September 2020. We note that this version has introduced transition provisions which apply to circumstances where *Planning Act* applications are underway and are significantly advanced at the time of the passing of the New Vaughan ZBL, including instances where a Site Plan Approval application predates the New Vaughan ZBL, or where the LPAT has granted an approval of a Zoning By-law Amendment in principle, but has withheld its Final Order subject to conditions (Section 1.6.3 of the New Vaughan ZBL). We note that these transition provisions are intended to be time limited.

Proposed Zoning

The proposed zoning for the Property in the third draft of the New Vaughan ZBL is "KMS-S(2.5)-D(0.2-1.0), 525" for a portion of the lands fronting Nashville Road and "I1" for the portions of the lands that were formerly part of 10515 Hwy 27.

These permissions are not reflective of the rezoning approved by the LPAT and accepted in principle by City Council, subject to the finalization of the Site Plan. Notwithstanding the possibility that the Property and the Applications may be protected by the new transition provisions referred to above, we submit that the New Vaughan ZBL should reflect the permissions and form of development for the Property that have already been endorsed by City Council, and approved in principle by the LPAT.

It is not appropriate to apply the basic "KMS" and "I1" zones to the Property that do not incorporate the necessary permissions for the Proposed Development in these circumstances, particularly where the transition provisions are only intended to be time limited. The proposed zoning should reflect the LPAT approval; alternatively, the Property should be left out of the New Vaughan ZBL altogether.

Refinements to Draft By-law Mapping

In addition to incorporating the recently-LPAT-approved zoning standards for the Property, we submit that the mapping within the New Vaughan ZBL should recognize the updated ownership of the Property. The extent of land included in the Applications was based on an earlier staking exercise which was undertaken to determine the southern limit of future development. This boundary was the basis of the consent for severance which separated the Property from the Montessori School landholding to the south. Given the foregoing, the entirety of the Property should be subject to one single, consistent set of zoning regulations in the New Vaughan ZBL. This parcel is shown as "Schedule '1'" in the draft Zoning By-law Amendment presented in evidence to the LPAT, which has been attached to this letter for convenience.

Correcting errors in Draft By-law Mapping

The Property is found on Map 177 in Schedule A of the New Vaughan ZBL. The zone symbol applied to the Subject Property includes reference to Exception Number 525. The text of Exception Number 525 refers to Schedule E-915, which appears to have been carried forward from Vaughan Zoning By-law 1-88. However, the Property does not appear to be included within the lands shown on Schedule E-915, and the Parent Zone identified within the exception does not match the zone symbol shown on the Subject Property.

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

Encl.
c. Y. Pelech (BPA Inc.)
Client

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



ISSUE DATE: October 23, 2019

CASE NO(S).: PL170602

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 22(7) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended

Applicant and Appellant:	Highview Building Corp Inc.
Subject:	Request to amend the Official Plan - Failure of the City of Vaughan to adopt the requested amendment
Existing Designation:	"Low-Rise Mixed-Use" and "Mainstreet Commercial"
Proposed Designation:	"Mid-Rise Mixed-Use"
Purpose:	To permit the development of a 9 to 11 storey mixed-use residential building in an L-shaped configuration along Highway 27 consisting of 173 dwelling units and at-grade commercial uses, as well as a 2-storey standalone building along Nashville Road providing commercial and amenity uses
Property Address/Description:	88 & 99 Nashville Road and 10515 Highway 27/ Part of Lot 24, Concession 8
Municipality:	City of Vaughan
Approval Authority File No.:	OP.16.009
OMB Case No.:	PL170602
OMB File No.:	PL170602
OMB Case Name:	Highview Building Corp 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:	Highview Building Corp Inc.
Subject:	Application to amend Zoning By-law No. 1-88, as amended – Neglect of application by the City of Vaughan

Existing Zoning:	"Residential R1"
Proposed Zoning:	"Mainstreet Commercial C11", with site-specific exceptions to allow site-specific permissions for building height, density, building envelopes, building setbacks, parking requirements and other performance standards
Purpose:	To permit the development of a 9 to 11 storey mixed-use residential building in an L-shaped configuration along Highway 27 consisting of 173 dwelling units and at-grade commercial uses, as well as a 2-storey standalone building along Nashville Road providing commercial and amenity uses
Property Address/Description:	88 & 99 Nashville Road and 10515 Highway 27/ Part of Lot 24, Concession 8
Municipality:	City of Vaughan
Municipal File No.:	Z.16.036
OMB Case No.:	PL170602
OMB File No.:	PL170603

Heard: October 10, 2019 in Vaughan, Ontario

APPEARANCES:

Parties

Highview Building Corp. Inc.

City of Vaughan

2537299 Ontario Inc

Kleinberg Mews Inc.

Counsel/Representative*

Chris Tanzola

Caterina Facciolo

Nadia Zuccaro*

Nadia Zuccaro*

MEMORANDUM OF ORAL DECISION DELIVERED BY SHARYN VINCENT AND ORDER OF THE TRIBUNAL

INTRODUCTION

[1] Highview Building Corp. Inc., having taken over the appeals originally jointly filed with Domenic and Anna Marzano against Council's failure to make decisions with

respect to applications to amend the Official Plan and Zoning By-law for lands located at the south east corner of the intersection of Highway 27 and Nashville Road, known municipally as 89 and 99 Nashville Road, has brought a settlement for the consideration of the Tribunal.

[2] The original proposal for a nine storey, mixed use development has been significantly revised and has now been endorsed by all interested parties to this matter, including, the Toronto and Region Conservation Authority (TRCA), Heritage Vaughan and Kleinberg and Area Ratepayers Association (KARA). The drainage issues between Kleinberg Mews and 2537299 Ontario Inc. have been addressed privately through Minutes of Settlement.

[3] At its meeting on June 9, 2019, Council approved in principle a 27 unit residential development comprised of a mix of detached, semi-detached and townhouse units, including the retention of the two existing structures on the site, all sharing a common below grade parking garage with access from both Nashville Road and the driveway shared with the neighbouring Montessori school located immediately to the south.

[4] The ultimate design of the development is driven both by the topography of the site, which slopes approximately 9 metres from the north-east corner to the south-west corner, and the overarching planning principles that the built form on the site must address both the strategic gateway function and the cultural heritage objectives of the Kleinberg-Nashville Heritage Conservation District Plan (KNHCD), including the retention and restoration of the two existing structures on the site.

[5] The proposed re-designation from Mainstreet Commercial and Natural Area to Village Residential was commended through the uncontroverted evidence of Yuriy Pelech, who was qualified to give expert opinion evidence in areas of land use planning.

REVISED PROPOSAL

[6] The proposal incorporates 19 detached dwellings (above grade), 2 semi-

detached dwellings, 4 townhouse dwellings, and retains 2 heritage detached dwellings which are organized on the site to create an enhanced pedestrian environment along the perimeter, and to reinforce the cultural heritage of the Nashville frontage by being informed particularly by the architecture and materiality of the development located to the north.

[7] The proposed heights are marginally higher than those otherwise contemplated in the Official Plan at 9.8 metres and 10.65 metres, and are in part a function of the change in grade across the site, which although presenting a challenge along the Highway 27 frontage, has been resolved through the introduction of a stone mill wall to both accommodate and screen the underground parking, while at the same time acting as an acoustic buffer. The design innovation precludes the need for an acoustic noise fence along the mayor roadway while meeting design objectives for the public realm.

[8] The upper floors of the dwelling units are also stepped back to reduce the massing and to create private amenity areas.

ANALYSIS

[9] Having heard all of the evidence of Mr. Pelech, the Tribunal is persuaded that the proposal in an appropriate infill development on an underutilized site capable of accommodating the proposed mix and density of residential units within a settlement area.

[10] The revised proposal is consistent with and conforms to provincial policy promoting appropriate intensification, compact urban form, a broader range and mix of unit types, and is organized in such a way so as to meet cultural heritage objectives, create a sense of place both as a gateway, and internally on the site, and address an acoustical challenge to the betterment of the public realm.

[11] The merit in removing the commercial aspirations for the site from the proposal and designation given the topographical challenges, has been supported through

market analysis and the gateway objectives have otherwise been realized through the overall massing and architectural details proposed together with the retention and restoration of the 2 heritage structures.

[12] The Tribunal finds that the revised proposal is consistent with the policies of the Provincial Policy Statement and the conforms to the Growth Plan for the Greater Golden Horseshoe.

[13] The Tribunal also finds that the proposed Official Plan and Zoning By-law amendments conform to the various goals, objectives and policies of both the regional and local Official Plans.

[14] The Tribunal is satisfied that the proposal represents good planning within both the context of the geography and policy regimes.

ORDER

[15] The Tribunal allows the appeals in part to amend the Official Plan and Zoning By-law generally in accordance with the draft instruments proffered as Exhibits 4 and 5, and withholds its final order until advised by the Parties that the functional servicing report and site plan conditions have been finalized, and that final form amendments have been submitted to the Tribunal.

[16] The Parties are to advise the Tribunal no later than May 29, 2020 on the progress towards achieving the issuance of the final order.

"Sharyn Vincent"

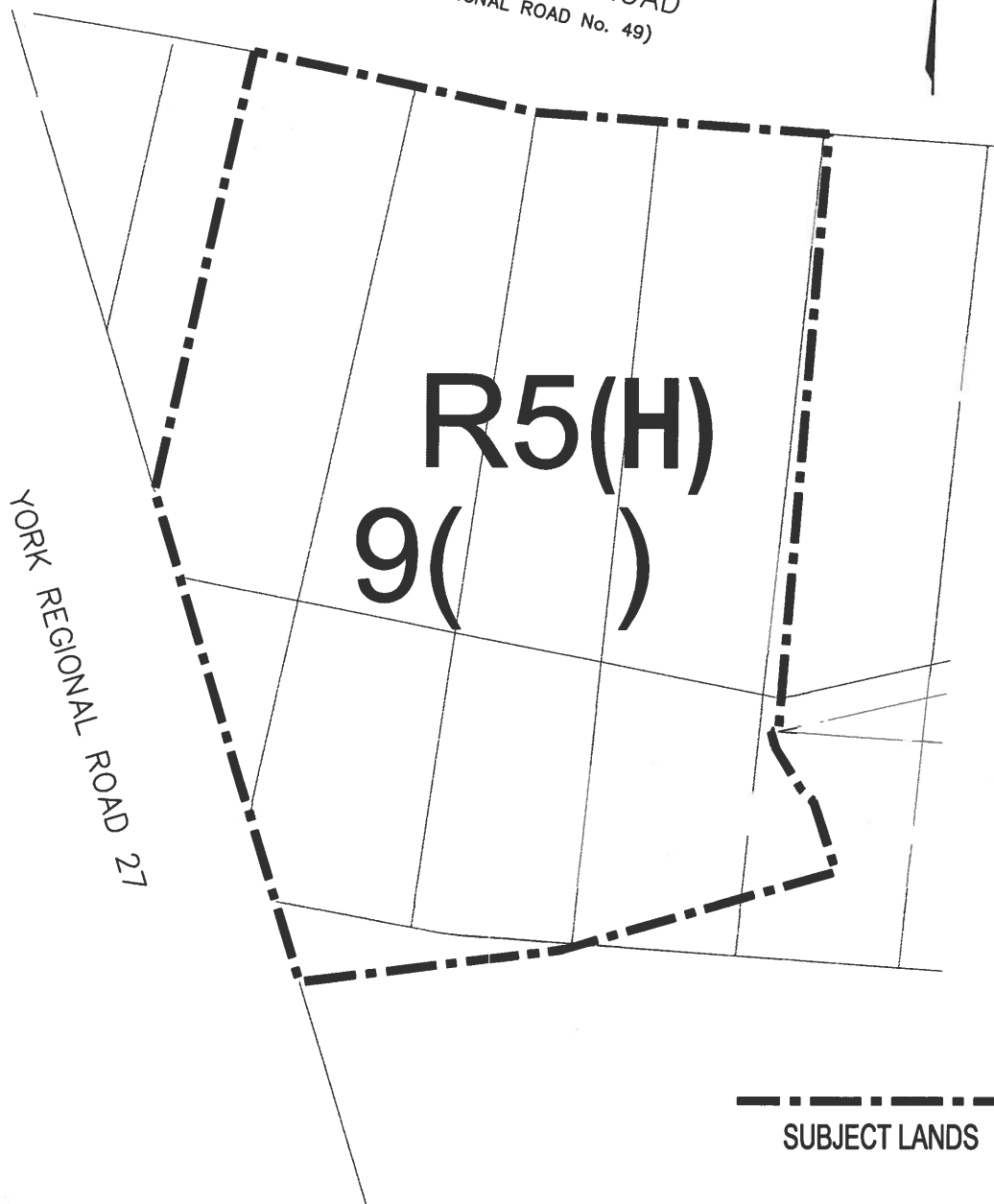
SHARYN VINCENT
MEMBER

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

NASHVILLE ROAD
(YORK REGIONAL ROAD No. 49)



Not to Scale

THIS IS SCHEDULE '1'
TO BY-LAW -2019
PASSED THE DAY OF , 2019

OPA FILE _____
LOCATION: Part of Lot 24, Concession 8
APPLICANT: Highview Building Corp./Stateview Homes
CITY OF VAUGHAN

SIGNING OFFICERS

MAYOR

CLERK