

**COMMUNICATION C1**  
**ITEM NO. 3**  
**COMMITTEE OF THE WHOLE (2)**  
**November 9, 2021**

**From:** Meaghan McDermid <[meaghanm@davieshowe.com](mailto:meaghanm@davieshowe.com)>  
**Sent:** Friday, November 05, 2021 2:28 PM  
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**Subject:** [External] COW Meeting Nov. 9, 2021 - Correspondence Re Item 6.3 Eastwood Holdings Corp Applications (702431)

Good afternoon,

Please find attached correspondence on behalf of our client Eastwood Holdings Corp. in respect of the above-referenced item.

Would you please ensure that our letter is provided to the Committee and added to the correspondence to be received at the Nov. 9<sup>th</sup> COW meeting in respect of this item.

Kindly confirm receipt.

Regards,

**Meaghan McDermid**

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November 5, 2021

**By E-Mail Only to *clerks@vaughan.ca***

Committee of the Whole  
Vaughan City Hall  
2141 Major Mackenzie Drive  
Vaughan, ON L6A 1T1

*Attention: Mr. Todd Coles, City Clerk*

Members of the Committee of the Whole:

**Re: Committee of the Whole Meeting – November 9, 2021 – Item 3  
Official Plan Amendment and Zoning By-law Amendment Applications  
Municipal File Nos. OP.20.017 and Z.20.044  
Eastwood Holdings Corp.  
9291 Jane Street, City of Vaughan**

We are counsel to Eastwood Holdings Corp. (“**Eastwood**”), the owner of the lands municipally known as 9291 Jane Street (the “**Subject Lands**”) and the applicant in respect of the above-referenced Official Plan Amendment and Zoning By-law Amendment Applications (the “**Applications**”).

We are writing to provide our client’s comments on the Planning Staff Report and its recommendations regarding the Applications.

Eastwood disagrees with the conclusions and recommendations set out in the Planning Staff Report. The Applications were supported by numerous reports and studies, including a Planning Justification Report and Noise and Vibration Assessments, among others, which address the issues raised in the Staff Report and demonstrate that the Applications meet all applicable Provincial, Regional and City policies and Guidelines and represent good planning.

In particular, we wish to address Planning Staff’s comments respecting the settlement of Solmar’s (a related corporate entity to Eastwood) Appeal #3 to the Vaughan Official Plan, 2010 (“**VOP 2010**”) in respect of the Subject Lands, as these comments misrepresent the nature of the settlement between the City and Solmar.

In September 2018, Solmar and the City reached a settlement of Solmar’s VOP 2010 Appeal in respect of the Subject Lands. The settlement included proposed modifications

to the VOP 2010 (the “**Modifications**”) in respect of the Subject Lands, for which Solmar sought approval through a Motion to the Local Planning Appeal Tribunal (now the Ontario Land Tribunal “**Tribunal**”) in November, 2018.

In accordance with the settlement between Solmar and the City, the City consented to the Motion and its request to approve the Modifications and advised the Tribunal of such in its Notice of Response to Motion dated November 23, 2018.

A copy of the Modifications which were the subject of the Motion, and to which the City previously agreed, are attached. The Modifications provide for the following:

1. Designation of the Subject Lands as “High Rise Residential” with a maximum height of 16 storeys and maximum FSI of 4;
2. The “High Rise Residential” designation would be implemented through a future Zoning By-law Amendment Application which would address or include:
  - a. The City’s Urban Design Guidelines;
  - b. Identification of the Subject Lands as a Class 4 Area to be considered by Council and implemented in the Zoning By-law Amendment if approved;
  - c. A Comprehensive Transportation Study addressing traffic capacity in the surrounding road network and phasing of development;
  - d. Consideration of the use of a Holding provision to ensure mitigation of noise and vibration impacts from the CN Pull-back Track and traffic capacity, among other things;
3. Potential for increases in height up to 35 storeys and density up to 5.7 FSI subject to the provision of a s.37 contribution;
4. Permissions for Hotel, Office and Long-Term Care Facility uses; and
5. Site specific policies applying to future Site Plan and Zoning By-law Amendment Applications requiring assessment and mitigation of potential impacts from noise, vibration and other emissions from the CN Pull-back Track.

The Planning Staff Report states that the “*City’s consent to the designation was premised on the requirement for additional supporting materials, filed through site specific development applications demonstrating the appropriateness, compatibility and feasibility of a development proposal on the Subject Lands.*” While it is true that the Modifications contemplated and required that matters such as the ultimate heights and densities and mitigation of impacts from CN would be determined and addressed through a future re-zoning application, the Modifications agreed to by the City clearly establish the principle

of residential development on the Subject Lands through the designation of High Rise Residential.

The conclusions and recommendations in the Planning Staff Report go well beyond concerns or issues with the particular development proposal set out in the Applications and instead focus primarily on concerns with the proposed High Rise Residential use on the Subject Lands. The position which Planning Staff are now recommending to the Committee is therefore contrary to the City's settlement with Solmar and its stated position on the Motion and the Modifications.

Eastwood is continuing to review City staff and agency comments on the Applications and remains open to working with the City and public authorities to revise the development proposal in order to address certain comments and the items identified in the Modifications.

However, the fundamental issue of the designation of the Subject Lands for High Rise Residential uses is something which was already agreed to by the City through the settlement with Solmar in 2018 and the agreed upon Modifications and should not be re-opened through the review of the Applications.

Accordingly, Eastwood requests that the Committee of the Whole reject the recommendations in the Planning Staff Report and instead uphold the City's previous settlement with Solmar, confirm its consent to the Modifications and direct City staff to work with Eastwood to address any outstanding comments relating to the form of the proposed development.

Yours truly,  
**DAVIES HOWE LLP**



Meaghan McDermid

copy: Client  
Bruce Engell, WeirFoulds LLP  
Gurnick Perhar, Legal Counsel, City of Vaughan

#### IV DETAILS OF THE MODIFICATIONS AND POLICIES RELATIVE THERETO

The Vaughan Official Plan 2010 (VOP 2010) is hereby modified by:

1. Modifying Volume 1, Schedule 13-Land Use as shown on the map attached hereto as Schedule “1” thereby designating the Subject Lands “High-Rise Residential” with a maximum building height of 16-storeys and maximum FSI of 4 times the lot area.
2. Modifying Volume 1, Schedule 14-C-Areas Subject to Site Specific Plans, by adding the Subject Lands as shown on Schedule “2” attached hereto as “#X-9291 Jane Street”.
3. Modifying Volume 2, Section 13.2-Areas Subject to Site Specific Policies, by adding the following policy to be renumbered in sequential order:

“(OPA #XX) 13.1.1.XX      The lands municipality know as 9291 Jane Street are identified on Schedule 14-C-Areas Subject to Site Specific Plans as Item #XX, and are subject to the policies set out in Section 13.XX of this Plan”.

4. Modifying Volume 2, Section 13-Site Specific Policies, by adding the location map attached on Schedule “X” and adding the following policies in sequential order:

“(OPA #XX)	13.XX	9291 Jane Street
	13.XX.1	General
	13.XX.1.1	The following policies shall apply to the lands identified on Map 13.XX.A.
	13.XX.1.2	The High-Rise Residential designation shall be implemented by the submission and approval of a Zoning By-law Amendment (Rezoning) application to rezone the Subject Lands for residential uses, which shall include the following:
	13.XX.1.2.3	The proposed development shall be reviewed in the context of the City-Wide Urban Design Guidelines.
	13.XX.1.2.4	Identification of the Subject Lands as a Class 4 Area pursuant to the Ontario Ministry of the Environment, Conservation and Parks (“MOECP”) <i>Environmental Noise Guideline, Stationary and Transportation Sources – Approval and Planning, Publication NPC-300</i> (“NPC-300”) shall be considered by City Council through the rezoning application process, and if approved, shall

be implemented through the zoning by-law amendment for the Subject Lands.

13.XX.1.2.5

A comprehensive Transportation Study shall be prepared to the satisfaction of the City and York Region demonstrating that adequate capacity is available in the surrounding road network to establish and accommodate development phasing of the proposed development of the Subject Lands. This Transportation Study shall include, but not be limited to, the following assessment and requirements:

(a) the Transportation Study shall account for future traffic generated by proposed or approved developments in the surrounding area, including the Vaughan Mills Centre Secondary Plan;

(b) the Transportation Study shall assess the impact of the proposed development on area intersections. The Transportation Study area will be determined by the City and York Region at the time of study preparation;

(c) the Transportation Study shall assess the potential for the future extension of the planned Caldari Road Extension north from Rutherford Road to provide access to the Subject Lands through the existing development to the south;

(d) the Transportation Study shall confirm which of the following potential improvements in the area are required to accommodate each phase of the proposed development:

- Completion of Bass Pro Mills Drive extension to Jane Street
- Completion of Caldari Road extension to Rutherford Road
- Completion of Romina Drive extension to Vaughan Mills Ring Road
- Viva Quick Start rapid bus service on Jane Street, from Rutherford Road to the planned Spadina Subway extension station at Highway 7
- Transit signal priority and queue jump lanes on Jane Street, Weston Road and Rutherford Road Enhancement
- Completion of Bass Pro Mills Drive extension to Weston Road
- Higher-order transit service on Jane Street, in the form of BRT or LRT, with its dedicated right-of-way connecting the Spadina Subway extension to Vaughan

Mills Centre and up to Canada's Wonderland and the future Mackenzie Vaughan Hospital on Major Mackenzie Drive

- Enhancing priority transit service on Rutherford Road and introduce Viva service
- Pedestrian and cyclist bridge crossing over Highway 400 midblock between Bass Pro Mills Drive and Rutherford Road to provide additional non-auto connection within the Secondary Plan.

(e) the Transportation Study shall assess the following transportation demand management measures and incentives:

- measures to achieve a desired 20% non-auto modal split in each phase.
- opportunities to introduce car-sharing
- parking standards to discourage single-occupancy vehicle use
- use of shared parking, and preferred parking for hybrid and electric vehicles
- programs and initiatives to reinforce the need to create change in modal split behavior, to promote greater use of transit, to attract more riders and to achieve the assumed modal split
- transportation demand management strategies to discourage heavy car uses and encourage less auto-dependent travel behaviours
- pedestrian and cycling route facilities and networks to promote active transportation
- opportunities to create a self-contained neighbourhood living/working and recreation within the area to help reduce traffic demands on the area's road network
- opportunities to promote sustainable transportation (transit, walking, cycling) and other transportation demand management programs and measures to encourage a greater shift in travel mode patterns to achieve the assumed modal split

(f) a separate Transportation Study shall be prepared for each phase of the proposed development with similar requirements noted above;

13.XX.1.2.6

Consideration for the use of a Holding provision, agreements or other conditions prior to implementation of the by-law, as may be necessary, to ensure that:

(a) any noise and vibration impacts from the CN Pull-back Track are satisfactorily mitigated;

(b) confirmation of adequate transportation capacity available in the surrounding road and transit network to accommodate the proposed development, which may include phasing of development and measures to achieve a desired 20% non-auto modal split in each phase;

(c) satisfactory arrangements are in place for the completion of any required road and transit network improvements; and

(d) any other issues or concerns raised through the rezoning application process are addressed.

13.XX.1.3 Subject to the requirements set out in section 13.xx.1.2 of this Plan, a zoning by-law amendment passed under Section 34 of the *Planning Act* may authorize increases in heights and densities above those permitted on Schedule 13 of this Plan, in accordance with subsections (a) and (b) below, subject to the policies of Section 10.1.2.9 (Bonusing for increases in Height and Density) as per Volume 1 of this Plan.

(a) Notwithstanding the heights permitted by Schedule 13 of this Plan, the maximum height can be increased to 35 storeys.

(b) Notwithstanding the maximum densities permitted by Schedule 13 of this Plan, the maximum density can be increased to 5.7 FSI.

13.XX.1.4 The following uses shall also be permitted on the Subject Lands:

- Hotel
- Office
- Long Term Care Facility

13.XX.1.5 Site Plan Control and Land Use Compatibility

The following policies shall be applicable to any application for Zoning By-law Amendment and/or Site Plan Approval:

a) In this section, the CN Pullback Track associated with the McMillan Rail Yard is referred to as the “CN Pullback Track”.

b) Residential development on the subject lands shall be designed to minimize adverse impacts from the adjacent “CN Pullback Track” and any required mitigation measures shall be addressed in the studies required in this section.



- c) When considering development approval applications on the subject lands, regard shall be had to all applicable Federal, Provincial and municipal policies, regulations and guidelines to ensure that compatibility will be achieved and maintained with regard to noise, vibration, dust, odour and air quality, so as to achieve the goals of:
  - i. Preventing undue adverse impacts from the existing and future operations of the “CN Pullback Track” onto the proposed residential uses to be located on the subject lands;
  - ii. Minimizing and, where possible, preventing complaints from residents of the residential development on the subject lands;
  - iii. Ensuring the continued operation of the “CN Pullback Track” on a 24 hour, 365 day/year basis; and
  - iv. Sensitive land uses may be limited in the implementing zoning (through massing, siting, buffering, and design mitigation measures) in proximity to the “CN Pullback Track” to ensure compatibility.
- d) The subject lands may be identified as a “Class 4 Area” pursuant to NPC-300, as amended from time to time, subject to compliance with the City’s requirements. If so, identified, the classification will be implemented through the Zoning By-law Amendment. The implementing Zoning By-law may include the following conditions for the removal of the holding symbol “H”:
  - i. Site plan approval;
  - ii. The submission of a Noise Impact Study satisfactory to the City which addresses any noise mitigation and control measures required in conjunction with the detailed building design;
  - iii. The provision and/or securing of any required noise mitigation and control measures at the Owner’s expense, as the City may require;
  - iv. The execution of a site plan agreement, or other such agreement, satisfactory to the City which obligates the Owner to register noise warning clauses on title to the subject lands and provide notice of the Class 4 Area

classification to prospective purchasers of residential units on the subject lands; and

- v. A resolution is passed by Vaughan Council classifying the site as a Class 4 Area.

#### 13.XX.1.6 Environmental Noise Impact Study

- a) A detailed environmental noise impact study and detailed design plans shall be required in support of a development application for sensitive land uses on the subject lands. Such report is to specify how compatibility will be achieved and maintained between the “CN Pullback Track” and any other relevant noise sources in the surrounding area and the proposed development and shall include measures aimed at eliminating or minimizing impacts.
- b) The environmental noise impact study and design of noise attenuation measures shall be based on the relevant noise criteria of the City of Vaughan, the Region of York and the MOECP and approved by the City in consultation with other public agencies, and the operator of the “CN Pullback Track”.
- c) The environmental noise impact study shall include:
  - i. The assessment of the subject lands in accordance with the applicable MOECP Guidelines;
  - ii. A determination of the planned and predictable worst case noise impact from all relevant noise sources, taking into account expansion or alteration plans identified by the stationary source(s) that can reasonably be expected to be implemented in the future;
  - iii. A determination of the impact from all noise sources at the “CN Pullback Track”;
  - iv. The identification of all receptor locations in the proposed development with the potential to experience adverse noise impacts;
  - v. A determination of the numerical noise excess at such receptors, if any;
  - vi. The preparation of specific recommendations for mitigation at receptor and/or at source to create an

appropriate sound environment for future occupants/users of the proposed development;

- vii. An assessment of applicable MOECP regulations and guidelines, and existing Certificates of Approval, or Environmental Compliance Approval, if publicly available, for those industries that are the source of the relevant noise emissions; and
  - viii. The environmental noise impact study shall be prepared by a qualified acoustical engineer and shall be consistent with professional standards and good practice for such studies.
- d) Where an environmental noise impact study completed to the satisfaction of the City identifies and recommends appropriate mitigation measures, the recommendations shall be implemented in the Zoning By-law or as conditions of Site Plan and/or Condominium Approval, where appropriate. Mitigation Measures may include:
- (i) Sound isolation or sound reduction measures, construction techniques, and materials including the acoustical performance of exterior walls, windows and doors;
  - (ii) Layout and design of the structure including the size and location of windows and doors, or outdoor living areas, and the location of non-noise sensitive space within the structure to further mitigate impacts;
  - (iii) Spatial separation from the noise source, including the insertion of permitted non-sensitive land uses between the source and the receptors; and/or
  - (iv) Where needed, the construction of the residential buildings may incorporate balconies that are enclosed to act as a barrier to the noise experienced at the interior living room and/or bedroom windows.
- e) The analysis and design of any mitigation measures and their architectural details shall take into account the full frequency spectrum characteristics of sound sources, in accordance with good engineering practice and the noise guidelines.

- f) Mitigation to be installed at the source will be at the cost of the proponent of the sensitive land use, subject to acceptance and agreement of the user.
- g) New technologies may offer opportunities for innovative noise and vibration abatement techniques not yet contemplated. The development and use of such techniques shall be considered and encouraged, where appropriate.

#### 13.XX.1.7 Environmental Vibration Report

- a) A detailed environmental vibration report and detailed design plans may be required in support of a development application for sensitive land uses on the subject lands. Such report is to specify how compatibility will be achieved and maintained between the "CN Pullback Track" and the proposed development on the subject lands and shall include measures aimed at eliminating or minimizing impacts.
- b) The environmental vibration report, if required, and design of any necessary vibration attenuation measures shall be based on the relevant criteria of the MOECP and approved by the City in consultation with other public agencies and the operators of the "CN Pullback Track".
- c) The environmental vibration report, if required, shall include a study of vibration from transportation sources, and stationary source(s) and include specific recommendations for mitigation features to be incorporated into the design of the development taking into account commonly used criteria in Ontario for assessing vibration in building(s).
- d) The environmental vibration report, if required, shall be prepared by a qualified engineer and shall be consistent with professional standards and good practice for such studies.

#### 13.XX.1.8 Environmental Emissions Report

- a) A detailed environmental emissions report and detailed design plans may be required in support of a development application for sensitive land uses on the subject lands. Such report is to specify how compatibility will be achieved and maintained between

the “CN Pullback Track” and the proposed development on the subject lands and shall include measures aimed at minimizing adverse impacts.

- b) The environmental emissions report and design of emissions attenuation measures, if required, shall be based on the relevant emissions criteria of the MOECP and approved by the City in consultation with other public agencies and the operators of the “CN Pullback Track”.
- c) The environmental emissions report, if required, shall include a study of emissions from transportation sources, and stationary source(s) and include specific recommendations for mitigation features to be incorporated into the design of the development taking into account commonly used criteria in Ontario for assessing emissions abatement.
- d) The environmental emissions report, if required, shall be prepared by a qualified engineer and shall be consistent with professional standards and good practice for such studies.

13.XX.1.9 Despite policies 13.XX.1.5 through 13.XX.1.8 above, the applications will be subject to any additional conditions required to address other issues and concerns identified through the approval process.