

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



ISSUE DATE: June 14, 2018

CASE NO(S): PL140839
PL070347
PL110419
PL111184
PL140154

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

Appellants (jointly): Casertano Developments Corporation and Sandra Mammone
Appellants (jointly): Limestone Gallery Investments Inc. and Damara Investment Corp.
Appellants (jointly): Granite Real Estate Investment Trust and Magna International Inc.
Appellants (jointly): H & L Title Inc. and Ledbury Investments Ltd.
Appellant: Canadian National Railway
Appellant: Rutherford Land Development Corporation
Appellant: 281187 Ontario Ltd.
Appellant: Anland Developments Inc.
Subject: Proposed Official Plan Amendment No. 2 to the Official Plan for the City of Vaughan (2010)
Municipality: City of Vaughan
OMB Case No.: PL140839
OMB File No.: PL140839
OMB Case Name: Mammone v. Vaughan (City)

PROCEEDING COMMENCED UNDER subsection 17(40) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant: Tesmar Holdings Inc.
Subject: Failure of Regional Municipality of York to announce a decision respecting Proposed Official Plan Amendment No. 653
Municipality: City of Vaughan

OMB Case No.: PL070347
 OMB File No.: O070048
 OMB Case Name: Tesmar Holdings 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: Tesmar 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: Service Commercial (C7) Zone
 Proposed Zoning: Specific Apartment Residential (RA3) Zone
 Purpose: To permit two twenty-eight (28) storey high-rise residential condominium buildings
 Property Address/Description: Part of Lot 15, Concession 4
 Municipality: City of Vaughan
 OMB Case No.: PL070347
 OMB File No.: PL120974

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

Applicant and Appellant: Casertano Development Corporation
 Subject: Request to amend the Official Plan - Failure of the City of Vaughan to adopt the requested amendment
 Existing Designation: "General Commercial"
 Proposed Designation: "High-Density Residential/Commercial"
 Purpose: To permit the development of six (6) residential apartment buildings ranging from 26 to 40 storeys containing approximately 2,050 residential units and two (2) freestanding 2-storey office/commercial buildings and ground floor retail commercial uses totaling 4,234 square metres (45,574 square feet) in gross floor area in Blocks "B" and "C"
 Property Address/Description: 9060 Jane Street
 Municipality: City of Vaughan
 Approval Authority File No.: OP.07001
 OMB Case No.: PL110419
 OMB File No.: PL110419
 OMB Case Name: Casertano Development Corporation 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: Casertano Development Corporation
 Subject: Application to amend Zoning By-law No. 1-88, as amended – Refusal or neglect of the City of Vaughan to make a decision
 Existing Zoning: “C1(H) Restricted Commercial Zone”
 Proposed Zoning: “RA3(H) Apartment Residential Zone”
 Purpose: To permit the development of six (6) residential apartment buildings ranging from 26 to 40 storeys containing approximately 2,050 residential units and two (2) freestanding 2-storey office/commercial buildings and ground floor retail commercial uses totaling 4,234 square metres (45,574 square feet) in gross floor area in Blocks “B” and “C”
 Property Address/Description: 9060 Jane Street
 Municipality: City of Vaughan
 Municipal File No.: Z.09.038
 OMB Case No.: PL110419
 OMB File No.: PL110420

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

Applicant and Appellant: Sandra Mammone
 Subject: Request to amend the Official Plan - Failure of the City of Vaughan to adopt the requested amendment
 Existing Designation: “General Commercial”
 Proposed Designation: “High-Density Residential/Commercial”
 Purpose: To permit the development of six (6) residential apartment buildings ranging from 25 to 35 storeys containing approximately 1,600 residential units and two (2) freestanding 2-storey office/commercial buildings (Blocks “D” and “E”) and ground floor office/commercial uses in Blocks “A”, “B” and “C”
 Property Address/Description: 8940 Jane Street
 Municipality: City of Vaughan
 Approval Authority File No.: OP.09.006
 OMB Case No.: PL110419
 OMB File No.: PL110455

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

Applicant and Appellant: Sandra Mammone
 Subject: Application to amend Zoning By-law No. 1-88, as amended – Refusal or neglect of the City of Vaughan to make a decision
 Existing Zoning: “EM1(H) Prestige Employment Area Zone” and “EM2 General Employment Area Zone”
 Proposed Zoning: “RA3(H) Apartment Residential Zone”
 Purpose: To permit the development of six (6) residential apartment buildings ranging from 25 to 35 storeys containing approximately 1,600 residential units and two (2) freestanding 2-storey office/commercial buildings (Blocks “D” and “E”) and ground floor office/commercial uses in Blocks “A”, “B” and “C”
 Property Address/Description: 8940 Jane Street
 Municipality: City of Vaughan
 Municipal File No.: Z.09.037
 OMB Case No.: PL110419
 OMB File No.: PL110456

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 St et al
 Appellant: 1191621 Ontario Inc.; and others
 Subject: Failure to announce a decision respecting Proposed Official Plan Amendment No. New Official Plan
 Municipality: City of Vaughan
 OMB Case No.: PL111184
 OMB File No.: PL111184
 OMB Case Name: Duca v. Vaughan (City)

PLEASE NOTE:

- **Only the appeals filed specifically by Tesmar Holdings Inc. (Appeal No. 4), Sandra Mammone and Casertano Development Corporation (both Appeal No. 45) and Granite Real Estate Inc. and Magna International Inc. (both Appeal No. 110) are consolidated with Vaughan Official Plan Amendment No. 2 – being the Vaughan Mills Centre Secondary Plan – under OMB Case No. PL140839;**
- **Only the appeals filed by Rutherford Land Development Corp. (Appeal No. 34), 281187 Ontario Inc. (#64), H & L Title Inc. and Ledbury**

Investments Ltd. (both Appeal No. 75), and Anland Developments Inc. (Appeal No. 83), save and except Policy 7.3.3 (Parkland Dedication), are consolidated with Vaughan Official Plan Amendment No. 2 – being the Vaughan Mills Centre Secondary Plan – under OMB Case No. PL140839

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

Applicant and Appellant: Rutherford Land Development Corp.
 Subject: Request to amend the Official Plan - Failure of the City of Vaughan to adopt the requested amendment
 Existing Designation: "Prestige Area" under Official Plan Amendment No. 450 (Employment Area Plan)
 Proposed Designation: "High Density Residential/Commercial" under Official Plan Amendment No. 600
 Purpose: To permit a mixed-use development consisting of approximately 303,000 square metres (3,261,464 square feet) in size containing 3,700 residential units in a built form containing 13 towers above a podium base with heights up to 38 storeys, as well as 10,300 square metres (110,868 square feet) of retail/institutional/community space and 4,500 square metres (48,437 square feet) of office space
 Property Address/Description: 2901 Rutherford Road (south-east corner of Jane Street and Rutherford Road)
 Municipality: City of Vaughan
 Approval Authority File No.: OP.06.028
 OMB Case No.: PL140154
 OMB File No.: PL140154
 OMB Case Name: Rutherford Land Development Corp. 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: Rutherford Land Development Corp.
 Subject: Application to amend Zoning By-law 1-88, as amended – refusal or neglect of the City of Vaughan to make a decision
 Existing Zoning: EM1 Prestige Employment Zone
 Proposed Zoning: "RA3(H)" Apartment Residential (Holding) Zone and "OS2" Open Space Park Zone
 Purpose: To permit a mixed-use development consisting of approximately 303,000 square metres (3,261,464 square feet) in size containing 3,700 residential units in a built form containing 13 towers above a podium base

with heights up to 38 storeys, as well as 10,300 square metres (110,868 square feet) of retail/institutional/community space and 4,500 square metres (48,437 square feet) of office space

Property
Address/Description: 2901 Rutherford Road (south-east corner of Jane Street and Rutherford Road)
Municipality: City of Vaughan
Municipal File No.: Z.06.075
OMB Case No.: PL140154
OMB File No.: PL140155

Heard: January 25 and 26, 2018 in Vaughan, Ontario

APPEARANCES:

Parties

Counsel*/Representative

City of Vaughan

R. Coburn* and C. Storto*

Dulcina Investments Inc.
(formerly Casertano
Development Corporation)
and Sandra Mammone

M. Flynn-Guglietti* and A. Forristal*

Tesmar Holdings Inc.

M. McDermid*

Rutherford Land
Development Corporation

Q. Annabale* and B. Ruddick*

Granite Real Estate
Investment Trust and Magna
International Inc.

A. Skinner*

Anland Developments Inc.

C. Barnett*

281187 Ontario Limited

G. Borean*

Regional Municipality of York

B. Ogunmefun*

Canadian National Railway

A. Heisey*

H & L Tile and Ledbury
Investments Ltd.

M. Flowers*

Ivanhoe Cambridge II Inc.

J. Alati*

York Region District School

J. Easto*

Board

Toronto and Region
Conservation Authority

C. Bonner

**MEMORANDUM OF ORAL DECISION DELIVERED BY C. CONTI ON
JANUARY 25, 2018 AND ORDER OF THE TRIBUNAL**

INTRODUCTION

[1] This is the memorandum of a decision resulting from a pre-hearing conference (“PHC”) before the Ontario Municipal Board (“Board”), now the Local Planning Appeal Tribunal (“Tribunal”), regarding multiple appeals filed with regard to the City of Vaughan (“City”) Official Plan and the Vaughan Mills Secondary Plan (“Secondary Plan”) and also with regard to applications for a number of site specific planning approvals.

[2] The Secondary Plan sets out proposed land use designations and policies for an area generally bounded by Rutherford Road to the north and Bass Pro Mills Drive to the south, generally extending to Jane Street to the east and Weston Road to the west. An area to the east of Jane Street and south of Rutherford Road is also included in the Secondary Plan area. Through discussion among the parties and as a result of Board conducted mediation a number of the appeals were settled and motions were brought forward at this PHC for approvals related to the settlements. The parties filed Minutes of Settlement among the City, Tesmar Holdings Inc., Rutherford Land Development Corporation (“Rutherford”), Caldari Land Development Corp., Magna International Inc., Granite Real Estate Investment Trust and Granite Reit Inc. and 805062 Ontario Limited (Exhibit 23).

[3] This memorandum deals with the appeal and motion brought forward by Rutherford. Separate memoranda will be provided by the Tribunal with regard to the other motions and the oral decisions issued at the PHC.

MOTION

[4] Rutherford filed a Motion Record (Exhibit 30) which included the affidavit of

Michael Bissett, a Registered Professional Planner, who is a Partner at Bousfields Inc. Minutes of Settlement between Rutherford and the City were also filed (Exhibit 32).

[5] The Motion requested certain modifications to the Official Plan and Secondary Plan for the Rutherford Lands in order to resolve the Rutherford appeals related to those instruments. The Motion also requested that another PHC be scheduled to potentially approve a settlement of the site-specific planning applications for the Rutherford lands or to consider scheduling a hearing for those applications if a settlement was not achieved.

[6] In addition to Mr. Bissett's affidavit, the Board also heard brief oral evidence from him in support of the Motion. The Board qualified Mr. Bissett as an expert in land use planning.

[7] According to Mr. Bissett's evidence, the Rutherford lands are located to the east of Jane Street and south of Rutherford Road. The lands were purchased by Rutherford from Delisle Properties Limited ("Delisle") which had filed applications for an Official Plan Amendment and Zoning By-law Amendment to facilitate a mixed use development of the lands. Delisle also filed an appeal against a non-decision by the Region of York to approve the Vaughan Official Plan. Rutherford assumed the Delisle appeals and also appealed the Region of York's approval of the Secondary Plan.

[8] The Board heard that through the settlement Rutherford and the City agreed to a number of modifications to the Secondary Plan and the Vaughan Official Plan. The modifications to the Secondary Plan are set out in Exhibit 30, Tab 2D and E and in Exhibit 31. Schedule I of the Secondary Plan will be modified to subdivide Block b4 into blocks 4(a) and b4(b). The modifications also result in the replacement of the first bullet in policy 7.4.1, Part C, Block 4 with wording provided in Attachment B of the Draft Order submitted by the parties regarding the northerly extension of Caldari Road. The wording of this provision in Exhibit 30 has been modified by the wording in Exhibit 31 to include reference to a signalized intersection. In addition a new s. 18.5, "Special Provisions Covering the Development of Block b4" will be added to the Secondary Plan which identifies the maximum number of units in Block b4(a) and other requirements related to

the development of Block b4.

[9] The proposed modifications to the City's Official Plan include designating the Rutherford lands as Primary Centre on Schedule 1, including the lands in the "Lands Subject to Secondary Plans" in Schedule 13, and identifying the Rutherford lands as being subject to the Secondary Plan on Schedule 14 A. These modifications are set out in Exhibit 30, Tab 2F, 2G and 2H and in Exhibit 31.

[10] It was Mr. Bissett's opinion that the proposed modifications conform to the Region of York Official Plan, particularly with regard to policy 5.3.3. He indicated that the changes were consistent with the City's intensification strategy and provide for an approach to manage residential growth. Mr. Bissett's evidence was that the changes conform to the City's Official Plan. The changes will provide for growth within a Primary Centre and will assist in clarifying the extent and timing of residential development for the subject lands. Mr. Bissett also indicated that the proposed modifications are consistent with the Provincial Policy Statement ("PPS"), they conform to the Growth Plan for the Greater Golden Horseshoe ("Growth Plan"), they are in the public interest and they represent good planning.

[11] A Notice of Response to the motion was filed by Canadian National Railway ("CNR") (Exhibit 26) and a Responding Motion Record was filed by Granite Real Estate Investment Trust and Magna International Inc. ("Magna and Granite") (Exhibit 28). The responses did not oppose the proposed modifications to the City's Official Plan and the Secondary Plan as set out in the Motion Record. However, the response by CNR indicated that it did not oppose approval of the modifications provided that it is without prejudice to the remainder of the policies identified in CNR's letter appealing the Secondary Plan (Exhibit 26, Schedule A) and CNR's proposed policies (Exhibit 26, Schedule B). A CNR facility, the MacMillan Rail Yard is located in the area and the proposed policies are intended to ensure that studies are undertaken with regard to potential noise and other impacts when development applications come forward and that required mitigation measures are implemented.

[12] Magna and Granite own lands and operate facilities in the vicinity of the

Rutherford lands. The response to the motion indicates that Magna and Granite do not oppose proposed modifications to the City's Official Plan and the Secondary Plan for the Rutherford lands. However, Magna and Granite may continue to have issues with regard to site-specific applications for the Rutherford lands and will continue involvement in the appeals related to the site-specific planning instruments.

[13] No other party opposed the motion or expressed concern about the draft order that had been submitted.

[14] Quinto Annabale requested that the Board issue an oral decision approving the modifications to the City Official Plan and the Secondary Plan as set out in the draft order (Exhibit 31) and that the decision should be contingent on the matters included in paragraph 5 of the draft order. He also requested that a PHC be scheduled at which the Board could consider a settlement, if it is achieved, regarding Rutherford's site-specific applications, and if there is no settlement matters related to scheduling the hearing for the applications would be considered.

FINDINGS

[15] After considering the evidence and submissions, the Board noted that the evidence in support of the settlement was uncontested. The Board agreed with the expert planning opinion provided by Mr. Bissett and issued an oral decision allowing the motion and approving the proposed amendments to the Vaughan Official Plan and the Secondary Plan as set out in the draft order and subject to the conditions contained therein. The final order will be withheld until the requirements identified in paragraph 5 of the draft order have been satisfied. The Tribunal adopts the Draft Order which is attached to this decision as Attachment 1.

[16] Furthermore, in order to consider matters related to Rutherford's site-specific planning applications the Board scheduled a PHC for: Thursday, **June 21, 2018 at 10 a.m. at:**

**Committee Room 242
Municipal Building
2141 Major Mackenzie Drive
Vaughan, ON**

ORDER

[17] The Tribunal allows the motion and the appeal by Rutherford Land Development Corporation is allowed in part. The City of Vaughan Official Plan and the Vaughan Mills Secondary Plan are amended as set out and subject to the provisions and conditions in Attachment 1. The Tribunal's final order approving the amendments to the Official Plan and Secondary Plan will be issued pending confirmation that the conditions included in Attachment 1 have been satisfied.

[18] The Member is seized of matters related to the Rutherford appeal and will continue case management of the other appeals as may be required.

[19] No further notice is required.

"C. Conti"

C. CONTI
VICE-CHAIR

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
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