

**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**

**Counsel**

City of Vaughan (“City”)

C. Guerette

Liberata D’Aversa (“Appellant”)

C. Tanzola

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

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## 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](http://www.elto.gov.on.ca) to view the attachment in PDF format.

### **Local Planning Appeal Tribunal**

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**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 12.10.A: Kipling Avenue and Highway 7 Land Use

Amend to  
H5 D1.95



Current Designation is H4 D1.5