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May 11, 2012

City of Vaughan
2141 Major Mackenzie Drive
Vaughan, Ontario L6A 1T1

Attention: Mr. Mark Antoine
Development Planning Department

HAND DELIVERED

Dear Sir;

RE: Committee of Adjustment File A129/12

In reviewing the comments dated May 7, 2012, with respect to Application A129/12 it appears that the policies of OPA 601/610 were misinterpreted and the wrong land use designation was referenced. Specifically, the comment that the subject lands are within the "Valley and Stream Corridor" designation is incorrect as these lands are not within the "Valley and Stream Corridor" designation. It is therefore requested that a revised memo be issued to clarify the correct designation of the lands and the items that should be considered by the Committee.

Furthermore, a detailed justification in not provided for the determination that the requested variance of approximately 1300 metres is not minor in nature. As such, a justification of the Development Planning Department's position is also requested. In response to the Development Planning Department's assertion that the variance is not minor, this letter expands on the information presented our submission to Mr. Todd Coles, Secretary Treasurer of the Committee of Adjustment dated April 9, 2012.

Interpretation of OPA 601/610

In the memo dated May 7, 2012 it is stated that the lands are designated "Valley Area" and the policies related to this designation are used to determine that "the proposal does not meet the intent of the Official Plan. We believe this interpretation of OPA 601/610 is incorrect.

In reviewing Section 10.10.1.3(iii) of OPA 601 the limits of the "Valley and Stream Corridor" designation "will be legally defined at the zoning and/or subdivision stage". By-law 1-88 provides for zones to protect lands associated with Valleys and Stream corridors in the form of zones OS1 through OS5. As the lands are zoned "A" Agricultural, it is clear that the lands are not within the "Valley and Stream Corridor" designation as they are not zoned to promote environmental protection and enhancement. As such the policy quoted in your memo that

prohibits the placement of buildings and structures (4.10.10.1.3) does not apply to the portion of the lands where the temporary sales office is proposed to be located.

Further, Section 10.10.1.1 15) of OPA 610 provides guidance with respect to the use of lands on the east side of Highway 27 in Valley Policy Area 4. Specifically, Policy b) 1) permits residential development. As a temporary sales office is typically associated with residential development, nothing in OPA601/610 should preclude the use of the lands for a temporary sales office for a residential development within the boundary of OPA 601.

It is also important to recognize that the governing OPAs are to guide the long term and ultimate planned use of lands. As the proposed use is for a temporary sales office, and the Zoning By-law requires an agreement be entered into between the City and the end user and this agreement will address items such as location, servicing and duration, nothing should prevent the Committee from approving the temporary use, regardless of the land use designation as the agreement will govern the ultimate use of the property.

Finally, while it is recognized that the policies contained within Vaughan OP 2010 must be considered when making planning decisions, it is not the operative document at this time and should not be used to prevent the use of lands on a temporary basis for a use that would otherwise be permitted today.

Distance from OPA 699

With respect to the comment that the 1300 metre separation distance is not minor in nature, no justification is provided so it is difficult to understand how or why this comment was made. This letter provides justification as to why in this instance 1300 metres should be considered minor. In determining minor one must consider if the use of the land is desirable and that the general intent and purpose of the Zoning By-law and Official Plan are maintained. In rendering this decision, one must consider OPA 601 and all of its associated amendments, including OPA 610 and OPA 699. OPA 699 designates lands within Block 61 West for the creation of a complete community, including residential uses that will be sold from a temporary sales office. As discussed above, the lands are not within an area zoned for environmental protection therefore the prohibition on the placement of structures does not apply. As such the proposed use of the lands does comply with the intent of OPA 601, OPA 610 and OPA 699 and should be permitted.

The following provides an overview of why the selected site is the most appropriate location for a temporary sales centre. While no sections of OPA 601/610 are referenced, the underlying planning principles of minimizing nuisance and choosing locations that are serviced by an appropriate road network were clearly considered and justify that the requested variance for a temporary sales office located 1300 from the site should be considered minor in nature.

In selecting this location for a temporary sales office:

1. A review of multiple locations within Block 61 West occurred and were determined to not be feasible;
2. other reasonable sites in the vicinity were examined and precluded due to ownership and adjacent land uses;

3. road conditions and traffic levels on Major Mackenzie Drive were assessed and determined to be inadequate for the use;
4. locations in Nashville were assessed and determined to be inadequate due to lot size and potential for negative impact on the existing community;
5. Regional approval for the upgraded access is pending; and
6. it is recognized that approvals from the TRCA are required for the proposed temporary sales office and these approvals will be obtained.

Locations within Block 61 were determined to not be feasible due to:

1. Cut and Fill plans for the overall project limiting locations within the Block;
2. Location and extents of Major Mackenzie Drive Special Study Area preventing the use of lands within the Block;
3. Environmental constraints, primarily in the form of TRCA Regulated Areas.

For these reasons, it was necessary to look for sites outside of the Block for the temporary sales office. The first sites examined were adjacent to Block 61 West.

Lands to the south of the site are precluded from use as they are owned by CP Rail, and share the same constraints as the lands within Block 61 West in terms of road condition and levels of traffic. Similarly lands on the west side of Huntington Road are not suitable due to the condition of Huntington Road, ongoing installation of Regional services in the area and pending controls that will be put in place as part of the Hwy 427 Corridor process.

As noted above, the primary limiting factor to complying with the By-law is the condition of the local road network and level of traffic on both Major Mackenzie Drive and Huntington Road. Currently both Major Mackenzie Drive and Huntington Road are constructed to lesser standards than would be expected for roads of their type (regional road and municipal arterial). This design, when combined with construction traffic on both sides of the rail line within Block 61 West means that the roads are less than ideal for a commercial use. Furthermore, the traffic levels are inadequate to attract people to a sales office. For these reasons it was necessary find a location on a road that is constructed to a suitable standard and that has traffic levels of an adequate level. The closest road that accomplishes this is either Nashville Road or Highway 27

Locating on Nashville Road was determined to not be feasible as the proposal is not in keeping with the provisions of the Kleinburg Nashville Heritage Conservation District Plan, could increase traffic through a community that has expressed concerns on multiple occasions about traffic levels.

Other sites were considered on Highway 27, but were deemed to not be feasible due to flood plain issues, location and other site constraints. The selected location was determined to be the most appropriate location for the use.

For these reasons, the proposed location is deemed to be the most proximate site and therefore maintains the purpose of the Zoning By-law and Plan.

Conclusion

Based on the above interpretation of OPA 601/610 and the City's Zoning By-law the selected lands are within a designation and a zone that would permit the use, are located on a road and at a location that are appropriate for the levels of traffic expected and a temporary sales office and minimize potential nuisance for other land uses. For these reasons the requested variance to allow for a temporary sales office at 9829 Highway 27:

1. Does not conflict with the provisions or intent of the Official Plan (OPA 601/610/699);
2. Is consistent with the purpose and intent of the Zoning By-law and is minor in nature as the site is the most proximate available; and
3. The proposal is desirable as it implements the development of the complete community contemplated in OPA 699.

In closing, I would like to request a meeting with yourself and senior staff to discuss the issue and how we can work together to have your previous comments amended.

Yours truly,

TACC DEVELOPMENTS



Per:

Aaron Hershoff, M.C.I.P., R.P.P.

cc: Mr. John MacKenzie, Commissioner of Planning
Mr. Grant Uyeyama, Director of Development Planning
Mr. Todd Coles, Secretary Treasurer Committee of Adjustment
Mr. Silvio DeGasperis, TACC Developments Inc.
Mr. Michael DeGasperis, Arista Homes