



# LOOPSTRA NIXON LLP

BARRISTERS AND SOLICITORS

**Quinto M. Annibale\***  
**\*Quinto Annibale Professional Corporation**  
Direct Line: 416-748-4757  
E-mail: qannibale@loonix.com

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By E-Mail Only to jeffrey.abrams@vaughan.ca

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

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Item #	6
Report No.	2 (cw)
Council - January 19/16	

**Attention: Your Worship Maurizio Bevilacqua and Members of Council**

Dear Your Worship and Members of Council:

**Re: Item 6: Committee of the Whole Meeting, January 12, 2016**  
**OMB Case No. PL111184**  
**Proposed Amendment to Schedule 2 of the Vaughan Official Plan, 2010**  
**MCN (Pine Valley) Inc. (Appellant No. 57)**  
**12011 Pine Valley Road, Vaughan**

I am the solicitor for MCN (Pine Valley) Inc. ("MCN"). MCN is the owner of approximately 64 hectares of land located on the east side of Pine Valley Road, south of King-Vaughan Road, municipally known as 12011 Pine Valley Road.

MCN is appellant No. 57 in OMB Case No. PL111184 and has been actively involved in the natural heritage network study process ("NHN Study"), making written submissions, working with City staff, and attending at Council meetings and public meetings.

The purpose of this letter is to request that the matter of the proposed amendments to Schedule 2 of the VOP 2010 ("Proposed Amended Schedule 2") be deferred and referred back to staff for further consultation with stakeholders.

In my opinion, further consultations with staff may result in revisions to Schedule 2 which more accurately reflect the existing condition on my client's lands which in turn would result in the total withdrawal of my clients appeal. Staff has been helpful in addressing concerns to this point, which is why my client is surprised that staff have decided to proceed in this manner, rather than continue discussions with affected stakeholders.

While progress has been made respecting the accuracy of the mapping of heritage features on my clients lands, including staff's acknowledgement of the removal of an enhancement area, there continue to be significant issues with the Proposed Amended Schedule 2 and the process leading to Council's consideration of this matter which should be addressed prior to the amendments being adopted by this Council, including those outlined below.



**1. Concerns with Process:**

On June 23, 2015, Council directed City Staff to report back in quarter 4 of 2015 on the NHN Inventory and Improvements Study Completion, Recommendations and associated amendments to the VOP 2010 ("NHN Proposed Amendments"). To our knowledge no report has been made by City staff to date.

According to City Staff, the Proposed Amended Schedule 2 will add an additional 1,368 hectares of Core Features to the previously adopted Schedule 2. This constitutes an amendment to the previously adopted Schedule 2 and to the VOP 2010 which should be brought forward as part of a comprehensive Official Plan Amendment ("OPA") under the *Planning Act*, together with related policy amendments. While there is no doubt that the City can make modifications to the previously adopted Schedule 2 and the Policies of the VOP 2010 as part of a settlement of individual appeals, making amendments to the previously adopted Schedule 2 on lands that are not currently under appeal without adequate notice to those affected and without the proper public process being followed is inappropriate.

In its report to Council, Staff have suggested that the Proposed Amended Schedule 2 is the result of an appropriate public process, being the NHN Study. The NHN Study process did not meet the statutory requirements of an OPA as set out in the *Planning Act*, which requirements are meant to protect the public and ensure a robust and appropriate public process. Even worse, my client had been assured that the current proposed amendments to Schedule 2 would be made as part of a separate OPA and not lumped into the existing VOP 2010 appeals.

**2. Sufficient time to Review the Proposed Amended Schedule 2 Has Not Been Provided:**

MCN has serious concerns respecting the speed with which the City is proceeding. The NHN Study and proposed amendments were only made available for review on Thursday January 7, 2016 and are to be considered by the Committee of the Whole on today – this has not provided a practical opportunity for my client or its consultants to review and provide comments respecting the NHN Study and the proposed amendments. Further, it makes a meaningful dialogue between my client and City Council/City staff all but impossible.

**3. Concerns with Notation on Proposed Amended Schedule 2:**

The notation in the legend to the Proposed Amended Schedule 2 raises additional concerns with respect to the process being followed by the City and the notice provided to stakeholders and affected landowners, or the lack thereof. The notation reads as follows:

*This Schedule is subject to change based on the results of the Natural Heritage Network Study, undertaken by North-South Environmental Inc. (2015), which will define the Natural Heritage Network by both its natural features and as a Natural Heritage System in accordance with the Provincial Policy Statement.*

The above referenced notation suggests that the City's Official Plan can be amended without the benefit of public consultation, council consideration, or the appeal rights available under the *Planning Act*.



City staff have advised that this text will be removed from the Proposed Amended Schedule 2 prior to being considered by the Committee of the Whole, however, as of the time of writing this letter we are not in receipt of a revised Schedule 2.

**4. The Proposed Amended Schedule 2 Is Incomplete:**

The staff recommendations currently before Council include a recommendation that Council approve the Proposed Amended Schedule 2, save and except for those lands that are subject to a site-specific or area-specific appeal to the VOP 2010, as it appears in Attachment 2 to the staff report. The Proposed Amended Schedule 2 does not show the lands currently under appeal. It is our recommendation that if Council does approve staff's recommendations despite my client's objections herein, that the lands under appeal be appropriately shown on the approved Schedule and that the underlying designations be removed as they are not currently before Council for its consideration.

**5. The Proposed Amended Schedule 2 Contains Inconsistencies and Raises Additional Concerns:**

Despite the very short period of time that our client's consultants have had to review the Proposed Amended Schedule 2, they have identified several concerns including the following:

1. New Core Features not previously included have been added to Schedule 2 without justification being provided, including on my clients lands;
2. There are no accompanying policy revisions proposed; and
3. There is disconnect between the Chapter 3 policies before the Ontario Municipal Board (the "Board") and the amended Schedule 2.

We respectfully ask that City Staff be directed to meet with our client and our client's consultants to continue to refine the Schedule 2 so that it accurately reflects the existing conditions on the ground.

There is mention in the staff report that the Proposed Amended Schedule 2 will assist with the resolution, withdrawal, or scoping of outstanding VOP 2010 Appeals to the OMB. This is a very curious statement since Council is not being asked to consider or approve any amendments to lands that are subject to appeal. In any event, the deferral of this matter and continuing discussions with stakeholders and appellants should not delay the resolution of appeals as site or area-specific resolutions can proceed through the regular board process despite the deferral.

My client remains hopeful that its concerns can be resolved and looks forward to continuing to work with the City respecting this matter.


Should you have any questions with respect to the foregoing, please do not hesitate to contact the undersigned.



Yours truly,

LOOPSTRA NIXON LLP

Per:

  
for Quinto M. Annibale

cc Ms. Dawne Jubb, Solicitor, City of Vaughan  
Mr. John Mackenzie, Commissioner of Planning, City of Vaughan  
Mr. Roy McQuillin, Acting Director Policy, City of Vaughan  
Client