

DATE: March 18, 2014

TO: Mayor & Members of Council

FROM: Andrew Pearce, Director, Development & Transportation Engineering
Claudia Storto, Legal Counsel

RE: **COMMUNICATION – COUNCIL MARCH 18, 2014**
ONTARIO MUNICIPAL BOARD HEARING
OPA 653 - FILE OP.05.020 AND ZBL FILE Z.07.029
TESMAR HOLDINGS INC.
NORTHEAST CORNER OF JANE ST AND RIVEROCK GATE
(Referred - Item 5, Special Council, February 28, 2014 - Confidential)
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Item #	1
Report No.	Referred
Council - March 18/14	

On September 25, 2006, Council adopted OPA 653 that re-designated the lands at the northeast corner of Jane Street and Riverock Gate from employment to residential and commercial uses. OPA 653 was forwarded to the Region for approval but was appealed by the applicant on April 25, 2007 based on a non-decision within the timelines required by the *Planning Act*. In addition, in June 2012, the City and the Region passed resolutions endorsing modifications to the Vaughan Official Plan 2010 to designate Tesmar Holding Inc.'s site as "High Rise Mixed Use". In an effort to resolve the OMB appeal, the City has been involved in an OMB mediation since mid-2012.

In August 2013, the Ministry of Environment released Environmental Noise Guidelines NPC 300 that replaces a number of existing publications. NPC 300 addresses the condition where existing stationary noise sources, such as industrial or auxiliary transportation facilities, are in proximity to proposed noise sensitive land uses (residential). The Tesmar Holding Inc. site is located west of an industrial facility and the CN MacMillan Rail Yard. The new MOE noise guidelines establish a class system of designating the various acoustic environments and defines the appropriate sound level criteria for each Class. The Class designation of lands is established by the land use planning approval authority.

As per the attached letter dated March, 10, 2014, Tesmar Holdings Inc. has requested that a Class 4 designation be granted to its site. The Class 4 Area classification presents a solution to the noise issues by implementing higher sound level limits and a greater range of noise mitigation options. Given the criteria set out in NPC 300, it is appropriate to designate the Tesmar Holdings Inc. property as a "Class 4 Area" through a Council resolution. Accordingly, it is recommended that Council pass the following resolution:

Recommended Resolution:

That Tesmar Holding Inc.'s site at the northeast corner of Jane Street and Riverock Gate (Parts 1 to 9 on Plan 65R-32119) be designated as a Class 4 site pursuant to the Ministry of the Environment's Noise Guideline NPC-300 (Stationary and Transportation Sources – Approval and Planning), conditional upon the following:

- a) submission of a noise impact assessment and provision of any recommended noise control measures, all of which are to be satisfactory to the City;
- b) agreement to provide notice to prospective purchasers that the dwellings are located in a Class 4 area and that agreements respecting noise mitigation may exist and if so, to be registered on title;
- c) agreement to register warning clauses on title;
- d) the Ontario Municipal Board's approval of OPA 653 and the site specific zoning by-law amendment; and
- e) approval of a related site plan application by Council.



memorandum

Staff will be preparing a further report to a future Committee of the Whole meeting on any necessary changes to the City's current Noise By-law arising from the new NPC 300 guidelines.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Andrew Pearce'.

Andrew Pearce
Director, Development & Transportation Engineering

A handwritten signature in black ink, appearing to read 'Claudia A. Storto'.

Claudia A. Storto
Legal Counsel

ADP/

Attachment: Correspondence from Davies Howe Partners LLP dated March 10, 2014

Copy: Barbara Cribbitt, Interim City Manager
Jeffrey A. Abrams, City Clerk
Paul Jankowski, Commissioner of Engineering & Public Works
John Mackenzie, Commissioner of Planning
MaryLee Farrugia, Commissioner of Legal & Administrative Services/City Solicitor
Andy Lee, Environmental Engineer

ATTACHMENT



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File No. 702358

March 10, 2014

By E-Mail Only to *claudia.storto@vaughan.ca*

Ms. Claudia Storto
Legal Counsel
Legal Services Department
City of Vaughan
2141 Major Mackenzie Drive
Vaughan, Ontario
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Dear Ms. Storto,

**Re: O.M.B. Case No. PL070347
Appeal by Tesmar Holdings Inc.
Request for Class 4 Area Classification**

Recently, the Ministry of the Environment ("MOE") released the new Environmental Noise Guideline NPC-300 for assessing noise from stationary and transportation sources. One of the new additions in NPC-300 is the creation of a new "Class 4 Area" classification with associated noise limits and accepted mitigation measures.

We have reviewed NPC-300 with our client's noise consultant in the context of Tesmar's proposed development for its lands at the northeast corner of Jane St. and Riverock Gate (the "Tesmar Site"). In our opinion, the Tesmar Site is an appropriate candidate for the Class 4 Area classification.

NPC-300 defines a Class 4 Area as one which is intended for development with new, noise sensitive uses that are in proximity to existing, lawfully established stationary sources. Formal confirmation of the Class 4 Area classification is required from the land planning authority during the planning process.

The Tesmar Site has long been recognized by the City as area intended for mixed use development, including residential development. The City approved Official Plan Amendment 653 in 2006 to permit residential development on the Tesmar Site. In June 2012, both Vaughan City Council and York Regional Council passed resolutions endorsing modifications to the new Vaughan Official Plan, 2010 to designate the Tesmar Site "High Rise Mixed Use". The Tesmar Site is located west



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LLP

of an industrial facility operated by Magna International Inc. and the CN MacMillan Rail Yard.

For quite some time, City staff and Tesmar have been working diligently to reach a mediated settlement of the Board appeals respecting the Tesmar Site. Noise from the adjacent industry and rail yard is one of the major issues being addressed in that mediation process.

The Class 4 Area classification presents a solution to the noise issues by implementing increased noise limits and a greater range of acceptable mitigation measures. Our client's noise consultant, HGC Engineering, has determined that based on the assessment of noise impacts under the new NPC-300 Class 4 Area criteria, the proposed development for the Tesmar Site is feasible from a noise perspective.

In our opinion, a Class 4 Area classification would assist in facilitating a final settlement of the noise issues, and ultimately, the Board appeals. We therefore request that City Council approve the classification of the Tesmar Site as a Class 4 Area.

Yours sincerely,
DAVIES HOWE PARTNERS LLP

Meaghan McDermid

MEM

Copy: Client