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Item #	<u>14</u>
Report No.	<u>14 (CW)</u>
Council -	<u>APRIL 23/13</u>

**From:** Mark Flowers <markf@davieshowe.com>  
**Sent:** Wednesday, April 10, 2013 1:47 PM  
**To:** Clerks@vaughan.ca  
**Cc:** Storto, Claudia; Trzaska, Karen  
**Subject:** Thornhill Centre Street Area Land Use Plan Modifications - City of Vaughan Official Plan 2010 Volume 2 (File No. 26.10)  
**Attachments:** Letter to J Mackenzie re Centre Street Study Dec 19 2011.pdf

We are legal counsel to Arthur Fisch and 1096818 Ontario Inc. (the owners of 1260-1314 Centre Street, Vaughan) as well as 2090396 Ontario Limited (the owner of 1500 Centre Street, Vaughan), all of whom are appellants/parties to the Vaughan Official Plan (2010) proceeding before the Ontario Municipal Board.

It only very recently came to our attention that the City's Committee of the Whole was considering a report from the Commissioner of Planning regarding the Centre Street Corridor Study at its meeting yesterday. We had previously written to the City and had requested notification of further matters pertaining to the Centre Street Corridor Study – see, for example, the attached letter to the Commissioner of Planning dated December 19, 2011 (which, admittedly, had not been copied to the City Clerk's Office).

In any event, kindly ensure that we receive notice of any decision(s) of the Committee or City Council and any further reports and/or public meetings pertaining to the Centre Street Corridor Study and/or proposed modifications.

In addition, we note that the staff report considered by the Committee yesterday recommended that staff proceed with the Dufferin / Centre Street Secondary Plan Study (PL-9027). Thus, please add us to the notification list for any public notices pertaining to that proposed Secondary Plan Study.

Thank you.

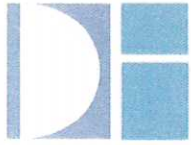
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Please refer to: **Mark Flowers**  
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December 19, 2011

**By E-Mail**

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John MacKenzie, Commissioner of Planning  
City of Vaughan  
2141 Major Mackenzie Drive  
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Dear Mr. MacKenzie:

**Re: Centre Street Corridor Study  
Submissions on behalf of Arthur Fisch and 1096818 Ontario Inc.  
1260, 1272, 1282, 1294, 1304 and 1314 Centre Street, Vaughan**

We are counsel to Dr. Arthur Fisch and 1096818 Ontario Inc. (c/o Arthur Fisch), the owners of lands municipally known as 1272 and 1294 Centre Street and 1260, 1282, 1304 and 1314 Centre Street, respectively, located on the north side of Centre Street between Concord Road and Vaughan Boulevard in the City of Vaughan (the "Lands").

**Background**

Our clients have made numerous submissions in relation to the City's proposed new Official Plan and have also actively participated in the City's Centre Street Corridor Study, including, most recently, attending the Public Open House on November 23, 2011.

We have reviewed the "Draft" version of the Centre Street Land Use Study (October 2011), prepared by the City's consultants, The Planning Partnership and Poulos & Chung (the "Draft Study"), as well as the "Draft" version of the Urban Design Guidelines (November 2011) and Streetscape Master Plan (November 2011) for the Centre Street Corridor.

We understand that, at the November 23<sup>rd</sup> Public Open House, Dr. Fisch requested a meeting with City staff in order to discuss his concerns with the Draft Study, but was advised that he should first put his concerns in the form of a written submission.





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Accordingly, the purpose of this submission is to identify a number of concerns that our clients have with respect to the Draft Study and other associated draft documents. This submission is not necessarily exhaustive in this regard, but does identify a number of key concerns and comments that our clients hope will form the basis of further discussion with City staff, as well as appropriate modifications to any proposed planning documents that the City may bring forward.

### **Draft Land Use Study (October 2011)**

#### ***Implementation***

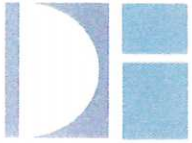
First, from an implementation perspective, we note that the proposal in the Draft Study is to adopt amendments to Volume 2 of the City's new (adopted but unapproved) Official Plan. However, we request that any Official Plan amendments proposed by the City be amendments to the existing in-force policies, which could also be incorporated into the new Official Plan at an appropriate time.

Among other things, we suspect that amending the in-force Official Plan may allow the proposed amendments (with or without modification) to be approved in a more timely fashion. This approach is particularly appropriate given the apparent recognition that the existing policy framework is not sufficient to properly guide redevelopment within this portion of the Centre Street Corridor, as reflected in the following comments contained in the Draft Study:

*Local level policies for Centre Street ... are antiquated, and not in conformity with Regional or Provincial requirements for transit supportive density and built form along transit corridors...*

*The Official Plan policies ... and the Zoning By-law both require updating to bring them into conformity and to permit mixed uses and an appropriate scale of redevelopment along Centre Street.*

The Draft Study also recognizes the need to amend the City's Zoning By-law No. 1-88, but indicates that an Official Plan Amendment must be approved before the Zoning By-law Amendment can be considered. To our knowledge, there is no apparent reason why a City-initiated Zoning By-law Amendment could not be considered concurrently with a proposed Official Plan Amendment. In fact, the *Planning Act* specifically contemplates this parallel approach. Thus, subject to our comments below regarding the substance of the Draft Study, we request that the City consider concurrently initiating proposed zoning amendments to implement a proposed Official Plan Amendment for the Centre Street Corridor.



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### ***Maximum Density and Height***

The Draft Study and associated draft documents have recognized that there will be significant transit investment in this area and that Centre Street needs to be planned as a "future transit corridor". However, our clients are concerned that the proposed maximum density and heights proposed for the Lands are set too low and do not represent an optimization of Centre Street as a planned transit corridor.

We understand that the Lands are proposed to be designated "Mid-Rise Mixed-Use B", subject to a maximum density of 1.25 FSI across the entire Lands, with a maximum of six (6) storeys along the Centre Street frontage of the Lands and a maximum of two (2) storeys for the rear portion of the Lands.

In our view, the preferred plan identified in the Draft Study is not an accurate demonstration of the type and scale of development that is appropriate for a Regional Corridor such as Centre Street. The proposed density should be higher, recognizing that an average density of 2.5 FSI is identified for Regional Corridors. We further note that the Public Realm section in the Draft Urban Design Guidelines (November 2011) identifies the intersections of Concord Boulevard / Centre Street and Vaughan Boulevard / Centre Street as "Gateways"; therefore, greater heights in the Esplanade Area are warranted as a means to focus building height transition.

It is not apparent, based on the Draft Study, what rationale is being used to establish these specific maximum heights and density. Thus, we request that the City provide us with any additional rationale being used to establish these proposed maximum limits, including, for example, any angular plane and/or shadow study analysis to justify the maximum heights that are proposed.

The rationale being used to establish the proposed maximum density and heights for the Lands is particularly puzzling in view of the fact that the April 2010 draft of the City's Official Plan contemplated a maximum density of 2.0 FSI, with a height limit of six storeys across the entirety of the Lands. In fact, the current proposal to limit the maximum height of a building on the rear portion of the Lands to only two storeys represents a reduction from the existing, "as-of-right" permissions.

Similarly, we see no justification for the proposed Official Plan policy to restrict the potential use of height bonusing under Section 37 of the *Planning Act* within the proposed "Mid-Rise Mixed-Use B" designation. In appropriate circumstances, Section 37 of the *Planning Act* can be used to secure important community benefits in conjunction with a development approval where increased height and/or density are permitted. Although the City may choose not to engage Section





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37 in any particular case, there is no apparent need to limit the potential use of this planning tool.

***Built Form, Urban Design and Sustainable Buildings***

The proposed built form and urban design policies in the draft Official Plan Amendment are too prescriptive, and far more detailed than is necessary and/or appropriate for an Official Plan. In our experience, many of the items proposed to be dealt with in these policies are more typically found within zoning regulations and/or urban design guidelines.

Further, design guidelines are, as the term implies, intended simply as "guidelines" for the design of new development. Thus, it is not appropriate to establish policies that require "consistency" or "conformity" with guideline documents. The concern with such policies is heightened where the guideline documents are outside of the Official Plan and, therefore, may be amended at anytime and/or approved by the municipality without any right of appeal.

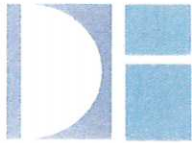
The proposed policies also reference the requirement for "comprehensive development plans", but do not explain what is to be included within such plans. Thus, we request clarification as to what is intended by these proposed policies.

Finally, we are concerned that the proposed policies regarding sustainable buildings and design are beyond the authority of the municipality. In addition, as you are likely aware, all of the sustainable design policies of the proposed York Region Official Plan are currently under appeal to the Ontario Municipal Board. Thus, until the York Region appeals have been resolved, the proposed sustainable design policies for the Centre Street Corridor are premature.

**Draft Streetscape Master Plan and Urban Design Guidelines (November 2011)**

Similar to the comments provided above, our clients are concerned with the apparent inflexibility of the Draft Streetscape Master Plan and the Draft Urban Design Guidelines. Guiding principles may be considered and encouraged, but their implementation should be governed by site plans and implementing zoning by-laws. The following are some examples where there is concern that the "guidelines" do not provide sufficient flexibility:

- the proposed street pattern does not reflect phasing of development, property lines and does not recognize that some landowners may not be able to provide a public street, and that private streets may be suitable;



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- building placement and the proposed 7 metre setback for a boulevard streetscape and corresponding to the Esplanade Area may result in underutilized space along the streetscape;
- shared lay-by parking and flex space may create conflicts and use too much land; and
- multiple rows of trees and furnishings may not be practical and may consume too much land.

### **Conclusion**

We trust that you will find these comments to be of assistance in completing the Centre Street Corridor Study and preparing the appropriate planning instruments for consideration by City Council.

On behalf of our clients, we reiterate Dr. Fisch's request to meet with City staff and/or the City's consultants in order to further discuss the comments and concerns reflected in this submission.

We look forward to receiving your response to this submission, together with the information requested.

We further request that we be notified of any additional or revised documents that may be prepared regarding the Centre Street Corridor Study.

Yours truly,

**DAVIES HOWE PARTNERS LLP**

Mark R. Flowers

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A. Fisch and 1096818 Ontario Inc.