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June 22, 2015

Delivered by email to clerks@vaughan.ca

Mr. Jeffrey Abrams
City Clerk
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Item #	<u>10</u>
Report No.	<u>26 (cw)</u>
Council -	<u>June 23/15</u>

Attention: His Worship Mayor Bevilacqua and Members of Council

Dear Mr. Abrams:

**Re: 11211 Weston Road
Vaughan Natural Heritage Network Study**

We are counsel to Ms. Ronni Rosenberg, Ms. Rachelle Taquu, and Ms. Elissa Rosenberg, the owners of the property municipally described as 11211 Weston Road, in the City of Vaughan ("the Subject Property"). We wrote to the City on January 15, 2014, to express our clients' interest in the Natural Heritage Network ("NHN") Study. Our clients' planning consultant, Jane McFarlane, also submitted a letter in June of 2014 and April of 2015.

The purpose of this letter is to express our clients' continued concerns with the NHN Study. We ask Council to defer the implementation of the NHN Study until the next municipal comprehensive review of the City's Official Plan.

We have three primary areas of concern:

1. Both the timing and the process are inappropriate. The City should not adopt substantive amendments to the Vaughan Official Plan 2010 ("the VOP") in the midst of an appeal process that is already well advanced at the Board.
2. If the City implements the NHN Study through an amendment to the VOP, it will be inconsistent with the spirit of the settlement reached with my clients in their appeal.
3. The NHN Study is incomplete. Further work is required before its findings are implemented into the Official Plan.

1) The Timing and the Process

On a preliminary basis, we are concerned that the process taken to date is unclear. If our understanding is correct, staff's recommendation is that Attachment 2 to the Staff Report be implemented into the VOP by way of an official plan amendment ("OPA"). However, we are not clear if the request of Council is to adopt Attachment 2 on June 23, or to submit a draft OPA that is consistent with Attachment 2 at a later date, with or without public notice. In our view, in order to provide fair notice to the public, the actual form of draft OPA should be circulated for public comment and considered at a public meeting.

More importantly, the timing of this proposed amendment is inappropriate. The VOP process is well underway at the Board:

- The VOP was adopted in September of 2010, and appealed to the Board in 2012.
- As of March 2015, 145 appeals had been filed. 32 appeals had been settled or withdrawn, including that of our clients.
- Over the course of almost three years, the Board has held 20 hearing dates, including prehearings, motions and mediation.
- As appeals have been settled or withdrawn, the City has asked the Board to bring into force the parts of the VOP that are no longer in dispute. The Board approved parts of the VOP as recently as September 2014; less than a year ago.

It is inappropriate for the City to introduce substantive amendments to the VOP. Some of these amendments apply to policies and mapping that were recently approved by the Board in settlement of appeals. Instead, we request that the City wait for the VOP 2010 process to be complete, and defer the implementation of the NHN Study until the next municipal comprehensive review.

2) The Amendments are Inconsistent with the Settlement

As it relates to our clients' lands in particular, we believe that the proposed amendments are inconsistent with the Minutes of Settlement executed with the City.

As part of the settlement, the City agreed to amend Schedule 2 (Natural Heritage Network) to remove the "Core Features" designation from the western portion of the Subject Property, which is outside of the Greenbelt. The Board approved these modifications in December of 2013, on the consent of both the City and the TRCA.

While the NHN Study does not propose to revise Schedule 2 on our clients' lands, it does propose to incorporate new Schedules 2A, 2B, and 2C, with the following environmental overlays:

- Schedule 2B identifies the western portion of our clients' lands outside the Greenbelt as a "Woodland", and
- Schedule 2C identifies the western portion of our clients' lands outside the Greenbelt as "SWH Amphibian Breeding Habitat – Woodlands" and "SWH Special Concern Woodland Breeding Birds".

It appears that the new schedules are effectively "sub-schedules" to Schedule 2. The notation on the proposed new schedules provides that the information therein *"depicts the type of natural features that comprise the Core Features of the Natural Heritage Network"*, and *"informs the implementation of the relevant policies in VOP 2010 to define Core Features, as well as inform the Natural Heritage Network"*.

In our view, Schedules 2B and 2C as they apply to our clients' lands are inconsistent with the Minutes of Settlement, since they apply environmental overlays on the Subject Property that purport to "inform the definition of Core Features", but the Core Features overlay was intentionally removed from that part of the Subject Property in the settlement.

In addition, it appears that the NHN Study applied these environmental overlays without the benefit of any site inspection or analysis. Figures 3 and 4, which identify the location of field site assessments, indicate that the Subject Property was not assessed. Our clients submitted a report from Dillon Consulting in 2012, which determined that the area outside of the Greenbelt was not a "woodland" as that term is defined in the VOP. However, it appears that this report was not considered in the preparation of Schedules 2B and 2C.

Our clients spent a significant sum of money on lawyers, planners, and environmental consultants to ensure that their rights were protected in the VOP process. If the NHN Study is implemented into an amendment to the VOP, they will have no choice but to file a new appeal.

3) The Adoption of an OPA is Premature

As set out above, we do not believe that the City has circulated the draft OPA that is proposed to implement the NHN Study into the VOP. At the very least, the draft OPA should be submitted for public consultation and consideration at a public meeting before it approved by Council.

Notwithstanding the preparation of the OPA itself, as submitted by other stakeholders, components of the NHN Study need further work before they are

implemented into the VOP. In particular, the Staff Report addresses the matter of “woodland compensation”.

The Staff Report suggests that the new proposed “woodland compensation” policies are meant to refine the VOP. In our view, this is a new concept that deserves more consideration. We note that the word “compensation” is not found anywhere in the VOP. We also believe that woodland compensation should be within the control of the City alone, and not the TRCA. The TRCA does not have jurisdiction over woodlands.

The Staff Report acknowledges that a woodland compensation protocol will be developed to guide the manner in which woodlands that are not “significant” can be removed. This protocol is fundamental to understanding the import of the new policies regarding woodland compensation. The policies should not be approved until the protocol is developed so that stakeholders can understand what “compensation” is required in exchange for the removal of woodlands that are not environmentally significant. Stakeholders cannot determine the appropriateness of the policy without understanding its effect.

Conclusion

There is an important distinction between the completion of a study under an Official Plan and the implementation of that study into Official Plan policy. A study is a guideline, but an OPA has the force of law.

It is not appropriate or desirable to adopt new policies and mapping that constitute substantive amendments to the policies that have been so recently been approved by the Board in an appeal process that is still underway. We urge Council to defer the implementation of the NHN Study into the VOP to the next municipal comprehensive review.

At the very least, we ask that Council defer consideration of this matter to a future meeting, to provide an opportunity for our clients to have discussions with staff about the new overlays that are proposed to be applied to the Subject Property.

Thank you in advance for your consideration of this matter.

Best regards,



Amber Stewart

c. Ms. Jane McFarlane, MCIP, RPP
Clients