

AIRD & BERLIS LLP

Barristers and Solicitors

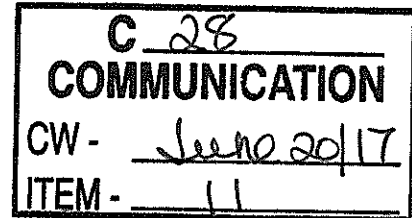
Leo F. Longo
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E-mail: llongo@airdberlis.com

June 16, 2017

File No. 132971

BY EMAIL

Mayor and Members of Council
City of Vaughan
City Hall
2141 Major Mackenzie Drive
Vaughan, ON L6A 1T1



Attention: Barbara McEwan, City Clerk

Dear Sirs/Mesdames:

**Re: COW Meeting, June 20, 2017
Agenda Item 11
Dufferin/Centre Intersection Land Use Study
Planning Staff Report
Your File No. 26.6**

**2464879 Ontario Inc. and Ultra Towns Inc. (City Park Homes)
7803 and 7815 Dufferin Street**

We are counsel to 2464879 Ontario Inc. and Ultra Towns Inc. ("City Park Homes") in the above-captioned matter.

For reasons set out herein, we respectfully request that Council reject the staff report's recommendation and defer further consideration of this Intersection Land Use Study until at least 2018.

Premature – MTO – 407 Interchange Ramps

The planning staff report notes the imminent expected completion of the Provincial study which will determine the future of the southeast and southwest quadrants of the study area:

"The City has been working closely with the province to ensure that the feasibility study for the potential interchange will be completed expeditiously....The feasibility study is the next step in bringing the City more certainty on whether an interchange is required. The Province is currently moving ahead with the feasibility study and it is expected that the project will be completed by the end of 2017."

Concluding the Intersection Study and adopting an OPA in advance of the outcome of the Provincial 407 interchange decision is ill-advised; resulting in an incomplete planning assessment, speculative assumptions, and dubious planning policies.

Indeed, the Poulos & Chung Transportation Study undertaken for the City unequivocally states:

“It is beyond the scope of this study to determine the change in traffic flows at this intersection and the surrounding roadway network as a result of a new Centre Street interchange. Indeed such a determination is part of the Ministry study. **If the Ministry of Transportation determines the need for a new Centre Street interchange then the land use planning process for the study area will have to be re-visited.**” [emphasis added]

There is no doubt, the staff report notes, that “the intent of the Vaughan Official Plan 2010 for the area was to develop a plan for all four quadrants of the intersection.” Proceeding now with substantially only the northeast quadrant in the Intersection Study and the proposed OPA fails to conform with and implement that original intent.

Simply inserting a OPA policy that a future Tertiary Plan will need to be prepared for the southeast and southwest quadrants is not planning...it’s deferring...and ought not to be countenanced.

Premature – MTO – Corridor Control Area

City Park Homes objects to both the proposed public road through its lands and the proposed signalized intersection on Dufferin Street 205m north of Centre Street.

This proposed signalized intersection is fundamental to the entire planning exercise and OPA policies for the northeast quadrant lands...yet neither the City nor the Region has the jurisdiction to grant final approval to the existence, location or operational characteristics of that intersection.

This stretch of Dufferin Street is within the MTO’s defined Corridor Control Area. Any intersection within such Area requires MTO’s approval and its permit. No such approval or permission has yet been sought or granted. Finalizing the Intersection Study and the OPA in advance of confirming that this proposed intersection is achievable and the MTO approval obtained is reckless.

Premature – Other Matters

The staff report recites certain policies found in s. 12.9 of the VOP(2010) respecting the Centre Street Corridor Area Specific Policies as support for the policies that are proposed for this Intersection Study OPA.

The entirety of s. 12.9 has been appealed to the OMB by a number of parties, including City Park Homes. None of the Centre Street Corridor Area Specific Policies are approved or in force. The OMB hearing is scheduled for early in 2018.

Dufferin Street is designated as a "Special Study Corridor" in VOP(2010) and the Region's OP. Proposing OP policies for this stretch of Dufferin Street prior to the completion of the study meant to define the Corridor's future role and function is premature and might inappropriately predetermine the corridor study's outcome.

Section 10.1.1.3 of the VOP(2010) sets out a list of matters which every Secondary Plan must address, at a minimum:

"10.1.1.3. That Secondary Plans will address, but are not limited to, the following policy aspects:

- a. overall capacity for development, including projections for residential units and/or jobs;
- b. street and block patterns;
- c. land-use designations, building heights and densities;
- d. built-form, urban design and public realm policies;
- e. parks and open space requirements;
- f. housing mix and strategies, including, where appropriate, opportunities for *affordable* housing;
- g. employment mix and strategies, including, where appropriate, the provision of *retail* uses;
- h. the transportation network, including provisions for transit, walking and cycling within the Secondary Plan area and connections to City-wide networks;
- i. servicing requirements for the Secondary Plan area;
- j. protection and enhancement of the Natural Heritage Network, including any environmental reporting as required through Section 3.3.4 of this Plan;
- k. cultural heritage features of the area, including built heritage and potential *archaeological resources*;
- l. provision of community services, including *schools*, libraries and community centres;
- m. consideration of human service needs, including educational, social, health, arts, culture and recreation facilities;
- n. sustainable development requirements consistent with subsection 9.1.3 of this Plan;
- o. phasing of *development*; and
- p. evaluation of opportunities for coordination with environmental assessment processes for roads and infrastructure that are subject to the Environmental Assessment Act."

The proposed OPA arising from this Intersection Study fails to address any of these matters for the two south quadrants of the defined Study Area. The Intersection Study and OPA fail to conform with the City's Official Plan.

False premise – "Clergy" Principle

One of the reasons offered for the need to adopt an OPA now is set out in the staff report:

"There are currently 2 development applications within the plan. One is in the northeast quadrant municipally known as 7803 and 7815 Dufferin Street and is the subject of applications for amendments to the Official Plan and Zoning By-law 1-88, (Z.16.001) and (DA.16.003) as submitted by 2464879 Ontario Inc. – City Park Homes. The applicant is proposing 56 townhouse dwellings and has filed site specific appeals related to the development applications... The purpose of the proposed Area Specific Plan is to ensure the vision for high quality development, a better transportation network and more sustainable urban environment will be achieved. **Planning comprehensively before significant redevelopment occurs provides an opportunity to achieve a more comprehensive vision.** Development on a site-by-site basis without an updated Plan will reduce the chances of coordinating community benefits and infrastructure such as high quality public spaces, upgrades to existing municipal services and the street network."

"The lands municipality known as 7803 and 7815 Dufferin Street are subject of applications for amendment to the Official Plan and Zoning By-law 1-88 and for site plan approval (Files: OP.16.001, Z.16.001 and DA.16.003). The proposed plan designates these lands as Low-Rise Residential up to 6 storeys that will serve as a transition buffer to the existing low rise residential dwelling to the north and the proposed Mid-Rise Mixed use development along Centre Street to the south. **The proposed townhouse development** application is a permitted use under this designation and **will be expected to conform to all the policies of the proposed plan.**" [emphasis added]

This rationale is legally unsustainable. The "Clergy" principle provides that a development application is to be assessed against the planning policies in effect at the time of the application. "New" planning policies cannot and do not have retroactive effect. Suggesting otherwise is incorrect. The "Clergy" principle applies to the City Park Homes' applications which are now before the OMB. It is a false premise to assume that any OP policies arising from this Intersection Study will be considered "in place" and its vision determinative of the development that occurs on our client's lands.

Pre-determination

The planning staff report presented at the March, 2017 public meeting noted:

"A public open house meeting was held on June 28, 2016 to kick off the study and gather input, and another public open house meeting was held on November 3, 2016 to review a draft framework plan for the study area and receive feedback."

The City's planning consultant [The Planning Partnership] made similar assertions:

"Obtaining public comments was an important part of the process. A public open house was held on June 28, 2016 to kick off the study and gather input, and, another public open house was held on November 3, 2016 to review a draft framework plan for the study area and receive feedback. Further discussion with stakeholders has also been held. Out of these meetings the development and access plan for the subject area was developed, together with draft implementing land use, development and design policies."

"In the first public meeting an overview of the study process, the existing conditions and background policies was presented. The presentations also included an update on the status of the Highway 407 lands and the current planning applications."

"At the second public meeting, many of the issues and concerns that were heard at the first meeting were taken into consideration in the preparation of the draft land use plan and public street network." [emphasis added]

Also see the attached extracts from the Planning Partnership's PowerPoint presentations.

These assertions suggest that the proposed land use and road plan for the Study Area was only prepared after the initial public open house was convened.

Our client believes that this is not so. For the purposes of this submission, the following two facts are presented in support of the proposition that the proposed land use and road plan for the Study Area was predetermined by City staff well in advance of the Study's "kick off".

In an internal York Region memo dated April 16, 2016 [which was attached to a May 24, 2017 letter sent to City planning staff], copy attached, the Region's transportation planner stated:

"Region support the Dufferin Street and Centre Street Specific Area Plan as proposed by the City of Vaughan with a future ring road connecting Dufferin Street to Centre Street. This proposed ring road will provide a full move access onto Dufferin Street with a potential to be signalized if warranted, including a connection to the west of Dufferin

Street. This ring road will facilitate access to the existing and future redevelopments of the Secondary Plan."

"The access to the proposed [City Park Homes] development shall be provided via the proposed local ring road as per the Dufferin Street and Centre Street Specific Area Plan."

"To provide an addendum to the TIS to address the following comments to the satisfaction of the Region:

- A revised traffic operational analysis to reflect the access to be provided via the proposed local ring road." [emphasis added]

These comments demonstrate that ten weeks before the Intersection Study's "kick off", Regional staff were supporting the proposed Plan and the future ring road passing through our client's lands.

Furthermore, our client's principal, Chris Zeppa, and his planning consultant, John Zipay, met with City planning staff in September, 2015 to discuss the City Park Homes' development proposal. At that meeting staff showed them a Plan depicting the ring road concept and the proposed land uses, building heights and densities for the northeast quadrant of the intersection. Staff would not provide our client with a copy of the Plan or allow Mr. Zipay to take a picture of it. Staff said the Plan was confidential.

Our client and the public were mislead into thinking that the kick off meeting was the start of the study and that no plan existed at that time. Further, public input was said to be essential to the formulation of the draft plan. This is false and the principles of transparency and full disclosure were not adhered to in this instance.

This should be fully investigated before moving forward with any further consideration of this Intersection Land Use Study.

I intend to attend next Tuesday's COW meeting and address Council respecting these matters.

June 16, 2017

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Should you require any clarification or additional information respecting this submission, please do not hesitate to contact the undersigned.

Yours truly,

AIRD & BERLIS LLP

A handwritten signature in cursive script that reads "Leo Longo per: ek".

Leo F. Longo
LFL/ek

cc: Claudia Storto/Caterina Facciolo
Barnett Kussner, WeirFoulds LLP
Client
John Zipay/Julia Pierdon
Kim Nystrom/Faranak Hosseini
Gerry Borean

Dufferin Street and Centre Street Intersection Study

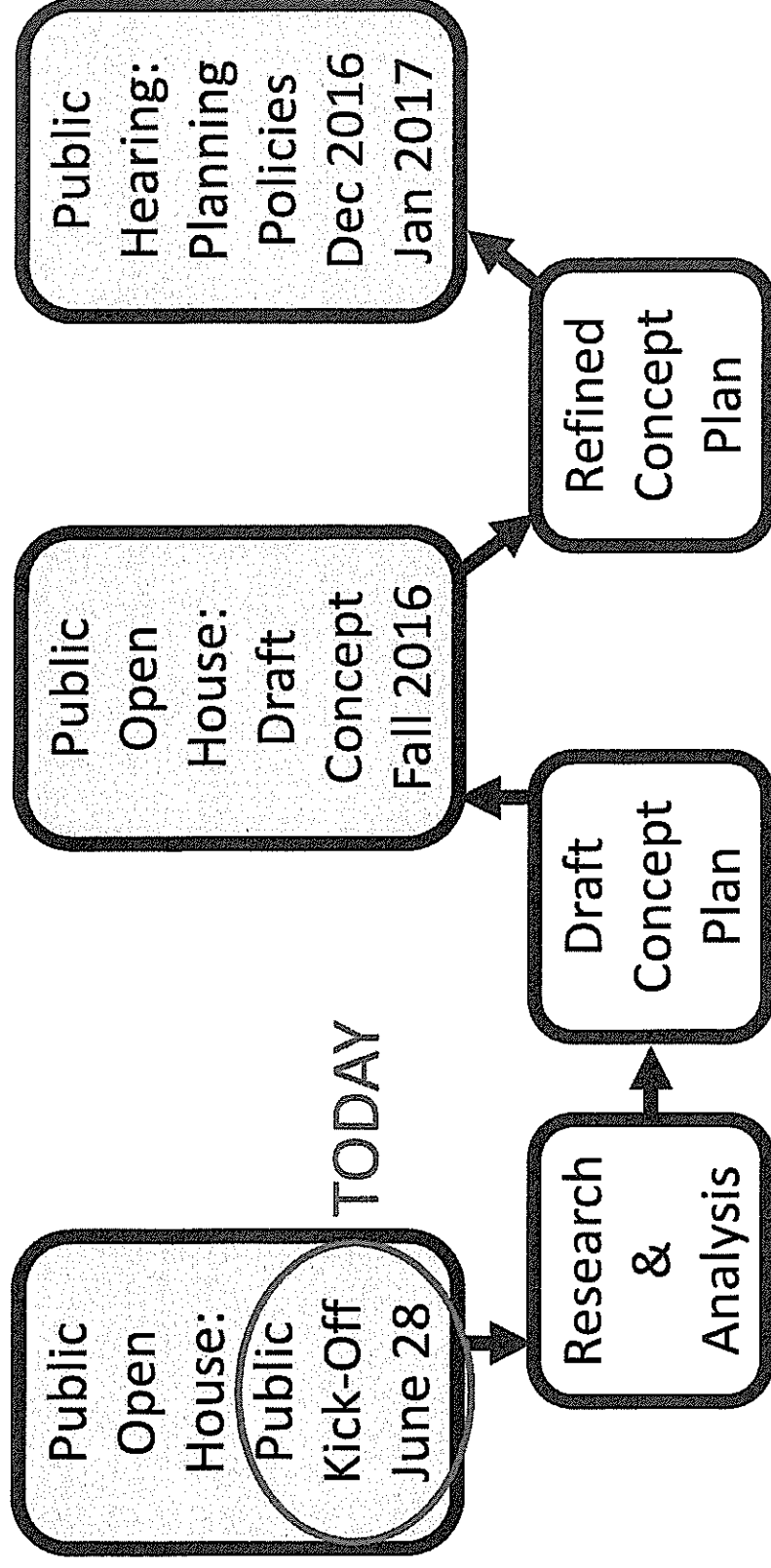
Public Open House
June 28, 2016



The Planning Partnership

Process

Provisional Study Timelines



Next Steps

- Review comments from public;
- Confer with other City departments and external agencies on the issues;
- Conduct further research and analysis; and
- Draft a conceptual plan for presentation at a Public Open House in the Fall.

Dufferin Street and Centre Street Intersection Study

Public Open House
November 3, 2016



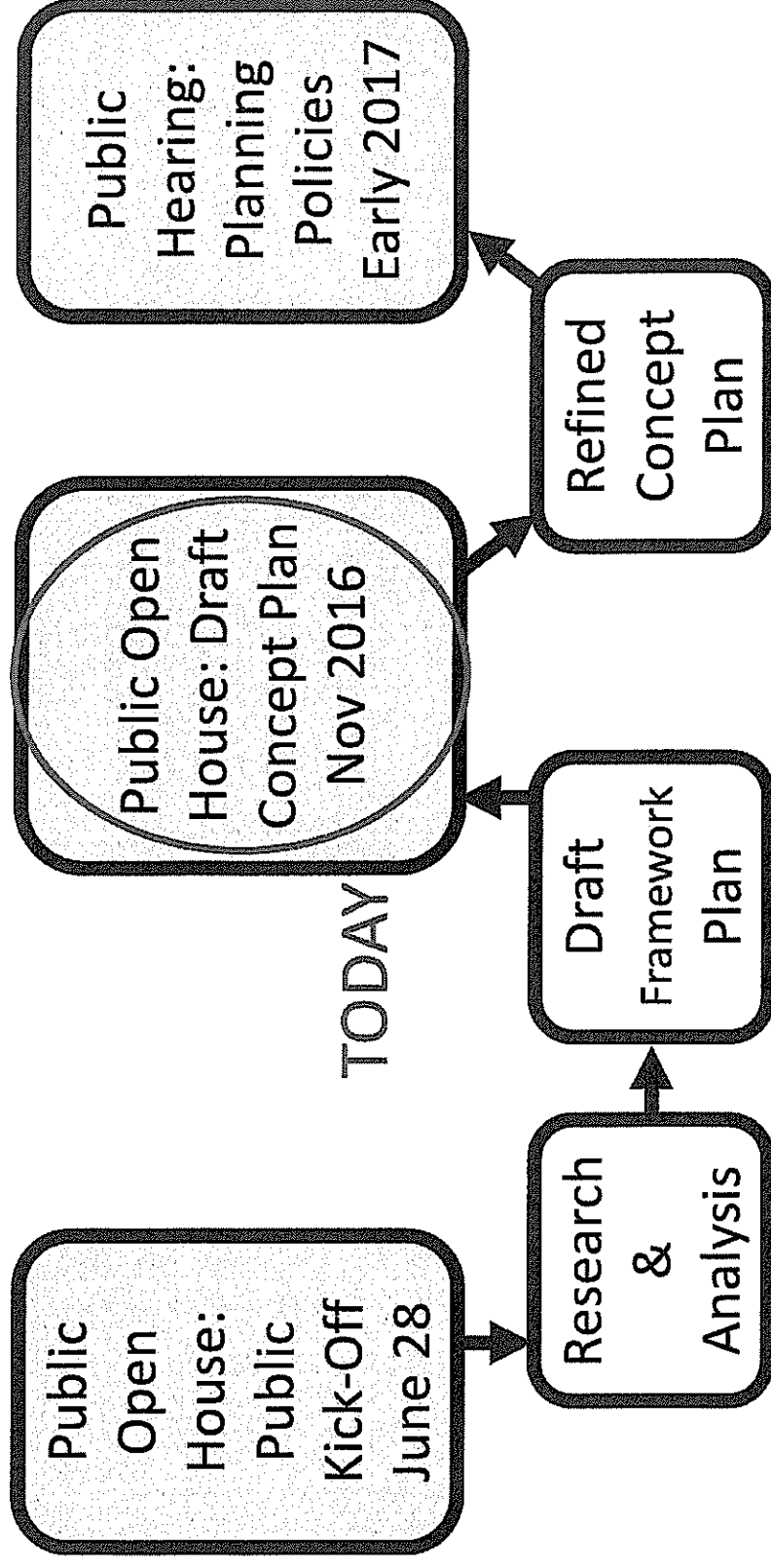
VAUGHAN

The Planning Partnership



Process

Provisional Study Timelines





Corporate Services

May 24, 2017

Mr. Mauro Peverini
Director of Development Planning
The City of Vaughan
2141 Major Mackenzie Drive
Vaughan, Ontario
L6A 1T1



Attention: Mark Antoine, Planner

Dear Mr. Peverini:

**Re: York Region Preliminary Comments
7803 & 7815 Dufferin Street
OP.16.001, Z.16.001, DA.16.003**

This letter provides our preliminary comments on the above captioned applications. The subject lands are located on the east side of Dufferin Street, north of Centre Street, and is 1.098 hectares (2.7 ac) in size.

The subject lands are designated "Community Commercial Mixed-Use" by Vaughan Official Plan (2010), which permits commercial uses appropriate for non-residential intensification that makes efficient use of existing or planned rapid transit. Permitted uses include office, retail and cultural and entertainment facilities.

The proposed Official Plan Amendment redesignates the subject lands to "Low-Rise Residential" in order to permit the development of 56 three-storey stacked townhouse units. The proposed OPA also seeks a site specific exception and proposes to change the minimum facing distance between blocks of townhouses from 18m to 13m. The resulting density would be 0.88 FSI.

York Region staff have been participating in Vaughan's Dufferin Street and Centre Street Intersection Land Use Study, and generally support Vaughan's recommended draft policy direction for this area. Specifically, Regional transportation staff supports the concept of a local "ring" road that connects Dufferin Street and Centre Street, in the northeast quadrant of the intersection (please see attached memo from Transportation Planning). With this new local road,

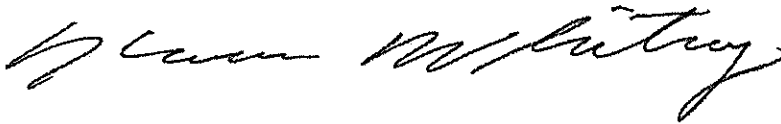
the Region would not permit access onto Dufferin Street, as direct access should be from the local road.

Vaughan's draft policies, from the Dufferin Street and Centre Street Intersection Land Use Study, also show the subject lands as being designated "Low-rise residential", with a maximum height of 6-storeys and a maximum density of 2.0 FSI. The proposed subject development, currently consisting of three storey stacked townhouses with a density of 0.88 FSI, seems to have potential for a more intensive and compact form of development, given the proximity to the rapid transit way on Centre Street. However, since the subject lands are adjacent to existing two storey detached dwellings and the subject lands are on the northern edge, furthest away from the intersection of Dufferin and Centre Streets, the appropriate amount of intensification is best determined by local Planning staff and Council.

The applicant is encouraged to revise their proposed concept to more closely conform to the draft Dufferin Street and Centre Street Area Specific policies, specifically, to show the proposed local road that connects Dufferin Street and Centre Street. This critical link will greatly improve the access situation for the increased development potential of the subject lands, as well as for the balance of the northeast quadrant of this intersection.

If you require further assistance, please contact Augustine Ko, Senior Planner, at 1-877-464-9675, extension 71524, or by email at augustine.ko@york.ca.

Sincerely,

A handwritten signature in black ink, appearing to read "Karen Whitney". The signature is fluid and cursive, with the first name "Karen" written in a larger, more prominent script than the last name "Whitney".

Karen Whitney, MCIP, RPP
Director, Community Planning and Development Services

AK

MEMORANDUM

TO: Augustine Ko, Planner

FROM: Shahid Matloob, Transportation Planning

DATE: April 13, 2016

RE: **OP.16.001, Z.16.001 and SP-V-026-16**
Lot 61, 7803 & 7815 Dufferin Street
City of Vaughan

As requested, Regional staff have reviewed the above note proposed application along with the supporting Traffic Impact Study (TIS) dated January, 2016 prepared by Cole Engineering.

The subject site is located at 7803 and 7815 Dufferin Street, east of Dufferin Street and north of Centre Street intersection, in the City of Vaughan. The proposed application is to develop 56 three-storey block townhouses.

The following consolidated comments are provided in coordination with staff from Transportation Planning, Traffic Engineering & ITS, Development Engineering and YRT/Viva.

A. OPA Comments

The Region has no objection to the proposed Official Plan Amendment application.

B. Preliminary Comments for Site Plan Application

Transportation Planning

1. Region support the Dufferin Street and Centre Street Specific Area Plan as proposed by the City of Vaughan with a future ring road connecting Dufferin Street to Centre Street. This proposed ring road will provide a full move access onto Dufferin Street with a potential to be signalized if warranted, including a connection to the west of Dufferin Street. This ring road will facilitate access to the existing and future redevelopments of the Secondary Plan.
2. Therefore, the Region will not allow any access onto Dufferin Street for the proposed development. The development access arrangement does not comply with the Regional Official Plan which states that it is Council's policy:

7.2.53. To restrict vehicle access from developments adjacent to Regional streets to maximize the efficiency of the Regional street system through techniques such as suitable local street access, shared driveways and interconnected properties. Exceptions may be made to this policy in Regional Centres and Corridors, and mainstreets.

The access to the proposed development shall be provided via the proposed local ring road as per the Dufferin Street and Centre Street Specific Area Plan.

3. Provide a basic 45 metre right-of-way for this section of Dufferin Street. As such, all municipal setbacks shall be referenced from a point 22.5 metre from the centerline of construction of Dufferin Street and any additional lands required for turn lanes at the intersections will also be conveyed to York Region for public highway purposes, free of all costs and encumbrances, to the satisfaction of the York Region Solicitor.
4. Provide direct shared pedestrian and cycling connections to the boundary roadways and adjacent developments to support public transit and active transportation. A drawing shall be provided to illustrate the pedestrian and cycling connections.
5. To provide an addendum to the TIS to address the following comments to the satisfaction of the Region.
 - a) A revised traffic operational analysis to reflect the access to be provided via the proposed local ring road.
 - b) The updated TIS shall be consistent with the Region's Transportation Mobility Plan Guidelines (November 2016).
 - c) A Transportation Demand Management (TDM) communication strategy shall be provided as part of the Traffic Study, to communicate and notify the Region and the City of Vaughan to effectively deliver the Information Packages and pre-loaded PRESTO Cards to the residents. This strategy shall also include a physical location for distribution of the Information Packages and pre-loaded PRESTO Cards.

Traffic Engineering & ITS

Additional comments will be provided on the revised Transportation Study.

Development Engineering

Comments will be provided separately by Development Engineering

YRT/Viva

Additional comments will be provided on the revised Transportation Study.

If you have any further questions or concerns in regards to Transportation Planning, Traffic Engineering & ITS or YRT/Viva comments, please contact me at 1-877-464-9675 ext. 75080.

If you have any further questions or concerns in regards to Development Engineering comments, please contact Mauricio Saya at 1-877-464-9675 ext. 75758.