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Barristers and Solicitors

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COMMUNICATION	
CW -	<u>June 20/17</u>
ITEM -	<u>13</u>

June 19, 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 13
City Park Homes Applications
Planning Staff Report
Your File Nos. OP.16.001, Z.16.001, DA.16.003 & 19CDM-16V002**

**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 below, we respectfully request that Council reject the recommendations contained in the abovementioned planning staff report.

The Process to Date

The staff report has a much too brief description of what has preceded to date in this matter:

"The recommendation of the Committee of the Whole to receive the Public Hearing report of June 21, 2016, and to forward a comprehensive technical report to a future Committee of the Whole meeting was ratified by Vaughan Council on June 28, 2016."

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This background is woefully incomplete and does not give Council either a full or accurate picture of what has occurred respecting its previous consideration of these matters.

Staff does not disclose that I made a deputation at the June 21, 2016 public meeting.

Staff does not disclose that I placed before Council at that meeting a communication item that extracted s. 10.1.1.13 of the VOP(2010) and requested that these matters be exempted from OP s. 10.1.1.6; see attached Communication Item C.29. Further, staff fails to mention s. 10.1.1.13 when discussing the implementation policies of the VOP(2010).

Staff does not accurately disclose what action Council took at its June 28, 2016 meeting; see attached Council action.

Staff had specifically recommended to Council that further consideration of the City Park Homes applications be deferred pending the Dufferin Centre Study review being completed and approved:

“2. THAT Files OP.16.001, Z.16.001, 19CDM-16V002 and related Site Development File DA.16.003 (2464879 Ontario Inc. (City Park Homes)) shall BE HELD IN ABEYANCE, until the Dufferin Street and Centre Street Secondary Plan review is completed by the City and approved by Vaughan Council, and that the recommendations of the study be reflected in a revised site design, if required, prior to the consideration of a technical report by the Vaughan Committee of the Whole for the development applications.”

That recommendation was not accepted by Council. The applications were not to be held in abeyance.

But what then occurred? Staff held back preparing the comprehensive technical report and bringing it back to Council until this meeting...at which it is also bringing forward the Dufferin Centre Study and OPA. This is wrong and unacceptable. Staff ignored (defied?) Council's clear rejection of staff's requested recommendation set out above.

And now that a year have passed and this matter has finally been brought back to Council, the single planning reason offered for refusing these applications relates entirely to what is proposed in the Dufferin Centre Study! Absent this Study, staff have offered no reasons for denying our clients' applications.

The “Clergy” Principle

A single reason is given for planning staff's recommendation that the City Park Homes applications be refused:

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“as the development proposal is not consistent with the proposed road network identified in the draft Dufferin Street and Centre Street Area Specific Policies Official Plan Amendment, as shown on Attachment #3.”

Note that this proposed road network does not yet exist in any approved, in force City planning policy or document. The public road that staff proposes to locate on our client’s lands has no legal status.

Our clients’ applications were submitted in January and April of 2016.

The foundation of staff’s recommendations is legally unsustainable. The “Clergy” principle provides that development applications are to be assessed against the planning policies in effect at the time of the applications. “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 recommendations respecting the development that occurs on our client’s lands.

The Revised Proposal

After obtaining some initial City and Regional staff comments on the development proposal, our client submitted a revised proposal in January, 2017; see copy attached. As requested by Regional staff, one of the private road accesses to Dufferin Street was removed from the plan. Staff does not disclose these facts in its report.

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

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

Yours truly,

AIRD & BERLIS LLP

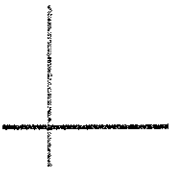

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cc: Claudia Storto/Caterina Facciolo
Barnett Kussner, WeirFoulds LLP
Client
John Zipay/Julia Pierdon
Kim Nystrom/Faranak Hosseini
Gerry Borean

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CITY OF VAUGHAN

EXTRACT FROM COUNCIL MEETING MINUTES OF JUNE 28, 2016

Item 2, Report No. 28, of the Committee of the Whole (Public Hearing), which was adopted, as amended, by the Council of the City of Vaughan on June 28, 2016, as follows:

By approving that recommendation 1) of the Committee of the Whole (Public Hearing) meeting of June 21, 2016, be replaced with the following amended recommendation:

- 1) *That recommendation 1. contained in the following report of the Deputy City Manager, Planning & Growth Management, Director of Development Planning, and Senior Manager of Development Planning, dated June 21, 2016, be approved; and*

By receiving Communication C1, from Mr. J. Greco, Concord Food Centre, Centre Street, Thornhill, dated June 23, 2016.

2 OFFICIAL PLAN AMENDMENT FILE OP.16.001
ZONING BY-LAW AMENDMENT FILE Z.16.001
DRAFT PLAN OF CONDOMINIUM FILE 19CDM-16V002
2464879 ONTARIO INC. (CITY PARK HOMES)
WARD 5 - VICINITY OF DUFFERIN STREET AND CENTRE STREET

The Committee of the Whole (Public Hearing) recommends:

- 1) That the recommendation contained in the following report of the Deputy City Manager, Planning & Growth Management, Director of Development Planning, and Senior Manager of Development Planning, dated June 21, 2016, be approved;
- 2) That the following deputations and Communications be received:
 1. Mr. Leo Longo, Aird & Berlis LLP, on behalf of the applicant and Communication C29;
 2. Mr. Jay Leider, King High Drive, Thornhill;
 3. Mr. Josh Martow, Beverley Glen Ratepayers' Association, Coldwater Court, Thornhill;
 4. Mr. Gino Barbieri, Campania Court, Woodbridge; and
 5. Ms. Andrea Halpern, Evita Crescent, Thornhill and Communication C22, dated June 21, 2016; and
- 3) That the following Communications be received:
 - C7. Wayne Li and Xue Zhou, dated June 17, 2016;
 - C14. Mr. Roberto Di Flaviano, Belfield Court, Thornhill, dated June 17, 2016;
 - C19. Mr. Murray Goldkind, Centre Street, Thornhill, dated June 21, 2016;
 - C20. Ms. Loren Shuster, dated June 21, 2016;
 - C21. Ms. Sandra Bogorodetski, dated June 21, 2016;
 - C23. Ms. Anna Spalierno, Oakmount Crescent, Concord, dated June 21, 2016;
 - C24. Mr. Eric Iankelevic, Redford Place, Vaughan, dated June 21, 2016;
 - C25. Ms. Juliet Williams, Boom Road, Maple, dated June 21, 2016;
 - C26. Resident, Major Mackenzie Drive, Vaughan, dated June 21, 2016;
 - C27. Vinokurov Vsevolod, Yonge Street, Thornhill, dated June 21, 2016; and
 - C28. Mr. Uri Avner, Judith Avenue, Thornhill, dated June 21, 2016.

Recommendation

The Deputy City Manager, Planning & Growth Management, Director of Development Planning, and Senior Manager of Development Planning recommend:

1. THAT the Public Hearing report for Files OP.16.001, Z.16.001 and 19CDM-16V002 (2464879 Ontario Inc. (City Park Homes)) BE RECEIVED; and, that any issues identified

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EXTRACT FROM COUNCIL MEETING MINUTES OF JUNE 28, 2016

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be addressed by the Vaughan Development Planning Department in a comprehensive report to the Committee of the Whole.

2. THAT Files OP.16.001, Z.16.001, 19CDM-16V002 and related Site Development File DA.16.003 (2464879 Ontario Inc. (City Park Homes)) shall BE HELD IN ABEYANCE, until the Dufferin Street and Centre Street Secondary Plan review is completed by the City and approved by Vaughan Council, and that the recommendations of the study be reflected in a revised site design, if required, prior to the consideration of a technical report by the Vaughan Committee of the Whole for the development applications.

Contribution to Sustainability

The contribution to sustainability such as site and building design initiatives will be determined when the technical report is considered.

Economic Impact

This will be addressed when the technical report is completed.

Communications Plan

- a) Date the Notice of Public Hearing was circulated: May 27, 2016. The Notice of Public Hearing was also posted on the City's web-site at www.vaughan.ca and a Notice Sign was installed on the property in accordance with the City's Notice Sign Procedures and Protocol.
- b) Circulation Area: 150 m and to the Beverley Glen Ratepayers' Association, the Brownridge Ratepayers' Association and the Glen Shields Ratepayers' Association.
- c) Comments Received: None

Any written comments received will be forwarded to the Office of the City Clerk to be distributed to the Committee of the Whole as a Communication. All written comments that are received will be reviewed by the Vaughan Development Planning Department as input in the application review process and will be addressed in the final technical report at a future Committee of the Whole meeting.

Purpose

To receive comments from the public and the Committee of the Whole on the following applications for the subject lands shown on Attachments #1 and #2, to facilitate the development of 56 three-storey freehold townhouse units within eight blocks, to be served by a privately-owned and maintained common element condominium road, internal walkway, amenity space/tot lot, and 15 visitor parking spaces, as shown on Attachments #3 to #6:

1. Official Plan Amendment File OP.16.001, specifically to amend Vaughan Official Plan 2010 (VOP 2010), to redesignate the subject lands from "Community Commercial Mixed-Use" to "Low-Rise Residential".
2. Zoning By-law Amendment File Z.16.001 to rezone the subject lands from R1 Residential Zone, and partially (southerly portion) subject to site-specific Exception 9(329) (detached dwellings on lots with a minimum frontage of 18 m and lot area of 540 m²) to RM2 Multiple Residential Zone (townhouses served by privately-owned and administered condominium common elements), together with the following site-specific zoning exceptions to the RM2 Zone standards of Zoning By-law 1-88:

C29
CW (PH)
June 21/16
Item 2

Required Secondary Plan Areas - Policy Regarding the Processing of Individual Development Applications

10.1.1.12. That notwithstanding the policies concerning the Required Secondary Plan Areas identified in Schedule 14-A, Council may permit the continuance of processing of an existing development application submitted prior to May 17, 2010 when it is demonstrated to Council's satisfaction that the proposed development is generally compatible with the vision contemplated in the Official Plan; is significant in terms of its contribution to city-building; and that the proposal could be adversely affected because of any delay caused by having to adhere to the timing of a secondary plan process.

10.1.1.13. That upon direction by Council to staff to proceed with the processing of a development application in advance of the Secondary Plan, it will be required that the applicant attend a pre-application consultation meeting with appropriate staff at which meeting the requirements for various studies will be established, to the satisfaction of the City, to be undertaken as part of a complete application.

