

Christopher J. Tanzola
Partner
Direct 416-730-0645
Cell 416-428-7493
ctanzola@overlandllp.ca

Overland LLP
5255 Yonge St, Suite 1101
Toronto, ON M2N 6P4
Tel 416-730-0337
overlandllp.ca



May 18, 2022

VIA EMAIL

The Regional Municipality of York
York Region Administrative Centre
17250 Yonge Street
Newmarket, ON L3Y 6Z1

Attention: Regional Clerk

Dear Sirs/Mesdames:

**RE: Draft York Region Official Plan 2022
Statutory Public Meeting – May 19, 2022**

We are the lawyers for the individuals and entities listed in Schedule “A” to this letter. We are writing in advance of the Statutory Public Meeting in this matter and in advance of the consideration of the draft York Region Official Plan 2022 (the “**YROP 2022**”) by Regional Council, which we understand is anticipated for June 2022.

Ongoing Site-Specific Development Applications

As indicated in Schedule “A”, a number of our clients have ongoing site-specific development applications currently in process in various local municipalities or at the Ontario Land Tribunal (the “**OLT**”). These applications individually support the optimization of land use and infrastructure, and they directly implement, conform to, and are consistent with the Provincial policy direction set out in the Growth Plan and the Provincial Policy Statement.

Given that these various site-specific matters predate the Region’s consideration of the YROP 2022, it is our expectation that the site-specific applications and the proposed developments thereby advanced by our clients will continue to be considered on the basis of the York Region Official Plan as it applied to their respective lands on the date of their respective applications. This is consistent with the *Clergy* principle that has generally been applied to guide the consideration of development applications – namely, that it is appropriate to consider an application on the basis of the policies that applied at the date of application, and that new policies coming into effect subsequently should not be applied to impose new hurdles to development.

Proposed Policy 7.4.13 appears to indirectly confirm the *Clergy* principle. However, to the extent that anything in the YROP 2022 proposes new policies that could be interpreted or applied to the our clients’ properties in a manner that would prohibit, or result in substantive changes to,

our clients' respective site-specific applications and proposed developments, our clients object thereto.

Additionally, on behalf of our clients we also make the following preliminary comments and observations on the most recent text of the YROP 2022:

Intensification Policies

Although the hierarchical approach to planning and development within the Urban System, as provided for in proposed Policy 4.1.3 is generally appropriate, the recently revised wording of Policy 4.1.3(a) that ranks "densities (highest to lowest)" within the hierarchy is inappropriate. While it may be appropriate that the intensity of development within the Urban System hierarchy follow an overall pattern, specific densities in one location versus another, or on one property versus another, should not be rigidly ranked as may be suggested by the (recently revised) proposed wording.

Recently revised wording to Proposed Policy 4.4.12 has introduced the concept that local municipalities shall develop their own "intensification hierarchies". This has the potential to create inconsistencies with the hierarchy set out in Proposed Policy 4.1.3, as noted above.

The same proposed Policy 4.4.12 directs local municipalities to establish density and height minimums *and* maximums. In our view it is not appropriate and is not consistent or in conformity with Provincial policy to *require* that municipalities identify density and height maximums. While local planning may determine that maximum densities and height may be appropriate in certain situations, the Regional Official Plan should not dictate that such maximums be imposed.

Proposed Policy 4.4.13 indicates that density targets within strategic growth areas apply to the entirety of the area and not to individual parcels within the area. Given our understanding that this policy is intended to further the Provincial interest in promoting intensification within strategic growth areas and not to stifle development, further clarification should be added to this policy to indicate that individual parcels may exceed density targets on a site-by-site basis.

We note that proposed Policy 4.4.19 has been deleted in the most recent text of the draft YROP 2022. We support this deletion as this provision, which was stated as an absolute requirement for the siting of buildings on development sites and for the location of parking, did not provide appropriate flexibility for a Regional planning document.

Housing Policies

Affordable housing is a laudable goal, and must be achieved through a workable partnership between land owners and municipalities with a set of realistic, achievable implementation measures.

Proposed Policy 4.4.22 purports to require a minimum of 35% of new housing units within Regional Centres and Major Transit Station Areas be "affordable" (as defined). (The same policy also refers to *intrinsically* "affordable" units. Given "affordable" is used as a defined term

throughout the YROP 2022, it is unclear how the qualifier “intrinsically” is intended to be applied.)

The requirement for 35% affordable housing units in Regional Centres and MTSAs is repeated in proposed Policies 1.4.7, 2.3.2.3, 4.4.23 and 4.4.2.9(j).

Under the *Planning Act*, the tool for requiring affordable housing within a municipality is through inclusionary zoning. In order to use this tool, a municipality must satisfy a number of statutory and regulatory preconditions, including the adoption of inclusionary zoning Official Plan policies and an inclusionary zoning by-law. Furthermore, such tools can only be employed in areas where a Development Permit System is in place or in Protected Major Transit Station Areas, each of which comes with its own set of statutory preconditions.

It is inappropriate, in our submission, to purport to “require” 35% affordable housing – or any other numeric requirement for affordable housing – for specified areas in advance of this further planning work being completed within the specified areas.

We also have concerns with the stated Region-wide requirement for 25% affordable housing units which is set out in proposed Policies 1.4.7 and 2.3.2.2. It is not apparent how this policy would be realized in areas where inclusionary zoning is not available or not yet in place.

The proposed policies should be reworded to make it clear that affordable housing should be planned for in Regional Centres and Major Transit Station Areas through the use of inclusionary zoning in accordance with Section 16 of the *Planning Act* and O.Reg. 232/18. Additionally, community benefits charges and other tools and initiatives (including incentives) that are available to the Region and local municipalities under the *Planning Act* and other legislation, may be used to encourage affordable housing across the Region.

Major Transit Station Areas/Protected Major Transit Station Areas

A number of our clients’ properties are located within areas proposed by the YROP 2022 as Major Transit Station Areas and/or Protected Major Transit Station Areas (“**MTSAs**” and/or “**PMTSAs**”). These are likewise identified in Schedule “A” to this letter.

Proposed Policy 4.4.2.4 and proposed Map 1B identify the proposed PMTSAs and proposed Policy 4.4.2.5 and proposed Appendix 2 set out the minimum density targets for each PMTSA, as required by Section 16(16)(a) of the *Planning Act*. Proposed Policy 4.4.2.8 then directs local municipalities to do likewise in their Official Plans.

Per Section 16(16)(b) of the *Planning Act*, the YROP 2022 is required to direct local municipalities to identify land uses and minimum densities for PMTSAs in their Official Plans.

However, proposed Policy 4.4.2.9 goes beyond the statutory requirements and also directs local municipalities to identify *maximum* densities, as well as *minimum and maximum heights* for PMTSAs. As noted above in our commentary on proposed Policy 4.4.12, given the Provincial impetus for intensification, particularly in areas where higher order transit is planned or already

exists, it should not be a requirement of the YROP 2022 that local municipalities impose hard caps on height and densities in their local planning documents.

Request for Notice

Please provide us with written Notice of the Region's decision in this matter, as well as notice of any further consideration of the YROP 2022 by the Region or any Regional committee. Our address for notice is provided herein.

Yours truly,

Overland LLP



Per: Christopher J. Tanzola
Partner

Schedule "A" Encl.

Schedule “A”

Name	Property (Local Municipality)	Development Applications	MTSA/PMTSA
1150 Centre Street GP Inc.	1150 Centre Street (Vaughan)	Zoning By-law Amendment (Z.21.928) OLT Case No. OLT- 21-001751	Taiga BRT Station
8940 Bathurst Street Limited	8940 Bathurst Street (Vaughan)	Official Plan Amendment (OP.21.024) Zoning By-law Amendment (Z.21.048)	
9218 Yonge Street Inc.	9218 Yonge Street (Richmond Hill)	Official Plan Amendment (D01- 21010) Zoning By-law Amendment (D02- 21020) OLT Case No. OLT- 22-003667	16 th -Carville BRT Station
9773 Keele Street Inc.	9773 Keele Street (Vaughan)	Official Plan Amendment (OP.17.001) Zoning By-law Amendment (Z.17.002) Site Plan Approval (DA.18.073) Subdivision (19T- 17V001) Zoning By-law No. 047-2021	
2735447 Ontario Inc.	177-197 Woodbridge Avenue (Vaughan)	OLT Case No. PL160284	

Name	Property (Local Municipality)	Development Applications	MTSA/PMTSA
Blue Water Ranch Developments Inc.	Lands north of 784 Centre Street and south of Gatineau Drive	Official Plan Amendment (OP.21.017) Zoning By-law Amendment (Z.21.032) Site Plan Approval (DA.21.041)	Disera-Promenade BRT Station
Centra (BT1) Inc.	17 Millwood Parkway (Vaughan)	Zoning By-law Amendment (Z.16.010) Draft Plan of Subdivision (19T-16V002) OLT Case No. PL190760	
D'Aversa, Liberata	5317 Hwy 7 (Vaughan)		
D'Aversani Holdings Inc.	7960 Kipling Avenue (Vaughan)		
D'Or Developments Inc.	10-20 Gatineau Drive	OLT Case No. PL131327 Draft Plan of Condominium (19CDM-22V002)	Disera-Promenade BRT Station
Doughton Residences Corp.	216 and 220 Doughton Road (Vaughan)	Official Plan Amendment (OP.20.005) Zoning By-law Amendment (Z.20.013) Site Plan Approval (DA.21.026)	Vaughan Metropolitan Centre Subway Station

Name	Property (Local Municipality)	Development Applications	MTSA/PMTSA
Graywood Acquisitions Limited & VMC GP Inc	3201 Highway 7 (Vaughan)	Site Plan Approval (DA 17.015) Minor Variance (A136/18) Minor Variance (A124/21) OLT Case No. PL111184 (Appeal No. 164)	Vaughan Metropolitan Centre Subway Station
Highview Building Corp. Inc.	89 & 99 Nashville Road and Part of 10515 Hwy 27 (Vaughan)	Official Plan Amendment (OP.16.009) Zoning By-law Amendment (Z.016.036) Site Plan Approval (DA.18.028) Draft Plan of Subdivision (19T-18V006) OLT Case No. PL170602	
Lionston Developments Inc.	251 Cityview Boulevard (Vaughan)	Site Plan Approval (DA.21.055)	
SB Developments Inc.	187-195 The Queensway South (Georgina)	Zoning By-law Amendment (03.1140) Draft Plan of Subdivision (01.152) Draft Plan of Condominium (01.153) OLT Case No. 21-001427	

Name	Property (Local Municipality)	Development Applications	MTSA/PMTSA
Shcolyar, Marina	8 Campbell Avenue	Minor Variance (A011/22) Minor Variance (A012/22) Consent (B001/22)	
Stateview Homes Inc.	Various properties		
Stateview Homes (High Crown Estates) Inc.	13151-13211 Keele Street (King)	Official Plan Amendment (OP-2018-03) Zoning By-law Amendment (Z-2018-07) Draft Plan of Subdivision (19T-18-K05) Site Plan Approval (SPD-20-16) OLT Case No. PL190494	
Stateview Homes (Nao Towns) Inc.	5112-5122 14 th Avenue; 7778-7798 McCowan Road; 7810-7846 McCowan Road (Markham)		
Stateview Homes (On the Mark) Inc.	Markland Street and Woodbin Avenue, Part Lot 17, Concession 3 (Markham)		
Trolleybus Urban Development	7241 Kennedy Road (Markham)		

Name	Property (Local Municipality)	Development Applications	MTSA/PMTSA
Wedgewood Columbus Limited	7887 Weston Road (Vaughan)	Official Plan Amendment (OP.19.015) Zoning By-law Amendment (Z.19.039)	Weston BRT Station
Yellow Horizon Homes Ltd.	204 Dew Street (King)	Official Plan Amendment (OP-2018-02) Zoning By-law Amendment (Z-2018-06)	
Yonge Sixteen Inc.	9251 Yonge Street (Richmond Hill)	Official Plan Amendment (D01-19002) Zoning By-law Amendment (D02-19012) OLT Case No. OLT-21-001156	16 th -Carville BRT Station
Yonge & Steeles Developments Inc.	7028 Yonge Street & 2 Steeles Avenue West (Vaughan)	Official Plan Amendment (OP.18.016) Zoning By-law Amendment (Z.18.028) OLT Case Nos. OLT-21-001787 OLT-22-002335	Steeles Subway Station