

SRPBS.24.105_Appendix "5"

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Without Prejudice

September 9, 2024

Via Email

Our File No.: 222659

City of Richmond Hill
225 East Beaver Creek
Richmond Hill, ON
L4B 3P4

Attention: Gus Galanis, Commissioner of Planning and Building Services

Dear Mr. Galanis:

**Re: City of Richmond Hill Official Plan Amendments 18.3 and 18.4
OLT Appeals – Case Nos. OLT-23-004743 and OLT-22-004695**

We are the solicitors for 2402828 Ontario Inc. (the “**Owner**”), the owner of the lands known municipally as 10533 Leslie Street, located on the east side of Leslie Street, south of Elgin Mills Road East, in the City of Richmond Hill (the “**Property**”). The Property is rectangular in shape with approximately 80 metres of frontage along Leslie Street, and is surrounded on three sides by the Elgin Mills Cemetery. It is currently occupied by the York Montessori School comprised of three buildings with a child care capacity of 150 children (the “**School**”).

The Owner is the sole appellant in respect of the approval by the Regional Municipality of York (the “**Region**”) of City of Richmond Hill (the “**City**”) Official Plan Amendments 18.3 and 18.4 (the “**OPAs**”), which were the subject of a Case Management Conference before the Ontario Land Tribunal (“**OLT**”) on May 2, 2023 (the “**Appeals**”). Pursuant to its Memorandum of Oral Decision issued on May 15, 2023 (the “**CMC Decision**”), the OLT confirmed that the Appeals have been scoped on a site-specific basis and adjourned *sine die* to provide an opportunity for the parties to engage in settlement discussions, which have since occurred and been productive.

As a result of those discussions, we are writing to confirm the Owner’s agreement to settle the Appeals on the basis set out herein.

Background

The Property is designated *Urban Area* and *Community Area* on Maps 1 and 1A, respectively, in the approved 2022 York Region Official Plan. It is also zoned to permit a Day Nursery pursuant to City Zoning By-laws 2325-68 and 47-07. At the time the site-specific zoning was enacted and the School commenced its operations in 2007, the Day Nursery use was permitted in the former Town of Richmond Hill Official Plan.

When the 2010 Richmond Hill Official Plan was adopted, the urban structure and land use designations for the Property were modified such that the existing Day Nursery use was no longer permitted, unbeknownst to the Owner, notwithstanding that the use had already operated for three years in conformity with the applicable zoning. The inconsistent Official Plan designations became problematic when the Owner subsequently filed a site plan application to expand the School, resulting in unnecessary delay, additional costs and hardship.

Upon the conclusion of the site plan approval process, the Owner engaged in discussions with the City to resolve the obvious inconsistency between the in-force designations and zoning to ensure that the existing use would be properly identified through the City's Official Plan update, including letters submitted by Weston Consulting prior to the adoption of the OPAs by City Council.

Unfortunately, OPA 18.3 did not address the inconsistency, but instead introduced a new Schedule A1 (City Structure) which proposed to carry forward the *Greenway Systems* designation for the Property (together with corresponding policies which also failed to recognize the existing use), notwithstanding that there are no natural features, farmland or open space on the Property. To the contrary, the Property is a relatively small lot that has been improved with modern buildings, attractive plantings and landscaping along the Leslie Street frontage and a modest surface parking lot. It is surrounded by a cemetery on three sides and a residential neighbourhood to the west.

The Owner has provided a valuable service to the community for over 15 years and there is no reason to burden the Property with rigid Official Plan designations which could present challenges should the Owner seek to refinance or modify the existing operations of the School, as was already experienced through the site plan application process when the new building was completed in 2015. Should the Owner seek a minor variance to the existing zoning standards, such application would have to demonstrate that it maintains the general intent and purpose of an Official Plan designation that has nothing to do with the actual use or characteristics of the Property.

Furthermore, as a result of significant recent changes to the provincial regulation of child care services, it is possible that the Owner will wish to explore operational changes which might result in the Property being repurposed as a private elementary school (in whole or in part). Should that occur, there would be no utility in the Owner having to apply for an official plan amendment in order for the proposal to be appropriately evaluated from a zoning or site plan perspective.

Finally, the Owner's singular concern with OPA 18.4 relates to the requirement in proposed policy 4.1.1(4)(a) which predetermines that a minimum of two access points must be provided to a private elementary school. This policy is overly restrictive, does not provide adequate flexibility, and is not suitable or appropriate for all sites. The Property currently has one access point to Leslie Street and functions without any negative transportation impact.

Accordingly, the Appeals were filed to address the problematic designations and policies.

Proposed Resolution of the Appeals

As you know, settlement discussions have occurred between City staff and the Owner's planning consultants since the Appeals were filed to see if common ground could be reached so as to avoid a contested hearing on these matters.

As a result of those discussions, City staff have now proposed to address the Owner's concerns by establishing a new site-specific exception policy in Chapter 6 of the Official Plan (a copy of which is attached hereto) which would maintain the existing designations but introduce a site-specific permission for the existing Day Nursery use on the Property, while also creating certain policy requirements to govern any future expansion of the Day Nursery or introduction of a similar Private Elementary School use on the Property, including transportation and access considerations.

We hereby confirm that the Owner is willing to resolve its Appeals on the basis of the attached site-specific exception policy being approved by the OLT and added to Chapter 6 of the Official Plan as a modification to the OPA(s).

Should City Council confirm its willingness to settle the appeals on this basis, the parties will jointly advise the OLT that the Appeals have been resolved, with the City filing the necessary settlement materials (including a supporting affidavit from an individual within City Planning). Furthermore, neither Party will seek costs in relation to the appeals. We also understand that the City will take any necessary steps to confirm the Region's consent to the settlement and to determine how any outstanding OLT notice deficiencies that may exist will be addressed (as noted in the CMC Decision).

We also confirm that this letter is not being submitted on a confidential basis as we understand that the Planning staff's recommendation report will be presented for City Council's consideration in open public session.

In conclusion, we believe that the proposed settlement is modest and eminently reasonable, and represents good planning given the existing long-standing use of the Property (which is already expressly recognized in the City's zoning by-law).

We respectfully request that the site-specific exception policy be considered by City Council at its earliest opportunity and we look forward to a favourable and expeditious resolution of the Appeals.

Please do not hesitate to contact us if any further information is required.

Yours truly,

Goodmans LLP



Ian Andres
IDA/rr

cc: Nadia Bayrami, York Montessori School
Ryan Guetter and Steven Pham, Weston Consulting
Carlton Thorne, Assistant City Solicitor, City of Richmond Hill
Samantha Whalen, Associate Counsel, York Region

1393-2409-1661

Final Draft Site-Specific Exception, 10533 Leslie Street

Notwithstanding any other provision of this Plan to the contrary, for the lands known as Part of Lot 24, Concession 3 (municipally known as 10533 Leslie Street), and designated Major Urban Open Space on Schedule A2 (Land Use) of this Plan, the following shall apply:

- a) a *Day Nursery* shall be permitted;
- b) In determining information required under Section 5.3 of this Plan, any *development* application to expand a *Day Nursery* shall be subject to the approval of Transportation, Access and Parking Studies in accordance with Section 5.26 of the Official Plan and Regional requirements which demonstrate that all appropriate transportation requirements including, but not limited to, traffic operations, parking, access, egress and circulation are addressed to the satisfaction of the City and Region, and that there is adequate on-site pick-up and drop-off for vehicles;
- c) a Private Elementary School may be permitted subject to an amendment to the Zoning By-law and the following provisions:
 - i. In determining information required under Section 5.3 of this Plan, a *development* application for a proposed standalone Private Elementary School use, or a Private Elementary School use combined with a *Day Nursery*, shall be subject to the approval of Transportation, Parking and Access Studies in accordance with Section 5.26 of the Official Plan and Regional requirements which demonstrate that the proposed use(s) can be supported, and that all appropriate transportation requirements including, but not limited to, traffic operations, parking, access, egress and circulation are addressed to the satisfaction of the City and Region, and that there is adequate on-site pick-up and drop-off for vehicles;
- d) The maximum height of buildings shall be regulated in the Zoning By-law;
- e) All other provisions of the Zoning By-law, as amended, not inconsistent with the foregoing shall continue to apply.