

Local Planning Appeal Tribunal
Tribunal d'appel de l'aménagement
local



ISSUE DATE: April 24, 2018

CASE NO(S): PL140409

The Ontario Municipal Board (the "OMB") is continued under the name Local Planning Appeal Tribunal (the "Tribunal"), and any reference to the Ontario Municipal Board or Board in any publication of the Tribunal is deemed to be a reference to the Tribunal.

PROCEEDING COMMENCED UNDER subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

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| Applicant and Appellant: | Valleymede Building AMA Corporation |
| Subject: | Request to amend the Official Plan - Failure of the City of Markham to adopt the requested amendment |
| Existing Designation: | "Urban Residential (Low Density)" and "Local Commercial Centre (LC)" |
| Proposed Designated: | "High Density II Housing" and Site Specific |
| Purpose: | To permit the development of three 4-storey residential buildings |
| Property Address/Description: | 5112, 5122 & 5248 14 th Avenue and 7768, 7778, 7788, & 7798 McCowan Road |
| Municipality: | Town of Markham |
| Approval Authority File No.: | OP/ZA 12 117316 |
| OMB Case No.: | PL140409 |
| OMB File No.: | PL140409 |
| OMB Case Name: | Valleymede Building AMA Corporation v. Markham (City) |

PROCEEDING COMMENCED UNDER subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

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| Applicant and Appellant: | Valleymede Building AMA Corporation |
| Subject: | Application to amend Zoning By-law No. 90-81 - Refusal or neglect of the City of Markham to make a decision |
| Existing Zoning: | "Local Commercial (LC)" and "Residential Development (RD)" |

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| Proposed Zoning: | "Residential - High Density (RHD)" |
| Purpose: | To permit the development of three 4-storey residential buildings |
| Property Address/Description: | 5112, 5122 & 5248 14 th Avenue and 7768, 7778, 7788, & 7798 McCowan Road |
| Municipality: | Town of Markham |
| Municipality File No.: | OP/ZA 12 117316 |
| OMB Case No.: | PL140409 |
| OMB File No.: | PL140410 |

Heard: April 6, 2018 by Telephone Conference Call ("TCC")

APPEARANCES:

Parties

Counsel

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| City of Markham ("City") | C. Conrad L. Valentini |
| York Catholic District School Board | T. McRae |
| 10616389 Canada Limited | R. Webb |
| Regional Municipality of York | B. Montgomery S. Gosal (student-at-law) |
| Valleymede Building AMA Corporation | I. Andres |

MEMORANDUM OF ORAL DECISION DELIVERED BY R. G. M. MAKUCH ON APRIL 6, 2018 AND ORDER OF THE TRIBUNAL

[1] The former Ontario Municipal Board issued an order on consent of the parties in these matters on July 31, 2015 allowing the appeals and approving the Master Concept Plan in principle but withheld its final order respecting the Official Plan and Zoning By-law Amendments ("ZBLA") until the parties were able to provide the Board with final versions of these documents.

[2] The Tribunal notes that 10616389 Canada Limited has recently purchased the property formerly owned by Maria Emer who was a party in these matters and has replaced her as party.

[3] Valleymede Building AMA Corporation (“Valleymede”) now brings a motion for an Order of the Board, pursuant to s. 17(50) and 34(26) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, which:

- a) allows Valleymede’s appeals, in part;
- b) amends the Official Plan of the Markham Planning Area (Revised 1987), as amended (the “1987 OP”), in accordance with the proposed amendment attached to the Affidavit of Bill C. M. Tam, sworn March 28, 2018 as Exhibit “G” (“1987 OPA”);
- c) amends City of Markham City Zoning By-law Nos. 90-81 and 177-96, as amended, in accordance with the proposed amendment. In the time since the Ontario Municipal Board’s decision was issued, Valleymede and the owner to the north have reconsidered the form of development proposed for the subject lands, particularly in light of the servicing constraints arising out of the capacity of the existing sanitary sewer infrastructure. As a result of these constraints, Valleymede decided to further revise its development proposal to remove the two six-storey buildings and to significantly reduce the unit count.

[4] The Board found in its July 31, 2015 decision that the original development proposal conformed with the 2006 Growth Plan for the Great Golden Horseshoe (“Growth Plan”). The Growth Plan has since been updated, and the new 2017 Growth Plan came into effect on July 1, 2017 (“2017 Growth Plan”). It provides a policy framework for growth and development that is supportive of economic prosperity, protects the environment and helps communities achieve a high quality of life. Particular objectives of the 2017 Growth Plan include achieving complete communities that are compact, transit-supportive, and make effective use of investments in

infrastructure and public service facilities. The 2017 Growth Plan guides decision-making on issues concerning land-use planning, urban form, housing, natural heritage and resource protection, transportation and infrastructure planning.

[5] In May 2017, City Council endorsed Valleymede's further revised proposal, comprised of a series of townhouses and an overall unit count of 100. At this time, City Council also decided to support a revised settlement of the Valleymede appeals and directed staff to finalize the content of the planning instruments for submission to the Board.

[6] Valleymede and its consultants have continued to fine-tune the plan with City staff and the other parties resulting in a new master concept plan, which is consistent with the version endorsed by Council, but which reduces the overall unit count to 96. Each of the townhouse dwellings will be accessed from private condominium roads with building heights ranging from three to four storeys. The public road entrance and proposed public park continue to straddle the boundary between the Valleymede Lands and the lands to the north, with the portion of the park on the Valleymede Lands proposed to have a site area of approximately 3,200 square metres, which equates to Valleymede's required parkland dedication under the *Planning Act*.

[7] The only materials before the Tribunal on this Motion consist of the Valleymede Motion Record dated March 29, 2018, including the Affidavit of Bill C. M. Tam, sworn on March 28, 2018, and the exhibits thereto.

[8] The Tribunal finds based on the evidence before it that the Motion should be allowed for the reasons that follow.

[9] In summary, the Tribunal is satisfied that:

- the 1987 OPA and ZBLA appropriately implement the revised 2018 concept plan and the overall settlement between Valleymede and the other parties;

- the 1987 OPA and ZBLA are consistent with the Provincial Policy Statement (2014) (“2014 PPS”), conform to the Growth Plan for the Greater Golden Horseshoe (2017), conform to the Regional Official Plan, represent good planning and should be approved;
- the development proposal reflected in the 2018 Master Concept Plan and the Valleysmede Site Plan Concept, the 1987 OPA, the 2014 OPA, and the Zoning By-law Amendment properly addresses matters of provincial interest found in s. 2 of the *Planning Act*, including the adequate provision and efficient use of sewage and water systems, provides for the orderly development of safe and healthy communities, provides recreational facilities through the creation of a new public park, contributes to the provision of a range of housing, the promotion of development that supports public transit and is oriented to pedestrians, and provides for public spaces that are of high quality, safe, and accessible;
- the development proposal reflected in the Master Concept Plan and the Valleysmede Site Plan Concept, the approval 2018 of the 1987 OPA, the 2014 OPA and the ZBLA are consistent with the 2014 PPS; the development proposal reflected in the 2018 Master Concept Plan and the Valleysmede Site Plan Concept, the 1987 OPA, the 2014 OPA and the ZBLA conform with the 2017 Growth Plan;
- the development proposal reflected in the 2018 Master Concept Plan and the Valleysmede Site Plan Concept, the 1987 OPA, the 2014 OPA and the ZBLA conform with the Region of York Official Plan;
- given the approval of the 1987 OPA, that the ZBLA to implement the 2018 Master Concept Plan and Valleysmede Site Plan Concept will fully conform to the 1987 OP;

- with the approval of the 2014 OPA, the ZBLA to implement the 2018 Master Concept Plan and Valleymede Site Plan Concept will fully conform to the 2014 OP;
- the 2018 Master Concept Plan, the Valleymede Site Plan Concept, the proposed 1987 OPA, 2014 OPA and ZBLA represent good planning and are in the public interest.

ORDER

[10] Accordingly, the Tribunal hereby orders as follows pursuant to s. 17(50) and 34(26) of the *Planning Act*:

- (i) the Official Plan of the City of Markham Planning Area (Revised 1987), as amended, is hereby modified in accordance with the Official Plan Amendment attached as Exhibit “G” to the Affidavit of Bill C. M. Tam, sworn March 28, 2018, filed as Exhibit 1 in these proceedings;
- (ii) City of Markham Zoning By-law Nos. 90-81 and 177-96, as amended, are hereby amended in accordance with the Zoning By-law Amendment attached as Exhibit “F” to the Affidavit of Bill C. M. Tam, sworn March 28, 2018, filed as Exhibit 1 in these proceedings;
- (iii) Pursuant to section 1 of Ontario Regulation 101/18 and the Tribunal’s powers under s. 87(1) of the *Ontario Municipal Board Act*, R.S.O. 1990, c. O.28 (as it read on April 2, 2018), and s. 12(2) of the *Local Planning Appeal Tribunal Act*, 2017, S.O. 2017 c. 23, Sched. 1, the order to amend the City of Markham Zoning By-law Nos. 90-81 and 177-96 as set out in paragraph (ii) is contingent upon, and shall come into force upon, a modification or amendment to the City of Markham Official Plan 2014 being made, and coming into force, in accordance with the Official Plan Amendment attached

as Exhibit “K” to the Affidavit of Bill C. M. Tam, sworn March 28, 2018, filed as Exhibit 1 in these proceedings;

- (iv) The Tribunal will remain available to the parties to be spoken to until the condition set out in paragraph (iii) has been satisfied and the Zoning By-law Amendment set out in paragraph (ii) has come into force.

“R.G.M. Makuch”

R. G. M. MAKUCH
VICE-CHAIR

If there is an attachment referred to in this document,
please visit www.elto.gov.on.ca to view the attachment in PDF format.

Local Planning Appeal Tribunal

A constituent tribunal of Environment and Land Tribunals Ontario
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