

Ontario Municipal Board
Commission des affaires municipales
de l'Ontario



ISSUE DATE: July 31, 2015

CASE NO(S): PL140409

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

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 Designation: "High Density II Housing" and to change a policy in this same designation in order to allow for a net site density increase

Purpose: To permit the development of three 4-storey residential buildings containing 162 units and 280 stacked townhouses for an overall total of 442 residential units

Property Address/Description: 5112, 5122 & 5248 14th Avenue and 7768, 7778, 7788 & 7798 McCowan Road

Municipality: City 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

Applicant and Appellant: Valleymede Building AMA Corporation
Subject: Application to amend Zoning By-law No. 90-81, as amended – refusal or neglect of the City of Markham to make a decision

Existing Zoning: "Local Commercial (LC)" and "Residential Development (RD)"

Proposed Zoning: "Residential - High Density (RHD)"

Purpose: To permit the development of three 4-storey residential buildings containing 162 units and 280 stacked townhouses for an overall total of 442 residential units

Property Address/Description: 5112, 5122 & 5248 14th Avenue and 7768, 7778, 7788 & 7798 McCowan Road

Municipality: City of Markham

Municipal File No.: OP/ZA 12 117316

OMB Case No.: PL140409

OMB File No.: PL140410

Heard: July 6 and 17, 2015 in Markham, Ontario

APPEARANCES:

Parties

Counsel

Valleymede Building AMA Corporation

I. Andres
D. Bronskill

City of Markham

A. Wilson-Peebles

Regional Municipality of York

B. Montgomery
L. Mijares, student-at-law

Maria Emer

R.K. Webb

York Catholic District School Board

T. McRae

DECISION OF THE BOARD DELIVERED BY M. CARTER-WHITNEY

[1] Valleymede Building AMA Corporation (“Appellant”) applied for amendments to the City of Markham (“City”) Official Plan (“OP”) and Zoning By-law No. 90-81 (“ZBL”) to permit the development of three, four-storey residential buildings, containing 162 units, and 280 stacked townhouses, for a total of 442 residential units, at the northwest corner of 14th Avenue and McCowan Road (“subject property”). The Appellant proposed an OP designation of “High Density II Housing” and a zoning of “Residential – High Density (RHD)”. When the City did not make a decision on these applications within the time

periods set out under the *Planning Act* (“Act”), the Appellant appealed to the Ontario Municipal Board (“Board”).

[2] At the pre-hearing conference (“PHC”) in this matter, the Board granted party status to Maria Emer, who owns land just to the north of the subject property, and to the York Catholic District School Board (“YCDSB”). The YCDSB is a commenting agency on the proposed development and Father Michael McGivney Catholic Academy, a YCDSB secondary school, is located across the street from the subject property at the northeast corner of 14th Avenue and McCowan Road. The Board also granted participant status to three area residents at the PHC: Mohammed Razvi, Yu Zhang and Anagha Patwardhan.

[3] At the commencement of the hearing, the parties advised the Board that they had reached a settlement subject to the execution of settlement documents between the parties. The hearing was adjourned until July 17, 2015 to allow the parties to finalize the settlement agreement. None of the participants attended on the first scheduled day of the hearing. Although the Appellant notified the participants by courier of the date when evidence concerning the settlement would be heard, none of the participants attended on that date.

[4] At the settlement hearing, the Board heard planning opinion evidence from Keith MacKinnon, a planner retained by the Appellant. The Board qualified Mr. MacKinnon to provide opinion evidence as a land use planner, and he testified in support of the settlement agreement. The Board provided an oral decision at the conclusion of the settlement hearing, with reasons to follow.

[5] Mr. MacKinnon testified that the subject property is designated: “Urban Area” in the Regional Municipality of York (“Region”) OP; “Urban Residential” in the Town OP; and “Urban Residential (Low Density)” and “Local Commercial Centre” in the Armadale Secondary Plan. The subject property is zoned “Residential Development (RD)” and “Local Commercial (LC)”. It is surrounded by single detached residential neighbourhoods to the west, southwest and southeast, and is located immediately to

the south of Highway 407, adjacent to a bus rapid transit line planned to be completed by 2033 that would connect to a GO station.

[6] Mr. MacKinnon described the Master Concept Plan (filed as Exhibit 4, Figure 9 and attached as Attachment 1) for the subject property that has resulted from settlement discussions. The Master Concept Plan includes approximately 422 units in multi-unit stacked three-storey townhouse blocks and two six-storey apartment buildings and a parkland dedication. Mr. MacKinnon noted that the proposed OP designation of “High Density II Housing” does set out a maximum density requirement that the Appellant seeks to increase to approximately 215 units per hectare, although that number has not yet been finalized. He stated that the Master Concept Plan extends beyond the subject property, which is outlined in red, to adjacent properties to the north that include Ms. Emer’s property.

[7] Mr. MacKinnon highlighted a number of key features of the Master Concept Plan, including the following: a northward shift of the property access from McCowan Road to Old McCowan Road and a corresponding shift of access to the secondary school across the road; a roundabout and municipal road with direct access to the subject property and a private condominium road network; a private parkette between two townhouse blocks on the subject property; and a large public park, a portion of which will be located on the subject property with the balance on the lands to the north. He stated that the final versions of the OP and ZBL amendments would be drafted to include two phased holding provisions in the ZBL amendment, to be lifted once conditions relating to matters such as roads and servicing are satisfied. He confirmed that the City OP policies provide for the use of holding provisions.

[8] Mr. MacKinnon provided his opinion that the proposed development, as set out in the Master Concept Plan, is consistent with the Provincial Policy Statement, 2014 (“PPS”) and conforms to the Growth Plan for the Greater Golden Horseshoe, 2006 (“Growth Plan”) in providing for intensification in an appropriate location on arterial roads, ensuring an efficient use of existing infrastructure and transit and stepping down to the low density residential uses to the west. In his opinion, the proposal conforms to

the Region OP and the City OP, noting that it would be in keeping with its surroundings while introducing intensification in an appropriate location.

[9] The parties requested that the Board approve the Master Concept Plan in principle but withhold its final order regarding the OP and ZBL amendments until the parties have provided final versions of the amendments to the Board.

[10] Having considered Mr. MacKinnon's uncontradicted evidence, the Board finds that the proposed development on the subject property, as set out in the Master Concept Plan, is consistent with the PPS and conforms to the policies of the Growth Plan, the Region OP and the City OP.

[11] Therefore, the Board allows the appeals and approves the Master Concept Plan (attached to this Decision as Attachment 1) in principle, but withholds its final order regarding the OP and ZBL amendments until the parties provide final versions of the OP and ZBL amendments to the Board. The Board may be spoken to as necessary.

"M. Carter-Whitney"

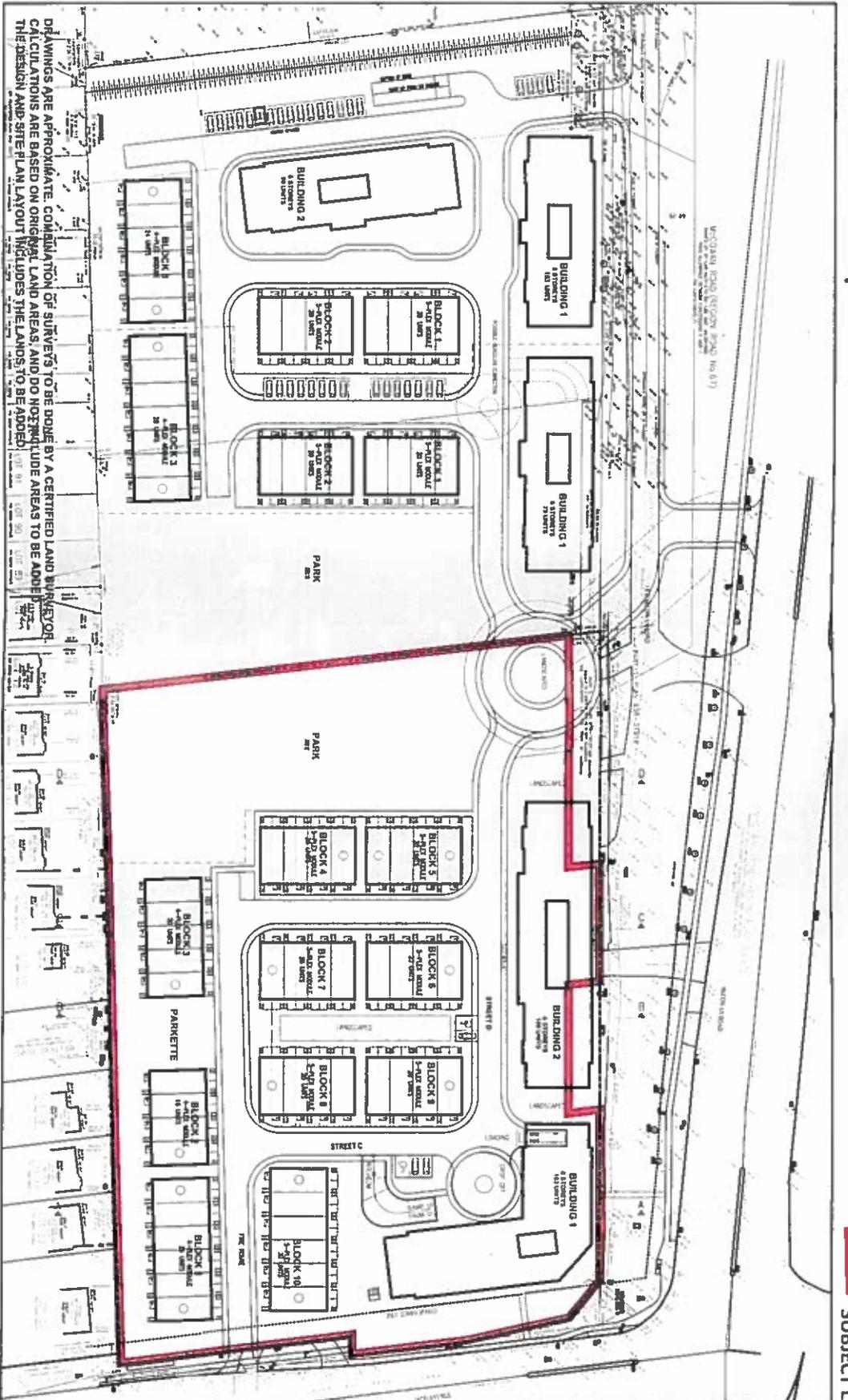
M.CARTER-WHITNEY
MEMBER

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

Ontario Municipal Board

A constituent tribunal of Environment and Land Tribunals Ontario
Website: www.elfto.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

FIGURE 9: Master Concept Plan



OMB CASE NO. : PL140409
 SUBJECT LANDS

DRAWINGS ARE APPROXIMATE. CONSULTATION OF SURVEYS TO BE DONE BY A CERTIFIED LAND SURVEYOR. CALCULATIONS ARE BASED ON ORIGINAL LAND AREAS, AND DO NOT INCLUDE AREAS TO BE ADDED. THE DESIGN AND SITE PLAN LAYOUT INCLUDES THE LANDS TO BE ADDED.

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14TH AND MCCOWAN
MASTER PLAN

Scale: 1:900
 Date: May 13, 2015
 Project No. 15102 Drawing No. 2