

COMMITTEE OF THE WHOLE MARCH 6, 2006

**OFFICIAL PLAN AMENDMENT FILE OP.05.020
TESMAR HOLDINGS INC.
REPORT #P.2005.63**

Recommendation

The Commissioner of Planning recommends:

THAT Official Plan Amendment File OP.05.020 (Tesmar Holdings Inc.) to permit high density residential uses on the subject lands shown on Attachment #1, BE REFUSED.

Economic Impact

There are no requirements for new funding associated with this report.

Purpose

The Owner has submitted an application to amend the Official Plan to redesignate the 1.667 ha site from "Prestige Area" in OPA #450 (Employment Area Plan) to Vaughan Centre Secondary Plan Area" and "High Density Residential/Commercial" within OPA #600. The application contemplates a residential apartment building with a maximum Floor Space Index (FSI) of 2.7 times the site area.

Background - Analysis and Options

The subject lands shown on Attachment #1 are located on the northeast corner of Jane Street and Riverrock Gate, in Lot 15, Concession 4, City of Vaughan. The 1.66 ha vacant site has 97m frontage on Riverrock Gate and 129m flankage on Jane Street.

The subject lands that comprise 1.667ha were once part of a larger 17ha land holding together with the lands situated directly to the east as shown on Attachment #1. On September 28, 1998, Council approved a Zoning Amendment Application (Z.98.063) filed by Magna International Inc., which at the time was the owner of the 17ha lands. The zoning that was approved implemented the designations of the lands as per Official Plan Amendment #450, to implement an employment area complex comprising employment/industrial uses (EM2 Zone on internal Magna lands) together with the subject 1.667ha parcel that was zoned C7 Service Commercial Zone to accommodate both service commercial and employment type uses.

The subject lands are designated "Prestige Area" by OPA #450 (Employment Area Plan), and zoned C7 Service Commercial Zone by By-law 1-88, subject to Exception 9(1032). The surrounding land uses are:

- North - vacant employment lands (EM1 Prestige Employment Area Zone). Development applications (OP.05.005 and Z.05.031) have been filed to redesignate and rezone to permit retail commercial land uses
- South - Riverrock Gate; employment uses (EM1 Prestige Employment Area Zone)
- East - employment use (EM2 General Employment Area Zone)
- West - Jane Street; automobile dealership (under construction) and gas bar (C1 Restricted Commercial Zone)

Public Hearing

On October 28, 2005, a Notice of Public Hearing was circulated to all property owners within 120 metres of the subject lands, and to the Maple Landing Ratepayers' Association, the Maple-Sherwood Ratepayers' Association, CN Rail, and Paramount Canada's Wonderland. A Public Hearing took place on November 21, 2005. The following comments were provided at the Public Hearing or in writing:

a) Maple Landing Ratepayers Association

Mr. Levant Tinaz spoke on behalf of the Maple Landing Ratepayers Association and conveyed opposition to the application while raising the following comments:

- The City must preserve its diminishing employment lands including this site so that residents may someday be able to walk to work from the nearby residential communities.
- The proposed residential designation is incompatible with the existing abutting EM2 Employment Area General uses.
- The proposal doesn't represent orderly development, as it was not part of a larger block plan.
- The community would not have nearby recreational and parkland amenities that promote an active lifestyle.
- The nearby elementary schools, Blessed Trinity Catholic and Maple Creek Public are already over capacity.
- The application is not consistent with the Provincial Policy Statement.
- Planning authorities may permit conversion of lands within employment areas to non-employment uses through a comprehensive review, only where it has been demonstrated that the land is not required for employment purposes over the long term and that there is a need for the conversion.
- The redesignation would remove more employment lands from Vaughan's already limited supply of about 2 years. The current residential supply is about 8 years and this imbalance must be rectified.

b) Blessed Trinity Expansion Committee

Vince Porcelli spoke on behalf of the Blessed Trinity Expansion Committee and outlined the group's opposition to the proposal based on the increased enrollment demand it would create. Mr. Porcelli noted that:

- Blessed Trinity's capacity is 604 students and it was exceeded 2 years after it opened.
- Current enrollment is 878 students.
- 40% of students are taught in portables.

c) MI Developments Inc. (Magna International)

On November 28, 2005, the City received correspondence from MI Developments Inc, the owners of the property located at 401 Caldari Road which is directly adjacent to the east of the subject property. In the letter dated November 23, 2005, MI Developments Inc. expressed concern with the proposal. They indicated that 401 Caldari Road includes a 198,000 sq.ft. industrial facility that is used as a heavy stamping plant and operates 24 hours a day, seven days a week, 365 days per year. Large transport trucks deliver and pick up from the plant 24 hours a day and generate considerable noise. The lands also include 3.23ha (8 acres) of vacant land that will be used for future expansion. As such, high-density residential use would be incompatible with the adjacent industrial uses.

The recommendation of the Committee of the Whole to receive the Public Hearing report of November 21, 2005, and to forward a comprehensive report to a future Committee meeting was ratified by Council on November 28, 2005.

Official Plan

The subject lands are designated "Prestige Area" by OPA #450 (Employment Area Plan), which would accommodate uses that require high visual exposure, good accessibility, and an attractive working environment. The designation permits a wide range of industrial, office, business and civic uses, with no outside storage.

OPA #450 also identifies lands located at the intersection of arterial and/or collector roads as a "Service Node" that would provide for the day-to-day convenience and service needs of businesses and industries and their employees. The subject lands are considered as a "Service Node", consistent with the C7 Service Commercial Zone on the property.

Zoning

The subject lands are zoned C7 Service Commercial Zone by By-law 1-88, subject to Exception 9(1032), which permits employment uses in addition to service commercial uses, and implements the Prestige Area designation in OPA #450, as well as, the "Service Node" policies.

Policy Context

i) Provincial Policy Statement

The subject application was initiated after March 1, 2005 and is therefore subject to the 2005 Provincial Policy Statement (PPS). Section 3 of the Planning Act requires that decisions affecting planning matters "shall be consistent with" the policies under the Act.

The Provincial Policy Statement (PPS) 2005 defines an "employment area" as follows:

"Means those areas designated in an official plan for clusters of business and economic activities including, but not limited to, manufacturing, warehousing, offices, and associated retail and ancillary facilities."

The subject lands are designated "Prestige Area" by OPA #450 (Employment Area Plan), which permits a wide range of industrial, office, business and civic uses, and is considered to be employment lands as defined by the PPS.

With respect to Employment Areas, the PPS states the following:

1.3 Employment Areas

1.3.1 Planning authorities shall promote economic development and competitiveness by:

- a) *Providing for an appropriate mix and range of employment (including industrial, commercial and institutional uses) to meet long-term needs;*

The proposed residential use does not promote the economic development or competitiveness of the employment area. The application, if approved, would remove employment lands from the City's supply and could set a precedent for the approval of other applications for residential uses in the City's employment area. Residential uses in employment areas could impede economic development and competitiveness on adjacent employment lands due to conflicts between the uses. The proposed amendment to the Official Plan would not be consistent with this policy.

- b) *Providing opportunities for a diversified economic base, including maintaining a range and choice of suitable sites for employment uses which support a wide range of economic activities and ancillary uses, and take into account the needs of existing and future businesses;*

The Official Plan Amendment Application to permit a residential use on the subject lands would not take into account the needs of existing and future businesses and could, if approved, deter future businesses from locating in this area because of the incompatibilities that may arise when residential uses are located in close proximity to non-residential uses. The application, if approved, would remove employment land along a major arterial road.

- c) *Planning for, protecting and preserving employment areas for current and future uses;*

The proposed residential use is contrary to this policy of the PPS. If approved, it would remove lands from the employment area and could set a precedent for future site-specific applications for residential uses. From a planning perspective, permitting residential development in the City's employment area is an issue that should be reviewed on a comprehensive basis, with a complete analysis of the planning, social, and economic impacts of considering this policy change and not on a site-specific basis. In addition, introducing residential uses into the employment area could impact on the development of surrounding employment uses due to the incompatibilities between these uses, thereby neither protecting nor preserving future employment uses.

- d) *Ensuring the necessary infrastructure is provided to support current and projected needs.*

Council on November 7, 2005 considered a report respecting a Strategy for Reservation/Allocation of Servicing Capacity from the Commissioner of Engineering and Public Works and the Commissioner of Planning, in consultation with the City Manager. The purpose of this report was to provide Council with an update on the status of available service capacity and to establish a protocol for the distribution of this capacity to developments throughout the City. Council adopted the recommendation in the report on November 14, 2005.

The report includes a Servicing Capacity Distribution Protocol and establishes three priority categories for allocation including: Priority 1, which includes all Draft Plans of Subdivision or Site Plan applications previously approved by Council and are expected to proceed to registration within the next 12 months. Projects classified as Priority 1 received allocation unconditionally; Priority 2 accounts for active applications representing infill development or completion of a partially built community and is expected to proceed to registration within the next 12 months. Priority 2 projects are reserved servicing capacity for a period of one year from the time of reservation by Council; and, Priority 3, which allows for development applications that are expected to proceed to registration within the next 12 to 24 months. Priority 3 development is being assigned for future allocation anticipated to be released by the Region of York in 2007.

The subject application is not identified on any of these Priority Schedules as a project for which servicing capacity is being allocated, reserved or assigned. Accordingly, the necessary servicing infrastructure to support the proposed residential use is not expected to be available within the next 24 months, and likely beyond that time.

The PPS does speak to the conversion of lands within employment areas within Section 1.3.2. which reads as follows:

- 1.3.2 *Planning authorities may permit conversion of lands within employment areas to non-employment uses through a comprehensive review, only where it has been demonstrated that the land is not required for employment purposes over the long term and that there is a need for the conversion.*

The Vaughan Economic and Technology Development Department has indicated in comments that are expanded in another section of this report that these lands are required for employment uses.

In view of the above, the applications to amend the Official Plan to permit a residential use on the subject lands is not consistent with or have regard to the Employment Area policies of the PPS.

ii) Proposed Planning Reforms (Bill 51)

On December 12, 2005, the Ontario Government released a package of proposed planning reforms to be implemented through amendments to The Planning Act (Bill 51) in order to make Ontario's communities stronger, more livable and sustainable. One of the items specifically addressed in the proposed reforms addresses the need to protect employment lands. In this respect, the Province is considering allowing municipalities to refuse proposals to convert employment lands into other uses, with no right to appeal to the OMB except at the time of a comprehensive official plan review. As noted above, the City has not commenced or undertaken a comprehensive official plan review at this time. Although this is only a proposed reform at this time, it clearly signals the high priority the Province places on protecting employment lands. The City shares this position. This proposed reform would be consistent with and would reinforce the Employment Area policies in the PPS. The application to permit high-density residential land use on the subject lands is not consistent with this potential policy direction.

iii) Places to Grow

The Provincial Government in November 2005 released a second draft of the Places to Grow (PTG) policy document which is intended to create a framework for implementing the Government of Ontario's vision for building stronger, prosperous communities by better managing growth to 2031. Places to Grow defines employment areas as:

"Lands zoned or designated within settlement area for employment uses. These lands may be located outside of a designated employment area."

The subject lands are located within a designated settlement area for an employment use. The subject lands are located within the Employment Area Growth and Management Plan as implemented by OPA #450. The surrounding land use context is for employment uses.

The PTG, like the PPS and proposed planning reforms includes specific policies relating to employment lands as follows:

"2.2.6 Employment Lands

1. An adequate supply of *employment lands* providing locations for a variety of appropriate employment uses will be maintained to ensure the vitality of the Greater Golden Horseshoe (GGH) and the provincial economy.
4. Municipalities may permit conversion of lands within designated employment areas, to non-employment uses or major retail uses, only through a municipal comprehensive review where it has been demonstrated that:

- a. there is a need for the conversion
- b. the conversion will not adversely affect the achievement of the intensification target and density targets, and other policies of this Plan
- c. the existing or planned infrastructure and community infrastructure required to accommodate the proposed conversion can be provided in a financially and environmentally suitable manner
- d. lands do not comprise prime industrial lands
- e. lands are not required over the long term for the employment purposes for which they are designated, or
- f. the conversion or designation is necessary to address other provincial priorities such as community health and safety enhancement."

The applicant has not demonstrated a need for the proposed Official Plan Amendment to permit the proposed residential use nor that these lands are not required for employment purposes. The Owner has not demonstrated that the proposed conversion in land use is necessary to meet other provincial priorities. With respect to health and safety, locating an isolated residential development within an employment area would not be considered necessary to address any health or safety enhancement.

In view of the above, the applications to redesignate the subject lands for residential use is inconsistent with the Province's draft Places to Grow policy document.

iv) Region of York

The Region of York Official Plan (RYOP) designates the subject lands as an "Urban Area" and identifies Jane Street as a "Local Corridor".

The 2005 York Region Vacant Employment Land Inventory indicates that Vaughan will require an additional supply, consistent with long-term Regional employment forecasts. Preserving Vaughan's existing employment land supply is especially important given that almost half of its 1,367 hectare inventory is constrained pending the final determination of the Highway 27 extension. The depletion and fragmentation of the City's employment lands is discouraged.

The applications are not considered to be consistent with the Region of York Official Plan.

v) City Official Plan

The subject lands are designated "Prestige Area" by OPA #450 (Employment Area Plan), which accommodates uses that require high visual exposure, good accessibility, and an attractive working environment. The designation permits a wide range of industrial, office, business and civic uses, with no outside storage.

OPA #450 identifies lands located at the intersection of arterial and/or collector roads as "Service Nodes" that provide for the day-to-day convenience and service needs of businesses and industries and their employees. The subject lands are considered to be a "Service Node".

OPA #450 does not consider residential land uses within its boundaries. The current ad hoc proposal to permit a site-specific single residential development in an employment area is inconsistent with the comprehensive planning approach taken to identify and designate appropriate locations to provide for high-density residential areas.

Land Use Compatibility

Proposed Residential Use

The subject lands, as shown on Attachment #1 are surrounded by existing employment uses, or lands zoned for such, to the east and south; most of which permit outside storage as-of-right. Official Plan and Zoning By-law Amendment applications have been filed for the 5.7ha parcel of lands immediately to the north of the subject lands to redesignate these lands from "Prestige Area" to "General Commercial" and to rezone them from EM1 Prestige Employment Area to C1 Restricted Commercial Zone. Properties on the west side of Jane Street have been developed with commercial uses as part of the Vaughan Mills development.

Residential uses are currently not developed or permitted in the applicable planning documents within the immediate vicinity of the subject lands. The subject lands are not contiguous to any existing residential.

A single residential development in an employment area land use context is not considered appropriate. The subject lands are isolated from any existing residential community and surrounded by non-residential uses that are employment or commercial in nature. The single residential development would be out of context with and change the character of the surrounding employment area. Employment lands further create job opportunities for the City's residents living in existing and planned residential communities and should be maintained.

Converting employment lands for residential uses would not be consistent with Provincial, Regional and municipal policies as discussed above, and would result in the reduction of employment lands at a time when the City has undertaken an employment lands needs study to redesignate lands along the Highway #400 corridor for employment uses in order to increase the available employment land supply, which is currently limited.

Vaughan Engineering Department

The Engineering Department has requested the following reports be submitted with respect to the Official Plan Amendment application:

- Traffic Impact Study.
- Functional Servicing Report addressing the issue of available local storm/sanitary conveyance capacity and water supply for the proposed development.
- Environmental Noise Impact/Vibration Study. The preparation of the noise report to include the ultimate traffic volumes associated with the surrounding road network.
- Phase 1 Environmental Site Assessment Report.

In addition, the applicant was also requested to submit a planning justification study to the Development Planning Department to determine and assess the impacts of adding residential lands to the Vaughan Centre Secondary Plan and the resulting impact of deleting lands from the Employment Area. To date, none of the identified reports have been submitted by the applicant.

Vaughan Economic and Technology Development Department

The Economic and Technology Development Department has advised that it opposes the applications that would have the effect of converting employment lands to residential or commercial retail sales for the following reasons:

- the City's current supply of vacant serviced employment lands is less than 3 years. While the City may have a supply of employment lands, the majority of these lands is encumbered (on hold for the Highway 427 Environmental Assessment) or is not serviced. Of the available employment lands, the parcels are small in size (less than 2 acres) and

scattered throughout the City and thus providing mainly infill opportunities. Our ability to attract high quality, high profile tenants with value added functions become hampered by this condition;

- conversion of these lands would jeopardize the assessment balance as established by the Assessment Optimization Report;
- this application contravenes Vaughan Vision 2007's Goal 2.2, *Optimize the Employment Tax Base* and Goal 2.5, *Strengthen the City's Diversified Economic Base*;
- the precedence set by this application would be detrimental to the City's Highway 400 North Employment Land Study currently underway;
- these lands are located within an established employment area. Permitting residential uses would change the character of the employment areas; and,
- the Provincial forecasts call for more than 700,00 jobs in York Region by 2031. The City needs to protect employment lands in order to provide more employment opportunities for future residents and to remain competitive in attracting business investment to the community.

Canadian National Railways (CN)

Canadian National Railways (CN) has reviewed the subject application and provides the following comments:

- The site is in close proximity to CN's MacMillan Rail Yard, a major industrial source and the largest rail yard in Canada, and therefore residential development is not appropriate without a noise study being undertaken to demonstrate feasibility and any required mitigation to be implemented, along with appropriate warning clauses.

CN has also requested that the following policies be included in any approved Official Plan Amendment:

1. Due to the proximity of the subject property to CN's rail yard, the Owner is required to engage a consultant to undertake an analysis of noise and provide abatement measures necessary to achieve the maximum level limits set by the Ministry of Environment and Canadian National. All recommendations of the approved study must be secured through a registered municipal development agreement.
2. The following warning clause shall be included in a registered municipal development agreement and inserted in all Agreements of Purchase and Sale or Lease for each dwelling unit. Provisions must be included in the development agreement to ensure that the warning clauses survives the release of the Owner's obligations under the development agreement and remain on title.

"All persons intending to acquire an interest in the real property by purchase or lease are advised of the proximity of Canadian National Railway's MacMillan Rail Yard, which operates on a 24-hour basis. It is possible that the marshalling yard operations may cause disturbance and may be altered or expanded which could affect the living environment of the residents despite the inclusion of any noise and vibration attenuating measures in the design of the outdoor amenity area(s) and individual dwelling(s). Residents are advised that further mitigation cannot be expected and Canadian National Railway will not be responsible for any complaints or claims arising from use of such facilities and/or operations."

"Warning to Solicitors: Solicitors are advised to stress the importance of the above noted warning clause when advising their clients on the purchase of units in the development."

As noted earlier, the applicant has not submitted a noise study to date.

Relationship to Vaughan Vision 2007

Vaughan Vision 2007 sets out the City's Vision Statement and strategic priorities including goals and objectives to meet these priorities.

i) **Objective A-4 - Promote Economic Development**

It is the objective of the City to ensure its economic growth and stability through the attraction and retention of investment, the stimulation of entrepreneurship and the use of technology.

Permitting residential uses in the employment areas is not consistent with these objectives. The incompatibility between the uses may result in the loss of businesses and investment because they are unable to operate as desired and therefore, have a negative impact on the ability to attract and retain new business.

ii) **Objective A-5 – Plan and Manage Growth**

A single residential development in the land current use context is not considered supportive of this objective. Employment lands create job opportunities for the City's residents living in existing and planned residential communities and should be maintained. The subject lands have a physical context which does not contribute to a quality residential area.

Conclusion

The Development Planning Department has reviewed the proposed application to amend the Official Plan to redesignate the 1.667 ha site from "Prestige Area" in OPA #450 (Employment Area Plan) to "Vaughan Centre Secondary Plan Area" and "High Density Residential/Commercial" within OPA #600.

The introduction of residential uses into the City's employment area is inappropriate for the reasons set out in this report. The proposal would result in a land use that is not compatible with the existing uses in the area that are characterized by employment/industrial uses. If residential uses are to be considered in the employment areas, it should only be considered on a comprehensive basis as outlined in the Provincial policies identified in this report. This incremental approach to planning, particularly for residential uses in this land use context, is not in the public interest and is not an effective way to manage residential related growth, and will result in the piece-meal reduction of employment lands in a haphazard manner. The introduction of "spot" isolated residential development in the employment area could impact on the ability of adjacent employment area lands to develop as intended because of the incompatibility between the two uses when located in close proximity to one another. The Economic and Technology Development Department oppose the conversion of employment lands to residential uses.

In view of the above, the application to permit residential uses in the employment area is not considered to be consistent with the Provincial Policy Statement, the proposed Planning Reforms (Bill 51), Places to Grow, the Region of York and City of Vaughan Official Plans, and Vaughan Vision 2007. In addition, from a planning perspective, permitting residential uses on an individual application basis in the employment area is not considered appropriate for the reasons set out in this report. Accordingly, the Development Planning Department does not support the Official Plan Amendment Application.

Attachments

1. Location Map

Report prepared by:

Clement Messere, Planner, ext. 8409

Arto Tikiryan, Senior Planner, ext. 8212

Grant Uyeyama, Manager of Development Planning, ext. 8635

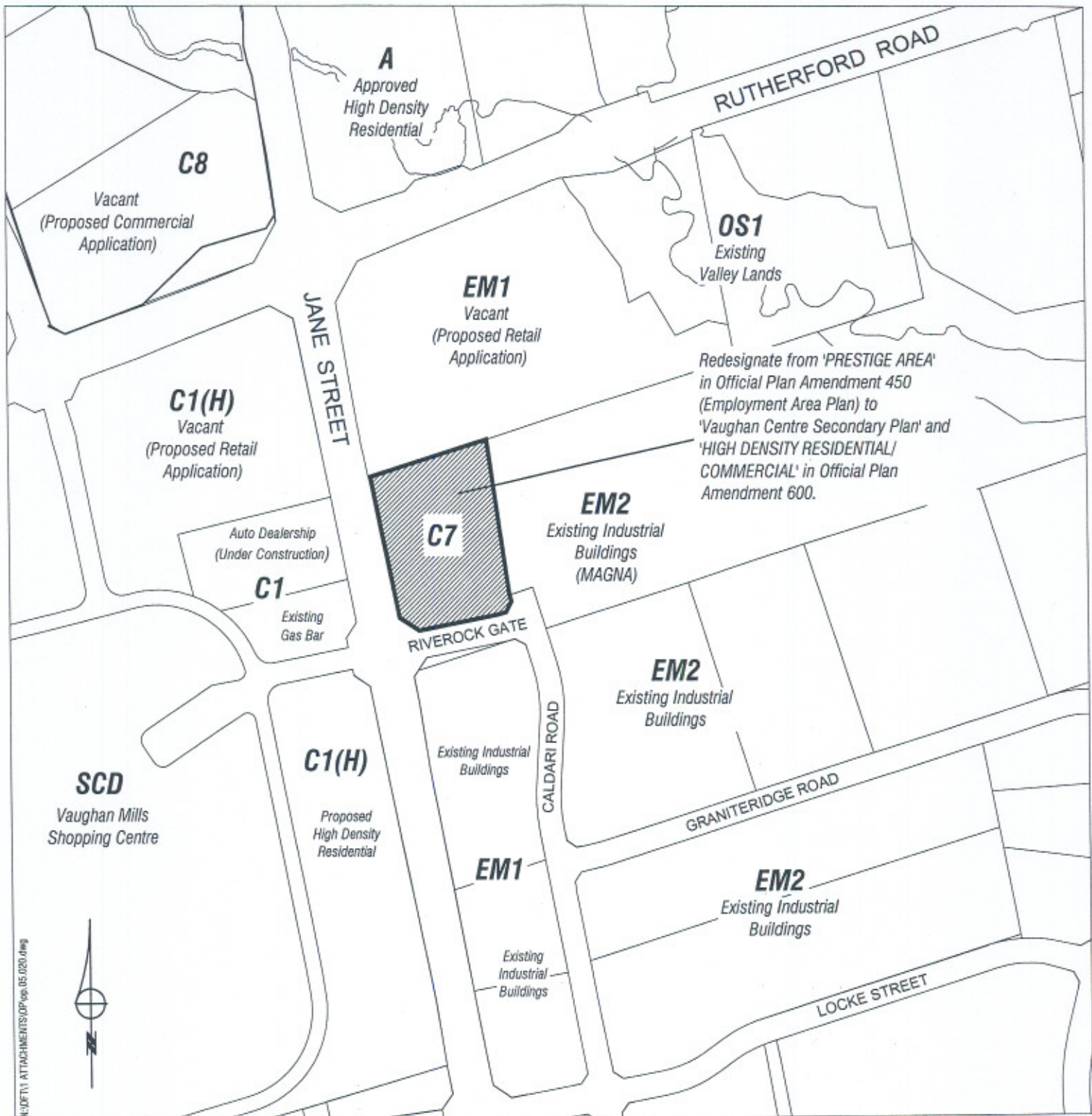
Respectfully submitted,

JOHN ZIPAY
Commissioner of Planning

MARCO RAMUNNO
Director of Development Planning

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Legend

- A** - Agricultural Zone
- C1** - Restricted Commercial Zone
- C7** - Service Commercial Zone
- C8** - Office Commercial Zone
- EM1** - Prestige Employment Area Zone
- EM2** - General Employment Area Zone
- SCD** - Shopping Centre District Zone
- OS1** - Open Space Conservation Zone
- (H)** - Holding Provision
- Subject Lands**

Not to scale

Location Map

Location:
Part Lot 15, Concession 4
Applicant:
TESMAR HOLDINGS INC.



Development Planning Department

Attachment

File:
OP.05.020
Date:
January 30, 2006

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