

Ontario Municipal Board
Commission des affaires municipales
de l'Ontario



ISSUE DATE: December 19, 2016

CASE NO(S): PL111184

PROCEEDING COMMENCED UNDER subsection 17(40) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant:	1042710 Ontario Limited (aka Royal Centre)
Appellant:	1096818 Ontario Inc.
Appellant:	11333 Dufferin St et al
Appellant:	1191621 Ontario Inc.; and others
Subject:	Failure to announce a decision respecting Proposed New Official Plan
Municipality:	City of Vaughan
OMB Case No.:	PL111184
OMB File No.:	PL111184
OMB Case Name:	Duca v. Vaughan (City)

Board Rule 107 states:

107. Effective Date of Board Decision A Board decision is effective on the date that the decision or order is issued in hard copy, unless it states otherwise.

Pursuant to Board Rule 107, this decision takes effect on the date that it is e-mailed by Board administrative staff to the clerk of the municipality where the property is located.

Heard: November 18, 2016 in Vaughan, Ontario

APPEARANCES:

Parties

Counsel/Representative

See Attachment 1

**MEMORANDUM OF ORAL DECISION DELIVERED BY J. de P. SEABORN ON
NOVEMBER 18, 2016 AND ORDER OF THE BOARD**

INTRODUCTION

[1] A further pre-hearing conference was scheduled in connection with the remaining appeals (Phase 1) of the Vaughan Metropolitan Centre Secondary Plan (“VMCSP”). The purpose of the pre-hearing was to address certain settlements that have been achieved and to confirm the Procedural Order (“PO”) that will govern the organization and conduct of the hearing, set to commence on **Monday, January 9, 2017**. Counsel for the City of Vaughan (“City”) circulated an agenda in advance and the matters addressed below proceeded on consent.

[2] The City served and filed a notice of motion (Exhibit 3) seeking a series of modifications and approvals and dismissing certain appeals in respect of the VMCSP. In support of the orders sought Steven Dixon, a qualified land use planner and senior planner with the City, filed an affidavit and provided testimony explaining the basis for the requested orders. Mr. Dixon explained that the City adopted modifications to the VMCSP on December 11, 2012 and September 22, 2015. In addition, the Board granted partial approval of the VMCSP in November, 2015 and ordered that the identified policies and schedules of the VMCSP be approved, save and except to the extent they remain under appeal on an area or site-specific basis.

[3] The City seeks modifications to Schedule D- Major Parks and Open Spaces (Exhibit 3, Tab F) which will have the effect of re-locating a Public Square in the southeast quadrant of the Secondary Plan; and, modifications to the height and density provisions, Schedule I - Height and Density Parameters (Exhibit 3, Tab H) for certain blocks. The lands owned by 785343 Ontario Limited and I & M Pandolfo Holdings (Appellant 59, referred to collectively as “Omega”) will be modified by the revised Schedule I. Mr. Dixon explained that Omega supports the proposed changes, but maintains their appeal of various policies and schedules of the Secondary Plan (subject to the order requested and described below). Mr. Dixon also explained that Concetta

Marciano (Appellant 135) and Pro Catering Ltd. (Appellant 136) have resolved their appeals (except for their respective appeals of the parkland policies) and modifications have been agreed upon with the City, all of which is set out in the Board's order. There was no opposition to the requested relief.

[4] The Board adopts and relies upon the planning opinion of Mr. Dixon in respect of each request and the Order of the Board arising from the motion, which results in a further partial approval of the VMCSPP, is set out as Attachment 2.

[5] A notice of motion (Exhibit 4) was served and filed by Omega (Appellant 59) seeking an order from the Board approving the VMCSPP with modifications for the lands subject to its appeal. A supporting document book was filed (Exhibit 5), the request was supported by the City (responding motion record, Exhibit 6), and there was no objection from the other appellants or parties. In support of the order sought, Mr. Annibale called Michael Bissett, a qualified land use planner. Mr. Bissett reviewed the contents of his affidavit (filed in support of the motion) explaining that the City and his clients have agreed on a resolution involving modifications that have the effect of adding a new Schedule K "Site Specific Policy Areas" to the VMCSPP as well as a new Section 9.3 "Site Specific Policies". The modifications are supported by the City and the Toronto and Region Conservation Authority ("TRCA") and will result in site specific policy that would permit a hotel use permission, expansion of existing use and office use permission. Mr. Bissett explained that while the modifications are made on a site specific basis, as a result of the City's request to amend the VMCSPP (Schedule I, explained above) the settlement of the matters raised by Appellant 59 also includes an increase in density for the easterly portion of the lands, as well as lands located to the north.

[6] The Board adopts and relies upon the opinion of Mr. Bissett and the Order of the Board arising from the motion is also set out in Attachment 2.

[7] The final matter addressed at the pre-hearing was the draft PO (Exhibit 8). There was some discussion amongst counsel with respect to the final exchange dates in light of the fact that there will likely be further settlements achieved in advance of the hearing. The PO has been issued by separate order on consent (dated November 18, 2016). The PO confirms the issues, the parties for the hearing and the order of evidence (for each Quadrant). Given the likelihood of further settlements at the commencement of the hearing, all parties and participants should appear on the first day of the hearing, which is scheduled to commence on **Monday, January 9, 2017 at 10 a.m. at:**

**City of Vaughan
OMB Hearing Room
2141 Major MacKenzie Drive
Vaughan, ON**

[8] If any further matters arise before the commencement of the hearing, the Case Coordinator may be contacted.

“J. de P. Seaborn”

J. de P. SEABORN
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.

Ontario Municipal Board

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ATTACHMENT 1

PL111184

ONTARIO MUNICIPAL BOARD

IN THE MATTER OF subsection 17(40) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant: 1042710 Ontario Limited
 Appellant: 1191621 Ontario Inc.
 Appellant: 1529749 Ontario Inc.
 Appellant: 1541677 Ontario Inc. and others
 Subject: Failure to announce a decision respecting the proposed new Official Plan of the Regional Municipality of York for the City of Vaughan
 Municipality: City of Vaughan
 OMB Case No.: PL111184
 OMB File No.: PL111184

**VAUGHAN METROPOLITAN CENTRE SECONDARY PLAN
 PRE-HEARING CONFERENCE – NOVEMBER 18, 2016**

SIGN IN SHEET

		COUNSEL/ REPRESENTATIVE(S)	ATTENDEE(S)
City of Vaughan		Claudia Storto Deputy City Manager, City of Vaughan Michael Toshakovski Legal Counsel, City of Vaughan Steven Dixon Planner, City of Vaughan	
APPELLANTS	APPEAL	COUNSEL/ REPRESENTATIVE(S)	ATTENDEE(S)
1042710 Ontario Ltd.	1	Steven Zakem Aird & Berlis LLP	
Wal-Mart Canada Corp.	10	Roslyn Houser Goodmans LLP	
First Vaughan Investments Inc., Roland Properties Inc. and Skyrange Investments Inc.	72	Roslyn Houser Goodmans LLP	
Calloway REIT (Sevenbridge) Inc. (SmartCentres)	73		
2128475 Ontario Corp.	146		
1930328 Ontario Inc.	147		
Hollywood Princess Convention and Banquet Centre Ltd.	50	Quinto M. Annibale & Steven Ferri Loopstra Nixon LLP	
785345 Ont. Ltd and I & M Pandolfo Holdings	59		

Royal 7 Developments Ltd.	84		
Luigi Bros. Paving Company Ltd.	91	Gerard C. Borean Parente Borean LLP	
1034933 Ontario Ltd.	120		
Luigi Bros. Paving Company Ltd. (Peelar)	128		
Concetta Marciano	135		
Pro Catering Ltd.	136		
Michael Termini, Salvatore Termini and Rosa Bancheri	145		
2117969 Ontario Inc.	106		Matthew DiVona Davies Howe Partners LLP
Midvale Estates Ltd.	107		
Potestas Properties Inc.	108		
Bentall Kennedy (Canada) Ltd.	111	Patrick Duffy Stikeman Elliott LLP	
Berkley Commercial (Jane) Inc.	119	Daniel Artenosi Overland LLP	
York Region Condominium Corporation 730	137		
York Condominium Corporation 499	139	Robert Miller Scargall Owen-King LLP	
350 Creditstone Investments Inc.	143	Steven A. Zakem Aird & Berlis LLP	
Lorwood Holdings Incorporated	158		
PARTIES	PARTY	COUNSEL/ REPRESENTATIVE(S)	
Region of York	A	Pitman Patterson Borden Ladner Gervais LLP	
Toronto and Region Conservation Authority	C	June Little TRCA	
York Region District School Board	G	Thomas McRae Shibley Righton LLP	
York Region Catholic District School Board	H	Joseph Pacione YRCDSB	
Canadian National Railway	I	James Quigley Papazian Heisey Myers	
Appellants 38/39/40	J	Alexandra DeGasperis Kagan Shastri LLP	

ATTACHMENT 2

PL111184

ONTARIO MUNICIPAL BOARD

IN THE MATTER OF subsection 17(40) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant: 1042710 Ontario Limited
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Municipality: City of Vaughan
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THESE MATTERS having come on for a public hearing,

THE BOARD ORDERS that in accordance with the provisions of section 17(50) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, (the "Act") in respect of the Vaughan Metropolitan Centre Secondary Plan (the "VMC SP"), forming part of Volume 2 of the City of Vaughan Official Plan (2010) (the "Plan"), as adopted by the City of Vaughan (the "City") on September 7, 2010 and modified on December 11, 2012 and October 7, 2015 and as modified by the Ontario Municipal Board (the "Board") in its Order issued December 3, 2015, Schedules D and I to the VMC SP are hereby modified as set out in Attachment "A" attached to and forming part of this Order.

THE BOARD ORDERS that in accordance with the provisions of section 17(50) of the Act in respect of the VMC SP, forming part of Volume 2 of the Plan, as adopted by the City on September 7, 2010 and modified on December 11, 2012 and October 7, 2015 and as modified by the Board in its Order issued December 3, 2015, the VMC SP is hereby modified to:

1. add Section 9.3 - Site Specific Policies;
2. add to Section 9.3 site-specific policies 9.3.1, 9.3.2, and 9.3.3;
3. add Schedule K; and
4. include on Schedule K, Area A, as subject to site-specific policies 9.3.1, 9.3.2 and 9.3.3

all as set out in Attachment "B" attached to and forming part of this Order.

AND THE BOARD ORDERS that the Plan in its entirety, as modified, is hereby approved in respect of the lands subject to the appeals of Appellants 135 and 136, save and except for those policies and schedules which remain subject to appeal on a Plan-wide basis.

AND THE BOARD ORDERS that the balance of the appeals of Appellants 135 and 136, save and except for parkland dedication policies 6.1.2, 6.1.3 and 6.1.4 of the VMC SP, are hereby dismissed.

AND THE BOARD ORDERS that the Plan in its entirety, as modified, is hereby approved in respect of the lands subject to the appeal of Appellant 59, save and except for those policies and schedules which remain subject to appeal on a Plan-wide basis.

AND THE BOARD ORDERS that the balance of the appeal of Appellant 59 is hereby dismissed.

AND THE BOARD ORDERS that the policies and schedules of the Plan not previously approved, including the modified Schedules D and I to the VMC SP, are hereby approved in respect of the two development blocks east of Maplecrete Road, south of Doughton Road, north of Freshway Drive, and west of the proposed north/south road, save and except for those policies and schedules which remain subject to appeal on a Plan-wide basis.

AND THE BOARD ORDERS that this partial approval of the Plan shall be strictly without prejudice to, and shall not have the effect of limiting, (a) the rights of a party to seek to modify, delete or add to the unapproved policies, schedule, maps, figures definitions, tables and associated text in the Plan, or (b) the jurisdiction of the Board to consider and approve modifications, deletions or additions to the unapproved policies, schedules, maps, figures, definitions, tables and associated text in the Plan on a general, area-specific or site-specific basis, as the case may be, provided that the parties shall be bound by the commitments made by them to scope their issues to a site-specific or area-specific basis.

AND THE BOARD FURTHER ORDERS that the scoping of appeals to a specific site or area is without prejudice to the positions taken by the parties to those appeals so that if those appeals proceed to a subsequent hearing or motion, either on their own or as may be consolidated with other site-specific appeals, the City will not take the position that the Board ought not to approve site-specific or area-specific modifications to the affected policies, schedules, maps, figures, definitions, tables and associated text on the mere basis that they deviate from or are inconsistent with such policies, schedules, maps, figures, definitions, tables and associated text on a City-wide basis (or as approved in respect of other lands which are subject to the same policies, schedules, maps, figures, definitions, tables and associated text). However, this does not affect the City's right to assert that the approved policies, schedules, maps, figures, definitions, tables and associated text should be applied to the specific sites or areas without modification on the basis that doing so is consistent with the Act, provincial policies, conform to provincial plans and/or constitutes good planning.

AND THE BOARD FURTHER ORDERS that the pending appeals filed in respect of the Plan shall be determined through the hearing process or as otherwise consented to by the parties and approved by the Board.

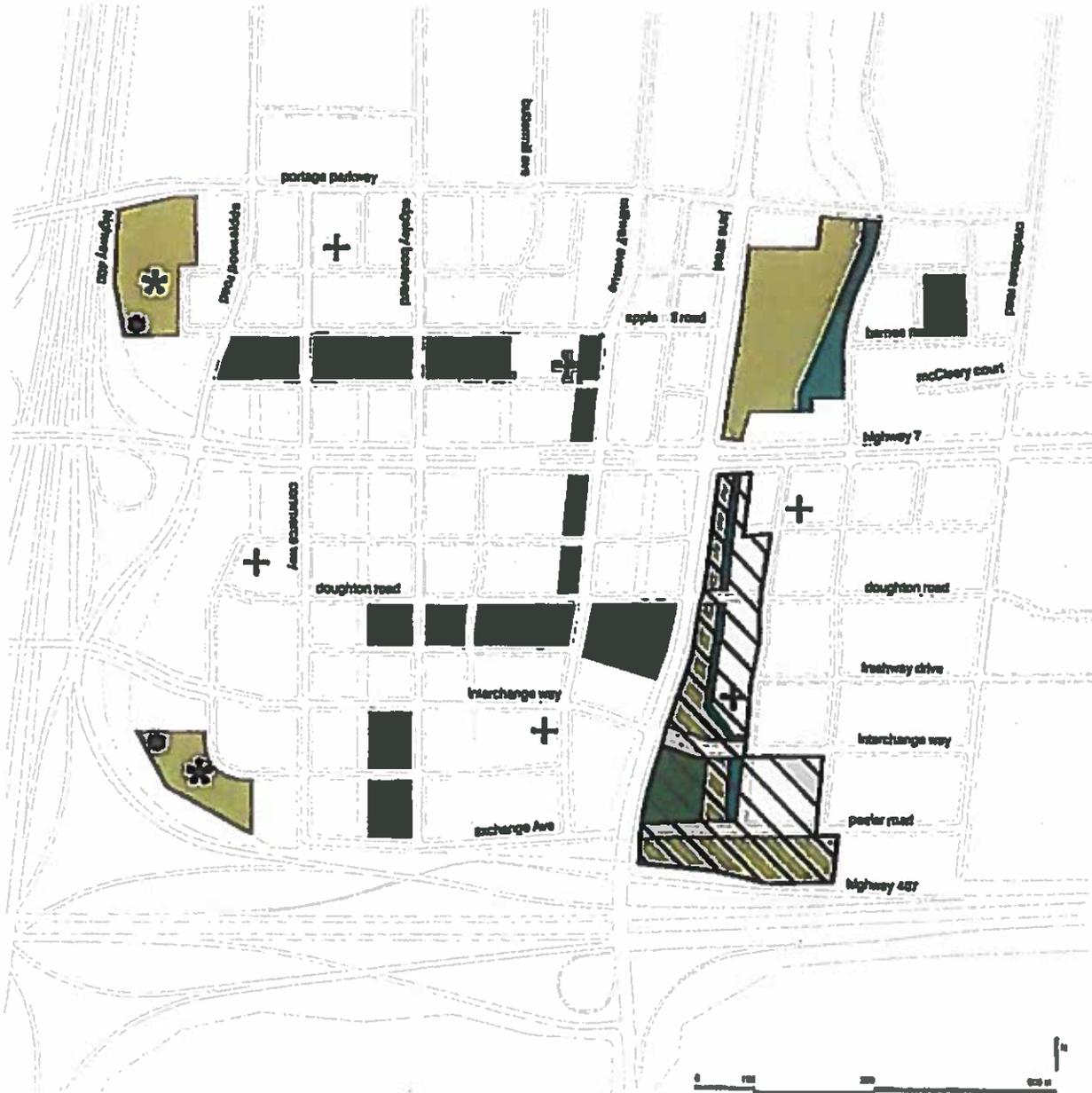
AND THE BOARD FURTHER ORDERS that it may be spoken to in the event any matter or matters should arise in the connection with the implementation of this Order.

SECRETARY

SCHEDULE D > MAJOR PARKS AND OPEN SPACES

LEGEND

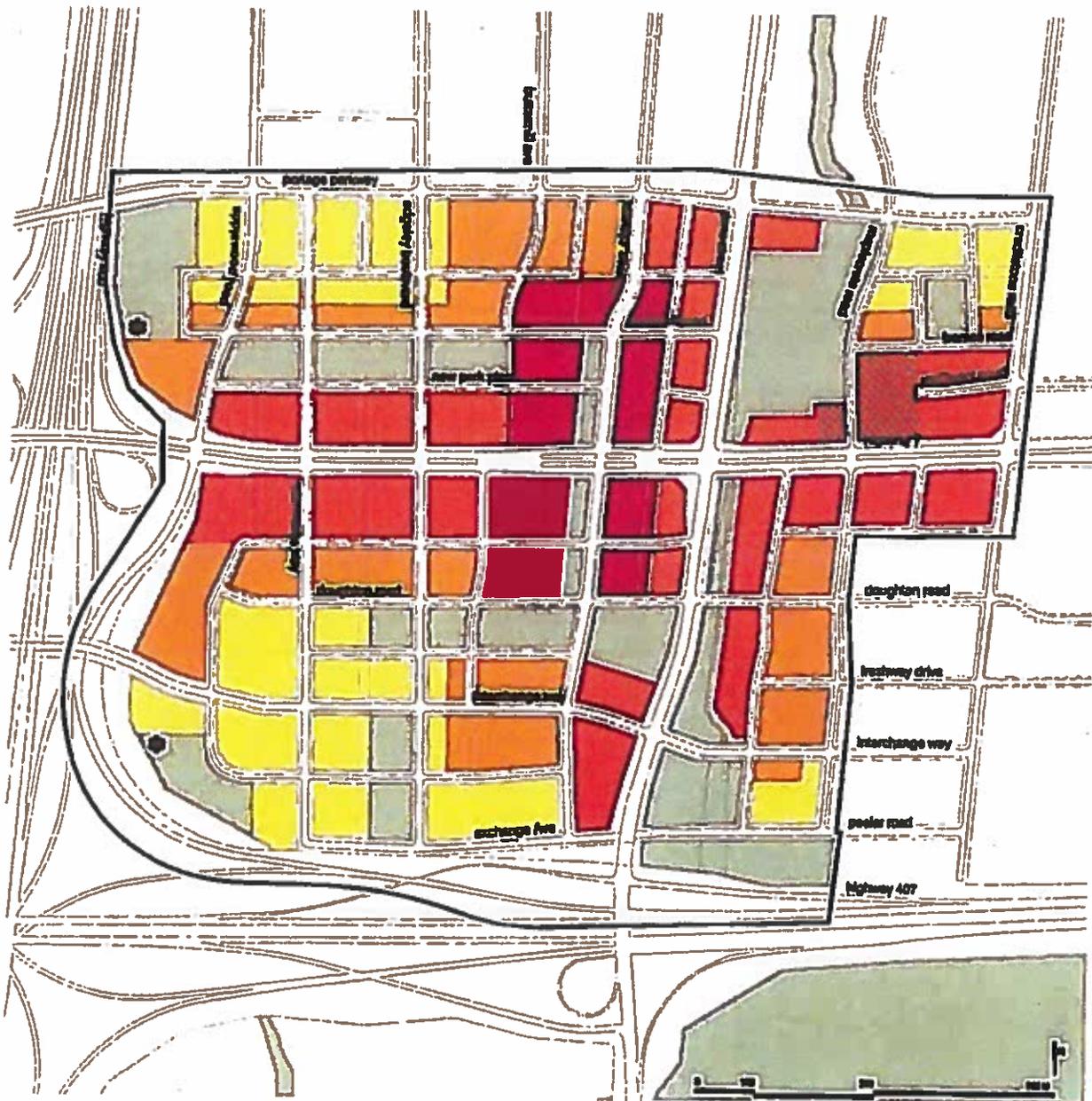
-  Environmental Open Spaces
-  Urban parks
-  Neighbourhood parks
-  Milway Avenue linear park
-  Black Creek greenway
-  Final configuration of parks and open space areas within this boundary is subject to results of the VMC Black Creek Renewal EA (Stages 3 & 4) and final results of the VMC servicing and stormwater Management Master Plan
-  Public squares (see Policies 6.2.5-6.2.7.)
-  Transit Square
-  parkland associated with environmental spaces
-  see Policy 6.3.2.



SCHEDULE I > HEIGHT AND DENSITY PARAMETERS

LEGEND

- | | |
|--|--|
| <ul style="list-style-type: none"> H 6 storey minimum - 35 storey maximum
D 3.5 minimum fal - 6.0 maximum fal H 5 storey minimum - 30 storey maximum
D 2.5 minimum fal - 5.0 maximum fal H 5 storey minimum - 25 storey maximum
D 2.5 minimum fal - 4.5 maximum fal | <ul style="list-style-type: none"> H 3 storey minimum - 10 storey maximum
(up to 15 storeys may be permitted subject to Policy 8.7.11)
D 1.5 minimum fal - 3.0 maximum fal major parks and open spaces see Policy 9.2.3 see Policy 6.3.2 |
|--|--|



9.3 Site Specific Policies

Area A

- 9.3.1 Notwithstanding Policy 8.4.1, a single hotel use shall be permitted on the lands identified as "Area A" on Schedule K, provided that the hotel use is integrated into a mixed-use building and located west of the north-south local road, fronting the Black Creek Corridor.**
- 9.3.2 Notwithstanding Policies 5.6.10 and 9.2.2.a, the existing banquet hall located at 7601 Jane Street is permitted to expand or redevelop beyond the existing at-grade footprint by a maximum of 50%, subject to the following:**
- a. It has been demonstrated that the proposed expansion or redevelopment has been removed from the flood plain entirely;**
 - b. Any expansion or redevelopment must conform to Policy 5.6.8 of this Plan;**
 - c. Any expansion or redevelopment must comply with all program, regulatory and policy requirements of the TRCA;**
 - d. Any expansion or redevelopment will contribute toward or not inhibit the implementation of the approved Black Creek remediation strategy;**
 - e. Any expansion or redevelopment will not compromise the Black Creek Renewal Environmental Assessment project process or its implementation; and,**
 - f. Any expansion or redevelopment shall not impact or otherwise affect the planned road network as identified on Schedule C of this Plan.**
- 9.3.3 Notwithstanding Policies 8.1.3 or 8.4.1, up to 10,000m² of office uses are permitted on the lands identified as "Area A" on Schedule K and will not be used for the purposes of calculating density, provided that all 10,000m² of office uses are provided.**

SCHEDULE K > SITE SPECIFIC POLICY AREAS

LEGEND

-  vaughan metropolitan centre boundary
-  existing and planned streets
-  major parks and open spaces
-  areas subject to site-specific policies (see section 9.3)

