



January 16, 2023

Via email to: clerks@vaughan.ca

Communication: C23
Committee of the Whole (PM)
January 17, 2023
Items #3,4,5,6

City of Vaughan
Office of the City Clerk
2141 Major Mackenzie Drive
Vaughan, ON L6A 1T1

Dear Clerk,

Re: 11063/11191 Highway 27
RE: Zoning By-law Amendments Z.22.029; Z.22.030; Z.22.031; Z.22.032
Draft Plan of Subdivision File Nos.: 19T-22V006 – 11363 and 11191
City of Vaughan

Donnelly Law (“we” or the “Firm”) represents the Friends to Conserve Kleinburg Inc. (“FTCK”) and Humberplex Developments Inc. (“Humberplex”) (together our “Clients”) regarding the proposed Block 55 West Block Plan and development at Kirby Road and Regional Road 27 (the “Block Plan 55”).

We write Vaughan Council (“Council”) to inform you of objections that our Clients have regarding the proposed Zoning By-law Amendments (“ZBLA”) Z.22.029, Z.22.030, Z.22.031, and Z.22.032 to the City of Vaughan Comprehensive Zoning By-law 1-88 (“By-law 1-88”) and City of Vaughan Comprehensive Zoning By-laws 001-2021 (“Bylaw 001-2021”), which will be discussed at a public meeting on January 17, 2023. Vaughan Staff have failed to adequately engage residents concerning these objections. These objections are filed with our oral submissions in response to the Notice of Public Meeting, dated December 23, 2022.

Specifically, our Clients have concerns about: the Block Plan 55’s transition compatibility; density and lot sizes; the negative impacts to the valley; the woodlands and Vegetation Protection Zones; and the development’s lack of responsiveness to climate change, traffic, and stormwater management, among other issues. The proposed rezoning will result in the loss of significant, mature vegetation, and leaves a large portion of the golf course re-development as blank, presumably for a future, unnecessary school site, which is not appropriate.

The Block Plan 55 proposes to develop a low-rise, car oriented residential neighbourhood consisting of both two-storey single detached homes and townhouses, a mixed-use block with commercial space, a nine-hole golf course (the “Copper Creek Golf Club” or the “golf course”), elementary school and three parks. Block 55 currently has an Open Space Conservation Zone (OS1) designation and is subject to two site-specific Exceptions for Agricultural Zone (A) and Rural Residential Zone (RR) per By-law 1-88.

The Block Plan consists of approximately 97.6 ha designated as Natural Area and Low-Rise Residential development by the City of Vaughan (the “City”). It is a planned community where approximately 800 low-rise residential units and 2,800 new residents will be located across 56.5 ha. The developable area is within the Vaughan urban area boundary, approximately 39.5 ha in the Growth Plan’s 2006 Built Boundary and 17 ha in the Designated Greenfield Area (Phase 1). The target density is 50 persons and jobs/ha minimum within the Designated Greenfield Area. This is achieved in that portion, and the overall Block Plan 55 density is 49 persons and jobs/ha. Approximately 41.5 ha of the east of Block Plan 55 (including the Copper Creek Clubhouse) is within or next to to the Greenbelt Plan Area.

I. Resident’s Opposition to the ZBLA

The proposal involves:

- a) A subdivision comprised of 4 phases:
 1. Phase 1 deals with the northerly most lands;
 2. Phase 2 covers lands in the central portion of the site; and
 3. Phases 3 and 4 are adjacent to the Humberplex development.
- b) Four separate ZBLAs per subdivision phase to amend the By-laws 1-88 and 001-2021:
 1. Phase 1 = Z.22.029;
 2. Phase 2 = Z.22.030;
 3. Phase 3 = Z.22.031; and
 4. Phase 4 = Z.22.032.
- c) The proposed subdivision and zoning amendments purport to implement the approved Official Plan Amendment 47 (“OPA 47”), Official Plan Amendment 48 (“OPA 48”) and Block Plan 55. It sets out the overall street network, lotting pattern, density, location of natural heritage blocks, landscape buffer blocks, location of parks and schools, as well as blocks for infrastructure. It was approved by the City in 2022.

There are several supporting studies submitted with the applications. Many of these studies were previously identified in OPA 47 and OPA 48 as requirements of a “Scoped Block Plan” and “Draft Subdivision” process. For example, under OPA 47 (the north portion of the proposed development area) and OPA 48 (the south portion of the proposed development area) the following studies were required and issues to be investigated:

- a) The layout of the proposed development, unit type and yield (13.47.1.2 and 13.48.1.1);
- b) Minor Community Facility study to include but not limited to a gymnasium library and multipurpose activity rooms (13.48.1.2 a);
- c) A traffic Impact Study (13.48.1.2 b);
- d) The final alignment of Collector Roads and the final classification and layout of local roads (13.47.1.5 and 13.48.1.5);
- e) The precise limits of Valley and Stream Corridors and Vegetation Protection Zones (13.47.1.9 and 13.48.1.15);
- f) The precise limits of woodlands and Vegetation Protection Zones (13.47.1.11 and 13.48.1.17); and
- g) A conveyance into public ownership of Core Features and associated Vegetation Protection Zones (13.47.1.13 and 13.48.1.19).

In addition, some of the key policies in OPA 48 include:

- a) Section 13.48.1.3 of OPA 48 indicates:

Development shall include transition measures for the adjacent existing neighbourhood to the south that may include, but not limited to a berm, fencing, additional and/or existing landscape or a single loaded road(s). The details of the transition measures are to be established through the block plan and draft plan of subdivision applications and secured through zoning by-law(s) and/or restrictive covenant(s).

- b) Section 13.48.1.8 of OPA 48 requires:

Alternative street patterns, other than a grid-like street pattern, such as cul-de-sacs that reinforce the existing character of the existing community and which is sensitive to the existing neighbourhood to the south.

- c) Section 13.48.1.10 of OPA 48 permits:

Rear lotting on Regional Road 27 to reinforce the existing physical character of the Kleinburg Community ... subject to Urban Design

Guidelines being prepared to the satisfaction of the City through the Scoped Block Plan and Draft Plan of Subdivision Applications.

d) Section 13.48.1.11 of OPA 48 permits:

Golf courses, including club houses facilities, maintenance buildings and driving ranges” in the Private Open Space designation.

II. Issues – Community Opposition

The key issues of community opposition include prematurity, lack of consultation, insufficient transition compatibility, density and lot sizes, protection and identification of the valley, woodlands and Vegetation Protection Zones, the development’s lack of responsiveness to climate change and traffic, and stormwater management and several other issues relating to the proposed by-law amendments.

a) Transition/Compatibility

Neither the proposed ZBLAs nor subdivision layout in Phase 3 and Phase 4 adequately address transition and compatibility issues with the existing subdivision to the south, and the Humber River and Greenbelt. The proposed street layout does not address the requirements of Sections 13.48.1.3 and 13.48.1.10 of OPA 48 that require alternative street patterns such as cul-de-sacs or single loaded roads in this area. The proposed ZBLAs lack requirements for other transition features such as, but not limited to, berms, fencing and landscaping as required by Section 13.48.1.10 of OPA 48, including a minimum vegetative buffer to separate the existing neighbourhood immediately south of the Subject Lands.

These separation features should be substantially augmented by a landscape restoration plan that would include habitat restoration, preservation of mature trees, pollinator habitat and other vegetation that will both reduce the incompatibility between the neighborhoods but also improve the wildlife habitat corridors and connections to the greenbelt. This separation would have the added benefit of preserving mature trees.

The proposal also appears to not conform with an important policy in Vaughan Official Plan Amendment 601, which applies directly to the Copper Creek lands. OPA 601 designated the area “Special Use Golf” that created an important open space and recreational amenity in the agricultural and rural areas north of the Village of Kleinburg. As much open space as possible should be preserved and secured by the by-laws.

Vaughan Official Plan, 2010 (“VOP”) s 2.2.3 identifies the communities of Woodbridge, Kleinburg, Maple, Thornhill, Concord, and the new communities of Vellore and Carrville as contributing to a unique sense of place for the City and establish the Vaughan identity. Part of that identity is a landscape dominated by trees, open space, wide lots and generous backyards that permit the maximum greenspace and foliage. The predominate feature of these communities is their

contribution to a modest scale of development that does not overwhelm its surroundings. Section 2.2.3 indicates that:

The policies of this Plan will protect and strengthen the character of these areas. As the City grows and matures, these Community Areas will remain mostly stable.

However, incremental change is expected as a natural part of maturing neighbourhoods. This change will be sensitive to, and respectful of, the existing character of the area.

The proposed developments will not protect or strengthen the character of the area and represents a form of development that is not sensitive to, or respectful of, the existing character of the area. The proposed development does not conform to the Official Plan or the Official Plan Amendments, and introduces development that is neither compatible with the existing neighbourhood, nor adequately protects existing environmental features and functions.

Further, the proposed ZBLAs for Phase 3 and Phase 4 should establish a minimum lot frontage requirement of 21.34 m for any lot backing onto to the existing neighbourhood to the south. As proposed some lots have frontages of 15.24 m.

If rear yard to rear yard lotting is to be permitted along the interface area the subdivision plan should create a lot matching of 1:1 with the existing neighbourhood to the south. As proposed, there are several existing lots in the existing neighbourhood to the south that will abut 3 or 4 new lots along their rear lot lines. This does not conform to the OP.

b) Density and Lot Sizes

Overall, the proposed density will result in a neighbourhood design that does not reflect the distinctive image of the Kleinburg Area and the surrounding neighbourhoods. Approximately 68% of the proposed single detached dwelling lots are considered small lots with frontages of 11.6 m or less. In order to preserve greenspace, limit impermeable surface areas and to ease transition, these lot sizes should be increased in the proposed ZBLAs.

The history of this application includes the consistent and persistent conviction of residents that residential uses should be ancillary to the golf course. The designation only allowed limited minor residential development and contemplated a very modest population estimate for redevelopment of the Subject Lands, to a maximum of 570 people.

The development proposal planning justification report has a population estimate of 2,800 people, or approximately four times the density prescribed by Official Plan ("OP") 601. Kleinburg-Nashville is not identified as an area of intensification in the VOP. It makes no sense whatsoever to encourage intensification/new growth so far from services such as public transit, schools, health care services, shopping, etc.

The dramatic increase in density has functional, aesthetic and environmental consequences. It is the unnecessary introduction of infrastructure and impermeable surfaces that exceeds the prescribed amounts. Intensification has its place, but not here, so far removed from the urban core.

c) Valley, Woodlands and Vegetation Protection Zone Identification

The limits of the valley, woodlands and Vegetation Protection Zones surrounding the valley corridor and woodlands have not been appropriately defined as required by Section 13.47.1.9 and 13.47.1.11 of OPA 47 and Section 13.48.1.15 and Section 13.48.1.17 of OPA 48.

Of great concern to our Clients is that the development proposal at the proposed density introduces new land uses in protected valley lands in the Greenbelt for infrastructure, including a massive stormwater management pond. Our Client strongly disagrees with the conclusions of the Environmental Impact Study, Copper Creek Block 55 Northwest, City of Vaughan August 2022 by Beacon Environmental (the “Beacon EIS”) as they feel it does not ensure that vulnerable species such as the red side dace are protected. The Greenbelt Plan does not permit infrastructure in Natural Areas such as is being proposed.

Missing from the Beacon EIS is a discussion of the ponds currently located on the golf course table lands. I have personally interviewed several residents who all testify that their lands and the golf course are currently used by a large number of wildlife that are undoubtedly using these ponds in some fashion. (e.g. deer, coyote, turkeys, fox, amphibians, etc.) There are a great number of species-at-risk associated with the nearby branch of the Humber River. This ecological function must be assessed and accounted for in any future planning documents, particularly as it relates to the introduction of new infrastructure.

We request a guarantee that all mature 20-year-old trees should remain in place undisturbed along border lands of Copper Creek Golf Club and Humberplex Subdivision. We also request a significant landscape buffer along the same border to protect wildlife movement and habitat.

d) Climate Change

The proposed ZBLAs and proposed subdivision plans represent a typical suburban form of development and do not appropriately address the requirements of Section 1.8.1 of the Provincial Policy Statement (“PPS”) dealing with a changing climate. In particular, the proposal does not address the following requirements of Section 1.8.1:

- a) promote compact form and a structure of nodes and corridors;
- b) promote the use of *active transportation* and transit in and between residential, employment (including commercial and industrial) and institutional uses and other areas;

- c) encourage *transit-supportive* development and *intensification* to improve the mix of employment and housing uses to shorten commute journeys and decrease transportation congestion;
- d) promote design and orientation which maximizes energy efficiency and conservation, and considers the mitigating effects of vegetation and *green infrastructure*; and
- e) maximize vegetation within *settlement areas*, where feasible. (PPS s. 1.8.1)

On June 4, 2019, Mayor and Members of Council unanimously passed a Members' Resolution to declare a climate emergency in the City of Vaughan, after a deputation by students from Thornhill Woods Public School. To date, the Copper Creek development application has been silent on the matter of climate change and adaptation. On a broader scale, why does Council continue to approve new subdivision developments like Copper Creek, and the other golf course conversions, that reduce the amount of open space, pave over environmental features, and promote car use and urban sprawl? With respect, the proposed ZBLAs fail totally to address climate change. On the City of Vaughan's own website, "Residential" is listed as Vaughan's second largest source of GHG emissions, however, nothing meaningful is being done to stop new developments that contribute to this total. The ZBLAs are not consistent with the PPS.

e) Stormwater Management

The proposed stormwater management plan relies on the lands located outside of the Urban Area. The VOP designates the area of the Stormwater Management Pond ("SWM") as valley lands for environmental protection. Clearly, the pond will have an impact on these lands, particularly now that it will be "super-sized", based on the NSRI peer review. Experts retained by our Clients have objected to the SWM location and sizing, and have serious concerns about the final water balance achieved across the site. These impacts to the Humber River should not be permitted by the proposed ZBLAs.

In addition, the proposed Official Plan Amendment omits any amendment in the protected valley land, only in the areas staked by the Toronto Regional Conservation Authority. This is a major oversight.

f) Prematurity of Site Alteration

As you are aware, the Local Planning Appeal Tribunal's approval of Official Plan Amendments 47 ("OPA 47") & 48 ("OPA 48"), that coincide with the Block Plan are currently under appeal by our Clients in the Superior Court of Justice of Ontario (Divisional Court). Notwithstanding the Judicial Review application launched by our Clients, the City appears to have permitted substantial site alteration and

grading despite the lack of a rezoning and subdivision approval to the point that the road network is now clearly visible from Kirby Rd.

This is especially alarming given that no prior public consultation has taken place with respect to the substantial site alteration that has already started. This destruction of the landscape pending the Block Plan, Zoning and Draft Plan of Sub-Division is unprecedented, in our Clients' experience. May we know exactly how many times this extraordinary benefit has been extended to other developers in Vaughan?

It would not surprise our Clients to learn this is the first time such an expansive reading of the Building Code has been extended to a developer in Vaughan.

Regarding the Block Plan, it is our Clients' experts' opinion that the Block Plan will result in a significant loss of open space in the Kleinburg Community as well as the broader City of Vaughan. The implications of this loss of open space were not assessed as part of the consideration of both OPA 47 and OPA 48 but needs to be now.

Furthermore, the Region of York has not completed its Municipal Comprehensive Review (MCR) to address the extended time horizons and population forecasts of the Growth Plan (2019). The MCR is required to establish the updated allocation of population forecasts to the City of Vaughan. Consideration of the Block Plan is premature until such time as the updated allocation of population forecasts is completed.

To make matters worse, the substance of the Judicial Review is that the Government of Ontario adopted a regulation prejudicial to residents' appeal rights – at the request of the City of Vaughan Council!

Prior to September 3, 2019, the *Local Planning Appeal Tribunal Act* contained sections 38 – 42 which were repealed once the current amendments came into effect on September 3, 2019. The repealed sections required that oral submissions be limited to Parties, not experts, and then only to the limited amount of time prescribed by the regulations. They also prohibited Parties from calling or cross-examining witnesses.

On September 3, 2019, all this changed as planning appeals were once again governed by rules that made appeals fairer and more open.

On September 27, 2019, a former City of Vaughan employ Mr. T. Simmonds wrote to the Attorney General of Ontario Mr. Doug Downey requesting amendments to O. Reg 303/19 re “third party” appeals, without the authorization of Council.

On October 7, 2019, the City of Vaughan convened a Special Council Meeting – authorizing T. Simmonds to write AG requesting amendments to Transition Regulation i.e. take away third party appeal procedural rights. The public was never consulted in this change.

No explanation has ever been provided for this extraordinary series of events. This new Council should be seeking an immediate investigation of this unfortunate episode.

This site alteration and these applications have occurred against the backdrop of rising residents' anger over developers receiving preferential treatment by the government. Recently, media reports have identified a number of developers who have benefitted from the Ford government's removal of certain protected land from the Greenbelt, including the ZBLA's Applicant.¹

III. Preserving Open and Green space in Vaughan

As you are aware, the re-development of major open spaces in Vaughan is a very controversial subject. Residents are becoming increasingly concerned that the lack of a stricter Open Space protection policy is undermining important natural and cultural heritage landscapes like golf courses that abut the Humber River.

Mostly, residents are concerned that the conversion of these open spaces were never contemplated in the Block Plans that are to guide development and inform prospective property buyers with respect to the landscape in which they make, for many, their most significant investment in purchasing a home. As you are no doubt aware, Council has been asked previously to adopt an Interim Control By-law ("ICBL") to study the issue of loss of greenspace.

Presently, Council appears to be dealing with each new development application on an *ad hoc* basis. Our client is concerned regarding the loss of open space and respectfully submits that Council should plan for the preservation of greenspace in a comprehensive manner.

IV. Lack of Clarity Regarding 15 Acres on the Plan

In the December 23, 2022, Notice of Public Meeting for ZBLA Z.22.032, the Context and Location Map (Attachment 1) provided contained 15 acres on the Copper Creek Golf Club that has nothing noted on it. This non-designated block of land abutting Autumn Wind Crt. should, in our Clients view, be designated as green space or park land, and should not be designated for any future built developments such as a school site. In a letter from December 16, 2022, by Councillor Marilyn Iafrate to the

¹ [Who are the GTA developers set to benefit from Ford government's Greenbelt land swap? | CBC News](#)

York Catholic District School Board, she discussed many concerns of the community and explained why a school in that location would not make sense.

For instance, given that there is already a high school site secured approximately 4 km away in Block 41, it would not make sense to have two high school sites so close to one another, since there is not sufficient demand for both in the community. If the goal of a school in this location is to accommodate students outside of Vaughan, then correspondingly, the lands sourced should be outside of Vaughan as well.

Since the local community was involved with the planning process for the subdivision abutting them, it would be unfair to surprise them with a school site at such a late point in the planning process. Councillor Iafrate affirms that the community is vehemently opposed to such a change. School accommodations require considering the impacts to existing schools before moving forwards with such a development. Since Block 41 has received a Minister's Zoning Order, it may likely proceed before the Copper Creek development, in which case that school site would have priority.

V. Conclusion

Our Clients are opposed to the four proposed ZBLAs for By-laws 1-88 and 001-2021 due to the lack of compatibility, efficiency of land use, negative environmental impacts, and public transit issues that it may cause. Residents deserve the opportunity to work with Staff – whom they employ – instead of having to wait for the final report before having the opportunity to make technical submissions. Our Clients are seeking an immediate timetable and protocol to meet with Staff, their experts and the community to ensure that each of these issues are addressed in the context of an Environment First approach to development approval, which has been lacking in Vaughan to date.

Please do not hesitate to contact me at 416-572-0464, or by e-mail to david@donnellylaw.ca, cc'ing melanie@donnellylaw.ca and monique@donnellylaw.ca, should you have any questions or comments concerning this correspondence.

Yours truly,



David R. Donnelly

cc. Clients
G. Borean