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Communication
Council – April 22, 2024
CW(1) – Report No. 12 Item No. 16

Vaughan Council
2141 Major MacKenzie Dr. W.
Maple, ON
L6A 1T1

Attention: Todd Coles, City Clerk

RE: Council Motion - 141 Maloy Street, Vaughan ON, Application #Z.22.025 seeking permission for Temporary Use Zoning By-Law for the storage of 817 motor vehicles, including the temporary preparation and inspection of new motor vehicles as an accessory use.

STORM's Requested Action: The motion be withdrawn and the application be immediately refused as it is not in conformity with the ORMCA. We respectfully submit, that Vaughan Council lacks the authority to permit the commercialization of this site.

Dear Vaughan Council:

Since 1990 Save the Oak Ridges Moraine (STORM) Coalition has been the leading voice protecting and preserving the Oak Ridges Moraine. We've had major victories along the way—the most notable being the creation of the 2001/2002 Oak Ridges Moraine Conservation Act and Plan (ORMCA/ORMCP) that now safeguards the Oak Ridges Moraine (ORM). We continue to protect both the ORM as well as the interpretation and application of the ORMCP and its associated act.

After the enactment of the ORMCP on April 22, 2002, there has been relative certainty when deciding where and how new urban development can be directed on the ORM and associated Greenbelt lands. Unfortunately, since 2018 there has been a concerning shift in attitudes and intentions emanating from the provincial government and several municipalities. Where governments have historically acted to uphold the ORMCA and its associated regulations, we have been witnessing a troubling disregard for the ORM and a growing failure to meet both the intent and letter of the law. Despite the numerous changes to provincial planning and environmental legislation, we would like to remind Council that the ORMCA remains unchanged. The recently released proposed Provincial Planning Statement (PPS) 2024, affirms that Provincial Plans take precedence over the policies in the PPS.¹ And, as stated in Section 8 of

¹ Proposed Planning Statement, 2024, pg. 4: "Provincial plans are to be read in conjunction with this Policy Statement. They take precedence over the policies of this Policy Statement to the extent of any conflict, except where the relevant legislation provides otherwise." Refer to: [https://prod-environmental-registry.s3.amazonaws.com/2024-04/Proposed%20Provincial%20Planning%20Statement,%20April%2010,%202024%20-%20EN%20\(2\).pdf](https://prod-environmental-registry.s3.amazonaws.com/2024-04/Proposed%20Provincial%20Planning%20Statement,%20April%2010,%202024%20-%20EN%20(2).pdf)



the ORMCA, when there is a conflict in planning legislation the ORMCA & Plan prevail. Citing these documents directly:

“Despite any other Act, the Oak Ridges Moraine Conservation Plan prevails in the case of conflict between the Plan and,

- a) an official plan;
- b) a zoning by-law; or
- c) a policy statement issued under section 3 of the Planning Act, 2001...”

Despite comments to the contrary, we believe that application #Z.22.025 is anything but “benign.” Our primary concern is the precedent this decision would create. Whether intentional or unintentional, we believe that passing this motion could lead to a rash of development applications for temporary zoning use by-laws on the ORM in multiple municipalities. Cumulatively these ‘temporary’ land use permissions could lead to irreversible changes that undermine the ecological integrity of the ORM.

We acknowledge that the site’s natural heritage value is likely already compromised due to the previously housed legal non-conforming propane storage facility. We are aware that there are existing legal and illegal commercial/industrial activities at adjacent sites.

We are also aware of the very long history of the Garden Center on Keele Street that has resulted in charges under the Building Code Act and Planning Act. It remains unclear how or if this matter will be resolved, but STORM fears permitting a temporary zoning use bylaw will compromise the decade’s worth of work that has sought to uphold conformity with planning legislation, specifically the ORMCA – the authority of which was upheld by the courts upon appeal as recently as 2022.² In addition, recent efforts by Vaughan by-law staff should be commended as they have been working diligently to bring about land use compliance on and off the ORM and we hope that additional support and recognition will be provided by the Province as requested in their recent staff report.³

Regardless of the current condition of the land or surrounding land uses STORM believes that this temporary land use permission is not within the authority of Vaughan Council to grant and is incompatible with the objectives of the ORMCA, Section 4 (Refer to Appendix 1).

² Refer to York (Regional Municipality) v. 1085638 Ontario Limited, 2022 ONCA 263:
<https://www.canlii.org/en/on/onca/doc/2022/2022onca263/2022onca263.html>

³ Refer to the April 16, 2024, ENFORCEMENT UPDATES FOR UNLAWFUL USES OF AGRICULTURAL LANDS.
<https://pub-vaughan.escrimemeetings.com/Meeting.aspx?Id=24a9e1f1-f06c-4b06-a1c2-b3b4767b08bb&Agenda=Agenda&lang=English&Item=37&Tab=attachments>



- The Planning Act requires that **all** planning decisions conform with Provincial Policies.
- Local Official Plans permitting the approval of temporary use by-laws is not a consistent argument for municipal authority to permit a **prohibited use** in the Natural Linkage land use designation of the ORM
- Section 39.1 of the Planning Act only permits temporary uses that are prohibited by a by-law, i.e. municipal approvals and it is unclear how this could be interpreted to suggest non-compliance with provincial legislation is permissible
- The approval of the temporary uses is inconsistent with ORM objectives
 - May cause permanent irreversible damage to natural heritage features on and off-site by undermining connectivity
 - Even with no further damage this application will not restore ecological integrity, or protect hydrological features and functions.
 - Potential for off-site impacts from the parking and movement of potentially 881 vehicles as there is no stormwater infrastructure and the land use activity will create increased contaminate loads such as chloride from salt application and other common urban contaminants.
 - The wording surrounding the whereas clause for an engineer's report every 3 years could create a loophole that anticipates future reports and hence a series of temporary permissions beyond the initial 3-year permit.

STORM contends that there is no means by which the proposed land use could ever be compliant with the ORMCA; Section 3 (4) expressly prohibits the removal of natural core or natural linkage areas from the ORMCA. Further, STORM is deeply concerned by the extensive planning opinion and letter provided to staff suggesting a prohibited use could be compliant with the Natural Linkage land use designation provisions. This statement is a contradiction in terms and downplays the significant precedent this decision could have across the entire Moraine. Moreover, and at the very least, Vaughan Council and staff should consult those responsible for the legislation: the Minister and staff of the Ministry of Municipal Affairs and Housing.

While STORM recognizes that the City of Vaughan wants to support economic opportunities, especially when presented by important members of the business community, we also believe it is important for Vaughan Council and the business members of our community to recognize the vital importance of protecting areas identified by legislation that provide free natural asset management services that can help alleviate the need for engineered municipal infrastructure. Development pressures are and will continue to be insurmountable. To facilitate such decisions undermines numerous other policies and goals set by Council and enforcement action taken by staff to bring about compliance and conformity with planning legislation.

Over the past 30 years, STORM has learned that we must proceed cautiously - how we use the moraine's land surface and its water resources can affect the deep regional groundwater flow

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systems, which are integral to the ecosystem health of south-central Ontario. Ensuring strong environmental planning protection remains paramount is even more important today as climate change risks present themselves with greater frequency and intensity. Investing in the protection of the ORM has synergistic benefits for residents, businesses, and governments as identified in Smart Prosperity's report: "Investing in Greenbelt ecosystems offers several low-risk, high-reward opportunities to enhance key regional ecosystems, generate economic value for local communities, and reduce the risk of costly environmental impacts."⁴

Thank you for the opportunity to provide comments, we hope they are of assistance. Please feel free to contact us should this document require further clarification.

Robert Brown
Co-Chair, STORM Coalition

Appendix 1: Oak Ridges Moraine Conservation Act, 2001, Sections 4 and 8

⁴ Smart Prosperity Institute, *Investing in the Future of Ontario's Greenbelt: a conservation finance blueprint for Southern Ontario*, 2023,
<https://institute.smartprosperity.ca/sites/default/files/Investing%20in%20the%20future%20of%20Ontario%E2%80%99s%20Greenbelt%20-%20Executive%20Summary.pdf>



Source: <https://www.ontario.ca/laws/statute/01o31#BK4>

Conflict

8 (1) Despite any other Act, the Oak Ridges Moraine Conservation Plan prevails in the case of conflict between the Plan and,

- (a) an official plan;
- (b) a zoning by-law; or
- (c) a policy statement issued under section 3 of the *Planning Act*. 2001, c. 31, s. 8 (1).

Greater restriction not conflict

(2) Subject to clauses 5 (c) and (d), an official plan or zoning by-law does not conflict with the Plan to the extent that its provisions are more restrictive than those in the Plan. 2001, c. 31, s. 8 (2).

Objectives

4 The objectives of the Oak Ridges Moraine Conservation Plan are,

- (a) protecting the ecological and hydrological integrity of the Oak Ridges Moraine Area;
- (b) ensuring that only land and resource uses that maintain, improve or restore the ecological and hydrological functions of the Oak Ridges Moraine Area are permitted;
- (c) maintaining, improving or restoring all the elements that contribute to the ecological and hydrological functions of the Oak Ridges Moraine Area, including the quality and quantity of its water and its other resources;
- (d) ensuring that the Oak Ridges Moraine Area is maintained as a continuous natural landform and environment for the benefit of present and future generations;
- (e) providing for land and resource uses and development that are compatible with the other objectives of the Plan;
- (f) providing for continued development within existing urban settlement areas and recognizing existing rural settlements;
- (g) providing for a continuous recreational trail through the Oak Ridges Moraine Area that is accessible to all including persons with disabilities;
- (h) providing for other public recreational access to the Oak Ridges Moraine Area; and
- (i) any other prescribed objectives. 2001, c. 31, s. 4.

From: [STORM Coalition](#)
To: Clerks@vaughan.ca
Cc: minister.mah@ontario.ca
Subject: [External] Vaughan - Application #Z.22.025
Date: April-19-24 11:30:43 AM
Attachments: [Vaughan - Application #Z.22.025 .pdf](#)

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Dear Clerks,

I would like to submit a piece of correspondence RE: Application #Z.22.025 for inclusion as a new business item for next week's council meeting. Please find the document attached.

Thank you in advance,
Robert Brown,
Co-Chair STORM Coalition