



February 4, 2025

PAR-DPP-2024-00226

By email: (kevin.ayaladiaz@vaughan.ca)

Kevin Ayala Diaz
Planner
City of Vaughan
2141 Major Mackenzie Drive
Vaughan, ON L6A 1T1

Dear Kevin Ayala Diaz

**Re: Official Plan Amendment - OP.24.010 – Second Submission
Zoning By-law Amendment – Z.24.023 – Second Submission
140 Simmons Street
City of Vaughan, Regional Municipality of York
Owner: Gemini Urban Design Corporation
Agent: Glen Schnarr & Associates Inc.**

Toronto and Region Conservation Authority (TRCA) staff provide the following comments in response to the referenced circulated second submission, received by TRCA on December 24, 2024. A list of the materials reviewed by TRCA can be found in Appendix 'A' of this letter.

TRCA staff have reviewed the application in accordance with the Conservation Authorities Act (CA Act) and its associated regulations, which require TRCA to provide programs and services related to the risk of natural hazards within its jurisdiction. Whether acting on behalf of the Ministry of Natural Resources (MNR) or as a public body under the Planning Act, Conservation Authorities (CAs) must help ensure that decisions under the Planning Act are consistent with the natural hazard policies of the Provincial Planning Statement (PPS) and conform to any natural hazard policies in a Provincial Plan.

In addition, TRCA staff have also reviewed this application in accordance with TRCA's permitting responsibilities under Section 28.1 of the CA Act. Where development activities are proposed within a TRCA Regulated Area (i.e., river or valley, wetlands, hazardous lands, etc.), a permit is required from TRCA. TRCA must ensure that where a proposal is within an area regulated by TRCA, that the proposal conforms with the appropriate policies of Section 8 of TRCA's Living City Policies (LCP), which evaluate a proposal's ability to meet the tests of the CA Act and regulation.

Purpose of the Application

It is our understanding that the purpose of the above noted applications is to redesignate and rezone the subject lands to facilitate 12 back-to-back townhouse dwelling units with a total Gross Floor Area of 1,918.05 m², underground parking, and site access via Simmons Street.

The subject lands are currently vacant. However, a single-family dwelling historically existed on these subject lands.

Official Plan Amendment

The subject lands are designated as “Natural Areas” by Schedule 13 – Land Use of Vaughan Official Plan (VOP) 2010 and are subject to Site Specific Policy 12.45. OPA #38 permits a total of 111 townhouse units collectively on the lands municipally known as 6061 and 6079 Rutherford Road, and 134 and 140 Simmons Street.

The Owner has submitted an Official Plan Amendment to redesignate a portion of the Subject Lands to Low-Rise Residential, subject to site-specific policies to permit the proposed development.

Zoning By-law Amendment

The subject lands are zoned “RE(EN) – Estate Residential Zone” with the Established Neighbourhood “-EN” suffix by Zoning by-law 001-2021.

The Owner has submitted a Zoning By-law Amendment Application to rezone the subject to lands to “RM1 – Multiple Residential Zone”, subject to site-specific provisions, and “EP-Environmental Protection Zone” to permit the proposed development.

Conservation Authorities Act – Section 28

The subject lands are within TRCA’s Regulated Area as it is located within a valley corridor associated with the Main Humber River. As such, a permit from TRCA pursuant to Conservation Authorities Act – Section 28 and Ontario Regulation 41/24 would be required for any development activity on the site. In accordance with Section 28 and Ontario Regulation 41/24, development may be permitted in the Regulated Area where it can be demonstrated to TRCA’s satisfaction that the control of flooding, erosion, dynamic beaches, unstable soils, or bedrock will not be affected.

Site Context & Background

The west property line of 140 Simmons Street represents the western staked Top of Slope and Long-Term Stable Top of Slope associated with the Humber River valley corridor. These regulated natural hazards were staked and assessed as part of a multi-unit residential project to the west of 140 Simmons Street (OP.17.011, Z.17.032, 19T-17V011). Through the review of the above-noted planning applications, TRCA agreed with the landowner’s retained consultants/geotechnical engineer that the valley slope within 140 Simmons Street was stable, and the Long-Term Stable Top of Slope coincided

with the staked Top of Slope. The stable valley slope descends until the central relatively flat portion of the subject lands that previously contained a residential dwelling and septic system. The former single residential dwelling was built in the early 1990s to replace a historical residential building that existed on the subject lands. The previously existing single residential dwelling was built into the valley slope. The slope then resumes descent to the east of the previous single-family dwelling on a moderate inclination towards Simmons Street. The eastern property line of 140 Simmons Street is the approximate limit of the Toe of Slope for an upper tiered portion of the main Humber River valley wall. The valley continues east of the municipal road through another tier of the valley wall. The subject lands are part of the Humber River valley corridor that was historically fragmented by the construction of Simmons Street in the early to mid 1900s. There are single family residential properties along Simmons Street, a new subdivision to the west of the subject lands, continuation of the valley slope immediately to the north and south, and planned development further south along Simmons Street outside of the Humber River valley system. TRCA staff have concluded that the subject lands are within the Humber River valley corridor, which is a confined valley system.

The previous single-family dwelling and associated septic system on the subject lands were demolished between 2019 – 2020. TRCA approved a permit (C-220508) for a replacement single-family dwelling at 140 Simmons Street on May 9, 2022, which included development (replacement dwelling, site alterations, and driveway), slope remediation, and restoration/plantings to stabilize the slope. As noted in TRCA's Permit Report for C-220508, the above-noted development meets the test of the former Ontario Regulation 166/06, as amended, as the proposed replacement residential dwelling would have been located on a flatter portion of the property (i.e. best efforts to remove the dwelling from the valley feature) with the area of the disturbed valley slope to be remediated and restored to ensure the continued stability and safety of the erosion hazard. Although the site was previously serviced by a septic system, sanitary and infrastructure upgrades along Simmons Street allowed the proposed replacement dwelling to be serviced by municipal connections which facilitated the new proposed dwelling's location. In addition, the proposed replacement residential dwelling represented the continuation of the existing single family residential use on the subject lands and within the valley slope. It is TRCA's understanding that the works associated with Permit C-220508 were not completed and the permit expired on May 8, 2024.

Based on a review of the subject property and TRCA's records, it is TRCA's understanding that there are unauthorized works on the subject property in contravention of Ontario Regulation 41/24. Following the demolition of the previously existing residential dwelling in 2019-2020, a significant unauthorized fill placement was placed within the valley slope without planning and permit approvals. Therefore, it is the expectation of TRCA that the unauthorized works will be addressed to the satisfaction of TRCA through remediating the erosion hazard and restoring the valley slope.

As noted above and in light of legislative and regulatory changes, TRCA's review does not include comments pertaining to matters (e.g. natural heritage, etc) outside of our

mandatory programs and services and regulatory authority. Please consult with the City of Vaughan if you have any questions regarding these matters.

Provincial Planning Statement (PPS)

The Provincial Planning Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and development. Conservation Authorities have been delegated the responsibility of representing the provincial interest on natural hazards and Special Policy Area encompassed by Section 5.1 of the PPS. All decisions under the Planning Act affecting planning matters shall be consistent with the Provincially Planning Statement. Section 5.1 of the PPS establishes policies related to Natural Hazards so that development is directed away from areas of natural or human-made hazards where there is an unacceptable risk to public health, safety, or property damage.

As outlined in Section 5.2.2. of the Provincial Planning Statement, development shall generally be directed to areas outside of hazardous lands including those adjacent to river, stream, and small inland lakes which are impacted by flooding hazards and/or erosion hazards unless the effects and risk to public safety are minor, could be mitigated in accordance with provincial standards, and where the four (4) tests of Section 5.2.8 could be met. The four tests include the following:

- a) Development and site alteration is carried out in accordance with floodproofing standards, protection works standards, and access standards;
- b) Vehicles and people have a way of safely entering and exiting the area during times of flooding, erosion, and other emergencies;
- c) New hazards are not created and existing hazards are not aggravated; and,
- d) No adverse environmental impacts will result.

However, Section 5.2.8 does not contemplate new increased risks and intensified development on a valley slope as noted in the below supporting technical guides and provincial standards on erosion hazard.

An erosion hazard “means the loss of land, due to human or natural processes, that poses a threat to life and property” in accordance with the PPS. Erosion hazards within valley and stream corridors include both the erosion potential of the actual river or stream bank, as well as the potential erosion or slope stability issues associated with the valley walls. The identification of the hazard depends on whether there is well defined valley corridor that is part of a confined system or a relatively flat landscape that is not bounded by valley walls and is part of an unconfined system.

In accordance with the *MNR Technical Guide for Rivers and Stream Systems: Erosion Hazard Limit (2002)* and TRCA’s LCP, confined systems are those depressional features associated with a river or stream that are well defined by valley walls. Confined river or stream valleys can exhibit three different conditions within which erosion hazards exist or

may develop: valley slope that are steep but stable, valley slopes that are over steepened and potentially unstable, and valley slopes that are subject to active toe erosion.

In accordance with the provincial technical guidelines, “development should not occur on or on top of valley walls because the long-term stability of the slope, and therefore public health and safety, cannot be guaranteed. Development should be setback from the top of valley walls far enough to avoid increases in loading forces on the top of slope, changes in drainage patterns that would compromise slope stability or exacerbate erosion of the slope face, and loss of stabilizing vegetation on the slope face”. Prevention approaches are the preferred approach for management of riverine hazards over protection works (i.e., non-structural or structural engineering solutions) as they reduce or minimize hazard losses by modifying the loss potential. Prevention is generally achieved by directing development and site alteration to areas outside of hazardous lands.

TRCA’s Living City Policies (LCP)

TRCA’s Living City Policies describes a “Natural System” made up of water resources, regulated natural features, regulated natural hazards and buffers. The LCP indicates that development, infrastructure, and site alteration shall not be permitted within the Natural System. The LCP includes policies for development adjacent to, and in, the regulated natural features and natural hazards, such as no new development will be permitted where the lot is entirely within the erosion hazard of valley and stream corridors. TRCA’s LCP does not permit development, interference, and alteration within a regulated area that proposes to modify hazardous lands, including such lands within valley and stream corridors, to create additional area to accommodate or facilitate new development or intensification. Instead, the LCP generally directs new development, including intensification, outside of the limits of the erosion hazard to ensure safety, stability, and the protection of life and property.

Application-Specific Comments

TRCA staff reviewed and commented on the Pre-Application Consultation PAC.23.074 via email on September 8, 2023, and provided first submission memo for OP.24.010 and Z.24.023 on August 28, 2024. As previously indicated in these correspondences, the proposed development contemplated under OP.24.010 and Z.24.023 represents new, intensified development and significant site alteration within the valley slope of the Humber River valley corridor. Additionally, the larger footprint associated with the current proposal involves significant excavation within the valley slope and multiple tiered retaining walls to create additional developable lands. The proposed development also contemplates the removal of the valley slope between the plateau and 140 Simmons Street. The slope stability assessment submitted with these applications acknowledges that the entirety of the subject lands are within the valley slope. Furthermore, the introduction of structures into the slope to retain the soil and facilitate the proposed townhouse development will potentially create a hazard over the long-term. Such deficiencies can be triggered once the structural walls or some of their important elements (i.e., drainage system) reach the end of their life cycle or are not appropriately maintained or rehabilitated in a timely manner. The MNR technical guide recognizes “that there is no guarantee that protection works will offer protection for the 100 year planning horizon”,

which is why prevention is the preferred approach for land use planning as it relates to natural hazards.

While it is acknowledged that the valley slope is stable as previously determined through the above-noted previous planning applications, the valley slope is still an erosion hazard and thus hazardous lands under the PPS. TRCA is of the opinion that this proposal is not consistent with Section 5 of the Provincial Planning Statement and TRCA's Living City Policies, and TRCA would be unable to recommend approval of a future permit under Ontario Regulation 41/24. The intent of provincial and TRCA policies is to reduce the risk to life and property by directing development away from hazardous lands. TRCA is not supportive of the proposed development, level of intensification, and significant site alterations to create additional developable areas within hazardous lands of the Humber River valley corridor. Furthermore, the limits of development on this subject property can not be established as the proposed development contemplates removal of a significant portion of the stable valley slope to facilitate the proposed development.

Recommendation

In light of the above, TRCA staff are of the opinion that the Official Plan Amendment Application OP.24.010 and Zoning By-law Amendment Z.24.023 should be refused as they do not demonstrate consistency with the Provincial Planning Statement and TRCA's Living City Policies.

Comments have also been provided in Appendix 'B' for the applicant's consideration. Regardless of completing the revisions below, TRCA staff are unable to support new development and intensification within the valley slope and erosion hazard of the Humber River valley corridor

Fees

TRCA staff thank the applicant for providing the application review fee of \$14,330 (2022 TRCA Planning Fee Schedule – Official Plan Amendment - Major), which was processed on January 31, 2025.

Should you have any questions, please contact me at 437-880-2347 or at joshua.lacaria@trca.ca.

Sincerely,

 Digitally signed
by Joshua Lacaria
Date: 2025.02.04
10:18:56 -05'00'

Joshua Lacaria
Planner

Development Planning and Permits | Development and Engineering Services
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Appendix 'A' Materials Reviewed by TRCA

The following materials were received by TRCA on December 24, 2024:

- Architectural Drawings, prepared by FBR architects inc., dated September 15, 2024;
- Draft Official Plan Amendment, unnamed, undated;
- Draft Zoning By-law Amendment, unnamed, undated;
- Environmental Impact Study, prepared by Dillon Consulting, dated December 2024;
- Functional Servicing Report, prepared by Schaeffers Consulting Engineers, dated October 2024;
- Landscape Plan, prepared by Strybos Barron King Landscape Architecture, dated December 6, 2024;
- Plan of Survey, prepared by R-PE Surveying Ltd., dated February 12, 2024;
- Planning Justification Report, prepared by Glen Schnarr & Associates Inc., dated December 2024;
- Site Grading Plan, prepared by Schaeffers Consulting Engineers, undated;
- Site Plan, prepared by FBR architects inc., dated June 12, 2024;
- Site Servicing Plan, prepared by Schaeffers Consulting Engineers, undated;
- Slope Stability, Geotechnical, & Hydrogeological Site Assessment, prepared by EON Environmental Consulting Ltd., dated March 28, 2024;
- Response Matrix, prepared by unnamed, undated.

Appendix 'B' Comments on Technical Materials

The following comments are based on a review of the materials noted in Appendix 'A'. Regardless of completing the below revisions, TRCA staff are unable to support new development and intensification within the valley slope and erosion hazard of the Humber River valley corridor:

1. Should the applicant proceed with a revised submission in light of the above noted concerns, a revised slope stability analysis would be needed which utilize the most current site topographical information to confirm the current slope condition and stability recommendations.
2. TRCA requires an erosion access allowance which is a component of development limits and associated setbacks. The erosion access allowance cannot be demonstrated for this site as the proposal contemplates development within the valley slope.
3. TRCA defers the review of water quality and quantity to the City of Vaughan.
4. Per the TRCA SWM Criteria document (2012), initial abstraction over impervious areas cannot be credited for on site retention. Therefore, please revise the required on site retention volumes based on the 5 mm runoff volume over the entire site.
5. Please clarify if the retention volume provided within the proposed underground SWM tank is an open space, as a typical stone trench porosity was not used to calculate the provided retention volume.
6. It was noted an infiltration depth of 0.10 m was assumed in the retention volume calculations, however, based on the elevations on the "140 Simmons Street, City of Vaughan, Orifice -Storage Tank" page in Appendix B of the Functional Servicing Report (Schaeffers, May 2024), 0.05 m of retention depth appears to be available. Please review and revise the SWM calculations as required to ensure the provided retention volume is sufficient to achieve the SWM criteria on site.
7. Please provide drawings and details for the proposed underground SWM tank to verify the proposed dimensions match the design (area, retention depth to outlet invert, etc.). Additionally, a cross section is required illustrating the seasonally high groundwater level to ensure the minimum separation from the bottom of the infiltration chamber has been met.
8. Please note at the detailed design submission, ESC drawings in accordance with TRCA's ESC guidelines will be required.