



TC Energy

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June 15, 2020

Sent by Electronic Mail

Mayor Maurizio Bevilacqua and Members of Council
City of Vaughan
2141 Major Mackenzie Drive
Vaughan, ON
L6A 1T1

**COMMUNICATION : C 5
C W (2) : JUNE 16, 2020
ITEM # 32**

Dear Mayor Bevilacqua and Members of Council:

Mayor Maurizio Bevilacqua and Members of Council
City of Vaughan
2141 Major Mackenzie Drive
Vaughan, ON
L6A 1T1

Dear Mayor Bevilacqua and Members of Council:

**RE: Committee of the Whole, June 16, 2020
Addendum Agenda Item 32
Request from Block 41 Landowners Group for a Minister's Zoning Order**

We write further to our letters to you of May 26, 2020 and June 8, 2020, with respect to the request for a Minister's zoning order for Block 41, copies of which are attached.

We had previously requested that this request be the subject of a full staff report, given the significance of the imposition of a zoning order. We were extremely disappointed to see that a resolution has been proposed in support of requesting a zoning order, with no analysis or recommendation from staff.

If a zoning order is imposed, it will determine the location and type of land uses within the Block 41 secondary plan, and the legal rights that come with those uses. Normally, the determination of development rights through zoning is the subject of a comprehensive process, supported by all of the studies that are required by the City of Vaughan. A public process is also required. A request to the Minister to enact an order bypasses all of that process and is effectively the equivalent of Council approving zoning for 330 ha with none of the supporting reports and consultation the City requires as part of its normal process.

TransCanada PipeLines Limited (TCPL), a subsidiary of TC Energy, is not opposed, generally, to the development of Block 41. It is opposed to circumventing the public process and comprehensive studies that are contemplated and required by the *Planning Act* and OPA 50. It is concerned about the consequences



of the development as it has been proposed to date and concerned about what would amount to the removal of a critical process with respect to zoning. Given the legal significance of granting zoning rights through a ministerial order, we ask that if Council does pass the resolution as proposed, it at least include a number of conditions that are necessary to protect the public interest in ensuring compatible development to the greatest extent possible. In our view, and in order preserve these safeguards, at a minimum the following conditions should be incorporated:

1. All zones located within the Noise Influence Area be subject to an (H) Holding zone, to be lifted only once all steps required by OPA 50 (as approved by the Region) that must take place prior to any zoning approvals are completed. These steps include¹:
 - a. that potential adverse noise impacts due to low frequency sound shall include appropriate construction techniques and/or building materials that will mitigate potential adverse noise impacts due to low frequency sound to an interior sound level of 30 dBA²;
 - b. Noise Feasibility Studies prepared to the satisfaction of the City in consultation with TC Energy to address sound level limits, including implementing mitigation to address low frequency noise;³
 - c. consultation with TCPL for all proposed development within the Noise Influence Area⁴;
 - d. all development within the Noise Influence Area meet the listed requirements of policy 3.10.20 related to the preparation of acoustic modelling, noise feasibility studies and noise mitigation measures, including registration of warnings on title.
2. All development is consistent with all applicable federal laws, including any requirements set out in the *Canadian Energy Regulator Act* and *Canadian Energy Regulator Pipeline Damage Prevention Regulations – Authorizations*.
3. Zoning standards that ensure that:
 - a. a principal building or structure shall have a minimum setback of 7 metres from the edge of any pipeline right of way;
 - b. any accessory building or structure have a minimum setback of 3 metres from the edge of any pipeline right of way and a minimum setback of 7 metres from the TC Energy fence line around the compressor station site;
 - c. the following shall be setback a minimum of 7 metres from the edge of the right of way: driveways, roads, parking and parking areas.

¹ Policy numbers reflect re-numbering after the modifications approved by the Region of York

² OPA 50 policy 3.10.11

³ 3.10.16

⁴ 3.10.19



Notwithstanding that TCPL is fundamentally opposed to the request for a zoning order, it remains committed to working with the City and the landowners as this matter moves forward.

Yours very truly,

A handwritten signature in black ink that reads "Terri Steeves". The signature is written in a cursive, flowing style.

Terri Steeves
Vice President, Canada Gas Operations
TC Energy

Encl.

Cc: Block 41 Landowners Group



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June 8, 2020

Sent by Electronic Mail

Mayor Maurizio Bevilacqua and Members of Council
City of Vaughan
2141 Major Mackenzie Drive
Vaughan, ON
L6A 1T1

Dear Mayor Bevilacqua and Members of Council:

RE: Request for a Minister's Zoning Order – Block 41 New Community Area

TransCanada PipeLines Limited (“**TCPL**”), an affiliate of TC Energy, is the owner of approximately 100 acres located generally in the concession block that is the subject of proposed OPA 50 to City of Vaughan Official Plan. TCPL has operated a compressor station at this location since 1959 (the “**Compressor Station**”).

As you know, we have been an active participant in the development of the OPA 50, both as a landowner and a commenting agency on the Technical Advisory Committee. We have provided detailed comments and made deputations to the City and Region expressing our concerns with respect to the residential development that is proposed adjacent to our active, and expanding, industrial use site. While a number of changes were made by the City and Region in response to the comments from TCPL, we continue to have concerns with respect to OPA 50 as approved, and as a result we exercised our right to appeal the approval to the Local Planning Appeal Tribunal.

TCPL's Ongoing Efforts with the Group

TCPL has also been proactive in reaching out to, and meeting with, the Block 41 Landowners Group (the “**Group**”). TCPL has met formally with them twice in the fall/winter of 2019. Both prior to, and following, the filing of the appeal of OPA 50 there has been clear communication to the Group that TCPL fully intends to participate in ongoing discussions with the Group, as well as the City to try and resolve its outstanding concerns. We have also provided to the Group a copy of the appeal letter and advised the Group's counsel of the LPAT file number to ensure that the Group remained up to date on the appeal process. TCPL was under no legal obligation to have done so, but wanted to ensure that the appeal process was transparent.

TCPL has also been clear that it needs to have complete information from the Group in order to understand the implications of OPA 50 on a number of matters, including stormwater management, road crossings, proposed Block Plan layout and noise. As recently as April 10, 2020, we specifically requested confirmation that we had the most up to date Block Plan and confirmed that we continue to wait for complete information on stormwater management.



TCPL was therefore surprised and disappointed to have been provided with a copy of the Group's letter dated May 21, 2020, addressed to the City requesting support for the extraordinary remedy of a Minister's Zoning Order. TCPL did not receive the courtesy of a copy of that letter from the Group.

Surprising Changes to the Block Plan

TCPL was even more surprised and disturbed to find that the Block Plan attached to the May 21 letter (the "**Revised Block Plan**") differed in fundamental aspects from the Block Plan that it was advised was the most up to date. The Revised Block Plan also differs from every Block Plan that has previously been provided by the Group for public review. Key changes include a reconfiguration of the street and land use layout adjacent to the Compressor Station, with the result that:

- a. What appear to be single family residential lots will now be 30-40 metres closer to the Compressor Station;
- b. The removal of a row of medium density homes that we had understood would include a continuous row of garages that was proposed as noise mitigation, such that any potential homes would no longer have whatever noise mitigation benefits the garages would offer;
- c. Roads and residential areas are now proposed within setbacks that are defined in the City's own bylaws and appear to encroach on the TCPL pipeline rights of way and in some areas the pipeline itself to the north and east of the Compressor Station. This presents safety issues and TCPL would not permit the construction of what is shown on the Revised Block Plan within and proximate to its pipeline rights of ways; and
- d. Gaps in the residential development to the east of the Compressor Station which could result in further noise issues being created.

We attach an overlay of the locations of the pipelines and the Revised Block Plan.

The approval of a zoning order which implemented the proposed Block Plan would ignore the City's existing policies with respect to setbacks from pipeline infrastructure. This in particular highlights the danger of trying to avoid the necessary review and scrutiny that comes with a proper public process leading to the development standards contained in a zoning by-law. Throughout TCPL's participation in the Block 41 we were repeatedly advised by the City and the Group that TCPL's concerns would be addressed at the later stages of development (including zoning). Your advancing a request for a ministerial zoning order would to the opposite of this and departs from the process you committed to TCPL would be followed to address TCPL's concerns.

Federal Jurisdiction over Pipeline Rights-of-Way and "Safety Zone"

To be clear, a ministerial zoning order would not over-ride TCPL's written consent/approval or federal requirements which are necessary for the construction of any facility or vehicle crossing over, on, along, or under TCPL's pipeline right-of-way and any ground disturbance activity within the prescribed area ("safety zone"). A zoning order that reflected the Revised Block Plan, and any effort to rely on that order to obtain building permits within those prescribed areas would raise significant and unnecessary jurisdictional issues.



Noise – and the Health and Land-Use Compatibility and Associated Issues

We attach a copy of the Revised Block Plan, overlaid with noise contours, identifying the extent of the noise and land use incompatibility issues that are raised by the Revised Block Plan. TCPL has found throughout its operations that human responses to noise vary, but residents located adjacent to or in close proximity to the Compressor Station may experience negative reactions to noise from the station that could be considered a health concern. This is consistent with Health Canada findings that noise can cause adverse effects on physical, mental or social well-being. In addition to noise associated with day to day operations, there will be occasional blowdowns, which are sudden loud releases of pressurized natural gas from the pipeline. These occur outside of the buildings. While most blowdowns are planned, and notice would be given to residents, they can occur at any time for safety reasons, including in the middle of the night.

Provincial Land-Use Policies

Further, proceeding with a ministerial zoning order would undermine the policies that Council has supported through its adoption of OPA 50. In particular, it would undermine policies that the Group itself has pointed to in prior deputations to Council in suggesting that TCPL's concerns could be addressed through the zoning process. The imposition of a zoning order would remove the ability to have public scrutiny and comment on zoning standards. In particular, we draw Council's attention to the following policies that make clear there is work to be done and studies to be completed prior to zoning being approved:

3.10.12 – References that the City will ensure “through the Implementing Zoning By-law” and other development approvals “that potential adverse noise impacts due to low frequency sound” will be mitigated. The imposition of a zoning order in the absence of that work being done will limit the ability to ensure Council adopted standards are met;

3.10.17 - Requires that Noise Feasibility Studies shall be prepared to the satisfaction of the City in consultation with TCPL “prior to the approval of an Implementing Zoning By-law”. The imposition of a zoning order as requested by the Group avoids this Council adopted requirement;

3.10.20 – Requires consultation with TCPL during the implementing zoning process. By going straight to Council seeking support for a zoning order, and not having the courtesy of advising TCPL of the request, the Group is avoiding the Council adopted requirement to consult with TCPL;

3.10.21.3 – Requires that “All further planning approvals” shall be subject to noise mitigation techniques as identified in a Noise Feasibility Study. The imposition of zoning in the absence of studies being completed limits the ability to address noise mitigation through either separation (as TCPL believes is appropriate) or other mitigation measures as the residential zones will be established.

Taken together, the request for a zoning order effectively undermines these key policies that Council previously endorsed to ensure a transparent and comprehensive land use planning process.

Procedural Rights / Due Process

The imposition of a zoning order also undermines TCPL's rights under the Planning Act to a hearing of its issues. Contrary to the bald assertion in the Group's May 21, 2020, letter, the appeal is not frivolous. It



clearly raises and engages issues that relate to land use compatibility as reflected in, and supported by the Growth Plan, Provincial Policy Statement and long-standing provincial guidelines on ensuring land use compatibility between residential and industrial uses. The extraordinary use of ministerial power when fundamental issues have been raised is inappropriate and not consistent with the intent of the Planning Act. We urge Council to reject the Group's request to circumvent the public process in imposing such an order. There is an expectation from residents of Vaughan that their Council will have properly and fully considered all potential issues that arise from locating residential development adjacent to major industry. Supporting a request for a zoning order based on the Revised Block Plan which has not been properly reviewed could give rise to potential adverse effects is not consistent with Council's duties to its future residents.

Notwithstanding TCPL's frustration with this request, the manner in which it was made and the changes to the Block Plan it has only recently learned about, it remains committed to working in good faith with the Group and the City to try and resolve its outstanding concerns.

Yours very truly,

A handwritten signature in black ink that reads "Terri Steeves". The signature is written in a cursive, flowing style.

Terri Steeves
Vice President, Canada Gas Operations
TC Energy

Encl. Noise Models Operating Scenarios

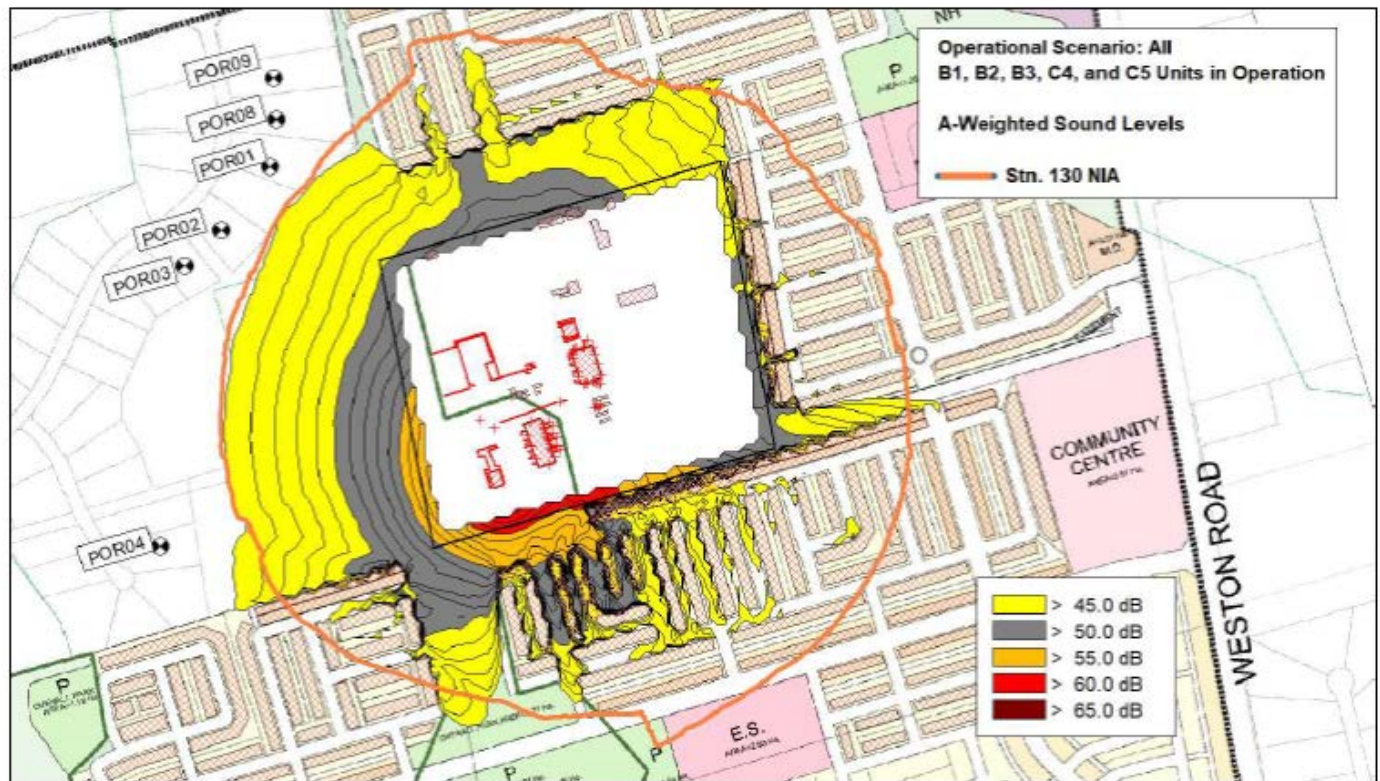
Cc: Block 41 Landowners Group

Predictable Worst-Case Scenario* Noise Contour Models for Station 130 based on May 21, 2020 Block Plan in place:

*pursuant to NPC-300

A-Weighted Noise Contour Plot – within the Noise Influence Area (NIA) 45 dBA – Full Spectrum

A-Weighed Sound Levels



Produced by Stantec on behalf of TCPL. Contours based on several assumptions including absorption coefficients for the building facades that corresponded to brick (or brick veneer) with 10-mm pointing (mortar recess). The model groups individual buildings as single structures and acoustic transparency has been assigned to the structures representing groups of buildings to account for passages between the individual buildings.

Produced by Stantec on behalf of TCPL. Contours based on several assumptions including absorption coefficients for the building facades that corresponded to brick (or brick veneer) with 10-mm pointing (mortar recess). The model groups individual buildings as single structures and acoustic transparency has been assigned to the structures representing groups of buildings to account for passages between the individual buildings.

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May 27, 2020

Mayor Maurizio Bevilacqua and Members of Council
City of Vaughan
2141 Major Mackenzie Drive
Vaughan, ON
L6A 1T1

Cc: Mary Real, Deputy City Manager, Community Services

Dear Mayor Bevilacqua and Members of Council,

Re: Request for a Minister's Zoning Order – Block 41 New Community Area

We have been provided with a copy of a letter dated May 21, 2020, addressed to you from the Block 41 Landowners Group. The letter asks that the City support a request to Minister Steve Clark to enact a zoning order under section 47 of the *Planning Act*.

As you know, TransCanada Pipelines Limited (TCPL) owns and operates a compressor station on approximately 100 acres in the middle of Block 41. It has been an active participant in the process leading up to the adoption of OPA 50, both as a landowner and as a commenting agency. Because TCPL's concerns were not fully addressed by the policies adopted by the City and approved by the Region in OPA 50, it exercised its statutory right to appeal that approval to the Local Planning Appeal Tribunal. We respectfully disagree with the assertion that this appeal is frivolous.

Both before and after the filing of the appeal, TCPL has made clear to the representatives of the Block 41 Landowners Group that it fully intends to continue the good faith discussions that it has been engaged in with the Group and the City in an effort to find a mutually agreeable solution that will ensure that the future residents of Block 41 live in a community that meets the City's vision. We will continue to have those discussions and work with the City and the Group in trying to find just such a solution.

Given the significance of the request to have Minister Clark exercise the extra-ordinary power of enacting a zoning order, we trust that this request will be addressed with a full staff report and that we will have an opportunity to make a full response to the request and the issues it raises.

We look forward to continuing to work with the City on this and other matters of mutual interest.

Sincerely,

A handwritten signature in black ink that reads "Terri Steeves".

Terri Steeves
Vice President, Canada Gas Operations
TC Energy