

To: Christine Vigneault, Committee of Adjustment Secretary Treasurer

From: Nancy Tuckett, Director of Development Planning

Date: December 08, 2021

Name of Owner: Carmelo and Milena Calabro

Location: 167 National Drive

File No.(s): B006/21, B007/21, B008/21, B009/21, A117/21, A118/21,
A119/21, A120/21 & A121/21

Proposal:

B006/21 (Lot 1)

The Owner has submitted Consent Application File B006/21 to sever and convey a 2,259.2 m² portion of the subject lands identified as “Lot 1” on the submitted sketch, for the purpose of creating a new residential lot fronting onto National Drive.

A117/21 (Lot 1)

Proposed Variance(s) (By-law 1-88):

1. The minimum proposed lot frontage is 41.67 m.
2. The minimum proposed lot area is 2,259.2 m².

By-Law Requirement(s) (By-law 1-88):

1. The minimum required lot frontage is 45 m. [4.1.9, Schedule A]
2. The minimum required lot area is 4,000 m². [4.1.9, Schedule A]

B007/21 (Lot 2)

The Owner has submitted Consent Application File B007/21 to sever and convey a 2,383 m² portion of the subject lands identified as “Lot 2” on the submitted sketch, for the purpose of creating a new residential lot fronting onto National Drive.

A118/21 (Lot 2)

Proposed Variance(s) (By-law 1-88):

1. The minimum proposed lot frontage is 35 m.
2. The minimum proposed lot area is 2,383 m².

By-Law Requirement(s) (By-law 1-88):

1. The minimum required lot frontage is 45 m. [4.1.9, Schedule A]
2. The minimum required lot area is 4,000 m². [4.1.9, Schedule A]

B008/21 (Lot 3)

The Owner has submitted Consent Application File B008/21 to sever and convey a 2,406.3 m² portion of the subject lands identified as “Lot 3” on the submitted sketch, for the purpose of creating a new residential lot fronting onto National Drive.

A119/21 (Lot 3)

Proposed Variance(s) (By-law 1-88):

1. The minimum proposed lot frontage is 35 m.
2. The minimum proposed lot area is 2,406.3 m².

By-Law Requirement(s) (By-law 1-88):

1. The minimum required lot frontage is 45 m. [4.1.9, Schedule A]
2. The minimum required lot area is 4,000 m². [4.1.9, Schedule A]

B009/21 (Lots 4 and 5)

The Owner has submitted Consent Application File B009/21 to sever and convey a 2,087.3 m² portion of the subject lands identified as “Lot 4” on the submitted sketch, and to retain a 1,943.2 m² portion of the subject lands identified as “Lot 5”, for the purpose of creating a new residential lot fronting onto National Drive.

A120/21 (Lot 4)**Proposed Variance(s) (By-law 1-88):**

1. The minimum proposed lot frontage is 35 m.
2. The minimum proposed lot area is 2,087.3 m².

By-Law Requirement(s) (By-law 1-88):

1. The minimum required lot frontage is 45 m. [4.1.9, Schedule A]
2. The minimum required lot area is 4,000 m². [4.1.9, Schedule A]

A121/21 (Lot 5)**Proposed Variance(s) (By-law 1-88):**

1. The minimum proposed lot area is 1,943.2 m².

By-Law Requirement(s) (By-law 1-88):

1. The minimum required lot area is 4,000 m². [4.1.9, Schedule A]

Official Plan:

City of Vaughan Official Plan 2010 (‘VOP 2010’): “Core Features” (Schedule 2 – Natural Heritage Network) and “Natural Areas” (Schedule 13 – Land Use)

Comments:

The Owner is proposing to sever the 10,999 m² undeveloped subject lands to create four (4) new residential lots and retain one (1) lot to facilitate the development of five (5) single-detached dwellings on the subject lands, one on each of the severed and retained lots, which also require the above-noted variances to lot area and frontage (the ‘Applications’). The subject lands exist in a naturalized condition and are within a significant woodland feature with mature trees, associated undergrowth, and hazard lands resulting from a steep slope from the valley corridor that traverses the eastern portion of the subject lands. Woodland tree removals have occurred on the subject lands without appropriate approvals in contravention to York Region’s Forest Conservation Bylaw and the City’s Private Tree Protection Bylaw.

The subject lands are identified as Lot 65 within the National Estates subdivision (Plan M-1800) established in 1976, which contains nine (9) lots along National Drive specifically. Eight (8) of the lots are developed with either one or two-storey single detached dwellings and are designated “Low-Rise Residential” by VOP 2010 generally for the developed portions, and “Natural Areas” for the remaining portions. The subject lands represent the only undeveloped lot on National Drive and are wholly designated “Natural Areas” by VOP 2010. The associated Subdivision Agreement for Plan M-1800 was registered on December 15th, 1976, and contains the following clause under Section B.28 – Environmental Protection:

- “The Owner shall not construct any buildings or structures of any kind, other than those necessary for erosion control, within the steeply sloping treed area of lots numbered 28 to 30 and 63 to 69 all inclusive, i.e., beyond the “no development line” referred to in paragraph A.3.1.(a). The Owner shall neither place or remove fill of any kind, whether originating on the site or elsewhere, nor alter any existing vegetation without the written consent of the Metropolitan Toronto and Region Conservation Authority.”

The subject lands, being Lot 65 of Plan M-1800, are subject to the above clause, which recognizes the hazard presented by the steep slope on the subject lands.

Several concerns have been identified by the Development Planning and Policy Planning and Special Programs (‘PPSP’) Departments, and the Toronto and Region Conservation Authority (‘TRCA’) regarding the proposed severances from a policy and technical standpoint. The concerns raised were identified through consultations conducted with the previous and current owners of the subject lands prior to the

submission of the Applications, in an effort to determine the feasibility of development on the subject lands. On April 15th, 2021, the Development Planning Department identified to the Owner that Official Plan Amendment and Zoning By-law Amendment applications would be required for staff to appropriately review the proposed development which would be subject to Vaughan Council decision.

Toronto and Region Conservation Authority

The subject lands are located within the TRCA Regulated Area, due to the valley corridor associated with the Humber River that traverses the eastern portion of the subject lands. Any development or site alteration within the Regulated Area requires a permit from the TRCA, in accordance with *Ontario Regulation 166/06*.

The TRCA identified hazard constraints associated with the steep slope of the subject lands and subsequently delineated the on-site natural features, hazard limits and physical top of bank on April 17th, 2019.

A resulting development envelope was established by the TRCA which consists of a small, flat, tableland area centrally located on the subject lands that could potentially accommodate only one (1) single detached dwelling.

The Applications do not comply with the Living City Policies ('LCP') of the TRCA, given the subject lands are entirely within the Natural System as defined under the LCP. The LCP recommends that development not be permitted within the Natural System and that it be conveyed into public ownership for its long-term protection and enhancement. Sections 7.5.2.4.a and 7.5.2.4.b of the LCP speak to the protection of natural features, natural hazards, and buffers from development, as well as not supporting the creation of a new lot(s) unless a suitable building envelope exists outside the Natural System.

The TRCA also note that the Applications are in contravention of Section B.28 – Environmental Protection of the Subdivision Agreement noted above in this report which recognizes the limited development potential on the subject lands.

In consideration of the above information, the TRCA has recommended refusal of the Applications as they do not comply with the LCP and are not consistent with TRCA's established development limits.

Development Planning and PPSP Departments

The Provincial Policy Statement, 2020 ('PPS') provides policy direction on matters of provincial interest related to land use planning and development. Sections 2.1.5, 2.1.8 and 3.1 of the PPS directs development away from areas of natural and human-made hazards. These policies also prohibit development and site alteration within significant valley lands and woodlands, unless it has been demonstrated that there will be no negative impacts on the natural features or their ecological functions.

A Place to Grow, Growth Plan for the Greater Golden Horseshoe 2019 ('Growth Plan'), as amended, guides decision making on a wide range of planning issues. Section 2.2.1 of the Growth Plan outlines that development will be generally directed away from hazardous lands, and section 4.2.2.6 directs municipalities to protect natural heritage features identified beyond the *Natural Heritage System for the Growth Plan*, in a manner that is consistent with the PPS.

The subject lands are identified as Regionally Significant Woodlands on Map 5 of the York Region Official Plan 2010 ('YROP 2010') and are protected under Policy 2.2 – Natural Features: Components of the Greenlands System. The policies of 2.2 speak to the protection of natural features and prohibiting development and site alteration within significant woodlands and their associated vegetation protection zone. Policy 2.3.22 and 2.3.26 prohibit new lot creation and direct development and site alteration away from hazardous lands.

VOP 2010 designates the subject lands as "Core Features" (Schedule 2 – Natural Heritage Network) and "Natural Areas" (Schedule 13 – Land Use). The policies of Chapter 3 speak to the protection of Core Features from development and site alteration, directing development outside of hazardous lands, and prohibiting development below the top-of-bank of valley and stream corridors.

Policies 10.1.2.28.a. and 10.1.2.28.c. of VOP 2010 require that a Plan of Subdivision be submitted where the number of new lots created is greater than three (3), and where the creation or extension of municipal services is required. Accordingly, the appropriate mechanism to consider the proposed creation of four (4) new lots is through an amending Draft Plan of Subdivision Application to Plan M-1800. The amendment would create the proposed four (4) new lots and amend the associated Subdivision Agreement to revise Section B.28 – Environmental Protection, and other sections as required, and include clauses for the construction and upgrades of required municipal infrastructure to accommodate the new lots and development, if approved.

Policy 10.1.2.38 of VOP 2010 states that a lot(s) may be created only if there is enough net developable area on both the severed lot and the retained lot to accommodate the proposed uses, buildings and structures and accessory uses without encroachment on the Natural Heritage Network. The Applications will create four (4) new lots and facilitate development that encroaches into and impacts the significant woodland and valley features on the subject lands associated with the Natural Heritage Network, as identified by the TRCA and PPSP Department.

Policy 10.1.2.43 of VOP 2010 contains specific scenarios for when a consent to sever land designated on Schedule 13 as “Natural Areas” and “Agricultural” may be permitted, which does not include the creation of new lots for residential development.

The subject lands are zoned “Rural Residential” (‘RR Zone’), subject to site-specific exception 9(178), which permits one (1) single detached dwelling on the subject lands as-of-right under Zoning By-law 1-88. The Planning Justification Report submitted by the Owner provides the lot area and frontage for the existing residential lots along National Drive. The average lot size and frontage on National Drive, excluding the subject lands, is 6,564.75 m² and 57.74 m respectively. The proposed Applications will introduce new lots with an average lot size of 2,215.8 m², which is approximately 66.3% smaller than the average lot size on National Drive, and an average frontage 40.29 m, which is approximately 30.2% smaller than the average frontage on National Drive. The proposed Applications would create lots considerably smaller than the existing lots along National Drive, would not be consistent with the overall character of the area, and would not be considered an appropriate or desirable form of development on the subject lands.

Given the considerations above, the Development Planning Department recommends refusal of the Applications as they do not comply with the consent criteria stipulated in Section 51(24) of the *Planning Act, R.S.O. 1990, c P.13.*, and do not comply with the Consent and Natural Area policies of VOP 2010. In addition, the appropriate mechanism to evaluate the creation of four (4) new lots is through an amending Draft Plan of Subdivision to Plan M-1800. The proposed variances to lot area and frontage are not minor in nature, do not maintain the general intent and purpose of the Official Plan and Zoning By-law, and are not desirable for the appropriate development of the land.

Recommendation:

The Development Planning Department recommends **refusal** of the applications.

Conditions of Approval:

If the Committee finds merit in the applications, the following conditions of approval are recommended:

None

Comments Prepared by:

Michael Torres, Planner I

Chris Cosentino, Senior Planner