

### Section II – Items for Executive Committee Action

**TO:** Chair and Members of the Executive Committee  
Friday, May 10, 2024 Meeting

**FROM:** Sameer Dhalla, Director, Development and Engineering Services

**RE:** **APPLICATIONS FOR PERMITS PURSUANT TO SECTION 28.1.2 OF THE CONSERVATION AUTHORITIES ACT (MINISTER’S ZONING ORDER, ONTARIO REGULATION 483/22)**  
CFN 70685, 0 and 12245 Torbram Road, Caledon Ontario (Part of Lots 17-20, Concession 6, Town of Caledon, Regional Municipality of Peel) by Rice Group.

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#### KEY ISSUE

Issuance of permit pursuant to Section 28.1.2 of the Conservation Authorities Act for lands subject to a Minister’s Zoning Order under the Planning Act to make alterations within a Regulated Area to facilitate topsoil stripping associated with a future industrial development at 12245 Torbram Road, Town of Caledon, Region of Peel.

#### RECOMMENDATION:

**WHEREAS** the Minister of Municipal Affairs and Housing issued a Minister’s Zoning Order (MZO) for the subject property on September 9, 2022, as Ontario Regulation 483/22;

**WHEREAS** Section 28.1.2 of the Conservation Authorities Act requires Toronto and Region Conservation Authority (TRCA) to issue a permit for a development project that has been authorized by an MZO issued under the Planning Act, and where the lands in question are not located within a Greenbelt Area as identified through Section 2 of the Greenbelt Act;

**WHEREAS** Section 28.1.2(6), of the Conservation Authorities Act, allows TRCA to attach conditions to the permit, including conditions to mitigate any effects the development may have on the control of flooding, erosion, dynamic beaches, or unstable soil or bedrock and/or in the event of a natural hazard, might jeopardize the health or safety of persons or result in the damage or destruction of property;

**WHEREAS** Section 28.1.2(17), of the Conservation Authorities Act, provides that where a permit is to be issued, the applicant is required to enter into an agreement with the TRCA;

**AND WHEREAS** Section 28.1.2(18), of the Conservation Authorities Act, provides that the agreement shall set out actions or requirements that the holder of the permission must complete or satisfy to compensate for ecological impacts and any other impacts that may result from the development project;

**AND WHEREAS** TRCA, in the absence of an approved MZO, would normally issue a permit for the construction of an industrial plan of subdivision, if it has been demonstrated there will no impact on the control of flooding, erosion, dynamic

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beaches, and unstable soils or bedrock, or jeopardize the health or safety of persons or result in the damage or destruction of property;

**THEREFORE, LET IT BE RESOLVED THAT Rice Group, in the Town of Caledon be issued a permit to strip topsoil in advance of a future industrial development at 12245 Torbram Road, Town of Caledon, Region of Peel;**

**AND FURTHER THAT the required agreement reflect and secure the approved conditions, and any actions or requirements that the permit holder must complete or satisfy to compensate for ecological impacts and any other impacts that may result from the development project.**

### **BACKGROUND**

#### **Mandatory Permits for MZO Development Projects**

Section 28.1.2 of the Conservation Authorities Act (CA Act) applies to a development project that has been authorized by an MZO under the Planning Act, within an area regulated under the CA Act, outside of the Greenbelt Area. The provisions of Section 28.1.2 of the Act are summarized as follows:

- The Conservation Authority (CA) shall issue a permit.
- CA's may only impose conditions to the permit, including conditions to mitigate:
  - Any effects the development project is likely to have on the control of flooding, erosion, dynamic beaches, or unstable soil or bedrock.
  - Any conditions or circumstances created by the development project that, in the event of a natural hazard, might jeopardize the health or safety of persons or result in the damage or destruction of property; or
  - Any other matters that may be prescribed by the regulation.
- An applicant has the right to a Hearing if there is an objection to the permit conditions being imposed by the CA. No hearing was requested for this permit application and the applicant has confirmed their consent to the conditions.
- If the applicant objects to conditions following a decision of the Hearing Board, the applicant has the option to either request a Minister's review (MNRF) or appeal to the Ontario Land Tribunal (OLT).
- All MZO-related CA permits must have an agreement with the permittee (an include additional parties, e.g., municipalities, on consent of application).
- The agreement shall set out actions that the holder of the permission must complete or satisfy to compensate for ecological impacts, and any other impacts that may result from the development project.
- The agreement must be executed before work commences on the site; it is an offence to commence the works without a signed agreement.

In summary, TRCA must issue a permit for development projects on lands subject to an MZO, outside of the Greenbelt, and can make that permission subject to conditions and must enter into an agreement with the landowner/applicant. Consistent with practice, Board approval is required for all TRCA MZO permit applications.

### Permit Applications, Property Descriptions and Background

The owner has applied for permission pursuant to Section 28.1.2 of the Conservation Authorities Act to conduct topsoil stripping in advance of an industrial development at lands known municipally as 0 and 12245 Torbram Road, Caledon, Ontario (Location of Subject Lands – **Attachment 1**). The lands subject to the MZO are located at the East of Torbram Road, West of Airport Road, and immediately North of Mayfield Road (MZO Map #314 - **Attachment 2**).

The entirety of the industrial subdivision is approximately 202.914 hectares is total area. The subdivision contains tributaries of the West Humber River, riparian wetlands, as well as the floodplain and erosion hazards associated with the tributaries, and the regulated allowance to these features (Constraints Analysis Map – **Attachment 3**).

This proposal for topsoil stripping involves the removal of a headwater tributary on the east side of the subdivision lands as well as the removal of 0.63 hectares of riparian wetland as part of Phases 3 and 4 of the applicant's topsoil stripping program. Note that TRCA approved a permit application on June 23, 2023 for the removal of the western tributary and associated wetland features as part of the applicant's Phase 1 and 2 topsoil stripping program (RES.#A 112/23).

TRCA staff confirmed the limits of the slopes, wetlands and the dripline of contiguous valley and stream corridor vegetation with the applicant's consultants in 2021.

Applications for an Official Plan Amendment and Zoning Bylaw Amendment were deemed complete by the Town of Caledon in September 2021 and circulated to TRCA staff for review. A Comprehensive Environmental Impact Study and Management Plan (CEISMP) was submitted with the applications to characterize the features on site and conduct the typical impact analyses and mitigation proposed to minimize impacts.

A Minister's Zoning Order (Ontario Regulation 483/22) was issued on September 9, 2022, to convert the zoning on the property from agricultural to prestige industrial to permit a warehouse distribution centre and similar prestige industrial uses on the subject land holdings. The MZO did not recognize or protect the existing natural hazards and regulated features including tributaries, the floodplain and associated wetland features in a suitable Environmental Policy Area (EPA) designation resulting in potential loss of ecological functions and impacts. The projected losses necessitated the application of ecosystem compensation. The lands subject to the MZO abut lands within the Greenbelt Plan area to the southwest. The lands within the Greenbelt contain a larger valley corridor of the West Humber River and do not form part of the MZO.

A Site Plan Application was circulated to TRCA staff on January 31, 2023, by the Town of Caledon to facilitate the development of proposed subdivision Block 5 with a 90,727 square metre warehouse building and associated parking, landscaping, and 434 car parking stalls 17.427 ha block (Draft Plan of Subdivision Map - **Attachment 4**). Block 5 contains a portion of the eastern tributary and wetland associated with this permit application. The Site Plan Application is being considered concurrently with the already submitted draft plan of subdivision to accelerate the approvals associated with the warehouse building. The Site Plan Application does not require prior approval of the Draft Plan of Subdivision and the OPA is being recommended for approval, with TRCA staff support at an upcoming Town of Caledon Council meeting. The ZBA is no longer

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required because of the MZO issued by the Minister.

After extensive collaboration with the Town, Region of Peel, and applicant throughout the review of the ongoing planning applications, a natural heritage system block is proposed on the subdivision lands to not only replicate the loss of features associated with this application and the overall subdivision plan, but to also provide an enhancement to the system, which has been historically altered. The final configuration of the block has been determined and it will be 9.07 hectares in size (Proposed Conceptual Plan of Natural Heritage System - **Attachment 5**). A total of 4.47 hectares of non-Provincially Significant Wetland (PSW) will be removed within the overall subdivision. TRCA Planning Ecology staff have indicated that the 9.07-hectare natural heritage system block would provide sufficient compensation for the removal of the features on site. A total of 5.5 hectares of wetland will be replicated within the natural heritage block and approximately 844 m of watercourse is to be constructed in the same block using natural channel design principles. A subsequent permit application will be required to implement the natural heritage restoration proposed.

The 9.07-hectare block proposed for compensation addresses the requirement for ecological compensation under the Conservation Authorities Act s.28.1.2 (18). As the compensation block would be completed in the future, a condition has been proposed with this application to ensure that the natural heritage system block would be implemented in the future. The applicant has agreed to the additional condition related to the compensation block.

### **RATIONALE**

#### **Review of Permit Application by TRCA Staff**

The applications have been reviewed by TRCA's geotechnical, water resources, hydrogeology, and ecology staff. The proposed site alteration does not impact:

- the control of flooding – portions of the lands are within the floodplain associated with the tributary to be removed on site; impacts are not anticipated up and downstream of the site and flood storage will be replicated within the compensation block;
- erosion – no fluvial concerns are anticipated;
- dynamic beaches – the lands are not located along the Lake Ontario shoreline;
- unstable soil – the wetlands to be removed contain mineral soils and do not contain an accumulation of organic soil which would pose a risk to development through instability or methane gas build-up. The wetland soils are also to be removed by virtue of the topsoil stripping program. Note that the wetland soils removed are unlikely to be salvaged for onsite use within the restoration block due to a high amount of invasive species seed bank in the soils;
- unstable bedrock – karst topography or other forms of unstable bedrock are not located within or immediately adjacent to the site;
- and/or in the event of a natural hazard, might jeopardize the health or safety of persons or result in the damage or destruction of property. The application does not result in development, which would be inaccessible during a regulatory storm event or as a result of erosion or flooding.

As noted in the background section of this report, the eastern tributary, subject to this

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application, starts just north of the online pond, where it receives overland flow from several headwater features on the eastern portion of the subdivision lands. The watercourse contributes downstream flow to the West Humber River, but online ponds and dam structures act as barriers to fish. The watercourse flows from the upper pond into the lower pond before out letting into a valley, flowing under Mayfield Road. The eastern tributary flows into the West Humber River approximately 800 metres downstream of Mayfield Road.

The extent of the regulatory floodplain associated with the eastern tributary has been mapped through a hydraulic analysis completed by the applicant's consultant. Floodplain storage will be replicated within the natural heritage system block. No floodplain impacts are anticipated resulting from the proposed application.

The riparian wetlands associated with the eastern tributary to be removed have an Ecological Land Classification (ELC) code of Mineral Meadow Marsh (MAM2). The wetland communities on site were identified by GEI and the boundaries, as noted above, later confirmed by TRCA staff in 2021. GEI evaluated the wetlands and determined that the wetlands do not meet the scoring criteria to be considered PSWs under the Ontario Wetland Evaluation System (OWES). The CEISMP submitted with the noted planning applications identifies that the wetlands proposed for removal have been altered by present and historical anthropogenic land use (e.g., construction of downstream berms and agricultural land practices that affect the extent and conditions of wetlands). The wetlands to be removed will be directly impacted by the proposed development but will be replicated within the natural heritage block as detailed above.

The wetlands proposed in the natural heritage system block include a diversity of wetland types such as thicket swamps and mineral marshes. Several converging watercourses to be constructed using natural channel design principles are proposed within the restoration block as well. A combination of clean roof water and treated stormwater will provide flows to the tributaries and wetlands within the block. Monthly hydroperiod requirements for each of the created wetlands are being determined through a wetland feature-based water balance analysis to be provided at detailed subdivision design prior to the installation of the natural heritage restoration block. Mitigation strategies will be developed to maintain the wetland functions throughout the buildout of the subdivision blocks and over the long-term.

Once the tributary is removed as part of Phases 3 and 4 of the topsoil stripping program (Proposed Works – **Attachment 6**), riparian flows and overland flows on the warehouse block are to be captured in the proposed stormwater management system. Two hybrid wetland stormwater facilities are proposed upstream of the natural heritage block. TRCA's stormwater criteria have been met based on the latest pond designs. The stormwater management ponds will be constructed at the same time as the natural heritage restoration block, to service the warehousing to be constructed in the near future.

As detailed above, the applicant has agreed to a condition to implement the natural heritage restoration block, which will compensate for ecological impacts in accordance with requirements under the Conservation Authorities Act. The topsoil stripping proposal will also have no impact to the control of flooding and erosion.

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### Policy Guidelines:

The proposed works are consistent with Section 8.4 (General Regulation Policies) and 8.5 (Valley and Stream Corridors) of the Living City Policies for Planning and Development in TRCA Watersheds.

### **SUMMARY CONCLUSION**

Approval of permission for development within the TRCA's regulated area is required to allow development to commence. Staff are recommending the issuance of this application based upon TRCA's standard permit conditions (Standard Conditions - **Attachment 7**), and an additional condition to ensure that the features removed are replicated on site (Additional Condition – **Attachment 8**).

Prior to the approval of the MZO, TRCA staff anticipated that alterations would be proposed, which would improve ecological function and connectivity within the natural heritage system on site. The online ponds and past agricultural activity have degraded the features on site and have contributed to thermal loading within the watercourse downstream of the ponds. The proposed natural heritage system block and enhancements proposed will replicate the loss of features on site and will improve connectivity with the broader system. The Conservation Authorities Act requires TRCA to issue such a permit on these lands as they are subject to an MZO, issued under the Planning Act. Staff has therefore reviewed the applications and have created an additional condition to ensure that compensation will be implemented to mitigate ecological impacts, as prescribed in the CA Act.

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**Date: April 9, 2024**

**Attachments: 8**

Attachment 1: Location of Subject Lands

Attachment 2: Map 314 - Minister's Zoning Order (MZO) from Ontario Regulation 483/22

Attachment 3: Constraints Analysis Map

Attachment 4: Draft Plan of Subdivision Map

Attachment 5: Proposed Conceptual Plan of Natural Heritage System

Attachment 6: Proposed Works

Attachment 7: Standard Permit Conditions

Attachment 8: Additional Permit Condition