

Section II – Items for Executive Committee Action

TO: Chair and Members of the Executive Committee
Friday, October 11, 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 644/20)**
CFN 69856, 11031 Pine Valley Drive, Vaughan, Ontario (Part Lot 28, Concession 6, City of Vaughan, Regional Municipality of York) by TACC Developments (Block 41) Incorporated
CFN 70831, 4330 Teston Road, Vaughan, Ontario (Part Lot 26, Concession 6, City of Vaughan, Regional Municipality of York) by 1212765 Ontario Limited

KEY ISSUE

Issuance of permits pursuant to Section 28.1.2 of the Conservation Authorities Act (CA Act) for lands subject to a Minister’s Zoning Order (MZO) under the Planning Act to undertake works within a TRCA Regulated Area to permit topsoil stripping, rough grading and the construction of temporary sediment ponds at 11031 Pine Valley Drive and 4330 Teston Road, City of Vaughan, Region of York.

RECOMMENDATION:

WHEREAS the Minister of Municipal Affairs and Housing (MMAH) issued a Minister’s Zoning Order (MZO) for the subject properties on November 6, 2020, as Ontario Regulation 644/20;

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 the 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 issued, the applicant is required to enter into an agreement with the TRCA;

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 absence of an approved MZO, would normally issue Section 28.1 Permits to facilitate topsoil stripping, rough grading, and the construction of temporary sediment ponds in preparation of future residential subdivisions, where it has been demonstrated that there will be no impact on the control of flooding, erosion, dynamic 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 TACC Developments (Block 41) Incorporated and 1212765 Ontario Incorporated, in the City of Vaughan, be issued permits to undertake works within a TRCA Regulated Area to permit topsoil stripping, rough grading, and the construction of temporary sediment ponds in preparation of future residential subdivisions at 11031 Pine Valley Drive and 4330 Teston Road, City of Vaughan, Region of York, subject to Standard Conditions within Attachment 7 hereto;

AND THAT TRCA staff seek full cost recovery in accordance with TRCA's Administrative Fee Schedule;

AND FURTHER THAT the TRCA Executive Committee authorize the entering into of an agreement related to the Permits for the site works.

BACKGROUND

Permit Applications, Property Descriptions and Background

The applicants have applied for permission pursuant to Ontario Regulation 41/24: Prohibited Activities, Exemptions and Permits, and Section 28.1.2 of the Conservation Authorities Act (CA Act) to facilitate topsoil stripping, rough grading, and the construction of temporary sediment ponds for future residential subdivisions on lands known municipally as 11031 Pine Valley Drive and 4330 Teston Road, within the City of Vaughan. The proposed works at 11031 Pine Valley Drive are proposed on the western portion of the subject property only and the entirety of the tableland area at 4330 Teston Road.

The subject lands are located within the Block 41 Secondary Plan that is bounded by Kirby Road in the north, Weston Road in the east, Teston Road in the south and Pine Valley Drive in the west. The properties associated with the subject permit applications are 42.69 ha (105.49 acres) (11031 Pine Valley Drive) and 42.70 ha (105.51 acres) (4330 Teston Road) and front onto Pine Valley Drive and Teston Road in the southwest portion of the block plan study area (Attachment 1 Location Plan).

The properties have been subject to extensive review through the Official Plan Amendment (OPA) 50 Secondary Plan and supporting East Purpleville Creek Subwatershed Study (SWS) approved in 2019. The subject lands are located within the East Purpleville Creek Subwatershed, a headwater subcatchment of the East Humber River. Surface drainage from the lands drain into valley corridor systems associated with the West Tributary of East Purpleville Creek and the Central Tributary of East Purpleville Creek. The block contains portions of the Protected Countryside of the Greenbelt Plan, Provincially Significant Wetlands (PSWs) and unevaluated wetlands, valley corridors, woodlands, headwater drainage features (HDFs) and flood/erosion hazards (Attachment 2 Drawing 2 Existing Natural Hazards and Attachment 3 Drawing 3 Natural Features).

The following development approvals are in affect or in place on the subject properties:

- Minister's Zoning Order (MZO) 644/20 (Attachment 4 Ontario Regulation 644/20) allows for the development of "Low-Rise Residential Zone", "Low-Rise Mixed-Use Zone", "Mid-Rise Residential Zone", and "Mid-Rise Mixed-Use Zone" (Attachment 5 Zoning Permissions Map);

- Secondary Plan (OPA 50) with policies and land use designations for a new community within the Block 41 study area which includes a mix of housing, local retail, community facilities and schools for a planned population of 13,000 people and 600 jobs; and an approved SWS. The Secondary Plan was adopted by City of Vaughan Council on October 7, 2019, and approved by York Region Council on January 30, 2020. OPA 50 was subsequently appealed to the Ontario Land Tribunal (OLT). The OLT approved the Secondary Plan through a Decision on August 18, 2021, bringing the Secondary Plan into full force and effect for the Block Plan study area.

During the review of the Secondary Plan and SWS, TRCA staff agreed to defer several detailed studies with the understanding that they would be addressed through the Master Environmental Servicing Plan (MESP), a study required in support of the Block Plan Application. Some of the deferred studies include the completion of constraints mapping, HDF Assessments, wetland evaluations, Environmental Impact Study (EIS), features-based water balance, hydraulic assessments, and geotechnical assessments.

The Block 41 landowners group filed their Block Plan Application (City File #BL.21.2020) and supporting MESP to the City of Vaughan in early 2022 and TRCA staff provided comments on May 20, 2022, which identified several TRCA concerns. A recent resubmission was provided to TRCA in April 2024 and staff provided review comments on July 5, 2024. Given the supplementary updated plans and technical reports that were reviewed as part of TRCA's July 5, 2024 letter, the key priority issues that were identified by TRCA for the Block Plan Application and MESP in 2022 have been adequately addressed. As such, TRCA's July 5, 2024 letter identified no objection to the approval of the Block Plan Application and its supporting MESP, with the understanding that any remaining technical comments will be addressed at the next stage of the planning process (i.e., Draft Plan of Subdivision, Official Plan Amendment (OPA), Zoning By-law Amendment (ZBA), and TRCA Permit Applications). Although there are non-threshold comments that remain as part of the Block Plan Application and MESP review, through the applicant's technical submissions associated with these permit applications, all outstanding Block Plan Application and MESP natural feature and natural hazard technical issues (within the scope of these permit applications) related to the subject properties have been resolved. As a result, the proposed works are located outside of all

regulated natural features and natural hazards with adequate mitigation strategies.

A Draft Plan of Subdivision (City File #19T-24V001) and ZBA (City File #Z.24.003) have recently been filed with the City of Vaughan for 4330 Teston Road but have not been approved. No formal site-specific planning applications have been filed for 11031 Pine Valley Drive. However, Draft Plan of Subdivision Applications are expected to be filed with the City of Vaughan soon for this property.

As noted above, the proposed works are proposed on the western portion of 11031 Pine Valley Drive only and the entirety of the tableland area at 4330 Teston Road. Minor grading associated with the temporary sediment ponds extend beyond the boundaries of the approved MZO (Attachment 6 Proposed Works). As such, separate Section 28.1 Permits will be issued for the development outside of the MZO boundary. Although the proposed temporary sediment ponds are located within the Greenbelt Area, the ponds are located outside of the natural system (i.e., all natural features, natural hazards, and associated buffers), which conforms with Section 4.2.3.3 of the Greenbelt Plan and other applicable policies.

Other TRCA Permits have been issued for 11031 Pine Valley Drive and include the following:

- Permit #C-230754 (Section 28.1.2 Permit) – Approved by the TRCA Executive Committee on June 9, 2023, and issued on July 7, 2023, to permit topsoil stripping, rough grading, and the construction of temporary sediment ponds in preparation of future residential subdivisions in the central and eastern portions of the site.
- Permit #C-240527 (Section 28.1 Permit) – Issued on May 16, 2024, to permit topsoil stripping and rough grading for broader Block 41 wetland compensation required by the Block 41 Block Plan Application and supporting MESP.

Minister's Zoning Order (MZO)

On November 6, 2020, a MZO was issued as Ontario Regulation 644/20. It provided zoning permission for a 322 ha (796 acre) portion of Block 41 that includes the subject properties associated with the requested permit applications. Through the Order, 11031 Pine Valley Drive was provided with zoning permission for low-rise residential development. Also, 4330 Teston Road was provided with zoning permission for low-rise residential,

mid-rise residential, and mid-rise mixed-use development. The extent of the MZO appears to generally coincide with the extent of the Protected Countryside of the Greenbelt Plan. The MZO was approved without consultation or coordination with TRCA. However, the approved zoning permissions associated with the subject properties appear to be located outside of all regulated natural features and hazards, which has been confirmed as part of the Block Plan Application, MESP and TRCA Permit Application reviews.

Mandatory Permits for MZO Development Projects

Section 28.1.2 of the 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 CA Act are summarized as follows:

- The Conservation Authority (CA) shall issue a permit;
- CAs 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 these permit applications and the applicants have confirmed their consent to the conditions;
- If the applicant still objects to conditions following a decision of the Hearing Board, the applicant has the option to either request a Minister's review (MNR) or appeal to the OLT;
- All MZO-related CA permits must have an agreement with the permittee (and include additional parties, e.g., municipalities, on consent of applicant);
- 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; and

- 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 Area, and can make that permission subject to conditions and must enter into an agreement with the landowner/applicant. Consistent with TRCA practice, TRCA Board approval is required for all TRCA MZO permit applications.

RATIONALE

Review of Permit Application by TRCA Staff

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

- The control of flooding – all works are located outside of the Regional Storm Floodplain;
- Erosion – the proposed works are located outside of the riverine erosion hazard and no geotechnical/slope stability issues are anticipated based on the reports submitted in support of the applications;
- Dynamic beaches – not applicable;
- Unstable soil – no organic soil or marine clays are located on the lands subject to the MZO;
- Unstable bedrock – there are no sinkholes, caverns or other hazards associated with karst topography on the subject lands or immediately adjacent to the properties;
- 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 temporary sediment ponds have been sized and located based on current best practices. Also, the applications do not result in development, which would be inaccessible during a Regional Storm event or as a result of erosion or flooding.

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 these Permits based on TRCA's standard conditions (Attachment 7: Standard Conditions), which will be included in the Agreement as required by the updated CA Act.

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Date: August 21, 2024

Attachments: 7

Attachment 1: Location Plan

Attachment 2: Drawing 2 Existing Natural Hazards

Attachment 3: Drawing 3 Natural Features

Attachment 4: Ontario Regulation 644/20

Attachment 5: Zoning Permissions Map

Attachment 6: Proposed Works

Attachment 7: Standard Permit Conditions