

Section I – Items for Board of Directors Action

TO: Chair and Members of the Board of Directors
Meeting #8/20, Friday, November 20, 2020

FROM: Sameer Dhalla, Director, Development and Engineering Services

RE: **RAINBOW CREEK DRIVE PROPOSAL**

KEY ISSUE

To obtain direction from the Board of Directors on a TRCA permit application for the subject property, when the TRCA Executive Committee previously rendered a decision to deny a permit pertaining to a similar scope of work.

RECOMMENDATION

WHEREAS on December 6, 1990, a TRCA permit application (#334/90/VAUG) pursuant to Ontario Regulation 293/86 was submitted by 611428 Ontario Limited (the applicant) to permit grading and servicing to facilitate the development of an industrial subdivision;

AND WHEREAS a TRCA staff report dated February 24, 1992 to the Executive Committee recommended refusal of the application;

AND WHEREAS on March 13, 1992, the Executive Committee sat as a Hearing Board and refused the permit application due to proposed impacts on “conservation of land”, which was appealed to the Mining and Lands Commissioner (MLC) and dismissed;

AND WHEREAS the applicant appealed the MLC decision to the Divisional Court of the Ontario Court of Justice and the appeal was dismissed on April 22, 1996;

AND WHEREAS on July 6, 1996, the Ontario Court of Appeal reviewed the applicant’s motion of leave to appeal the Divisional Court decision and dismissed the motion;

AND WHEREAS the decision by the Appeal Court solidified the “case law” that has been established in relation to the “conservation of land” test pursuant to Section 28 of the Conservation Authorities (CA) Act and that decision is a seminal decision;

AND WHEREAS subsequent to these decisions, in 2014 the western portion of the subject lands were expropriated by the Ministry of Transportation (MTO) to allow for the construction of the Highway 427 extension, following completion of the Environmental Assessment (EA) in 2010 that considered environmental impacts;

AND WHEREAS construction of the Highway 427 extension permanently altered the nature of portions of natural heritage features on the subject lands;

AND WHEREAS TRCA staff received on October 27, 2020, an Environmental Impact Study (EIS), dated October 2020, prepared by Savanta Incorporated, in support of a Concept Development Application to permit grading operations and servicing in support of a future commercial development;

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AND WHEREAS the applicant also submitted a development proposal, which includes a proposed mitigation and compensation strategy to demonstrate “no negative impact” and “ecological net gain” to the broader subwatershed natural heritage system (NHS);

AND WHEREAS because the Authority previously rendered a decision to deny a permit application for this property, staff is of the opinion that direction from the Board, prior to an application being accepted and brought forward to the Executive Committee for decision, is necessary;

THEREFORE, LET IT BE RESOLVED THAT staff be authorized to consider a TRCA permit application for a portion of this site pursuant to Ontario Regulation 166/06 to review a revised development proposal based on current site conditions;

THAT staff’s recommendation that the mitigation and compensation strategy recommended in the EIS be incorporated into the design of the proposed development, and included as conditions of any future City and TRCA permits, should they be deemed by staff to meet the intent of TRCA’s Living City Policies (LCP) and be supported;

THAT staff’s recommendation that additional environmental, engineering, and technical work be conducted in support of the proposed development be supported;

AND FURTHER THAT any comments from the Board of Directors be considered in informing staff’s review of the TRCA permit application.

BACKGROUND

Initial Proposal

The subject lands (Lot 9, Concession 9, Part of Part 1, RP 65R-30557) are located at the terminus of Rainbow Creek Drive, east of the Highway 427 extension and west of the Rainbow Creek valley corridor, in the City of Vaughan (**Attachment 1**).

On December 9, 1990, the applicant submitted a TRCA Fill Permit Application (#334/90/VAUG) pursuant to Ontario Regulation 293/86 to permit the placement of approximately 67,000 m³ of fill to facilitate the development of four (4) industrial lots, a road reserve, and a cul-de-sac access road (**Attachment 2**) within the Regulated Area of the Humber River Watershed. The proposed works would have the effect of removing a portion of a valley corridor system associated with the Rainbow Creek Tributary that bisects the subject lands. Also, the proposal involved the installation of a large storm pipe to convey external upstream flows and internal site drainage to the receiving Rainbow Creek valley corridor.

A staff report dated February 24, 1992 to the TRCA Executive Committee recommended refusal of the permit application given its impacts on “conservation of land”. The report identified the following concerns:

- Cumulative environmental effects;
- Precedence due to the narrowing and loss of the corridor feature on-site;
- Requirements to fill or alter the adjacent Rainbow Creek valley corridor to provide access to the proposed development;
- Future requirements for maintenance and remedial measures related to watercourse movement;
- Loss of valley and stream corridor landform and ecological function; and,

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- Introduction of risk associated with potential erosion and stability problems.

Hearing and Appeals

Given staff's position on the proposed development, the Authority was involved in a lengthy hearing and appeals process which began in 1992. The following is a chronology of the hearing and appeals process:

- On March 13, 1992, at Executive Committee Meeting #1/92, the TRCA Executive Committee met and sat as a Hearing Board. A hearing was held, resulting in the refusal to issue permission. Written confirmation was provided by the Executive Committee on March 14, 1992 (Resolution #2).
- The applicant wrote to the Minister of Natural Resources and Forestry (MNRF) to appeal the Executive Committee's decision pursuant to Section 28(15) of the CA Act. The powers and duties of the Minister under Section 28(15) of the CA Act have been assigned to the Mining and Lands Commissioner (MLC). MLC treated the appeal (#CA 007-92) as a new hearing and received evidence from the applicant and TRCA in February and March 1993. Upon hearing the parties and reading the exhibits filed, the MLC issued an Order dated February 11, 1994, dismissing the appeal due to the impacts on "conservation of land".
- The applicant appealed the MLC decision to the Divisional Court of Ontario Court of Justice. The applicant argued that the MLC erred in its decision on an incorrect interpretation of the purpose of Section 28(1)(c) of the CA Act where TRCA may prohibit the placing of fill if in the opinion of the TRCA the placing of fill will affect the control of flooding, pollution or conservation of land. The matter was heard on March 6, 1996 and March 7, 1996. Upon hearing the parties and reading the exhibits filed, the Divisional Court issued an Order dated April 22, 1996, dismissing the appeal and noted that the MLC did not err in its interpretation of Section 28(1)(c) of the CA Act.
- The applicant brought forward a motion of leave to appeal the Divisional Court decision. This step in the process resulted in the case being reviewed by the Appeal Court of Ontario. On July 6, 1996, the Appeal Court of Ontario reviewed the motion and dismissed it.

Importance of this Hearing Process to "Conservation of Land"

Applications submitted under Ontario Regulation 166/06, or its predecessors, are reviewed for consistency against the five tests prescribed in Section 28 of the CA Act, related to potential impacts upon 1. Control of Flooding, 2. Pollution, 3. Dynamic Beaches, 4. Erosion, 5. Conservation of Land, as well as consistency with related policy guidelines. The 1990 TRCA permit application was refused based upon its failure to meet the "conservation of land" test. In accordance with Section 28 of the CA Act, and Ontario Regulation 166/06, development may be permitted within the Regulated Area where it can be demonstrated to TRCA's satisfaction that the five tests will not be adversely affected. At the time of submission of the application, "conservation of land" was not a specifically defined term. TRCA was involved in a lengthy hearing and appeals process and the meaning of "conservation of land" was the subject of significant debate at the hearing and the subsequent appeals. Historically, there had been few cases that had solely relied upon failure to comply with this test. Most cases had relied upon the "control of flooding" test.

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At issue in the appeal process was whether “conservation of land” had a narrow definition dealing with all matters associated with erosion and sedimentation or whether it had a broad definition dealing with all matters of ecosystem protection. TRCA’s position was, and continues to be, the broader interpretation. TRCA’s application of the “conservation of land” as described in “The Living City Policies for Planning and Development in the Watersheds of the TRCA” (LCP), (dated November 28, 2014), is premised on the need to recognize the relationship between landforms, features and functions in order to protect, manage and restore natural resources within the watershed. Both the MLC and the courts have accepted a broad meaning of conservation of land to include, “all aspects of the physical environment, be it terrestrial, aquatic, biological, botanic or air and the relationship between them (611428 Ontario Limited vs. MTRCA, CA 007-92, February 11, 1994 p.38)”. The Appeal Court solidified the “case law” that has been established in relation to the “conservation of land” test pursuant to Section 28 of the CA Act and that decision is a seminal decision.

Assessing the impacts to the conservation of land for both form and function of natural features, at both the local and regional scales of the watershed is also important. Within TRCA’s watersheds, as stated in TRCA’s LCP, development impacts on the five tests are considered both incrementally and cumulatively in order to manage the risk to life and property, and to maintain, restore and enhance the ecological and hydrological functions of the systems contributing to the conservation of land.

In refusing the appeal, the MLC also defined additional terms that are critical to TRCA in applying the “conservation of land” test. These terms include:

- “Headwaters” – features which are unique and not generally comparable to higher order streams. These streams have the least amount of flow attributable to them individually and may appear dry for periods of the calendar year. These streams are not necessarily associated with dramatic contours and can be identified through consideration of whether the lowest elevation of the landform coincides with another larger watercourse (i.e., the confluence of a first order stream to a high order stream); the function of the landform including the functions of drainage, recharge and discharge, as evident from seepage at the toe of the slope of the landform; and vegetation conditions indicating the presence of wetter environments than surrounding areas.
- “Significant” – taken to mean rare or unique, it was determined that the significance of a feature should not be determinative in confirming whether a feature should be preserved.
- “Precautionary Principle” – related to the development of headwaters, in absence of a calculating threshold or demonstration of no net impact, development within such lands should not proceed.

Recent Planning Approvals on the Subject Property

In November 2010, the Ontario Ministry of Environment, Conservation and Parks (MECP) approved the Highway 427 Transportation Corridor Individual Environmental Assessment (EA). The project involves a new 6.6 km extension from Highway 7 to Major Mackenzie Drive. The project was issued by the Ontario Government by the MTO and Infrastructure Ontario (IO) with LINK427 (a consortium of technical consultants) being responsible for the delivery of design and construction reports to document the detailed design for the project.

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The Crown is exempt from the formal permitting process as defined in Section 28 of the CA Act and in Ontario Regulation 166/06. In absence of a formal requirement for review, and in order to ensure provincial interests related to flooding, erosion, dynamic beaches, pollution, and conservation of land are addressed by Crown agencies, TRCA has developed a Voluntary Project Review (VPR) process for Provincial Crown agencies, as well as those completing work under Federal legislation whereby the proponent or their agent submits an application for VPR. TRCA completes a comprehensive review and provides an opinion as to whether the interests, objectives and tests have been satisfied. Once the TRCA concerns are satisfied, TRCA issues a VPR Letter confirming that our interests have been met if implemented as per the submission details provided.

The VPR process was offered to the Province for the Highway 427 expansion, however, LINK427 confirmed that they would not be pursuing VPR from TRCA. As such, no other TRCA review or approvals are required from LINK427. Construction of the extension began in May 2017 and is scheduled to be open in 2021.

The subject lands and the associated natural features were impacted by the construction of the Highway 427 extension, and a portion of the subject lands were expropriated by MTO to allow for the construction of the highway extension.

On September 7, 2010, the City of Vaughan adopted the City of Vaughan Official Plan, Volume 1 (VOP 2010). As part of the new Official Plan, the subject lands were designated "Natural Area". However, a report titled "Key Policy Areas – Analysis and Recommended Modification" identified that the subject lands should be redesignated as "General Employment". This request was premised on that the subject lands are not designated as "Regional Significant Woodlands" in the Region of York's Official Plan and that the watercourse within the corridor feature is not significant in their consideration. On September 12, 2011, the City of Vaughan Special Committee of the Whole approved the request for further modification and the subject lands were redesignated from "Natural Area" to "Prestige Employment". City and TRCA staff did not support the proposed amendment, as identified in TRCA's letter dated September 27, 2011.

In 2015, a Zoning By-law Amendment Application (#Z.14.032) was submitted to the City to amend the zoning on the subject lands from "Agriculture Zone" (A) to "Prestige Employment Zone" (EM1) to permit employment uses on the site. The application remains active but has not been approved by the City. TRCA's letter dated November 10, 2015, provided TRCA's comments on this application, indicating that staff do not support the proposed Zoning By-law Amendment Application.

Concept Development Application and EIS

TRCA staff recently received a request from the property owner requesting confirmation from staff with respect to whether a new TRCA permit application would be accepted. TRCA staff carefully considered this request, and given the applicant's submission that there has been a material change to the existing site conditions, reviewed a revised development proposal through TRCA's Concept Development Application. In doing so, it was recognized that the Highway 427 extension works may provide new information that would be relevant in making a decision on an application. The MLC decision is over 25 years old, and there has been significant change to relevant legislation, regulations, guidelines and the policy framework for this site. As such, the applicant has been working with TRCA staff in 2020 through TRCA's Concept Development Application review process to assess the current site conditions. Site visits were conducted on April 27, 2020, and July 24, 2020 with TRCA staff.

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On October 27, 2020, the applicant submitted an Environmental Impact Study (EIS), dated October 2020, prepared by Savanta Incorporated. The EIS has been reviewed by TRCA staff and provides the following:

- A review of existing background information, legislation, policies and guidelines applicable to the subject lands;
- A field review and description of natural heritage features and functions on and adjacent to the site through various ecological surveys and inventories;
- Identification and delineation of natural heritage features in coordination with TRCA staff;
- An evaluation of the sensitivity of the natural heritage features and their functions;
- An evaluation of the significance of the natural heritage features and their functions including reference to the natural heritage policies of the Provincial Policy Statement (PPS, 2020), Region of York Official Plan and Greenlands Systems policies; City of Vaughan Official Plan and environmental policies; TRCA's LCP, and applicable provincial guidance contained in the Natural Heritage Reference Manual (NHRM);
- A thorough examination of the MLC decision so that "case law" and the "conservation of land" test remains protected;
- A description of the proposed development;
- Identification of ecological impacts and recommendations for mitigation, compensation, and restoration.

During the site visits, staff identified two converging valley corridor features on the site that warrant protection. The valley corridors include the main channel of the Rainbow Creek Tributary along the northeast portion of the site and a valley corridor associated with a headwater drainage feature (HDF) located at the southeast portion of the site (**Attachment 3**). Top of bank was staked by TRCA on July 24, 2020 (**Attachment 4**). TRCA staff observed on-site that there has been a material change to the site – particularly the westerly valley corridor, because of impacts of the Highway 427 extension, which would warrant consideration of a new permit application on the subject lands.

The EIS notes that the main channel of the Rainbow Creek valley corridor is impaired by past activities on the landscape, but its prominence on the landscape and its likely important contributions to the local environment given the existing development in the area result in this feature being classified as a significant valley corridor. The NHRM was used to assist in determining its significance.

The valley corridor associated with the HDF generally consists of a broad u-shaped landform that historically had greater flows. Due to recent activities associated with the Highway 427 extension and development in the surrounding area, the feature no longer has significant flows. The Highway 427 extension also was constructed without a culvert to allow for the passage of water under the highway. Based upon this, the limits of the valley corridor were determined to now terminate approximately 85 m west of the southeast corner of the site. The landform extends further west of this area associated with the HDF, but the landform is not as apparent as the areas staked by TRCA and is ill-defined (**Attachment 5**). The EIS identifies that this valley corridor is not significant given its short length, small catchment area, lack of vegetation, diversity, and habitat value. However, the valley portion staked by TRCA is proposed to be protected given its defined valley slope and associated floodplain.

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Ecological Land Classification (ELC) mapping (**Attachment 6**) on the subject lands was completed and a detailed list and description of ELC units is included in the EIS. Based on the ELC assessment, the subject lands consist primarily of agricultural maintained land. Staff can confirm that a significant portion of the site was tilled at the time of the site visits. Further, no provincially rare vegetation communities were present on the subject lands.

A plan illustrating the proposed development limit (**Attachment 7**) has been included with the EIS. Based on staff's review, the development limit is substantially different from the proposal submitted in the 1990s. The proposed revisions include:

- A net filling of approximately 50,000 m³ versus the previous application that proposed approximately 67,000 m³, which represents a 25% reduction in volume.
- Redesign to incorporate a 10 m buffer from the Rainbow Creek valley corridor;
- Protection of all significant natural heritage features (i.e., Rainbow Creek valley corridor) and the converging apparent valley corridor associated with the HDF that is not significant as per the PPS and NHRM;
- Redesign to ensure that the proposed development is located entirely outside of the Regulatory Floodplain;
- Proposed mitigation, compensation, and restoration strategy.

The proposed development includes an encroachment into the 10 m buffer of the apparent valley corridor associated with the HDF. This is needed to achieve development efficiencies associated with the future commercial development. To mitigate the impacts, the EIS includes a compensation strategy to ensure that there will be “no negative impact” and an “ecological net gain”. The EIS proposed the following compensation strategy:

- A land base area of 0.06 ha is proposed to be removed from the NHS due to the proposed encroachment. The land base of the NHS is the most critical element to the overall health of the subwatershed in the long-term. This loss of area cannot be offset by improving the quality of the remnant areas as they will not have the size and shape necessary for improved habitat function. To mitigate, additional tableland area will be provided at a ratio of 1:1 adjacent to the NHS and restored. The EIS proposes a compensation area between the development limit, the floodplain, and the Rainbow Creek valley corridor.
- A 0.18 ha wetland compensation area coincident with the existing floodplain to enhance the function of the HDF, as well as the overall Rainbow Creek valley corridor east of the subject property. The wetland compensation area will occur within the southeast corner of the site. Plantings along the outer edge of the wetland compensation area to further protect and enhance ecological functions are also proposed. The establishment of the wetland compensation area will result in a variety of ecosystem benefits including the further protection of existing root structures within the Rainbow Creek valley corridor, increased water quality through sediment and flow attenuation, stabilized flows, maintaining micro-climate conditions, reducing the spread of invasive species and increasing the native diversity of the site. It is anticipated that terrestrial and semi-terrestrial species will continue to use the Rainbow Creek valley corridor while the wetland compensation area will support various life processes. A detailed hydrologic assessment will be undertaken at the detailed design stage to ensure that hydroperiods will be maintained. It is also proposed that the wetland be supported using clean roof drainage from the development on the subject lands. This will also provide the

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opportunity to improve wildlife habitat, such as amphibian breeding habitat.

- Several locations for restoration planting within the NHS and buffer area have been identified in the EIS. A Natural Heritage Design Brief will be prepared at the detailed design stage and will outline restoration goals and objectives, evaluate the need for wildlife enhancement opportunities, identify the proposed plant species list and define planting requirements. Planting areas will be planted with a variety of native plant materials. The Native plant species list will mimic naturally occurring communities within the Rainbow Creek subwatershed.
- Buffer plantings are proposed within the 10 m buffer area adjacent to the Rainbow Creek valley corridor. The primary objective of buffer plantings will be to ensure the protection of vegetation communities and wildlife habitats within the significant valley corridor from the development of the site. Given the prevalence of invasive species within the adjacent valley corridor, species will be selected to be resilient to colonization by native species and to serve as potential seed sources for dispersal into the adjacent valley corridor.

The EIS also assesses potential impacts on the NHS and its functions that may occur over both the short-term and long-term from the proposed development. Mitigation measures to demonstrate “no negative impact” and to enhance features and functions have been identified in the EIS such as:

- Erosion and sediment from construction may result in adverse impacts to water quality (i.e., increased turbidity) or sedimentation and associated impacts on fish habitat. An Erosion and Sediment Control Report and Plan are recommended to be prepared and implemented on-site during construction. The plan will be developed based on TRCA’s Erosion and Sediment Control Guideline for Urban Construction (dated 2006) and include requirements for timing for rehabilitation of disturbed areas; stormwater management strategies during construction; erosion prevention measures such as hydroseeding, erosion control matting, and tarping of stockpiles; sediment control measures such as silt fencing; and inspection, monitoring program, and adaptive management.
- Effects due to stormwater management during construction and increases in runoff from the disturbed areas of the construction site may cause increases in bed and bank erosion to the receiving natural system and impair fish habitat. To mitigate these potential impacts, stormwater management techniques will be implemented prior to construction to control surface water runoff throughout all phases of construction.
- An adaptive stormwater management strategy is proposed due to the changes in permeability. Given the small catchment area any changes are not expected to be significant. However, the EIS recommends that the stormwater management system be designed to meet TRCA’s stormwater management criteria for water quality, quantity, erosion, and water balance for this reach of the Humber River Watershed. Measures will be implemented as part of the strategy to maintain water balance to the receiving natural features, with details to be confirmed at the detailed design stage. Low Impact Development (LID) to promote infiltration of stormwater and minimize the volume of water being directly discharged to Rainbow Creek via stormwater management infrastructure will be further assessed.

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Guidelines and Policy Framework

The MLC decision is important as it includes a broad definition when dealing with all matters of ecosystem protection. Further, it confirms that the notion of significance of a feature alone should not be the determining factor in confirming whether a feature should be protected, and identifies the need to take a precautionary approach related to features when there is no means to measure thresholds on no net impact. As such, the decision identifies that development on such lands and in this situation should not proceed.

As TRCA's jurisdiction continues to grow, increased stress is placed on the NHS. Conservation in an urban context is challenging because of the finite space available to fit all basic needs of communities, including homes, workplaces, amenities, infrastructure and natural features and areas. These pressures should result in increased support for conservation. However, despite a strong protective policy and regulatory regime, natural features, and the functions they provide continue to decline. Within this context, off-setting enhancements to the natural heritage system adjacent to any areas of impact, which result in a "ecological net gain", and as a last resort ecosystem compensation, become an important tool to help ensure that the critical ecosystem functions and services lost through development and infrastructure are restored back on the landscape for the betterment of communities.

In accordance with the PPS and Provincial Plans, municipal Official Plans contain policies for protection of natural features and areas, natural hazards and water resources. However, through the planning and development process, non-provincially significant natural features that are not protected by any other provincial or federal regulation may be permitted to be impacted by the planning approval authority, should they deem it acceptable. In addition, features may be impacted through the installation or expansion of public infrastructure through the EA process. As per the natural heritage policies of the PPS, development and site alteration shall not be permitted in significant natural features unless it has been demonstrated that there will be "no negative impact" on the natural features or their ecological functions. As defined in the PPS, "negative impact" is defined as "*degradation that threatens the health and integrity of the natural features or ecological functions for which an area is identified due to single, multiple or successive development or site alteration activities*".

In updating their OP environmental policies, some municipalities have included policy provision that address the limited instances where impacts to local natural heritage features are permitted on condition that compensation is provided to make up for the loss of the feature. Similarly, TRCA recognizes that impacts to natural features, in specific circumstance where avoidance and mitigation are not feasible, may be permitted through the planning and development process as stated in Section 7.4.2 of TRCA's LCP. This policy framework did not exist in 1992 when the application was originally considered.

RATIONALE

TRCA staff acknowledge that the proposed development will have impacts to the NHS. If the subject property was not adversely impacted by the Highway 427 extension, these impacts, and development on this property would not be appropriate, in accordance with the previous decisions made by the TRCA Executive Committee – the principles of which remain equally relevant today. However, the features on the western portion of the site have been impacted, and the site conditions are now different than they were in 1990, and that any proposed works on the subject property should be reviewed on their merits, based upon the natural heritage system in place today. If the system had been adversely impacted as a result of action of the landowner, or a lack of action of the landowner, TRCA staff would not take this position, and consistent with the policy framework of our municipal partners, we would continue to recognize

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the pre-alteration natural heritage system as being the relevant one with respect to any proposed development.

The EIS has provided evidence that there are no removals proposed from significant natural heritage features as defined in the PPS and NHRM, and that the removal of a portion of the HDF feature and some minor encroachment associated with grading into a non-significant valley corridor can be adequately mitigated and compensated.

The HDF and non-significant valley corridor have been described within the EIS as having limited contributions to the local ecosystem given previous developments in the local area, most prominently being the development of the Highway 427 extension and that the proposed compensation strategy will provide significant environmental contributions and benefits to achieve an “ecological net gain” for this reach of the Rainbow Creek subwatershed.

It is important to recognize that the policy regime has evolved since the MLC decision, and compensation is a management tool that is now incorporated into TRCA’s policy framework in situations where its application is appropriate. While compensation is a management tool that should be used as a “last resort”, being an option only where policy requirements do not protect the feature, and only after all other options for protecting the feature have been appropriately evaluated, TRCA staff has reviewed the proposal and supporting EIS with this context in place and will only consider a compensation strategy that demonstrates “no negative impact” and achieves an “ecological net gain”.

It is the opinion of TRCA staff that the EIS, dated October 2020, prepared by Savanta Incorporated, has established a framework for this stage of the process to demonstrate that the proposed development can have “no negative impact” and achieve an “ecological net gain”.

The Executive Committee previously rendered a decision with respect to a permit application on the subject property. That decision is a final decision of the Authority. Staff would not accept another permit application for the same scope of work on the property, unless either the scope of work changes to something that is acceptable, or the site conditions change. The decision that was made by the Executive Committee is a seminal decision on “conservation of land”, and because the Board previously rendered a decision on a permit for this property, staff need direction from the Board before accepting another permit application. The Executive Committee decision was appropriate at that time, based upon the NHS in place at that time. If conditions remained, staff would not consider a permit for development on this property. As such the reasoning and rationale for the decision remain intact. It is only because of impacts to the system, not completed by this property owner, and the policy framework that has evolved, that staff will consider this request. Staff find that the impacts of the Highway 427 extension have adversely impacted one of the valley corridor features and its previously defined function has been compromised to such an extent that the previous “conservation of land” rationale is no longer applicable for this portion of the site.

If a TRCA permit application is to be considered for approval, it is important to be able to demonstrate that the approval decision is consistent with and does not detract from the previous decisions in respect of the meaning of “conservation of land”. Any future TRCA permit application must demonstrate that it is consistent with current and applicable legislation, policies, and regulations. As such, staff is requesting authorization from the Board to accept a TRCA permit application to review the proposed development.

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Relationship to Building the Living City, the TRCA 2013-2022 Strategic Plan

This report supports the following strategies set forth in the TRCA 2013-2022 Strategic Plan:

Strategy 2 – Manage our regional water resources for current and future generations

Strategy 4 – Create complete communities that integrate nature and the built environment

Strategy 8 – Gather and share the best sustainability knowledge

Strategy 12 – Facilitate a region-wide approach to sustainability

FINANCIAL DETAILS

There are no anticipated financial impacts associated with the current proposal.

DETAILS OF WORK TO BE DONE

Should the Board of Directors provide authorization to accept and review a TRCA permit application, TRCA staff recommend the following additional work be required, completed, and submitted as part of a future TRCA permit application:

- A Natural Heritage Design Brief to provide restoration planting details for the buffers, compensation area, and within the wetland creation area. These plantings are required to increase the ecological function of the local area and mitigate the predicted impacts on the natural features and associated functions. The proposed mitigation measures will maintain important natural features and their functions, with recommended restoration works expected to enhance the NHS.
- A full HDF Assessment be completed in accordance with TRCA's HDF Assessment Guideline.
- A geotechnical report is required to verify the location of the long-term stable top of slope that assesses both slope stability and toe erosion processes. The report must also confirm that the proposed grading works will not adversely impact slope stability and toe erosion and ensure that grading operations are accommodated without the use of retaining wall structures.
- A Functional Servicing Report (FSR) and Stormwater Management Report to demonstrate that TRCA's stormwater management criteria (i.e., quality, quantity, erosion, and water balance) are met.
- An adaptive stormwater management strategy be developed to ensure that the HDF functions are replicated in a post-development scenario.
- An adaptive stormwater management strategy be developed to ensure that clean roof water is directed to support the proposed compensation wetland feature.
- A detailed Hydrologic Assessment be completed as a component of the Natural Heritage Design Brief to ensure that hydroperiods will be maintained.
- Detailed grading and servicing plans be submitted.

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Attachments: 7

Attachment 1: Location Map
Attachment 2: 1990 TRCA Fill Permit Application Plan
Attachment 3: Natural Heritage Features Map
Attachment 4: Top of Bank Staking Map
Attachment 5: Slope Steepness Map
Attachment 6: ELC Mapping
Attachment 7: Proposed Development Limit and Compensation Plan