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File No. 702921

April 13, 2015

**By E-Mail Only to *jeffrey.abrams@vaughan.ca***

Mr. Jeffrey Abrams  
City Clerk  
City of Vaughan  
2141 Major Mackenzie Drive  
Vaughan, Ontario  
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**Attention: Mayor Bevilacqua and Council Members**

Your Worship and Members of Council:

**Re: Item 1, Committee of the Whole Meeting, April 14, 2015  
Natural Heritage Network Study ("NHN Study")  
Natural Heritage Network Inventory and Improvements  
Study Completion and Recommended Amendment to  
Vaughan Official Plan 2010 (the "Proposed Amendments")  
Block 42 Landowners Group Inc. ("Block 42")**

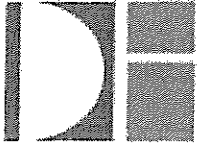
We write on behalf of Block 42. The purpose of this letter is to respectfully request that this matter be deferred to allow for discussions with our clients to continue.

There remain significant problems with the NHN Study and the Proposed Amendments. They are detailed in the attached letter dated January 30, 2015 from Beacon Environmental.

Leaving aside the substantive issues, we are very concerned about the speed with which the City is now proceeding. The NHN Study Staff Report was only made available late last week. This does not allow our clients a fair and practical opportunity for review, never mind a dialogue with you or your Staff.

We acknowledge that Don Fraser, our clients' consultant, has met with Staff and that there has been some progress, but the bottom line is not nearly enough. Many of the serious questions repeatedly raised by Mr. Fraser continue to go unaddressed.

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Communication
cw: <u>Apr 14/15</u>
Item: <u>1</u>



Davies  
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Page 2

Also significant is the proposal to defer a decision on the NHN habitat compensation protocol (the "Protocol"), treat it separately and shield it from the scrutiny of the *Planning Act* public consultation process. The Protocol, Proposed Amendments and NHN mapping must be adopted at the same time, and must be part of a comprehensive and complete Official Plan Amendment.

We request that I be added to the list of delegates for the Committee of the Whole meeting.

Thank you for the opportunity to provide you with these comments.

Yours sincerely,

**DAVIES HOWE PARTNERS LLP**

Katarzyna Sliwa

encl. As above

copy: Ms. Dawne Jubb, Solicitor, City of Vaughan  
Mr. John Mackenzie, Commissioner of Planning, City of Vaughan  
Mr. Tony Iacobelli, Environmental Planner, City of Vaughan  
Mr. Jim Kennedy, KLM Planning  
Mr. Don Fraser, Beacon Environmental  
Clients



January 30, 2015

BEL 214094

Mr. Tony Iacobelli, MSc, MCIP, RPP  
Senior Environmental Planner  
City of Vaughan  
2141 Major Mackenzie Drive  
Vaughan, ON L6A 1T1

**Re: Recommended Policy Amendments to Chapter 3 of VOP 2010, January 2015**

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Dear Mr. Iacobelli:

Beacon Environmental is pleased to provide the following comments on behalf of the Block 42 Landowners Group following detailed review of the City's "Proposed Policy Revisions" to the text of the Vaughan Official Plan 2010, arising from the Natural Heritage Network (NHN) Study.

Further to past comment on the Vaughan NHN Study, there remains significant concern with proposed revisions to the policies as presently proposed, which are detailed below.

**1. Policy 3.3.2.2 - Non-evaluated/Other Wetlands**

From review of the provided text, it is our understanding that the intent of the proposed policy revisions is to provide a clear differentiation between: i) wetlands evaluated as provincially significant and those subject to the Oak Ridges Moraine Conservation Plan and Greenbelt Plan; and ii) all "other" wetlands (previously referred to as "non-evaluated" wetlands).

The existing policy text in the VOP 2010 states that "non-evaluated wetlands...shall be assessed for their significance, in accordance with criteria provided by the Province..." This implies that, prior to any development or site alteration, a wetland would have to be evaluated in accordance with the Ontario Wetland Evaluation System (OWES), which is the provincial standard.

Placing the onus on an individual landowner to evaluate a wetland under OWES is inappropriate, for the following reasons:

- the determination of a wetland's significance has always been and should remain the responsibility of the Province through the Ministry of Natural Resources and Forestry (MNR);
- OWES is not the method by which wetlands are assessed for function through the development process; this is done through an Environmental Impact Study (EIS);
- In almost all cases an OWES wetland evaluation involves examining additional private properties for which access is not available. It is inappropriate to require a "wetland

**complexing” exercise that could encompass many discrete wetland units extending across many square kilometres (under OWES the evaluator cannot simply confine an evaluation to a given parcel of land with imposed boundaries); and**

- Not only are evaluations under OWES very expensive and time consuming, but the additional delays (and associated costs) incurred while waiting for the evaluation to be reviewed and accepted by the MNRF will add considerable time to an already lengthy and onerous process.

The “Discussion” notes related to this policy indicate that the proposed revisions/additions to the policy text are “in conformity with ROP 2010 policy 2.2.39” and “consistent with ROP 2010 policy 2.2.42”. However, the proposed revision to VOP 2010 policy 3.3.2.2 still states that “other wetlands shall be assessed for their significance [emphasis added], in accordance with criteria provided by the Province...” This language goes beyond the ROP 2010 policies.

ROP 2010 policy 2.2.39 does not include the word “significance”, and makes no reference to the application of provincial assessment criteria [i.e., OWES]. Rather, 2.2.39 requires “an environmental impact study that determines their importance [emphasis added], functions and means of protection and/or maintenance of function, as appropriate, to the satisfaction of the approval authority”.

The phrase “shall be assessed for their significance” was removed from a previous version of ROP 2010 policy 2.2.39 in recognition that it was the specific intent of the Regional Municipality of York to not require a formal wetland evaluation using OWES. However, the revised VOP 2010 policy 3.3.2.2 continues to adopt this (now superseded) language. Furthermore, the new subparagraph (c) refers to “other” wetlands “evaluated in accordance with the Region Official Plan”, which is misleading since the Region does not require an “evaluation” *per se*. Therefore, the revised VOP 2010 policy 3.3.2.2 is not “in conformity with ROP 2010 policy 2.2.39”.

New subparagraph (c) also recommends that in cases where an “other” wetland is determined to be appropriate for protection, it “shall have a vegetation protection zone generally no less than 15 metres”. This part of the policy also differs from that of the Region, which does not stipulate the width of a buffer for any “non-evaluated” or “other” wetlands. Rather, an EIS should determine if a wetland warrants protection and if so, why and by what means. This may include the provision of a vegetation protection zone; however, its width should be dictated by site-specific conditions, not prescribed.

It is Beacon’s recommendation that VOP 2010 needs to reflect ROP 2010 policies 2.2.39 through 2.2.42.

## **2. Policies 3.3.3.3 and 3.3.3.4 - Woodlands**

Based on Beacon’s review of VOP 2010 policy 3.2.3.4 (Core Features), the results of the NHN Study, and through many previous discussions with City staff and their NHN consultant (North-South Environmental), it had consistently been our understanding that Core Feature woodlands were defined as woodlands greater than 0.5 ha. This understanding was confirmed by the following statement on p. 29 of the Phase 2-4 NHN Study report (North-South Environmental, May 2014): “All

woodland patches greater than 0.5 ha in size are included in the NHN" and by Schedule 2b (Natural Heritage Network - Woodlands), whereby all woodlands >0.5 ha are mapped.

However, in reviewing the proposed text revisions to VOP 2010 3.3.3, it is now apparent that the City intends to include all woodlands >0.2 ha as Core Features, not simply those that are >0.5 ha. These 0.2 to 0.5 ha woodlands are not shown on Schedule 2b, nor do any woodlands falling into this size range appear as Core Features on Schedule 2 – Natural Heritage Network (either in the current VOP 2010 or as proposed in the North-South report).

Furthermore, additional study by a landowner is now required to assess whether these smaller woodlands "meet tests of significance as set out in the ROP 2010". If these woodlands do not meet these "tests" they "can be modified subject to habitat compensation". The proposed VOP 2010 policy 3.3.3.3 does not, however, provide any explanation of what is meant by "compensation", other than to make reference to providing "a net ecological gain". It is assumed that the City's definition of "compensation" means, at a minimum, the 1:1 replacement of a woodland feature in terms of area, plus some unspecified additional area to achieve a "net gain".

In our view, the inclusion of these smaller woodlands constitutes a major change from the original VOP 2010, specifically policy 3.3.3. It not only broadens the definition of a Core Feature woodland, but places considerable onus on a landowner to: 1) undertake further assessments; 2) await the City and TRCA's decision; and 3) even if successful in "meeting the test", to provide (likely very costly) compensation in the form of an equivalent amount of land plus some additional area.

One of the City's stated objectives in revising policy 3.3.3.3 of VOP 2010 was to reflect the woodland policies in ROP 2010. However, the proposed new language does not achieve this, and even further **confuses the issue**. The "tests" described in the proposed policy do not reflect ROP 2010, policies 2.2.48 and 2.2.49. The fundamental difference is that these ROP 2010 policies speak to the "tests" under which development or site alteration could occur within a "significant woodland" (i.e., a woodland >0.5 ha) situated within an Urban Area. The proposed policy language in 3.3.3.3 and 3.3.3.4 only applies to non-significant (i.e., 0.2 to 0.5 ha) woodlands and does not permit development or site alteration in any woodland deemed "significant" under the Region's definition (i.e., >0.5 ha).

Finally, it does not appear that there are any circumstances under which development or site alteration could occur within all or a portion of a woodland >0.5 ha (notwithstanding the few exceptions listed under proposed VOP 2010 policy 3.2.3.7), even though ROP 2010 policy 2.2.49 does permit this under certain circumstances. ROP policy 2.2.49 requires the preparation of a **woodland compensation plan for the removal of a woodland >0.5 ha that is not deemed "significant"** following further study, but does not require compensation for any woodland <0.5 ha.

In cases where compensation for significant woodland removal is permitted under VOP 2010, such compensation (i.e., replacement) should be encouraged to occur in lands already designated as Open Space (e.g., within valleylands, floodplains and the non-forested portions of the Greenbelt Plan). This direction should be included in VOP policies 3.3.3.3 and 3.3.3.4.

**It is Beacon's recommendation that any consideration of woodlands 0.2 to 0.5 ha as Core Features must be excluded since it was clearly not the intent of either VOP 2010 or the conclusions of the NHN**

study to include them. Furthermore, the VOP 2010 language should adopt the wording of ROP policies 2.2.48 and 2.2.49 to achieve greater clarity and consistency.

### **3. Policy 3.2.3.4 – Valley and Stream Corridors**

It is unclear how the Minimum Vegetation Protection Zones (MVPZs) associated with “valley and stream corridors” relate to MVPZs applied to other aquatic features addressed in VOP 2010 (e.g., “sensitive surface water features”, valleylands, “headwater drainage features”, “waterbodies”, watercourses, intermittent and permanent stream, seepage areas and springs, etc.). In general, there are far too many terms used to describe water-related features, *many* of which are not defined in VOP 2010. The addition of even more terms exacerbates what is already a confusing situation and appears to result in considerable overlap among definitions.

### **4. Policy 3.2.3.11 – Boundary Modifications**

Clarification is required as to what the City means by “modifications” to Core Feature boundaries and under what circumstances this could occur. The suggested policy revision indicates that the City will give consideration to feature boundary modifications through “environmental studies” submitted as part of the development process”. Furthermore, if the extent of a feature is incorrectly mapped on Schedule 2, or is mapped but does not meet any of the criteria to be considered a Core Feature as confirmed by further study, corrections should be made to Schedule 2. Such revisions should be permitted outside of the development process.

### **5. Policies 3.2.3.13 to 3.2.3.15 – Enhancement Areas**

Beacon agrees with the City’s proposed policy revision to 3.2.3.14 whereby “Enhancement Areas shown on Schedule 2 are conceptual in terms of context and location” and that the final locations and boundaries of Enhancement Areas will be determined through further environmental studies.

There is concern with the proposed new policy 3.2.3.15. Clarification is required as to what is meant by “critical function zone [CFZ] of wetlands” and “woodland enhancements to improve forest connectivity and interior woodland habitat” (neither of which are defined terms) as types of Enhancement Areas that are not depicted on Schedule 2. The NHN Study report (North-South May 2014) states that CFZs surrounding a wetland “are generally in the order of 100 m or more”. To achieve and maintain a minimum width along a linkage corridor, North-South recommends that “Linkage Enhancement Areas” should be in the order of 50 to 200 m-wide for “local” corridors and a minimum of 300 to 400 m-wide for “regional” corridors. Neither “local” nor “regional” corridors are defined in the North-South report. Finally, the North-South study indicates that “Interior Habitat Enhancement Areas” result in a minimum forest patch size of 10 to 25 ha for areas sensitive woodland species and a minimum patch size of 20 to 40 ha for area sensitive open country species.

There is also no explanation given as to: 1) when in the planning process these additional areas will be “evaluated”/defined, 2) how these are to be defined (i.e., based on what criteria), and 3) by whom they will be “evaluated”/defined (presumably this will be the responsibility of the City, although this is

not explicitly stated). At this point there is no indication whatsoever as to which wetlands will have a **"critical function zone" applied to it, or which woodlands will be subject to "enhancements to improve forest connectivity and interior woodland habitat"**. Regardless, it is expected that the extent of Enhancement Areas will ultimately be much greater than is presently depicted on Schedule 2.

Proposed policy 3.2.3.15 indicates that these areas are not depicted on Schedule 2 (presumably because they have yet to be identified) and that under a new policy 3.2.3.16 these areas, once identified, **"will be incorporated into the [NHN] as Core Features" without requiring an amendment to the Plan.**

It appears, therefore, that the inclusion of Enhancement Areas based on new terms (i.e., **"critical function zone of wetlands" and "woodland enhancements** to improve forest connectivity and interior woodland habitat") will result in a redefinition of the NHN based on criteria that are not described in policy 3.2.3.13 of VOP 2010.

Given the discussion in section 7.01 of the NHN Study report (North-South May 2014), **these "future" (but as yet unidentified) Enhancement Areas are expected to be very large and will therefore result in a significant expansion of the NHN. This is a very significant concern, as it not only adds to and redefines the constituent components of the NHN but raises considerable uncertainty as to the full extent of the lands that will ultimately appear as Core Features on Schedule 2. In our view Schedule 2 should be as definitive as possible, and not subject to substantive changes based on unknown future evaluations.**

#### **6. Policies 3.2.3.7, 3.2.3.11, 3.3.2.3, 3.3.3.3 and 3.3.3.4**

In all of the above listed policies the wording has been changed from **"to the satisfaction of the City and in consultation with [emphasis added] the Toronto and Region and Conservation Authority"** to now read: **"to the satisfaction of the City and the Toronto and Region Conservation Authority"**. This goes beyond the corresponding ROP policies, which all use the words: **"in consultation with"**. The Region's language accurately reflects the TRCA's advisory role with respect to the interpretation and application of ROP policy and should be similarly applied to the VOP.

#### **7. Policy 3.3.5.1 – Aquatic Biodiversity**

Although the City is not intending to modify subparagraph b), we recommend that the current wording: **"...ensuring any permitted development maintains pre-development water balance..."** be followed by **"through the implementation best management practices to the satisfaction of the City in consultation with the TRCA."** If **"best management practices"** is not already a defined term in VOP 2010 it should be made one.

We trust that the City will give these comments due consideration when revising the above policies and finalizing VOP Schedules 2, 2a, 2b, and 2c. As always, we are available to meet with City staff to further discuss these matters, with the objective of achieving policy language that is clear and fair. Thank you for the opportunity to provide you with our comments.

Yours truly,  
**Beacon Environmental**



Donald M. Fraser, M.Sc.  
Principal

cc. John MacKenzie, City of Vaughan  
Roy McQuillan, City of Vaughan  
Block 42 Landowners Group