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COMMUNICATION	
CW	January 12/2016
ITEM -	6

Please refer to: **Katarzyna Sliwa**
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direct line: 416.263.4511
File No. 702921

January 11, 2016

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

Mr. Jeffrey Abrams
City Clerk
City of Vaughan
2141 Major Mackenzie Drive
Vaughan, Ontario
L6A 1T1

Attention: Committee Members

Your Worship and Members of the Committee:

**Re: Committee of the Whole ("Committee")
Meeting January 12, 2016 – Item 6, VOP 2010 Proposed
Modifications to Schedule 2 "Natural Heritage Network" ("NHN")
Block 42 Landowners Group Inc. ("Block 42")**

We write on behalf of Block 42.

On June 23, 2015, at its meeting, Council directed City Staff to report back in quarter 4 of 2015 on the NHN Inventory and Improvements Study Completion, Recommendations and associated amendments to VOP 2010 ("Proposed Amendments"). Our client had provided the attached submission letter, dated June 15, 2015, to Council in advance of that meeting outlining four significant areas of disagreement.

To our knowledge no report has been made by City Staff to date. Rather City Staff now asks Council to endorse modifications to Schedule 2 in a vacuum.

The approach taken by City Staff is problematic for several important reasons as outlined below.

1. Procedural Concerns and No Notice to the Public

First, there are procedural issues, including concerns regarding the lack of notice being provided to the public and stakeholders. What City Staff refers to as modifications to Schedule 2, are actually amendments to the Schedule and to the VOP 2010. They should be brought forward as part of a comprehensive Official



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Plan Amendment (“OPA”) under the *Planning Act*, together with related policy amendments. In fact, we had been assured that the amendments would be made as part of a separate OPA and not lumped into the existing VOP 2010 appeals.

City Staff is adding an additional 1,368 hectares of land to Schedule 2 previously not identified as Core Features. No notice of these modifications is being provided to the public and stakeholders. Those that are not already involved in the NHN or the VOP 2010 appeal have no opportunity to learn about the modifications to Schedule 2 and how they impact their lands.

2. Timing

The timing of City Staff’s Recommendation is also problematic. Schedule 2 is being brought before the Committee just after the holiday break with very little time for review of these important modifications and the resulting impact. The City Staff Report was only available to the public on Thursday January 7, 2016, with no notice to those who are not already monitoring the NHN or VOP 2010.

3. Inconsistencies and Specific Concerns with Modified Schedule 2

Despite the limited time available to review the proposed modifications our client’s consultants have already identified several concerns with the modified Schedule, including:

1. New Core Features not previously included, for which justification has not been provided;
2. There are no accompanying policy revisions proposed;
3. The policy changes recommended by North-South Environmental are not included, despite the June 16, 2015 City Staff Report containing numerous pages of Proposed Amendments;
4. There is disconnect between the Chapter 3 policies before the Ontario Municipal Board (the “Board”) and the modified Schedule 2;
5. New Core Features (e.g. headwater drainage features) have been added to Schedule 2 but are not defined in the VOP 2010;
6. Section 3.2.3 of Chapter 3 indicates that the policy text prevails over the mapping shown on Schedule 2. As proposed the policies in Chapter 3 are not consistent with Schedule 2 and Schedule 2 may mislead the reader to think that features do not exist on lands where the policy text indicates



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otherwise. This is yet another reason for dealing with the Proposed Amendments and Schedule 2 together.

The piecemeal approach taken by City Staff is creating additional inconsistencies between the Schedule 2 mapping and the policies, which are not being brought forward at the same time. Our client continues to request that the Proposed Amendments and NHN mapping, including a Compensation Protocol, and/or principles related to it, must be considered at the same time, and must be part of a comprehensive OPA. The NHN is an interconnected system which stretches throughout the City. Bringing forward parts of Schedule 2 without the complementary policies is a mistake.

4. Appeal Rights Being Thwarted

The notation included in the legend to Schedule 2 compounds the concerns regarding process and lack of notice. The notation suggests that additional changes will be brought forward. It reads:

This Schedule is subject to change based on the results of the Natural Heritage Network Study, undertaken by North-South Environmental Inc. (2015), which will define the Natural Heritage Network by both its natural features and as a Natural Heritage System in accordance with the Provincial Policy Statement.

The notation suggests that the City's Official Plan environmental policies can be amended or added as these documents change from time to time, without the benefit of public consultation or the appeal rights available under the *Planning Act*. The Official Plan is intended to be a clear statement of applicable policies and all relevant matters should be included in it.

5. Additional VOP 2010 Appeals

Rather than resolving VOP 2010 appeals, the approach proposed by City Staff will result in additional appeals being filed.

Although our client had not appealed the VOP 2010, rather choosing the collaborative route of engaging City Staff to discuss concerns, another landowner filed an area specific appeal of some of the VOP 2010 Chapter 3 policies and Schedule 2 which includes the Block 42 lands.

Although the Block 42 lands are not identified as under appeal in Attachment 3 of the Staff Report, they should be. With the modified Schedule 2 proposed to be brought before the Board for approval, our client is left contemplating its own appeal. This is unfortunate considering the progress our client believed to have made in discussions with City Staff.



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We respectfully continue to ask that City Staff be directed to meet with our client and our client's consultants and that the NHN mapping be considered at the same time as the Proposed Amendments and a Compensation Protocol, and/or principles related to it, and as part of a comprehensive OPA.

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

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. Jim Kennedy, KLM Planning
Client



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File No. 702921

June 15, 2015

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

Mr. Jeffrey Abrams
City Clerk
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2141 Major Mackenzie Drive
Vaughan, Ontario
L6A 1T1

Attention: Mayor Bevilacqua and Council Members

Your Worship and Members of Council:

**Re: Committee of the Whole ("Committee") Meeting, June 16, 2015
Natural Heritage Network Study ("NHN Study")
Natural Heritage Network Inventory and Improvements
Study Completion and Recommended Amendment to the
Vaughan Official Plan 2010 (the "Proposed Amendments")
Block 42 Landowners Group Inc. ("Block 42")**

We write on behalf of Block 42.

Since the Committee's meeting on April 14, 2015 our client's consultant has had several meetings with City Staff. Progress was made with respect to eight matters – some minor text and definition revisions, while others more significant.

There remain four significant areas of disagreement. We respectfully ask that Staff be directed to continue to meet with our client's consultant. We also ask that the Proposed Amendments, Compensation Protocol and NHN mapping be considered at the same time as part of a comprehensive Official Plan Amendment ("OPA").

Our client's concerns are as follow:

- 1. Definition of Significant Valleylands and Corridors, 3.2.3.4:** Staff have treated all valleylands as "significant" without justification. In addition, valley "corridor" has been defined in a way that may result in extending it well beyond the physical limits of the valley.



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The only reference to significant valleylands in the Vaughan Official Plan 2010 is in the definition of "Valley and Stream Corridor" which indicates that further clarification will be provided through the NHN Study and future development applications. The NHN Study does not provide clarity or an explanation, technical or otherwise, for declaring all valleylands significant.

The City is required to provide this clarification by the *Provincial Policy Statement, 2014* ("PPS"). It differentiates between "valleylands" and "significant valleylands" (i.e., the latter exhibiting important physical/hydrological/ecological attributes and functions and representing the best examples in a given geographic area).

The *Natural Heritage Reference Manual* clearly states that "the identification and evaluation of significant valleylands based on the recommended criteria from the Ministry of Natural Resources is the responsibility of planning authorities". Staff are - without explanation or justification - treating all valleylands as significant in the context of the PPS, the *Oak Ridges Moraine Conservation Plan* ("ORMCP") and the *Greenbelt Plan*. This is a clear example of the NHN Study stepping outside of the terms of reference.

Therefore, inclusion of the following additional text at the end of policy 3.2.3.4 is unjustified and without demonstrated merit - that "All valley corridors in Vaughan are significant valleylands".

Furthermore, the TRCA's definition of "stream corridors" has been used by Staff; however, this is not the same as "permanent and intermittent streams" as defined by the Province. Stream corridors include "depressional features ... whether or not they contain a watercourse". Therefore a "stream corridor" goes well beyond the definition of a "permanent and intermittent stream" because it includes ephemeral drainage features, dry swales and agricultural rills.

The policy should mirror the corresponding *Greenbelt Plan* provision, if not word for word, then at least in intent. Our clients' consultants have recommended that policy 3.2.3.4. a) ii) be revised as follows to provide clarity:

- ii. a minimum 30 metre vegetation protection zone from the feature limit significant valleylands [assuming that these are differentiated from valleylands] and permanent and intermittent streams within the Oak Ridges Moraine and Greenbelt Plan Areas.

2. Compensation for Non-Significant Woodlands: Staff's recommendation requires compensation for non-significant woodlands (i.e. between 0.2 and 0.5 hectares in size) and indicates that there must be a "net gain" in woodland area. This is not consistent with the policies in the Region's Official Plan.



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With respect to policy 3.3.3.4, a definition of what would qualify as a net gain has been requested by our clients' consultants, as well as clarification regarding the meaning and intent of "Woodland compensation...vegetation protection zones." If the intent is that compensation will not be accepted within Provincial Plan areas, our client strongly objects to this approach.

3. Language in the Proposed Amendments that Elevates an Advisory Agency, such as the TRCA, to a Quasi-Approval-Authority: This is apparent in the language in items 7, 16 and 17 of the Proposed Amendments.

For example, Item 7 requires that compensation be to the satisfaction of TRCA for alteration of several core features (e.g., woodlands) that are not within TRCA's legislated jurisdiction, which only relates to wetlands, watercourses and valleys. In addition, with the inclusion of references to publications such as the TRCA's *Living City Policies*, the City's environmental policies can be amended or added to as these documents change from time to time, without the benefit of public consultation or the appeal rights available under the *Planning Act*. The Official Plan is intended to be a clear statement of applicable policies and all relevant matters should be included in it.

4. Compensation Protocol: Staff have indicated that additional studies are required to determine the Compensation Protocol, and have proposed to defer the question to the Secondary Plan process. We have not been provided with any explanation as to how this would occur. Our client's position is that the Compensation Protocol, Proposed Amendments and NHN mapping must be considered and decided at the same time, and must be part of a comprehensive OPA.

At the April 14, 2015 Committee meeting we heard from Planning Commissioner Mackenzie that the Compensation Protocol could be ready for late fall or early winter. With the Proposed Amendments and OPA arising from the NHN Study scheduled to come back to Council in September for approval, we urge the Committee that the Compensation Protocol be dealt with at the same time. If required, the entire matter should briefly be deferred to ensure that the Compensation Protocol is included in and consistent with the OPA.

Our previous submission to the Committee are attached for greater detail and convenience of reference.

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

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



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Yours sincerely,
DAVIES HOWE PARTNERS LLP

per: Katarzyna Sliwa

encl. As above

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