

COMMITTEE OF THE WHOLE **MARCH 7, 2005**

BY-LAW 242-2003
OAK RIDGES MORaine CONFORMITY ZONING BY-LAW
PROVINCIAL MODIFICATIONS
FILE Z.03.022

Recommendation

The Commissioner of Planning recommends:

1. THAT the Minister of Municipal Affairs and Housing BE ADVISED that the City of Vaughan endorses the proposed modifications to By-law 242-2003, as follows:
 - i. THAT the lands in the "Countryside Area" designation currently zoned RR Rural Residential Zone, OS2 Open Space Park Zone, M1 Restricted Industrial Zone, and C2 General Commercial Zone maintain their existing zoning as per section 17(1) of the *Oak Ridges Moraine Conservation Plan*, and that the lands currently zoned A Agricultural Zone which do not contain site specific permissions for additional uses be zoned ORM Oak Ridges Moraine Zone;
 - ii. THAT by-law 242-2003 be revised to require that the ORM Oak Ridges Moraine Zones have a 90m setback to an OS5 Open Space Environmental Protection Zone within the "Natural Core Area", "Natural Linkage Area", and the "Countryside Areas" of the Oak Ridges Moraine in order to trigger the requirement for a natural heritage evaluation or hydrological evaluation for development within 120m from a key natural heritage feature or hydrologically sensitive feature;
 - iii. THAT all references to Wellhead Protection Areas be deleted from by-law 242-2003 as it has been confirmed that there are no wellheads protection areas impacted by the *Oak Ridges Moraine Conservation Plan* within Vaughan;
 - iv. THAT the definition for transportation, infrastructure, and utilities exclude stormwater management facilities; and
 - v. THAT the Provincial MDS (minimum distance separation) requirements for agricultural uses not be included in by-law 242-2003 as per the Provincial comments as MDS is not an *Oak Ridges Moraine Conservation Plan* conformity issue, and is more appropriately addressed through a comprehensive review of By-law 1-88.
2. THAT this report BE FORWARDED to the Ministry of Municipal Affairs and Housing, and that the City requests that By-law 242-2003 receive final approval by the Minister as soon as possible.

Purpose

The purpose of this report is to set out the Minister of Municipal Affairs comments on By-law 242-2003 (the City's Oak Ridges Moraine Conformity Zoning By-law) and to report back to the Ministry on Council's position on the comments, in order to receive final approval of By-law 242-2003.

Background - Analysis and Options

On June 23, 2003, Council adopted OPA 604 and enacted By-law 242-2003 representing the City's Oak Ridges Moraine Conformity Official Plan Amendment and Zoning By-law Amendment, respectively. The *Oak Ridges Moraine Conservation Act* requires that all local municipalities with

lands on the Oak Ridges Moraine amend their official plan and zoning by-law to be in conformity with the *Oak Ridges Moraine Conservation Plan (ORMCP)* by October 2003. The Minister of Municipal Affairs and Housing is the final approval authority on these conformity amendments.

Since Council's adoption in June 2003, the Ministry of Municipal Affairs and Housing has provided comments on OPA 604 in the form of proposed modifications. Staff reported on these modifications for Council's endorsement on May 10, 2004. On October 21, 2004, the Minister of Municipal Affairs and Housing approved OPA 604 with the modifications.

On February 4, 2005, Ministry staff provided comments on By-law 242-2003 for Council's consideration. Given the time that has passed between Council's enactment of the by-law and final approval, consideration of these modifications and progression to final approval in a timely manner is critical to ensure certainty within the Oak Ridges Moraine.

Ministry Comments:

The following are the Ministry's comments on the zoning by-law which would be the basis for any future decisions and/or proposed modifications that may be required for final approval of the By-law, and staff's response with recommendations and any changes. In addition to the list below, some other minor issues have been raised by Ministry staff which can be addressed at a staff level.

1. Previously Authorized Uses in the Countryside Area Designation

The Countryside Area of the Moraine in Vaughan covers a portion of Block 13 being mainly the residential area known as Woodland Acres, and the lands within Block 13 fronting on the east side of Dufferin Street, north of Teston Road, including the Maple Downs Golf Club, the Padres Shalom Cemetery, and a small pocket of land north of King-Vaughan Road, between Keele Street and the GO Rail line. Attachment 1 identifies the lands within the "Countryside Area" and the proposed zoning from By-law 242-2003.

The Province has requested confirmation that Section 17(1) of the *Oak Ridges Moraine Conservation Plan* was utilized in determining that the zoning permissions existing prior to the ORMCP would remain after the conformity exercise. In addition, they request that the City examine the proposed zoning in the "Countryside Areas" to ensure that the permitted uses do not conflict with OPA 604 and York Region's OPA 41.

Section 17(1) of the *Oak Ridges Moraine Conservation Plan (ORMCP)* permits uses, buildings or structures in the "Countryside Area" designation which were previously permitted in by-law 1-88 before the ORMCP, subject to certain criteria, even though they may not conform to the ORMCP. When completing the conformity zoning by-law, the City analyzed the subject lands based on the requirements of Section 17(1). This analysis formed the basis of carrying forward the existing zoning permissions within the Countryside Areas of the Moraine. This approach was also detailed in the Public Hearing Report of May 12, 2003 on the conformity amendments.

The zones within the Countryside Areas are as follows: A Agricultural, RR Rural Residential, OS2 Open Space Park, M1 Restricted Industrial, and C2 General Commercial.

When completing OPA 604, the use permissions of the Countryside Area were examined against the current official plan permissions. The lands in Block 12 were designated by OPA 600 as "Estate Residential", and "Rural Use Area", and the lands north of King-Vaughan Road between Keele Street and the Go Rail line had a number of site specific OPAs permitting industrial and commercial uses.

In light of the above permissions, by-law 242-2003 recognized the existing permissions granted by site specific Official Plan Amendments, and OPA 600, in accordance with the requirements of

Section 17(1) of the ORMCP. Pursuant to Section 17(1) of the ORMCP and OPA 604, the M1 and C2 Zone permissions north of King-Vaughan Road between Keele Street and the Go Rail line remain appropriate in By-law 242-2003, as well as the OS2 and RR permissions in Block 13.

The remainder of the properties within the "Countryside Area" are zoned A Agricultural Zone. These sites are either vacant or are used for agricultural or residential purposes. The A Agricultural Zone currently permits a range of uses including agricultural, recreational, commercial, cottage industries, institutional, and wayside pits and quarries, which are more permissive than the use permissions of the Countryside Area within the *Oak Ridges Moraine Conservation Plan*. Given that the sites zoned A Agricultural Zone are currently either vacant or used for agricultural or residential, without any site specific permissions which predate the ORMCP, it may be appropriate to limit the uses to those permitted in the Countryside Area, rather than continuing with the A Agricultural Zoning under Section 17(1) of the ORMCP.

The ORM Oak Ridges Moraine Zone, is be considered an appropriate alternative to the A Agricultural Zone. The ORM Zone permits agricultural uses and a single dwelling, which are the primary uses for these sites currently. It is therefore recommended that the lands currently zoned A Agricultural Zone in the Countryside Area be zoned ORM Oak Ridges Moraine Zone in order to address the Ministry's concern with regard to zoning within the Countryside Area.

2. Minimum Area of Influence Related to the OS5 Zone

The *Oak Ridges Moraine Conservation Plan* requires all development occurring within the "area of influence" of a key natural heritage feature or a hydrologically sensitive feature, then a natural heritage or hydrological evaluation is required prior to development proceeding. The "area of influence" is the area within 120m from a key natural heritage feature or a hydrologically sensitive feature.

The OS5 Open Space Environmental Protection Zone was created by By-law 242-2003 for the purpose of protecting key natural heritage features and hydrologically sensitive features on the Oak Ridges Moraine. Within the "Natural Core Area", "Natural Linkage Area" and the "Countryside Area", the minimum vegetation protection zone of 30m was included within the OS5 Zone where it did not impact existing development (single dwellings).

Ministry staff has expressed a concern that the "area of influence" has not been adequately addressed within By-law 242-2003 to ensure that the studies required by the ORMCP will be completed. While the requirements for a hydrological evaluation and a natural heritage evaluation remain within OPA 604, the Province's concern is that for the uses permitted in the zones adjacent to the OS5 zones which would require only a building permit, these uses could be implemented without any environmental study being undertaken to determine if a larger setback was warranted.

In order to address this concern, it is proposed that the ORM Zone be amended to include a provision that all structures be setback 90m from an OS5 Zone (OS5 Zone includes 30m buffer + 90m setback = 120m), and similarly in the Countryside Area the OS2 Zones can be amended to contain a site specific provision which requires a 90m setback from an OS5 Zone. This approach will require that the zoning by-law be amended for development closer than 90m to an OS5 zone thereby triggering the requirement for the natural heritage evaluation or hydrological evaluation as required by the ORMCP. This approach would only be appropriate within the "Natural Core", "Natural Linkage" and "Countryside" Areas on the ORM.

This approach would not be appropriate within the "Settlement Area" of the ORM. The settlement area contains specific provisions for minimum vegetative protection zones which can be different than the other land use designations on the Moraine. The designated settlement areas within the ORM have all been subject to block plan processes, which address the requirements of the ORMCP on a large scale. These block plans have delineated features, and provided buffers to

the satisfaction of the TRCA and the City. These features and buffers will be further refined and zoned through the zoning by-laws implementing the plans of subdivision.

3. Deletion of Wellhead Protection Area requirements

York Region has verified that there are no wellhead protection areas within Vaughan which are impacted by the Oak Ridges Moraine legislation. This information was not available at the time of adoption of By-law 242-2003. Therefore, provisions were included in the by-law in preparation for proposed wellhead areas. Now that it has been confirmed that there are no wellheads within Vaughan, the portions of 242-2003 addressing wellhead protection can be deleted.

4. Transportation, Infrastructure and Utility uses within the ORM and OS5 Zones

The *Oak Ridges Moraine Conservation Plan* permits Transportation, Infrastructure, and Utility projects within the "Natural Core Areas", "Natural Linkage Areas", and within key natural heritage features and hydrologically sensitive features subject to a number of conditions. By-law 242-2003 permits these projects as-of-right in the ORM Oak Ridges Moraine Zone and the OS5 Open Space Environmental Protection Zone. The justification for this inclusion is that transportation, infrastructure and utility projects are typically required to undergo an Environmental Assessment under the *Environmental Assessment Act*, or the *Canadian Environmental Assessment Act*, which would require a detailed assessment of the environmental impacts of a project, including provisions similar to those in the *Oak Ridges Moraine Conservation Plan*. The Province is concerned that By-law 242-2003 may be too permissive in allowing transportation, infrastructure and utilities within the OS5 and ORM Zones.

In order to address this concern, it is proposed that the definition for Transportation, Infrastructure, and Utilities be limited to those which require an environmental assessment, and exclude those that do not, rather than placing conditional zoning on these types of projects which would be difficult to implement.

Currently, the definition for Transportation, Infrastructure, and Utilities is as follows:

"includes public highways, transit lines, railways and related facilities, gas and oil pipelines, sewage and water service systems and lines and stormwater management facilities, power transmission and telecommunication lines; bridges, interchanges, stations, and other structures, above or below ground, that are required for the facilities listed above, and associated rights-of-ways."

With the exception of stormwater management facilities, all of the transportation, infrastructure, and utility projects included in the definition are required to undergo an Environmental Assessment. Notwithstanding this, it is unlikely that there will be stormwater management facilities required within the ORM Oak Ridges Moraine Zone as a result of the types of uses permitted within the zone.

Therefore, it would be acceptable to revise the definition for Transportation, Infrastructure, and Utilities to exclude stormwater management facilities. This is a minor change to By-law 242-2003 and would no longer permit stormwater management facilities as-of-right within the ORM Oak Ridges Moraine Zone.

5. Minimum Distance Separation I and II Formulae

Ministry Staff have expressed concern that the City's zoning by-law does not contain any minimum distance separation (MDS) requirements for the rural and agricultural areas. The concern is that the ORMCP permits some limited non-agricultural uses, like single dwellings, which may potentially conflict with any existing agricultural uses.

The MDS requirements are Provincial standards for either new development from existing livestock facilities (MDS I), or for new or expanding livestock facilities from existing development (MDS II). These requirements address the nuisance and potential incompatibility issues that can occur with agricultural and non-agricultural uses within rural and agricultural areas.

By-law 1-88 does not currently contain any MDS requirements. The issue of MDS requirements within the City's zoning by-law is not just an Oak Ridges Moraine issue and should not be completed for the ORM area in isolation. The *Oak Ridges Moraine Conservation Plan* and Act do not contain requirements for MDS, and therefore this is not a conformity issue. If the City is considering adopting these requirements, they should be done comprehensively across the City's rural and agricultural areas through a comprehensive review of the City's zoning by-law rather than through the Minister's approval of the City's Oak Ridges Moraine Conformity Zoning By-law. In light of this, this recommended change by the Province is not supported.

Vaughan Vision 2007

Vaughan's commitment to protecting the Oak Ridges Moraine through the implementation of the *Oak Ridges Moraine Conservation Act* and the *Oak Ridges Moraine Conservation Plan*, is consistent with the priorities established in Vaughan Vision 2007, particularly 'A3' Safeguard Our Environment.

Conclusion

The Minister of Municipal Affairs and Housing is in the final stages of approving By-law 242-2003, Vaughan's Oak Ridges Moraine Conformity Zoning By-law, and should be completely in a timely manner once the City's response to the Province's comments are received.

The Municipal Affairs staff have proposed a number of amendments to by-law 242-2003. This report details the changes proposed by the Province, and Staff's proposed resolution. With the exception of the Province's comments on the inclusion of minimum distance separation requirements, the proposed changes to by-law 242-2003 are acceptable with staff's proposed resolutions. Should the Committee concur with the recommendations contained in this report, the recommendations can be adopted and forwarded to the Ministry of Municipal Affairs and Housing in order to proceed with the final approval of the by-law.

Attachments

1. Countryside Area Zoning

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Respectfully submitted,

JOHN ZIPAY
Commissioner of Planning

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Attachment 1

FILE No.:
Z.02.077

Not to Scale

February 15, 2005

City of
Vaughan

Development Planning Department

Countryside Area Zoning

Part of Lots 26-30, 1,
Concessions 2-4

APPLICANT:
CITY OF VAUGHAN
OAK RIDGES MORaine ZONING BY-LAW