

**From:** jeffrey@landplanlaw.com <jeffrey@landplanlaw.com>

**Sent:** Tuesday, May 12, 2020 10:53 AM

**To:** Clerks Richmondhill <clerks@richmondhill.ca>

**Cc:** bernardKDA <bernardKDA@richmondhill.ca>

**Subject:** Fw: Yonge Bernard KDA Secondary Plan - North Elgin Centre Inc. - submission to May 13 public meeting

Dear Mayor and Members of Council,

Please find attached letter from NEC's drainage engineer which responds to the City and or TRCA's request for a 10m buffer and OS zone along the north limit of NEC's lands.

A planning submission will follow under separate cover which will update the MPlan submissions on the Secondary Plan to date, some of which are included in Appendix L to the Staff Report.

Thank you.

**Jeffrey E Streisfield**, BA LLB MES  
Land Lawyer & Land Development Manager

**LAND LAW**<sup>TM</sup>

[www.landplanlaw.com](http://www.landplanlaw.com)

416.460.2518

Planning & Development Approvals  
Municipal & Environmental Law  
Boundary & Property Disputes  
Trials, Hearings, OMB (LPAT) and Court Appeals

*Creating and Protecting Land Value in Ontario | Advocating for Housing Options Choice and Affordability TM*

This e-mail may be privileged and/or confidential, and the sender does not waive any related rights and obligations.



April 23<sup>rd</sup>, 2020

Reference: 20-687

Toronto and Region Conservation Authority  
101 Exchange Avenue,  
Vaughan, ON,  
L4K 5R6  
[asun@trca.on.ca]

**Attention: Anthony Sun B.E.S., Planner, Development Planning and Regulation,  
Planning and Development – Toronto and Region Conservation Authority**

**Reference: North Elgin Centre Lands at Yonge & Bernard Key Development Area  
Secondary Plan –Technical Assessment and Development  
Recommendations**

---

Dear Mr. Sun,

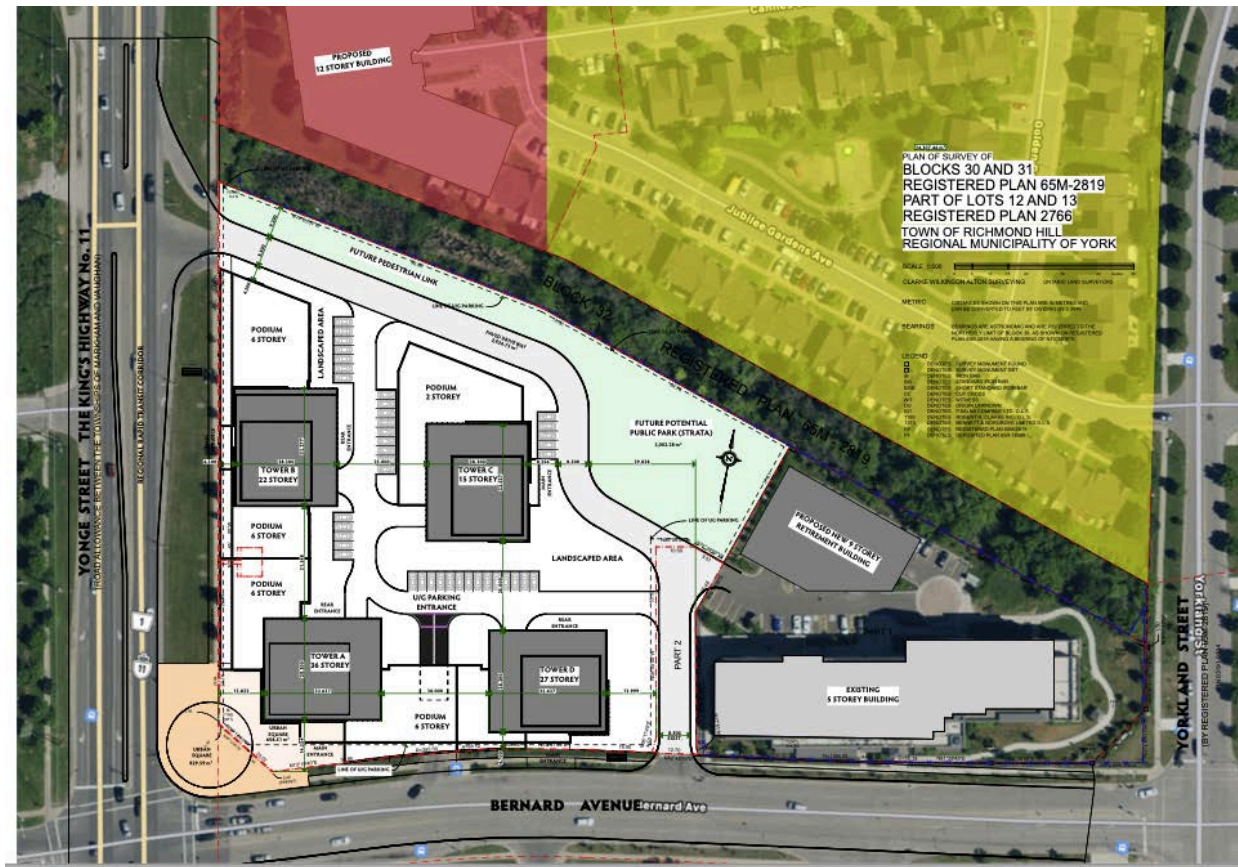
Greck and Associates Limited (Greck) has been retained by North Elgin Centre Inc. (NEC) to review and respond to recent comment letters dated March 15, 2020 (from TRCA to City of Richmond Hill) and April 13, 2020 (from TRCA to MPlan Inc., NEC's land use planner) which concern the Yonge Bernard Key Development Area (KDA) Secondary Plan and Zoning Bylaw, see attached.

Our letter has been copied to the City's Planning Department responsible for the KDA.

### **Background**

In the March 15, 2020 letter, TRCA recommend a 10 m wide OS zone be applied along the entire northern property boundary (across both 10993 Yonge St. and 70 Bernard Ave.) to provide a flood plain buffer and recognize potential channel overtopping on 70 Bernard Avenue. This buffer would be subject to refinement when redevelopment is applied for on the affected properties. TRCA further recommend that a 10m wide MVPZ (buffer) be applied from the meander belt limit which, in the circumstances, would be from the limit of the gabion baskets on both sides of the watercourse within the channel. TRCA letter further confirms that there is very little ecological connectivity and value between the channel and the surrounding area.

The location of the channel is referenced in emails from MPlan Inc. to the City and TRCA and shown in green on NEC's Block concept plan below. The channel block is legally described as Block 32 on a registered plan 65M-2819. Block 32 is located between two highly urbanized areas, see image below.



In the April 13, 2020 letter, TRCA advise:

*We note that the flood plain encroachment into the Secondary Plan Area appears to be limited to 70 Bernard Avenue, while the remainder of the flood plain for this stretch of the tributary appears to be contained within the existing channel block (albeit at the very edge of this block, directly adjacent to 10993 Yonge Street / the North Elgin Centre lands).*

*A buffer to the flood plain is required to ensure an appropriate factor of safety is applied to the modelled water surface elevation and account for future changes to the flood plain elevation as a result of model improvements, technological advances and impacts caused by climate change. By applying a buffer, there is an increased chance of ensuring new development or redevelopment is established outside of the hazard and life and property is protected in the long term.*

The TRCA letter also seeks other ecological buffers 10 metres wide notwithstanding the low ecological value of the channel block noted by TRCA. It is also clear that of all the buffers commented on, TRCA suggests the flood hazard incurs the greatest potential buffer.

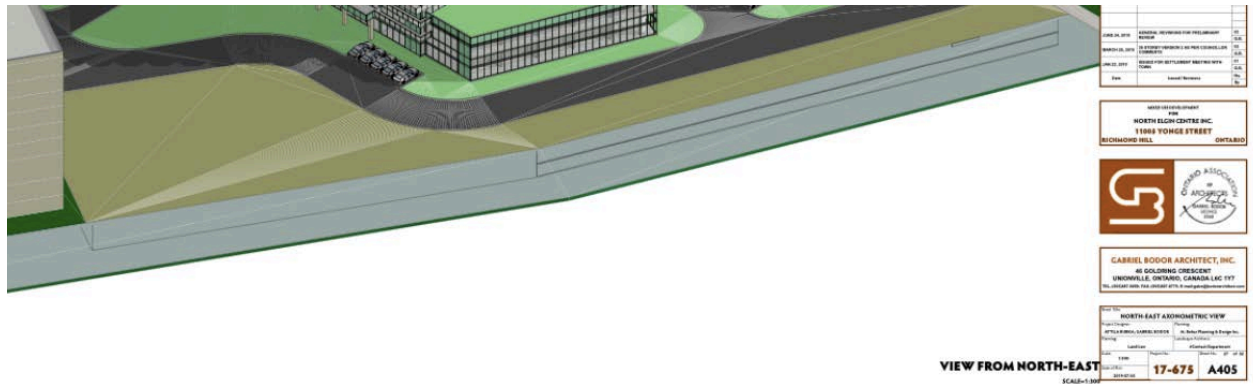
Greck understands that TRCA have provided input to the KDA Secondary Plan and Zoning process since 2017 and that various public and background documents concerning this planning process have been posted on the City's Bernard KDA website:

<https://www.richmondhill.ca/en/find-or-learn-about/yonge-street-and-bernard-key-development-area.aspx>.

NEC has appealed the KDA Secondary Plan and Zoning Bylaw to LPAT, and has questioned the need for an OS zone on its lands or any buffer from the channel block based on its Concept site and block plans on file with the City.

<https://landplanlaw.sharefile.com/share/view/sc10fa57a63d470fb>

NEC's concept plans (June 2019) show 2 levels of below grade garage with a park at grade within the requested 10 m buffer zone. The garage wall would extend 6m below grade. This below grade structure is proposed to be located within a metre of the north property line (which is the south limit of Block 32). See image below.



It was also found that concerning the OS designation in the zoning bylaw, the Revised Draft Zoning By-law Schedules (February 2020) show an OS designation along the subject property however, no such designation on the lands to the east – 70 Bernard and the west of Yonge Street. The zoning setback along the channel for both NEC and 70 Bernard is stated to be 0.0m above and below grade.

We understand that NEC has taken objection to TRCA's comments and as such has sought Greck's advise on whether TRCA's requested 10m buffer is reasonable and justified.

## Discussion

Greck has considerable experience working on similar projects with landowners and the Toronto and Region Conservation Authority (TRCA) over the years. This letter will provide a summary of our technical understanding and application of our experience to assess NEC's current development plans for the subject property as it pertains to applicable regulated features and the concerns raised by NEC.

Below are our recommendations for development buffers/development limits as it pertains to flood and erosion hazards and the conservation of land in accordance with provincial guidelines, TRCA's Living City's Policies and scientific and engineering principals.

In our assessment, we have found no justification, nor need for a 10m OS buffer along the north limit of subject property. We believe no buffer is required from the channel block – Block 32 at this time for the following reasons:

### 1. Flood Hazard (Floodplain Buffer)

As per TRCA letters attached, we understand that TRCA is currently updating the local watershed hydrology and hydraulics for this portion of channel. It was further stated that preliminary hydraulic results from TRCA's work show the floodline will remain contained within the existing engineered channel along the subject property (within Block 32). Regardless, it is critical that flood hazard protection be provided through means of vertical clearance only and not a horizontal buffer. Horizontal buffers do not provide an acceptable factor of safety. As such, it is industry standard and widely accepted that a 0.3m vertical freeboard in addition to the regulatory flood elevation be provided for flood protection. Therefore, a 10m buffer is not warranted at this time. Any further study required to be undertaken would be as part of a site plan application.

### 2. Erosion Hazard (Erosion Buffer)

The TRCA regulates erosion hazards within valley corridors. Erosion hazards consider both the erosion potential of the actual river or stream bank, as well as the potential for erosion or slope stability issues associated with the river valley walls. As per MNR Technical Guidelines, erosion is the continual loss of earth material overtime as a result of the influence of water or wind. Slope stability, in terms of slope failure, refers to a mass movement of earth material, or soil, sliding down a bank or slope face as a result of a single event in time.

In accordance with provincial policy, a 3:1 vegetated slopes are typically deemed stable and can be assessed using desktop analysis. Given the subject channel is engineered, it is highly unlikely that the slopes in the subject reach are unstable or show signs of significant toe erosion, as such a safety factor or protection buffer beyond the top of the engineered slope of the channel is not appropriate at this time. Any further study required to be undertaken would be as part of a site plan application.

### 3. Conservation of Land (Ecological Buffer)

The channel block is in the ownership of a public authority and is a degraded system. The channel block is well defined and fenced on both sides, which indicates no anticipated public access (current or future).

There are solutions that exist that provide acceptable protection and enhancement to the channel block, if needed, without the need for a 10m buffer or taking from the NEC lands. Any further study required to be undertaken would be as part of a site plan application.

We look forward to hearing back or discussing this matter further with TRCA, the City and the Owner. Should you have questions or require further details, please feel free to contact me at (289) 657-9797 ext. 222 or [egreck@greck.ca](mailto:egreck@greck.ca).

Sincerely,  
**GRECK AND ASSOCIATES LIMITED**



Eric Greck, P.Eng.  
Principal

C.C. Patrick Lee, Director of Planning, Richmond Hill      [patrick.lee@richmondhill.ca](mailto:patrick.lee@richmondhill.ca)  
North Elgin Centre Inc.  
MPlan Inc.



March 15, 2020

CFN: 57138

**BY EMAIL: [sybelle.vonkursell@richmondhill.ca](mailto:sybelle.vonkursell@richmondhill.ca)**

Ms. Sybelle von Kursell  
City of Richmond Hill  
225 East Beaver Creek  
Richmond Hill, ON  
L4B 3P4

Dear Ms. von Kursell,

**Re: Town File nos. D01-16002, D02-16012, D03-16006  
12 & 24 Naughton Dr., 0, 11014, 11034, 11044 & 11076 Yonge St., and  
0, 47 & 59 Brookside Rd.  
Yonge Bernard Key Development Area Secondary Plan**

TRCA staff have reviewed the revised Yonge and Bernard Key Development Area Secondary Plan Zoning By-law and draft Proposed Policy Changes to the Yonge and Bernard Key Development Area Secondary Plan and wish to offer the following comments. These comments are based upon our review of additional information received for the northern tributary which traverses the KDA. These additional information sources include:

- Updated Rouge River hydrology modelling
- Scoped Natural Heritage Evaluation – 102 Yorkland Street, prepared by Palmer Environmental Consulting Group Inc., dated May 10, 2019;

**Comments**

*Water Resources Engineering*

Previously in 2017, it was determined that flooding from the watercourse (a tributary of the Rouge River) along the northern boundary of the KDA was contained within the channel. TRCA is now in the process of updating our floodplain mapping for the Rouge River Watershed. As part of this process, the hydrology model for the Rouge River Watershed has been completed and actual floodplain delineation and confirmation is currently underway. It is anticipated that this work will be completed in the coming months.

Through preliminary work (which is unverified and very draft at this time; and as such, cannot be released by the TRCA) it appears that the development concept plan for an additional building on 70 Bernard Avenue may be within the flood plain. The concept plan, which we understand that the City is aware of, was previously submitted to the TRCA in October 2019. At that time, we informed Dave Leighton from Urbantech (working on behalf the retirement centre), that the flood plain impacts this property and needs to be confirmed and that TRCA is working on producing new flood plain mapping for the area.

We note that this preliminary flood plain mapping work indicated very little to no change in the flooding limits for the adjacent property to the west compared with our current flood plain map.

In light of this preliminary work, TRCA recommends that a 10 metre wide OS zone be applied along the entire northern property boundary (across both 10993 Yonge St. and 70 Bernard Ave.) to provide a flood plain buffer and recognize potential channel overtopping on 70 Bernard Avenue. This buffer would be subject to refinement when redevelopment is applied for on the affected properties. We note that the refinement may result in the flood plain buffer bumping out in some places or brought in closer to the property boundary in others.

### *Ecology*

It should be noted, given that the KDA is within a designated Settlement Area of the ORMCP, MVPZ's identified through an environmental study can prevail over those required under the ORMCP Table. The following are the Key Natural Heritage Features (KNHF) and Key Hydrologic Features (KHF) that affect these lands.

According to the Savanta report, dated March 13, 2017, for the KDA:

- Fish Habitat;
- Significant Woodland;
- Significant Valleyland;
- Contributing Habitat for RSD (Habitat of Endangered Species and Threatened Species)

The Scoped Natural Heritage Evaluation by Palmer Environmental dated May 10, 2019 prepared in support of a proposed development for 102 Yorkland St. (north of the KDA and adjacent to the channel that borders 10993 Yonge and 70 Bernard) identified the following within the western end of this channel:

- Wetland

TRCA note that neither of these reports (the Savanta and Palmer reports) identified the channel itself as being considered a:

- Permanent and Intermittent Stream

Based upon the additional information sources received since the KDA was initially drafted, TRCA offer the following comments for the various KNHF / KHF listed above.

### **Fish Habitat**

Regarding Fish Habitat, a 30 metre MVPZ is required under ORMCP. However, the EIS by Palmer Environmental for the Jubilee site on the north side of the exact same stretch of the tributary concludes that it is not viable Fish Habitat due to the lack of aquatic vegetation and barriers along this stretch of the tributary. In-stream barriers were also identified in Savanta's report for the KDA under Figure 2. TRCA agree that this channel does not provide direct fish habitat; however, it constitutes very degraded indirect fish habitat. As such, a 10 metre MVPZ would be appropriate for this specific stretch of the tributary and a 30 m Fish Habitat MVPZ is not applicable.

### **Significant Woodland**

Regarding Significant Woodland, it is our opinion that this section of tributary does not qualify as a Significant Woodland, it lacks any of the qualifying criteria under the ORMCP Technical Paper 7. Therefore; a 30 m Significant Woodland MVPZ is not applicable for this stretch of the

tributary. Reference to Significant Woodland in the Savanta report likely relates more to German Mills Creek (in the Don Watershed).

### **Significant Valleyland**

Regarding Significant Valleyland, while the tributary might be considered a Valleyland, it is not significant. Reference to Significant Valleyland in the Savanta report likely relates more to German Mills Creek (in the Don Watershed). Therefore; a 30 m Significant Valleyland MVPZ is not applicable for this stretch of the tributary.

### **Redside Dace Habitat**

Based upon current TRCA data, this stretch of the Rouge River tributary does not constitute contributing Redside Dace Habitat. Furthermore, under the ORMCP, there are no required MVPZ's for endangered species habitat (or contributing habitat for that matter). Therefore; a 30 m MVPZ for contributing Redside Dace or habitat for Endangered and Threatened Species is not required or applicable for this stretch of the tributary.

### **Wetland**

Typically, under the ORMCP, a 30 m MVPZ would apply from the edge of the wetland; however, the Palmer Report states that the 10 m setback that was proposed for the Jubilee site was sufficient as the wetland is constrained within the channelized watercourse, which has been hardened in places by gabion baskets. We agree with this assessment and note that it would be appropriate to apply a similar setback along the south side of the channel into the KDA lands. As such, a 10 m MVPZ from the wetland would also be appropriate for KDA lands in this instance given that the creek hardening reduces the ecological function by reducing connectivity between the creek and floodplain.

### **Permanent and Intermittent Stream**

Typically, under the ORMCP, a 30 m MVPZ would apply from the meander belt of a Permanent and Intermittent Stream. Given the characteristics of the channelized watercourse as described in the Palmer Report and the existing developed condition of the surrounding area, there is very little ecological connectivity between the channel and surrounding area, as such a 10 m MVPZ from the meander belt limit would likely be appropriate in this instance. We note that given the hardened nature of this channel, a natural meander in accordance with natural fluvial geomorphic processes would not apply and the limit of the gabion baskets on both sides of the watercourse could be considered the limit of the meander belt.

We trust this is of assistance. Should you have any further questions or comments, do not hesitate to contact the undersigned.

Yours truly,

Anthony Sun, B.E.S.  
Senior Planner  
Development Planning and Permits  
Tel: (416) 661-6600, Ext. 5724



April 13, 2020

CFN: 57138

**BY EMAIL: [mplanning@rogers.com](mailto:mplanning@rogers.com)**

Mr. Mike Manett  
MPLAN Inc.  
12 Foxwood Road  
Vaughan, ON  
L4J 9C4

Dear Mr. Manett,

**Re: Yonge Bernard Key Development Area Secondary Plan**

In response to your e-mail sent April 7, 2020 regarding the Yonge and Bernard Key Development Area Secondary Plan and questions regarding TRCA correspondence dated March 15, 2020, TRCA staff wish to provide the clarifications and responses below.

TRCA staff would like to note that Natural Hazards (including flood hazards) are not bound by property boundaries or any other human defined boundaries such as those established for the Yonge Bernard Key Development Area Secondary Plan. As such, even though the existing watercourse (the northern tributary) and the block within which it is located is not captured within the Secondary Plan Area; the flood plain associated with this tributary appears to encroach into the Secondary Plan Area - even with the currently existing physical configuration of the channel and surrounding topography.

We note that the flood plain encroachment into the Secondary Plan Area appears to be limited to 70 Bernard Avenue, while the remainder of the flood plain for this stretch of the tributary appears to be contained within the existing channel block (albeit at the very edge of this block, directly adjacent to 10993 Yonge Street / the North Elgin Centre lands).

**Flood Plain Buffer**

In accordance with The Living City Policies for Planning and Development in the Watersheds of the TRCA (LCP), the TRCA policy document that has guided the implementation of TRCA's legislated and delegated roles and responsibilities in the planning and development approvals process since 2014, a 10 metre buffer to the Regulatory Flood Plain is required. Prior to the LCP coming into effect in 2014, a 10 metre flood plain buffer was also required under the predecessor policy document Valley and Stream Corridor Management Program.

A buffer to the flood plain is required to ensure an appropriate factor of safety is applied to the modelled water surface elevation and account for future changes to the flood plain elevation as a result of model improvements, technological advances and impacts caused by climate change. By applying a buffer, there is an increased chance of ensuring new development or redevelopment is established outside of the hazard and life and property is protected in the long term.

It is important to note that it is standard practice that through a development or redevelopment application, flood plain lands and the flood plain buffer areas (natural hazard and their buffer) are zoned to an appropriate Open Space zone and conveyed into public ownership (please see Section 7.5.2.4 of the LCP).

As such, TRCA staff are recommending a 10 metre buffer from the Regulatory Flood Plain.

### **Ecological Buffer**

As acknowledged in our March 15, 2020 correspondence to the City, the location of the watercourse (being in a designated Settlement Area of the Oak Ridges Moraine Conservation Plan) and the degraded nature of the watercourse would negate the need for a full 30 metre MVPZ / buffer in accordance with the policies of the Oak Ridges Moraine Conservation Plan (ORMCP). However, it is our opinion that without an environmental study to recommend otherwise; a 10 metres MVPZ / buffer from the various Key Natural Heritage and Key Hydrological Features which have been identified within the channel block would be appropriate under the ORMCP.

Under LCP, a 10 metre buffer is also applicable to Wetlands and Valley or Stream Corridors (Section 7.3.1.4). The channel in this case would be categorized as a Valley Corridor.

### **Permanent and Intermittent Stream (ORMCP KNHF / HSF)**

As indicated in our March 15, 2020 correspondence to the City, TRCA noted that neither the Savanta Report prepared for the KDA or the Scoped Natural Heritage Evaluation prepared by Palmer Environmental for the 102 Yorkland Development application identified the channel itself as being considered a Permanent and Intermittent Stream. However it is our opinion that this was an oversight as the channel is clearly a watercourse / stream as it continues upstream west of Yonge Street, north of Gamble Road to Jefferson Sideroad and downstream to east of Bayview Avenue and south of Elgin Mills Road East and eventually connecting with main branch of the Rouge River, which empties into Lake Ontario.

TRCA staff would be happy to continue this discussion further with qualified professionals (of your choosing) in the fields of water resources engineering and ecology if so desired.

We trust this is of assistance. Should you have any further questions or comments, do not hesitate to contact the undersigned.

Yours truly,

Anthony Sun, B.E.S.  
Senior Planner  
Development Planning and Permits  
Tel: (416) 661-6600, Ext. 5724

cc: Sybelle von Kursell, City of Richmond Hill (e-mail: [sybelle.vonkursell@richmondhill.ca](mailto:sybelle.vonkursell@richmondhill.ca))

J:\DSS\York Region\Richmond Hill\57138 PL3 Yonge Bernard KDA Apr 13 2020.docx