



2023/06/13

City of Richmond Hill
225 East Beaver Creek Rd,
Richmond Hill, ON
L4B 3P4

Via email: clerks@richmondhill.ca; OPUpdate@richmondhill.ca

Re: Richmond Hill Official Plan Update and Comprehensive Zoning By-law Review

To Whom It May Concern,

WSP has been retained and is acting on behalf of Canadian National Railway Company (CN). We are pleased to have this opportunity to provide comments on the Richmond Hill Official Plan Update and Comprehensive Zoning By-law Review. Our comments focus on policies and/or infrastructure initiatives, as they are related to existing and/or future CN facilities, operations and infrastructure.

It is our opinion, supported by the Provincial Policy Statement, 2020 (PPS) and the Ministry of Environment, Conservation and Parks' (MECP) D-6 Compatibility between Industrial Facilities Guidelines (D-6 Guidelines), that planning for land uses in the vicinity of *rail facilities* be undertaken in such a way that the economic function and long-term operation of rail systems is protected. Provincial policy sets out that sensitive land uses be appropriately designed, buffered and/or separated from rail facilities, and avoid, mitigate or minimize negative impacts on and from railway corridors.

It is our position that the City of Richmond Hill should incorporate policies that reflect the provincial policies and guidelines related to rail facilities.

About CN, Railway Noise and other Adverse Effects

CN is a federally regulated railway company, and is governed by various federal legislation, including the *Canada Transportation Act* (CTA) and the *Railway Safety Act* (RSA), among others. The CTA requires federally regulated railway companies to only make such noise and vibration as is reasonable. The test of reasonableness under the CTA takes into consideration the railway company's operational requirements and its level of service obligations under the Act, as well as the area where the construction or operation takes place. The Canadian Transportation Agency (Agency) is the federal body that assesses the reasonableness of

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noise associated with the construction or operation of a federal railway company. In its decisions, the Agency has concluded that municipalities have a responsibility to assess compatibility issues before approving housing developments in proximity to railway rights-of-way. The CTA also commented that where a municipality approves the development, it has a responsibility to ensure that the necessary mitigation measures are implemented. One example of such a decision is Decision No. 69-R-2014, dated February 27, 2014.

It is important to understand that there is no specific decibel limit contained in federal guidelines related to the construction or operation of rail facilities. Those federal guidelines clearly state that, while the Agency may take provincial and municipal noise and vibration guidelines into account in its deliberations, the Agency is not bound by those guidelines.

Rail Proximity Guidelines are available at the following: <https://www.proximityissues.ca/>

Guidelines for the Resolution of Complaints Over Railway Noise are available at the following: <https://otc-cta.gc.ca/eng/publication/guidelines-resolution-complaints-over-railway-noise-and-vibration/>

Preliminary Comments and Concerns

CN requests that the following policies be included in the municipal land use planning policy documents:

1. General Acknowledgement

The City Council acknowledge the importance of rail infrastructure and recognizes its critical role in long-term economic growth and the efficient and effective movement of goods and people.

Development in proximity to rail facilities shall be developed in accordance with the Guidelines for New Development in Proximity to Railway Operations prepared by the Federation of Canadian Municipalities and the Railway Association of Canada (FCM/RAC Guidelines).

2. Include a definition for Major Facilities, Major Goods Movement Facilities and Corridors, Rail Facilities and Sensitive Land Uses.

We request that the following definitions found in the PPS be included in the policy documents:

Major Facilities: means facilities which may require separation from sensitive land uses, including but not limited to airports, manufacturing uses, transportation infrastructure and corridors, rail facilities, marine facilities, sewage treatment facilities, waste management systems, oil and gas pipelines, industries, energy generation facilities and transmission systems, and resource extraction activities.

Major Goods Movement Facilities and Corridors: means transportation facilities and corridors associated with the inter- and intra-provincial movement of goods. Examples



include: inter-modal facilities, ports, airports, rail facilities, truck terminals, freight corridors, freight facilities, and haul routes and primary transportation corridors used for the movement of goods. Approaches that are freight supportive may be recommended in guidelines developed by the Province or based on municipal approaches that achieve the same objectives.

Rail Facilities: means rail corridors, rail sidings, train stations, inter-modal facilities, rail yards and associated uses, including designated lands for future rail facilities.

Sensitive Land Uses: means buildings, amenity areas, or outdoor spaces where routine or normal activities occurring at reasonably expected times would experience one or more adverse effects from contaminant discharges generated by a nearby major facility. Sensitive land uses may be a part of the natural or built environment. Examples may include, but are not limited to: residences, day care centres, and educational and health facilities.

3. Identify Rail Facilities and Influence Areas

We recommend identifying rail facilities and the areas of influence for sensitive land uses (300 metres for a rail line, 1 km for a rail yard) in a schedule to each policy document.

4. Provincial Policy Statement Requirements

The policies proposed below are recommended to be included in policy documents to address requirements for developments in proximity to rail facilities:

- a) Sensitive land uses shall not be encouraged adjacent to, or in proximity to rail facilities;
- b) All developments in proximity to rail facilities shall be developed in accordance with the FCM/RAC Guidelines;
- c) All proposed residential developments or other sensitive uses located within 300 metres of a railway right-of-way be required to undertake noise studies, to the satisfaction of the Municipality, in consultation with the appropriate railway operator, and shall undertake to implement the appropriate measures to mitigate any adverse effects from noise that were identified in the report and as may be required by CN;
- d) All proposed residential developments or other sensitive uses located within 75 metres of a railway right-of-way be required to undertake vibration studies, to the satisfaction of the Municipality, in consultation with the appropriate railway operator, and shall undertake to implement the appropriate measures to mitigate any adverse effects from vibration that were identified in the report, and as may be required by CN;
- e) All proposed building setbacks shall be in accordance with the FCM/RAC Guidelines. As a general guideline, buildings shall be setback 30 metres with



an appropriate berm abutting the rail right-of-way. Reduced setbacks can be considered in certain circumstances dependant on the proposed use and in conjunction with additional studies and alternative safety measures, to the satisfaction of the Municipality, in consultation with the appropriate railway operator;

- f) All proposed residential developments or other sensitive uses located adjacent to railways shall implement appropriate mitigation measures, including but not limited to, safety setbacks, berms, crash barriers and security fencing, in accordance with the FCM/RAC Guidelines;
- g) All proposed residential developments or other sensitive uses located adjacent to railways shall implement the applicable warning clauses provided by the appropriate railway operator;
- h) All proposed residential developments or other sensitive uses located adjacent to railways shall implement, secure and maintain any required rail noise, vibration, and safety impact mitigation measures, along with any required notices on title, such as development agreements, warning clauses and/or environmental easements, through appropriate legal mechanisms, to the satisfaction of the Municipality and the appropriate railway operator; and,
- i) All proposed residential developments or other sensitive uses located in proximity to rail facilities shall evaluate, prioritize and secure grade separation of railways and major roads, in co-operation with Transport Canada and the appropriate railway operator;

Conclusion

We would like to thank you for the opportunity to participate in the Richmond Hill Official Plan Update and Comprehensive Zoning By-law Review. We look forward to continuing to work with the City of Richmond Hill throughout this process.

Please forward all future communications, land development applications and documents to proximity@cn.ca

Yours very truly,



Saadia Jamil
Senior Planner (CN Proximity)

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