

Ontario Land Tribunal
Tribunal ontarien de l'aménagement
du territoire



ISSUE DATE: October 29, 2025

CASE NO(S): OLT-22-002608
(Formerly PL170151)
OLT-21-001787
(Formerly PL111184)
OLT-22-002104

PROCEEDING COMMENCED UNDER subsection 22(7) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended.

Applicant and Appellant:
Subject:

7553 Islington Holding Inc.
Request to amend the Official Plan - Failure
of the City of Vaughan to adopt the
requested amendment

Existing Designation:

"Low Density Residential" and "Open
Space"

Proposed Designation:
Purpose:

"Medium Density Residential"
To permit the development of a multi-storey
residential building containing 490
residential units with variable heights of 12-
storeys and 17-storeys, inclusive of a 7-
storey podium

Property Address/Description:

7553 Islington Avenue & 150 Bruce Street/
Part of Block 88, Registered Plan 65M-
2059, Lots 4 and 5, Concession 7

Municipality:

City of Vaughan

Approval Authority File No.:

OP.08.017

OLT Case No.:

OLT-22-002608

Legacy Case No.:

PL170151

OLT File No.:

OLT-22-002608

Legacy File No.:

PL170151

OLT Case Name:

7553 Islington Holding Inc. v. Vaughan
(City)

PROCEEDING COMMENCED UNDER subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended.

Applicant and Appellant:	7553 Islington Holding Inc.
Subject:	Application to amend Zoning By-law No. 1-88, as amended – Neglect of application by the City of Vaughan
Existing Zoning:	“A - Agricultural Zone”, “OS1 - Open Space Conservation Zone” and “R1 9(643) – Residential Zone”
Proposed Zoning:	“RA3 – Apartment Residential Zone” and “OS1 – Open Space Zone” with site specific exceptions
Purpose:	To permit the development of a multi-storey residential building containing 490 residential units with variable heights of 12-storeys and 17-storeys, inclusive of a 7-storey podium
Municipality:	City of Vaughan
Municipal File No.:	Z.16.022
OLT Case No.:	OLT-22-002608
Legacy Case No.:	PL170151
OLT File No.:	OLT-22-002611
Legacy File No.:	PL170152

PROCEEDING COMMENCED UNDER subsection 17(40) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended.

Appellant:	1042710 Ontario Limited (aka Royal Centre)
Appellant:	1096818 Ontario Inc.
Appellant:	11333 Dufferin St et al
Appellant:	1191621 Ontario Inc.; and others
Subject:	Failure to announce a decision respecting Proposed Official Plan Amendment No. New Official Plan
Municipality:	City of Vaughan
OLT Case No.:	OLT-21-001787
Legacy File No.:	PL111184
OLT File No.:	OLT-21-001787
Legacy File No.:	PL111184
OLT Case Name:	Duca v. Vaughan (City)

PROCEEDING COMMENCED UNDER subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended.

Appellant:	1042710 Ontario Limited (aka Royal Centre)
Appellant:	1096818 Ontario Inc. Jordan, Ryan, and Brittany Fisch
Appellant:	1150 Centre Street GP Inc.
Appellant:	1163919 Ontario Ltd., 1888836 Ontario Ltd., and 1211612 Ontario Ltd.
Appellant:	and others
Subject:	Zoning By-law
Description:	New City-wide comprehensive zoning by- law
Reference Number:	By-law 001-2021
Property Address:	City Wide
Municipality/UT:	Vaughan/York
OLT Case No:	OLT-22-002104
OLT Lead Case No:	OLT-22-002104
OLT Case Name:	D'Aversa v. Vaughan (City)

PROCEEDING COMMENCED UNDER subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P. 13, as amended.

Appellant:	1042710 Ontario Limited (aka Royal Centre)
Appellant:	1096818 Ontario Inc. Jordan, Ryan, and Brittany Fisch
Appellant:	1150 Centre Street GP Inc.
Appellant:	1163919 Ontario Ltd., 1888836 Ontario Ltd., and 1211612 Ontario Ltd.
Appellant:	And others
Subject:	Zoning By-law
Description:	Transitional by-law
Reference Number:	By-law 039-2022
Property Address:	City Wide
Municipality/UT:	Vaughan/York
OLT Case No:	OLT-22-003554
OLT Lead Case No:	OLT-22-002104

PROCEEDING COMMENCED UNDER subsection 9(1) of the *Ontario Land Tribunal Act, 2021*, S.O. 2021, c. 4, Sched. 6

Request By: 7553 Islington Holding Inc.
 Request For: Tribunal Direction seeking to strike Witness Statement evidence submitted by the Toronto and Region Conservation Authority

Heard: September 2 to 16, 2025, by Video Conference (Excluding September 8, 2025)

APPEARANCES:

Parties

7553 Islington Holding Inc. (“Appellant”/ “Applicant”)

City of Vaughan (“City”)

Toronto and Regional Conservation Authority (“TRCA”)

Armando Rosano, Elisa Testa, Vaughanwood Ratepayers’ Association (“Ratepayers”)

Regional Municipality of York (“Region”)

Sarno Holdings Corporation (“Sarno”)

Counsel

Matthew Helfand
 Patrick Harrington

Raj Kehar
 Zaynab Al-Waadh
 Victoria Perricciolo (*student-at-law*)

Tim Duncan
 Matthew Rutledge (*in absentia*)

Amber Stewart

Alexis Alyea (*in absentia*)
 Not Appearing

Meaghan McDermid (*in absentia*)
 Grace O’Brien (*in absentia*)
 Not Appearing

DECISION DELIVERED BY STEVEN T. MASTORAS AND ORDER OF THE TRIBUNAL

INTRODUCTION

[1] The Tribunal held a 10-day Hearing regarding appeal proceedings brought by 7553 Islington Holding Inc. (“Appellant”) under the *Planning Act* (“Act”) for the City of Vaughan’s (“City”) failure or neglect to make a decision, within the prescribed timelines regarding a number of applications noted in the above captioned Title of Proceedings (“Appeals”). This Phase 2A Hearing, was the result of a Motion before the Tribunal in January 2025, and was scheduled by a Decision issued on June 6, 2025, following a Telephone Conference Call (“TCC”) on June 2, 2025.

[2] The Appeals were filed by the Appellant, regarding the lands municipally known as 7553 Islington Avenue and 150 Bruce Street (“Subject Lands”) in the City. The Appeals were previously consolidated by the Tribunal at the request of the Parties, and the matters were administratively divided to be considered in a Phase 1 and Phase 2 hearing structure, as further detailed below, under Tribunal Events.

SUBJECT LANDS AND PROPOSED DEVELOPMENT

[3] Generally, the Subject Lands consist of approximately 1.77 hectares (“ha”) situated north of Highway 407 and south of Highway 7, extending between Islington Avenue and Bruce Street. The Subject Lands are surrounded: to the north-west across Islington Avenue, by a vacant commercial lot and adjacent commercial plaza along Legion Court; to the immediate north, with lands owned by Sarno Holdings Corporation (“Sarno” / “Sarno Lands”); to the south-west by Islington Avenue; to the south-east by residential properties along Helen Street; to the north-east by Bruce Street, consisting of a number of residential dwellings, a large school property, with recreational amenities

and fields; and, additional residential properties further north along Pioneer Lane. The Islington Avenue frontage is approximately 121 metres (“m”) and there is a 39 m frontage along Bruce Street under the Appellant’s ownership.

[4] The Appeals are seeking to facilitate the development of a 21-storey residential building, with 530 residential units and 549 parking spaces, including one full-level underground/below-grade, fronting along Islington Avenue, with a rear parking garage component of seven levels, coming up to grade at 150 Bruce Street, at the approximate Top of Bank (“TOB”). The building is proposed along the side of the valley wall of the Humber River Valley (“HRV”) by removing existing Woodland on the Subject Lands, including excavation of the valley slope of the HRV system, with grading modification and the removal of approximately 458 trees, as part of the development envelope as proposed. Primary vehicular access for the development would be from Islington Avenue, with emergency access being provided from 150 Bruce Street (“Proposal”).

TRIBUNAL EVENTS

Phase 1 Hearing Decision and Review Request

[5] A Phase 1 Merit Hearing came before the Tribunal, over the course of 17-days, between November 4, 2023, to November 23, 2023, and again on May 23, 2024, to May 31, 2024 (“Phase 1 Hearing”). The Decision of the presiding Member with respect to the Phase 1 Hearing was issued on July 29, 2024.

[6] The Phase 1 Hearing, which saw opposition to the Proposal from the City, the TRCA, the Ratepayers, and/or Participants who remain engaged in these matters, reviewed the applicable policies and regulatory guidelines to contextually determine whether a Site-Specific buildable envelope is feasible. The Phase 1 Decision determined that the Subject Lands are “developable that is whether there is a

permissible structure under the [Provincial Policy Statement 2020] of relevant policies that, despite the Subject Lands being a [Significant Valley Land] [(“SVL”)] and [Significant Wildlife Habitat][(“SWH”)] and [Hazardous Land] [(“HL”)] a proposed development (dependent on the type proposed) may be permissible.” (“Phase 1 Decision”) [*emphasis added*].

[7] The Phase 1 Decision directed the matter should proceed to a Phase 2 Hearing, which would potentially determine the Proposal’s scale, built form, and degree of intensification, on a Site-Specific basis. This would include an assessment as to the “suitability and appropriateness of the [Proposal]” within the Provincial and Municipal policy framework.

Request For Review

[8] Following the Phase 1 Decision, the City, the TRCA, and the Ratepayers, jointly submitted a Request for Review (“Request”), pursuant to s.23 of the *Ontario Land Tribunal Act, 2021* (“OLTA”). After careful consideration of this Request by the Executive Chair of the Tribunal, the Phase 1 Decision was upheld with that Decision issued on November 13, 2024, (“Chair’s Decision”) which determined that:

...the Request [failed] to raise a convincing and compelling case sufficient to warrant the exercise of my review powers under s. 23 of the OLTA and Rule 25. As a result, the Request [was] dismissed. The Decision in case numbers OLT-22- 002608 (formerly PL170151), OLT-21-001787 (formerly PL111184) and OLT-22-002104 remained in full force and effect.

[emphasis added]

Phase 2 CMC/Motion Decision

[9] A Phase 2 Case Management Conference/Motion Decision (“CMC/Motion Decision”) was issued on March 13, 2025, and considered a Motion submitted jointly by the TRCA and the City requesting the bifurcation of the Phase 2 Hearing of the Merits.

[10] The Tribunal Member presiding over that Phase 2 CMC/Motion, directed that a Phase 2A Hearing would first consider the “unresolved natural heritage and hazard land issues as threshold issues,” which would establish the permissible building envelope for the Proposal, in consideration of the Environmental Designations (“EDs”). Furthermore, if determined necessary, the Phase 2B Hearing would subsequently consider the Site-Specific, land use planning evidence. Therefore, the Phase 2A Hearing was expected to consider whether there is a permissible structure available to the Appellant to demonstrate that the Proposal will not negatively impact the EDs under the relevant policies and tests. (emphasis added)

CMC/TCC Decision

[11] A subsequent CMC/TCC Decision by the current Member, issued on June 6, 2025, set out the Hearing dates for Phase 2A, commencing September 2, 2025, for a duration of 10-days, and further determined that it was appropriate to set down the dates for the Phase 2B Hearing “to consider remaining planning issues in dispute with respect to the [Proposal], if necessary.” The Phase 2B Hearing, if required, was also set out and scheduled to commence on **Monday, January 12, 2026**, for a duration of **10-days**.

Phase 2A Decision

[12] For reasons that will follow from this Phase 2A Hearing, the Tribunal has determined that the Proposal has satisfied all “unresolved natural heritage and hazard land issues as threshold issues.” The Tribunal is persuaded by the Appellant’s evidence that no constraints are found from the EDs, or the respective policy framework, and there are no impediments to the advancement of the Proposal, to a further Hearing of the Appeals. Based on this finding, the matter shall now proceed to the **Phase 2B Hearing** of the numerous remaining planning issues, previously set down to commence (now as required), as noted above in paragraph [11]. Additionally, a revised date for a further **CMC**, is now scheduled to commence on **Tuesday November 18, 2025, at 10 a.m.**

PRELIMINARY MATTERS

EXHIBIT LIST

[13] The following Exhibits were confirmed with all Parties at the commencement, and during the course of this Hearing as follows;

1. Joint Document Book - Phase 2A (August 25, 2025);
2. Agreed Statements of Fact (“ASF1-3”) (July 30, 2025);
3. Witness Statement Compendium (August 11, 2025) (Appellant);
4. Reply Witness Statement Compendium (August 15, 2025) (Appellant);
5. TRCA – Witness Statement Compendium (August 25, 2025);(*Note: Paragraphs 56-96,110, 120, 141, 147, 150, 151, 153, 160, 161, 167, 170, 173, 204 and 210 of the Witness Statement of Mr. Jason Wagler, dated August 1, 2025, were struck from his evidence, along with numerical

corrections on page 9 related to the Issues List (in accordance with the Tribunal's Oral Decision below);

6. TRCA - Responding Witness Statement Compendium (August 25, 2025);
7. City - Witness Statement and Reply Witness Statement-Compendium (August 25, 2025);
8. Joint Document Book from Phase 1 Hearing (November 2023)
9. Martin Rendl - Witness Statement, Curriculum Vitae, and Acknowledgements of Experts' Duty (August 1, 2025);
10. Appellant Visuals (August 27, 2025)
11. TRCA Visuals (August 25, 2025);
12. City Visual Evidence (August 25, 2025)
13. Excerpt of Exhibit 12 from the Phase 1 Hearing (City);
14. Applicant/Appellant – Notice of Motion (August 15, 2025);
15. TRCA – Notice Of Response To Motion and Cross Motion (August 26, 2025);
16. City – Motion Response (August 26, 2025);
17. OPA Instrument with Maps;
18. ZBA Instrument with Maps;
19. Macleod Supplemental Witness Statement;
20. Sarno Holdings Corporation Documents (City);
21. Macleod – Updated Chart with Links To Photos (Per Appellant Visuals);
22. City – Supplemental Visuals;
23. City – Supplemental Visuals;
24. Ratepayers – Supplemental Visuals;

25. TRCA Land Control Map (Appellant);
26. YROP 1994 Policy 2.2.26 (City);
27. TRCA Floodplain Maps (Appellant);
28. TRCA Map – 3900 Yonge Street (Appellant);
29. Bill 23 Merged Agenda Package-BOD Jan.13 (Appellant);
30. Final-H/R Watershed Characterization Report (Appellant);
31. Geo-Warehouse Property Report – 70 Legion Court (Appellant);
32. TRCA Report-Land Lease-70 Legion Court (Appellant);
33. Annotation-Visual-Sal Spitale;
34. VOP MTSA-Schedule 1C; and,
35. Email Information (City - D’Addario).

MOTION

Notice of Motion - Applicant Submissions

[14] Prior to the commencement of the Phase 2A Hearing, The Appellant (“Applicant”) submitted a Motion, dated August 15, 2025, seeking to strike the entire Witness Statement of Dr. Ali Shirazi (TRCA), and Paragraphs 56-96,110, 120, 141, 147, 150, 151, 153, 160, 161, 167, 170, 173, 204 and 210 of the Witness Statement of Mr. Jason Wagler (the “Impugned Evidence”), because it:

- a) repeats Phase 1 evidence and contests the Phase 1 findings made by the Tribunal related to the developability of the lands; and
- b) contains information and statements that are not relevant to this Phase 2A proceeding, which has been directed to address “unresolved natural heritage and hazard land issues” with the built-form of the project.

[15] In the alternative, the Motion was seeking an Order of the Tribunal generally confirming for the benefit of the Parties that:

- a) the findings of the Tribunal in Phase 1 include a finding that the Applicant's identified building envelope is developable subject to the Tribunal being satisfied in this Phase 2A that the built-form of the project will meet the requirements of applicable environmental statutes, regulations and policies; and,
- b) evidence that seeks to challenge the findings of the Tribunal in Phase 1 will not be admitted in this Phase 2A proceeding.

[16] The Applicant submitted that the basis for the Motion relates to findings made in the Phase 1 Hearing including the following:

- a) There is an erosion hazard on the subject lands [Phase 1 Decision] (Paragraph 80).
- b) The physical top of bank at the site is located 163 metres above sea level [masl], whereas the development is proposed within 141 to 145 [Phase 1 Decision] (Paragraph 122).
- c) The objective of "preventing" any development whatsoever within the HRV area or at the subject lands as advocated by Shirazi et al. appears to be impractical [Phase 1 Decision] (Paragraph 119).
- d) The "protection" approach methodology (by Ash et al.) or as further proposed by the Applicant may, subject to evaluation, be an answer to avoiding damage to the HRV in this area. The PPS minimum standard policies have the provisions to elicit such an outcome [Phase 1 Decision] (Paragraph 120).
- e) There is a permissible structure, that is, to demonstrate to the approval authority that the proposed development and alteration do not negatively impact the SWL, SVL, SWLH and HL under the relevant policies. Thus, the subject lands are developable for the purpose of the Phase 1 Hearing [Phase 1 Decision] (Paragraph 126).

[17] The Applicant submitted that the Phase 1 Decision determined that although the Proposal is located below the physical TOB, the Subject Lands were "developable"

subject to meeting the relevant policy tests. Despite this, the TRCA continues to argue that the Subject Lands are inherently undevelopable with the Proposal's location within HL, and below the physical TOB.

[18] Regarding Dr. Shirazi's Witness Statement, the Applicant stressed that "avoidance" vs. "protection" was the underlying theme of the evidence, which was identical to Dr. Shirazi's views and opinions expressed during the Phase 1 Hearing, suggesting that it was essentially "copy-and-paste" as opposed to Mr. Guetter's Witness Statement which focused on Phase 2A Issues.

[19] Regarding Mr. Wagler's Witness Statement, the Applicant highlighted that the paragraphs cited, are repetitive and mostly focused on evidence submitted during the Phase 1 Hearing specifically from the Appellant's Witness, Mr. Guetter. Furthermore, any deferral of issues would not be helpful to the Tribunal in this Phase 2A Hearing, reiterating the position of "avoidance," which was fundamentally incompatible with the Phase 1 Decision, and which the Applicant insisted is varied from the Issues List ("IL") under consideration in the Phase 2A Hearing.

Responding Party Submissions and Cross Motion

[20] The TRCA and the City ("Respondents") disagreed, and submitted that:

- a) The Subject Lands are within *hazardous lands*, within the meaning of the Provincial Policy Statement, 2020 (the "PPS 2020").¹
- b) The *hazardous lands* on the Subject Lands include a *flooding hazard* and an *erosion hazard*.²
- c) The limit of the *flooding hazard* on the Subject Lands was understood by the Tribunal to be "agreed to amongst the parties" and therefore "approximately one third of the subject lands [is] within the flood hazard limits".³
- d) By contrast, the limit of the *erosion hazard* was known to be in dispute. While the location of the physical top of bank of the valley wall

was understood by the Tribunal as agreed to by the parties as existing at approximately 163 metres above sea level⁴ (para 122), the significance of the physical top of bank and the determination of the ultimate *erosion hazard* limit was subject to conflicting expert opinions as between Dr. Ali Shirazi and Mr. Steve Ash. In particular, Dr. Shirazi and Mr. Ash proffered conflicting evidence regarding the proper location of the long-term stable top of slope (the "LTSTOS") line – a necessary element in establishing the *erosion hazard* limit.⁵

e) The Appeals should be advanced to a Phase 2 Hearing for disposal.⁶

¹ *D'Aversa v Vaughan (City)*, [2024 CanLII 74355 \(ON LT\)](#), (the "**Phase 1 Decision**") at para 80.

² *Ibid.*

³ Phase 1 Decision, at para 80.

⁴ *Ibid.*, at para 122.

⁵ *Ibid.*, at paras 94-97 and 123.

[21] Furthermore, the Respondents insisted that the Phase 1 Decision regarding developability was "theoretical," noting paragraphs [124], [125], and [126], and that the developability must be determined by the NH elements of the Subject Lands. The Respondents also insisted that the Motion was entirely unnecessary, and the focus should be on "prevention" vs. "protection", noting that the Phase 2A Hearing must deal with the "threshold issues" and no building envelope was established.

[22] The Respondents also submitted a Cross Motion seeking direction from the Tribunal to strike evidence from the Witness Statement of Mr. Ash, and his Reply Witness Statement (Exhibits 3 and 4). The Respondents specifically sought an order striking out paragraphs 6, 7, 26, the second half of 28, 30, and 31 of Mr. Ash's Witness Statement (August 1, 2025), also striking the entirety of his Reply Witness Statement (August 15, 2025), and pages 6, 9, 10, 11, 13 -16 and 22 of the Visual Evidence of Mr. Ash and Mr. Slama (Exhibit 10, received August 27, 2025).

[23] Counsel for the Ratepayers deferred to the above noted Respondents regarding the Motion, and did not provide any submissions.

MOTION / CROSS-MOTION ANALYSIS AND FINDINGS

[24] After hearing all oral submissions, and having reviewed the detailed written submissions in advance, the Tribunal firstly determined that, within the Phase 2A Hearing context, this is not a *de novo* Hearing and that generally, the Witness Statements should be given appropriate consideration, along with oral testimony, fully cognizant of the Phase 1 Decision, and the Executive Chair's Decision, as outlined above in (paras.[5-8]). This includes the "finding that the Applicant's identified building envelope is developable subject to the Tribunal being satisfied in this Phase 2 that the built-form of the project will meet the requirements of applicable environmental statutes." (emphasis added)

[25] Regarding Dr. Shirazi's Phase 2A Witness Statement (Exhibit 5), and the Tribunal having taken the time to cross-reference the Phase 1 and Phase 2A witness statements, it was quite evident that there were several similar/duplicated examples of evidence presented from Dr. Shirazi's Phase 1 Witness Statement (November 2023), which were present in this Phase 2A Witness Statement (August 1, 2025).

[26] Despite the above, the Tribunal determined that the Motion to strike the entire Witness Statement of Dr. Shirazi, was somewhat excessive, and dismissed this portion of the Applicant's Motion. The Tribunal also noted that the appropriate weight would be afforded to Dr. Shirazi's evidence in the course of the Phase 2A Hearing, and through the Tribunal's final analysis of the Issues.

[27] Regarding the Wagler Witness Statement (Exhibit 5), the Tribunal was persuaded by the Applicant arguments that Mr. Wagler repeatedly critiqued evidence from Mr. Guetter's Phase 1 Hearing evidence, persistently including but not limited to issues associated with: Erosion Hazards; Long Term Stable Top of Slope ("LTSTOS");

Interim Top of Slope; Natural Slope Hazards; Slope Stability; Protection Works Standards; Safe Access Standards; and other Phase 1-related Hearing issues.

[28] While some of these issues have previously been elements of the overall consideration of the Proposal, the Tribunal found these rebuttals of Mr. Guetter's Phase 1 Witness Statement to be redundant for the purposes of the Phase 2A Hearing. This also appeared to be a further example of a desire to re-litigate the Phase 1 Hearing, which was determined to be counter-productive to the Phase 2A Hearing before the Tribunal, consisting of its own set of Issues under consideration.

[29] Therefore, the Tribunal determined that the portion of the Motion to strike portions of Mr. Wagler's Witness Statement, is considered "impugned evidence" and that Paragraphs 56-96, 110, 120, 141, 147, 150, 151, 153, 160, 161, 167, 170, 173, 204 and 210, were to be stricken from his Phase 2A Witness Statement. Notwithstanding this determination, the balance of Mr. Wagler's evidence at this Phase 2A Hearing, is deemed admissible, and was ultimately given the appropriate weight in the final analysis of evidence presented by the TRCA. Further direction was also given regarding a correction to the numerical sequence of the IL noted in Mr. Wagler's Witness Statement, as previously referenced above.

[30] Finally, the Cross Motion from the Respondents was also dismissed by the Tribunal. The Tribunal deemed the relatively new information that formed part of the Phase 2A Witness Statements from Mr. Ash, along with the Visuals of Mr. Ash and Mr. Slama, as admissible and helpful to the Tribunal, in understanding the Proposal more effectively, which were also scoped to Phase 2A Issues.

[31] Following these determinations and oral Motion Decisions, the Tribunal reminded Counsel to the Parties of the need to apply their utmost professional discretion and conduct during submissions and witness testimony in the Phase 2A Hearing, respectful

of the Phase 1 Decision, the Chair's Decision, and the CMC/Motion Decision. Counsel were also directed to ensure that any effort to re-litigate the Phase 1 Decision should be avoided to the best of their abilities.

HEARING ADMINISTRATION

[32] The Tribunal provided further direction that with a total of 15 Witnesses expected to testify, its intention was to ensure an expeditious Hearing process, so that all relevant and non-duplicative evidence was properly considered, and procedural fairness was assured/applied throughout the Phase 2A Hearing.

[33] In the lead up to the commencement of the Hearing, and as a pro-active measure, the Tribunal directed that Hearing days following the first day, would commence at 9:30 a.m. instead of 10:00 a.m., and that morning/afternoon breaks, and lunch breaks, would be abbreviated, to reflect the unanticipated demand for Hearing time. All Parties were properly advised through the Case Coordinator.

[34] The Tribunal further directed that Parties should set aside enough time for the Ratepayers' land use planning expert, at the appropriate time, within the allocated Hearing dates. This may have been interpreted by some, as a reduction of time for testimony from certain experts, however, this was certainly not the case. The longstanding engagement of the Ratepayers in these Appeals was given full and appropriate regard from the Tribunal, despite that they were originally not expected to provide witness evidence, when the CMC/TCC Decision was issued on June 6, 2025, and were not included in the PO-Order of Evidence (PO/IL - Attachment 3).

[35] Finally, it was further noted that there may be a need for additional timing adjustments, during the course of the Hearing (including some for personal requests from Counsel for the Parties). This resulted in a supplemental change to the Hearing

start time, beginning at 9:00 a.m., during the final six days of the Hearing, in order to accommodate all of the oral testimony, some lengthy cross-examinations, and oral Closing submissions. The Tribunal directed that written summaries of Closing submissions that followed the final Hearing day, were to be submitted by Wednesday September 17, 2025. All Counsel complied with this except for Ratepayer Counsel submissions, received on Thursday September 18, 2025, due to illness. The Tribunal accepted all written summaries of Closing submissions.

THE PHASE 2A HEARING

LEGISLATIVE FRAMEWORK

[36] In determining the outcome of the Appeals through this Phase 2A Hearing, and based the evidence presented, the Tribunal: must have regard to the relevant matters of provincial interest as set out in s. 2 of the Act, and to any information and material that the municipal council or approval authority received in relation to the matter, in accordance with s. 2.1(2) of the Act; and, that under s. 3(5) of the Act, further requires that any Decisions of the Tribunal must be consistent with the Provincial Planning Statement 2024 (“PPS 2024”), conform with any provincial plans, and have regard to relevant policies and guidelines that are in effect.

ISSUES LIST ON CONSENT

1. Are the proposed development and instruments consistent with the policies of the Provincial Planning Statement, 2024, including sections 4.1.1, 4.1.2, 4.1.5, 4.1.7, 4.1.8, 5.1.1, 5.2.1, 5.2.2, 5.2.3, 5.2.4, 5.2.8, 6.2.1 and 6.2.7?
2. Do the proposed development and instruments conform with the 2010 York Regional Official Plan, including the Chapter 2 Sustainable Natural Environment policies?

3. Do the proposed development and instruments conform with the environment Related policies of Vaughan OPA 240 (Woodbridge Community Plan), as amended by OPA 269?
4. Do the proposed development and instruments conform with the 2010 City of Vaughan Official Plan, including sections 2.2.2, 3 and 9.2.2.16?
5. Do the proposed development and instruments have appropriate regard for The Living City Policies for Planning and Development in the Watersheds of the TRCA (2014)?
6. Does the City of Vaughan Comprehensive Zoning By-law propose appropriate zoning categories and restrictions for the site? If not, what site-specific amendments are needed?

[37] The following Witnesses were properly affirmed, without objections from any of the Parties, and duly qualified by the Tribunal to provide expert opinion evidence in their respective areas of practice, who appeared in the following order:

Appellant

1. Ryan Guetter - Land Use Planning (President, Weston Consulting) initially providing a Non-Opinion Overview, and as the last Witness for the Appellant;
2. Stephen Ash – Geotechnical Engineering (WSP);
3. Craig Slama – Structural Engineering (Jablonsky, Ast and Partners);
4. William Heywood – Water Resources Engineering (IBI Group);
5. Alexander MacLeod – Certified Arborist and Registered Professional Forester (GEI Consultants Ltd.); and,
6. Shelley Lohnes – Ecology and Natural Heritage (GEI Consultants Ltd.)

TRCA

1. Don Ford - Geoscience (Landform, Hydrogeology);
2. Alison MacLennan - Water Resources Engineering;
3. Ali Shirazi- Geotechnical Engineering;
4. Brad Stephens – Ecology and Natural Heritage; and,
5. Jason Wagler - Land Use Planning, Environmental Planning.

City

1. Letizia V. D’Addario - Land Use Planning
2. Sal Spitale – Ecology (North-South Environmental Inc.)
3. Philip van Wassenaer - Arborist (Principal, Urban Forest Innovations Inc.)

Ratepayers

1. Martin Rendl – Land Use Planning (Martin Rendl Planning)

EVIDENCE, ANALYSIS AND FINDINGS

[38] As noted above, Appellant witnesses initiated testimony in these matters, which was bookended by Mr. Guetter’s land use planning opinion evidence (Exhibits 3 and 4), with various visual evidence as noted.

[39] The TRCA, City and Ratepayers (“Opposing Parties”) also submitted extensive witness evidence on the issues, ending with the Ratepayer’s land use planning testimony (Exhibits 5, 6, 7 and 9), and with additional visual evidence noted.

Overview / Non-Opinion Evidence

[40] Mr. Guetter' overview touched on some of the additional characteristics of the Subject Lands and the current physical site conditions (Exhibit 3, TAB 1), as generally summarized, but not limited to the following:

- a) There are three existing lots of record including 150 Bruce Street which is an existing detached residential dwelling ("DRD"), with an integral garage, located in the approximate south-east section, with a single driveway for vehicular access;
- b) 7553 Islington Avenue ("7553") previously consisted of a one-two storey DRD on site which suffered fire damage, leaving limited structural remains, a detached garage, and other small, accessory structures at the centre of the site, which is also located 34 m from the Humber River, and separated by Islington Avenue as a four-five lane Regional Arterial Roadway;
- c) There are two current vehicular access points from Islington Avenue, "with one adjacent to a bus stop along York Region Transit Route 13 (Stop #3445) closer to the centre point of the Islington Avenue lot frontage, while the other access is located closer to the east lot line abutting [parcel] Lot 21. The two accesses are connected by a driveway which loops around various trees located in and adjacent to the bottom of the lower area along Islington Avenue. The driveway loops in front of the existing one to two-storey [DRD] and connects to the detached garage. A concrete pad provides pedestrian connection from the driveway to the dwelling. One vehicular access to the Subject Lands is currently provided from Bruce Street at the southeast corner of the Subject Lands;"

- d) The lot boundaries partially fall within the previously determined SVL and “V”- shape with most of its easterly portion in public ownership and much of the westerly portion within private ownership;
- e) The Sarno Lands, in part, wrap around 7553 generally to the north, east, and adjacent, along a portion of Bruce Street;
- f) The chronology of the various design iterations dates back to 2008 (Exhibit 8), and the City/Agency/Public process that has followed, is outlined in greater detail in the Guetter Witness Statement (Exhibit 3, Attachment 4, pgs.70-72), and his summary of the Appeals under current consideration are reiterated below:
1. June 28, 2012 - Site-Specific Appeal of Vaughan Official Plan 2010, under s.17(40) of the Act - Volume 1 to the OMB (PL111184);
 2. Feb. 20, 2015 - Appeals of the City of Vaughan Official Plan 2010 and City’s motion for further partial approval;
 3. Feb 10, 2017 - OP.08.017 and Z.16.022 Appealed to the OMB (PL170151);
 4. November 15, 2021 - Appeal of CZBL to the OLT.
- g) Land use designation status of the Subject Lands is detailed extensively in the Guetter Witness Statement (Exhibit 3, 2.4, paras.40-57) including among a number of highlights around:
- the York Region Official Plan (“YROP”) 1994 and 2010, 2022, and that the Proposal falls within the designated “*Settlement Area*” now considered under the PPS 2024, intended to be comprised of a mix of uses including residential uses;

- the VOP 2010 (under appeal), identifies the Subject Lands as “*Open Space and Countryside*” which is not in force and effect as part of the Appeals;
- the Regional context of the YROP 1994 identifies that the Subject Lands are also within the “*Urban Area*,” expected to accommodate the majority of the planned growth for the Region, and that they are within the “*Regional Greenlands System*” which are approximate and can be refined through Site-Specific applications, supported by the appropriate technical evidence, without requiring an amendment to the YROP 2010;
- OPA 269, which amends OPA 240, adopted by the City in April 1990, under the YROP 1994, was in-effect at that time which currently permits a combined principal residence and professional office on the Subject Lands, as a Site-Specific exemption, with an “*Open Space*” and “*Low Density Residential*” designation; and,
- included a brief introduction to the proposed instruments including the ZBA and OPA with Maps (Exhibits 17 and 18).

PPS 2024

[41] Throughout the Hearing, the appropriate, and overarching importance of maintaining consistency with the PPS 2024 dominated much of the witness testimony, which contains the statement that it “shall be read in its entirety and all relevant policies

are to be applied to each situation.” Regarding this Site-Specific Proposal, there was a particular focus on:

- Chapter 4: Wise Use and Management of Resources;
- Chapter 5: Protecting Public Health and Safety; and,
- Chapter 6: Implementation and Interpretation.

[42] Interpretations of the PPS 2024 were clearly at the forefront of differing opinions relating to the Proposal, and by far, the determination of *negative impacts*, as defined in Chapter 8 - PPS 2024 was intensely debated by the Parties, noting under Definitions (Exhibit 1, pg. 57c)), which partly states:

- c) in regard to other natural heritage features and areas, degradation that threatens the health and integrity of the natural features or ecological functions for which an area is identified due to single, multiple or successive development or site alteration activities.

[43] Fundamentally, for the Tribunal to determine and assess the “no negative impact” test, the analysis must depend on the facts, in the context of the Site-Specific Proposal. It became very evident that while there appears to be no clear and precise definition of “no negative impacts” under the PPS, the Tribunal must ultimately be guided/persuaded by the evidence and submissions of the respective Parties.

[44] The Opposing Parties consistently referenced the Ministry of Natural Resources and Forestry (“MNRF”) Natural Resources Heritage Manual-Second Edition 2010 (“NRHM”) (Exhibit 1, TAB 9) as the pre-eminent Natural Heritage Policy document for technical guidance, throughout the course of the Hearing, that formed the basis of their evidence.

[45] The Appellant Counsel, and witnesses, often referred to the NRHM and accepted its relevance for technical guidance, but further relied on the Environmental Impact

Study (“EIS”)(Exhibit 8 TAB 54), dated July 2019, and the GEI-EIS Addendum, dated September 2023 (“GEI-EIS Addendum”) (Exhibit 8, TAB 26), which included “updated field investigations to determine existing conditions within, and surrounding the Subject Lands,” and which, in the lead up to the Phase 1 Hearing, concluded the following:

The proposed development footprint does not contain Significant Wetlands, Significant Coastal Wetlands, Significant Woodlands, Fish Habitat, ANSIs or features that would be defined as Core Features of the Vaughan Natural Heritage Network or Regional Greenlands System... There will be no direct impact to significant wetlands, significant woodlands, or habitats of endangered and threatened species... development of the Subject Lands can be completed without negative impacts on the natural heritage features and associated functions.

[46] Notwithstanding the above, the Appellant witnesses did not dispute the Phase 1 Decision, identifying the SVL, SWL, SWH and HL elements of the Subject Lands, however, clearly held different interpretations of how the Proposal should be defined in the context of “no negative impact.” This formed the basis of how their evidence and analysis ultimately impacted how consistency with the PPS 2024 should be interpreted by the Tribunal.

[47] With this in mind, the Tribunal carefully considered the PPS 2024, in the context of this somewhat unique, Site-Specific Proposal, and the fulsome extent of the evidence before it. The Tribunal weighed this evidence against what constituted appropriate considerations under the “no negative impact” test, and what measures (i.e. Prevention, Mitigation, Restoration etc.) are appropriate/required to meet it, or if avoidance and dismissal of the Appeals was the appropriate course to take through its determinations.

Hazard Lands (“HL”) Evidence

[48] Regarding the HL question, evidence revolved around:

- **PPS 5.2.2** - Development shall generally be directed to areas outside of:
 - a) *hazardous lands adjacent to river, stream and small inland lake systems which are impacted by flooding hazards and/or erosion hazards;*

- **PPS 5.2.3** - Development and site alteration shall not be permitted within:
 - c) areas that would be rendered inaccessible to people and vehicles during times of *flooding hazards, erosion hazards and/or dynamic beach hazards*, unless it has been demonstrated that the site has safe access appropriate for the nature of the *development* and the natural hazard; and
 - d) a *floodway* regardless of whether the area of inundation contains high points of land not subject to flooding.

- **PPS 5.2.4** - Planning authorities shall prepare for the impacts of a changing climate that may increase the risk associated with natural hazards;

- **PPS 5.2.8** - Further to policy 5.2.7, and except as prohibited in policies 5.2.3 and 5.2.6, *development* and *site alteration* may be permitted in those portions of *hazardous lands* and *hazardous sites* where the effects and risk to public safety are minor, could be mitigated in accordance with provincial standards, and where all of the following are demonstrated and achieved:
 - a) *development and site alteration* is carried out in accordance with *floodproofing standards, protection works standards, and access standards;*
 - b) vehicles and people have a way of safely entering and exiting the area during times of flooding, erosion and other emergencies;

- c) new hazards are not created and existing hazards are not aggravated; and
 - d) no adverse environmental impacts will result.
- **PPS 6.2.1** - A coordinated, integrated and comprehensive approach should be used when dealing with planning matters within municipalities, across lower, single and/or upper-tier municipal boundaries, and with other orders of government, agencies, boards, and Service Managers including:
 - c) managing natural heritage, water, agricultural, mineral, and cultural heritage and archaeological resources;
 - d) infrastructure, multimodal transportation systems, public service facilities and waste management systems;
 - e) ecosystem, shoreline, watershed, and Great Lakes related issues;
 - **PPS 6.2.7** - Planning authorities should coordinate emergency management and other economic, environmental and social planning considerations to support efficient and resilient communities.

[49] Although at times, Opposing Parties shared some very similar evidence in these areas with Appellant witnesses, which are evident in the ASFs (Exhibit 2), and contained in Witness Statements (Exhibits 3 and 5), their commonality of evidence became even more pronounced during oral testimony. There were also numerous areas of disagreement which are described further, below.

Floodplain and Water Resources

[50] While relatively brief, the Floodplain and Water Resources analysis formed an important part of the Hearing, primarily with evidence from Mr. Heywood and Ms. MacLennan. This evidence convinced the Tribunal that the “no negative impact” test was established. The ASF 3 established that:

1. The flood plain limits have been appropriately delineated.
2. The proposed building has been located outside of the Regulatory Floodplain with appropriate setbacks from the flood hazard. The HEC-RAS modeling provided in the updated Flood Risk Analysis report provided to the TRCA has shown that the development will not have any negative impacts on the Regulatory Floodplain elevations and/or velocities.
3. Implementation of LID measures such as green roofs, rain gardens, and bioswales, identified in the “Hydrogeological Water Balance Study”, August 4, 2017, will be sufficient to achieve the minimum of 5mm retention of the storm runoff provided on site for the post development condition. Implementation of LID measures will be confirmed during detailed design.
(emphasis added)

[51] Mr. Heywood asserted that the regulated flood limits have dropped significantly, and that Floodplain storage had also been increased. He opined that Regional lines would allow the physical building to move closer to Islington Avenue and that there were minimal or no upstream/downstream flow concerns, confirming that LID measures had

been properly incorporated. He concluded that based on his analysis, and referencing his Witness Statement and Reply (Exhibits 3 and 4), the Proposal maintained consistency with relevant sections of the PPS 2024 and satisfies the “no negative impact” test.

[52] Ms. MacLennan, appearing for the first time before the Tribunal, testified that the Watershed headwaters flow to the north, and drainage flows to the south toward Lake Ontario. Ms. MacLennan opined that in the event of a significant Regional storm, there could be an accumulation of up to 2 m within the Floodplain, posing some concern for the Proposal, although acknowledging that the building is situated entirely above the Floodplain.

[53] Ms. MacLennan further agreed with Mr. Heywood’s cut/fill balance analysis, as it related to the Proposal and driveway access from Islington Avenue, and building location, through his Witness Statement (Exhibit 3) (TAB 3, pg. 25) as it related to upstream/downstream flows.

Safe Access

[54] Where there was disagreement between these experts, the ASF 3 referred to it as follows:

- The issue of safe access to the site remains in dispute, as safe access cannot be provided from Islington Avenue during the Regulatory flood event. A flood free access from Bruce Street, which is not an issue from a flood hazard perspective, is being explored by others.

(emphasis added)

[55] The “others” referred to above, primarily resulted in evidence from: Messrs. Ash and Slama; Messrs. Ford, Spitale and Dr. Shirazi; and to some degree, land use planning opinion relying on this written evidence, and testimony.

[56] Mr. Heywood had reaffirmed in his testimony and in cross examination, that Bruce Street is an appropriate secondary location, providing safe access from a Regulatory Floodplain analysis perspective, and that the proposed grading plan could, in fact, be moved 4 m to 5 m closer towards Islington Avenue, through his analysis.

[57] However, Ms. MacLennan opined in her testimony that ingress/egress for any new building should be approved by Emergency Services prior to approval of the Proposal, which was made evident as the primary reason for her disagreement with Mr. Heywood. Ms. MacLennan further opined that land use changes elsewhere in the Floodplain may adjust modelling and changes over time, as other sites have similar challenges up and down Islington Avenue, but that there were no immediate/specific climate change parameters of concern currently, that were official.

[58] During cross-examination, Ms. MacLennan concurred with other examples demonstrating that numerous developments exist in the immediate surrounding area, within the Floodplain and in most instances, maintain a single-use ingress/access point (Exhibit 26). These areas included Legion Court, Woodbridge Village (subdivision), Clarence Street (subdivision), and up to Thistlewood, also acknowledging various mixed-uses, including a Montessori School.

[59] From a Floodplain and secondary Safe Access perspective, the Tribunal was persuaded by the Appellant evidence, notably Mr. Heywood’s testimony and his Witness Statement (Exhibit 3) that there was “no negative impact” from the Proposal. The combined Flood Hazard Analysis 2019 (TAB 3, pg.23) and updated Stormwater

Management Report (TAB 4) provided the necessary technical support, reinforcing his opinions in this regard.

[60] Remaining with the issue of secondary Safe Access, and differing opinions amongst “others” some of the following issues were further considered by the Tribunal:

1. The TOB concerns, LTSTOS, and Erosion Hazard concern;
2. Vehicular, and emergency vehicular questions around access at the TOB, coming from 150 Bruce Street;
3. The overall schematic site plan design, building envelope, and its impact on slope stability; and,
4. The apparent absence of pedestrian walkways in the schematic design, Protection Works, Landscaping impacts, and other HL-related questions.

[61] The Earth, Science, and Geotechnical experts submitted the ASF 1, which is quoted below:

1. We agree that the Site is situated within a designated flood plain and contains a slope regulated under the provisions of the Conservation Authorities Act and its regulations;
2. We agree that the subject site is wholly within a significant valleyland, with a top of bank elevation of approximately 163 metres above sea level [“(masl)”];
3. We agree that the stable toe of slope is situated at elevation 138 masl and is not subject to a toe-erosion allowance under Technical Guidelines for Hazard Lands (e.g., OMNRF guidelines);
4. We agree that the onsite slope has natural grade inflections and flatter areas where some alterations may have occurred in the past (e.g., near the onsite dwelling); and,
5. We agree the proposed development is above the 141-145 masl contour and not within 141-145 masl contour.

[62] As these areas of expert agreement impacted the Safe Access question, the Tribunal notes that Mr. Ash and Mr. Slama initiated evidence regarding these issues in

a unique panel dynamic. While Mr. Ash was extensively involved in the Phase 1 Hearing, as a Geotechnical expert, Mr. Slama was present for the first time at the Tribunal, with this Proposal, to provide opinion evidence, from a Structural Engineering perspective.

[63] Topographically, Mr. Ash noted that “the upper slope currently has poor access and walkability owing to unmaintained, uneven ground, slope steepness and vegetation,” and that “the slope has a total height of about 25 m.”

[64] Mr. Ash initially focused his testimony regarding the building setback of 10m from the LTSTOS in his evidence, supportive of Protection Works, and Floodproofing standards, as the preferred combination of mitigation options through his Witness Statement (Exhibit 3, pgs.4-11), rather than that preferred by the TRCA, well beyond the physical TOB.

[65] Mr. Ash extensively details how the appropriate measures are in effect to ensure “no negative impact” from the pre-construction phase to the “end-of-life” stage, noting the “difficult to predict” natural hydrologic cycle, and its potential impact. However, with proper engineering controls and Protection Works installed in accordance with the Proposal, any changes to these conditions are not expected to aggravate long-term impact.

[66] Mr. Ash focused on the HL elements noted above, mostly related to his opinions on slope stability, soil deposits, local ground conditions, and how the Proposal will, in fact, provide for a notable degree of improved slope stability, mitigating the erosion hazard that presently exists. He asserted that during a period of 18-24 months, active dewatering can facilitate the construction of “retaining structures, excavation and basement foundation systems” with the expectation that “permanent waterproofing and drainage systems” would be installed.

[67] Mr. Ash deferred the structural engineering details to Mr. Slama, however he concluded noting that the Proposal's grading, "will retain the valley landform around the building and maintain the prominence of the feature" ultimately improving the "current degraded condition, owing to the additional support provided by the structure, improved exterior grading and runoff control, more consistent vegetation coverage, and enhanced drainage and subdrainage measures that can be incorporated into the design."

[68] Mr. Slama briefly provided important supplemental evidence in support of the Proposal tied to Mr. Ash's testimony. Specifically in relation to the secondary Safe Access location, Mr. Slama's structural engineering evidence clearly demonstrated that the Proposal can be developed in a structurally sound and stable final condition, that "permanently retains the soil, and resists all hydrostatic and surcharge pressures."

[69] For context, Mr. Slama noted the grade differential from approximately 143 masl to a height of 163 masl, connecting to a garage, with a roof at the eighth level of the Proposal, along Bruce Street, and is expected to be landscaped with trees and other plantings.

[70] Through his Witness Statement (Exhibit 3), Mr. Slama outlined appropriate and very common construction techniques, noting that other massing configurations are also possible on site, with basically similar structural stability methods. In his oral testimony, Mr. Slama asserted that this is not a difficult project to construct based on his extensive experience and references other sites with similar characteristics, as examples of this. This also applied to the garage level construction, rooftop landscaping load, and access point, at-grade, from 150 Bruce Street.

[71] In responding to a Tribunal query, Mr. Slama confirmed that there is a single level of below-grade parking, spanning the entirety of the building envelope connected

with the seven-storeys of parking, in the rear north/south section of the building envelope, rising to at-grade, along Bruce Street, with rooftop landscaping. This countered an initial perception/suggestion that the parking garage was entirely below the structure's envelope, with a seven-storey garage.

[72] Following his relatively detailed constructability evidence, cross examination from the City of Mr. Slama resulted in a further assertion that the complexity of the Proposal is not necessarily adversely impacted by its physical size.

[73] The Opposing Parties' experts had differing opinions regarding secondary Safe Access. While there was no contradictory structural engineering evidence to be considered by the Tribunal, the testimony from experts, was largely design/accessibility, and future maintenance focused.

[74] Dr. Shirazi opined that regarding Safe Access, the emergency access element was an overriding concern as part of the PPS 2024 analysis. He insisted that this location conflicts with his determinations around the Erosion Hazard Limit ("EHL"). Dr. Shirazi also asserted that there was cause for further concern as it related to the LTSTOS, and this may work for vehicular access, but not necessarily for Protection Works.

[75] Emergency access evolved briefly as a topic of dispute, where Ms. D'Addario had asserted that based on informal discussions with City emergency personnel, there was concern around emergency-vehicular Safe Access. While this could not be corroborated through evidence, and was interpreted more broadly as hearsay, the Tribunal is satisfied that issues of this nature, among many others, can and will be addressed through a final Site Plan Application ("SPA") process under s. 41 of the Act, which addresses in full detail the many design-related controls/conditions available to the City, if deemed necessary.

[76] On behalf of the Opposing Parties, Mr. Ford's evidence was more pertinent to other issues before the Tribunal around Natural Heritage, Landform Prominence, and Distinctive Geomorphic Landforms, which is addressed further on in this Decision.

[77] Dr. Shirazi's testimony consistently revolved around avoidance of the Proposal in any form. He persistently referenced issues from Toe Erosion (although at times seeming to agree that it was not a factor) to his ongoing opinion regarding the LTSTOS and referring to topographical and cross-section evidence from the Phase 1 Hearing (Exhibit 8, JDB 1, pgs. 1119 and 1120), in an effort to counter Mr. Ash's opinion regarding the EHL.

[78] Dr. Shirazi frequently referenced the EHL Guideline (3.0 - 6.0) on various policies relating to the EHL and slope stability, revisiting illustrations from the Phase 1 Hearing (Exhibit 8, JDB 1, pgs. 3107, 3155, 3156, 3184). He emphasized the impact on the confined valley system, and the EHL, insisting they represent part of the top of the valley wall. He insisted that the entirety of the Proposal is within the EHL. Dr. Shirazi reiterated that the development must relocate beyond the valley slope and attempted to reinforce this by continuously referencing the EHL Guideline, asserting that any form of excavation would impact slope stability and retention.

[79] Dr. Shirazi further testified that there were many other variables that were unpredictable and went on to suggest that Protection Works, were not reliable in the long-term as part of the Appellant's maintenance strategies, without any evidence of the economic/financial wherewithal to implement these measures. Furthermore, he speculated that it may not be financially feasible to ensure Protection Works, without any further financial evidence or knowledge, corroborating such an assertion.

SVL, SWL, and SWHEarth, Science and Geotechnical Evidence

[80] These designations shared overlapping significance in the course of the Hearing and are absolutely interconnected, in the context of the Tribunal's consideration of Site-Specific evidence. The Tribunal's basis for this is noted with the importance of the ASFs (Exhibit 2) as a starting point in qualifying and assessing where the fundamental differences of opinion exist between the expert witnesses.

[81] ASF 1 referred to in paragraph [61] between Messrs. Ash, Ford and Dr. Shirazi, left several issues of disagreement for the Tribunal to consider in this Phase 2A Hearing, many of which were already matters for consideration in the Phase 1 Hearing.

[82] Regarding the SVL, as established through the Phase 1 Decision, the Tribunal noted and adopted the City's insistence that the "V" shape formation, should be considered whole, and not necessarily distinguish the hearing evidence between east and west portions.

[83] As an expert in Geoscience (Landform, Hydrogeology), Mr. Ford proffered his opinion that if the Proposal received approval to proceed:

- a) 90% of the SVL slope on the Subject Lands would be impacted by the building and parking garage;
- b) There would be an adverse impact on soil systems;
- c) It would be difficult to re-create existing site conditions, post construction and grading;

- d) There is a substantial degree of excavation required to accommodate the building, and proposed grading cannot easily mitigate the negative impact;
- e) While a single development such as this may have limited impact, the cumulative impact through successive development, will result in “death-by-a-thousand-cuts;”
- f) The extensive clearing of this mature forest, replaced by the proposed building, will result in the Landform’s permanent elimination; and,
- g) Asserted his disagreement with Mr. Ash’s “removal and replacement” argument, as it related to HL and the NH characteristics;

[84] Regarding the SVL and SWL, Mr. Ford’s opinion around restoration, maintenance and other elements followed the position laid out in evidence by Dr. Shirazi, and further repeated his views referenced earlier.

[85] In addition to the above evidence, the Tribunal reviewed how the ASF 2, between the expert Ecologists, Ms. Lohnes, Messrs. Stephens and Spitale, impacted its analysis of all of the EDs.

[86] Regarding the SWH component withing the context of the SVL and SWL evidence, the Tribunal accepted the following to be important areas of agreement and the ASF 2 has also been included in the Decision, for the benefit of the reader, in full below:

- a. there is Fish Habitat and a Key Hydrological Feature in the form of Humber River 34 m from the site, and that this fish habitat/feature is isolated from the site by Islington Avenue.
- b. there are no ANSIs present on or within 120 m of the site.
- c. there are no significant wetlands on or within 120 m of the site.
- d. matters related to habitat of endangered or threatened species (Butternut tree, Myotis sp. bats, Silver-haired Bat, Red Bat and Hoary Bat) are under purview of the Ministry of Environment, Conservation and Parks (MECP) as the administrators of the Endangered Species Act, 2007.

- e. the subject lands contain significant Woodlands, significant valleyland, and significant wildlife habitat – Bat Maternity Colonies. (Paragraphs 64 & 73)*
- f. a portion of a Significant Woodland occurs on the subject lands that is part of a larger “V” shaped Significant Woodland feature. This feature is 14.45 ha in size. (See: Figure 1 – “ELC and Subject Property,” Exhibit 12, Visual Evidence Book of Sal Spitale, page 4). (Paragraph 65)*
- g. the woodland meets three criteria of significance listed in Table 7-2 of the Natural Heritage Reference Manual pertaining to size, ecological functions and uncommon characteristics. (Paragraph 70)*
- h. the Humber River Valley is a confined valley with an east and west valley wall and a defined tableland above. The subject lands are within a significant valley land. (Paragraph 79)*
- i. the Site exhibits Landform Prominence and Distinctive Geomorphic Landforms, per Table 8-1 of the Natural Heritage Reference Manual.(Paragraph 78)*
- j. mitigation proposed to address impacts to Significant Wildlife Habitat – Bat Maternity Colonies can include the installation of four- chambered rocket boxes to avoid a negative impact on SWH for Bat Maternity Colonies and its function.
- k. the Natural Heritage Reference Manual (OMNR 2010) provides appropriate technical guidance for implementing the natural heritage policies of the Provincial Policy Statement, 2005 (PPS), subsequent versions of the Provincial Policy Statement and the Provincial Planning Statement (2024). The NHRM states that the manual represents the Province’s recommended technical criteria and approaches for being consistent with the PPS in protecting natural heritage features and areas and natural heritage systems in Ontario.

*refers to paragraphs in the Phase 1 Decision

[87] Ms. Lohnes reiterated that despite her position regarding these designations previously at the Phase 1 Hearing, she was prepared to accept the determination of the Tribunal, and proceeded to share her opinions as an Ecologist, related to the Issues

before the Tribunal in Phase 2A. Despite these designations, Ms. Lohnes, asserted that adjacent lands within 150 m typically fall within the entirety of the woodland, and that the SVL is included in the entirety of the very large HRV, also emphasizing that the HRV system is clearly separated by Islington Avenue.

[88] Ms. Lohnes supported the TRCA and City evidence around the element of Landform Prominence, and Distinctive Geomorphic Landforms, as components of the SVL which required a multi-disciplinary approach. Furthermore, by relying on evidence from Messrs. Ash, Slama, and MacLeod, Ms. Lohnes confirmed her view that, notwithstanding the Phase 1 Decision findings, she continued to assert that the Proposal continues to demonstrate “no negative impacts.”

[89] Ms. Lohnes confirmed her opinion that the proposed development could proceed as the removal of the approximately 5% of the overall SWL, would not negatively impact the balance of the total of 14.45 ha of the SWL feature or its ecological functions. Ms. Lohnes reiterated that she relies more substantively on the evidence from Mr. MacLeod’s analysis regarding tree types, inventory, quantification, and functionality of the SWL.

[90] Mr. MacLeod’s evidence was also part of the basis supporting Ms. Lohnes’ opinion that the proposed multi-layered forest restoration plan, combined with mitigation and soil retention efforts, will preserve mature trees with broadened canopies, identified in the MacLeod analysis (Exhibits 3, 4,19 and 22).

[91] Ms. Lohnes further concluded that based on the scale of the Proposal impacting 5% of the SWL feature, within the context of the 14.45 ha “V” shaped woodland, the evidence supports the “no negative impact” argument in the context of this Proposal.

[92] As part of the witness opinion evidence regarding PPS 2024 s. 4.1.5, and the NHRM (TAB 13.2 /13.3), Ms. Lohnes asserted that not all changes are negative and agreed with Mr. MacLeod's view that the Proposal results in a temporary degree of fragmentation of the SWL, which is expanded upon further in Mr. MacLeod's evidence that follows in the Arborist and Forestry evidence below.

[93] Opposing Parties focused on the Proposal's building location, and how they believed that it adversely impacts 90% of the valley wall, on the Subject Lands. This was the basis of argument used to counter the Appellant's position that it represented approximately 5% of the entire "V" shape SWL feature, and further, that it represented a permanent fragmentation.

[94] Mr. Spitale opined that from a NH and ecological perspective, the Proposal was not consistent with the PPS 2024 and "does not conform to relevant policies or meet the intent and goals of the [YROP 1994], and OPA 240 as amended by OPA 269, and the [VOP 2010]." He further summarizes his opinion evidence in extensive detail within his Witness Statement and Reply (Exhibit 7, TABS 5 and 6), and that specific to the PPS 2024, the Proposal:

1. Is inconsistent with policy 4.1.2 on the question of "the diversity and connectivity of natural features in an area, and the long-term ecological function and biodiversity of [NH] systems;" and,
2. Will result in degradation that cannot be mitigated, threatening the health and integrity of the SWL and SWH, represent a negative impact as per PPS 4.1.5;

[95] Mr. Spitale further opined that the Proposal does not conform with the YROP 1994, in that it does not "establish, protect and restore [the] Regional Greenlands

System as a permanent resource for the Region,” and that as a result, forested area is not protected within the “landscape permanence” set out in YROP 1994 (s.2.0) which is intended “to conserve and improve the natural environment for this and future generations so that it will sustain life, maintain health and provide an improved quality of life.” Mr. Spitale reinforces this with the view that the Proposal will have a negative impact on the “environmental functions” of the SWL and SWH.

[96] Mr. Spitale’s testimony repeatedly referenced his view that mitigation measures, including the 1.14:1 tree restoration ratio proposed, would not revert back to the complex features that exist in the SWL. He asserted that the mini-forestation/Miyawaki method referenced by Mr. MacLeod would also not be sufficient to address the deficiency, and did not meet the NHRM (13.2) criteria alleviating impacts to NH features within the example of a 20-year time-frame scenario for “successional status and replaceability of the woodland components and functions.” He further opined that the SWL is defined by multiple criteria, and the scale of the Proposal would also adversely impact the mature tree feature due to fragmentation, as it would particularly impact the SWL portion to the north of the Proposal, and that avoidance remained the preferred option.

[97] During cross-examination, Mr. Spitale, acknowledged that several components of his Witness Statement were repetitive in scope, and that much of the evidence was previously presented at the Phase 1 Hearing, by a previous witness, which resulted in the Tribunal’s determinations in the Phase 1 Decision. He was also acknowledged that there were elements of the Witness Statement that may have crossed over into land use planning evidence, which belonged more appropriately under Ms. D’Addario’s area of expertise.

[98] Furthermore, in cross-examination, Mr. Spitale was asked to identify where, in his opinion, was a more appropriate location for development within the Subject Lands.

His response pointed to the existing anthropogenically impacted area of the Subject Lands. As this discussion evolved, it resulted in a “back-of-a-napkin” style boundary etching/annotation, appearing to overlap a significant segment of the Subject Lands, further west towards Islington Avenue, and within what appeared to be the delineated Floodplain (Exhibit 33), as a more appropriate location for development. The caveat from Mr. Spitale, was that this would also require further study, analysis, with numerous conditions. The Tribunal noted that there were no concerns or objections raised by aligned Counsel for the Opposing Parties to enter Exhibit 33 into evidence, despite the apparent encroachment on the previously delineated Floodplain.

[99] Regarding the Bat Roosting population, Messrs. Spitale and Stephens expressed concern, and were generally unsupportive of any evidence of mitigation but could not disagree with the impact of Bat Boxes, and their well-known use in other areas, which also formed part the ASF 2 referred to above. However, they each opined that this mitigation effort as outlined in the GEI-EIS Addendum is insufficient to avoid a “negative impact” to SWH Bat Maternity Colonies.

[100] Regarding the Eastern Wood - pewee however, the efforts of Mr. Spitale, left a vague understanding of whether, in fact, the nesting was evident in the west portion of the SVL, while responding with ambiguity on whether a May 2024 citing, was actually on the boundary of the east portion of the “V” shape. As this issue evolved in the Hearing, the Tribunal noted the City’s earlier insistence that to distinguish between east and west in the “V” shape, was inappropriate. Despite the Phase 1 Decision which deemed the “V” shape to be a singularly-defined characteristic of the HRV, Mr. Spitale insisted that it’s appearance “extends across the western arm,” and could not independently verify where any nesting may be occurring, avoiding the eastern, publicly-owned portion entirely.

[101] Mr. Stephens appeared unequivocal in his opinion that the Eastern Wood - pewee nesting was evident, and that the impacts of the Proposal on the SWH, would also negatively impact these and other small and larger animals, including all micro-organisms.

Arborists and Forestry Evidence

[102] Mr. MacLeod's evidence was particularly relevant, as the Tribunal considered the various issues overall. As an Arborist and Registered Professional Forester, Mr. MacLeod's written Witness Statement and oral testimony dominated the evidentiary opinions throughout the Hearing. The Tribunal also noted that while he was duly qualified to provide expert opinion evidence in his respective fields of expertise, this was also his very first appearance before the Tribunal.

[103] Mr. MacLeod's testimony is generally summarized as follows:

- a) Having been retained by the Appellant as of June 2025, what followed was a series of site visits in June, July and August 2025, and detailed tree inventory, as part of his analysis of the SVL, the SWL, and the Proposal landscape/retention/reforestation plans past and current (Stantec-2019);
- b) The numerous Exhibits confirmed as evidence included his Witness and Reply Statements (Exhibits 3 and 4), Appellant Visuals, Supplemental Witness Statement, and Tribunal-directed, supplemental Updated Chart with Links To Photos (Exhibits 10, 19 and 21);
- c) Acknowledged that the SVL features as determined by the Phase 1 Decision, and that the NHRM criteria of significance (7.2), including "size, ecological function and uncommon characteristics" are respected, and is also mutually reliant on Ms. Lohnes' Ecological and NH expert opinions;

- d) Conducted several site visits for the purposes of an updated tree inventory, health assessment, more accurately identifying where some are within the larger SWL (“FOD2-4”), within the Cultural Woodland (“CUW-1”), and others are not in either identified area;
- e) As part of the retention/preservation of mature inventory, included are all of the six non-native mature trees (ie. Weeping Willows) running parallel to Islington Avenue, three mature Bur Oaks at the southwest portion of the site, and a single Butternut tree in the northeast corner of the site. There are also eleven native trees considered with “larger tree size structure [that] could be defined as 10 or more tree[s]/ha at 50 centimeters (“cm”) in diameter, or a basal area of eight or more m²/ha for trees that are at least 40 cm in diameter” (NHRM 7.2) in addition to a higher number that since 2019 have also matured, and may be included in an effort to maintain the ecological function of a portion of the SWL;
- f) During a more recent visit on August 20, 2025, qualified that several trees identified for the SWL restoration/preservation efforts, are maturing well and remain in good condition, among some trees, which were not previously tagged. Others have failed since a 2019 tree inventory was conducted, due to wind, decay, stem failure, basal rot, and some cutting, for unknown reasons. This recent and most accurate data on mature trees, was used for SWL retention/preservation identification purposes (see Exhibits 19 and 22);
- g) By combining the applied practices of “tree islands,” an enhanced replanting strategy, with “a mix of larger caliper trees within a matrix of smaller planting stock using the mini-forest (“Miyawaki”) method” along

Islington Avenue, he is confident concluded that implementing these practices, among numerous other techniques, extensively detailed in his Witness Statement (paras.19-34), will result in “no negative impact” from the Proposal. He added that additional measures can also be implemented to enhance features and functions in accordance with the NHRM, where appropriate;

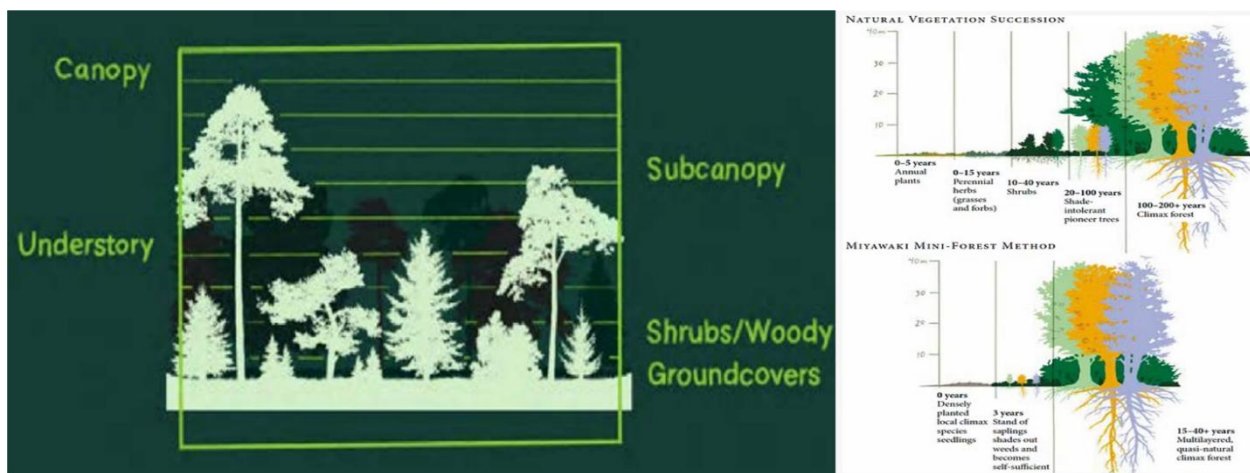


Figure 4 – Mini-forest layers (*Source: Schibli and Graham, 2025*) and timeline versus natural vegetation succession (*Source: Chelsea Green Publishing, 2025*).

- h) Finally, with the added benefit of “Soil Pit” investigations conducted by GEI, and ongoing grading evaluation (which may require updating), he outlined that this supplemental information was useful in allowing him to assess the long-term viability of the more mature tree elements of the SWL, and the replanting strategies to follow (Exhibit 3-Figure 2: pg.17/34)
- i) Overall, his opinion evidence concludes that “there will not be any negative impact on the size, ecological function and uncommon characteristics of the [SWL] that straddles the Site. Furthermore,

enhancement to the ecological function to the [SWL] could be achieved through the restoration of the site.”



Project 2201432

7553 Islington Avenue, Woodbridge
 7553 Islington Holdings Inc.

Figure 1
 Mature Trees to be Preserved

NOTES:
 1. Coordinate System: NAD 1983 UTM Zone 17N.
 2. Base features produced under license with the Ontario Ministry of Natural Resources and Forestry © Queen's Printer for Ontario, 2025; © Toronto Region Conservation Authority, 2025.
 3. Orthoimagery © First Base Solutions, 2025. Imagery taken in 2024.

Legend
 Subject Site
 Watercourse
 Ecological Land Classification (North-South, October 2023)

Preservation Trees
 Native Species
 Non-Native Species

ELC Legend
 CUW1, Cultural Woodland
 FOD2-1, Dry-Fresh Oak-Hardwood Deciduous Forest

0 20 m
 1:1,250

GEI Consultants

The above image demonstrates the analysis from GEI. Please see Witness Statement Figure 1: Mature Trees to be Preserved) (pg.15/34).

[104] Messrs. van Wassenaer, Spitale and Stephens, individually and collectively attempted to counter Mr. MacLeod's mitigation/restoration strategies. They each acknowledged that they had not performed their own inventory analyses and were relying on the tracking/landscaping/grading/forestry evidence of the Appellants, through studies performed by previous consultants, and more recently GEI.

[105] The fundamental Opposing Parties' differences of opinion, at different intervals of witness testimony repeatedly challenged the following:

1. The landscape plan's implementation with its proposed grading and potential impact to the existing mature trees that are identified for preservation;
2. The Miyawaki method and the lack of evidence of success geographically within Canada;
3. The vulnerability of mature tree roots, setbacks, and impact on mature canopies;
4. The permanency of the substantial removal and irreparable fragmentation of the SWL;
5. The adverse impact of mass excavation;
6. The absence of compensation measures that does not conflict with the NHRM, the VOP 2010, and the YROPs respectively;
7. The preferred option of avoidance/prevention, rather than protection/mitigation measures;
8. The potential cumulative impacts, and precedent with any form of new development as they were able to anticipate among other observations and criticism;

9. Driveway and sidewalk setbacks, and other SPA-specific criticisms such as amenities at-grade, planters, planting beds, the negative impact of the concept of “access pathways”; and,
10. Long term maintenance, and connectivity.

[106] It became quite evident to the Tribunal that the Opposing Parties’ witnesses maintained a coordinated, highly critical approach to Mr. MacLeod’s evidence, and there was virtually nothing that represented a satisfactory mitigation/restoration/retention/reforestation strategy that could have ever been acceptable to them. The Opposing Parties, therefore, continued to contend that avoidance and dismissal of the Proposal were the more appropriate determinations to be made by the Tribunal.

Land Use Planning Evidence

[107] Generally, all of the land use planning experts relied on their respective technical experts to support their own views around the Proposal and the Phase 2A Hearing directly as it related to the Issues List and other areas of land use planning.

[108] Mr. Guetter specifically relied on the detailed expert opinion evidence of Mr. Heywood, Mr. Ash, and Ms. Lohnes. It was generally accepted that anthropogenic disturbances and ongoing site erosion had impacted the Subject Lands, primarily due to a recent fire, effectively destroying the existing, single-family dwelling, combined with illegal dumping on site, and tree damage, either advertently or inadvertently.

[109] Mr. Guetter testified that the PPS 2024 seeks consistency with the Act and attempts to pursue outcome-oriented policies that generally move Official Plans forward, which he opined are different from policies and guidelines, noting that the Region had

recently lost its upper-tier planning authority. Mr. Guetter references the following regarding the PPS 2024, including that:

- It is the overarching policy as opposed to a guideline, and very important to note per **Chapter 5.2 – Natural Hazards:**
2. Development shall generally be directed to areas outside of:
 - a) hazardous lands adjacent to river, stream and small inland lake systems which are impacted by flooding hazards and/or erosion hazards;
 5. Despite policy 5.2.3, *development and site alteration* may be permitted in certain areas associated with the *flooding hazard* along *river, stream and small inland lake systems*:
 - b) where *development* is limited to uses which by their nature must locate within the *floodway*, including flood and/or erosion control works or minor additions or passive non-structural uses which do not affect flood flows.
- Testimony from Messrs. Heywood and Ash demonstrated improved conditions overall with the Proposal, noting the building envelope is entirely outside the Floodplain, with reduced surface run-off, and no upstream/downstream effects;

- Regarding the SVL and HL, he reaffirmed that consistency will be maintained, that NH tests have been met, and post-construction conditions will be improved over the current state;
- Islington Avenue is within the floodway, noting that all previous developments maintain a single-access currently and that secondary Safe Access has been fully demonstrated by Appellant witnesses located at 150 Bruce Street, entirely outside the floodway;
- The intensity/scale of the Proposal is acceptable regarding public risk management which poses “no negative impact” irrespective of higher/lower density, and Phase 2B will more appropriately deal with these issues;
- The Regional Greenland System (“RGS”) policies (Exhibit 8, pg.1908) is respected, and that regarding the YROP 1994, the original application predated the YROP 2010, which he opined is non-determinative, and the required appropriate studies have formed part of the Proposal and the Appeals;
- Regarding the SWL and SWH, he concurs with the MacLeod/Lohnes evidence that development timing and implementation with fifteen native and non-native tree types, is somewhat challenging but fully achievable resulting in “no negative impact”;
- The “no negative impact” test has also been established relating to the SWH as outlined by the Lohnes evidence previously;

- The Proposal’s “development envelope has been appropriately dimensioned and positioned in relation to the [NF], [NH], and associated setbacks delineated on the Subject Lands through technical studies and based upon opinions of other experts,” and,
- Through a combination of Development Agreements, Conditions of Approval, Holding Provisions, and future permitting through the Phase 2B process, approval authorities will hold the Appellant accountable in ensuring the “no negative impact” tests throughout the process will be met.

[110] The Tribunal noted, through Mr. Guetter’s visual evidence (Exhibit 10, TABS 4 and 5, and pgs.74,75 and 76) that RGS schematic boundary maps displayed some degree of variance/ambiguity, related to the Urban Area designation of the Subject Lands. In his opinion, the apparent inconsistencies in the mapping can be appropriately addressed with Site-Specific determinations by the Tribunal, at a more appropriate time, through its Phase 2B considerations.

[111] Furthermore, Mr. Guetter outlined several other important reference points related to Site-Specific matters that would need to be addressed coming out of the Phase 2A Hearing, in the lead up to a Phase 2B Hearing including but not limited to some of the following:

- Density;
- Building and podium heights;
- Angular plane requirements;
- Tower setbacks and step-backs;
- Tower floor plate;
- Driveway access to Islington Avenue and Bruce Street authorization;

- A below-grade setback from the underground parking garage to the lot line adjacent to Bruce Street of 6.0 m;
- A minimum setback to Bruce Street of 6.0 m;
- A minimum rear yard setback of 4.0 m;
- A minimum setback of 7.0 m to the southern interior side lot line;
- A minimum setback of 10 m to the northern interior side lot line;
- Parking and loading rates;
- Minimum landscape area;
- Yard projections and permitted encroachments;
- Amenity areas; and,
- Minimum lot area.

[112] Mr. Guetter concluded his evidence related to the Issues List, with a detailed review of his Witness Statement (Exhibit 3, pgs.40-46), and a summary that the Proposal ultimately has appropriate regard for applicable sections of the Act, maintains consistency with the PPS 2024, conforms to the YROP 1994, OPA 240 and 269, where appropriate, and has appropriate regard for the YROP 2010, the VOP 2010, and the TRCA Living City Policies.

[113] Ms. D’Addario, Messrs. Wagler and Rendl (“Opposing Planners”) also generally shared the same views regarding the applicability of the legislative framework, differing somewhat with Mr. Guetter’s testimony regarding the hierarchy of policies that were applicable (Exhibit 12, pgs.12-13).

[114] Regarding the SVL and SWL, Mr. Wagler highlighted that the Proposal was entirely within the valley wall, and repeatedly emphasized the impact on connectivity within the HRV. He concurred and reiterated the evidence presented by Mr. Ford related to the distinct Geomorphic features of the SVL emphasizing its slope steepness

and the absence of mitigation evidence from the Proposal that would restore this feature.

[115] Mr. Wagler further testified in his opposition to the Proposal by critiquing design-related elements of the Proposal, including; the presence of a semi-circular driveway; garbage collection challenges; the apparent absence of a sidewalk for pedestrian access, questioning Mr. MacLeod's pedestrian trails idea; the Bruce Street EHL resulting in vulnerability despite its location outside the Floodplain; old versus new policy framework in the Floodplain; the development delta between a DRD, and a high-rise structure; the presence of hundreds of new residents and the impact on public safety; impact of cuts to the valley wall; questionable restorative measures; and impact on landform prominence, among other concerns.

[116] Ms. D'Addario's oral testimony was abbreviated somewhat due to illness, however, she was able proceed, with intermittent breaks, having the benefit of referencing her Witness Statement and Reply (Exhibit 7), which were extensive and consistent with many of the opinions of Messrs. Wagler and Rendl.

[117] Ms. D'Addario's testimony is more generally summarized as follows:

- Consistency with the PPS 2024 related to NH features and characteristics which "shall" be protected, has a broader interpretation that in the past, that is more restrictive, acknowledging protection as opposed to outright prohibition, "unless it has been demonstrated that there will be no *negative impacts* on the natural features or their *ecological functions*";
- Emphasis on the threat of degradation and successive cumulative impacts, with particular regard to adjacent lands;

- Emphasis on the relevance of the YROP 2010 and its Regional Greenland Policies, which is determinative specific to the 2016 ZBLA, notwithstanding Mr. Guetter’s opinion;
- The OPA 240 designation as Open Space (OS) is an accurate Open Space Zone, noting that as amended under OPA 269, allows the “non-conforming” home/office-use, dating back from 1947 to present-day;
- Neighbouring approvals at Sites 1, 2 and 3 (Exhibit 10, TAB 4), which are different in context, individually and collectively, have Site Specific criteria that allow for their redevelopment unlike the Appellant’s property; and,
- As a result of the scale of the Proposal, denial is the recommendation, and that the Appellant should pursue an alternative application that would be more appropriate under an OS designation.

[118] Having recently been retained on behalf of the Ratepayers, Mr. Rendl supported the opinions of Ms. D’Addario and Mr. Wagler, confirming that he had not consulted with other witnesses engaged on behalf of the Opposing Parties. He deferred to the Geotechnical, Landform and Natural Heritage experts and their conclusions, and opined that the Proposal is not appropriate from a land use planning perspective.

[119] Mr. Rendl asserted that the YROP 2010, which is now forms part of the City of Vaughan Official Plan (“VOP”), is more restrictive than PPS 2024, and effectively prohibits site alteration in the absence of evidence that there is “no negative impact.” He further opined that protection zones and exceptions also do not apply within the SWL, noting the site constraints that exist with the magnitude of the Proposal.

[120] Mr. Rendl asserted his concerns with HL conditions, and issues around erosion, a “very steep slope” and, rather oddly, highlighted Floodplain concerns in light of recent flooding tragedies in Texas and Alberta, which were somehow applicable to this matter. He touched on how the Proposal has seen different iterations over time and reiterated much of the evidence previously submitted by Opposing Parties’ expert witnesses. However, he disagreed with Mr. Stephens’ depiction that, if approved, this Proposal would impact the ravine environment “all the way down to Rosedale”, in the City of Toronto, as though there was somehow a linkage made evident with this assertion from Mr. Stephens.

[121] While highly critical of the structural engineering evidence, despite his presence as a land use planner, Mr. Rendl expressed his historical preference for TOB development noting his own previous experience with developments in the East - Toronto/Don River catchment area.

[122] Finally, Mr. Rendl expressed his dissatisfaction with what he believed was a lack of more detailed design associated with the Proposal, resulting in a failure to prove that there is “no negative impact” from the development to the SWL, and the SVL.

[123] Mr. Rendl also asserted that the Proposal was not supportive of the criteria as set out in the YROP 2010, as it related to the Greenland System. He acknowledged that the “non-conforming” existing use may continue, only within the development envelope outlined earlier by Mr. Spitale, as the more appropriate developable area, and that the Appellant should pursue a different form of development.

[124] In summary, the common thread throughout the evidence from Opposing Planners, as it related to the SVL, SWL, HL and to a lesser extent the SWH, included but was not limited to concerns that the Proposal was not consistent with Chapter 4.1.5, and 4.1.8, of the PPS 2024 for reasons including: the existence of a strict prohibition;

limited to no effective or proven mitigation measures; the absence of proof of “no negative impact.”

[125] The question of consistency with elements of Chapter 5 of the PPS 2024 also persisted throughout Opposing Planner testimony, with Mr. Wagler’s opinions/concerns regarding: differences around the EHL; Protection Works; Emergency Access; and Prohibition by default. Opposing Planners also maintained a consistent opinion that: the “threshold issue” of vehicular access was not properly demonstrated; VOP 2010 is representative of the City’s objectives (under appeal); maintaining CZBL 001-2021 (under appeal), is the preferred outcome; YROP 2010 is determinative; the site alteration proposed on the floodway represents a safety hazard.

HL Findings

[126] After carefully considering all of the pertinent evidence and testimony surrounding HL features and functions, the Tribunal determined that it was persuaded by the Applicant’s evidence overall, and that Floodplain, Water Resources and Safe Access issues maintain consistency with the PPS 2024 and are not an impediment to the Proposal.

[127] Of particular importance, the Tribunal was persuaded by the evidence and experience of Messrs. Heywood and Ash, who’s expertise and practical knowledge of the site, provided a high degree of confidence/certainty that resulted in the Tribunal’s “no negative impact” determinations around the direction and objectives of the Proposal. This evidence was critical in assisting with the evaluation of witness testimony from others on behalf of the Appellant, as well as the Opposing Parties’ evidence.

[128] The Tribunal is satisfied that there is “no negative impact” to the HL features and functions, and that by moving to the next Phase 2B Hearing process, the further land

use planning analysis of the Proposal, and SPA process that follows, can be more carefully evaluated to address any additional issues of concern that may arise.

SVL and SWL Findings

[129] Firstly, the Tribunal found that despite the opinions/assertions from the Opposing Parties, it was persuaded by the individual and combined witness evidence of the Appellant. In particular, the Tribunal was persuaded by the evidence of Mr. MacLeod, which it deemed to be very thorough, compelling, and well-researched through an updated and more detailed recent investigation over the summer months of 2025.

[130] Additionally, the written and oral testimony from Ms. Lohnes, and Messrs. Ash and Slama, contributed in a very constructive manner, facilitating the Tribunal's determinations that their evidence more accurately represented that the "no negative impact" test has been established. The "threshold" analysis around EDs through Earth, Science, Geotechnical, and Forestry/Arborist analysis, with the proposed mitigation/restoration measures as described in the Proposal, were convincing and reassuring to the Tribunal.

[131] With the appropriate monitoring and safeguards that will be the subject of the Phase 2B process, the Tribunal is persuaded that where modifications were identified, and are contemplated, there is no doubt that any and all concerns can be readily addressed through next steps in the process.

[132] After careful consideration of the evidence presented, inclusive of the various elements of land use planning evidence, the Tribunal finds that it is persuaded by the evidence of the Appellant, and that the SVL and SWL will not be adversely impacted by the Proposal. It is also determined that with the appropriate execution of the measures

relating to mitigation/restoration/protection works and numerous other measures to be implemented, the Proposal poses “no negative impact.”

SWH Findings

[133] The evidence before the Tribunal on this ED clearly demonstrated that concerns related to this issue, were ultimately limited to the following:

- a. The Bat Roosting population concern can be effectively managed with the very common use of Bat Boxes, as referenced in the ASF 2, especially if implemented pre-development, are utilized during construction, and are maintained, as necessary, post-development completion;
- b. The retention of mature trees, as identified by Mr. MacLeod, is healthy in maintaining the SWH, along with restoration efforts, all of which form part of the Proposal’s overall objectives;
- c. There is an absence of any Fish Habitat within the west portion of the “V” shape SVL and SWH, noting its mostly private ownership, however, acknowledging evidence of Fish Habitat that did exist in the east portion of the “V” shape, as part of Jersey Creek, noting its public ownership; and,
- d. Finally, that the Eastern Wood - peewee observations should result in further assessment in the context of the entire “V” shaped SWL, and not exclusively in relation to the Proposal, also noting the importance of the two sightings in 2024 and 2025.

[134] The Tribunal was persuaded by the Appellant's evidence that all of the above can be properly addressed and there are "no negative impacts" associated with the Proposal.

[135] Therefore, the Tribunal finds that regarding the evidence with respect to the ecological features and functions associated with the SWH, the Proposal maintains consistency with the PPS 2024, and the mitigation/restoration/protection efforts before, during and following the development, as identified by Appellant witnesses will ensure the long-term environmental integrity of the Subject Lands.

Successive Development and Cumulative Impacts

[136] Inevitably, issues of precedence and cumulative impacts are important considerations, and with this Proposal, there was no shortage of witness testimony associated with these considerations from the Opposing Parties. Some of the more pronounced opinions came from Mr. Spitale, Mr. Ford, and Mr. Stephens. Consistently absent from their opinions, was that there was no clear evidence presented regarding neighbouring proposed developments, that were not already approved projects on both sides of Islington Avenue, with privately-owned, Site-Specific applications.

[137] Perhaps the most consistent speculation was related to the Sarno Lands directly to the north of the Proposal (with a 1.04 ha lot) and the repeated "death-by-a-thousand-cuts" reference, originally asserted by Mr. Ford. While cumulative considerations are important, the suggestions that this Proposal sets a precedent, is determined to lack credibility, in the absence of any other, known, neighbouring applications filed with the City. The Tribunal also gave little weight to the repeated "death-by-a-thousand-cuts" assertions by witnesses and Counsel for the Opposing Parties.

[138] In consideration of this arguable “negative impact” concern, the Tribunal concurs with the Appellant’s evidence as it relates to this Site-Specific Proposal.

DISPOSITION

[139] The Tribunal’s analysis in this Phase 2A Hearing heard oral testimony and reviewed a significant amount of evidence from a highly experienced, and vast array of expert witnesses, all of whom deserve the Tribunal’s commendations and appreciation.

[140] At numerous junctures, evidence overlapping from the Phase 1 Hearing, became increasingly prevalent, due to clearly duplicative evidence in this Phase 2A Hearing. The bifurcation of the Phase 2 process resulting from a Motion from the Opposing Parties earlier in 2025, may have also had an unintended limiting effect on the ability to have certain questions answered to their satisfaction, but not necessarily to the Tribunal’s satisfaction. Additional and more detailed architectural, structural, landscape design, grading and other development criteria, will also be helpful as part of the Phase 2B Hearing, and should provide greater certainty in ensuring the implementation of safeguards, regarding the “threshold issues”.

[141] It is also worth noting that Counsel submissions for the Appellant regarding evidentiary challenges with this additionally-phased process, did not go unnoticed by the Tribunal. With more information pending, related to planning matters including height/density/design, transportation, ongoing and future mitigation measures, and a more intensive review of the Proposal’s implementing instruments, the Tribunal expects this to be of further benefit.

[142] The Tribunal’s ability to make its determinations in this Phase 2A process, has laid the foundation for the next opportunity to hear even more granular, updated design detail along with the possibility of an SPA expected in due course. Mr. Guetter’s outline

of the many components that will form part of any future approval of the Proposal, will clearly be part of the more detailed, land use planning analysis and should prove to be most beneficial to all concerned.

[143] Finally, the Tribunal's focus, accordingly, crystalized around the "threshold" question of the "no negative impacts" test, associated with the SWL, SVL, SWH, and the HL , in the context of the Proposal, on a Site Specific basis. Ultimately, the Tribunal was persuaded by the Appellant's witnesses in all respects, as it related to the "threshold issues" vis-à-vis the EDs, and the Proposal's impact did not rise to the level where it should be either avoided or dismissed.

[144] Therefore, the Tribunal finds that the Proposal has satisfied all "unresolved natural heritage and hazard land issues as threshold issues." The Tribunal is further persuaded by the Appellant's evidence that no constraints are found from the EDs, or the respective policy framework, and there are no impediments to the advancement of the Proposal to the Phase 2B Hearing, for the Tribunal's consideration.

CONCLUSIONS

[145] The overarching issue is that the Proposal must maintain consistency with the PPS 2024 and the "threshold" questions in relation to the "no negative impact" test as they relate to the above referenced EDs. The Tribunal finds that, in all respects, the "no negative impact" test has been effectively established by the Appellant.

[146] The Proposal's development envelope is feasible within the Erosion Hazard, and safe construction methods exist, that will provide long-term site viability, incorporating a variety of mitigation/restorative measures to ensure that environmental protection is ensured. Furthermore, the restorative forestry measures are sound and will provide for re-growth opportunities that will result in immediate, medium and long-term

enhancements to the Subject Lands. The Proposal's building envelope is also outside the Floodplain, providing a unique, secondary Safe Access route from Bruce Street that is fundamentally sound.

[147] The Tribunal evaluated the Site Specific conditions very carefully and determined through a very detailed overlapping analysis of the evidence, as outlined in this Decision, the Proposal maintains consistency with the PPS 2024 in all respects, relating to Issue #1, as established by the Appellant.

[148] Regarding other issues identified for its consideration as part of the Issues List, the Tribunal finds that the Proposal generally maintains:

- conformity with York Regional Official Plan 1994, which the Tribunal finds is more appropriately applicable to the Subject Lands;
- conformity with policies related to Vaughan OPA 240 (Woodbridge Community Plan), as amended by OPA 269;
- that the City of Vaughan Official Plan 2010 (currently under appeal) is a matter still pending;
- that there is appropriate regard for The Living City Policies for Planning and Development in the Watersheds of the TRCA (2014); and,
- that Site Specific amendments that may follow, through the Phase 2B Hearing process, will more appropriately establish zoning categories and restrictions for the Subject Lands, at that time.

[149] In conclusion, in the current context of this Phase 2A Hearing, the Proposal has appropriate regard to s.2 of the Act, is consistent with the PPS 2024, and conforms with all provincial plans, and relevant policies and guidelines that are in effect.

[150] Furthermore, based on these findings, the Appeals can and should now proceed to the Phase 2B Hearing of additional land use planning issues, including, but not limited to issues such as:

- Density;
- Building and podium heights;
- Angular plane requirements;
- Tower setbacks and step-backs;
- Tower floor plate;
- Driveway access to Islington Avenue and Bruce Street authorization;
- A below-grade setback from the underground parking garage to the lot line adjacent to Bruce Street of 6.0 m;
- A minimum setback to Bruce Street of 6.0 m;
- A minimum rear yard setback of 4.0 m;
- A minimum setback of 7.0 m to the southern interior side lot line;
- A minimum setback of 10 m to the northern interior side lot line;
- Parking and loading rates;
- Minimum landscape area;
- Yard projections and permitted encroachments;
- Amenity areas; and,
- Minimum lot area.

[151] The above land use planning issues will be the primary basis of considerations for the Tribunal, in the Phase 2B Hearing. The dates and details that have been set

down, will also be subject to a further scheduled CMC, which shall bind the Parties accordingly, through the Phase 2B PO/IL, once established.

[152] The Tribunal has set down the dates for the Phase 2B Hearing, for a period of ten (10) days commencing on **Monday, January 12, 2026**, until **Friday, January 23, 2026**, at **10 a.m.** by Video Conference.

Merit Hearing Commencing on Monday January 12, 2026, at 10 a.m.

Go To Meeting: <https://global.gotomeeting.com/join/519389173>

Access Code: 519-389-173

Audio-Only Access Code: +1 (647) 497-9373

Toll-Free Number: 1-888-299-1889

[153] Respectful of the Tribunal's schedule the Parties are also directed to attend a further **CMC** re-scheduled to **Tuesday, November 18, 2025**, at **10 a.m.** by **video conference**.

CMC Commencing on Tuesday November 18, 2025, at 10 a.m.

Go To Meeting: <https://global.gotomeeting.com/join/519389173>

Access Code: 519-389-173

Audio-Only Access Code: +1 (647) 497-9373

Toll-Free Number: 1-888-299-1889

[154] Parties are asked to access and set up the application well in advance of the event to avoid unnecessary delay. The desktop application can be downloaded at

[GoToMeeting](https://app.gotomeeting.com/home.html) or a web application is available:

<https://app.gotomeeting.com/home.html>.

[155] Individuals are directed to connect to the event on the assigned date at the correct time. It is the responsibility of the persons participating in the Video Hearing to ensure that they are properly connected to the event at the correct time. Questions prior to the hearing event may be directed to the Tribunal's Case Coordinator having carriage of this case.

[156] As ordered by the Tribunal below, the Parties are directed to scope issues and submit a PO/IL related to the above-scheduled CMC, on or before **November 10, 2025**, which will help to guide the scheduled Phase 2B Hearing.

[157] Parties are also reminded of the availability of Tribunal-led mediation on mutual consent, if requested in anticipation of any of the Hearing dates as scheduled.

ORDER

[158] **THE TRIBUNAL ORDERS THAT**, pursuant to Rule 24.3 of the Tribunal's *Rules of Practice and Procedure*, notwithstanding the eventual date of the formal issuance of this Order, regarding the Motion for Direction from 7553 Islington Holding Inc., it shall be, and was, effective as of September 2, 2025, which is the date that the Tribunal received and considered the evidence in support of the request for the Motion for Direction, in this proceeding and determined that:

1. Paragraphs 56-96, 110, 120, 141, 147, 150, 151, 153, 160, 161, 167, 170, 173, 204 and 210 of the Phase 2A Witness Statement of Mr. Jason Wagler, are respectively struck from the Record;
2. The Motion requesting that the entire Witness Statement of Dr. Shirazi, also determined in the oral Decision noted above, is dismissed; and,

3. The Cross Motion jointly requested by the Toronto Region Conservation and the City of Vaughan, is also dismissed.

[159] **THE TRIBUNAL FURTHER ORDERS THAT:**

1. The Appeals by 7553 Islington Holding Inc. shall now advance to the Phase 2B Hearing, as set down by the Tribunal, scheduled to commence on **January 12, 2025**, and as directed in paragraph [152] of this Decision;
2. A further Case Management Conference for the Phase 2B Hearing, is hereby scheduled to commence on **Tuesday November 18, 2025**, as directed in paragraph [153] of this Decision; and,
3. The Parties shall scope issues and submit a draft Procedural Order and Issues List, related to the above-scheduled Case Management Conference, on or before **November 10, 2025**;
4. The final Procedural Order and Issues List shall bind the Parties for the purposes of the Phase 2B Hearing, including but not limited to land use planning issues, as referenced in paragraph [150] of this Decision;
5. All other directions in this Decision, are hereby ordered.

[160] The Member is seized on this matter; and,

[161] The Tribunal remains available for any questions that may relate to the implementation of this Order.

“Steven T. Mastoras”

STEVEN T. MASTORAS
MEMBER

Ontario Land Tribunal

Website: olt.gov.on.ca Telephone: 416-212-6349 Toll Free: 1-866-448-2248

The Conservation Review Board, the Environmental Review Tribunal, the Local Planning Appeal Tribunal and the Mining and Lands Tribunal are amalgamated and continued as the Ontario Land Tribunal (“Tribunal”). Any reference to the preceding tribunals or the former Ontario Municipal Board is deemed to be a reference to the Tribunal.