

**Shining Hill Proposal Analysis**  
**Background for Newmarket Town Council Electronic Public Meeting**  
**January 18, 2021**

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**Introduction**

In 2008 the Ontario Municipal Board made a decision supporting the Town of Newmarket's OPA 28 designation for protected land on the moraine and they did not allow development to proceed.

At that time, as we are dealing with now, development was proposed for certain areas while maintaining other areas as Natural Heritage Features.

The OMB's decision in 2008 to prohibit development on the land covered by OPA 28 was based taking a "systems approach" and viewing these lands as part of a broader ecological system, an approach supported by science and reflected in the policy documents governing Natural Heritage sites. The policy states "the diversity and connectivity of natural features in an area, and the long-term ecological function and biodiversity of natural heritage systems, should be maintained" (Natural Heritage section of the Provincial Policy Statement, Section 2.1.2).

The OMB viewed the subject lands as part of a single, ecological system to be protected from development in order to preserve and enhance all areas of the EPA including woodlands, wetlands, valley lands, open habitats and agricultural lands.

The OMB agreed with the environmental analysis and recommendations put forth by North-South Environmental Inc., a highly experienced and credible environmental consulting firm retained by the Town of Newmarket at that time. North-South has completed over 1000 environmental projects and a partial list of their clients includes:

- Bird Friendly Building Guidelines (City of Markham)
- Regional Municipalities of York and Peel Official Plan Amendments
- Sustainable Halton Natural Heritage System
- City of Mississauga Natural Heritage & Urban Forest Strategy
- Provincial Natural Heritage Reference Manual
- Rockfort Quarry Peer Review (Town of Caledon)
- Impacts of Cellular Towers on Birds (Ontario)
- Rouge Park Trails Master Plan
- Yonge Street South Secondary Plan (Town of Aurora)
- City of Toronto Environmentally Significant Areas Study
- Nichol Drain Sub-watershed Study (Township of Centre Wellington)
- Victoria Road North Secondary Plan Environmental Impact Study (City of Guelph)
- Eastview Environmental Impact Study (City of Guelph)
- Cityview Drive Environmental Impact Study (City of Guelph)
- YMCA Natural Heritage Evaluation and Impact Assessment (King Township)
- Natural Heritage Evaluations (Oak Ridges Moraine)
- Pottersburg Creek Realignment (City of London)

- Windsor-Essex Parkway EA Species-At-Risk Study (City of Windsor)
- Eco-Park Environmental Impact Study and Natural Heritage Evaluation (Town of Aurora)
- Grand Bend Wind Farm Renewable Energy Application
- Cell Tower Environmental Impact Studies (Southern Ontario)
- Proposed Solar Energy Site Assessment (Smiths Falls, Arnprior)
- Niagara-on-the-Lake Sewage Treatment Plant EA
- Atomic Energy of Canada Limited Wetland Evaluations and Ecological Effects Assessment
- Environmental Impact Study Guidelines (Regions of Halton and Niagara)
- Supervision of Species at Risk, Former Army Base, Ipperwash, Ontario
- Mississauga Natural Areas System (NAS)
- Seaton Natural Heritage System Management Plan (Pickering, Ontario)
- Rouge Park Trails Master Plan
- City of Mississauga Natural Heritage & Urban Forest Strategy
- Zone 1 & Environmentally Sensitive Site Designation, Point Pelee National Park
- Point Pelee Forest Bird and Marsh Monitoring Study
- Point Pelee Vegetation Management Objectives
- Massasauga Rattlesnake Habitat and Branched Bartonnia Mapping and Assessment, O'Donnell Point Nature Reserve
- Killarney Provincial Park Signature Site Natural Science Study
- Glen Stewart Ravine Park Management Plan (Toronto)
- Peggy's Wood Management Plan (Towns of Newmarket and East Gwillimbury)
- Hungry Hollow Management Plan (Halton Hills)
- City of Toronto ESA, ANSI and Provincially Significant Wetland Studies
- Vegetation Management Plan - Georgian Bay Islands National Park

The OMB ruled that the open pasture spaces in the lands covered by OPA 28 were necessary to preserve the Natural Heritage Features that would be affected by development along their edges.

The OMB wanted to protect species that use the agricultural lands in this area to nest as well as to cross to other areas.

The OMB did not agree with the Applicant's approach at that time, which is also the approach of Shining Hill now, of looking at the environment, segregating out the pieces for development and then assessing the impact on the remaining Natural Heritage Features.

It is a system, it is all one area to be protected – not pockets of areas to be protected with development in between.

The OMB determined that the Town's OPA 28 designation of this land as EPA-ORM represents good planning as supported by science and policy, and provides a level of protection that recognizes the sensitivity of the environment in this area.

In 2008 the OMB agreed that a systems approach was necessary and therefore these lands must be protected as a whole.

Fast forward to today. The Shining Hill proposal is seeking to do what was disallowed in 2008: develop the open habitat and agricultural lands.

Shining Hill is not only proposing that the Town abandon the “systems approach” that the OMB agreed with and science supports, their proposal to develop on this protected land is based on violating or ignoring regulations and policies by:

1. Violating the Oak Ridges Moraine Act by eliminating or significantly reducing the Minimum Vegetation Protection Zone
2. Putting forth an inadequate Environmental Conditions Report that not only disregards the systems approach to the environment that the OMB endorsed, but is also based on minimal data collection.
3. Jeopardizing the water table in this portion of the Moraine by developing on a Highly Vulnerable Aquifer
4. Ignoring green environmental objectives by proposing high density development far from mass transit
5. Putting public safety at risk by placing a potentially dangerous intersection on Bathurst Street.

## 1. Minimum Vegetation Protection Zone

The Oak Ridges Moraine Act regarding Minimum Vegetation Protection Zone for Wetlands and Significant Woodlots is highlighted:

TABLE  
KEY NATURAL HERITAGE FEATURES, KEY HYDROLOGIC FEATURES AND AREAS OF NATURAL AND SCIENTIFIC INTEREST (EARTH SCIENCE): MINIMUM AREAS OF INFLUENCE AND MINIMUM VEGETATION PROTECTION ZONES

Column 1	Column 2	Column 3	Column 4
Item	Feature	Minimum Area of Influence (s. 21)	Minimum Vegetation Protection Zone (ss. 21, 23, 26 (4), 30 (12))
1.	Wetlands	All land within 120 metres of any part of feature	All land within 30 metres of any part of feature, subject to clause 23 (1) (d) if a natural heritage evaluation is required
2.	Habitat of endangered and threatened species	None	None
3.	Fish habitat	All land within 120 metres of any part of feature	All land within 30 metres of any part of feature, subject to clause 23 (1) (d) if a natural heritage evaluation is required
4.	Areas of natural and scientific interest (life science)	All land within 120 metres of any part of feature	As determined by a natural heritage evaluation carried out under section 23
5.	Areas of natural and scientific interest (earth science)	All land within 50 metres of any part of feature	As determined by an earth science heritage evaluation carried out under subsection 30 (12)
6.	Significant valleylands	All land within 120 metres of stable top of bank	All land within 30 metres of stable top of bank, subject to clause 23 (1) (d) if a natural heritage evaluation is required
7.	Significant woodlands	All land within 120 metres of any part of the feature	All land within 30 metres of the tree canopy drip line of the outermost trees within the woodland, subject to clause 23 (1) (d) if a natural heritage evaluation is required
8.	Significant wildlife habitat	All land within 120 metres of any part of feature	As determined by a natural heritage evaluation carried out under section 23

clause 23 (1) d: if the Table to this Part specifies the dimensions of a minimum vegetation protection zone, determine whether it is sufficient, and if it is not sufficient, specify the dimensions of the required minimum vegetation protection zone and provide for the maintenance and, where possible, improvement or restoration of natural self-sustaining vegetation within it;

Here is what Shining Hills is proposing:

“The development limit on this site is represented by the dripline or edge of wetland through most of this site.” (Environmental Conditions Report p.1)

“For the purpose of the Official Plan Amendment application to establish the principle of development, we are proposing a minimum buffer of 10 m to the woodlands and 30 m to the watercourses and wetlands.” (Environmental Conditions Report p. 42)

The Oak Ridges Moraine Technical Paper Series – 1. Identification of Natural Heritage Features, states:

“All development and site alteration with respect to land within a key natural heritage feature or the related minimum vegetation protection zone is prohibited, except the following:

1. Forest, fish, and wildlife management.
2. Conservation and flood or erosion control projects, but only if they have been demonstrated to be necessary in the public interest after all alternatives have been considered.
3. Transportation, infrastructure, and utilities as described in section 41, but only if the need for the project has been demonstrated and there is no reasonable alternative.
4. Low-intensity recreational uses as described in section 37.”

Why is Shining Hill proposing development up to the dripline, the area right up to the outer circumference of the tree branches, or the edge of the wetland - and then when development is completed having only a 10 m buffer for woodlands and 30 m buffer for watercourses and wetlands?

Development in the Minimum Vegetation Protection Zone is prohibited but Shining Hill is proposing to do this. If they do, tree roots will be cut and trees will die; streams and wetlands will be contaminated and aquatic life will die.

Here is just one example of how their proposal relies on violating this regulation.

- The width of proposed development area at the narrowest portion of the western segment of the Subject Lands is approximately 85 m





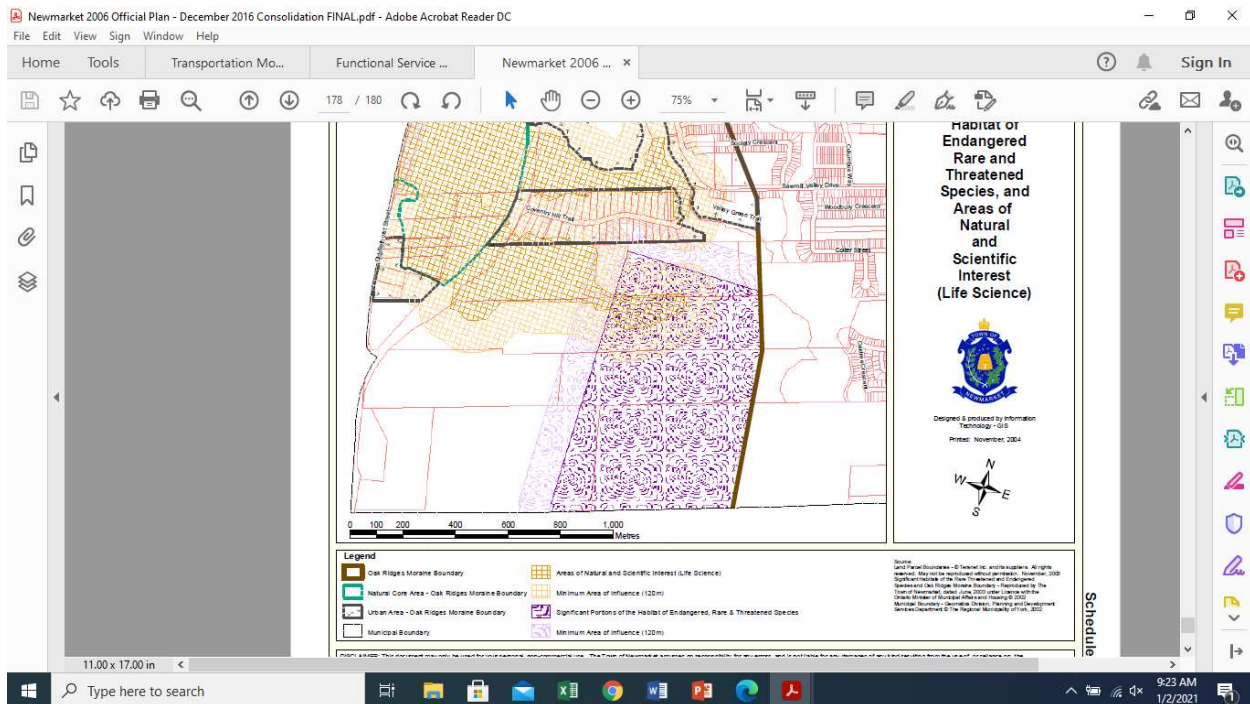
## 2. Inadequate Environmental Conditions Report

- A significant component of the OPA No. 28 relates to preserving the habitat of birds and animals and aquatic and plant life.
- Shining Hill is proposing to amend OPA 28 but their Environmental Conditions Report is not based on a thorough analysis of the Subject Lands.
  - Can an accurate assessment of the birds and wildlife that make their habitat permanently or intermittently over the course of a year in this 205 acre (83 hectare) site be completed in three site visits of 5 hours each done over a 2 week span in just one season of the year?
  - Can a thorough aquatic assessment over this whole site be done in just one day when water levels change throughout the year?

This is what was done in the bird and wildlife and the aquatic observations to prepare the Shining Hill Environmental Conditions Report.

This is woefully inadequate in our view and demonstrates a gross lack of concern for the environment on this land.

- OPA No. 28 includes the map below showing Habitat of Endangered, Rare and Threatened Species on the Moraine portion of the Subject Lands. What has changed from 2006 regarding the sensitivity and importance of maintaining this Habitat? If anything, the need for preserving Habitat for Endangered, Rare and Threatened Species is greater 15 years later in 2021 than it has ever been.



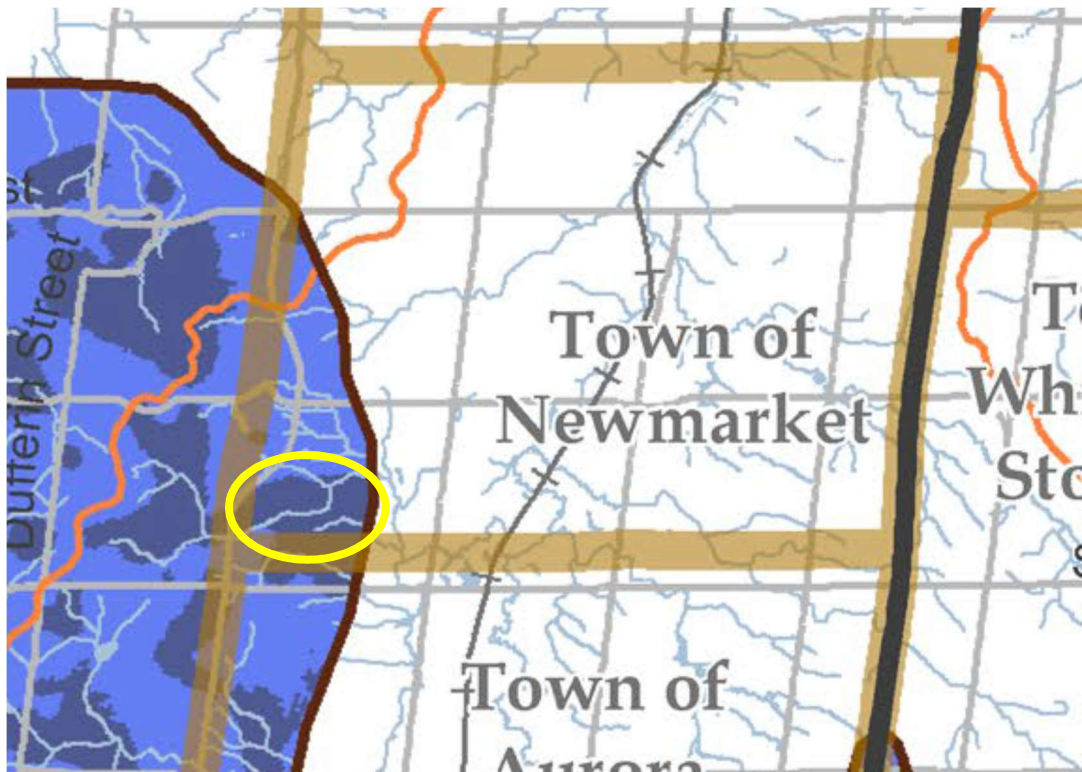
- We live about 200 metres from the Subject Lands. There is just one patch of woodland between our place and the Subject Lands. We routinely see from our kitchen windows: deer, wild turkeys, possums, foxes, and coyotes on our properties and in the woodland right behind us at various times throughout the year. If these animals are regularly seen 200 metres from the Subject Lands, they are also on the Subject Lands. And there are undoubtedly many other animals that we don't see but who make the Subject Lands and surrounding area their home for all or part of the year. The Town needs to protect not only the habitat for these animals and all other

Endangered, Rare and Threatened Species, the town needs to protect the conduits these animals use to travel between the woodlots on and surrounding the Subject Lands. Allowing development on the Subject Lands on the Moraine will destroy the habitat and conduits for these animals.

- The OMB conclusion in 2008 that a systems approach was necessary is as valid today as it was then, if not more so.

### 3. Highly Vulnerable Aquifer

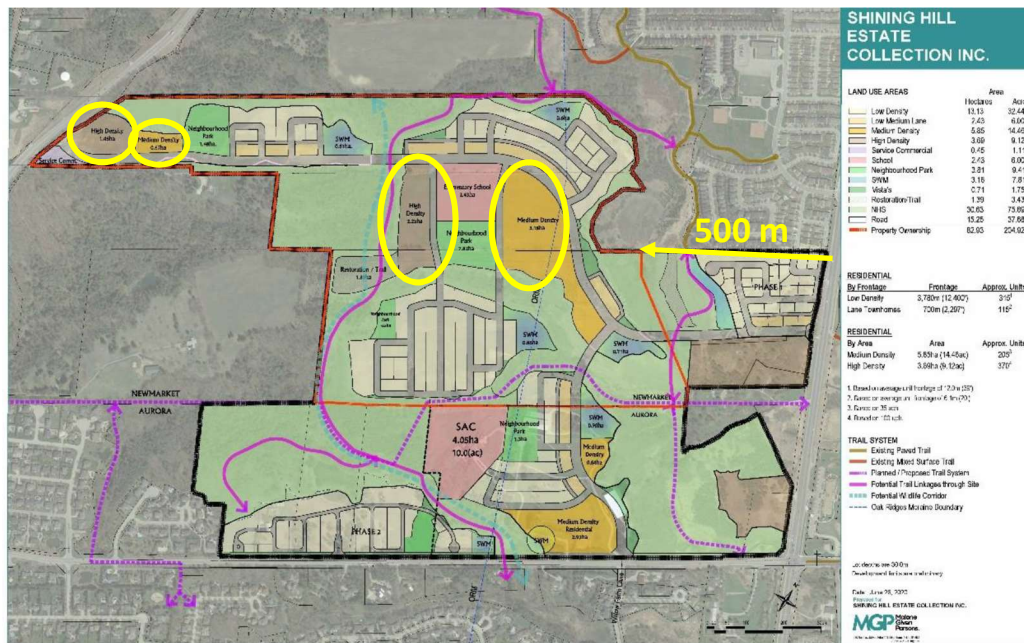
- Essentially of Newmarket's Oak Ridges Moraine High Vulnerability Aquifer area is on the Subject Lands. Groundwater more susceptible than normal to contamination from the surface on a high vulnerability aquifer.



- Road salt, snow storage, commercial fertilizers and other chemicals will contaminate the aquifer.
- Development on the Moraine portion of the Subject Lands will place the aquifer at risk.
- The Town of Newmarket must protect the aquifer.

### 4. Shining Hill is not Green – Much of Proposed Development Units Located Far From Mass Transit

- Of the 1330 household units (approx.) in the Proposed development on the Subject Lands, 490 (37%) are high density (4 buildings up to 7 storeys each) and 661 (50%) are medium density (town homes).
- The standard for accessibility to mass transit is “within 500m” (Transportation Mobility Plan Section 7.1.1).
- These high and medium density units, 87% of the total units proposed for the Subject Lands, will be located more than 500 m from Yonge Street - where the mass transit lines are located.



- The majority of these units are located closer to Bathurst St than to Yonge St.
- South of the Subject Lands, there are no multi-storey residential buildings on Bathurst St. until one reaches Centre Street in Thornhill (across from Promenade Mall south of 407).
- Bathurst St is not a mass transit line now. It is very unlikely to have the mass transit lines in the future that Yonge Street has because the population density all the way to Thornhill on Bathurst is not at the level of Yonge Street. Also, there are Natural Core Areas on the west side of Bathurst Street immediately north of the Subject Lands which will never be developed, further reducing the likelihood of mass transit lines being established on Bathurst.
- Placing more residential units close to Bathurst, especially high and medium density, is not a “green” solution. Residents of these units will have to use cars.
- Huge amounts of money have been spent putting bus lanes on Yonge Street and Davis Drive. High density hi-rise buildings should be on Yonge St. and Davis Dr. as the infrastructure is already there. In fact, it begs the question why hi-rise buildings were not built in Shining Hill phase I which is right on Yonge Street. This doesn’t make any sense but the solution is not to put hi-rise buildings on Bathurst St.
- In addition to the distance from Mass Transit, it must also be noted that high density multi-storey buildings located on the Moraine would significantly degrade the views and vistas of current residents in the area. There would also be privacy issues for neighbouring homes if buildings of this height are located on this elevated portion of land. Buildings of this size in this part of the town have never been part of the Town of Newmarket’s intentions.



## 5. Potentially Dangerous Intersection on Bathurst Street

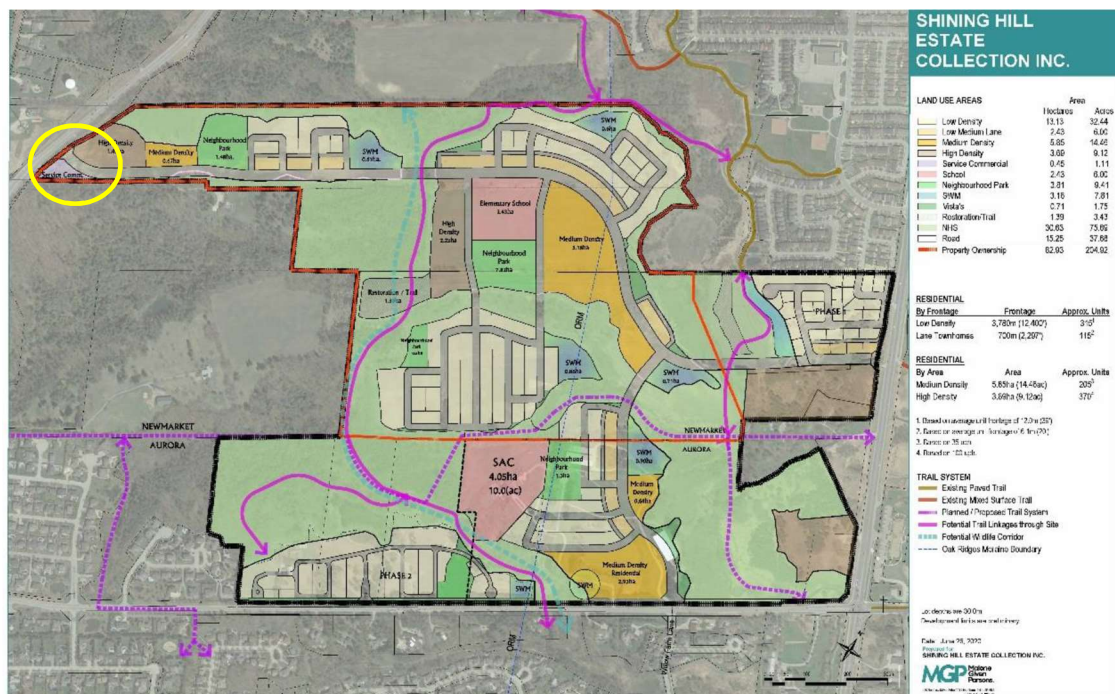
The proposed intersection on Bathurst Street has a strong likelihood of threatening public safety:

1. **On a hill:** no visibility past top of hill to the south
2. **Curve at top of the hill:** no visibility around curve  
From a safety point of view one has to assume the objective is to place any intersection as far as possible from the top of the hill and the curve.
3. **Fast traffic:** Bathurst speed limit is 70 but many northbound cars drive faster because they are going down hill
4. **Huge proposed traffic volume:** estimated 1000+ units using Bathurst St. for entry/exit from one intersection on a hill (comparison: Summerhill South 1000 units has 4 flat intersections)
5. **Proposed intersection location not clear and all 3 variations either violate Oak Ridges Moraine Act or appear to compromise safe Sight Distance**

Shining Hill has 3 conflicting proposals regarding the Bathurst Street location.

**Is the proposed intersection at south edge of subject property?**

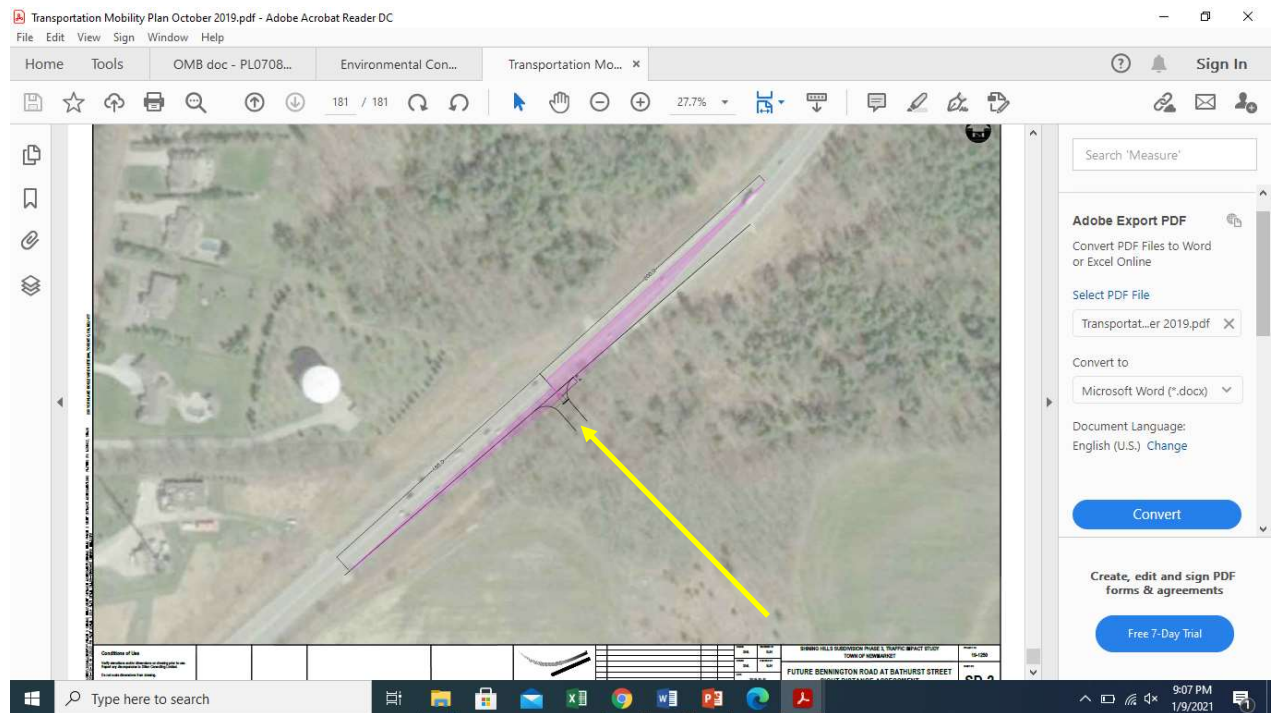
- Planning Opinion Report (July 2020) Executive Summary p. iii, p. 13 (this is the most current of the four Shining Hill documents).



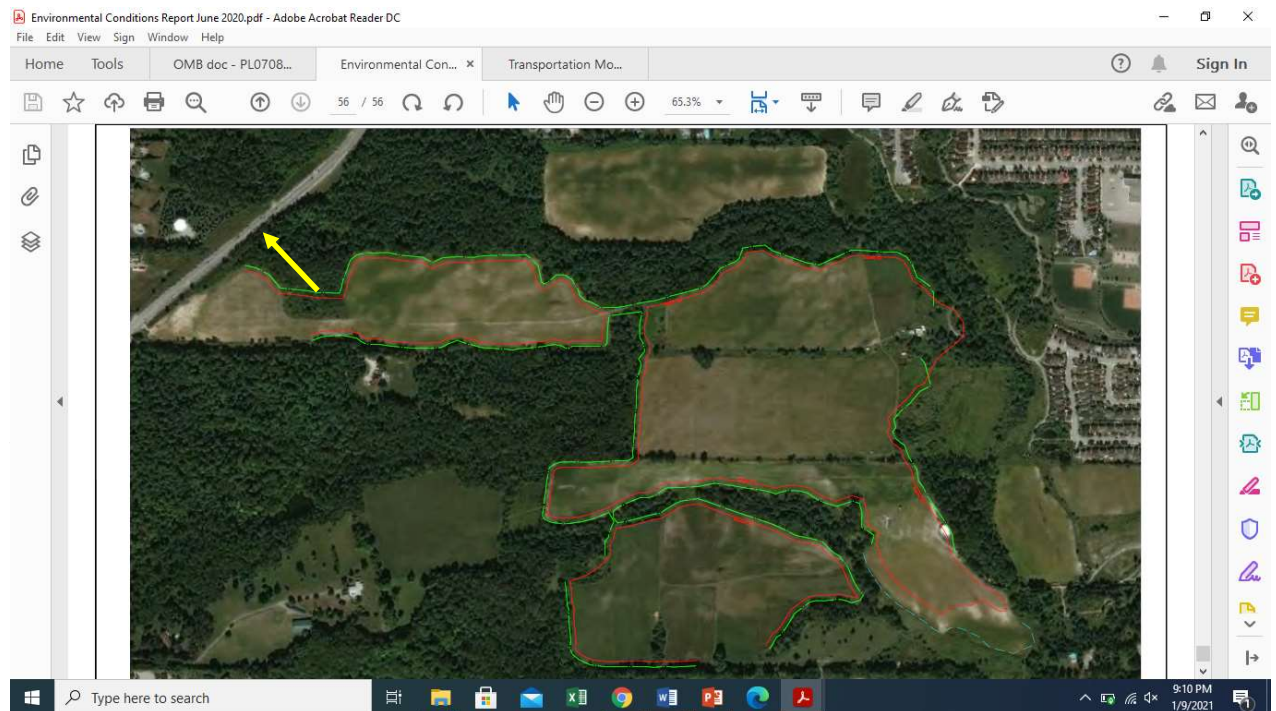
The problem with locating the intersection here is it is too close to the top of the hill and the curve. There is not enough visibility.

**Is the intersection proposed for north of the water tower, with the road running through protected forest on Shining Hill property?**

- Transportation Mobility Plan (Oct 2019) Appendix G Sight Distance and Proposed Bathurst Street Intersection p. 179 & p. 181



One can see even more clearly on the aerial photo below (Environmental Conditions Report, p. 56) the road would be going through protected forest.



The intersection at this location is farthest from the top of the hill and the curve – that is most likely why Shining Hill measured the Sight Distances from here (purple triangles on photo above).

BUT their road leading to this intersection would run through a Significant Woodland, destroying a Natural Heritage Feature – a violation of the Oak Ridges Moraine Act.

The Transportation Mobility Plan states (Section 6.2.1):

“For vehicles turning onto a four-lane road with a 90 km/h design speed, the following sight distance is recommended:

200 metres to the left (to the south);

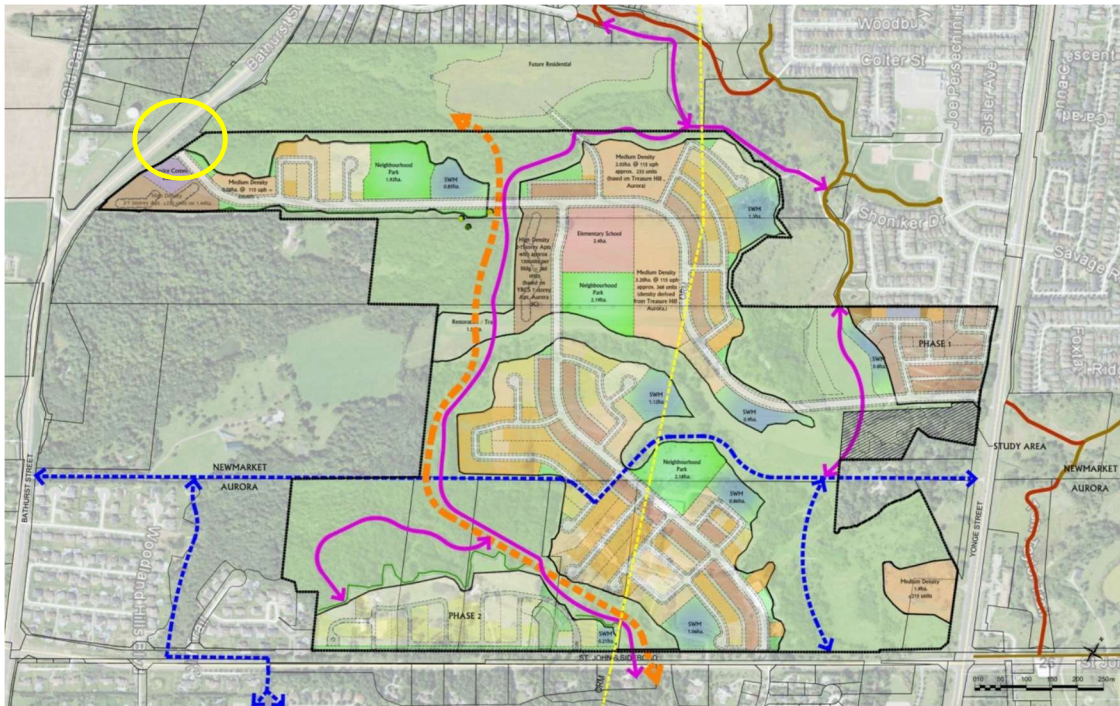
185 metres to the right (to the north).”

- The purple triangles (displaying Sight Distances) on the aerial photos above (Transportation Mobility Plan, p. 179 and p. 181) contain graphics with these dimensions reversed, showing 185m to the south and 200m to the north.
- This is a critical misprint or misrepresentation.
- Additionally, the Subject Lands are at least 7.5 metres higher in elevation than the surface of Bathurst Street at this proposed intersection location. Significant excavation would have to be done to bring the road from Shining Hill to the level of Bathurst.
  - What would this excavation do to visibility for drivers trying to turn onto Bathurst Street?
  - How much further damage would this excavation do to forested areas at this proposed location?
  - Would drainage be affected by this excavation, potentially damaging the protected woodlands to the north of the proposed intersection?

**Or is the intersection across from the water tower, near the north edge of the property?**

- Transportation Mobility Plan (Oct 2019)
  - Section 1.1 Purpose p. 8
  - Section 7.13 Potential Service Expansion figure 11 Potential Internal Bus Routes p. 58
  - Appendix A Phase 3 Development Concept Plan p. 77
- Environmental Conditions Report (June 2020) p. 55





- This road would be within the minimum 30 metre Vegetation Protection Zone around the woodland so it couldn't be placed here without violating the Act.
- If one takes into account the 30m Minimum Vegetation Protection Zone, it is doubtful that there is the required 200 m sight distance to the left (south).
- Further, 1331 households are proposed on the Subject Lands. Because a large percentage of the proposed units will be closer to Bathurst Street, a large percentage of these residents will be entering and exiting on the one intersection with Bathurst Street.
- We estimate approximately 1000 Shining Hill units are proposed to be serviced by this one intersection. Based on our estimates, there are approximately 1000 units in the Summerhill subdivision south of Mulock and, as a comparison, there are 4 level entrances servicing this Summerhill area. Therefore, this proposed Shining Hill intersection would be very busy, and therefore potentially dangerous.
- Any entrance/exit from the Subject Lands would be potentially dangerous and, apart from this danger, through comparison with other similar-sized subdivisions, does not appear to be able to adequately handle the proposed traffic to/from Bathurst Street.

## Summary

- When Newmarket adopted Amendment No. 28 on September 29, 2003, signed by the mayor at that time, Mayor Tom Taylor, the amendment was based on the key principles of:
  - Significant Woodlands
  - Hydrologically Sensitive Areas



- Landform Conservation Areas
  - Habitat of Endangered, Rare and Threatened Species
  - and much of the area being a Highly Vulnerable Aquifer.
- In 2003, the Mayor and Town Council at that time put in place special protection for the Subject Lands to benefit the Newmarket citizens at that time and in the future.

### **Conclusion and Recommendation**

- We urge Mayor John Taylor and the current Town Council to maintain that same philosophy and preserve this portion of the Oak Ridges Moraine by rejecting the Shining Hill application for an Official Plan Amendment for the Subject Lands on the Moraine.
- Excluding the proposed Subject Lands development on the Moraine, the Shining Hill proposal as it stands now still includes approximately 2000 residential units.
- Perhaps Shining Hill can work with the Town of Newmarket to move some of its proposed development on the Subject Lands on the Moraine to land outside the Moraine and build even greater than 2000 units on this non-Moraine land. That is a topic for discussion between Shining Hill and the Town.
- Please vote to reject development of the Subject Lands on the Moraine and preserve this priceless piece of property for current and future generations of Newmarket citizens.