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conservationhalton.ca

January 30, 2012

Mr. Scott Baldry
Secretary-Treasurer, Committee of Adjustment
City of Hamilton
71 Main Street West, 5th Floor
Hamilton, ON L8P 4Y5

Dear Mr. Baldry:

Re: **100 Sunnycroft Court**
Part Lots 9, Concession III (East Flamborough)
City of Hamilton
Severance Application FL/B-11:122
Severance Application FL/B-11:123

Staff of Conservation Halton have reviewed the above noted application as per the following checklist, which includes: Conservation Halton's regulatory responsibilities; the Memorandum of Understanding (MOU) between MNR, MMAH and Conservation Authorities with respect to providing the provincial interest comments related to natural hazards; Conservation Halton's Level II Agreement with the Department of Fisheries and Oceans to review applications pursuant to Section (35) of the Fisheries Act; the MOU between the City of Hamilton and Conservation Halton; and, the Hamilton Harbour Remedial Action Plan Agreement (only pertains to those applications that are within the Hamilton Harbour watershed). **The following comments relate strictly to this specific application. Additional items not marked as "applicable" may apply to future applications:**

	<u>Applicable</u>	<u>Further Study</u>
<u>Conservation Halton Regulation</u>		
Ontario Regulation 162/06	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>MNR/MMAH/CA MOU</u>		
PPS - Natural Hazards	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>DFO Level II Agreement</u>	<input type="checkbox"/>	<input type="checkbox"/>
<u>CA/Hamilton MOU</u>		
Flood Plain and Flood Hazards	<input type="checkbox"/>	<input type="checkbox"/>
Wetlands	<input type="checkbox"/>	<input type="checkbox"/>
Top of Bank Erosion Limits	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Crown Land	<input type="checkbox"/>	<input type="checkbox"/>
Shorelines	<input type="checkbox"/>	<input type="checkbox"/>
Woodlands	<input checked="" type="checkbox"/>	<input type="checkbox"/>
ANSI	<input type="checkbox"/>	<input type="checkbox"/>
Hazardous Geology	<input type="checkbox"/>	<input type="checkbox"/>
Aggregates/Petroleum/Wayside Pits	<input type="checkbox"/>	<input type="checkbox"/>
Groundwater Recharge/Discharge	<input type="checkbox"/>	<input type="checkbox"/>
Lakes and Rivers Impacts	<input type="checkbox"/>	<input type="checkbox"/>
Wildlife Habitat Impacts/Mitigation	<input type="checkbox"/>	<input type="checkbox"/>
Endangered and Threatened Species	<input type="checkbox"/>	<input type="checkbox"/>
Fish Habitat Impacts/Mitigation	<input type="checkbox"/>	<input type="checkbox"/>
Stormwater Management	<input type="checkbox"/>	<input type="checkbox"/>
Subwatershed Planning	<input type="checkbox"/>	<input type="checkbox"/>
<u>Hamilton Harbour RAP Agreement</u>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Other</u>		
Greenbelt Plan	<input type="checkbox"/>	<input type="checkbox"/>



Proposal

Severance Application FL/B-11:122

The purpose of this application is to permit the conveyance of an irregular shaped vacant parcel of land having an irregular frontage on Rockcliffe Road of 34.66 m and an area of 2083 m² for residential purposes, and to retain an irregular shaped parcel of land having a frontage of 18.041 m and an area of 14.84 ha containing an existing dwelling, barn and two sheds for residential purposes.

Severance Application FL/B-11:123

The purpose of this application is to permit the conveyance of an irregular shaped vacant parcel of land having an irregular frontage on Rockcliffe Road of 16.44 m and an area of 1120 m² for residential purposes, and to retain an irregular shaped vacant parcel of land having an irregular frontage on Rockcliffe Road of 32.22 m and an area of 963 m² for residential purposes.

Conservation Halton Regulation (Ontario Regulation 162/06)

The subject lands are traversed by three tributaries of Grindstone Creek and contains a portion of the valleylands and the 15 metre allowance associated with these features. As such, a portion of the property is regulated by Conservation Halton pursuant to Ontario Regulation 162/06. Ontario Regulation 162/06 requires that a Permit be obtained from Conservation Halton prior to development, interference with wetlands or alterations to shorelines and watercourses. Pursuant to Provincial Policy, no new development or site alteration is permitted within the Regional Storm flood plain or Provincially Significant Wetlands. Please visit www.conservationhalton.ca for a copy of Ontario Regulation 162/06 and the related policy document.

Staff note that all of the proposed severed lands are outside of the area regulated by Conservation Halton, pursuant to Ontario Regulation 162/06.

MNR/MMAH/CA MOU

The Provincial Policy Statement (PPS) Policy 3.0 '*Protecting Public Health and Safety*' directs development outside natural hazards including those adjacent to river and streams, which are impacted by flooding hazards and /or erosion hazards. The hazardous lands include any land that could be unsafe for development because of naturally occurring processes associated with flooding or erosion.

Staff note that the lands to be severed are outside of hazardous lands and as such, the proposed severances are consistent with the natural hazard policies of the PPS.

CA/HAMILTON MOU

Significant Area of Natural and Scientific Interest, Significant Woodlands and Environmentally Sensitive Areas (ESA)

Significant portions of the parcel to be severed are within the Clappison Escarpment Woods Area of Natural and Scientific Interest (ANSI), the Clappison Escarpment Woods Environmentally Sensitive Area (ESA) and an area designated by the City of Hamilton as Significant Woodland.

Policies 2.1.4 (b), (e) and 2.1.6 of the PPS state that development and site alteration will not be permitted within or adjacent to significant woodlands and/or ANSI's unless the ecological function of the adjacent lands has been evaluated and it has been demonstrated that there will be no negative impacts on the natural

features or their ecological functions.

OTHER- NIAGARA ESCARPMENT COMMISSION (NEC)

The front portion of the property, where the severances are proposed, is designated as Urban Area in the Niagara Escarpment Plan. The rear, and majority, of the parcel are designated as Escarpment Natural in the Niagara Escarpment Plan. The NEC has been involved in the preconsultation process regarding severing this property. As noted below, further to correspondence to the applicant from the City, the NEC is to also be satisfied with the EIS submitted.

We recommend that you contact the NEC for further information.

Discussion

Staff of Conservation Halton, along with the City of Hamilton and the Niagara Escarpment Commission (NEC) have been in preconsultation with the applicant since November 2001. Conservation Halton staff (M. Charles, A. Baron) last conducted a site visit on April 29, 2010 to view the property and the natural heritage features (i.e. Environmentally Sensitive Area, Area of Natural and Scientific Interest and Species at Risk) in relation to the proposed severances. After consultation with the NEC and CH, City of Hamilton staff advised the proponent on November 10, 2010 that a minimum 15 m buffer is required from the ESA. If a narrower buffer is proposed, then an Environmental Impact Study (EIS) which offers rationale for this is required to the satisfaction of the City, Conservation Halton and the Niagara Escarpment Commission.

Staff note that an EIS was submitted with this application last week, however this has not allowed for sufficient time for any of the organizations (NEC, City of Hamilton or Conservation Halton) to review and conclude if it was completed to our satisfaction. As such, staff find it premature to provide comments on the location of the proposed lot line in relation to the ESA boundary.

In addition to the above, through the review of the Planning Justification Report submitted and a discussion with City staff, a zoning by-law amendment (ZBA) is required to allow for the construction of single detached dwellings on each of the proposed lots. Staff have received the required fee for the ZBA but have not yet received the proposed application. Staff are of the understanding that the required zoning is not in place to allow for the development of single family dwellings at this location.

Peer Review Fees

As per the City of Hamilton/Conservation Halton Memorandum of Understanding, a peer review fee is required for all applications. Further to discussions with City of Hamilton staff and a review of the Planning Justification Report submitted with these severance applications, staff understand that a zone change amendment is also to be reviewed in relation to this proposal. As such, the combined application fee for these three applications is \$950. The fee includes the following:

Zone Change Application @ \$475
2xSeverance Applications @\$475 ea/ 50%

To date Conservation Halton only received the Zone Change Application fee and a total of \$475 is **outstanding**.

Recommendation

Based on the above, staff of Conservation Halton find these applications for severance premature as:

1. The applicant is proposing a reduced setback to the ESA and insufficient time is available to review the EIS in advance of the Committee of Adjustment meeting.
2. Until such time as Conservation Halton staff have reviewed the EIS, we cannot confirm that the proposed severances are consistent with Policies 2.1.3 a), 2.1.4 b) and 2.1.4 e) of the PPS.
3. The Zoning By-law amendment required for single detached dwellings has not been approved by the City.

We trust the above is of assistance. Should you require further information, please contact the undersigned at Extension 260.

Yours truly,

MCharles

Margaret Charles
Environmental Planner

MC/

Encl: 1 - Conservation Halton ARL mapping

- cc. Cathy Plosz, City of Hamilton, Planning, email
Delia McPhail, City of Hamilton, Planning, email
Daniel Barnett., City Hamilton, Planning, email
David Johnston, Niagara Escarpment Commission
Al Thomas, email
Metropolitan Consulting Inc, email
Renovo Watershed Sciences Inc, email



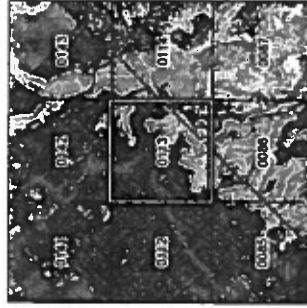
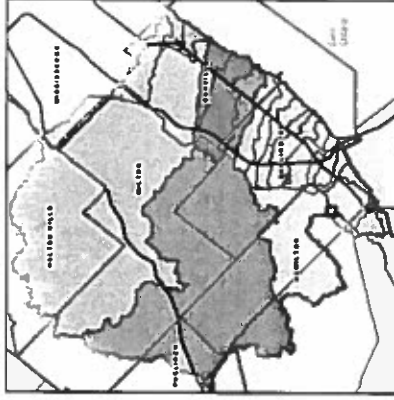
PROTECTING THE NATURAL ENVIRONMENT
FROM LAKE TO ESCARPMENT

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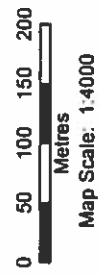
(ONTARIO REGULATION 97/04)
REGULATION FOR DEVELOPMENT, INTERFERENCE WITH WETLANDS
AND ALTERATIONS TO SHORELINES AND WATERCOURSES
(ONTARIO REGULATION 162/06)
APPROXIMATE REGULATION LIMIT

Map Sheet - 0113



LEGEND

- Approximate Regulation Limit / Screening Area
- Regulated Watercourse
- Hydrologic Connection
- HRCA Jurisdiction Limit
- Teranet Property Boundary



Note on Stream Type Delineation:
Regulated Watercourse stream, surface and subsurface water features that are regulated by Conservation Halton under Ont. Reg. 162/06. Hydrologic connections are defined as hydrologic connections that are not regulated by the Conservation Halton under Ont. Reg. 162/06.

The text of the Regulation takes precedence over the Approximate Regulation Limit. Some regulated features may not appear on the Approximate Regulation Limit mapping. The mapping should be used for information purposes only. The data employed was derived from sources with inherent inaccuracies and assumptions should therefore be considered appropriate. Data on this map is based under license and is protected by copyright by Conservation Halton. Copyright Conservation Halton, January 2008.

Revision History:
Last Update: January 28th, 2008 - A.R.L.
Approximate Regulation Limit - April 29th, 2007
First Date: January 28th, 2008
Approximate Regulation Limit - April 29th, 2006

