

August 11, 2020

Mrs. Nancy J. Bozzato, Secretary Treasurer  
Committee of Adjustment  
Town of Pelham  
Fonthill, ON L0S 1E0

**Re: Consent Application B2-2019P**  
**204 Canboro Road, Pelham**  
Part of Lot 3, Concession 8  
**Roll No. 2732 020 010 09800**

The subject parcel, shown as Part 2 on the attached sketch, is an interior portion of 204 Canboro Road (Parts 1-2), lying south of Canboro Road and west of Oakridge Boulevard, legally described above, in the Town of Pelham.

Application is made for consent to convey a  $\pm 343 \text{ m}^2$  easement (Part 2) in perpetuity, in favour of Part 3 for the purposes of discharging storm water. Parts 1-2 will be retained for the continued use of a single detached residential dwelling known as 204 Canboro Road.

Note – There is an existing storm sewer easement in favour of the Town of Pelham located within the valley (Part 1). Town Council has also approved the Site Plan Agreement for the townhouse development at 190 Canboro Road (Part 3).

### **Applicable Planning Policies**

#### Provincial Policy Statement, (2020)

The Provincial Policy Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and development, and sets the policy foundation for regulating the development and use of land. The PPS provides for appropriate development while protecting resources of provincial interest, public health and safety, and the quality of the natural and built environment.

Section 3 of the *Planning Act* requires that decisions affecting planning matters “shall be consistent with” policy statements issued under the *Act*. The PPS recognizes the diversity of Ontario and that local context is important. Policies are outcome-oriented, and some policies provide flexibility provided that provincial interests are upheld. PPS policies represent minimum standards.

The subject land is located in a ‘Settlement Area’ according to the PPS. Policy 1.1.3.1 states that settlement areas shall be the focus of growth and development.

- Policy 1.1.1 Healthy, liveable and safe communities are sustained by (among others):
- a) Promoting efficient development and land use patterns which sustain the financial well-being of the Province and municipalities over the long term;
  - c) Avoiding development and land use patterns which may cause environmental or public health and safety concerns;

- h) Promoting development and land use patterns that conserve biodiversity; and
- i) Preparing for the regional and local impacts of a changing climate.

The application seeks to utilize the existing stormwater easement (previously established for another subdivision development) in the lower valley to the south, for the purposes of continuing to accommodate the stormwater flows from the development of 190 Canboro Road (Part 3) for townhouses.

Policy 2.1.5 states development and *site alteration* shall not be permitted in *significant valleylands* in Ecoregion 7E unless it has been demonstrated that there will be no *negative impacts* on the natural features or their *ecological functions*.

*Site alteration* is proposed beneath the top of slope to convey overland flows from Part 3 to the bottom of the valley into the existing storm sewer easement via an existing old path channel, proposed headwall, rip-rap covered geomat, and native hydro seeding to prevent soil erosion on the valley slope. The stormwater will be treated through an oil / grit separator and pass through an orifice plate before being discharged down the slope. This treats the runoff and controls the post-development discharge volume to pre-development volume levels for up to the 100-year design storm event.

The applicant's engineer has explained the reason for this site alteration in the valleyland is because there is no existing stormwater infrastructure along Canboro Road, the existing site at 204 Canboro Road naturally drains southward down the valley, there are requirements for quantity & quality controls, the valley contains no significant *Natural Heritage Features* and that the valley wall will be restored to its existing (or better) condition, with limited vegetation removal. The EIS (Environmental Impact Statement) did not identify any *Core Natural Heritage Features* or *species at risk* associated with the valleylands.

#### Growth Plan for the Greater Golden Horseshoe (GGH) (2017)

This Plan informs decision-making regarding growth management and environmental protection in the GGH. The subject parcel is located within a 'Settlement Area' according to the Growth Plan. Guiding principles regarding how land is developed:

- Support the achievement of *complete communities* to meet people's needs through an entire lifetime.
- Prioritize *intensification* and higher densities to make efficient use of land and *infrastructure*.
- Support a range and mix of housing options, including second units and *affordable* housing, to serve all sizes, incomes, and ages of households.
- Improve the integration of land use planning with planning and investment in *infrastructure*.
- Provide for different approaches to manage growth that recognize the diversity of communities in the GGH.
- Protect and enhance natural heritage, hydrologic, and landform systems, features, and functions.
- Integrate climate change considerations into planning and managing growth.

Policy 2.2.1 Managing Growth – 2. Forecasted growth to the horizon of this Plan will be allocated based on the following:

- a) the vast majority of growth will be directed to *settlement areas* that:
  - i. have a *delineated built boundary*;
  - ii. have existing municipal water / wastewater systems; and
  - iii. can support the achievement of complete communities.

The application seeks to register a perpetual easement over Part 2, in favour of Part 3 (204 Canboro Rd) to allow for stormwater discharge from Part 3's townhouse development into an existing stormwater easement / drainage channel below.

Policy 3.2.7 Stormwater Management – states proposals for large-scale development proceeding via vacant land plan of condominium or site plan will be supported by a *stormwater management plan* or equivalent, that:

- a) is informed by a *subwatershed plan* or equivalent;
- b) incorporates an integrated treatment approach to minimize stormwater flows and reliance on stormwater pods, which includes appropriate *low impact development* and *green infrastructure*;
- c) establishes planning, design, and construction practices to minimize vegetation removal, grading and soil compaction, sediment erosion, and impervious surfaces; and
- d) aligns with the *stormwater master plan* for the *settlement area*, where applicable.

A Functional Servicing Report and Environmental Impact Statement was submitted as part of the Site Plan Control application (SP-02-19) for 204 Canboro Road. Included is an Existing & Proposed Drainage Plan and stormwater channel design, as well as explanation of the quantity and quality controls being proposed to manage stormwater runoff.

#### Niagara Region Official Plan (Consolidated August 2014)

The Regional Official Plan designates the subject parcel as 'Built-up Area' within the Urban Area Boundary.

Policy 4.G.7.2 states 'Urban Areas' will be the focus of the Region's long term growth and development.

Policy 7.A.6.5 d) states that along valleylands where the valley bank height is equal or greater than 3m...vegetation below the top of valley slope shall not be disturbed.

The Region notes that the NPCA is responsible for the review and comment on *Planning Act* applications associated with valley slopes.

#### Pelham Official Plan (2014)

The Town of Pelham Official Plan is the primary planning document that will direct the actions of the Town and shape growth that will support and emphasize Pelham's unique character, diversity, cultural heritage and protect our natural heritage features.

The local Official Plan designates the subject land as 'Urban Living Area / Built Boundary', 'Wooded Area' and a 'Deer Wintering Area'.

Policy A2.1.2 Natural Environment – states the natural environment objectives of this Plan are to make planning decisions that consider the health and integrity of the broader landscape as well as the long term and cumulative impacts on the ecosystem. To make planning decisions that avoid negative environmental impacts as a first priority, with secondary priority given to mitigation of negative impacts.

Policy B1.1.1 recognizes the existing urban area of Fonthill and the role the Town will need to accommodate

various forms of residential intensifications, where appropriate.

Policy B3.3.4.11 states 'Wooded Areas' (shown on Schedule B) have not been assessed or confirmed for significance, therefore they have not been included in the *Environmental Protection Two* designation. When an assessment of these features has been completed in accordance with the Regional Official Plan, and to the satisfaction of the Town, Region and NPCA, the 'Wooded Areas' will be added to the EP2 designation through an Official Plan Review or via special amendment.

The EIS prepared by Beacon Environmental Ltd. (2015) submitted as part of consent file B14/2016 did not identify the wooded area as being considered a *Significant Woodland* because it did not meet the size criteria and no threatened or endangered species were identified. The EIS satisfied the Town, Region and NPCA at that time, as they pertained to the creation of 204 Canboro Road. Furthermore, an EIS Addendum (dated 2020.04.06) was prepared by Beacon Environmental Ltd. and supplied with the Site Plan Control application (SP-02-19) for 190 Canboro Road. The EIS Addendum revised the stormwater outlet method to convey overland flows to the bottom of the valley utilizing an existing old path channel that runs down the valley slope to the tributary below. Similarly, a Geotechnical Assessment and Slope Stability Evaluation was prepared by Landtek Ltd. and concluded that it is anticipated that post-construction flows modelled during the peak storm events will be very similar, or slightly less than those modelled for pre-construction conditions. However, the placement of an outfall feature and associated infrastructure may have an influence on water flow patterns that could adversely affect the stability of the channel, particularly during a more significant storm event. Therefore, preserving the slope and channel conditions from any future, detrimental flow patterns (i.e. increased turbidity or scouring behaviours) should be taken into consideration. The consultants determined that given the soil type, soil condition, slope and channel profile, certain mitigation measures such as the use of a 'Geomat' and seeding will maintain the integrity of the valley. Subsequently, an NPCA Work Permit was approved, requiring the developer adhere to the recommendations made by Landtek and subject to this consent application being approved for a perpetual easement, among others.

Understanding the professional evaluations and qualified opinions prepared by the ecologists and geotechnical engineering consultants, among others, and the comments provided by the NPCA and Regional staff, together with their conditions, Town Planning staff are of the opinion the proposed consent conforms with the Official Plan and issues related to natural heritage, slope stability and water quality and quantity control have been appropriately addressed.

#### Pelham Zoning By-law No. 1136 (1987), as amended

The subject parcel is zoned 'Residential 1' (R1) according to the Zoning By-law.

#### **Agency & Public Comments**

On July 14, 2020, a revised notice of public hearing was circulated by the Secretary Treasurer of the Committee of Adjustment to applicable agencies, Town departments, and to all assessed property owners within 60 metres of the property's boundaries.

To date, the following comments have been received:

- Niagara Region Planning & Development Services (February 27, 2019)

- (see Appendix)
- Regional Environmental Planning staff note there are no natural heritage concerns on the subject lands (see file 26CD19-02018).
- The NPCA is the lead agency for natural hazards associated with valley slopes and therefore the Region defers to the NPCA as it relates to the conveyance of storm water runoff down the valley slope.
- No objection, subject to local and other planning requirements, pertaining to the valley slope hazards as there is concern that the proposal may include vegetation removal.
- Niagara Peninsula Conservation Authority (May 27, 2020)
  - (see Appendix)
  - No objections to the proposed stormwater outfall into the existing channel provided a perpetual easement is established over (204 Canboro Road) and all NPCA Work Permits are obtained prior to commencement of site works.
  - Any mitigation measures suggested by the Environmental Impact Statement prepared by Beacon Environmental will be required or implemented through the NPCA Work Permit process.
  - NPCA Work Permit (No. 201900337) for the purposes of stormwater outfall construction was issued on July 8, 2020 subject to the establishment of an easement in favour of 190 Canboro Road.
- Hydro One (July 15, 2020)
  - No concerns.
- Bell Canada (March 4, 2019)
  - No concerns.
- Public Works Department (February 21, 2019)
  - Advises the applicant that a comprehensive Overall Lot Grading & Drainage Plan for all parcels will be required at Site Plan Control demonstrating that drainage neither relies on, nor negatively impacts neighbouring properties, and that all drainage will be contained within the respective lots, to the satisfaction of the Director of Public Works.
  - Note – Site Plan Approval was granted on July 13, 2020 (By-law No. 4258 (2020)).

Public comments:

- Concern with storm sewer affecting the forested area and over 20 different bird species living in this area.
  - ✓ The EIS (2015) conducted by Beacon Environmental identified 25 species of breeding bird. No interior forest or area-sensitive species were noted. None of the recorded species are listed on the Schedules of the *Endangered Species Act* or are considered Provincially or regionally rare species. The developer is required to maintain the same pre-development storm water flows exiting Part 3 into the valley lands which will minimize impacts on the woodland.
- Concern about losing bird species / trees as a result of the development.
  - ✓ The townhouse development is limited to the table lands (already disturbed area which included the former dwelling, driveway and grass lawn) adjacent to the valley. The townhouse development maintains the valley land in a natural state with no grading or vegetation disturbance below the physical top-of-slope or within the 7.5m setback. However, to accommodate stormwater control, a storm easement is requested to release water to an existing storm easement in the valley below to the south. The proposed easement will have minimal impact on bird species and tree removal in accordance with the NPCA Work Permit.

The valleyland will be maintained in its natural state except for the area of proposed works, which will be rehabilitated in accordance with the NPCA Work Permit.

- Concern about drainage and recommends using a *French drain* system.
  - ✓ The stormwater management system has been designed by professional engineers and reviewed by Town Engineering staff, NPCA staff, and qualified ecologists whom are satisfied the proposed stormwater management design meets relevant engineering and environmental standards and guidelines for mitigating any negative impacts.
- Concern about drainage and design of storm system of adjacent subdivision and downstream impacts.
  - ✓ The design of the stormwater management system for the adjacent subdivision was designed in accordance with engineering requirements at that time. The proposed stormwater management system for the development of 190 Canboro Road (Part 3) is for post-development flow rates not to exceed pre-development flows. This design provision includes underground storage within the storm sewers and controlling the rate of discharge at the outlet point minimizing downstream impacts.

### Planning Staff Comments

Multiple pre-consultation meetings were held with the applicant, staff from the Town, Region and the NPCA to discuss the various *Planning Act* applications.

The subject land is bounded by the westerly limits of the Fonthill urban area boundary on the west lot line. To the south is a woodlot within a valley and further south is a residential subdivision. Residential houses abut to the east and opposite Canboro Road to the north.

The application was submitted with an Environmental Impact Statement (EIS) Report by Beacon Environmental Ltd. which included a Geotechnical Report by Landtek directed to the NPCA to verify the stable top of bank for the valley at the south. Geotechnical staff and a survey crew staked the stable top of bank for the purpose of establishing the new lot that now divides 190 Canboro Road from 204 Canboro Road. An EIS Addendum (dated 2020.04.06) was prepared by Beacon Environmental Ltd. and supplied with the Site Plan Control application (SP-02-19) for 190 Canboro Road. The EIS Addendum revised the stormwater outlet method to convey overland flows to the bottom of the valley utilizing an existing pathway as a channel that runs down the valley slope to the tributary below. The conditionally approved NPCA Work Permit ensures certain mitigation measures outlined by the consultants are to be adhered to, and require that the developer obtain an easement over the subject lands in favour of 190 Canboro Road (Part 3) to the NPCA's satisfaction. As such, the applicant has advised that work related to the storm outlet cannot commence until the easement is registered. The NPCA is satisfied with the proposed storm outlet design and the overall design in relation to the stable top-of-bank.

In Planning staff's opinion, the application is consistent with the PPS and conforms to Provincial, Regional, and local plans.

Given this analysis, Planning staff recommend that consent file B2-2019P **be approved** subject to the following conditions:

**THAT** the applicant

- Provide the Secretary-Treasurer with a registerable legal description of the subject parcel, together with a copy of the deposited reference plan, if applicable, for use in the issuance of the Certificate of Consent.
- Provide the final certification fee of \$395, payable to the Treasurer, Town of Pelham, be submitted to the Secretary-Treasurer. All costs associated with fulfilling conditions of consent shall be borne by the applicant.

Prepared by,



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Planner

Approved by,



Barb Wiens, MCIP, RPP  
Director of Community Planning & Development