

March 12, 2019

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  $\pm 60\text{m}^2$  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 within Part 1, that Part 2 is proposing outfall towards.

### **Applicable Planning Policies**

#### Provincial Policy Statement, (2014)

The subject parcel is located in the 'Settlement Area' according to the Provincial Policy Statement (PPS).

Policy 1.1.3.1 states *settlement areas* shall be the focus of growth and development, and their vitality and regeneration shall be promoted.

Policy 1.1.3.2 Land use patterns within *settlement areas* shall be based on (among others):

- a) Densities and a mix of land uses which:
  - 1. Efficiently use land and resources;
  - 2. Are appropriate for, and efficiently use, the *infrastructure* and *public service facilities* which are planned or available, and avoid the need for their unjustified and/or uneconomical expansion.

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 204 Canboro Road 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 install a storm sewer and drop structure which will be released into rip-rap and geotextiles before exiting to the existing storm drainage easement / swale. 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 was submitted as part of the Site Plan Control application (SP-02-19) for 204 Canboro Road. Included is an Existing & Proposed Drainage Plan, as well as explanation of the quantity and quality controls being proposed to manage stormwater runoff.

#### Regional 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 local Official Plan identifies the subject parcel as 'Urban Living Area / Built Boundary', 'Wooded Area' and a 'Deer Wintering Area'.

Policy B1.1.1 states the purpose of the Urban Living Area designation is to recognize the existing residential areas of Fonthill and promote the efficient use of existing and planned infrastructure by creating the opportunity for various forms of residential intensification, where appropriate.

Policy B3.3.4.11 states 'Wooded Area' (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 of its deficient size and did not identify any endangered species. The EIS satisfied the Town, Region and NPCA at that time, as they pertained to the creation of 204 Canboro Road.

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

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

### Agency and Public Comments

On February 13<sup>th</sup>, 2019, a 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 (February 20, 2019)
  - (see Appendix)
  - Typically, the discharge of stormwater over a valley is not permitted by NPCA policies unless there is no other option available (which has not yet been confirmed).
  - As per the attached NPCA comments (dated February 14, 2019) provided for the Site Plan Approval application (SP-02-19), further analysis is required prior to NPCA supporting the discharge of stormwater into the valley. As the NPCA has not formally supported the idea of allowing drainage over the valley, this Consent application is premature.
  - Suggest application be deferred until the drainage issues are resolved via Site Plan Control.
- 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.

Public comments:

- Concern with storm sewer impacting 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.
- 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. It is not known, to what extent their proposed easement will have on the existing woodlot.

### Planning 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 woodlot within a valley and further south is a residential subdivision. Residential houses abut to the east and opposite Canboro Rd to the north.

The application was submitted with an Environmental Impact Statement 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 dividing line between the proposed parcels.

In Planning staff's opinion, given the concerns raised by the NPCA and without more information and their support, conditional approval of the conveyance for a perpetual (stormwater) easement is premature at this time.

Planning staff recommend that consent file B2/2019P **be deferred** to allow additional time to resolve concerns raised by the NPCA.

Submitted by,



Curtis Thompson  
Planner, B.URPI

Approved by,



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

