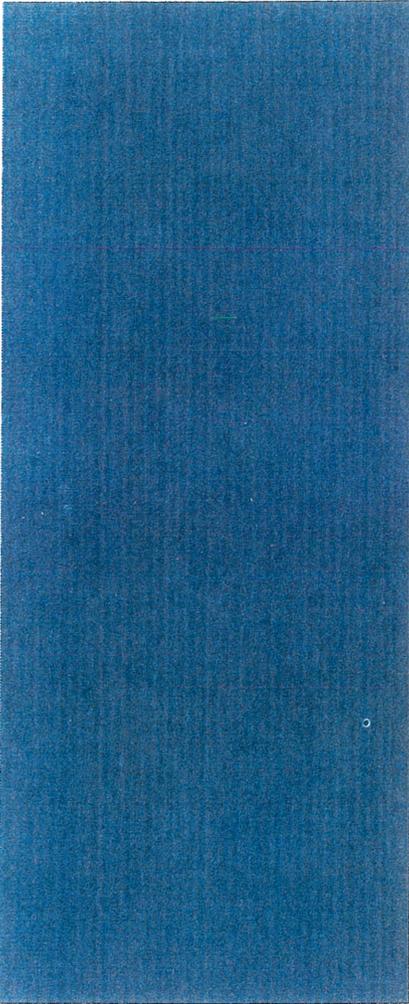
  

# **ADDENDUM TO ENVIRONMENTAL IMPACT STUDY**



**HANLEY PARK NORTH SUBDIVISION  
CITY OF BELLEVILLE**

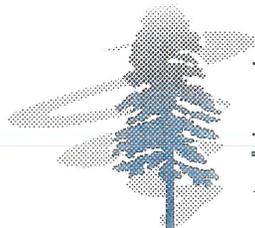
**Prepared for:**

**Hanley Park Development Inc.**

**December 2021**

**Palmer**

**and**



**Michalski Nielsen**

**ASSOCIATES LIMITED**

ENVIRONMENTAL PLANNING    BIOPHYSICAL ANALYSIS  
LAKE CAPACITY ASSESSMENT    RESOURCE MANAGEMENT



# Michalski Nielsen

ASSOCIATES LIMITED

December 8, 2021

Mr. Raj Narula  
Chartered Accountant  
1058A Albion Road, Suite 207  
Etobicoke, Ontario  
M9A 1A7

**Re: Addendum to Environmental Impact Study, Hanley Park North Subdivision; Our File 3217**

Dear Mr. Narula:

Erin Donkers, Ecologist/Arborist with Palmer and I have had an opportunity to re-evaluate the current Hanley Park North Draft Plan of Subdivision with the objective of protecting the most important part of the property's woodland, while at the same time maximizing its development potential for residential use. In this regard, Paul McCoy, Planning and Regulation Manager, Quinte Conservation in his letter of March 1, 2021 pointed out that the Draft Official Plan identified the area of Hanley Park North as a "Potential Natural Heritage System", with a "Potential Significant Woodlot", and a "Provincially Significant Wetland" (**Appendix A**). Regarding the latter, a 30 metre natural buffer was recommended in our **Environmental Impact Study (EIS)** (2020) to protect the attributes and functions of the Provincially Significant Bell Creek Swamp Complex which virtually surrounds the property. The buffer width resulted from conversations with Tim Trustham, Planner/Ecologist with the Quinte Conservation Authority (QC) during ground-truthing of the wetland boundary in 2017 and 2018.

The policy for Significant Woodlands which is set out in the **2020 Provincial Policy Statement (PPS)** is as follows.

- 2.1.5 Development and site alteration shall not be permitted in:
  - b) significant woodlands in Ecoregions 6E and 7E (excluding islands in Lake Huron and the St. Marys River);unless it has been demonstrated that there will be no negative impacts on the natural features or their ecological functions.
- 2.1.8 Development and site alteration shall not be permitted on adjacent lands to the natural heritage features and areas identified in policies 2.1.4, 2.1.5, and 2.1.6 unless the ecological function of the adjacent lands has been evaluated and it has

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been demonstrated that there will be no negative impacts on the natural features or on their ecological functions.

So, in contrast to Provincially Significant Wetlands (PSWs) where there is no latitude for development or site alteration, there is clearly direction for developing in Significant Woodlands, subject to the above provision/conditions.

It is our understanding that the notion of Hanley Park North in its entirety being designated as a Significant Woodland has been gaining traction with concerned residents in the area and potentially with City decision makers. Our analyses which follows is scientifically based and conforms to **Evaluation Criteria for Determining Significant Woodlands** set out in the **Natural Heritage Reference Manual for Natural Heritage Policies of the Provincial Policy Statement** (Ontario Ministry of Natural Resources 2010) (**Natural Heritage Reference Manual** [2010]). In the absence of any criteria locally, we were advised by Catherine Warren, District Planner, Peterborough District Office, of the now Ministry of Northern Development, Mines, Natural Resources and Forestry (MNDMNR) to rely on the above reference for determining Significant Woodlands in the City of Bellville.

### **Approach to Re-evaluating Revised Hanley Park North Draft Plan of Subdivision**

After formulating an approach to the assignment, Erin Donkers walked the property on July 22<sup>nd</sup> from the cul-de-sac at the southeastern end of Tessa Boulevard in a series of east-west transects approximately 20 metres (m) apart. This provided a very comprehensive coverage of the subject woodlands. Attached you will find an amended graphic from our report showing Ecological Land Classification (ELC) units (**Figure 1**). You should also note that Angela Zhou (an experienced birder also with the firm Palmer) conducted an updated Breeding Bird Survey at each of the forest community point count stations from the original **EIS**. She conducted her visit on the morning of June 28 2021. We also obtained aerial photographs to obtain an appreciation of historical forest cover; **Figure 2** shows the status of the property in 1948.

The FOMM4-2 forest community that covers about 60% of the site supports a canopy almost entirely comprised of Red Cedar (*Juniperus virginiana*), likely planted in the 1950s (**Figure 1** and **Photograph 1**). As per a review of historic imagery, the subject property was in agricultural use in 1948. Common Buckthorn (*Rhamnus cathartica*, also known as European Buckthorn) presently dominates the understory and subcanopy layers. Common Buckthorn is not indigenous to North America; since its introduction for ornamental and agricultural row use, it has aggressively invaded a variety of habitats throughout Ontario (<https://www.ontario.ca/page/common-buckthorn>). Also present in abundance throughout the understory is the shrub Common Prickly Ash (*Zanthoxylum americanum*); although native to Ontario, this species is considered widespread and abundant. It has a provincial conservation status, or “SRank” of S5: Secure (Ontario Ministry of Natural Resources. 2018. Natural Heritage Information Centre Species Lists. Last updated January 30, 2018). These three tree species are very densely packed, making difficult walking through the stand. Ground cover was overall “sparse” largely owing to poor light conditions (i.e., 30% to 60% coverage); the most abundant vegetation was moss. Clearly, this ELC unit is very low in plant

diversity, with limited ecological values. The typical size range of trees are between 15 centimetres (cm) and 25 cm Diameter at Breast Height (DBH), with the exception, of a few mature Bur Oaks (>40 cm DBH), which we assume were planted as part of original restoration following agricultural use.

In contrast, the two southern ELC communities (i.e., FOMM5-2 and FOCM4-1) were identified as providing more ecologically diverse conditions. The community FOMM5-2 supports a mixed canopy with deciduous species including Sugar Maple (*Acer saccharum*), Ironwood (*Ostrya virginiana*) and Trembling Aspen (*Populus grandidentata*), as well as conifers Balsam Fir (*Abies balsamea*) and Eastern Red Cedar; all of which are native to Ontario (**Photograph 2**). Although Common Buckthorn was noted in the understory, it is of smaller and younger form and in less abundance (i.e., at only approximately 40% coverage) than in the adjacent FOMM 4-2 community. Additional understory species observed included Eastern White Cedar (*Thuja occidentalis*), currant (*Ribes* sp), Cranberry Viburnum (*Viburnum opulus*) and regenerating Sugar Maple. Also evident is a robust (i.e., > 60%) groundcover layer; in this regard, groundcover species are diverse and include (i.e., but not limited entirely to) Mayapple (*Podophyllum peltatum*), Canada Mayflower (*Maianthemum canadense*), Great White Trillium (*Trillium grandiflorum*) and Large Leaved Aster (*Eurybia macrophylla*). Typical tree sizes range between about 20 cm DBH and 35 cm DBH; many trees are larger with DBHs greater than 40 cm. The community FOCM4-1 supports a conifer canopy dominated by a mixture of mature White and Red Cedar. Eastern White Cedar also dominated the understory (**Photograph 3**). Similar to the adjacent mixed FOMM5-2 community, Common Buckthorn exists within the understory. The dense shrub and tree cover throughout this community has resulted in sparse groundcover establishment.

With respect to the resident bird population, the 2021 updated breeding bird survey identified that in general the subject property primarily supports common species (i.e., American Robin, Chickadees, etc.). Of importance was the observation of one each of Wood Thrush (*Hylocichla mustelina*) and White-breasted Nuthatch (*Sitta carolinensis*) within the FOMM5-2 community. Wood Thrush is designated “Special Concern” under Ontario’s *Endangered Species Act* and prefers mature deciduous or mixed forests, such as the conditions provided within the FOMM5-2 community. White-breasted Nuthatch is not a designated Species at Risk (SAR); however, it is considered an area-sensitive species. No significant or otherwise important species were identified within the northern FOMM4-1 community.

We also evaluated both wooded areas in the context as to what habitats are considered more significant with respect to Bat Maternity Colonies. Four species are listed as Endangered under Ontario’s legislation; these are: Eastern Small-footed Myotis (*Myotis leibii*); Little Brown Myotis (*Myotis lucifugus*); Northern Long-eared Myotis (*Myotis septentrionalis*) and Tri-coloured Myotis (*Perimyotis subflavus*). They are thought to be threatened by a rapidly spreading fungal disease known as White nose Syndrome. Typically, ELC communities associated with mixed forests provide roosting and breeding habitat. Even though ELC FOMM4-2 is classified as a mixed forest, because its canopy is dominated by Red Cedar, it typically doesn’t provide habitat for bats. Also, the DBH range of Red Cedar canopy in the northern community is between 15 centimetres and 25 centimetres; typically, trees with DBHs greater than 25 centimetres are considered more significant/ideal for roosting. Regardless, to offset any potential diminishment of roosting/maternity

habitat, we recommend that three artificial structures (i.e., bat boxes) be installed on the outer walls of the stormwater treatment pond, as these features have the potential to provide foraging opportunities for bats.

Based on the above, it is concluded there is a clear distinction between the northern ELC unit and the two communities in the southern part of the property. The latter are more mature and ecologically diverse in terms of plant composition than the FOMM4-2 unit. While both the northern and southern parts of the property are dominated by bird species typically found in an urban environment, there is some evidence which indicates that the southern ELC units favour a few uncommon species. Similarly, roosting/maternity habitats for SAR bats are more likely to occur in southern ELC units than in the northern conifer dominated community.

### **Determination of Woodland Significance**

Our next task was to subject the plant communities to the four criteria set out in the **Natural Heritage Reference Manual** (2010) for determining Significant Woodland. The Ministry's position is that **woodlands that meet a suggested minimum standard for any of the criteria described below should be considered significant**. The rationale is that this approach will avoid overlooking sites that are outstanding in terms of having only one criteria. The following summarizes our analyses.

#### **1. Woodland Size Criteria**

Through an aerial photo review within the boundaries of the City of Belleville, there is considerable forest cover, likely in the order of 30%; according to the Ministry's guidelines, only woodlands that are 50 hectares in size or greater are to be considered significant for the 30% threshold. As Hanley Park North is located along the eastern outskirts of the City's main urban centre, we used a lower woodland cover threshold of 5% to 15%; where tree cover is in this range, woodlands 4.0 hectares in size or larger should be considered significant. The sum total of the areas of the two southern forest communities (i.e., FOMM5-2 and FOCM4-1) plus the area of FOMM4-2 to be retained within the 30 metre natural buffer to the Bell Creek Swamp Provincially Significant Wetland Complex amounts to 7.23 hectares. Therefore, the size criteria would be met for the woodlands that would be retained. The Red Cedar/Common Buckthorn community would also meet the Ministry's size criteria.

#### **2. Ecological Criteria**

- a) **Woodland Interior** is defined as lands that are 100 metres from the edge of a forest. Most of the interior habitat occurs on the Red Cedar/Common Buckthorn community to the north. There is very little interior habitat associated with the two southern ELC communities. The **Natural Heritage Reference Manual** (2010) states that "Woodlands should be considered significant if they have any interior habitat where woodlands cover less than 15% of the land cover". Based on this criterion alone, the Red Cedar/Common Buckthorn community in the north warrants a Significant Woodland designation; however, in our opinion, it is too small and poor in quality to

provide functionally diverse habitat. The interior habitat associated with the FOMM5-2 and FOCM4-1 communities is even smaller; according to the guidelines however, this very small area would constitute grounds for significance.

- b) Proximity to Other Woodlands or Habitats.* All three of the above-noted ELC units are within 30 metres of the Bell Creek Swamp Provincially Significant Wetland (**Photograph 4**). In this regard, the Ministry's **Reference Manual** (2010) states that, "Woodlands should be considered significant if a portion of the woodland is located within a specified distance (i.e., 30 metres) of a significant natural feature or fish habitat likely receiving ecological benefit from the woodland and the entire woodland meets the minimum area threshold (e.g., 0.5 hectare to 20 hectare, depending on circumstances)". So, the Significant Woodland designation would apply to both woodland areas.
- c) Linkages.* The Ministry's guideline states that, "Woodlands should be considered significant if they are located within a defined natural heritage system or provide a connecting link between two other significant features, each of which is within a specified distance (e.g., 120 metres) and meets minimum area thresholds (e.g., 1 hectare to 20 hectares), depending on circumstances." Maintaining the southern ELC units intact will retain contiguous vegetation between parts of the PSW, thereby providing a potential linkage function for wildlife. The 30 metre buffer protecting the PSW will similarly provide a linkage function for the northern FOMM4-2 unit.
- d) Water Protection.* What the Ministry's guideline says is that, "Woodlands should be considered significant if they are located within a sensitive or threatened watershed or a specified distance (e.g., 50 metres or top-of-valley bank if greater) of a sensitive groundwater discharge, sensitive recharge, sensitive headwater area, watercourse or fish habitat and meet minimum area thresholds (e.g., 0.5 hectare to 10 hectares, depending on circumstance)". In our opinion, all three ELC units would be considered to be Significant Woodland as they are adjacent to the PSW and Bell Creek.
- e) Woodland Diversity.* The Ministry's guideline is that, "Woodlands should be considered significant if they have:
- a naturally occurring composition of native forest species that have declined significantly south and east of the Canadian Shield and meet minimum area thresholds (e.g., 1 hectare to 20 hectares, depending on circumstance); and
  - a high native diversity through a combination of composition and terrain (e.g., a woodland extending from a hilltop to valley bottom or to opposite slopes and meet minimum area thresholds (e.g., 2 hectares to 20 hectares, depending on circumstance)."

What the Ministry is saying here is that **more native diversity is more valuable than less diversity**, which we think is key to discriminating between the two wooded areas. The point is that a more significant woodland would have a higher diversity of plants and naturally occurring native forest species. As described above, ELC unit FOMM4-2 is not as diverse as the two southern ELC units. In this regard, the northern ELC unit was formerly agricultural lands (see attached 1948 aerial photograph), is presently almost entirely Red Cedar, with dense Common Buckthorn (i.e., a non-native species) in the understory, and has sparse groundcover. In contrast, the two southern ELC units are more significant than FOMM4-2 because they support a higher degree of diversity and a higher number of native species. Consequently, the southern ELC units are distinctly different and more highly valued from an ecological perspective, and warrant protection in the long term.

### 3. Uncommon Characteristics Criteria

Woodlands that are uncommon in terms of species composition, cover type, age of structure should be considered significant and protected. As indicated in the 2020 **EIS**, none of the upland terrestrial features (i.e., ELC units FOMM4-2, FOMM5-2 or FOCM4-1) is considered rare or is designated as rare or significant on either a national or provincial level. In contrast, the Provincially Significant Bell Creek Swamp Complex is designated Environmental Protection in Schedule “B” – Land Use Plan – Urban Serviced Area, **City of Belleville Official Plan**. The guidelines also state that older woodlands (i.e., greater than 100 year old) are particularly valuable for several reasons, including their contributions to genetic, species and ecosystem diversity. As explained earlier, the southern woodland is considerably more diverse than the Red Cedar/Common Buckthorn community in the northern part of the site, both in canopy and groundcover characteristics. As well, the southern community is older than the northern, which is well illustrated in the attached 1948 aerial photograph. In summary, the two ELC units in the south comply with criteria for a Significant Woodland designation, while the FOMM4-2 unit would not.

### 4. Economic and Social Functional Values Criteria

The Ministry guideline states that, “Woodlands should be considered significant if they have:

- high productivity in terms of economically valuable products together with continuous native natural attributes and meet minimum area thresholds (e.g., 2 hectares to 10 hectares, depending on circumstance);
- a high value in special services, such as air quality improvement or recreation at a sustainable level that is compatible with long term retention and meet minimum area thresholds (i.e., 0.2 hectare to 10 hectares, depending on circumstance); and
- important identified appreciation, education, cultural or historical value and meet minimum area thresholds (e.g., 0.2 hectare to 10 hectares, depending on circumstance).

In response, the woodland on the property provides no economic value on a sustainable basis as set out in the first bullet point. Bullet point two would apply to just about any woodland in Ontario that is greater than 0.2 hectares. With respect to the third bullet point, a trail network and day use recreational camping sites already exist throughout the three communities, for certain, a result of adjacent landowner use (**Photographs 5 and 6**). By maintaining the two southern ELC communities, passive recreational opportunities will continue to be provided.

### **Revised Draft Plan of Subdivision**

An overlay of the revised residential Draft Plan of Subdivision – Hanley Park North on the property's natural features is shown in **Figure 3**. It consists of 103 residential units, roads, a stormwater treatment facility, parks, and walkways. Of importance is that there will be no negative impacts on the PSW from the revised proposal; more specifically, there will be no site alteration or development within the feature, and all of its functions will be more than adequately protected by a 30 metre buffer, which will virtually encompass the entire property. The same can be said of ELC unit FOMM5-2; a 30 metre buffer is proposed outside the rear lot lines of Lots 59 to 68 to protect the southerly higher quality forest ecosystem.

Paul McCoy's letter of March 2, 2021 to Greg Pinchin (**Appendix A**) notes that the 2020 **EIS** did, “. . . not include a discussion as to whether the 30 metre setback is sufficient to protect the ecological integrity of the PSW.” For your information, the definition of a buffer is that it is a forested or vegetated strip of land that borders and protects rivers, creeks, lakes and wetlands. Protecting the feature involves two critical and interdependent actions: setting back residential development from the PSW; and protecting and/or restoring vegetation within the vegetated strip. In other words, development setback + protection of vegetation within the setback = buffer. It functions by:

- filtering overland runoff, thereby protecting downgradient water quality;
- absorbing plant nutrients such as phosphorus and nitrogen;
- performing effective stormwater management;
- controlling erosion;
- providing canopy cover, shade and food and habitat for fish and wildlife; and
- maintaining aesthetics.

The Province's **Natural Heritage Reference Manual** (2010) does not prescribe buffer widths for Provincially Significant Wetlands or Significant Woodlands. Rather, it states that the, “. . . identified buffer should be determined once the nature of development is known and the extent of potential impact can be determined . . . buffers need to ensure no negative impacts be determined as part of the following studies or planning processes:

- an **EIS** or equivalent study by a proponent and approved by a planning authority;
- a secondary plan or development approval process;
- a comprehensive study; or
- a sub-watershed study.”

So, by direction from the Province, we determined through field investigations that a 30 metre buffer would be more than sufficient to protect the PSW’s natural features and related ecological functions. In other words, a buffer width greater than 30 metres would not guarantee any more protective functions than would a 30 metre buffer. As noted earlier, the recommended 30 metre buffer was confirmed through conversations with Tim Trustham, Planner/Ecologist with QC during ground-truthing of the wetland boundary in 2017 and 2018. A 30 metre width is typically standard for most significant natural features, with no questions asked about its appropriateness. For example, Section 8.4.8 (b) of **The Living City Policies for Planning and Development in the Watersheds of the Toronto Region Conservation Authority** (November 28, 2014) states, “Development Setbacks b) Wetlands: 30 metres from provincially significant wetlands and wetlands on the Oak Ridges Moraine or wetlands within the Niagara Escarpment Plan Area, for all other wetlands and any contiguous natural features and areas that contribute to the conservation of land.” Similarly, Sections 22 and 26 (1) of the **Oak Ridges Moraine Conservation Plan** (2017) define a wetland as a “Key Natural Heritage Feature” and a “Key Hydrologic feature”. A “Minimum Vegetation Protection Zone” of 30 metres is required from all wetlands. Of importance in this matter is QC’s policy on buffer widths for unevaluated wetlands and PSWs; in this regard, 30 metres is the policy, meaning no further discussion is needed to justify the 30 metre buffer width. The policy is set out in the **Quinte Conservation Regulation Policy Manual** (2018).

With respect to negative impacts on that part of the FOMM4-2 community that will be removed, it is important to reflect on the definition of such impacts in the **PPS**, which reads, “. . . 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.” In our evaluation of impacts, we distinguish between “negative impacts” and “minor or acceptable impacts”. While a proposed development may result in a “reduction” to a feature or function, this is not the same as “loss” of the feature or function which in our opinion would be a “negative impact”. A loss in the FOMM4-2 community will not occur as a consequence of the proposed development being built out as a reduced part of it will be retained within the 30 metre buffer. The “reduction” of 9.21 hectares of ELC unit FOMM4-2 to enable residential development is in our opinion a “minor or acceptable” impact, given that the more ecologically important woodland to the south (i.e., ELC units FOMM5-2 and FOCM4-1) will be protected in the long-term. We have frequently relied on this distinction which has been advanced successfully in a number of projects and at the Ontario Municipal Board (**Appendix B**).

The environmental implications of the revised residential development are as follows.

- Partial loss of woodland plant community FOMM4-2.
- Short-term displacement of some local wildlife species and diminishment of concomitant breeding, feeding and roosting habitat due to diminishment of ELC unit FOMM4-2.
- Short-term construction impacts (i.e., noise, dust and lighting) on wildlife species composition, populations and their habitats, primarily in the contiguous ELC units to the south and Bell Creek Swamp PSW Complex.

A suite of measures modified from our 2020 EIS to mitigate potential negative impacts are recommended below, with emphasis on protecting attributes and functions of the Bell Creek Swamp PSW Complex, ELC units FOMM5-2 and FOCM4-1, and a reduced FOMM4-2 which would be retained within the 30 metre buffer.

- **A 30 metre natural buffer be implemented and enforced between the back lot lines of the North Hanley Park Subdivision and the confirmed boundary of the Bell Creek Swamp Provincially Significant Wetland, and Ecological Land Classification Units FOMM5-2 and FOCM4-1 in the southerly part of the property, as well as the proposed stormwater treatment facility (Block C).**
- **The 30 metre buffer should not be altered or disturbed, and trees should not be cut or cleared within it, except for safety (i.e., dead trees or trees of poor health) and the possible location of a passive recreational pathway on the outer edge of the buffer.**
- **A silt/sediment fence supplemented with a heavy duty construction fence be installed and maintained along the back lot lines of the North Hanley Park Subdivision and the stormwater treatment facility.**
- **That the above fencing be removed only when the backyards of lots adjacent to the 30 metre natural buffer has been “greened up” and stabilized.**
- **For long term protection of the buffers and contiguous wetland and woodland features, the earlier mentioned silt/sediment and heavy duty construction fencing along the back lot lines of the North Hanley Park Subdivision be replaced with a permanent minimum 1.5 metre high chain link fence, or other design/type satisfactory to the City of Belleville.**
- **Landscape planting along streetscapes, and around the perimeter of the stormwater management pond should be in vegetation combinations that are consistent with the community types found in the two southern Ecological Land Classification Units, and in adjacent natural areas, and native to the Great Lakes – St. Lawrence Forest Region.**
- **To mitigate the potential loss of Species at Risk bat roosting/maternity habitat, three artificial structures (i.e., bat boxes) be installed on the outer walls of the stormwater treatment pond.**

- **Given that the Bell Creek Swamp Complex is a matter of Provincial interest as are Significant Woodlands (i.e., ELC units FOMM5-2 and FOCM4-1), the applicant be required to prepare a “Stewardship/Homeowner’s Manual” for inclusion as a schedule in the subdivision agreement in offers of purchase and sale, and registered on title, for prospective purchasers of the 103 units within the Draft Plan of Subdivision, that will provide educational material regarding the significance and sensitivity of the feature and its functions to disturbances from residential development, as well as information on the conservation role/actions that individual landowners can take. Examples of inclusions are:**
  - i. **refuse/yard waste composting;**
  - ii. **use of French drains or soakaway pits to reduce pollutants in stormwater runoff;**
  - iii. **fertilizer and pesticide use (i.e., inclusive of herbicides, insecticides and fungicides);**
  - iv. **natural area re-vegetation, including preparation and implementation of landscape plans focusing on the planting of native trees, shrubs and ground cover species within front and back yards of properties;**
  - v. **impacts of noise and lighting;**
  - vi. **trail use;**
  - vii. **domestic pet impacts and controls;**
  - viii. **control of invasive plants; and**
  - ix. **discharge of swimming pool water.**
- **The City of Belleville in consultation with Quinte Conservation consider the design and implementation of a low impact footpath/walkway to be located on the outer edge of the 30 metre natural buffer, which would have the potential to be linked into the City’s outdoor recreational program northwards and southwards. Such a pathway would obviously contribute to educational and passive recreational opportunities, which are not otherwise available to the public.**
- **Any tree cutting and removal be undertaken between October 15 and April 15<sup>th</sup>.**
- **The outer walls of the stormwater pond be landscaped with tree, shrub and groundcover species native to the local area.**

As noted above, we continue to recommend a low impact footpath or walkway at the outer edge of the 30 metre buffer. However, Quinte Conservation does not support this initiative (see attached letter of Paul McCoy to Greg Pinchin dated March 1, 2021 in **Appendix A**). In our opinion, such a trail system is critical to protecting the attributes and functions of the Bell Creek Swamp Provincially Significant Wetland Complex as well as ELC units FOMM5-2 and FOCM4-1. Simply, in the long term, such a pathway will minimize uncontrolled human and pet encroachment. The Parks Branch of the Ministry of Environment, Conservation and Parks has pathways, boardwalks and viewing towers on the edges and sometimes through important natural features, primarily to control people’s activities. **Photographs 7 and 8** show low maintenance footpaths within the 30 metre buffer of the Bear Creek Provincially Significant Wetland

Complex in the City of Barrie. These were required as part of the Manhattan East and Manhattan West residential developments; they have successfully confined passive recreational activities to the buffer. In our opinion, if properly designed, constructed and maintained pathways are not implemented, local members of the public are going to make their own pathways, to the potential detriment of the Bell Creek Swamp Provincially Significant Wetland and ELC units FOMM5-2 and FOCM4-1 (see **Photographs 5 and 6**).

\* \* \* \* \*

### Concluding Remarks

Our analysis has clearly demonstrated that the woodland communities in the southern end of the site are more significant than the Red Cedar/Common Buckthorn community to the north. Reconfiguration of the woodland form will not result in any loss in ecological function (see **Table 1**), nor will any negative impacts in the context of the **PPS** result.

The question may be asked, if both areas of woodland are significant, why not leave the entire parcel as Significant Woodland. There are four parts to the answer. First, by undertaking a more discriminating assessment and application of the term "significant", it is clear from a scientific perspective, that the two ELC units in the southern part of the site are much more distinct and highly valued than is the community in the northern part of the landholding. In other words, **more native diversity is more valuable than less diversity** (Ministry of Natural Resources 2010). Second, as indicated in **Table 1**, all ecological functions currently provided by the two southern ELC units will be maintained in future. Third, the balance that is recommended between protecting the highest priority woodland to the south and maximizing residential development to the north continues to represent planning permissions that were in place when the Draft Plan of Subdivision and Rezoning Applications were deemed to be complete by the City of Belleville. And fourth, retaining the two southern ELC units and revising the Draft Plan of Subdivision in accordance with **Figure 3** would be consistent with Sections 2.1.5b) and 2.1.8 of the **PPS** insofar as Significant Woodland is concerned.

Should you have any questions or further clarification is needed, do not hesitate to contact either Erin or me.



Michael Michalski  
Senior Advisor and Limnologist  
Michalski Nielsen Associates Limited

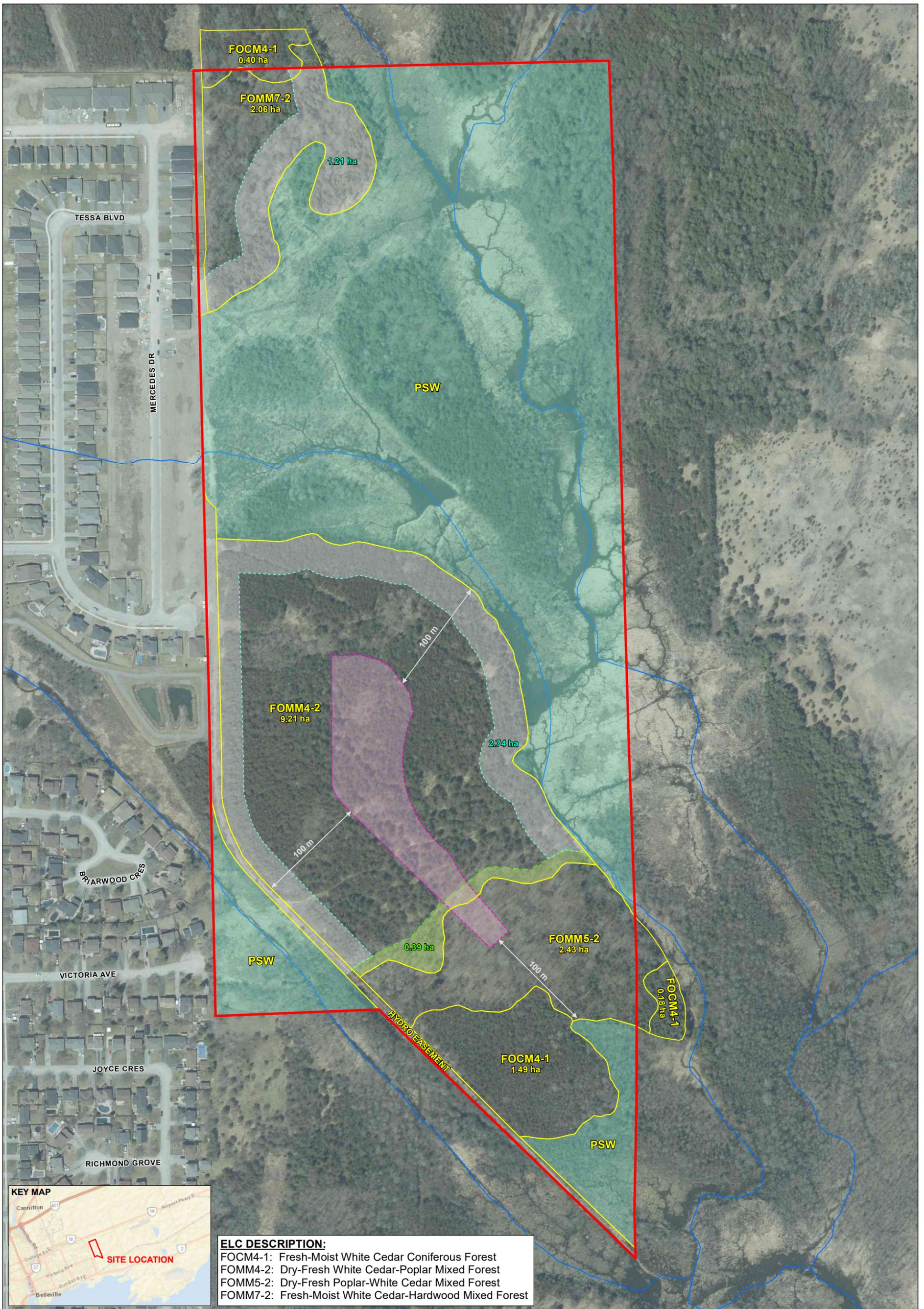


Erin Donkers  
B.Sc., PG[ER], Ecologist, Arborist  
Palmer

c.c.: Ram Nischel

Lorelei Jones

Paul DeMelo



**ELC DESCRIPTION:**  
 FOCM4-1: Fresh-Moist White Cedar Coniferous Forest  
 FOMM4-2: Dry-Fresh White Cedar-Poplar Mixed Forest  
 FOMM5-2: Dry-Fresh Poplar-White Cedar Mixed Forest  
 FOMM7-2: Fresh-Moist White Cedar-Hardwood Mixed Forest

LEGEND:	
	Study Area (35.16 ha)
	Ecological Land Classification (ELC)
	Watercourse (LIO/MNRF)
	Provincially Significant Wetland (Delineated 2018)
	PSW Setback (30m)
	Significant Woodland Setback (10m)
	Interior Habitat (1.41 ha)

METRE SCALE: 0 25 50 100

PRINT SCALE: 1:3200 PRINT SIZE: 11 x 17"

DATUM: NAD 1983 PROJECTION: UTM Zone 18

DATE: Aug 13, 2021 DRAWN: CV CHECKED: ED

PREPARED BY:

CLIENT: Michalski Nielsen ASSOCIATES LIMITED

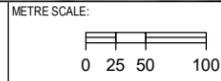
PROJECT: Hanley Park North, Belleville

TITLE: **Development Opportunities and Constraints**

**FIGURE 1** REVISION: 1-2 PROJECT NO. 1603390



LEGEND:  
 Study Area



CLIENT:  **Michalski Nielsen**  
ASSOCIATES LIMITED

PRINT SCALE: 1:6000 PRINT SIZE: 11 x 17"

DATUM: NAD 1983 PROJECTION: UTM Zone 17

DATE: Jul 30, 2021 DRAWN: CV CHECKED: ED

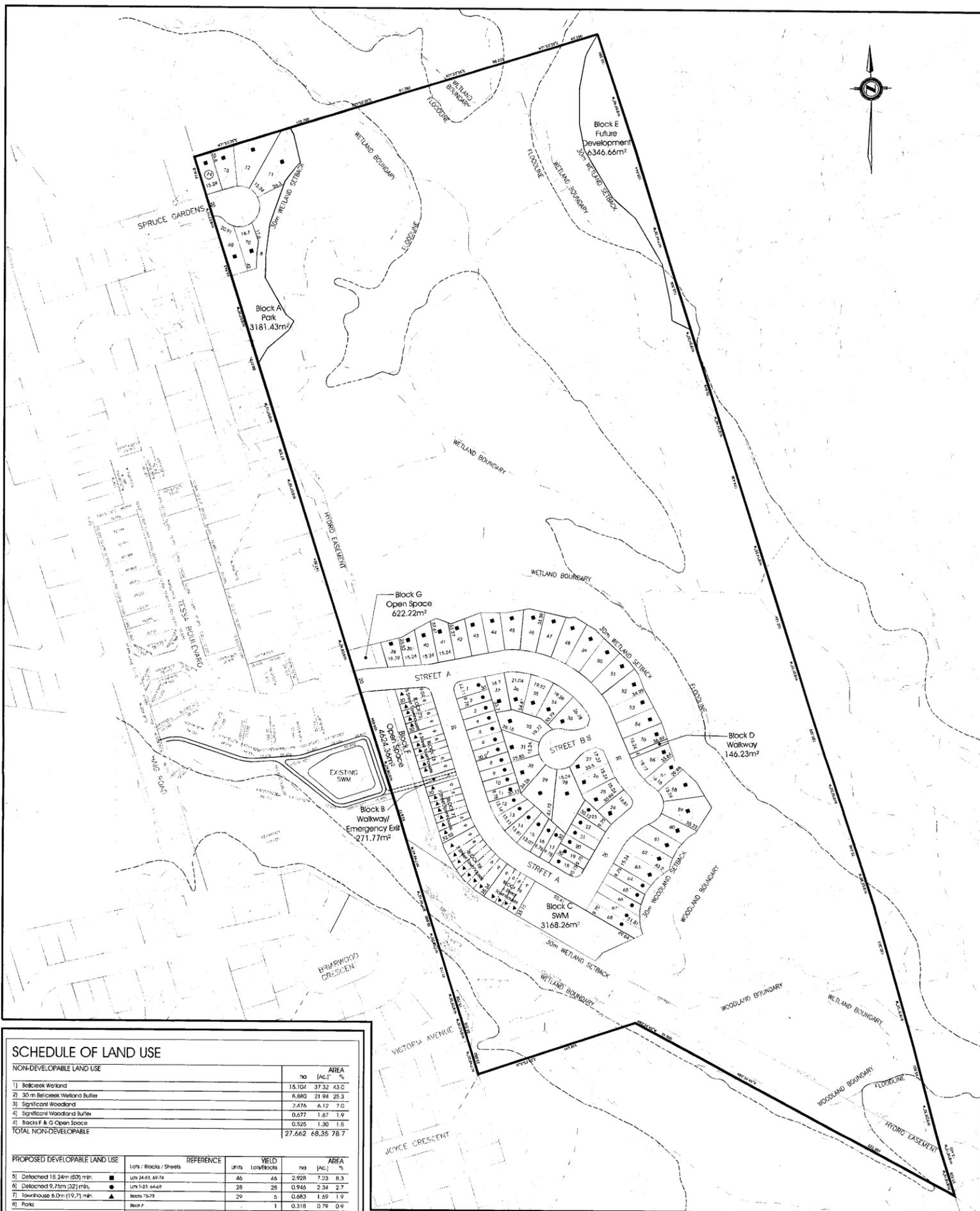
PROJECT: Hanley Park North, Belleville

PREPARED BY:

**Palmer™**

TITLE: **1948 Imagery**

PROJECT NO. 1603390



**SCHEDULE OF LAND USE**

NON-DEVELOPABLE LAND USE		ha	AREA (AC)	%
1) Belk Creek Wetland		15.104	37.32	43.0
2) 30 m Belk Creek Wetland Buffer		6.880	21.94	25.3
3) Significant Woodland		2.476	6.12	7.0
4) Significant Woodland Buffer		0.677	1.67	1.9
5) Blocks F & G Open Space		0.525	1.30	1.5
<b>TOTAL NON-DEVELOPABLE</b>		<b>27.662</b>	<b>68.35</b>	<b>78.7</b>

PROPOSED DEVELOPABLE LAND USE		REFERENCE	UNITS	YIELD	ha	AREA (AC)	%
5) Detached 15.24m (50') min	■	Lots 24-43: 69-74	46	46	2.928	7.23	8.3
6) Detached 9.75m (32') min	●	Lots 1-23: 64-68	28	28	0.946	2.34	2.7
7) Townhouse 6.0m (19.7') min	▲	Blocks 75-79	29	5	0.583	1.49	1.9
8) Parks		Block F	1	1	0.316	0.79	0.9
9) Walkways		Blocks B & D	2	2	0.042	0.10	0.1
10) Stormwater Management Facility		Block C	1	1	0.317	0.78	0.9
11) Roads - Public: R.O.W.s		Spruce Gardens Streets A, B	1	1	1.632	4.03	4.6
12) Future Development		Block E	1	1	0.634	1.57	1.8
<b>TOTAL DEVELOPABLE</b>			<b>103</b>	<b>84</b>	<b>7.499</b>	<b>18.53</b>	<b>21.3</b>

**TOTALS** 35.16 86.88 100

Notes:  
Belk Creek Wetland Boundary Surveyed September 13, 2017

No.	REVISION	DATE
1	Revised Draft Plan	September 29, 2017
2	Revised Draft Plan based on new Environmental Assessment	August 28, 2018
3	Revised Draft Plan	December 3, 2019

land use planning consultants

**MSH**

BOUNDESS INGENUITY

Nov 8, 2018

PROJECT No. LJ17-1588

SCALE 1:1500

DATE Nov 8, 2018

PROJECT No. LJ17-1588

**OWNER'S AUTHORIZATION**

I, WE, BEING THE REGISTERED OWNER OF THE SUBJECT LANDS, HEREBY AUTHORIZE MACALVAL SHOMI HOWSON LTD TO PREPARE AND SUBMIT THIS DRAFT PLAN OF SUBDIVISION FOR APPROVAL.

SIGNED: \_\_\_\_\_ DATE: \_\_\_\_\_

NAME, POSITION: \_\_\_\_\_

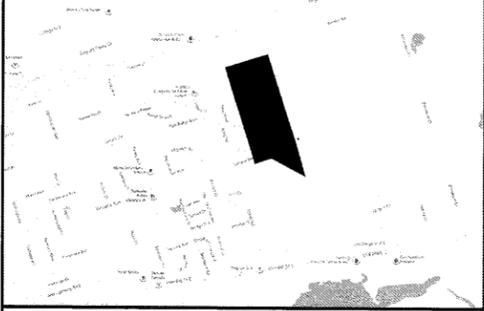
**SURVEYOR'S CERTIFICATE**

I HEREBY CERTIFY THAT THE BOUNDARIES OF THE SUBJECT LANDS AND THEIR RELATIONSHIP TO THE ADJACENT LANDS ARE ACCURATELY AND CORRECTLY SHOWN ON THIS PLAN.

SIGNED: \_\_\_\_\_ DATE: \_\_\_\_\_

KETH WATSON, O.L.S.  
WATSON LAND SURVEYORS LTD

- ADDITIONAL INFORMATION**  
REQUIRED UNDER SECTION 51(17) OF THE PLANNING ACT
- o SHOWN ON DRAFT PLAN AND SURVEYOR'S CERTIFICATE
  - 1) SHOWN ON DRAFT AND KEY PLANS
  - c SHOWN ON KEY PLAN
  - d LAND TO BE USED IN ACCORDANCE WITH LAND USE SCHEDULE
  - e SHOWN ON DRAFT PLAN
  - f SHOWN ON DRAFT PLAN
  - g SHOWN ON DRAFT AND KEY PLANS
  - h FULL MUNICIPAL SERVICES
  - i SOIL IS LOAM OVERLYING BEDROCK
  - j SHOWN ON DRAFT PLAN
  - k ALL MUNICIPAL SERVICES TO BE PROVIDED
  - l SHOWN ON DRAFT PLAN



**DRAFT PLAN OF SUBDIVISION**  
**HANLEY PARK NORTH**

PART OF LOT 14, CONCESSION 1  
EAST OF HAIG ROAD AND NORTH OF VICTORIA AVENUE

CITY OF BELLEVILLE  
FORMER TOWNSHIP OF THURLOW  
HASTINGS COUNTY

**Table 1. Compliance of woodland benefits/functions with respect to designating/maintaining the combined Ecological Classification Units FOMM5-2 and FOCM4-1 as a Significant Woodland. Modified from Table 7-1 of the Natural Heritage Reference Manual (Ministry of Natural Resources 2010).**

<b>Woodland Benefit/Function</b>	<b>Description</b>	<b>Compliance</b>
Soil erosion prevention	Woodlands prevent soil erosion through a combination of overhead crown cover and underground root structures.	No loss in benefit/function.
Nutrient cycling	Plant root structures extract nutrients from the soil and convert the nutrients for use by other life forms.	No overall loss in benefit/function. The proposed development will result in localized vegetation removals and thus impact nutrient cycling. However, on a landscape level, this loss is considered to be negligible relative to the amount of natural lands within the landscape.
Hydrological cycling	Woodlands affect both water quantity and quality by reducing the intensity and volume of stormwater runoff and decreasing soil erosion and flooding. By removing nutrients, sediments and toxins from surface water runoff and subsurface flows, woodland vegetation contributes to the maintenance of water quality in streams and lakes. The shade that woodlands adjacent to waterbodies provide helps keep water temperatures cool, maintaining high-quality habitat for desirable fish species such as brook trout, as well as providing a source of detritus for aquatic ecology. The existence of woodland cover contributes to the protection of groundwater recharge areas. Some woodlands are also wetlands (e.g., swamps, treed fens, treed bogs).	No overall loss in benefit/function. A hydrogeological investigation has been requested by the City of Belleville. It will further evaluate impacts on this benefit/function.
Flood and erosion reduction	Woodlands reduce flooding and erosion particularly as a mitigation measure to address the negative impacts of increased impervious cover associated with urban development.	No loss in benefit/function. Flood and erosion impacts to be addressed and mitigated within the development's stormwater management designs.
Clean air and the long-term storage of carbon	Woodland cover can play a significant role in mitigating episodes of poor air quality that may occur during periods of high ozone levels in the summer months. McPherson et al. (1997) and Scott et al. (1998) have shown the important role	No loss in benefit/function. At a landscape scale, removal of ELC FOMM4-2 would not contribute substantially to air quality improvement.



*Photograph 1.* ↑

Typical conditions within FOMM4-2 community. Dense Common Buckthorn and sparse herbaceous groundcover are evident.



*Photograph 2.* ↑

Typical conditions within FOMM5-2 community.



*Photograph 3.* ↑

Typical conditions within FOCM4-1 community.



*Photograph 4.* ↑

General view into marsh community of adjacent Bell Creek Swamp PSW.



*Photograph 5.* ↑

General view along footpath within the FOMM5-2 community that has been created through usage by local residents.



*Photograph 6.* ↑

General view of litter as evidence of recreational impacts within the on-site forest communities.

**Table 1.** Cont'd.

<b>Woodland Benefit/Function</b>	<b>Description</b>	<b>Compliance</b>
	that urban forests play in reducing air pollution in an urban environment. Weathers et al. (2001) found that forest edges function as traps for wind-borne nutrients and pollutants. Trees facilitate long-term storage of carbon through the formation of wood (Roulet and Freedman, 1999).	
Wildlife habitat	At the landscape scale, woodland cover and the distances between individual woodlands are important factors in maintaining woodland integrity and the survival of a large number of wildlife species that depend on woodlands. Environment Canada (2004) recommended that at least 30 percent of each watershed should be on forest cover and that the land units with higher amounts of forest cover should maintain or improve that habitat with reference to the historic (pre-settlement) landscape.	No loss in benefit/function, primarily because ELC FOMM4-2 provides limited and poor quality wildlife habitat.
Outdoor recreational opportunities	Woodlands provide the desired setting for outdoor recreational activities such as hiking, wildlife observation and hunting, as well as for educational and research purposes. Woodlands are increasingly viewed as representing health, jobs and prosperity, community identity and quality of life in approaches that seek to minimize trade-offs between the environment and economic activity (Canadian Urban Institute and the Natural Spaces Leadership Alliance, 2006).	No loss in benefit/function. There is an existing network of recreational trails and day use camping sites within the two ELC units at the southern end of the property. These will continue, and potentially in the 30 metre buffer to the Bell Creek Swamp Provincially Significant Wetland Complex.
Sustainable harvest of woodland products.	Woodlands also make a significant contribution to the economies of rural communities in southern Ontario through the sustainable provision of wood products, non-timber products such as maple syrup, and tourism.	Function does not apply as the property's woodland is not large enough to achieve economic benefits on a sustained basis.

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**APPENDIX A – LETTER, McCOY, QUINTE  
CONSERVATION TO  
PINCHIN, CITY OF BELLEVILLE  
MARCH 1, 2021**

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**VIA EMAIL**

March 1, 2021

Greg Pinchin  
Manager, Approvals Section  
Development Services Department  
The Corporation of the City of Belleville  
169 Front Street  
Belleville, ON  
K8N 2Y8

Dear Mr. Pinchin:

**Re: Application for Proposed Draft Plan of Subdivision and Amendment to Zoning By-Law  
Lot 14, Conc. 1 City of Belleville  
Hanley Park North Subdivision  
Owner: Hanley Park Developments Inc.  
Applicant: Lorelie Jones, Macaulay Shiomi Howson Ltd.**

The staff of the Conservation Authority has reviewed Planning Justification Report by MSH dated January 2021, the draft plan drawing by MSW Rev. 1 dated December 4, 2019, the Environmental Impact Study by Cunningham Environmental Associates and Michalski Nielsen Associates dated February 2020 and the Stormwater Management Report by Ainley dated January 2020. The Conservation Authority has reviewed the application with particular attention to the applicability of Ontario Regulation #319/09 (Regulation of Development, Interference with Wetlands and Alterations to Shorelines and Watercourses), the Quinte Source Protection Plan, stormwater management and the natural hazards and heritage components of the Provincial Policy Statement. We would like to offer the following comments:

The property is 35 ha. in size. Bell Creek including a tributary traverses the site from north to south. The creek is surrounded by Provincially Significant Wetland (PSW). Further, the Bell Creek floodplain is extensive in this area. Floodplain maps (100 year) are available for this site. Due to these constraints the site limited to 10 ha. of developable land.

According to the Planning Justification Report the proposal includes 99 single detached lots, 57 townhouse lots, 3 park blocks, a stormwater block and 1 future development block.

#### **Stormwater Management**

The proposal is written at a high level and should be considered conceptual. Of note, the stormwater strategy outlined is for quality control only. Quinte Conservation recommends that

both quality and quantity controls be included in any subsequent submission.

The Stormwater management report referred to as the basis for quality control is The Stormwater Management: Report Stanley Park West Subdivisions (G.M. Sernas, June 1996). It should be noted that this report (and the recommendations contained therein) were prepared on behalf of a private development proposal that did not encompass the entire watershed. This report was not commissioned by the Conservation Authority or the municipality. It is not clear as to the extent to which the findings of this report were accepted, and thus acted to supersede the preceding Flood Plain Mapping, Bell Creek Master Drainage Plan (EGA, 1989). Regardless, many of the recommendations and guidance of both reports were not adhered to over the course of the last 25 years since their release. There has been significant development in the Bell Creek watershed since 1996, and many of the recommendations would be impossible to build or implement today due to changes in the physical watershed, policies and guidelines.

At this time, it is the understanding of the conservation authority that the design criteria used by other developments in the watershed has been post to pre-development stormwater release levels. It is recommended that this development follow the same design criteria.

If the consulting engineers wish to present for consideration a stormwater strategy of quality only, then a comprehensive modeled analysis using current conditions in the watershed in support of the submission and revised report, should be included.

#### **Quinte Source Protection Plan**

The subject property is not located within an Intake Protection Zone 1 & 2 of a municipal drinking water system. There are no concerns regards to source water protection.

#### **Environmental Impact Study**

The study was initiated in 2008 and again in 2017. At that time staff from this office worked with the consultant to delineate the wetland boundary. In addition to determining the wetland boundaries the consultant characterized the terrestrial natural vegetation communities, aquatic resources and adjacent land uses. Additional field surveys were conducted in 2018. Site visits were conducted in April, May and June of that year. The boundaries of the vegetation communities were delineated through aerial photograph interpretation and site inspections. The wildlife surveys were completed on various dates from April to July 2018. This included breeding bird count and amphibian call surveys.

According to the study none of the upland terrestrial features are considered or have been designated as rare or significant on either a national or provincial level. The most significant natural feature is the PSW which was accurately delineated. Further, none of the wildlife found at the site are considered endangered or threatened with the exception of the Western Chorus Frog, Wood Thrush and Least Bittern. However, the studied has concluded that there is no lifecycle habitat in the woodlands for the Least Bittern and Wood Thrush and the habitat for the Western Chorus Frog will be retained in the PSW.

Staff have no concerns with the various wildlife surveys, methodology or the wetland delineation. However, staff have the following comments concerning the EIS as it relates to the proposed development:

- The proposed lot layout avoids the PSW but the majority of the woodlands will be destroyed with no mitigation. The construction of the subdivision will destroy wildlife habitat and result in mortality of some species. There is no protection for the upland forest with the exception of the area within the proposed 30 meter buffer. Staff note that although the study indicated that the woodland has no significant features, the forest is designated as Potential Significant Woodland on the Natural Heritage Features Map for the proposed Official Plan (See PPS comments).
- The 30 meter buffer is not included to protect the woodland but to protect the PSW. The proposed subdivision is surrounded along the majority of its boundary by PSW (over 1 km). The study does not include a discussion as to whether 30 meter setback is sufficient to protect the ecological integrity of the PSW.
- The study recommends that the buffer between the rear lot lines and the wetland boundary not be altered or disturbed and trees should not be cut except for safety. Staff agree with this recommendation.
- The study recommends that the buffer could be altered to allow for a municipal trail. Staff have no concerns with the trail on the south side of the subdivision that is accessed by Block E and C because it appears that it is located on an existing trail which utilizes an old rail bed. Staff do not support additional trails within the buffer.
- Staff agree with the installation of a 1.5 m high chain link fence along the rear lot lines. Physical encroachment by landowners and household pets is an ongoing issue in existing subdivisions in this area.
- Staff have concerns with Block G Open Space. This area has no realistic access because it is surrounded by PSW and 100 year floodplain. Staff recommend that Block G be zoned as EP.
- Staff recommend that the Parkland at Block A (if appropriate and necessary) be fenced to prevent encroachment into the buffer.
- The proposal includes an emergency exit that utilizes the access road to the Mercedes Meadows SWM pond. Please note that any potential widening of this road may be limited by the floodplain and wetlands on the south side.
- Staff agree with Block H Future Development provided it is acknowledged that access to the block is not from this property and further that the study provides satisfactory comments regarding the adequacy of the 30 m buffer.

### **Provincial Policy Statement (PPS)**

Staff have reviewed the proposal per our delegated responsibility from the Province to represent provincial interests regarding natural hazards identified in Section 3.1 of the PPS. Additionally staff have provided comments in an advisory capacity regarding natural heritage features identified in section 2.1 of the PPS.

As per Sec. 3.1 of the PPS the flood hazard must be accurately identified with updated topographical information to confirm that no part of the development is proposed within the hazard.

Section 2.1 of the PPS speaks to natural heritage features and policies. Sec. 2.1 to 2.1.3 states that natural features and areas should be protected for the long term and that natural heritage systems should be identified. The City of Belleville's existing OP designates this area as residential. However, the draft OP identifies the area of Hanley Park as a "Potential Natural Heritage System", with a "Potential Significant Woodlot", and a "Provincially Significant Wetland".

The PSW has already been verified and is therefore recognized under the current OP in Section 3.5.3 which states that development maybe permitted on adjacent lands (120m) of the PSW provided it has been demonstrated through and EIS that there are no adverse impacts on the natural area or ecological functions. This conforms with the PPS which states that development is prohibited in significant wetlands (S.2.1.4), significant woodlands (S.2.1.5) and on adjacent lands (S. 2.1.8) unless it can be demonstrated that the ecological function of the area will not be negatively impacted. The EIS completed states that "Impacts to wildlife attributes and functions... will be direct, resulting mainly from the removal of vegetation. Nesting, feeding and resting locations... within the tableland features will be diminished." Further the EIS states that "it is not possible to construct and utilize the proposed development, while at the same time have no impacts on some features and functions of the PSW... approval of the residential subdivision will necessitate some accommodation or discretion on the matter of negative impacts on wetland features

### **Regulation #319/09**

The proposed development is located in an area regulated by virtue of Ontario Regulation #319/09 - Regulation of Development, Interference with Wetlands and Alterations to Shorelines and Watercourse. A permit from this office will be required for any development within 120 meters of the wetland boundary.

Further as per Sec. 2. (1)(d) &(e)"No person shall undertake development or permit another person to undertake development in or on areas with the jurisdiction of the Authority that are wetlands or other areas where development could interfere with the hydrologic function of a wetland, including areas within 120 meters of a provincially significant wetlands and wetlands greater than 2 hectares in size. Therefore Quinte Conservation will require a hydrogeological assessment in order to address the following items:

- 1.) Subsurface conditions on the property,
- 2.) Elevation of the water table and direction of ground water flow,
- 3.) Evaluate the potential for impact of the proposed development on local ground water and the adjacent Creek,
- 4.) Evaluate the potential for impact of underground infrastructure and building foundations on the water table,
- 5.) Provide recommendations to mitigate potential impacts.

Please contact me at this office if you have any questions or require additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul McCoy", written in a cursive style.

Paul McCoy  
Planning & Regulations Manager

/pm

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**APPENDIX B – ONTARIO MUNICIPAL BOARD  
DECISION PL00092**

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ISSUE DATE:

Jul. 6, 2001

DECISION/ORDER NO:

1069



Ontario

Ontario Municipal Board

Commission des affaires municipales de l'Ontario

PL000902

St. John's Road Development Corporation has appealed to the Ontario Municipal Board under subsection 34(11) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended, from Council's refusal or neglect to enact a proposed amendment to Zoning By-law 2213-78 of the Town of Aurora to rezone lands designated as Part of Lots 24 and 25, Concession 2, E.Y.S. from "Rural General (RU) Zone" to "Detached Dwelling Second Density Residential (R2-X, R2-Y, and R2-Z) Exception Zones", "Semi-detached and Duplex Dwelling Third Density Residential (R3-X, R3-Y) Exception Zones", a dual "Institutional (I) Zone/Detached Dwelling Second Density Residential (R2-X) Exception Zone", and "Open Space (O) Zone" to permit a residential plan of subdivision O.M.B. File No. Z000137

St. John's Road Development Corporation has appealed to the Ontario Municipal Board under subsection 51(34) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended from the failure of the Town of Aurora to make a decision respecting a proposed plan of subdivision on lands composed of Part of Lots 24 and 25, Concession 2, E.Y.S. in the Town of Aurora  
Town of Aurora File No. D12-00-1A  
O.M.B. File No. S000085

David Tomlinson has appealed to the Ontario Municipal Board under subsection 17 (36) of the *Planning Act*, R.S.O. 1990 c.P. 13, as amended, from a decision of the Regional Municipality of York to approve Proposed Amendment No. 30 to the Official Plan for the Town of Aurora  
Region of York File No. D06 46.02.106  
O.M.B. File No. O000160

#### APPEARANCES:

##### Parties

##### Counsel

Town of Aurora

I.J. Lord

David Tomlinson

St. John's Road Development Corporation  
And Preserve Homes Inc.

R. Houser

761933 Ontario Limited

M.H. Chusid

**DECISION DELIVERED BY J.R. BOXMA AND ORDER OF THE BOARD**

Mr. David Tomlinson (Tomlinson), a resident of the Town of Aurora, and a retired landscape architect, has had a "dream" relating to an extensive area of land in Aurora. It has been his dream to see the establishment of a wildlife park. To this end, he was successful in having the Town designate such a wildlife park in Official Plan Amendment 30 (O.P.A. 30). Part of the wildlife park encompasses a Provincially Significant Wetland (PSW), the East Aurora Wetland Complex (EAWC). The issue before the Board is the extent of the buffer that should be provided. This is shown on Schedule "AA" to OPA 30 as the "Recommended Environmental Protection Line". This line is to the west of the Linear and Open Space designation on OPA 30 which runs from Wellington Street East on the south to an area north of St. John's Sideroad at the north end of the area covered by OPA 30. The extent of that "buffer" varies in width. It is the position of Tomlinson that the distance should be 120 metres.

There was a Statement of Agreed Facts filed with the Board and the following was stated in paragraph 1:

1. The issue before the Board is the extent of buffers necessary to protect the functions of the provincially significant wetland to the extent this extends into upland functions, there is disagreement.

**DECISION OF THE BOARD AND ITS REASONS:**

It is the decision of the Board that the appeal should be allowed to the extent necessary to make the modification to OPA 30, as contained in Exhibit 19 and which is attached as Attachment "1" to this decision, and to approve Schedule "AA" which was Exhibit 20, and is attached to this decision as Attachment "2". Section 3.7.2(a), and that portion of Exhibit 20 which will reflect the PSW and amount of setbacks as it applies to the lands of the St. John's Development Corporation is deferred until the hearing scheduled for July 11, 2001, in order that a final determination can be made of the extent of the buffer/setback that is required for that portion of their lands which were only recently determined to be part of the provincially significant wetland. The final determination of the setback required for the "finger" that was only recently determined to exist, will be settled at that hearing. OPA 30, as modified by Attachment "1", is approved. Otherwise, the appeal of David Tomlinson is dismissed.

1. It is the finding of the Board that the National Heritage Reference Manual establishes 120 metres as the area which must be looked at. It does not establish it as the setback distance. It sets the "adjacent lands" as those within 120 metres of a significant wetland, or in the case of wetland complexes, within 120 metres of individual wetlands.

"Adjacent lands" are defined as:

means those lands, contiguous to a specific natural heritage feature or area, where it is likely that development or site alteration would have a negative impact on the feature or area. The extent of the adjacent lands may be recommended by the Province or based on municipal approaches which achieve the same objectives.

Provincial Policy Statement Definition.

The Guideline then goes on to state:

Adjacent lands are not synonymous with buffer areas, nor are they necessarily no-development areas. Impact assessments, however, may recommend mitigation measures such as the establishment of vegetated buffers.

The Board emphasises the words **"adjacent lands are not synonymous with buffer areas"**.

2. The Provincial Policy Statement (PPS) states in section 2.3.2 as follows:

- 2.3.2 Development and site alteration may be permitted on adjacent lands to (a) and (b) if it has been demonstrated that there will be no negative impacts on the natural features or on the ecological functions for which the area is identified.

The PPS also defines negative impacts to mean:

(a) N/A

(b) in regard to other natural heritage features and areas, the loss of the natural features or ecological functions for which an area is identified.

The Board is satisfied with the studies carried out by the Town's consultants. It agrees with the interpretation of loss used by Mr. Michalski in his report to the Town of December 12, 1999 and in his evidence to the Board.

In his reporting letter of December 12, 1999, he stated the following:

The way I interpret "loss" is that a particular feature would no longer continue to exist, mainly because its habitat would be lost, or resulting activities would not permit it to continue to reside in or utilize the subject area. Loss is not the same as reduction, which implies that the plant or animal would continue to reside in or utilize the area, but at a reduced level or extent.

The Board agrees. The area to be protected is that of the Provincially significant wetland. It is not the upland functions nor are the adjacent lands to now be considered to be "provincially significant" and therefore be sterilized and made out to be "undevelopable" lands.

3. The lands which lie outside the boundaries of those established by the Town in Schedule "AA" are privately owned and other than for the dispute raised by this appeal as to the separation distance required, are fully capable of being developed. To adopt Mr. Tomlinson's position would result in "expropriation without compensation". In a "utopian" world perhaps it is "the bigger the better" or "the greater the better" but in the real world, there is the necessity to achieve a reasonable "balance" between the public and private good and this, the Board finds, has been achieved in the buffer that has been determined by the Town to be appropriate.
4. Of significance to the Board is the fact that no commenting agency disagreed with the buffer proposed by the Town. Put in a different light, no agency supported the buffer or rationale advanced by Mr. Tomlinson.
5. The Board agrees with the submissions of Mr. Lord on behalf of the Town that "there was no relevant site specific, wetland or species oriented opinion supporting an enhanced buffer."

6. The Board finds that after 3 years of participating study of the issue, the EAWC within OPA 30 will be preserved both as to its features and functions by the Linear and Open Space and the related designations and the varied minimum buffers. As demonstrated by what occurred when it came to the staking of the St. John's Development Corporation, OPA 30 requires the PSW is to be mandatorily staked as developments occur and the policy mechanism contained within it accommodates the specifics at the correct time.
7. The Board agrees with the evidence called by the Town and the submissions of Mr. Lord that OPA 30 puts in place a "suite" to augment, monitor and enhance the PSW and that there is an active Town interest to maximize the benefits. OPA 30 has done a commendable job in providing a planning document that is clear and consistent with the legitimate objectives of an appropriate balance of public and private interests and, in the words of Mr. Lord, "weighing both and favouring neither."
8. All counsel commended Mr. Tomlinson for his efforts in achieving the establishment of the Wildlife Park. So does the Board. His attempt to establish a line, however, which would preclude the visual impact of humans upon certain species is a standard that does not exist in Ontario and is not reasonable.

This is the Order of the Board.

J.R. BOXMA  
MEMBER

**Note: For attachments please see original.**

Section 3.7.1 d shall be deleted and replaced by the following:

3.7.1

- d) Lands designated Parks and Open Space and shown schematically on Schedule "AA" have been determined in consultation with the Town's Leisure Services Department, having regard for the Town of Aurora Culture and Recreation Master Plan, and the Bayview Northeast Master Servicing Plan, Environmental Management Plan and update, and the Municipal Financial Impact Study. Detailed boundaries for these designations, particularly the Environmental Protection Line as shown on Schedule "AA" and as identified in the Environmental Management Plan update, shall be finally determined through the implementing Zoning By-law and subdivision approval process in accordance with Section 3.7.2.a.

Section 3.7.2 a shall be deleted and replaced by the following:

3.7.2 Parks and Open Space Categories

Where appropriate, functions and facilities of the Parks and Open Space categories may be combined or integrated.

a) Linear and Other Open Space

The Linear and Other Open Space designation generally consists of the East Holland River Valley which is identified as an Environmental Protection Area on Schedule "D" of the Official Plan.

It also includes part of the East Aurora Wetland Complex, which has been identified as being of provincial significance. The Linear and Other Open Space designation also provides a natural limit for urban development along the west side of the Holland River valley. Uses within this designation shall generally be restricted to passive recreation, including trails along the Holland River and in the setbacks adjacent to the East Aurora Wetland Complex, and other uses and activities that contribute to conservation and enhancement of the natural landscape and features.

No development and site alteration will be permitted in the Aurora East Wetland Complex. As a first priority, development proponents shall stake and survey the Wetland boundary of the provincially significant East Aurora Wetland Complex. In addition, a development setback from the boundary of the Aurora East Wetland Complex and other lands designated Linear and Open Space along the Holland River Valley, shall be provided as shown by the

Recommended Environmental Protection Line on Schedule "AA" and as described in detail in the Environmental Management Plan update. For greater certainty the limit of the recommended Environmental Protection Line on Schedule "AA" shall be defined more precisely as part of the implementing Zoning By-law and subdivision approval process based upon a mandatory environmental impact statement satisfactory to the Town, Region of York and Conservation Authority. In no case, however shall such limit be less than the development setback shown on Schedule "AA". This setback is intended to protect and maintain all wetland features and functions that contribute to its evaluation as provincially significant in accordance with the Provincial Policy Statement.

~~As described in the Environmental Management Plan update~~ In addition to the development setback, the following environmental management policies shall apply:

- i) The adjacent development setback area should be significantly landscaped with a mixture of conifer and deciduous planting so as to ensure the open water ponds are effectively screened from adjacent development.
- ii) The two southerly ponds should be rejuvenated to achieve wetland values and enhance wildlife habitat.
- iii) Water levels in the two northern ponds should be maintained at lower management levels than present to enhance wetland vegetation and habitat.
- iv) A program for managing water levels on a regular basis should be developed and maintained for all pond areas.
- v) Part of the existing conifer plantation on the east side of the central pond on lands adjacent to this secondary plan and referred to as Bayview Northeast Area 2C should be managed to increase diversity and provide more open field habitat.
- vi) Only one road crossing of the Linear and Other Open Space designation should be provided in the location conceptually shown on Schedule "AA", so as to minimize impacts on the East Aurora Wetland Complex and reduce fragmentation of this natural open space corridor along the Holland River valley.

