

Appendix B – Conservation Halton Comments

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905.336.1158
Fax: 905.336.7014
2596 Britannia Road West
Burlington, Ontario L7P 0G3
conservationhalton.ca

Protecting the Natural
Environment from
Lake to Escarpment

May 17, 2019

Mr. Robert Thun, B.Sc., MCIP, RPP
Senior Planner, Current Planning - West District
Planning Services, Town of Oakville
1225 Trafalgar Road
Oakville, ON L6H 0H3

BY MAIL & E-MAIL

Dear Mr. Thun,

**Re: Conservation Halton Review of Official Plan Amendment, Zoning By-law Amendment,
Draft Plan of Subdivision & Draft Plan of Condominium Application
Files Nos. OPA1631.01, Z.1631.01, 24T-19001/1631 and 24CDM-19001/1631
320, 324, 338, 346 and 350 Bronte Road, Oakville
320 Bronte Road Inc.**

Conservation Halton (CH) staff has reviewed the above-noted application as per our responsibilities under Ontario Regulation 162/06; the Provincial Policy Statement (PPS) (delegated responsibility for comments relating to provincial interests under Sections 3.1.1-3.1.7 inclusive); the Memorandum of Understanding (MOU, 1999) with Halton Region; and as a public body under the *Planning Act*. These responsibilities are not mutually exclusive. Comments that pertain to items contained in the MOU may also apply to areas regulated under Ontario Regulation 162/06.

The following comments relate to the items marked as “applicable” for this specific application. Comments under Ontario Regulation 162/06 are clearly identified and are requirements. Other comments are advisory.

Ontario Regulation 162/06

Lake Ontario/Burlington Bay/Hamilton Harbour Shoreline Hazards &/or allowances
River and Stream Valley Hazards (flooding/erosion) &/or allowances
Wetlands &/or Other Areas*
Hazardous Lands (Unstable Soil/Unstable Bedrock)
CH Permit Requirements

Applicable

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One Window Delegated Authority under PPS

Natural Hazards (Sections 3.1.1-3.1.7 inclusive)

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CA/MOU

Impacts on Lakes and Rivers
Wildlife Habitat
Endangered & Threatened Species
Fish Habitat
Stormwater Management (as per Schedule I)
Sub-watershed Planning/Master Drainage Planning

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Other Comments (as a Public Body)

Niagara Escarpment Plan
Watershed Plan
Greenbelt Plan
Source Protection Plan
Hamilton Harbour Remedial Action Plan

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*Other areas are areas where development could interfere with the hydrologic function of a wetland, including areas within 120 m of all provincially significant wetlands and wetlands greater than or equal to 2 ha in size, and areas within 30 m of wetlands less than 2 ha in size.

Member of Conservation Ontario

Proposal

The application is to redevelop the properties located at 320, 338, 346 and 350 Bronte Road in Oakville. The proposed redevelopment consists of 28 new multiple-attached three-storey residential dwellings and one new single detached dwelling. It also includes an addition to and conversion of the existing daycare facility building into a single detached dwelling. Portions of the property within the Main Bronte Creek river valley system are also proposed to be dedicated to the Town of Oakville for incorporation into the Town's Natural Heritage System.

We understand that the proposed OPA is to re-designate the lands to "Medium Density Residential" and "Natural Area". We understand that the proposed ZBA includes site specific zoning whereby the lands will be rezoned to "RM1 – Residential Medium" and "N – Natural Area". The draft plan of subdivision and draft plan of condominium application are required to create the residential subdivision along a proposed private condominium road. Staff have reviewed the documents in Appendix A: Documents Reviewed received on March 15, 2019 and April 10, 2019 and submitted with this application.

Recommendation

At this time, we recommend deferral of this application, as we require a revised submission that includes but is not limited to updating the EIS and geotechnical slope stability assessment to confirm the limits of the Natural Heritage System (NHS) on-site. All detailed comments are included in Appendix B through E inclusive. CH is available should the applicant of Town wish to discuss any of these comments in detail.

Ontario Regulation 162/06

River and Stream Valley Hazards and CH Permit Requirements

The subject properties are regulated by CH, as they contain a portion of the Main Bronte Creek valley and associated flooding and erosion hazards (meander belt and valley stable top of bank). Along this valley system, CH regulates a distance of 15 metres from the greater of the flooding or erosion hazards. Development within the regulated area may be restricted or not permitted and require a CH permit.

CH staff staked the physical top of valley bank on May 17, 2018. This staked line has been shown on the site plan provided to CH's satisfaction. An "alternative physical top of bank line" has also been shown and this line should be removed from all plans. Given the valley slope characteristics, a geotechnical slope stability assessment that includes an analysis and determination of the long-term stable top of slope (LTSTS) was prepared. CH staff have reviewed the above referenced assessment and require additional information to confirm the LTSTS line. Please see comments in Appendix B: Geotechnical Slope Stability Assessment Review Comments. Once the LTSTS line has been determined to our satisfaction, a 15-metre allowance will need to be applied to the greater of the LTSTS line or physical top of bank line as staked to determine the limit of Conservation Halton's regulated area. These lines should be shown on all plans and planning instruments (i.e. Site Plan, Grading Plan, Draft Plan of Subdivision, Condominium, OPA and ZBA, etc.).

Wetlands and or Other Areas and CH Permit Requirements

The subject properties are also regulated by CH as they are within proximity to two Provincially Significant Wetlands (PSWs) within the valley. CH regulates 120 metres from the limits of the wetlands. Development within this regulated area may also be restricted or not permitted and require a CH permit.

The proposed development will be more than 30 metres from the limits of the PSWs, however, will still be within the 120-metre allowance. The wetland setbacks (30 metres) and regulation limit (120 metres) lines should be shown on all proposed plans and planning instruments (i.e. Site Plan, Grading, Plan, Draft Plan

of Subdivision, Draft Plan of Condominium, Draft OPA, Draft ZBA, EIA Figures etc.). Additional technical comments pertaining to the wetlands can be found in Appendix C: Environmental Impact Study and Arborist Report Review Comments.

One Window Delegated Authority under PPS

As per Section 3.1.1 of the PPS, it states that "Development shall generally be directed to areas outside of b) hazardous lands adjacent to river, stream and small inland lake systems which are impacted by flooding hazards and/or erosion hazards". Further, Section 3.1.2 of the PPS states that "Development and site alteration shall not be permitted within: c) areas that would be rendered inaccessible to people and vehicles during times of flooding hazards, erosion hazards and/or dynamic beach hazards, unless it has been demonstrated that the site has safe access appropriate for the nature of the development and the natural hazard." The PPS also defines "development" as: "the creation of a new lot, a change in land use, or the construction of buildings and structures requiring approval under the *Planning Act*." Further, as per Policy 4.2.3 of CH's Policies, staff will work with the applicant and municipality to ensure no new development, including lot creation, or site alteration is permitted within the flooding and erosion hazard limits, that would be contrary to the Provincial Policy Statement and/or Conservation Halton policies. This will involve a minimum lot line setback of 15 metres from the limit of the flooding and erosion hazard limit...".

The hazard limit still needs to be confirmed as per Appendix B: Geotechnical Slope Stability Assessment Review Comments. Once determined all new development will need to be outside the 15-metre setback from the greater of the staked top of slope or LTSTS line.

CH/Halton Region MOU

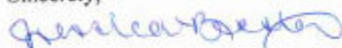
Comments pertaining to the CA/Halton MOU are provided within Appendix C and D of this letter. These comments speak to Significant Wildlife Habitat and stormwater management.

Summary/Conclusion

At this time the NHS has not been appropriately delineated, and a revised submission is required. CH staff do not support the creation of new lots or the change of land use within the Natural Heritage System (NHS). Ultimately, all lands within the NHS will need to be designated and zoned as "Natural Areas" and be conveyed into public ownership for their long-term protection and enhancement.

We trust the above is of assistance. Please contact the undersigned at extension 2317 if you have any further questions.

Sincerely,



Jessica Bester, BES, MCIP, RPP
Environmental Planner

Cc.: Anne Garicsak and Heather Ireland, Halton Region Planning (via e-mail)
Tony Molnar, Town of Oakville Urban Forestry (via e-mail)
Dan Bijsterveld, Town of Oakville Development Engineering (via e-mail)
David Capper, GSAI, Agent (via e-mail)

Appendix A: Documents Reviewed

Submission received March 15, 2019 and April 10, 2019:

- Aerial Context Plan, 320 Bronte Road – Town of Oakville, prepared by GSAI, dated January 8, 2019;
- Plan of Survey with Partial Topographic Detail, Part of Lots 30 and 31 and Part of Road Allowance between Lots 30 and 31, Concession 3, South of Dundas Street, prepared by R. Avis Surveying Inc., dated October 4, 2018;
- Drawing No. A1.1, Site Plan, prepared by Hicks Design Studio, dated June 2018, Revision No. 2 dated January 31, 2019;
- Draft Plan of Subdivision, Part of Lots 30 & 31 and Part of Road Allowance Between Lots 30 and 31, Concession 3, South of Dundas Street, prepared by R. Avis Surveying Inc., dated February 20, 2019;
- Drawing No. G1, Grading Plan, prepared by Trafalgar Engineering Ltd., Revision No. 1 dated February 11, 2019;
- Drawing No. E1, Erosion and Sediment Control Plan, prepared by Trafalgar Engineering Ltd., Revision No. 1 dated February 11, 2019;
- Drawing No. S1, General Servicing Plan, prepared by Trafalgar Engineering Ltd., Revision No. 1 dated February 11, 2019;
- Functional Servicing and Stormwater Management Report for 320-350 Bronte Road, Oakville, prepared by Trafalgar Engineering Ltd., dated February 11, 2019;
- Arborist Report and Tree Protection Plan, prepared by Lakeshore Tree Services Inc., dated January 15, 2019;
- Geotechnical Investigation, Proposed Residential Subdivision, 320, 338, 346 and 350 Bronte Road, Town of Oakville, Ontario, prepared by Terraprobe Inc., dated February 5, 2019;
- Environmental Impact Study, 320, 338, 346 and 350 Bronte Road, prepared by Dillon Consulting, dated February 2019;
- Planning Justification Report, Official Plan Amendment, Zoning By-law Amendment, Plan of Subdivision and Plan of Condominium, prepared by GSAI, dated February 2019;
- Phase 1, Environmental Site Assessment, 320, 338, 346 and 350 Bronte Road, prepared by Terraprobe Inc., dated October 25, 2017;
- Phase 2, Environmental Site Assessment, 320, 338, 346 and 350 Bronte Road, prepared by Terraprobe Inc., dated January 31, 2019;
- Hydrogeological Investigation, 320, 338, 346 and 350 Bronte Road, prepared by Terraprobe Inc., dated February 11, 2019; and
- Geotechnical Investigation, Slope Stability and Streambank Erosion Analysis, 320, 338, 346 and 350 Bronte Road, Town of Oakville, Ontario, prepared by Terraprobe Inc., dated February 12, 2018.

Appendix B: Geotechnical Slope Stability Assessment Review Comments

The LTSTS of the Main Bronte Creek valley is determined in the above referenced geotechnical slope stability assessment. Staff have reviewed this report and provide the following comments:

- 1) **Section 5.4 Long Term Stable Slope Crest (LTSSC) Position, page 14:** Please confirm if a 1.4:1 slope is being applied to the entire slope or just the shale portion on Section F-F'.
- 2) **Figures 3A-3C Detailed Cross sections:** Please confirm and clarify the stable slope inclination that is being applied for the clayey silt till and earth fill above the shale bedrock.
- 3) **Figure 3B Detailed Cross section C-C' and D-D':** A stable slope inclination of 1.4:1 should be shown from the point at which the slope transitions to 1.3:1 for section 'C-C'.

- 4) **Figure 3C Detailed Cross section E-E' and F-F'**: CH requires that the stable slope profile be extended from an elevation equal to the bottom of the channel bank, as well as from the top of the channel bank, with the most conservative point being taken as the long-term stable top of slope for each section. The figures should include clearly labeled elevations for the top and bottom of the channel bank.
- 5) **Figure 4 Long Term Stable Slope Crest Position**: The LTSSC position at section F-F' should transition gradually to the LTSSC position at Section B-B', particularly given the location of the edge of Bronte Creek immediately to the south of section 'F-F'.
- 6) **Topographic Survey**: The label "top of bank as staked out by Halton Region Conservation Authority" should be applied to the inner-most top of bank staking only, with the date of May 17, 2018.
- 7) **Sheet G1 Grading Plan**: The erosion hazard associated with Bronte Creek (greater of the physical top of bank and the long-term stable top of bank) should be plotted on this figure, along with the 15 m setback.

Appendix C: Environmental Impact Study and Arborist Report Review Comments

Environmental Impact Study:

- 1) **Section 2.1 Provincial Framework, Subsection 2.1.1 Provincial Policy Statement (2014)** – This section is missing policy references and information. The following should be included and updated in the report as per the "Conclusions" section of the Terms of Reference:
 - o Reference to Habitat of Endangered and Threatened Species and the applicable policies.
 - o Reference to Section 3.1 Natural Hazards and the applicable Policies.
 - o An explanation of how the proposed development is consistent with and conforms with the applicable Natural Heritage and Natural Hazard Policies of the PPS.
- 2) **Section 2.5 Conservation Halton (Ontario Regulation 162/06)** - This section should be updated to outline all applicable CH policies as per the "Conclusions" section of the Terms of Reference. This section should also explain how the proposal is consistent with and in conformity with those applicable policies.
- 3) **Section 3.3.5 Significant Wildlife Habitat** – Provide a table that demonstrates that each of the different Significant Wildlife Habitat (SWH) types were considered, in keeping with the SWH Ecoregion Criteria Schedule Tables. Consideration of SWH both on and adjacent (within 120 metres of the subject site) to the study area should be included in more detail given this is a continuous system. Mitigation measures should also be developed using the SWH Mitigation Support Tool.
- 4) **Section 3.3.5 Significant Wildlife Habitat** - Specific mapping of the location of SWH on and adjacent (within 120 m of the subject site) to the study area should be provided on a map along with the location of the proposed development. We note that Figure 4 may not show all SWH on the relevant portions and adjacent to the site.
- 5) **Section 3.4 Species at Risk** – This section identifies that the subject site and adjacent lands contain endangered and threatened species. We defer to the Ministry of Environment Conservation and Parks (MECP) to comment on these species.
- 6) **Section 4.0 The Methodology of Biophysical Inventory - Table 3 Dates and Times of Field Surveys** -
 - a) Please provide the time of day when each of the bird field surveys were undertaken.

- b) Please provide CV's for authors of the EIS.
- 7) **Section 5.1 Ecological Land Classification** – The adjacent Bronte Creek valley is publicly owned and should be considered in more detail than in the report, to ensure that the sensitivity of the features is characterized appropriately. For example, an ELC evaluation should be undertaken with community series information for all lands within the valley and within 120 metre of the property boundary either based on air photo interpretation or field visits. Please revise.
- 8) **Figure 3 – 209 Survey Locations and Ecological Land Classification** – Staff are of the opinion that the ELC code for the property should extend to the edge of the dripline. Please revise and ensure that all of the natural features on the property are classified and mapped.
- 9) **Section 8.0 Impact Assessment** – The included impact assessment focuses on impacts associated with construction of the development and does not consider post construction impacts. This section should be revised to discuss all potential impacts associated with the development, both during and post construction.
- 10) **Section 8.1.1 Tree and Vegetation Removal** - Staff suggest including a table that specifies what types of trees are to be removed and/or impacted in the NHS, within the regulation limits and within the buffers/setbacks to each of these areas. Please indicate whether any of the trees to be removed are considered to be cavity trees.
- 11) **Section 8.1.2 Diversion of Surface Water Flows** –As per Figure 3 of the FSR, we understand that the drainage area from the site (drainage area reference no. 9) to Bronte Creek valley will decrease from 1.63 ha to 0.99 ha. To ensure this decrease does not have an impact on the PSWs and the watercourse, please provide justification to the satisfaction of Conservation Halton staff confirming no negative impacts to the features.
- 12) **Section 9.0 Mitigation and Opportunities for Enhancement** – We recommend adding a section entitled “Post-Construction Mitigation Opportunities”. This section should include recommended post construction mitigation opportunities including:
- a) Construction of a fence at the back-property line of the development to provide a physical barrier between the buffer areas and the development area.
 - b) An edge management plan, as referred to in the Terms of Reference.
 - c) Use of directional lighting to reduce light disturbance impacts to the NHS.
 - d) Recommendations that the “Standards Adjacent to Natural Features” section in Conservation Halton’s Landscaping and Tree Preservation Guidelines be followed within the NHS buffer zone for restoration plantings. This should be included as part of the Edge Management Plan as referred to in the Terms of Reference.
- 13) **Section 9.7 Environmental Monitoring Plan** – The Environmental Monitoring Plan (EMP) should include photograph and qualitative monitoring of vegetation planted on site on an annual basis for a period of 2 years post construction. Weekly watering should be part of a maintenance plan during the growing season for the first 2 years post planting.
- 14) **Section 10.0 Summary** – This section acknowledges that there will be impacts to the Natural Heritage System but does not reference mitigation and enhancement measures to demonstrate no negative impacts.

Arborist Report and Tree Protection Plan:

- 15) **Unnumbered Table, Unnumbered Pages** – The predominant tree species present in the table do not seem to correspond (e.g. presence of Red Oak and Sugar Maple in Arborist Report) with the ELC codes assigned to the property. Please revisit.
- 16) Please resubmit the Tree Inventory Assessments (T1-T6) on full size, scaled sheets to enhance their legibility.

Appendix D: Stormwater Management and Groundwater Review Comments

Hydrogeological Investigation:

- 1) **Section 4.5.1 Maintenance of Ground Water Recharge** - We support the recommendation to use Low Impact Development LID techniques to maintain and/or enhance predevelopment infiltration and to use construction techniques to avoid groundwater flow impacts (trench backfilling using similar to excavated materials and using trench plugs to avoid creating groundwater preferential pathways).

Functional Servicing and Stormwater Management Report:

- 2) **Figure 3 Storm Drainage Plan:**
 - a. An editorial error is noted in the Proposed Storm Drainage Areas table, as the drainage area appears to be shown in m² rather than hectares as noted.
 - b. Please confirm that proposed drainage area 9 is the only drainage area proposed to drain via uncontrolled sheet flow towards Bronte Creek.
- 3) **Drawing No. G1, Grading Plan** – Please show the staked top of slope and long-term stable top of slope line (as revised as per Appendix A comments) on this plan along with the 15-metre allowance from the greater hazard. All grading must then be located outside of the regulated allowance.

Appendix E: Planning Justification Report Review Comments

- 1) **Section 4.0 Proposed Development** – This section states that “the application proposes to designate all lands within the defined 15 metre setback from the long-term stable top of bank as Natural Area with lands use permission for the existing residential dwelling to remain”. Please note that this is not supported.

Further, it states that, “other than the existing dwelling which is remain in situ, no part of the proposed development, with the exception of a small portion of a drive aisle/sidewalk at the south west corner of the site, is located within the defined 15 metre setback from the long-term Stable Top of Bank. The proposed encroachments into the 15.0 metre setback and the regulated areas, are located in areas that are currently paved surfaces.” Please note that the definition of “development” as per the PPS and CH policy includes “the creation of new lot(s), a change in lands use, or the construction of buildings and structures requiring approval under the Planning Act.” The proposal includes new lots, a change in land use and a new condominium road that requires approvals under the *Planning Act*. As such, CH staff do not agree that the only development is the proposed drive aisle/sidewalk.

- 2) **Section 6.0 – Consistency and Conformity with Applicable Land Use Policies – Subsection 6.1, Provincial Policy Statement (2014)** – This section does not include Section 3.1, Natural

Hazards policies of the PPS. Nor does it explain how the proposal is consistent with and conforms with these policies. The report needs to be updated to include these policies and discussion.

- 3) **Section 6.0 – Consistency and Conformity with Applicable Land Use Policies** – This section does not include any Conservation Halton Policies as per “ Conservation Halton's Policies and Guidelines for the Administration of Ontario Regulation 162/06 and Land Use Planning Policy Document (Revised 2016).” Nor does it explain how the proposal is consistent with and conforms with these policies. The report needs to be updated to include these policies and discussion.

Comments dated August 8, 2019 on Concept Plan received July 24, 2019

Conservation Halton (CH) staff have conducted a preliminary review of the revised *A1.1 Site Plan* drawing for 320 Bronte Road and the renderings of some of the townhouses (dated July 24, 2019), received by CH on July 26, 2019. CH previously commented on the full OPA/ZBA/Draft Plan of Subdivision/Draft Plan of Condo submission in a letter dated May 17, 2019. The majority of CH's comments in this letter were specific to other elements of the original submission, such as the Geotechnical Slope Stability Assessment and the Planning Justification Report. Most of CH's original comments remain applicable, as the reports have not been resubmitted (and may need to be revised based on the new proposed Site Plan).

That said, below are some preliminary comments CH can offer at this time on the revised Site Plan.

- CH appreciates that the existing day care building is now proposed to be removed, and that the new dwellings are now proposed to be outside of the hazards/features and their associated buffers as shown. CH is supportive of this approach and recommends that lands within the natural features and hazards and associated buffers be dedicated to public ownership.
- Staff note that property lines are no longer shown on the drawing. As previously noted, new lot lines are considered development and are therefore also required by the PPS to be outside of hazardous lands. CH would need lot lines to be shown to conduct a full review of the new Site Plan drawing.
- Staff note that there is now a ramp to an underground parking garage. The extent of the underground parking wall is shown in some locations near the ramp, but staff would like to see drawings indicating the full extent and depth of the underground parking to confirm it is outside of CH's regulated area.