



LOWER TRENT CONSERVATION

714 Murray Street, R.R. 1, Trenton, Ontario K8V 0N1

■ Tel: 613-394-4829 ■ Fax: 613-394-5226 ■ Website: www.ltc.on.ca ■ Email: information@ltc.on.ca

Registered Charitable Organization No. 107646598RR0001

November 22, 2022

LTC File No. PL-22-261

Samantha Deck
Planner I
Municipality of Brighton
67 Sharp Road
Brighton, ON K0K 1H0

RE: Application for Zoning By-law Amendment and Draft Plan of Condominium – WILLIAMS Price St. E, 40 Price St. E. & 54 Price St. E, Brighton Town (Gosport), Brighton, Northumberland County Concession Broken Front, Lot 33, Geographic Township of Murray Application Nos.: Z13-2022 & SUB2022-01

Dear Samantha Deck,

Lower Trent Conservation (LTC) is in receipt of the above-noted submission, which was circulated to our office on October 20, 2022 for review and comment in accordance with the requirements of Schedule 1 of our Planning Services Agreement with the municipality. We understand that the purpose of this application is to develop a plan of condominium on the subject lands, consisting of eight (8) townhome buildings, with each building containing four (4) units, for a total of 32 units. The development will include a private condominium road ending in a cul-de-sac and landscaped buffer along Price Street East. The proposed units will be freehold within a standard plan of condominium, whereby they are owned individually “from the dry-wall in”. All portions of the development site, including access road, parking, landscaping, and servicing blocks will be owned and maintained by a condominium corporation as “common elements”.

Documents Received and Reviewed by Staff

Staff have received and reviewed the following documents submitted:

- Completed application forms, dated September 14, 2022;
- Draft Plan of Condominium prepared by EcoVue Consulting, dated September 27, 2022;
- Planning Justification Report prepared by EcoVue Consulting, dated September 27, 2022;
- Environmental Impact Study prepared by Ainley Group, dated September 2022;
- Geotechnical Investigation Report prepared by Cambium, dated March 2, 2022;
- Preliminary Servicing and Stormwater Management Report prepared by Ainley Group, dated May 2022;
- Phase 1 Environmental Site Assessment prepared by Cambium, dated January 21, 2022; and,
- Stage 1-3 Archaeological Assessment prepared by Earthworks Archaeological Services Inc., dated July 19, 2022.

Staff have reviewed this submission as per our delegated responsibility from the Province to represent provincial interests regarding natural hazards identified in Section 3.1 of the *Provincial Policy Statement* (PPS, 2020) and as a regulatory authority under Ontario Regulation 163/06. LTC has also provided comments as per our Planning Services Agreement with the Municipality of Brighton representing LTC’s role in the provision of environmental advisory comments related to natural heritage feature and water resource protection. The application has also been reviewed through our role as a public body under the *Planning Act* as per our LTC Board approved policies. Finally, LTC has provided advisory comments related to policy applicability and to assist with implementation of the *Trent Source Protection Plan* under the *Clean Water Act*.

Working with Local Communities to Protect our Natural Environment



Member of Conservation Ontario
Representing Ontario's 36 Conservation Authorities

RECOMMENDATION

Please be advised that Lower Trent Conservation (LTC) would have no objection to the approval of this application. Refer to the following sections for context.

SITE CHARACTERISTICS

Existing mapping, satellite imagery and site visits by Ainley and Cambium staff indicate that the majority of the subject lands have been cleared. Ainley delineated a wetland feature along the northern edge of the property boundary, which is contiguous with the Presqu'ile Bay Marsh Provincially Significant Wetland. This field-verified coastal wetland loosely follows the 100-year static flood elevation of Lake Ontario, which is also present on the subject lands. Proctors Creek also traverses the Presqu'ile Bay Marsh PSW north of the subject property. The subject lands are vacant.

The subject lands are zoned Future Development (FD) Zone and designated Residential and Environmental Protection in the Municipality's Official Plan.

DELEGATED RESPONSIBILITY AND STATUTORY COMMENTS

1. **LTC has reviewed the application through our delegated responsibility from the Province to represent provincial interests regarding natural hazards identified in Section 3.1 of the PPS.**
 - Policies 3.1.1 and 3.1.2 of the PPS apply to this application. Here it is stated:
 - 3.1.1 *Development* shall generally be directed to areas outside of:
 - a) *hazardous lands* adjacent to the shorelines of the Great Lakes - St. Lawrence River System and large inland lakes which are impacted by flooding hazards;
 - 3.1.2 *Development* and *site alteration* shall not be permitted within:
 - d) a *floodway* regardless of whether the area of inundation contains high points of land not subject to flooding.
 - Floodplain mapping is available for this portion of Lake Ontario (Zuzek, 2020). The 100-year static flood elevation for Lake Ontario in this location is 75.97 metres CGVD28. Along the shorelines of the Great Lakes - St. Lawrence River System and large inland lakes, the *flooding hazard* limit is based on the 100-year flood level plus a 15-metre allowance for wave uprush and other water-related hazards.
 - As the proposed development is outside of the *flooding hazard* on the subject lands, engineered floodplain mapping would not be warranted to define the flooding hazard of Lake Ontario at this time.
 - **It is our opinion that this application is consistent with Section 3.1 of the PPS.**
2. **LTC has reviewed the application as per our responsibilities as a regulatory authority under Ontario Regulation 163/06. This regulation, made under Section 28 of the *Conservation Authorities Act*, enables conservation authorities to regulate development in or adjacent to river or stream valleys, Great Lakes and inland lake shorelines, watercourses, hazardous lands and wetlands. Development taking place on these lands may require permission from the conservation authority to confirm that the control of flooding, erosion, dynamic beaches, pollution or the conservation of land are not affected. LTC also regulates the alteration to or interference in any way with a watercourse or wetland.**
 - The subject lands are situated within an area that is subject to Ontario Regulation 163/06. Specifically, there is field-verified coastal wetland on the northern portion of the subject lands, which is contiguous with the Presqu'ile Bay Marsh Provincially Significant Wetland. Further, the subject

lands are impacted by the shoreline flood hazard of Lake Ontario. In accordance with Ontario Regulation 163/06, no person shall:

- S. 2) Undertake development (including site alterations), or permit another person to undertake development in or on areas within the jurisdiction of the Conservation Authority that are: river or stream valleys; land that could be unsafe for development due to natural occurring processes associated with flooding and/or erosion; wetlands; or, other areas where development could interfere with the hydrologic function of a wetland including areas within 30 metres of wetlands; or,
- S. 5) Straighten, change, divert or interfere in any way with the existing channel or a river, creek, stream or watercourse or change or interfere in any way with a wetland without the prior written approval of LTC.

Any development within 30 metres of any wetland, 120 metres of a Provincially Significant Wetland, 15 metres of the shoreline flood hazard, and/or any activities that would interfere in any way with the wetlands on site would require a permit from our office prior to the commencement of any on-site work.

Development is defined in the *Conservation Authorities Act* as:

- i. The construction, re-construction, erection or placing of a building or structure of any kind,
 - ii. Any change to a building or structure that would have the effect of altering the use or potential use of the building or structure, increasing the size of the building or structure or increasing the number of dwelling units in the building or structure;
 - iii. Site grading; or,
 - iv. The temporary or permanent placing, dumping, or removal of any material, originating on the site or elsewhere.
- LTC Board-approved policies Sections 6.2 and 6.2.2 for the administration of Ontario Regulation 163/06 state that development and interference shall not be permitted within a wetland nor within 30 metres of the boundary of the wetland. This policy further states that any development within 30 to 120 metres of a Provincially Significant Wetland would require a permit from our office. The 30-metre regulatory setback is intended to remain as a natural vegetated buffer to mitigate the impacts of adjacent development activities on the hydrologic function of the wetland. We would not permit the removal of any wetland feature (e.g., clearing or draining the feature).
 - LTC Board-approved policy Section 3.2 states that development and major development shall not be permitted within the shoreline flood hazard. Policy 3.2.2 states that development may be permitted within the allowance adjacent to the shoreline flood hazard if it has been demonstrated to the satisfaction of LTC that the control of flooding, erosion, pollution, dynamic beaches or the conservation of land will not be affected.
 - LTC Board-approved policy Section 4.2 states that any development within 15 metres of the stable top of bank of a watercourse or within 15 metres of a delineated flood hazard will require a permit from LTC.
 - **Based on our review of the Draft Plan and supporting materials, LTC can advise that permits from our office will be required to proceed with the proposed works. Please contact our Regulations Officer, Gage Comeau at gage.comeau@ltc.on.ca or (613) 394-3915 ext. 224 to discuss our permitting requirements in greater detail.**

- Landowner(s) are encouraged to contact LTC to discuss this matter directly if they have any questions or concerns. It is anticipated that the agent will share these comments with the landowner(s) so that they are aware of the applicability of Ontario Regulation 163/06 on their property. LTC's permitting policy document can be found [here](#).

ADVISORY COMMENTS

3. LTC has reviewed the application through our responsibilities as a service provider to the Municipality of Brighton in that we provide a comprehensive environmental review of applications subject to the provisions of the *Planning Act*, and other statutes as may apply, through a Planning Services Agreement (*Agreement for Planning Act Application Review between the Municipality of Brighton and Lower Trent Region Conservation Authority, 2018*). Specifically, in accordance with the agreement, LTC has also reviewed the application with consideration for natural heritage feature and water quality and quantity protection policies.

- The Presqu'île Bay Marsh Provincially Significant Wetland traverses the northern portion of the subject lands. Further, Lake Ontario and Proctors Creek are considered *fish habitat* in accordance with *provincial and federal requirements*. Policy 2.1.8 of the PPS therefore applies to this application. Here it is stated that:

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

The width of *adjacent lands* for provincially significant wetlands and *fish habitat* is 120 metres, as set out in Section 4.4 of the [Natural Heritage Reference Manual for Natural Heritage Policies of the PPS](#) (Ministry of Natural Resources and Forestry, 2010). The three above-noted features are all within 120 metres of the subject property. LTC can advise that a "no negative impact test" (i.e., an Environmental Impact Study) has been submitted with the subject application.

LTC staff have reviewed the EIS and can offer the following comments:

- The field-verified wetland in the northern portion of the subject property is contiguous with the Presqu'île Bay Marsh PSW and therefore an extension of the PSW. The MNRF should be contacted to update the PSW boundary. Please copy LTC on any correspondence with the MNRF.
- The EIS does not address how the 30-metre regulatory setback will be protected from encroachment and disturbance. This is highly recommended as the PSW also serves as *significant wildlife habitat*. We would recommend permanent fencing along the boundary of the regulatory setback to prevent encroachment into the sensitive features on the subject property.
- Please clarify why turtle surveys were not done in 2021.
- Please clarify why the MMB did not include 3 surveys as is required.
- Please provide depth to mottles for hydric soils listed in Table 1.
- Please provide bird breeding codes and status for Section 7.5.1.
- Please propose stronger mitigation measures for light impacts on wildlife in Section 9.1.4.
- Please provide a broader analysis to demonstrate that the proposed 30-metre setback is sufficient to protect Species-at-Risk such as Blanding's Turtle.
- LTC highly recommends the preparation of a landscaping plan for the subject proposal. This will help provide flood attenuation, shade & cooling, habitat, and improve water quality. We would also recommend a planting enhancement plan of native species for the wetland setback. We would be happy to provide guidance for the preparation of both plans.
- **Overall, the report was very well done. It is therefore our opinion that this application is consistent with Section 2.1 of the PPS.**

LTC has reviewed the Preliminary Servicing and Stormwater Management Report prepared by Ainley Group, dated May 2022, and can offer the following comments:

- The Preliminary Servicing and Stormwater Management Report (PSSWMR) discusses the stormwater management plan and grading plan at a very high level at this point in the development with no calculations or detailed information for stormwater conveyance.
- As noted in the report, due to the close proximity of Presqu'île Bay of Lake Ontario there will be no water quantity control proposed. Lands to the south that currently drain through the subject property will be included in the assessment and the stormwater management plan will ensure safe conveyance of external flows through the subject property. LTC concurs with this approach.
- For water quality control, either a collection system fitted with an Oil-Grit Separator (OGS) unit or some type of low impact development techniques will be proposed. The drawings provided do not indicate exactly where the water quality control measures will be located but LTC notes that there are areas within the development envelope that can support these features. In general, LTC is in support of the general statements and looks forward to reviewing the stormwater management plan in more detail during the detailed design.
- It is our opinion that this application is consistent with Section 2.2 of the PPS.

ADDITIONAL ADVISORY COMMENTS

The subject lands are situated within an area that is subject to the policies of *A Place to Grow: Growth Plan for the Greater Golden Horseshoe* (Growth Plan, 2020). Some of these policies relate to the protection of *key hydrologic features*. Lake Ontario, Proctors Creek, and all wetlands are considered *key hydrologic features* under the Growth Plan. Pursuant to Growth Plan Policy 4.2.4, if a *key hydrologic feature* is identified within 120 metres of a proposed *development* (including severance and rezoning), the Growth Plan requires a Hydrologic Evaluation (HE) to be completed. However, these policies do not apply to lands within existing *settlement areas*.

It is the opinion of LTC that this application conforms to the key hydrologic feature and key natural heritage feature protection policies of the Growth Plan.

4. **LTC has reviewed the application through our role as a public commenting body, pursuant to the *Planning Act*.**
 - We have no further comments to add in this role.
5. **LTC has reviewed the application in terms of the *Trent Source Protection Plan*, prepared under *Clean Water Act, 2006*. The Source Protection Plan came into effect on January 1, 2015 and contains policies to protect sources of municipal drinking water from existing and future land use activities.**
 - The subject lands are not located within an identified drinking water source protection area.

SUMMARY

Given the above comments, it is the opinion of the LTC that:

1. Consistency with Section 3.1 of the PPS has been demonstrated;
2. Ontario Regulation 163/06 applies to the subject lands. Development is prohibited within 30 metres of all wetlands and a permit would be required for any development within 120 metres of the Presqu'île Bay Marsh PSW and 15 metres of the shoreline flood hazard. Based on our review of the submitted Draft Plan

and supporting materials, the majority of the subject property is regulated by our office. Permits will be required to proceed with the proposed works;

3. The subject application is consistent with Sections 2.1 and 2.2 of the PPS;
4. As the subject lands are within a *settlement area*, the subject application conforms to the key hydrologic feature and key natural heritage feature protection policies of the Growth Plan. LTC recommends placing all identified features, including the field-verified coastal wetland and 30-metre *vegetation protection zone* in restrictive (i.e. Environmental Protection) zoning; and,
5. The subject lands are not located within an area that is subject to the policies contained in the Trent Source Protection Plan.

LTC would therefore recommend have no objection to the approval of this application.

The above comments reflect our understanding at the time of writing of applicable policies, legislation, and the development proposal. I trust this letter meets your information requirements. However, should you require any further information or have any questions please do not hesitate to contact me.

Please inform this office of any decision made by Council with regard to this application. We respectfully request to receive a copy of the decision and notice of any appeals filed.

Sincerely,



Janet Noyes, P. Eng.
Manager of Development Services and Water Resources
613-394-3915 ext. 211



Ashley Anastasio, B.A., BURPI.
Environmental Planner
613-394-3915 ext. 220