

Maitland Valley Conservation Authority



Providing leadership to protect and enhance our water, forests and soils!

MEMORANDUM

TO: Bill White, CAO/Clerk, Town of Minto
CC: Terry Kuipers, Chief Building Official, Town of Minto
J & J Metzger Construction Ltd, Applicant
FROM: Brandi Walter, Environmental Planner / Regulations Officer
Maitland Valley Conservation Authority (MVCA)
DATE: May 27, 2016
SUBJECT: Application for Zoning By-law Amendment
Part Park Lots 4, 5, & 6, RP 61R-20210, Parts 9, 10 & 11
Town of Minto, Geographic Town of Harriston
24 George Street N and 100 William Street E

The Maitland Valley Conservation Authority (MVCA) has reviewed the above-noted application for zoning by-law amendment with regard for Provincial and Authority Policies and associated mapping related to Natural Heritage and Natural Hazards features in accordance with our Memorandum of Agreement for plan review with County of Wellington; and in accordance with our delegated responsibility for representing the “Provincial Interest” for natural hazards. Based on our review, we offer the following comments.

It is our understanding, the purpose and effect of the proposed amendment is to rezone PART A lands from Open Space (OS) to Residential Exception Zone (R2-46) to allow development of townhouses; and to allow relief from the required rear yard setback and distance between buildings on PART B. PART A and PART B properties are identified on the Notice of Public Meeting for this application.

Natural Heritage:

There are no natural heritage features on or adjacent to the subject property.

Natural Hazards:

The subject property is located within the Regional Storm Floodplain. See attached map.

Section 3.1.5 of the Provincial Policy Statement (PPS, 2014) states that “*where the two-zone concept for floodplains is applied, development and site alteration may be permitted in the floodfringe,*

subject to appropriate floodproofing to the flooding hazard elevation or another flooding hazard standard approved by the Minister of Natural Resources"

As such, a Special Policy Area (S.P.A.) has been adopted by the County of Wellington within the Town of Minto (formerly Harriston), where a modified two zone concept is utilized for development within the floodfringe portion of the floodplain. The S.P.A. permits floodproofing requirements to be reduced to the one hundred year flood elevation as a minimum standard for new development.

Section 5.4.5 of the County of Wellington Official Plan (OP) (February 2011) requires that development and site alterations will only be permitted in a S.P.A. if 1) the hazards can be safely addressed, 2) new hazards are not created, 3) no adverse environmental impacts will result, and 4) essential emergency services have a way of safely entering and exiting the area during times of flooding, erosion and other emergencies.

The above natural hazard policies of the County of Wellington OP are in conformance with the Natural Hazard policies of the PPS, 2014.

MVCA Regulated Lands:

MVCA regulates development (construction, filling, site alteration and grading) within floodplains plus 15 metres adjacent to the floodplain, pursuant to *Ontario Regulation 164/06 (Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulation)* made under the *Conservation Authorities Act (R.S.O. 1990, chapter C.27.)* Subject to *O. Regulation 164/06*, MVCA must review and approved proposed development within the floodplain.

As such, proposed development (construction and site grading) located within MVCA's regulated areas as identified on the attached map, must obtain MVCA permission prior to undertaking the work.

Background:

In 2014, MVCA provided comments on a zoning by-law amendment for the subject properties; which rezoned the lands from Institutional (IN) to Residential (R2) and Open Space (OS). MVCA's comments are attached. We also provided comments and support for 5 severances affecting the same lands. In general, MVCA supported the above-noted applications and subsequent development provided that;

1. We were satisfied with a 'Cut/Fill Concept Plan' and 'Grading Concept Plan' (attached); and that,
2. The entire emergency access was constructed as per the above-noted 'Cut/Fill Concept Plan' prior to issuing the occupancy permit for the first development; and that,
3. MVCA permit must be received prior to construction and site grading.

The applicant committed to constructing the entire emergency access as per the attached January 28, 2015 letter from J & J Construction Ltd.

MVCA received and approved the above-noted plans in 2014. However, to date only a portion of the emergency access has been constructed as observed on a recent MVCA compliance inspection.

Report:

MVCA has the following concerns for the current application:

1. The emergency access has not been completed. As such, the safety of existing and future occupants of the recently severed and occupied lots; and future residents on PARTS A & B of the current application are at risk because they do not have safe egress to an area outside the floodplain in the event of a regulatory flood; and,
2. The proposed townhouses on PART A are located in the area currently zoned Open Space 'OS', which was reserved for a park and storm pond as shown on the attached "Site Concept Plan" (MTE, May 31, 2013.) MVCA reviewed this 'Concept Plan' in coordination with the attached, "Grading Concept Plan" (MTE, May 31, 2016) and the above-noted "Cut/Fill Concept Plan" as part of our review for severances B67/14 to B71/14. MVCA provided the attached Clearance Letter to the County of Wellington Planning Department confirming our review and approval of the plans.

The proposed development of townhouses on PART A does not match the approved concept plans, specifically, the proposed Cut/Fill Concept Plan and Grading Concept Plan.

In order for MVCA to support the current zoning application and proposed development, we require the following information to assess if the development and public safety will not be affected by the flooding hazard; and that the development will not create new hazards or aggravate the existing flooding hazard, as per Section 3.1, Natural Hazard Policies, PPS, 2014.

1. Revised Cut/Fill Concept Plan and calculations to assess the impact to the floodplain;
2. Revised Grading Plan to show that development on PART A & B will be floodproofed and that the existing and proposed developments will have safe ingress/egress (emergency access), and
3. A topographic survey by a Land Surveyor that shows the entire emergency access has been constructed to allow for safe ingress and egress during a regulatory flood event for existing and future development of the subject lands.

Until we have received the above information, MVCA advises the Town of Minto that the current application is not in compliance with Section 3.1, Natural Hazard Policies of the PPS, 2014, which states:

Section 3.1.2 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;

Section 3.1.7 Further to policy 3.1.6, and except as prohibited in policies 3.1.2 and 3.1.5 (stated above), development and site alteration may be permitted in those portions of hazardous lands and hazardous sites where the

effects and risk to public safety are minor, **could be mitigated in accordance with provincial standards**, and where all of the following are demonstrated and achieved;

- a) development and site alteration is carried out in accordance with floodproofing standards, protection works standards, and access standards;
- b) vehicles and people have a way of safely entering and exiting the area during times of flooding, erosion and other emergencies;
- c) new hazards are not created and existing hazards are not aggravated; and,
- d) no adverse environmental impacts will result.

In summary, MVCA does not support this zoning by-law amendment. We recommend that the application be deferred until we have reviewed the aforementioned plans. We cannot advise the Town of Minto at this time if the proposed development will aggravate the existing flooding hazard or if new development will be floodproofed. We also recommend that the entire emergency access be constructed prior to approval of this application as shown on the recommended topographic survey...to allow for safe ingress and egress for existing and new development.

MVCA has not received our \$225.00 fee for review of this application. As such, we will invoice the applicant directly.

Please note, MVCA charges a fee for review of Site Plans and Lot Grading Plans. As such, the fee for review of the amended plans will be \$550.00. Also, a MVCA permit is required prior to grading the access and for construction of the new townhouses. The Application fee for grading the access will be reduced to account for our review time of the above-noted plans.

Thank you for the opportunity to comment at this time. Feel free to contact this office if you have any questions.