

May 9, 2024

Municipal Services Office - Central Ontario
Ministry of Municipal Affairs and Housing
16th floor
777 Bay Street
Toronto, ON M7A 2J3

**Subject: Municipal request for a Community Infrastructure and
Housing Accelerator for an affordable housing development
in the Municipality of Clarington
Address: 200 Baseline Road West
ERO Number: 019-8515
CLOCA File No.: RCON350**

Dear Sir or Madam,

The staff at the Central Lake Ontario Conservation Authority (CLOCA) would like to provide you with the following commentary regarding ERO Notice 019-8515 concerning the submitted request for a Community Infrastructure and Housing Accelerator (CIHA) order to facilitate an affordable housing development project in the Municipality of Clarington.

It has come to our attention that as part of the proposed *Cutting Red Tape to Build More Homes Act, 2024*, the government intends to amend the Planning Act to eliminate the Minister's authority to issue Community Infrastructure and Housing Accelerator (CIHA) orders. Nevertheless, a Minister's Zoning Order, pursuant to clause 47(1)(a) of the *Planning Act*, can still be utilized to regulate land use and the construction, placement, and use of any building or structure on the land.

Site Context and Proposed Development

In October 2021, CLOCA staff participated in a pre-application consultation meeting to provide input on a proposal for a Draft Plan of Subdivision and Rezoning, which includes a three-story apartment building and four three-story stacked townhouses, totaling 32 units and 84 units, respectively, on the subject lands.

The subject property is located on the boundary of Westside Creek watershed and Bowmanville Creek watershed and is almost entirely located within CLOCA's mapped regulatory floodplain (refer to the attached mapping). As it relates to administration of Ont. Reg. 41/24: Prohibited Activities, Exemptions and Permits, under the *Conservation Authorities Act*, and pursuant to the Provincial Policy Statement policies, prior to the issuance of a permit for development, CLOCA staff must ensure that the control of flooding is maintained, natural hazards are not aggravated, new hazards are not created during and post development of these lands and safe access to the site given the flooding hazard is planned for.

Following to the preconsultation meeting, CLOCA staff engaged with the development proponent and the Municipal staff to evaluate a proposed cut/fill operation to floodproof the subject site. To satisfy floodproofing requirements and to bring the future development out of natural hazards, the development should elevate the ground level to an elevation higher than the regulatory floodplain in the area. Any loss of floodplain storage volume resulting from the placement of fill must be adequately compensated. Please see the attached letter clarifying CLOCA staff's position on floodproofing and the requirements regarding bringing a compensating cut from the adjacent Bowmanville Creek valley lands.

Recommendation and Request

Given that there are outstanding feasibility assessment reports required to ensure that the subject lands may be safely developed associated significant natural hazard constraints existing along the creek valley east of Spry Avenue, as well as the hazardous conditions on the lands located at 200 Baseline Road W, we request the following:

1. That the enactment of an MZO be deferred until CLOCA is in a position to advise the Minister that the technical feasibility reports are acceptable, the hazards will be properly managed and safety issues addressed; and,
2. That any MZO contain provisions requiring the site be flood protected to the satisfaction of CLOCA via the detailed design.

Conclusion

We trust that these comments will assist the Ministry of Municipal Affairs and Housing in considering the issuance of a Minister's Zoning Order (MZO) for the above mentioned development.

Sincerely,



Sarem Nejad, PhD MCIP RPP
Development Planner

CC: Carlos Salazar, Carlos, Director of Planning & Infrastructure Services, Municipality of Clarington



Healthy watersheds for
today and tomorrow.

The Municipality of Clarington
Planning and Infrastructure Services
40 Temperance Street
Bowmanville, ON L1C3A6

November 23, 2022

Attention: Karen Richardson, Manager, Development Engineering

**Subject: Cut/Fill Operation Proposed for
 200 Baseline Road Development
 CLOCA File RCON350**

Dear Karen,

This letter is to confirm CLOCA's understanding and position on the proposed development at 200 Baseline Road in Clarington. The lands, currently owned by the Municipality, are proposed to be developed in partnership with Habitat for Humanity and Durham Region Non-Profit Housing Corporation and is undergoing a due diligence process for the property.

The subject property is located at the northwest corner of Spry Avenue and Baseline Road, on the boundary of Westside Creek and Bowmanville Creek, and is almost entirely located within the floodplain. As a result, CLOCA has been involved in a number of discussions regarding the property at various points in the past and are aware of the conceptual plans proposed for the Bowmanville Valleylands by the community group Valleys 2000. The plans showed a cut and fill proposal which included filling the subject property to floodproof lands west of Spry Avenue and compensating for the loss of flood storage with a balanced cut between the Bowmanville Creek and Spry Avenue. The last development proposal discussed within the pre-consultation meeting held on October 26, 2021, included the construction of a Stormwater Management (SWM) facility within the valleylands. However, recent developments indicate that while a storm sewer connection is available to service the site, a SWM facility is no longer being contemplated. To address the lack of a SWM facility, any quantity, quality and erosion controls will be required to be provided on-site, as part of the development proposal.

As stated above, the site is almost entirely located within the regulatory floodplain, and any development proposal will require a cut/fill operation to ensure the lands at 200 Baseline Road has been adequately floodproofed. To floodproof the site, the property will need to be filled, with a compensating cut to be provided on the adjacent Bowmanville Creek valleylands.

CLOCA staff continue to work with the Municipality and support their endeavour to bring affordable housing projects to the community. Based on the discussions to date, CLOCA staff have no objection to the proposed development at 200 Baseline Road in principle, provided the site is floodproofed in accordance with CLOCA's policies and guidelines and a balanced cut and fill is achieved. The compensating cut works must be completed prior to or concurrently with the proposed development. Building permits for the habitable buildings are not to be issued until the final grading plan for the lands at 200 Baseline Road and the as-built grading plan for the lands east of Spry Avenue has been provided to CLOCA confirming a cut/fill balance has been achieved.

In addition, the proposed site for the compensating cut is located within CLOCA's Natural Heritage System. Additional requirements, as previously communicated, include the completion of a scoped Environmental Impact Study (EIS) and a restoration plan for the impacted areas within the valleylands. A review of the Terms of Reference for the EIS by CLOCA staff is required prior to commencing the study. A Geotechnical study in support of the cut/fill operation will also be required.

Furthermore, please be advised that as per Ontario Regulation 42/06 of the *Conservation Authorities Act*, permits from CLOCA will be required for the development at 200 Baseline Road and the proposed cut area within the valleylands. As noted above, the completion of the compensating cut within the valleylands must be completed to demonstrate the lands at 200 Baseline Road are no longer within the regulatory floodplain, prior to the issuance of building permits for the future housing project.

We hope you find the above satisfactory, but if you have any questions, please contact us.

Sincerely,



Lucy Benham, P.Eng
Senior Water Resources Engineer



Sarem Nejad
Development Planner

Cc: CLOCA, Perry Sisson, Chris Jones, Doris Cheng