

19TH REPORT OF THE
PLANNING AND ENVIRONMENT COMMITTEE

Meeting held on September 10, 2013, commencing at 4:03 PM, in the Council Chambers, Second Floor, London City Hall.

PRESENT: Councillor B. Polhill (Chair), Councillors N. Branscombe, D.G. Henderson, P. Hubert and S. White and H. Lysynski (Secretary).

ALSO PRESENT: Mayor J.F. Fontana, G. Barrett, J. Braam, B. Debbert, M. Elmadhoon, J.M. Fleming, T. Grawey, B. Henry, P. Kokkoros, G. Kotsifas, B. Krichker, A. MacLean, L. Maitland, L. Mottram, M. Ribera, C. Saunders, M. Tomazincic and J. Yanchula.

I. DISCLOSURES OF PECUNIARY INTEREST

1. That it BE NOTED that no pecuniary interests were disclosed.

II. CONSENT ITEMS

2. Properties located at 2290 Torrey Pines Way and 159-285 Castlehill Close (H-8177)

Recommendation: That, on the recommendation of the Manager, Development Services and Planning Liaison, based on the application of Sunningdale Developments Inc., relating to the property located at 2290 Torrey Pines Way and 159-285 Castlehill Close, the proposed by-law, as appended to the staff report dated September 10, 2013, BE INTRODUCED at the Municipal Council meeting to be held on September 17, 2013, to amend Zoning By-law No. Z.-1, (in conformity with the Official Plan), to change the zoning of 2290 Torrey Pines Way FROM a Holding Residential R6 Special Provision/ Residential R7 Special Provision (h-53*h-100*R6-5 (25)/R7 (12)) Zone TO a Residential R6 Special Provision/ Residential R7 Special Provision (R6-5 (25)/R7 (12)) Zone, to remove the holding "h-53" and "h-100" provisions and to change the zoning of 159-285 Castlehill Close FROM a Holding Residential R1 (h-100*R1-4) TO a Residential R1(R1-4) Zone to remove the holding "h-100" provision. (2013-D14B)

Motion Passed

YEAS: J.F. Fontana, N. Branscombe, D.G. Henderson, B. Polhill, P. Hubert, S.E. White (6)

3. Property located at 160 Sunningdale Road West (H-8084)

Recommendation: That, on the recommendation of the Manager, Development Services and Planning Liaison, based on the application of Tricar Developments Inc., relating to the property located at 160 Sunningdale Road West, the proposed by-law, as appended to the staff report dated September 10, 2013, BE INTRODUCED at the Municipal Council meeting to be held on September 17, 2013, to amend Zoning By-law No. Z.-1, (in conformity with the Official Plan), to change the zoning of 160 Sunningdale Road West FROM a Holding Residential R9 Special Provision (h-100*R9-7(16)*H48) Zone and a Holding Residential R4 (h*h-100*R4-6) Zone TO a Holding Residential R9 Special Provision (R9-7(16)*H48) Zone and a Holding Residential R4 (h*R4-6) Zone to remove the h-100 holding provision. (2013-D14B)

Motion Passed

YEAS: J.F. Fontana, N. Branscombe, D.G. Henderson, B. Polhill, P. Hubert, S.E. White (6)

4. Property located at 275 Callaway Road (H-8217)

Recommendation: That, on the recommendation of the Manager, Development Services and Planning Liaison, based on the application of Richmond Village (London) Inc., relating to the property located at 275 Callaway Road, the proposed by-law, as appended to the staff report dated September 10, 2013, BE INTRODUCED at the Municipal Council meeting to be held on September 17, 2013 to amend Zoning By-law No. Z.-1, (in conformity with the Official Plan), to change the zoning FROM a Holding Residential R6 Special Provision/ Residential R7 Special Provision (h-h-53*h-99*h-100*R6-5 (26)/R7 (10)) Zone TO a Holding Residential R6 Special Provision/ Residential R7 Special Provision (h-100*R6-5 (26)/R7 (10)) Zone to remove the holding "h-5", "h-53" and "h-99" provisions. (2013-D14B)

Motion Passed

YEAS: J.F. Fontana, N. Branscombe, D.G. Henderson, B. Polhill, P. Hubert, S.E. White (6)

5. Property located at 1300 Fanshawe Park Road East - Extension to Draft Plan of Subdivision Approval (39T-04512)

Recommendation: That, on the recommendation of the Senior Planner, Development Services, the following actions be taken with respect to the Draft Plan of Subdivision application of 700531 Ontario Limited (Marsman), relating to the property located at 1300 Fanshawe Park Road East:

- a) the Approval Authority BE ADVISED that the Municipal Council supports a three (3) year extension to Draft Approval for the draft plan of subdivision submitted by 700531 Ontario Limited (Marsman), prepared by Development Engineering, certified by Bruce S. Baker, Ontario Land Surveyor (Drawing No. D1082-DPsouth, dated September, 2003), as red-line amended, which shows two (2) commercial blocks, two (2) high density residential blocks, two (2) medium density residential blocks, one (1) stormwater management block, one (1) open space block, one (1) park block and several reserve and road widening blocks served by two (2) new secondary collector roads SUBJECT TO the revised conditions contained in Schedule "A", as appended to the staff report dated September 10, 2013; and,
- b) the financing for this project BE APPROVED in accordance with the "Related Estimated Costs and Revenues" appended as Schedule "B" to the associated staff report, dated September 10, 2013. (2013-D12)

Motion Passed

YEAS: J.F. Fontana, N. Branscombe, D.G. Henderson, B. Polhill, P. Hubert, S.E. White (6)

6. Lands located West of Meadowgate Boulevard and East of Highbury Avenue South - Extension of Draft Approval (39T-92020-D)

Recommendation: That, on the recommendation of the Senior Planner, Development Services, the following actions be taken with respect to the application of Jackson Land Corp., relating to the property located on the south side of Evans Boulevard, west of Meadowgate Boulevard, and east of Highbury Avenue South, legally described as Part of Lots 15 and 16, Concession 1 (Geographic Township of Westminster):

- a) the Approval Authority BE REQUESTED to approve a three (3) year extension to Draft Plan Approval for the residential plan of subdivision, as red-line amended, SUBJECT TO the revised conditions appended as Schedule "A" 39T-92020-D to the associated staff report, dated September 10, 2013; and,

- b) the financing for this project BE APPROVED in accordance with the “Related Estimated Costs and Revenues” appended as Schedule “B” 39T-92020-D to the associated staff report, dated September 10, 2013. (2013-D12)

Motion Passed

YEAS: J.F. Fontana, N. Branscombe, D.G. Henderson, B. Polhill, P. Hubert, S.E. White
(6)

7. Property located at 940 Springbank Drive

Recommendation: That, on the recommendation of the Managing Director, Development and Compliance Services & Chief Building Official, the Municipal Council BE ADVISED that the Approval Authority has approved minor amendments to the plans associated with the development agreement for the construction of a 12 storey apartment building, with 165 units, at the property located at 940 Springbank Drive. (2013-D11)

Motion Passed

YEAS: J.F. Fontana, N. Branscombe, D.G. Henderson, B. Polhill, P. Hubert, S.E. White
(6)

8. Building Division Monthly Report for July 2013

Recommendation: That the Building Division Monthly Report for July 2013 BE RECEIVED. (2013-P06)

Motion Passed

YEAS: J.F. Fontana, N. Branscombe, D.G. Henderson, B. Polhill, P. Hubert, S.E. White
(6)

III. SCHEDULED ITEMS

9. Property located at 1140 Southdale Road West

Recommendation: That, on the recommendation of the Manager, Development Services and Planning Liaison, the following actions be taken with respect to the Site Plan approval application by HLH Investments Ltd., relating to the property located at 1140 Southdale Road West:

- a) the Approval Authority BE ADVISED that there were no issues raised at the public participation meeting of the Planning and Environment Committee with respect to the application for site plan approval;
- b) the Approval Authority BE ADVISED that the Municipal Council supports the site plan application for a commercial building at 1140 Southdale Road West; and,
- c) the financing for this project BE APPROVED in accordance with the “Related Estimated Costs and Revenues” appended as Schedule “A” to the associated staff report, dated September 10, 2013. (2013-D11)

Motion Passed

YEAS: J.F. Fontana, N. Branscombe, D.G. Henderson, B. Polhill, P. Hubert, S.E. White
(6)

10. City-Wide Official Plan/Zoning By-law Review - City of London (OZ-7783)

Recommendation: That, on the recommendation of the Managing Director, Planning and City Planner, the following actions be taken as a result of the City-wide Official Plan/Zoning By-law review of potential locations of Self-storage Establishments in the City of London:

- a) the proposed by-law, as appended to the staff report dated September 10, 2013, BE INTRODUCED at the Municipal Council meeting to be held on September 17, 2013 to amend the Official Plan TO add Self-storage Establishments as a permitted use under Section 4.4.2.4 of the Auto Oriented Commercial Corridor designation and add new urban design objectives for all uses to Section 4.4.2.8 of the Auto Oriented Commercial Corridor designation; and,
- b) the proposed by-law, as appended to the staff report dated September 10, 2013, BE INTRODUCED at the Municipal Council meeting to be held on September 17, 2013, to amend Zoning By-law No. Z.-1, (in conformity with the Official Plan, as amended in part a), above), TO:
 - i) amend the existing definition of “WAREHOUSE ESTABLISHMENT” in Section 2 (Definitions) to exclude Self-storage Establishments;
 - ii) add Self-storage Establishments as a permitted use to the RSC1, RSC4 and RSC5 zone variations;
 - iii) amend the LI1 zone variation to add “Existing Self-storage Establishments” as a permitted use; and,
 - iv) add a new LI10 zone variation which would permit Self-storage Establishments where additional city policy provides such direction;

it being pointed out that at the public participation meeting associated with this matter, the following individual made an oral submission in connection therewith:

- Derek McBurney, 4-466 South Street – indicating that it is a matter of communicating better because he has had a number of phone calls and over 100 e-mails from people who are really worried that they were just going to start popping up in their neighbourhood; advising that the Planning Department has answered this concern well; and, reiterating the need to communicate better with the public. (2013-D14A)

Motion Passed

YEAS: J.F. Fontana, N. Branscombe, D.G. Henderson, B. Polhill, P. Hubert, S.E. White
(6)

11. Property located at 1603 Hamilton Road (39T-09502)

Recommendation: That, on the recommendation of the Senior Planner, Development Services, the following actions be taken with respect to the application of Sifton Properties Limited, relating to the lands located at 1603 Hamilton Road:

- a) the Approval Authority BE ADVISED that, at the public participation meeting of the Planning and Environment Committee held with respect to this matter, issues were raised with respect to the following:
 - i) protecting the lands abutting the Thames River and protecting the water quality of the Thames River;
 - ii) ensuring that there will be no pathway in the environmentally significant area to the west of this development;
 - iii) ensuring that the stormwater management pond has erosion control measures implemented;
 - iv) enquiring as to the location of the medium-density and high-density housing forms in relation to the Thames River;
 - v) enquiring as to whether or not a fence or wall is to be built between the subject property and the property located at 1645 Hamilton Road; and,
 - vi) enquiring about the water drainage on the subject property and the property located at 1617 Hamilton Road;

- b) the Approval Authority BE ADVISED that Municipal Council supports revisions to the draft approved plan of subdivision as submitted by Sifton Properties Limited, prepared by Robert D. Stirling, Ontario Land Surveyor (Drawing No. D4099-DP.dwg, dated May 14, 2013), as red line revised, which shows 152 single family lots, one (1) multi-family, high density residential block, four (4) multi-family, medium density residential blocks, two (2) multi-family, low density residential blocks, one (1) commercial/office mixed use block, seven (7) park blocks, nine (9) buffer/open space/ restoration blocks, two (2) stormwater pond blocks and seven (7) reserve, easement and road widening blocks served by a primary collector road extending north from Commissioners Road East and four internal local streets, SUBJECT TO the conditions appended as Appendix "39T-09502-1" to the associated staff report, dated September 10, 2013;
- c) the proposed by-law, as appended to the staff report dated September 10, 2013, BE INTRODUCED at the Municipal Council meeting to be held on September 17, 2013 to amend Zoning By-law No. Z.-1, (in conformity with the Official Plan), to change the zoning of the subject lands FROM a Holding Residential R1 (h•h-100•R1-4) Zone, a Residential R1 (R1-10) Zone, a Holding Residential R6 Special Provision (h•h-100•R6-2(11)) Zone, a Holding Residential R6 Special Provision (h•h-100•R6-2(12)) Zone, a Holding Residential R5/R6/R8 Special Provision (h•h-71•h-100•R5-6(8)/R6-5(31)/R8-2(4)) Zone, an Open Space Special Provision (OS1(3)) Zone, a Holding Open Space (h-2•OS4) Zone, an Open Space (OS5) Zone, and an Open Space Special Provision (OS5(3)) Zone TO a Holding Residential R1 (h•h-100•R1-4) Zone, a Holding Residential R6 Special Provision (h•h-100•R6-2(11)) Zone, a Holding Residential R6 Special Provision (h•h-100•h- •R6-2(11)) Zone, an Open Space Special Provision (OS1(3)) Zone, an Open Space (OS5) Zone and an Open Space Special Provision (OS5(3)) Zone, together with a holding provision that an Environmental Impact Study (EIS) to address the potential impacts of the access laneway within Block 153 be required to the satisfaction of the City and the UTRCA;

it being noted that the Planning and Environment Committee reviewed and received a communication, dated September 8, 2013, from G. Smith, Friends of Meadowlily Woods Community Association, with respect to this matter;

it being pointed out that at the public participation meeting associated with this matter, the following individuals made oral submissions in connection therewith:

- Gary Smith, Friends of Meadowlily Woods – see attached presentation.
- Ken Goodhand, 1645 Hamilton Road – indicating that he has a question about the border between his property and the subject property as they share a property line; indicating that he asked about this matter in 2006 or 2007 when this property was first purchased by Sifton Properties Limited; indicating that, at that time they mentioned that they would like a wall or a fence installed; and indicating that he would like to know what is happening with his request for a wall or a fence to be installed.
- Mariola Karpierz, 1617 Hamilton Road – advising that pathways have been proposed; however, the pathways are not included on the designs that they have received; advising that there is water running along the property line; enquiring as to what is going to happen with the water run off as there is currently an access road that has been built in the last two months; and enquiring as to whether or not the access road is staying and how the water is going to be diverted from that site.
- Bob Stratford, on behalf of Sifton Properties Limited – indicating that, during the construction of the stormwater management pond, the City has installed an access road to the site; advising that he is uncertain whether or not the City will remove the temporary access road before Sifton Properties Limited obtains final detailed design approvals to construct the final works; indicating that the engineering design does have consideration for drainage on the east side of the property in the limits of the draft plan as well as provisions for storm sewer to collect runoff that is existing today; indicating that the plan is that they will be addressing the storm drainage at that location when they get out there to do their work; advising that, in the interim, he has not been involved in

the construction of the stormwater management pond, but he believes that an access road would have been built and perhaps it has cut off some drainage; suggesting that the City look into the drainage as part of their construction program; advising that there is a regulated Upper Thames River Conservation Authority flood line on the property; advising that there will not be development inside the flood plain; noting that the development of the plan had a high regard for the flood line location; indicating that there was a suggestion, on the block where there is multi-family housing planned, to give consideration to other forms of development that may be more suitable given the grades; advising that it is their opinion that the multi-family type construction can blend in with the environment there and they have completed concept plans. (2013-D12)

Motion Passed

YEAS: J.F. Fontana, N. Branscombe, D.G. Henderson, B. Polhill, P. Hubert, S.E. White
(6)

12. Property located at 450 Oxford Street West (OZ-8003)

Recommendation: That, the following actions be taken with respect to the application of Bluestone Properties Inc., relating to the property located at 450 Oxford Street West:

- a) the proposed by-law, as appended to the staff report dated September 20, 2013, BE INTRODUCED at the Municipal Council meeting to be held on September 17, 2013, to amend the Official Plan to change the designation of the subject lands FROM a Multi-family, High Density Residential designation and an Open Space designation TO an Office Area designation, to permit office and secondary uses with a maximum office gross floor area of 5,000 square metres; it being noted that a fill permit may be required from the Upper Thames River Conservation Authority for a portion of these lands;
- b) the proposed Zoning By-law amendment to change the zoning of the subject property FROM a Restricted Office/Day Care (RO2/DC) Zone, which permits office uses and day care facilities with a maximum office gross floor area of 2,000 square metres, and an Open Space (OS4) Zone, which permits conservation lands and works, golf courses, private parks, public parks, cultivation or use of land for agricultural/horticultural purposes and sports fields TO a Holding Office Special Provision (h-____*OF4()) Zone, to permit clinics, medical/dental offices, medical/dental laboratories, offices, financial institutions and personal service establishments with a maximum gross floor area of 5,000 square metres, and special provisions to establish minimum and maximum yard setbacks from Oxford Street West of between 1.0 and 3.0 metres and minimum and maximum yard setbacks from Proudfoot Lane of between 4.0 metres and 6.0 metres; it being noted that the holding provision requires that no development occur on these lands until such time as the Upper Thames River Conservation Authority has provided to the City any revised floodlines arising from the completed Mud Creek Subwatershed Study Update, and has approved a fill permit, if required, BE REFERRED to the Civic Administration for further consideration and to report back at a future public meeting of the Planning and Environment Committee following the resolution of issues related to the location of the floodlines on these lands arising from the final Mud Creek Subwatershed Study update;
- c) the request for the Site Plan Approval Authority to consider design, transportation and environmental issues, through the site plan process BE REFERRED to the Civic Administration for further consideration and to report back at a future meeting of the Planning and Environment Committee in association with clause b), above;

- d) upon completion of the Mud Creek Subwatershed Study Update and the provision of revised flood lines by the Upper Thames River Conservation Authority to the City, the Civic Administration BE DIRECTED to provide any required amendments to the Official Plan and the Z.-1 Zoning By-law to implement the revised flood lines as approved by the Upper Thames River Conservation Authority; it being noted that an Open Space designation and an Open Space (OS4) zone variation could be applied to a portion of these lands; and,
- e) no action BE TAKEN to pursue City acquisition of the portion of the subject lands currently designated as Open Space in the Official Plan;

it being noted that the Planning and Environment Committee reviewed and received a communication, dated September 6, 2013, from J. Brick, Coordinator, Hydrology and Regulatory Services, Upper Thames River Conservation Authority, with respect to this matter;

it being pointed out that at the public participation meeting associated with this matter, the following individuals made oral submissions in connection therewith:

- Alan R. Patton, Patton Cormier & Associates, on behalf of the applicant – advising that on page 2 of the staff report, Mr. Bierbaum has been involved in a development proposal on this land since 2004; indicating that, at this point in this long and iterative process, Bluestone is asking that the Municipal Council only pass the Official Plan amendment to redesignate the property to an Office Area designation; noting that this will put some certainty in the planning process that the Municipal Council is seriously looking at an office area designation; advising that Bluestone also asks that discussions regarding the Zoning by-law amendments be adjourned to allow discussions to be held with both the Upper Thames River Conservation Authority (UTRCA) and the City on a number of technical issues, many of which the Committee has heard tonight during the Planning staff review; indicating that some of the matters that they would like to discuss include traffic, such as setbacks from the ultimate road allowance, parking and a justification report rather than relying on a minor variance in the future; indicating that they believe that it is important to hold some discussions with the UTRCA over their position on the floodway; indicating that, in his review of the material, the UTRCA seems to be somewhat at odds with the City on this matter; advising that there are discussions that can be held during the zoning review as well as discussions concerning the Mud Creek Subwatershed Study; noting that the site plan approval would not be dealt with and revisions would be worked on at the appropriate time to provide the Committee with a more detailed site plan that what is presently before the Committee; advising that the Committee asked about the height allowed in the OF4 Zone and advising that the OF4 Zone permits a maximum height of 19 metres which equates to about 60 feet; noting that this would allow for a four or five storey building; indicating that Mr. Bierbaum has advised that he is open to the suggestion of a higher building to reduce the footprint but still maintain the gross floor area; indicating that Bluestone would rather get the Municipal Council's position that an Office Area designation is appropriate and then continue the discussions over a zoning by-law that matches the floodway; indicating that there is a disconnect between what the Municipal Council will hear from the City's stormwater management staff and the UTRCA on the area that is capable for development; indicating that there is no point in passing a zoning by-law with a holding provision; advising that after 9+ years, it is time that Bluestone has the knowledge that an Office Area designation on this property is sound land use planning and should be advanced; reiterating that what his client would like is exactly what the staff recommended in the Official Plan amendment and working out the details through zoning, everything from height to access points, to areas that would be parking and site plan approval matters; advising that the UTRCA would still have authority, through their regulatory process, to define where the floodway is; advising that that is independent of the Office Designation; indicating that Bluestone is hoping to avoid a h-5 holding provision on this property; advising that if you look at the wording of the h-5 holding symbol, it cannot be lifted until the UTRCA has provided the City with its revised

flood lines arising from the Mud Creek Subwatershed Study and has approved a fill permit; advising that the way the h-5 holding provision has been drafted, the City puts all authority over the UTRCA; indicating that Bluestone believes that they can accomplish, with fair discussion, between Planning staff, Engineering staff and the UTRCA, to allow the development to proceed when both sides are satisfied that a fill permit that can be issued and there is no need to come back to another meeting to remove the h-5 holding provision; advising that the scenario that Bluestone is presenting is that if you adjourn the staff recommendation on the h-5 holding provision, another by-law could come forward at a second meeting when everyone is satisfied; indicating that he expects that the site plan will go a long way in satisfying the UTRCA; indicating that, in the UTRCA's latest submissions, there are some obstacles to overcome; advising that Bluestone's concern is to just take it one step at a time and not raise expectations; noting that Bluestone has some work to be do as they were just advised that the set back from the building will now be 20 meters; noting that the building was designed with a setback of 18 metres; advising that the application has been in the hands of the Municipality for so long that Bluestone can go to the Ontario Municipal Board (OMB) directly and have it dealt with at the OMB; noting that Bluestone is not prepared to take this action; and expressing concern that the passing of the proposed zoning by-law may trigger an appeal to the OMB.

- Henk Ketelaars, 1058 Colborne Street – advising that he is a Member of the Transportation Advisory Committee; expressing concern with the comments in the staff report addressing traffic heading north and exiting onto Oxford Street from that subdivision; noting that staff indicate that it is never a problem; advising that for him, the problem is going east from Platts Lane; and recommending the installation of an advance green in that intersection.
- Jeff Brick, Coordinator, Hydrology and Regulatory Services, Upper Thames River Conservation Authority (UTRCA) – answering the question with respect to the parking requirement on page 28 of the staff report; noting that parking is a part of development; advising that the Provincial Policy Statement prohibits development from being located in the flood way; advising that provisional development in the flood fringe is allowed, but new development in the flood way is prohibited; noting that parking is part of the development; keeping in mind that when you approve the development, you have to contemplate where the parking is going to be located; talking about prohibiting new development in the flood way ties in very nicely with the question that was asked about parking lots at Western University; noting that the parking lots at Western University are very problematic; however, they are existing parking lots; noting that if the UTRCA could go back and do it again, the UTRCA would do it differently and would not allow parking lots in the flood way that serve development located outside of the floodway; indicating that this reinforces why the policy has been worded as it is; indicating that the project that is being discussed is not an existing development, which is why he is making the comment about not putting development in the floodway; realizing that this has been a long process; noting that they have had communications, meetings and consultation with Mr. Bierbaum and City staff since the start of the project; further noting that everyone recognizes that this is a complicated application; thanking Mr. Bierbaum for his patience; advising that, with the information before the Committee tonight, there is a partially completed Mud Creek Subwatershed Study, which provides new information that the UTRCA is reacting to; indicating that the Study will be provided to the Civic Works Committee in a couple of weeks and that is one of their main concerns; expressing concern about relying on a recommendation from a Study that has not been fully completed or reviewed and may not have been vetted by other City departments; noting that it has not been vetted by the UTRCA; advising that, by selecting one recommendation out of the Study and choosing to rezone this property, it would certainly could cause some expectations that are very problematic; indicating that the 1995 Mud Creek Subwatershed Study did not generate accurate flood lines; noting that the UTRCA found that out during the process; further noting that it is unfortunate that those flood lines were not perfect; reiterating that, with the new information provided, the determination was made that the flood

lines were substandard; indicating that the UTRCA has consistently advised the City that the approval of planning applications is premature until the flood line information is updated; advising that the UTRCA has worked with this proponent and the proponent has patiently waited while the Subwatershed Study was completed; noting that a flood line analysis for this type of property is much more extensive than just looking at the property on its own because you have to look at the whole subwatershed; further noting that, in fairness to a single proponent, the magnitude of a project to look at all of the catchment area and all of the constraints in the catchment area, which are on many other property owners land, would make it extremely difficult for this property owner to update the mapping; expressing appreciation to Mr. Bierbaum for his patience in allowing the Subwatershed Study update to occur and allowing the flood line mapping update, that was a part of that process, to occur; advising that the draft subwatershed update confirms that the property is below the 100 year elevation for the existing condition which is bad news for the development from the perspective that that puts it in the flood way; advising that the UTRCA understands that there is a preferred alternative identified in the draft Subwatershed Study which indicates that this site is a good candidate for filling to raise it out of the flood plain; however, the UTRCA provided their communication after they had an opportunity to review the Planning report to emphasize that it would be premature to make a decision on the basis of a Study in draft form because it is only draft at this point in time; advising that the preferred alternative, as identified by the consultant, would have the effect of increasing flood risk on adjacent properties and public infrastructure; advising that, to approve the preferred alternative, in its current form, without addressing the flooding on neighbouring properties, is precisely why the UTRCA regulates development in flood plains; indicating that the UTRCA does not want flooding on other properties; advising that the preferred alternative is not consistent with Provincial policy to fill in the floodway on a property on its own, Conservation Authority policy and the City's Official Plan; reiterating that the preferred alternative cannot be supported by the UTRCA; emphasizing that the UTRCA is very pragmatic about these matters; recognizing that there are examples referenced in the report, the Pottersburg system and the Stanton drain system, where there have been projects which involved looking at the whole system, optimizing the flood plain, allowing the process to look at all the pro's and con's and coming up with a scheme which allows some filling in the floodway in exchange for protection of other areas; indicating that, as a Conservation Authority, we support those kinds of approaches on a watershed basis and there is possibly some potential for that kind of a scheme on this property; indicating that it is just too soon to say that it is going to work and to approve the Zoning and the Official Plan has the risk of creating expectations that may not be able to be realized; advising that the UTRCA is not a big fan of the holding provision, because we think that we really should hold off on the zoning amendment until we have the decision or the information in front of us to establish the principal of development; advising that the UTRCA still has some outstanding concerns regarding the woodlands significance that we would like to work through; advising that, on the issue of creating expectations by separating the Zoning and the Official Plan, the applicant has said please do not approve the zoning; however, we would suggest that you keep the Zoning and the Official Plan together for the same reasons that the Committee would not approve the Zoning tonight; noting that the Committee might not want to approve the Official Plan; realizing that approving the Official Plan gives the applicant some certainty that the City is interested in an Office designation, which is a nice message; noting that, by separating the Official Plan and the Zoning, you get two processes running, which is a bit unusual; indicating that he would encourage Mr. Bierbaum to keep the Zoning and the Official Plan together because you can create expectations; noting that if the Official Plan designation is passed, with the Open Space that currently exists on the property and, if the property is redesignated to an Office designation, there is the potential to run into the problem that, if none of the site is developable, you have to undo that designation later; advising that a little bit more time to work out these issues is warranted; advising that when he is talking about working out the issues, we have to be clear that,

looking at this catchment and looking at filling a single privately held property that is currently not developed and currently not a problem that we already have and that we want to address, is extraordinary and is not consistent with Policy; noting that, that does not mean that it cannot be done, but we would need to really consider what the needs in the subwatershed are, we would really need to look closely at the other alternatives in the Subwatershed Study and we would need to consider if the public infrastructure needs for that fill can be met; indicating that it is not unlike what we have talked about with the reach analysis for the hydro lands; noting that the reach analysis for the hydro lands is to address an existing problem and to allow an extraordinary exception to policy to allow filling on a property, but if we don't allow filling on that property and bury our heads in the sand the problem remains; indicating that the difference with this property is that it may be a candidate for filling and we can look at it through a process, but this problem does not exist yet; advising that, we are saying to the Committee, to please take the time to confirm whether or not there is a problem, how big the problem is and whether or not Mr. Bierbaum's property can be developed with some fill and looking at the impact on neighbouring properties and City infrastructure; indicating that other properties that are in the same boat in the watershed and need to be considered because if you create a precedent for one and you allow filling in the floodway believe me, the floodgates will be at the front desk of the UTRCA; confirming that the UTRCA has the regulatory authority; reiterating the UTRCA's concern is that the Subwatershed Study is in draft form and it is very premature to approve a planning application on the basis of one alternative from an incomplete Study that promotes filling; indicating that is not actually in the City mandate to make that decision, but we certainly work closely with the City and we know each other's policies; advising that it is within the UTRCA mandate to make that decision; reiterating that it is not consistent with the Provincial Policy, Conservation Authority Policy or the flood plain policies of the City; advising that the UTRCA role, with planning application review with the City, is that we provide you advice on the application when it comes to natural hazards under the Provincial policy and how it relates to our regulatory authority will manifest itself at the later stage; advising that we provide you with our advice at the front end of the decision making process so that the City can satisfy itself that it is fulfilling its obligation to be consistent with the Provincial Policy Statement; indicating that this is the Committee's decision as the Committee is the decision maker on this *Planning Act* application; reiterating that the advice that we give you, in a case like this, where we say that it is not consistent with the Provincial Policy Statement to approve an application that contemplates development in the floodway, you have to satisfy yourself whether or not you can realize Provincial policy that we have just said that we just advised you that we do not think that you can meet; indicating that we would also advise you, in a case like this, that we also would not be prepared to issue a permit for filling; indicating that, in the case of this specific site, the current configuration of it, on the basis of the Mud Creek project that we have before us, suggests that this is a candidate for filling which is a ray of hope for the developer; expressing the greatest respect for Delcan, this is not our first rodeo when it comes to filling; noting that we have done a program for conservation authority regulations for fill in the flood plain since the late 1970's; indicating that it is ok to pick out three properties and fill them but you have to have reasons why you can say to the other 15,000 or 12,000 or 8,000 properties in that catchment, why they are not candidates for filling; advising that we had better have that package together and it had better be tight; advising that our position is that there may be an opportunity for Mr. Bierbaum's property, or Bluestone's property, to be filled; indicating that we fully support the systems approach, but we need to walk this decision through a decision making process like an environmental assessment where all of the options are considered in the public interest; advising that this is what we are attempting to realize in the end; noting that we did that for Pottersburg Creek and for Stanton Drain; however, we have not done that here; indicating that, in the absence of that process, the property is not developable, but I think that it is not hopeless; advising that the relationship between the UTRCA and the City is a legislative relationship, even though the UTRCA has not

exercised that relationship in the past; noting that it is a much more cooperative process; and advising that Mr. Bierbaum understands that this property is highly constrained which puts them in a difficult position. (2013-D14A)

Motion Passed

YEAS: J.F. Fontana, N. Branscombe, D.G. Henderson, B. Polhill, P. Hubert, S.E. White
(6)

IV. ITEMS FOR DIRECTION

V. DEFERRED MATTERS/ADDITIONAL BUSINESS

VI. ADJOURNMENT

The meeting adjourned at 6:33 PM