

EIS for 168 Meadowlily Road, dated June 2024 by NRSI, received at ECAC at its August 15, 2024 meeting. Submitted to City staff and proponent's ecologist on September 4, 2024

Reviewers: L. Burt, S. Howard, S. Levin

KEY RECOMMENDATIONS

1. Because there will be phasing of the development and because the City will be constructing a sewer in the future buffer, the timing and responsibilities for fencing and buffer plantings must be coordinated between the proponent and the City. This is to avoid a period of time without a barrier to encroachment after new residents move in.
2. Because two of the retainable endangered Butternut trees that will be destroyed due to the development are on City property, ECAC strongly recommends that the City in consultation / cooperation with the proponent, exceed the minimum requirements for beneficial actions under Part V of O. Reg 830/21. This can be accomplished by planting Butternut seedlings on nearby City properties (City Wide Sports Field or Park Farm) and allowing the Forest Gene Conservation Association to access the trees prior to their destruction for the purpose of obtaining scions (grafting tissues). It is NOT a beneficial action for the City of London that the proponent simply makes a financial contribution to the Provincial "Species at Risk Conservation Fund."

Our detailed recommendations appear underlined below.

PROTECTING THE ESA THROUGH MITIGATION OF THE IMPACT OF DEVELOPMENT AND SEWER CONSTRUCTION. **WHO DOES WHAT AND WHEN?**

It seems reasonable to conclude from reading the Dillon June 2024 conceptual SWM Report found in summary on the City's website that full development of the proponent's site concept will require construction of the sewer that the City has planned for the northern part of the site. This raises many questions that are not addressed in the EIS.

The EIS has several helpful recommendations including fencing between the proposed multi-use pathway and the ESA and re-naturalization of the buffer area that would not become part of the multi-use pathway. There is also the standard requirement for monitoring of restoration measures which the EIS suggests start after 90% build out (EIS section 8.2.2 – Post Construction Monitoring). However, it seems VERY likely that 90% build out will occur AFTER the City constructs the sewer. It therefore seems VERY likely that NO restoration work or fencing will occur until well after most new residents arrive. In the meantime, there will be many opportunities for unmanaged access into the ESA that will be difficult to remediate.

RECOMMENDATIONS TO ADDRESS THE TIMING ISSUE:

- a. Temporary fencing to a height of 1.8 m (not 1.5 m as suggested in the EIS) be constructed in the anticipated future location of the permanent fencing. The proponent be responsible for the temporary fencing and the City be responsible for the permanent fencing after construction of the sewer and multiuse pathway.
- b. If development takes place prior to the construction of the sewer, the proponent be responsible for the temporary fencing and for plantings such as raspberry in the buffer to discourage access. After sewer and pathway construction, regardless of timing, then the City will be responsible for the final restoration of the buffer and permanent fencing.
- c. The City be responsible for signage which may be temporary, directing residents to the managed trail access points to the ESA which hopefully will avoid the creation of new inappropriate access points prior to the construction of permanent fencing. This recommendation must be implemented if the recommendation for temporary fencing is not accepted.
- d. There be simple informational signage, including a copy of the UTRCA/City Trail Map for the ESA permanently displayed in a common area of each of the multi-residential buildings upon first occupancy.
- e. The Environmental Management Plan be developed and approval from the city be sought at 30% of detail design if the issues of phasing and timing are resolved by then. In any case, the EMP must not be approved until the issues of phasing and timing are finalized during detail design.

BUTTERNUT TREES

EIS p. 36-7

“Additionally, as shown on Map 6, JUG-002 (Cat 3) and JUG-003 (Cat 2) are located just outside of the subject property on City of London property. As such, approval from the City of London will be required for the impact of these trees. JUG-001 (Cat 2) is within the subject property.”

Definitions:

Category 2: the tree does not have Butternut Canker or the disease is not in advanced stages.

Category 3: the tree could be useful in determining how to prevent or resist Butternut Canker

The Ministry of Environment, Conservation and Parks (MECP) made amendments in December of 2021, to the General Regulation (242/08) under the Endangered Species Act, 2007 (ESA, 2007).

The details in Part V of O. Reg. 830/21 can be found at <https://fgca.net/species-conservation/bha-resources/>

Only a compensatory payment to the Provincial Species at Risk Conservation Fund is proposed in the EIS. ECAC is of the opinion that there are better options. The proponent’s contribution to the Provincial Fund has no beneficial action for the City **and** it may be more expensive than the following recommendations.

ECAC has had preliminary discussions with the Forest Gene Conservation Association (FGCA) regarding the best path forward. From these preliminary discussions, it is highly likely that the ECAC recommendations below will REDUCE the overall cost to the proponent by avoiding a payment to the Conservation Fund AND will provide a beneficial action for Butternut recovery and a benefit to London.

RECOMMENDATION FOR THE BUTTERNUT TREES:

- a. No site alteration that could affect the Category 3 butternut tree in the hedgerow take place prior to the Forest Gene Conservation Association conducting scion collection. The next window for such collection is February/March 2025.
- b. Given the trees are on City property, the City enter into an agreement with FGCA (to be coordinated by the Planning Ecologist Team with the support of ECAC) to allow the FGCA to conduct scion collection before the permission to remove the trees is given. Costs could come from the proponent instead of the proponent making a payment to the Provincial Conservation Fund.
- c. Additionally, the FGCA be permitted to work with Forestry and UTRCA ESA Team members to plant and monitor Butternut tree seedlings either in the ESA (Park Farm site is nearby) or in the adjacent Sports Field. The costs for this could be covered by a contribution from the proponent, the City capital budget for ESAs, or donations. By its nature, this is a longer term project as seedlings can take time to grow to a size at which they can be planted.

CONTACT INFORMATION FOR THE FGCA IS AS FOLLOWS. MS. ZURBRIGG IS VERY INTERESTED IN TALKING TO CITY STAFF.

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WATERCOURSE AT NORTHWEST CORNER OF SUBJECT SITE

It appears from the maps that this watercourse will be protected somewhat partially by the buffer and partially in the parkland block shown on the concept map. This raises the question as to how the watercourse will be protected during the sewer construction and the construction of the multi-use pathway. It appears there will either be a culvert or other structure required for the pathway to cross the watercourse.

RECOMMENDATION

- a. The watercourse must be protected from impacts during site alteration by the proponent and by the City's sewer construction. The details of avoiding impacts during all construction activities (sewer, subdivision and multi use pathway) must be in place early in the detail design process for each project.

BIRD FRIENDLY DESIGN

ECAC strongly supports recommendation 14 on page 43 of the EIS: "Implementation of the Canadian Standards Association (CSA) Bird Friendly Design Standards (CSA A460) to provide visual barriers on windows within the development."

RECOMMENDATION:

- a. To properly implement this recommendation the requirement for visual barriers on windows must be included in the relevant development and/or site plan agreements.
- b. It is also strongly recommended based on work done at Western at its Advanced Facility for Avian Research (AFAR) that the visual barriers apply to all glazing up to at least the fourth storey or 16 m above grade.

MULTIUSE PATHWAY

It is unclear to ECAC why the EIS includes a width of 8 m for the multiuse pathway. The standard in the City under the Trail Guidelines for a Type 3 trail is 3 m with mowed sections on each side totaling 4 m. Eight meters is nearly 27% of a 30 m buffer which would be the required buffer for the adjacent Significant Woodland as per the City's Environmental Management Guidelines. And the buffer itself is planned to be even less than 30 m in places. Even with a sewer underneath it, there appears to be no reason in the EIS to explain the need for a wider pathway. Even in an emergency, the pathway would be removed to get to the sewer.

RECOMMENDATION:

Unless there is a special reason for a doubling in the size of the pathway, the pathway "corridor" width when constructed be a maximum of 4 m.

STORMWATER

The following information is from the summary stormwater report by Dillon the City web site. As the details include the Appendices that were not reviewed by ECAC, we cannot fully comment.

p. 5 "Due to grading constraints, runoff from approximately 1.44 ha of parkland along the northern site boundary travels as shallow surface flow to the Meadowlily Woods ESA. Since this area is mostly landscaped, no water quality or quantity controls are proposed to treat the runoff from this catchment."

3.5.3 Water Balance

"A water balance assessment was completed by EXP in 2022 and is presented in Appendix D. The calculation results suggest that the proposed development will reduce the annual infiltration volume on the subject site by approximately 9,600 m³ per year. Infiltration targets to mitigate the reduction in annual infiltration rate will be developed at the subdivision design stage."

We assume the City Hydrologist and Ecologists can explain how the shallow surface flows will not negatively affect any buffer plantings or the ESA and how the water balance can achieve 80% of the predevelopment conditions given the amount of impervious surface that is being proposed compared to existing conditions.

RECOMMENDATION

That the City be satisfied that the issues raised in the Dillon Conceptual SWM Report will not negatively affect the ESA's ecological features or their function.

PROTECTION OF THE ESA DURING AND POST DEVELOPMENT

Currently there are no access points to the ESA along the north edge of the property. Unfortunately, this will likely change with the increased population adjacent to the feature unless measures are taken to reduce the opportunity for such access. Additionally, typically monitoring programs only last three years. If monitoring only begins at 90% build out, there can be lots of time without monitoring, time that can result in access points to the ESA or other unwanted impacts that will be uncontrolled and left without efforts to avoid or mitigate them.

Given construction phasing may occur due to limits on sanitary sewer capacity, it is unclear whether the City contract for the new sewer will require the plantings in the buffer or if the proponent will be required to do so after the City's work is completed. The EIS is unclear on this. Although it is assumed in the EIS that the multi-use pathway will reduce the likelihood of yard waste dumping (unlikely to occur given the form of development on the site), there is observational evidence from the Medway Valley North ESA by ECAC and Nature London members that people have and continue to go off trail in all seasons.

RECOMMENDATION:

- a. We agree with the recommendation to install a chain-link fence on the north side of the multi-use trail to prevent access to the ESA through the buffer area. However, we recommend that the fence be 1.8 m in height and the timing of emplacement be early in the development process, noting it may need to be replaced at the City's expense after sewer construction.
- b. In addition, plantings to deter access (hawthorns, raspberries, etc) be planted even if fencing is installed. Plantings should be protected from deer browsing.
- c. Signage directing people to the authorized access points be installed once people begin to move into the new units.
- d. A Meadowlily ESA trail map as published on the UTRCA web site be posted in a common area of all multi residential buildings upon occupancy with a link to the website for convenience.
- e. The monitoring requirements (including when they start, who is responsible and for how long) outlined in the EMP for buffer plantings, etc. be confirmed between the City and the proponent early in detail design of the development and this requirement be contained in the development agreement.
- f. Informational signage be posted along the multiuse pathway as recommended in the EIS
- g. Animal proof trash receptacles are advised for the multiuse pathway because open cans are likely to be an attraction for wildlife resulting in more trash entering the ESA.