

TO:	CHAIR AND MEMBERS CORPORATE SERVICES COMMITTEE MEETING ON DECEMBER 10, 2013
FROM:	MARTIN HAYWARD MANAGING DIRECTOR, CORPORATE SERVICES AND CITY TREASURER, CHIEF FINANCIAL OFFICER
SUBJECT:	DECLARE SURPLUS CITY OWNED LAND ADJACENT TO 47 AND 49 AGINCOURT GARDENS REPORT ON REQUESTED DISPOSITION CITY OWNED LANDS ADJACENT TO 47 AND 49 AGINCOURT GARDENS

RECOMMENDATION

That, notwithstanding the recommendation of Staff to enforce the encroachment policy, Council resolved October 1, 2013 to direct staff to sell encroachment properties. In light of this, it is recommended the following process **BE ADOPTED**, with respect to the City owned property known as Westminster Ponds - North East - Pond Mills Environmentally Significant Area to the rear of properties municipally known as 47 and 49 Agincourt Gardens, further described as Part Block A, Plan 875, being an irregular strip of land containing approximately 4,125 square feet (as shown on Schedule "A" attached), the following process be taken:

- a) the subject property **BE DECLARED SURPLUS**;
- b) the subject property **BE OFFERED** for sale to the individual abutting property owners at fair market value in accordance with the Sale and Other Disposition of Land City Policy inclusive of ancillary costs associated with the transaction as detailed below; and
- c) the subject properties **BE DISPOSED OF** subject to the participation and agreement of all (2) owners described above, noting that failure to do this will result in increased cost and potential landlocked lands.

PREVIOUS REPORTS PERTINENT TO THIS MATTER

Public Safety Committee March 6, 2012 – Encroachments onto City Property Project “Return to Nature”

BACKGROUND

Encroachments

In 2012 the City enacted a plan entitled project “Return to Nature” to address numerous issues of encroachment into natural areas throughout the City.

In London there are approximately 1,060 private properties abutting seven publicly owned Environmentally Significant Areas (ESA). Of these, approximately 600 properties have encroached into an ESA in a variety of manners:

- Play structures, sand boxes, swing sets
- Fences, dog runs, compost containers and piles
- Stairs, patios, decks, garden sheds
- Pools (permanent and portable), pool backwash outlets)

Through agreement with the City, UTRCA address minor encroachments and remove over 3,000 lbs of debris from ESA's each year. Approximately 400 properties have contributed to minor encroachments which are easily resolved by relocating dog houses, composters, patio furniture etc. There are approximately 160 severe encroachments where private property owners have installed decks, patios and structures in ESA's.

City staff continues to work on identifying resolutions to these encroachments inclusive of Municipal Law Enforcement (Education, Voluntary Compliance, Enforcement Action)

Property Details

Subject Lands: Westminster Ponds – North East – Pond Mills ESA
Zoning: OS5
Official Plan: Open Space
Restrictions: Conservation Authority Regulated Lands (UTRCA)

Background

In previous years City staff have communicated to area residents along Agincourt Gardens that they were encroaching on City owned land. The residents were requested to remove and remediate the encroachments to re-naturalize the areas. A good portion of the lands behind these homes were returned to their natural state by the City and UTRCA within the last 5 years.

In March of 2013 requests were received from one of the residents along Agincourt Gardens representing three neighbours at 45, 47, and 49 Agincourt Gardens to acquire a portion of City owned land along the rear of their respective properties.

Since this time the owner of the property at 45 Agincourt Gardens has agreed to move their encroachments off City owned land.

Realty Services has undertaken a liaison process including other Civic Departments and the Upper Thames Regional Conservation Authority (UTRCA). The following details the results of the liaison responses.

Description

The request consists of an approximate 30 foot strip of land along the southerly boundary (rear) of all of the properties at 47 and 49 Agincourt Gardens. Please see attached Schedule "A" for description.

Summary Response

The Upper Thames Conservation Authority (UTRCA) opposes the possible disposition as it would be contrary to the guiding principles and goals and objectives of the Westminster Ponds/Pond Mills ESA Master Plan (2005).

The possible disposition also conveys an inappropriate message to the public and adjacent landowners and could promote further encroachment. To our knowledge, the subject lands were to be naturalized the past spring and all encroachments were to cease.

Staff from Environmental & Parks Planning have advised that the lands in question do not include any significant natural features or are part of the required buffer to natural features. The lands are not needed for future trails and are constrained from full naturalization by over head wires. While not a common practice, they do not object to a sale of these particular lands to resolve the long-standing encroachment issue, if the new rear property line is fenced by the owners.

Formal response received from the UTRCA is attached as Schedule "B".

Land Valuation

The subject lands were priced utilizing a value in contribution model.

The principle of contribution states that the value of a particular component is measured in terms of its contribution to the value of the whole property or as the amount that its absence would detract from the value of the whole.

Further to the value in contribution derived a bilateral monopoly model was applied to adjust the result providing consideration to the limited market for the subject property.

In a bilateral monopoly there is both a single seller (monopoly) and a single buyer (monopsony) in the same market.

The results of these appraisal techniques derived a land value (value in contribution) of approximately \$1.79 per square foot. Fencing is calculated using \$35/metre. Survey costs are provided per quotation. Legal costs are the responsibility of the Purchaser as is the case in any disposal of municipal land.

Address	Land Area	FMV	Survey	Fencing	TOTAL
	<i>Note 1</i>	<i>Note 2</i>	<i>Note 3</i>	<i>Note 3</i>	
47 Agincourt Gardens	1,980	\$3,500	\$1,150	\$1,050	\$5,700
49 Agincourt Gardens	2,145	\$3,800	\$1,150	\$770	\$5,720
<i>Note 1</i>	Estimated area in square feet subject to final survey				
<i>Note 2</i>	Fair Market Value as determined by value in contribution				
<i>Note 3</i>	Estimated costs associated with survey, and fencing (plus applicable taxes)				

Conclusion

It being noted, that an objection to the disposal of the lands was received from the Upper Thames River Conservation Authority.

The subject property is to be declared surplus to the needs of the City and subsequently sold to the abutting property owners at fair market value in compliance with the Sale and Other Disposition of Land City

The decision to dispose of ESA lands within the Westminster Ponds ESA will create a precedent and will not assist the mandate of project "Return to Nature" which endeavours to address approximately 600 encroachments into ESA areas throughout the City by returning lands to their natural state.

A location map is attached as Schedule "A" for the Committee's information.

PREPARED BY:	RECOMMENDED BY:
BILL WARNER MANAGER, REALTY SERVICES	MARTIN HAYWARD MANAGING DIRECTOR, CORPORATE SERVICES AND CITY TREASURER, CHIEF FINANCIAL OFFICER

November 14, 2013

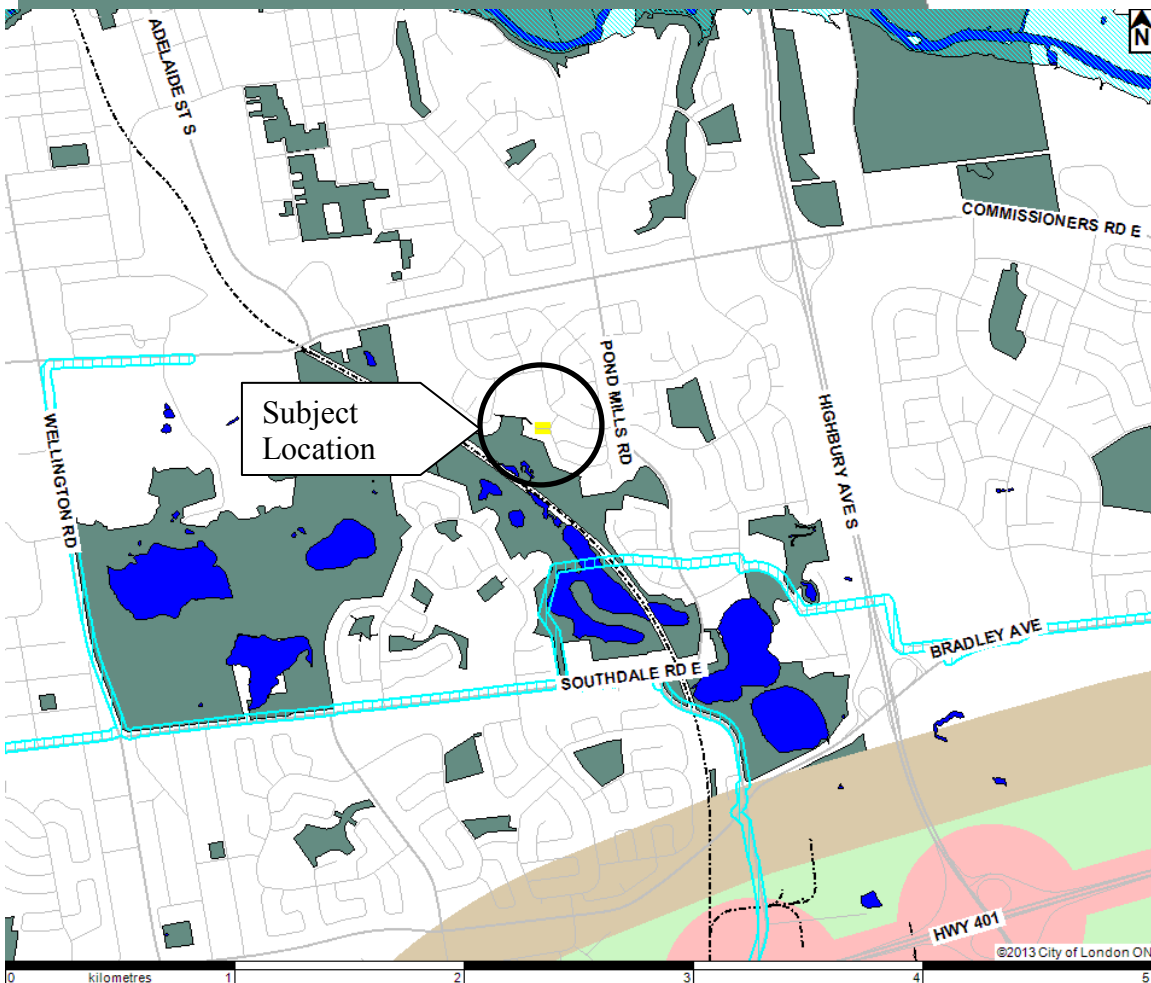
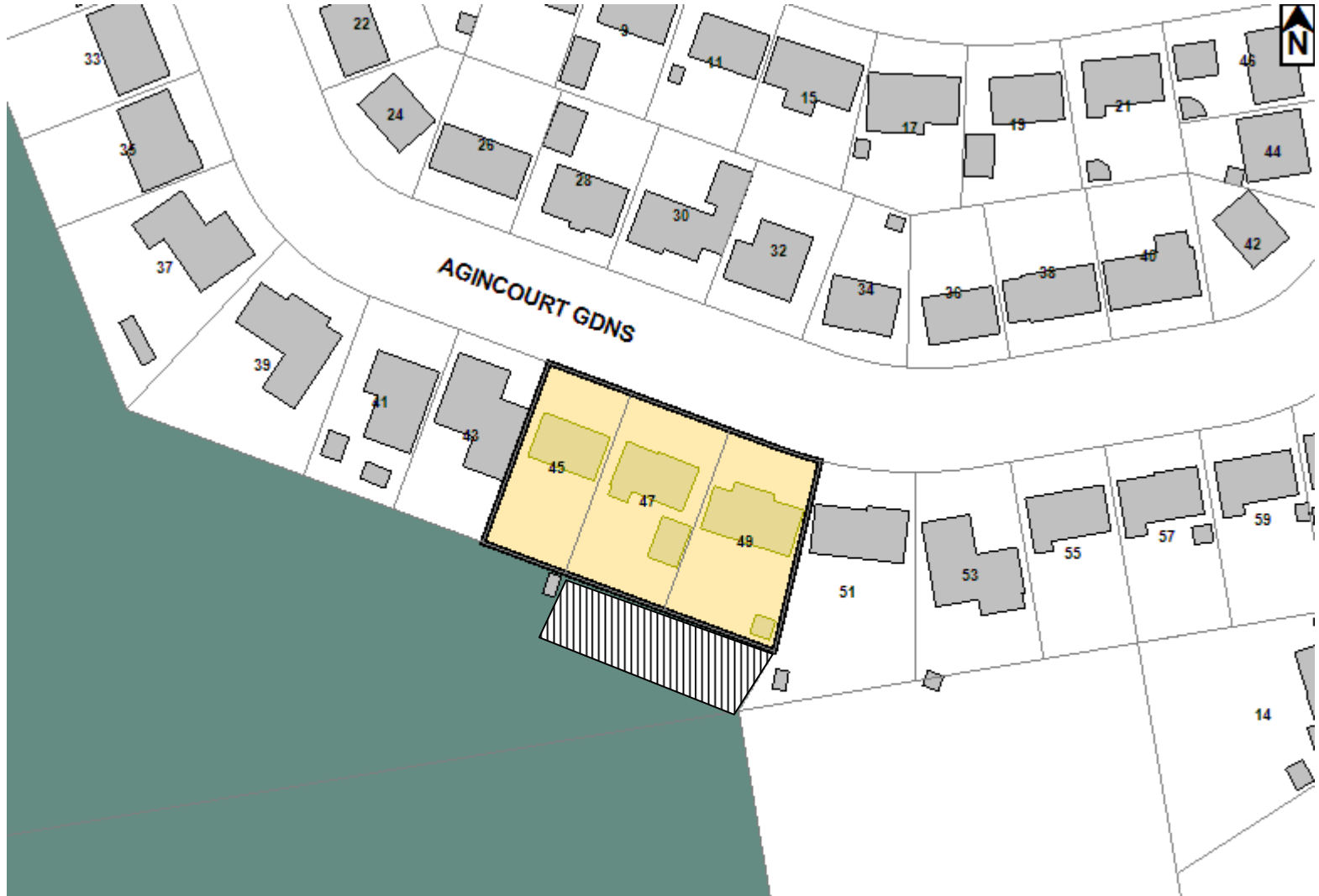
File No. P-2408

Attach.

cc: John M. Fleming, Managing Director, Planning and City Planner
Gary Irwin, Chief Surveyor
Andrew Macpherson, Manager, Parks, Planning & Design
David G. Munteer, Solicitor
Jeff Brick, UTRCA

Schedule "A" Location Map

Subject Lands -



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UPPER THAMES RIVER
CONSERVATION AUTHORITY

"Inspiring a Healthy Environment"

November 13, 2013



The Corporation of the City of London
Realty Services
300 Dufferin Avenue
P. O. Box 5035
London, Ontario
N6A 4L9

Attention: Bill Warner, Manager – Realty Services

Dear Mr. Warner:

Re: Stoneycreek Crescent and Agincourt Gardens - Possible Land Sales

This letter has been written in response to your October 9, 2013 e-mail in which you outline the direction given to City of London staff through the September 24, 2013 PEC meeting and by Council Resolution October 1, 2013. The Upper Thames River Conservation Authority has reviewed comments provided to the City in March and August of this year regarding both the Stoneycreek Crescent and Agincourt Gardens files and we offer the following:

Stoneycreek Crescent

In our March 7, 2013 letter to the City, we expressed concerns with the potential sale of public lands along the northern limits of properties on Stoneycreek Crescent (Part B). While acknowledging that lots on this street backing onto the Stoney Creek corridor are extremely shallow, we wanted to ensure that the City was not going to offer any lands for sale which were within the riverine flooding and erosion hazards. While the proposed 3-metre strip in "Part B" appears to be located outside of natural hazard boundaries, the UTRCA remains concerned with encroachment issues and offering to sell public lands in such circumstances may impact our collective efforts to curtail such activity.

Agincourt Gardens

Consistent with our comments above and reiterating the message we conveyed to the City in August, *The UTRCA opposes the possible disposition as it would be contrary to the "guiding principles" and "goals and objectives" of the Westminster Ponds/Pond Mills ESA Master Plan (2005). The Master Plan was a three-year process involving community partners and intended to preserve the ecological integrity of the largest natural area in the City of London.*

The possible disposition also conveys an inappropriate message to the public and adjacent landowners and could promote further encroachment. To our knowledge, the subject lands were to be naturalized this past spring and all encroachments were to cease.

Fortunately, it appears that the regulation limits will not extend substantially onto the lands proposed for disposition in this case.

In closing, if you have any questions regarding these comments, please feel free to contact Jeff Brick or the undersigned.

Yours truly,
UPPER THAMES RIVER CONSERVATION AUTHORITY



Mark Snowsell
Land Use Regulations Officer

MS/ms

c.c. Joni Baechler, UTRCA Representative – City of London
Jeff Brick, UTRCA
Alex Shivas, UTRCA
Christine Creighton, UTRCA

UPPER THAMES RIVER
CONSERVATION AUTHORITY

"Working in Partnership with the Community for a Healthy Watershed"
August 6, 2013



City of London
Realty Services
300 Dufferin Avenue
P O Box 5035
London, ON N6A 4L9

Attention: Mr. Bryan Baar – Manager, Realty Operations – Finance Department

Dear Mr. Baar:

**Subject: Property Inquiry Liaison Report
45, 47 and 49 Agincourt Gardens, London**

Thank you for the opportunity to comment on the potential disposition of Environmentally Significant Lands adjacent to 45, 47 and 49 Agincourt Gardens. The Upper Thames River Conservation Authority (UTRCA) is responsible for management of the Westminster Ponds/Pond Mills ESA and six other London ESAs under agreement with the City.

The UTRCA opposes the possible disposition as it would be contrary to the "guiding principles" and "goals and objectives" of the Westminster Ponds/Pond Mills ESA Master Plan (2005). The Master Plan was a three-year process involving community partners and intended to preserve the ecological integrity of the largest natural area in the City of London.

The possible disposition also conveys an inappropriate message to the public and adjacent landowners and could promote further encroachment. To our knowledge, the subject lands were to be naturalized this past spring and all encroachments were to cease.

We would appreciate an explanation of the decision-making process leading up to the Liaison Report and a response from the City justifying the possible sale of the subject lands.

The Upper Thames River Conservation Authority (UTRCA) has also reviewed the subject inquiry having regard for the policies in the *Environmental Planning Policy Manual for the Upper Thames River Conservation Authority (June 2006)*. They include regulations made pursuant to Section 28 of the *Conservation Authorities Act*, and are consistent with the natural hazard and natural heritage policies contained in the *Provincial Policy Statement (2005)*. The *Upper Thames River Source Protection Area Assessment Report* has also been reviewed in order to confirm whether the subject property is located within a vulnerable area. The Drinking Water Source Protection information is being disclosed to the Municipality for information purposes.

CONSERVATION AUTHORITIES ACT

As shown on the enclosed mapping, the subject property is regulated by the UTRCA in accordance with Ontario Regulation 157/06 made pursuant to Section 28 of the *Conservation Authorities Act*. The Regulation Limit is comprised of an erosion hazard associated with the slopes adjacent to the Provincially Significant (and City of London Environmentally Significant Area – ESA) Westminster Ponds/Pond Mills Wetland as well as the surrounding area of wetland interference. The UTRCA has jurisdiction over lands within the regulated area and requires that landowners obtain written approval from the Authority prior to undertaking any site alteration or development within this area including filling, grading, construction, alteration to a watercourse and/or interference with a wetland. The City is proposing to sell a portion of property within a regulated area to 3 adjacent landowners and further to the comments expressed above, it would be the clear preference of the Conservation Authority to retain regulated lands in public ownership rather than in private hands.

DRINKING WATER SOURCE PROTECTION

The Clean Water Act (CWA), 2006 is intended to protect existing and future sources of drinking water. The Act is part of the Ontario government's commitment to implement the recommendations of the Walkerton Inquiry and protecting and enhancing human health and the environment. The CWA sets out a framework for source protection planning on a watershed basis with Source Protection Areas established based on the watershed boundaries of Ontario's 36 Conservation Authorities. The Upper Thames River, Lower Thames Valley and St. Clair Region Conservation Authorities have entered into a partnership for The Thames-Sydenham Source Protection Region. Drinking Water Source Protection represents the first barrier for protecting drinking water including surface and ground water from becoming contaminated or overused thereby ensuring a sufficient, clean, safe supply now and for the future.

Assessment Reports:

The Thames-Sydenham Source Protection Region has prepared Assessment Reports that: identify vulnerable areas associated with drinking water systems; assess the level of vulnerability in these areas; and identify activities within those vulnerable areas which pose threats to the drinking water systems, and assess the risk due to those threats. We wish to advise that there are no vulnerable areas associated with the subject property.

Thank you for the opportunity to comment. Please contact the undersigned at extension 245 if you have any questions.

Yours truly

UPPER THAMES RIVER CONSERVATION AUTHORITY



Mark Snowsell

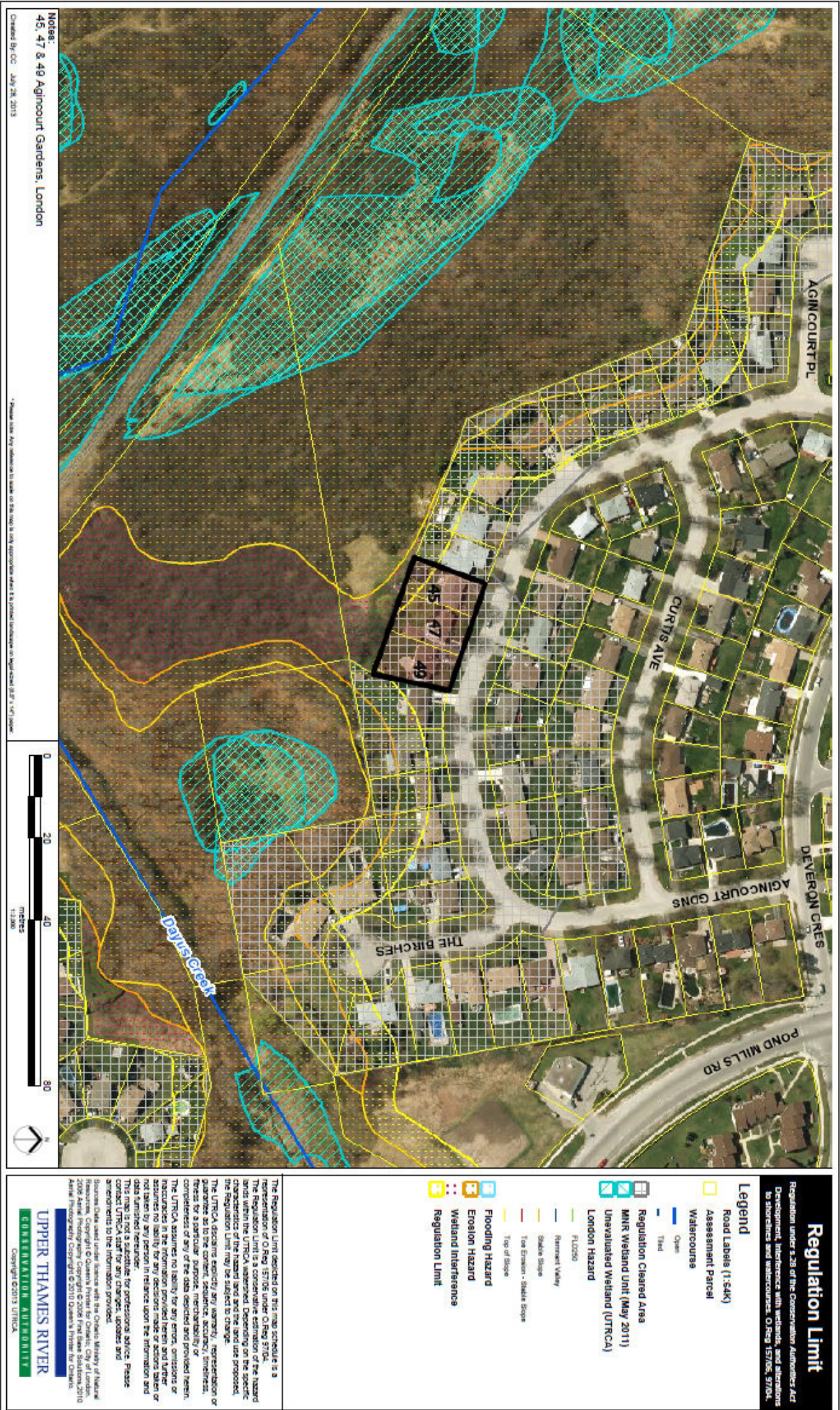
Land Use Regulations Officer

cc: J. Fleming

cc: A. Macpherson

Enclosure – Regulation Mapping (please print on legal size paper to ensure that the scales are accurate)

Schedule "B" Continued – Response from UTRCA



Notes:
45, 47 & 49 Agincourt Gardens, London
Checked By: CC July 28, 2013

*Please note: Any addition to work on this map is only appropriate when it is provided in accordance with the UTRCA.



Regulation Limit
Regulation under s.23 of the Conservation Authorities Act
Development, interference with wetlands, and alterations
to standards and watercourses. O Reg 157/05, 5704.

Legend

- Road Labels (1:54K)
- Assessment Parcel
- Watercourse
- Open
- TRM
- Regulation Cleaned Area
- MNR Wetland Unit (May 2011)
- Unvaluated Wetland (UTRCA)
- London Hazard
- Flooded
- Remedial Valley
- Steep Slope
- Top of Slope
- Tax Erosion - Steep Slope
- Flooding Hazard
- Erosion Hazard
- Wetland Interference
- Regulation Limit

The Regulation Limit depicted on this map schedule is a response to the Regulation Limit of O Reg 157/05. The Regulation Limit is a conservative estimation of the hazard characteristics of the hazard and the land use proposed. The Regulation Limit may be subject to change. The UTRCA disclaims liability for any warranty, representation or guarantee as to the content, sequence, accuracy, timeliness, fitness for a particular purpose, merchantability or completeness of any of the data reported and provided herein. The UTRCA assumes no liability for any errors, omissions or inaccuracies in the data reported and provided herein. The UTRCA assumes no liability for any decisions made or actions taken or not taken by any person in reliance upon the information and data furnished hereunder. This map is not a substitute for professional advice. Please contact UTRCA staff for any changes, updates and amendments to the information provided.

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London, Ontario N6G 1K1
2008 Annual Report
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