

<b>TO:</b>	<b>CHAIR AND MEMBERS CORPORATE SERVICES COMMITTEE  MEETING ON DECEMBER 10, 2013</b>
<b>FROM:</b>	<b>MARTIN HAYWARD MANAGING DIRECTOR, CORPORATE SERVICES AND CITY TREASURER, CHIEF FINANCIAL OFFICER</b>
<b>SUBJECT:</b>	<b>DECLARE SURPLUS CITY OWNED LAND ADJACENT TO 33,37,41,45,49,53 AND 57 STONEYCREEK CRESCENT  REPORT ON REQUESTED DISPOSITION CITY OWNED LANDS ADJACENT TO 25 TO 57 STONEYCREEK CRESCENT</b>

**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 the Stoneycreek Valley, further described as Block 26, Plan M-249, **Part A:** being a triangular shaped parcel to the rear of 25 and 29 Stoneycreek Crescent, containing approximately 1,050 square feet (as shown on Schedule "A" attached), and **Part B:** being a 10 foot wide strip of land containing approximately 4,600 square feet to the rear of 25 to 57 Stoneycreek Crescent (as shown on Schedule "A" attached), the following process be taken:

- a) the subject property referred to as Part B **BE DECLARED SURPLUS;**
- b) the subject properties referred to as Part A and Part B **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, which includes survey, fencing, and legal; and
- c) the subject properties **BE DISPOSED OF** subject to the participation and agreement of all (9) nine 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"

Planning & Environment Committee September 24, 2013 - Stoney Creek Open Space System Land Disposition And Pathway Options

**BACKGROUND**

Municipal Council, at its session held on October 1, 2013, resolved as follows:

*That, the following actions be taken with respect to the City owned property known as the Stoney Creek Open Space System:*

- a) *lands described as Block 26, Plan M-429, Part 'A', being a triangular shaped parcel at the rear of 25 and 29 Stoneycreek Crescent, containing approximately 1,050 square feet, the subject property referred to as Part 'A', as appended to the staff report dated September 24, 2013, BE DECLARED surplus;*

- b) *the subject property referred to as Part 'A', as appended to the staff report dated September 24, 2013, BE OFFERED for sale to the abutting property owners at fair market value in accordance with the Sale and Other Disposition of Land Policy*
- c) *the Civic Administration BE DIRECTED to work with the Upper Thames River Conservation Authority and area residents on potential land acquisition relating to the lands along the south side of the Stoney Creek Open Space System*

## **Encroachments**

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

For example, 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 encroachments inclusive of Municipal Law Enforcement (Education, Voluntary Compliance, Enforcement Action)

## **Property Details**

Subject Lands: Stoney Creek Valley  
Zoning: OS4  
Official Plan: Open Space  
Restrictions: Conservation Authority Regulated Lands (UTRCA)

## **Background**

### **PART A**

#### *Description*

The Part A request consists of a triangular shaped piece of City owned land. The requested lands would allow two (2) of the residents along Stoneycreek Crescent to align their northern property boundary with the rest of the properties to the east providing for a straight alignment with City owned land. Please see attached Schedule "A" for description.

These lands were declared surplus by council resolution dated October 1, 2013

### **PART B**

#### *Description*

The Part B request consists of an approximate 10 foot strip of land along the northerly boundary (rear) of all of the properties along Stoneycreek Crescent backing on to the Stoneycreek Valley. Please see attached Schedule A for description.

Civic Administration was directed by council resolution dated October 1, 2013 *to work with the Upper Thames River Conservation Authority and area residents on potential land acquisition*

relating to the lands along the south side of the Stoney Creek Open Space System.

The UTRCA was contacted to discuss the Council Direction of October 2, 2013 and their comments are as follows:

**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.*

Formal responses received from the UTRCA are attached as Schedule “B”.

**Land Valuation**

The subject lands in both Parts A and Parts B 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 \$2.71 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	FMV	Survey	Fencing	TOTAL
	Area				
	<i>Note 1</i>	<i>Note 2</i>	<i>Note 3</i>	<i>Note 3</i>	
25 Stoneycreek Crescent	1,644	\$4,500	\$436	\$560	\$5,349
29 Stoneycreek Crescent	446	\$1,200	\$436	\$630	\$2,119
33 Stoneycreek Crescent	558	\$1,500	\$436	\$513	\$2,302
37 Stoneycreek Crescent	494	\$1,300	\$436	\$536	\$2,124
41 Stoneycreek Crescent	484	\$1,300	\$436	\$525	\$2,114
45 Stoneycreek Crescent	507	\$1,400	\$436	\$550	\$2,238
49 Stoneycreek Crescent	517	\$1,400	\$436	\$560	\$2,249
53 Stoneycreek Crescent	536	\$1,500	\$436	\$581	\$2,370
57 Stoneycreek Crescent	474	\$1,300	\$436	\$686	\$2,275

*Note 1* Estimated area in square feet subject to final survey

*Note 2* Fair Market Value as determined by value in contribution

*Note 3* Estimated costs associated with survey, and fencing (plus applicable taxes)

**Conclusion**

It being noted, a previous report to the Planning & Environment Committee documented the objections of City staff along with the objection of the Upper Thames Rivers Conservation Authority to the proposed disposition described as Part B at this time.

Further to municipal Council Direction on October 1, 2013 the subject property PART B is to be declared surplus and subsequently sold to the abutting property owners at fair market value in compliance with the Sale and Other Disposition of Land City Policy along with PART A previously declared surplus by council. As with all dispositions of municipal surplus property, the Purchaser will be responsible for their own legal expenses associated with the transfer.

The decision to dispose of parkland within the Stoney Creek Open Space System 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.

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

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

November 18, 2013  
Attach.

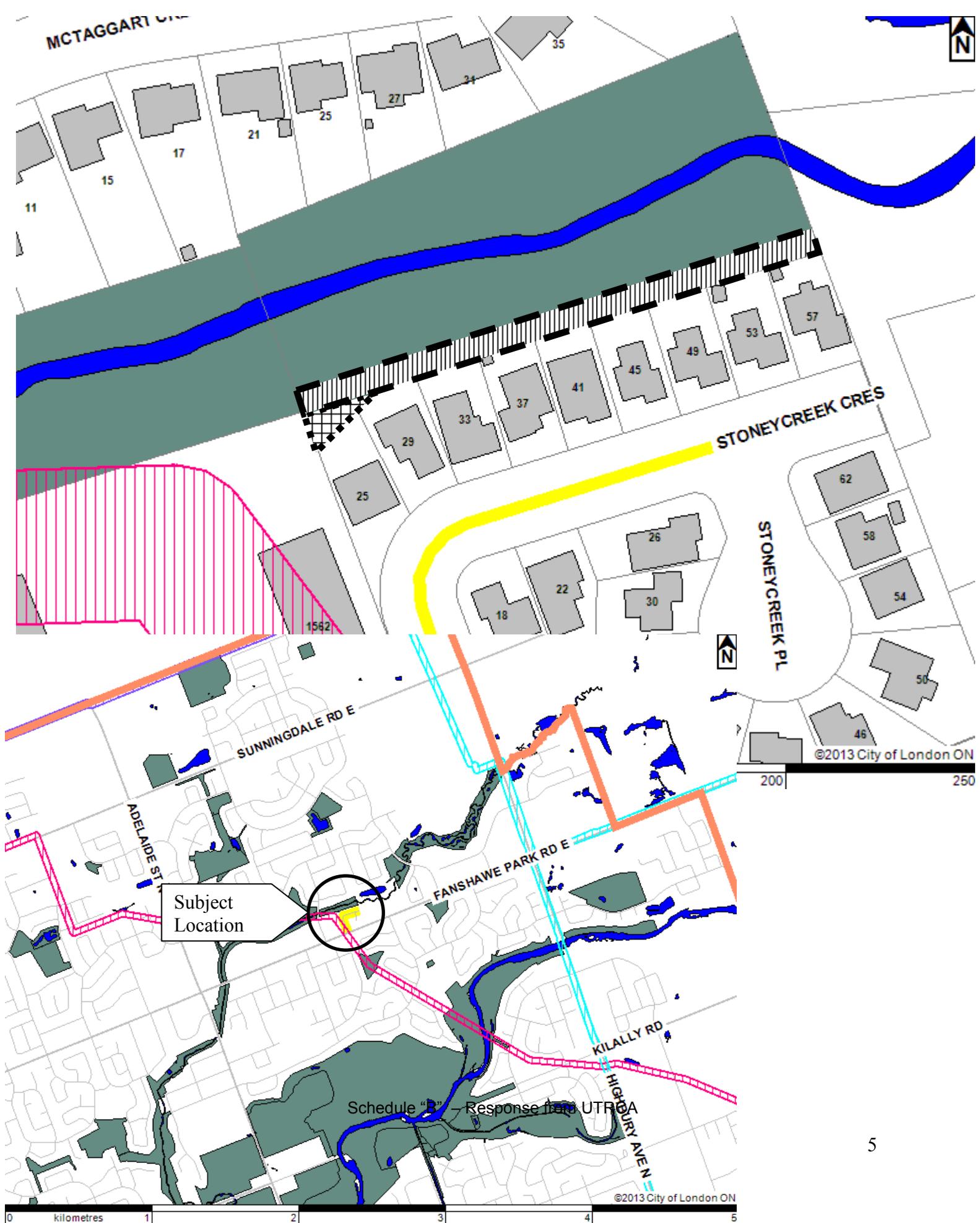
File No. P-2395

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

Schedule "A" Location Map

PART A - 

PART B - 



**UPPER THAMES RIVER  
CONSERVATION AUTHORITY**

*"Inspiring a Healthy Environment"*

The Thames  
A Canadian  
Heritage River



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**

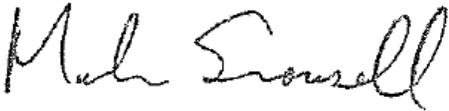
Consistent with our comments above and reiterating the message we conveyed to the City in August, *The UTRCA opposes the possible disposition as it would be contrary to the "guiding principles" and "goals and objectives" of the Westminster Ponds/Pond Mills ESA Master Plan (2005). The Master Plan was 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



"Inspiring a Healthy Environment"



March 7, 2013

The Corporation of the City of London  
Finance Department – Realty Services Division  
P.O. Box 5035  
London, Ontario N6A 4L9

Attention: Bryan Baar (sent via e-mail)

Dear Mr. Baar:

Re: UTRCA Response - Property Inquiry Liaison Report File No. P-2395  
25 Stoneycreek Crescent, London, Ontario

The Upper Thames River Conservation Authority (UTRCA) has reviewed this inquiry with 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 lands are located in 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 lands, 25-57 Stoneycreek Crescent are 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 the 15 metre allowance which is applied to the outer edge of the hazard constraint and triggers the Authority's review. The UTRCA has jurisdiction over these lands and landowners may be required to 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.

#### UTRCA ENVIRONMENTAL PLANNING POLICY MANUAL

Policy which is applicable to the subject property includes:

##### *2.2.4 Natural Hazard Features*

An allowance of 15 metres has been added to the Riverine Hazard Limit for the purpose of maintaining sufficient access for emergencies, maintenance and construction activities. The allowance provides for an extra factor of safety providing protection against unforeseen conditions that may adversely affect the land located adjacent to a natural hazard area.

#### 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

Schedule "B" Continued – Response from UTRCA

UTRCA Comments  
 File No. P-2395

of the Ontario government's commitment to implement the recommendations of the Walkerton Inquiry as well as 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.

The Assessment Report for the Upper Thames watershed delineates three types of vulnerable areas: Wellhead Protection Areas, Highly Vulnerable Aquifers and Significant Groundwater Recharge Areas. We wish to advise that the subject lands are located in an area with Highly Vulnerable Aquifers (HVA). Mapping which shows these areas is available at:

**Highly Vulnerable Aquifers**

[http://www.sourcewaterprotection.on.ca/downloads/assessment\\_reports/UTRCA/Appendices/A1-Maps/Map4-3-2\\_Highly%20Vulnerable%20Aquifers.pdf](http://www.sourcewaterprotection.on.ca/downloads/assessment_reports/UTRCA/Appendices/A1-Maps/Map4-3-2_Highly%20Vulnerable%20Aquifers.pdf)

**Source Protection Plans:**

Using the information in the Assessment Report, a Proposed Source Protection Plan has been developed for the Upper Thames watershed. This Plan along with any written comments, have now been submitted to the Province for approval by the Minister of the Environment. The Proposed Source Protection Plan is available at:

[http://www.sourcewaterprotection.on.ca/sp\\_planning\\_protectionplan.html](http://www.sourcewaterprotection.on.ca/sp_planning_protectionplan.html)

The Proposed Plan consists of a range of policies that together, will reduce the risks posed by the identified water quality and quantity threats in the vulnerable areas. These proposed policies include a range of voluntary and regulated approaches to manage or prohibit activities which pose a threat to drinking water. Activities that can lead to; low, medium and significant threats have been identified in Appendix 10 of the *Upper Thames River Source Protection Area Assessment Report*, dated August 12, 2011. Available at:

[http://www.sourcewaterprotection.on.ca/downloads/assessment\\_reports/UTRCA/Appendices/A10-Threats%20and%20Risk%20Assessment.pdf](http://www.sourcewaterprotection.on.ca/downloads/assessment_reports/UTRCA/Appendices/A10-Threats%20and%20Risk%20Assessment.pdf)

AREA OF VULNERABILITY	VULNERABILITY SCORE	THREATS & CIRCUMSTANCES
Highly Vulnerable Aquifer (HVA)	6	Moderate and Low Threats

NOTE: At this time, certain activities on this property may be considered *Moderate or Low* threats to drinking water.

Under the CWA, the Source Protection Committee has the authority to include policies in the *Proposed Source Protection Plan* that may prohibit or restrict activities identified as posing a *significant threat* to drinking water. Municipalities may also have or be developing policies that apply to vulnerable areas when reviewing development

Schedule "B" Continued – Response from UTRCA

UTRCA Comments  
File No. P-2395

applications. Proponents considering land use changes, site alteration or construction in these areas need to be aware of this possibility.

*Provincial Policy Statement (PPS, 2005):*

*Section 2.2.1 states that:*

*"Planning authorities shall protect, improve or restore the quality and quantity of water by: d) implementing necessary restrictions on development and site alteration to:*

- 1. protect all municipal drinking water supplies and designated vulnerable areas; and*
- 2. protect, improve or restore vulnerable surface and ground water features, and their hydrological functions"*

*Section 2.2.2 states that:*

*"Development and site alteration shall be restricted in or near sensitive surface water features and sensitive ground water features such that these features and their related hydrologic functions will be protected, improved or restored".*

Municipalities must be consistent with the Provincial Policy Statement when making decisions on land use planning and development.

**LIAISON A**

The UTRCA has no objection to transferring the triangular shaped parcel to the landowner of 25 Stoneycreek Crescent with consideration from the neighbor at 29 Stoneycreek Crescent. This reconfiguration seems logical and we recommend that the lands be rezoned.

**LIAISON B**

While we appreciate that the conveyance of the 3 metre strip may address an encroachment issue, the UTRCA finds the possible conveyance of these hazard lands to be premature. The City of London is currently undertaking an update of its Subwatershed Studies including that for Stoney Creek. There may be new hazard information coming forward as a result of that study. Also, there may be implications for these lands with respect to climate change. As such, the UTRCA recommends that the 3 metre strip of hazard/public park land not be disposed of at this time.

Thank you for the opportunity to comment. Please contact the undersigned at extension 293 if you have any questions.

Yours truly,  
UPPER THAMES RIVER CONSERVATION AUTHORITY



Christine Creighton  
Land Use Planner  
CC/cc

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

c.c. UTRCA – Mark Snowsell, Land Use Regulations Officer

