7098 & 7118 Kilbourne Road –
http://www.london.ca/business/Planning-Development/land-use-applications/Pages/39CD-19518.aspx

Review of EIS, Geotechnical and Hydrogeological Reports, and Stormwater Management Plan

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**Recommendation 1: EEPAC recommends the City not accept the EIS.**

RATIONALE

EEPAC points out that in the Environmental Management Guidelines, p. 122, a minimum 10 m buffer from valleylands in a topographically well-defined site is recommended. The submitted material confirms that the site meets this condition. However, none of the reports define where the valleyland ends. Nor do the reports identify any ecological buffer.

The EIS states on page 24, "The ESA should be delineated by the erosion hazard setback or the forest community (Vegetation Community 2 FOD 7), whichever is greater." However, EEPAC notes the EIS does not use the boundary delineation process as required in the Official Plan 15.3.6.ii – as such, the EIS is incomplete.

*15.3.6(ii) The location, width, composition and use of ecological buffers necessary to protect natural heritage areas from the impacts of development on adjacent lands will be specified through application of the Council approved Guidelines for Determining Setbacks and Ecological buffers as part of a secondary plan and/or an environmental impact study.*
*(Clause ii) amended by OPA 438 Dec. 17/09*)

EEPAC also feels the EIS is incomplete as it leaves the monitoring plan to the detail design phase (page 29). It also lacks a fall flora inventory – the data collection date indicated in the report is not fall.

An additional reason for a consistent min 10 m setback from top of slope is because grading will need to be very sensitive to the top of slope and erosion hazard. It is unclear how some of the "backyards" of the proposed units can be graded during construction without encroaching into the proposed set back. Grading changes risk the loss of slope stability. It is also unclear to EEPAC, without a grading plan, where grading would take place. Given the number of trees in the "backyards" of units (particularly 5-9), it is unclear to us which dripline is proposed as the limit of grading. For example, to build Unit 4, there appears to be a complete removal of trees, **and these are trees connected to the ESA**.

**Recommendation 2: There should be no permanent infrastructure, including pavement, beyond the setback from the top of the stable slope as grade changes risk the loss of slope stability.**

RATIONALE

EEPAC notes a retainable butternut tree (protected as an endangered species) is within the proposed "backyard" of Unit 10. The trees at the "back" of the proposed unit 10 must be retained as this will clearly keep grading outside the 25 m radius of the butternut. Under the Endangered Species Act, to

protect the tree's current and future rooting area, no change should occur to the site (e.g. fill, compaction or excavation) within 25 metres of the tree. This information must be communicated to the proponent's contractors in writing to avoid contravention of the Act.

**Recommendation 3: EEPAC supports the idea of the condominium corporation retaining the ESA lands as common area subject to the following conditions:**

- The corporation allow the city bikeway to use the private road
- The proposed Natural Heritage Condominium Declaration (recommendation 8 on page 26 of the EIS) be a condition of approvals and part of the legal condominium documents. It must include the requirement that he corporation and owners work with a City Ecologist and EEPAC on a management and stewardship plan within 6 months of the first occupancy (instead of Recommendation 23 on page 28).
- This should be expressed in the rezoning recommendation from staff that the OS5 zone including a special provision deleting multi use pathways as a permitted use.

Another reason for this is that the post construction water balance calculation result is less than 80% of existing conditions. Additional non permeable surface would bring this down even further.

**Recommendation 4: The City needs to ensure that prior to final approvals, the developer/ consultant will confirm that the water balance for the subject site under the post development condition will meet the pre development conditions;**

RATIONALE

EEPAC is concerned with the comment on page 25 of the EIS under Water Balance and Seeps which states "It is not expected that basements will impact the groundwater flow on site (Englobe, 2019). The basements of the proposed development are approximately 2.44m below ground surface. The minimum depth of the groundwater measured on site is below this level and was measured at 2.69 m below ground level at its shallowest. Given the difference is 1 foot, EEPAC is not sure how the basements will be created without dewatering. Where the water will be directed during construction must be away from the ESA.

**Recommendation 5: EEPAC recommends no basements**

RATIONALE

While EEPAC agrees with recommendation 4 (page 26 of the EIS) regarding hydrogeological monitoring of the seepage areas post construction to check on groundwater flow, there is no consequence indicated if groundwater flow has been interrupted. If compensatory mitigation is required, post construction, EEPAC is unaware of how it would be provided by the proponent. Avoidance, thru abundance of caution is recommended. Hence EEPAC recommends no basements.

**Recommendation 6: EEPAC supports the recommendation that the condo corporation limit its use of salt as the groundwater already exceeds salt minimums. However, we are unclear how such a recommendation can be enforced.**

**Recommendation 7:**
Elevations in the final engineering drawings must show that stormwater beyond the 2 year storm will be discharged to either the pond to the north or the private road and not into the ESA. **(EEPAC also notes that the rainfall data used by the hydrogeology consultant stops at 2010.)**

Based on the information provided in this report, incorporating UDCSS SWM storage criteria and a very small development area, it appears the presented SWM design is adequate.

**Recommendation 8: An ecologist must visit the site at least once a week to determine if the recommended grading, water taking and erosion and silt controls are functioning. Each visit must be on an unscheduled basis and reported to Development Service and the UTRCA. The contractor must inspect sediment and erosion control measures daily as per Recommendation 17 of the EIS. Further, the removal of this fencing noted in Recommendation 19, should not take place until Development Services has confirmed revegetation and site stabilization has taken place. However, the Recommendation does not provide clarity as to who determines when "adequate re-vegetation and site stabilization has occurred." (page 28).**

**Recommendation 9: Prior to approvals there must be clarity as to what defines adequate re-vegetation and site stabilization.**

**Recommendation 10: EEPAC notes very large trees will be lost – compensatory mitigation as per the London Plan must be required. Cavity trees must be retained or bat boxes (approved by a City Ecologist) substituted (as indicated in Recommendation 13 of the EIS on page 27).**

**Recommendation 11: Recommendation 22 on page 28 should be reworded to say "All stormwater must be temporarily (we assume this means during construction) directed away from the natural heritage feature through a system of swales, …"**

**Recommendation 12: Given the location adjacent to an ESA, EEPAC recommends the development conform to the Canadian Standards Association (CSA) A460:19, *Bird-friendly building design.***

Although not a requirement of the proponent, EEPAC urges City Council to direct staff to begin the Lower Dingman ESA Conservation Master Plan.

Misc

EEPAC repeats its concern that consultants are permitted to use different map scales even when showing similar material. For example, Figure 9 vs Figures 10 and 11.