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London, ON
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**CITY OF LONDON
PARKS PLANNING
& DESIGN**

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Zelinka Priamo Ltd.
318 Wellington Road
London ON N6C 4P4

Attention: Michelle Doornbosch

Dear Michelle:

Re: 9345 Elviage Drive - Proposed Official Plan and Zoning By-law amendment

On March 27, 2012, a formal consultation was held with respect to the Official Plan and Zoning By-law approvals required to permit the construction of one single detached dwelling and a septic system on the subject lands. At that meeting, staff reiterated its past concerns that there is no viable development envelope on the property, but identified the other key issues and the reports and background information that would be required should the owner decide to proceed with the applications.

Further to that meeting and to assist the owner to move forward in his decision making for the property, City staff departed from the normal process by agreeing to receive and review a scoped Environmental Impact Study (EIS) prior to the submission of formal planning applications. The rationale for this departure was that for this particular site, planning consideration of the application would ultimately be affected to a very large extent, on the scientific findings of the EIS.

The Environment and Ecological Planning Advisory Committee and the City's Ecologist Planner have now completed detailed reviews of the scoped EIS that was submitted to the City on September 13, 2012. Their detailed comments are attached for your information.

EEPAC indicated that given the property application of the Boundary Delineation Guidelines and of the Ecological Buffers and Setback Guidelines that it is highly unlikely that any development envelope exists on the site. The City Ecologist stated that "the results of this more detailed investigation, as presented in the BioLogic Scoped EIS report, confirm that these lands area ecologically significant and cannot support development of any kind."

In view of these findings and the application of sound planning principles, it would be extremely difficult for the Planning Division to support the redesignation and rezoning of a portion of the land to permit a single detached dwelling and a septic system on the site. Please note that the Planning Division makes sound and informed recommendations to the Planning and Environment Committee, and that final decisions on Planning applications are made by City Council.

It is possible that at some point in the future, the City may initiate an amendment to redesignate and/or rezone this property in order to clarify its environmental significance.

Please be advised that the entire property is deemed "Environmental Protection" as defined by the Tree Conservation By-law and any tree cutting or site alteration without permit is a violation subject to charges.

The Corporation of the City of London
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DISCLAIMER: A reasonable effort has been made to ensure that the information in this letter is correct. The opinions in this letter reflect the writer's interpretation of the information provided. Any opinion set forth in this letter may be changed at anytime during the review process. Only the final report to Planning Committee reflects the position of the Planning and Development Department. The Corporation of the City of London accepts no liability arising from any errors or omissions. Every Applicant should consider seeking independent planning advice.

Please share this letter and its attachments with your client.

Regards,



Barb Debbert
Senior Planner
Community Planning and Design

BD/

Attach.

c: J. Yanchula
M. Tomazincic
A. Macpherson
✓ B. Bergsma
C. Creighton, UTRCA



Memo

To: Barb Debbert, Senior Planner
Community Planning and Design

From: Bonnie Bergsma, Ecologist Planner
Environmental and Parks Planning

Date: November 21 2012

RE: Kaizen Homes, 9345 Elviage Drive

We have reviewed the submission prepared by BioLogic dated September 13, 2012 regarding the additional action items to fulfill the Terms of Reference for an Environmental Impact Statement for the proposal to build one residential home and a septic system. The City requirements included:

1. The boundaries of the wetland must be evaluated and staked in the field between May and July when indicator plants are growing. The MNR must be consulted and invited to participate in this exercise and review of the EIS as they are the provincial agency responsible for wetlands. MNR sign-off is required prior to proceeding with any further steps as it is unlikely that provincial agencies will support any disturbance of the wetland area and adjacent lands.
2. The Council approved guidelines for Environmentally Significant Areas Identification and Boundary Delineation must be applied to all areas of existing vegetation to formalize the ESA designation on these lands.
3. Appropriate ecological buffers and development setbacks must be determined through application of the Council approved Guidelines for Setbacks and Buffers.
4. Construction of the proposed road access will likely result in direct loss of features and functions identified as ESA as well as potential loss of Provincially Significant Wetlands. The EIS will have to demonstrate how this meets Official Plan Environmental Policies and the Provincial Policy Statement for no negative impact.
5. Life science data collection covering the spring and summer seasons will be required to document species of plants and wildlife potentially affected by the development proposal.
6. A geotechnical study is required to determine slope stability in the ravine crossing location, the stable slopes along the ravine and top-of-bank in the vicinity of the development parcel.
7. A hydrogeological study must be completed to the satisfaction of the City of London, with particular attention paid to the shallow surface flow and hydrological linkages that exist between the wetland units. Protection of this linkage is important for the protection and integrity of the wetland.

Item 1: Wetland Boundary – The boundary of the wetland was staked by certified wetland evaluators D. Hayman, B. Bergsma and W. Huys on May 2 2012. Soil samples were taken at each flag point around the wetland. BioLogic stated that their classification of this vegetation community was Forb Organic Meadow Marsh (MAM3-9) rather than fen based on soils and flora. We do not agree with this re-classification. The soils were organic with marl present thus indicating a fen community as per the ELC Description Framework. A flora inventory in

November is not an appropriate time to be able to identify any significant fen indicator species. The classification by Bowles 1994 is most appropriate. On page 2 the report notes that seeps are considered significant wildlife habitat in the form of specialized habitats supporting unique species assemblages. MNR sign-off is required for the wetland boundary and classification. It is unlikely that they will support any disturbance to the wetland area and adjacent lands. This was to have occurred before taking the next steps, as it is critical to the process.

Item 2: ESA Evaluation and Boundary Delineation – We agree with the application of the criteria for ESA. We do not agree that the previous illegal site alteration creating disturbed areas can now be used to justify the presence of a residential development envelope on the site. The ecological rationale for the ESA boundary as noted on page 5 (Significant Features and Functions) would not be applied as they have in Figure 3, to create a 'bay' surrounded on three sides by ESA. The guidelines demonstrate how 'bays' should be included in the ESA boundary. The breaking of the ELC communities 2a, 2b and 2c into smaller areas less than 0.5 ha size and based on previous illegal site alteration activities or by the presence of sparsely treed areas along a logging access/hiking trail is not standard protocol for ecological land classification. The City's Boundary Delineation Guidelines have not been accurately utilized to define the ESA limit. The limit must follow the edge of existing (or existing prior to illegal site alteration) naturalized vegetation.

Item 3: Buffers and Setbacks - The EIS has identified a setback for the septic system from the wetland. No other buffers or setbacks have been considered.

Item 4: Demonstration of No Negative Impact – The EIS has not demonstrated 'no negative impact to the features and functions for which the ESA has been identified'. The house will directly impact areas of mature treed vegetation in the interior of the ESA. The location of the house is within 3-5 m of the deciduous swamp and 10 m from the fen within the interior of the ESA. The development footprint and amenity areas for the home can easily be larger than these setbacks. The development will result in direct loss of ESA area.

Item 5: Life Science Inventory Data – Life science data only covered trees with little to no information on other flora and fauna. This is a requirement to accurately assess significance and impacts.

Item 6: Geotechnical Study – A top-of-slope was identified on Figure 1 without reference to the origin of the line.

Item 7: Hydrogeological Study – Three testpits were completed between the wetland units 'under supervision of EXP'. The information and log of these tests was not presented in the report neither was the date of the testpits. The 2012 spring-summer season experienced a severe drought which could confound the results. This is confirmed by a Trow report dated April 2009 for the subject lands. It was reported that groundwater seepage was noted in all boreholes which caved in after drilling. They noted that the depth to the groundwater table may vary in response to climatic or seasonal conditions and that capillary rise effects should be anticipated within the fine-grained deposits of the sub-soil conditions. Therefore, it has not been adequately demonstrated that the shallow surface flow and hydrological linkages that exist between the wetland units will be protected from negative impact.

Summary

As stated clearly in a memo written by our section in September of 2006:

"The property is an Environmentally Significant Area (ESA) with a Provincially Significant Wetland (PSW). The wetland is a fen which crosses the top of the property near Elviage Drive, thus posing a significant constraint to creating an access road, as no development is allowed within a PSW in accordance with Provincial Policy. The City also does not permit development within an ESA. The area also has significant slope hazards and watercourse features.

There is virtually no developable land on this property, except for a small piece of agricultural land which is only accessible from the lands to the east and subject to stringent EIS requirements to demonstrate no negative impacts to the PSW and the ESA".

The applicant has been advised on numerous occasions that the area is highly constrained to support any form of development. Notwithstanding this, they requested that we provide a process for them to examine these environmental constraints in more detail to determine the potential for construction of a single residence on the property.

The results of this more detailed investigation, as presented in the BioLogic Scoped EIS report, confirm that these lands are ecologically significant and cannot support development of any kind.

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300 Dufferin Avenue
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London
 CANADA

November 23, 2012

B. Debbert
 Senior Planner

Re: Elviage Drive Environmental Impact Study

At its meeting held on October 18, 2012 the Environmental and Ecological Planning Advisory Committee (EEPAC) asked that the attached comments, prepared by the EEPAC Working Group, with respect to the Elviage Drive Environmental Impact Study, be forwarded to Staff for their review and consideration. (10/2/EEPAC)

Betty Mercier
 Committee Secretary

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Review Elviage Drive EIS Prepared by BioLogic September 13, 2012

Reviewers: EEPAC Working Group

Date: October 9, 2012

Observations

1. The subject land is designated Open Space (OS5, OS4/h-2), Agricultural (AG2/h-2) and Environmental Review (ER).
2. Schedule A: The north east corner is designated OS5. The proposed development area is designated ER or AG.
3. Schedule B: The northeast corner is classified as a Wetland (class 4-7). The area immediately south of the wetland along the eastern boundary is classified an Environmentally Significant Area (ESA).
4. The wetland is a Provincially Significant Wetland (PSW) identified as "Patch 10013, Dingman Creek, Fen Provincial Wetland".
5. A portion of subject land was illegally cleared and suitable remediation has not been carried out.
6. Some trees have been legally cut following forestry best practices which have contributed to areas having lower tree cover and the creation of an access path.

Recommendations

1. A1 was illegally cleared OS land and hence Boundary Delineation guideline 10 does not apply. An existing residential building envelope can not be considered to exist as a result of illegally cleared Open Space lands.
2. The illegally cleared OS land, A1, must be restored through a restoration plan duly approved by a city ecologist.
3. Vegetation communities 2a, 2c and A1 should be classified together as FOD4. Areas A1 and 2c exist due to improper past clearing within protected OS lands. Their previous ecological condition should be considered (i.e. same as 2c) and not the unapproved site alteration.
4. Official Plan Schedule A & B1 and B2 should be included in every EIS.
5. Figure 4 – Development Proposal is incomplete as it does not include proposed septic tank locations. To properly evaluate a proposed development, it is important that all development be portrayed on the same map.
6. A minimum 30 meter buffer around the wetlands is required. The EIS makes no mention of buffers.
7. A minimum 10 meter buffer (from the drip line of the trees) around the woodland communities is required.

8. The EIS supplied ELC sheets clearly show that vegetation community 2b should be designated on Figure 2 as FOD5 and not FOD. This deciduous forest community should not be portrayed nor treated as a cultural community. The ELC evaluation clearly states FOD5.
9. It is clear that the entirety of Deciduous Forest 2b should be included within the ESA Boundary. It is not appropriate to bisect the Forest as shown on Figure 3.
10. As a deciduous forest, community 2b, in its entirety is part of the ESA. Boundary Delineation Guideline #7 used by the EIS to exclude a portion of 2b is not only incorrectly applied (i.e. to fill the bay, the entire 2b would be included in the ESA) but also, Guideline #7 is applicable only to cultural communities which 2b is not.
11. It is not proper ELC classification to excise a trail area from the surrounding vegetation community. The depiction of a long narrow projection of area 2c into 2b is not correct. Deciduous Forest 2b should be drawn without the 2c incursion.
12. At minimum, data from a current 3 season inventory must be provided or referenced in the EIS.
13. Given the location of the PSW and ESA a 5 season (March/April, May, June, July/August, September) inventory should be carried out and data provided.
14. There is no information in the EIS as to when the bore holes were drilled and data gathered. If done this past summer, the extreme dry weather could confound the results.
15. The EIS fails to include a thorough hydrological analysis of the impacts on ground water and hydrological connections between communities as a result of the proposed development, septic tank and construction activities.
16. It is contrary to City policy to locate infrastructure or development within the boundary of an ESA. The septic tank must not be placed in an ESA nor should any form of servicing piping.
17. It is the opinion of EEPAC that given proper application of the Boundary Delineation Guidelines and proper application of the Ecological Buffers and Setback Guidelines that it is highly unlikely that any development envelope exists on this site