

Report to Planning and Environment Committee

To: Chair and Members
Planning & Environment Committee

From: George Kotsifas, P. Eng.
Managing Director, Development & Compliance Services and
Chief Building Official

Subject: Memorandum of Understanding for Development and/or
Planning Act Application Review Between the City of London
and UTRCA

Meeting on: June 21, 2021

Recommendation

That, on the recommendation of the Deputy City Manager, Planning and Economic Development, the following actions be taken with respect to updating the Memorandum of Understanding between The Corporation of the City of London and the Upper Thames Conservation Authority with respect to processes undertaken by both parties in the review of Planning Act applications:

- a) the proposed updated Memorandum of Understanding (MOU) between The Corporation of the City of London and the Upper Thames River Conservation Authority **BE APPROVED** substantially in the form attached as Appendix "A";
- b) subject to the approval of a) above, the Civic Administration **BE AUTHORIZED** to undertake all administrative acts that are necessary to finalize the MOU noted in a) above, including, potential revisions resulting from discussions between the two parties that relate to improved level of service that reduces duplication of actions and incorporates the pillars of continuous improvement; and,
- c) subject to the approval of a) and b) above, the Deputy City Manager, Planning and Economic Development **BE DELEGATED** the authority to execute the final MOU noted in a) above, and make any further revisions that may be necessary to reflect legislative and/or regulation changes and amendments in response to Municipal Council's direction on planning related matters, or to recognize resource constraints.

Executive Summary

The City and the Upper Thames Conservation Authority (UTRCA) have been operating under a Memorandum of Understanding that has been in-place since 1997. Since that time, the City has increased its capacity to perform ecological and natural heritage review, which presents an opportunity to re-examine roles and responsibilities for the UTRCA and the City. The attached document in the **Appendix 'A'** outlines the proposed scope of service for both parties and looks to build efficiency into the process to reduce duplication of effort.

For clarity, the MOU outlined in **Appendix 'A'** will be referred to as the Development MOU (DMOU) throughout this report.

Analysis

1.0 Background

In 1997, the City of London (CoL) and Upper Thames River Conservation Authority (UTRCA) established a DMOU with which to assign resources for general and site-specific advisory services as they pertained to:

- Significant wetlands.
- Fish habitats.

- Locally significant wetlands.
- Groundwater recharge/discharge areas.
- Aquifers and headwaters.
- Stormwater management facilities in the flood plain.
- Regulatory flood plan regulation.
- 100-year erosion limit and slop hazard areas.
- Fill regulations.
- and erosion-prone areas in the flood plain.

This arrangement was advantageous to both the CoL and UTRCA as the level of expertise employed at both organizations supported this approach. Since that time, the CoL has added resources that support many of these functions and to respond to the volume of applications and scope of technical review required as regulations and standards have become more comprehensive.

Further, in the 1997 DMOU, the CoL committed to the hiring of ecological and hydrology staff to support these reviews.

City of London Re-Organization and Continuous Improvement Culture

Since 1997 there have been a number of re-organizations and improvements related to the development approvals process. In 2005, the Development Approvals Business Unit was struck along with the File Manager program to help create ownership of various development files. Since that time, various tweaks have been made to create a “one window” approach to development approvals where an applicant can work with Planning and Development staff who have been empowered to make decisions associated with the application based on the context of the plan. Most recently the physical and organizational changes have brought together the expertise of ecological, heritage and urban design staff under one department.

With the May 4th, 2021 re-organization the City has optimized the department under one director now called Planning and Development (P&D) within the Planning and Economic Development (PED) Service Area. To aid in this model, service level agreements between City departments have been developed to highlight commitments and expectations associated with development reviews. Scope and responsibility within the process are laid out and assign owners to different components of the work in order to reduce confusion and duplication between Environment and Infrastructure (E&I) and P&D. Timelines are very clearly laid out so that all involved are aware of the expectations and commitments made to the local development industry. These have been very beneficial and have helped maintain a level of service that led to over \$1 Billion in residential building permits in 2020 despite the pandemic and changes to the work from home model.

In addition to these structural changes and formalization of the roles and responsibilities, all P&D staff have received a minimum of Lean Six Sigma White Belt training and have been empowered to bring forward changes to process to improve the service delivery model. Further, there are two Green Belt level and one staff working toward their Black Belt.

Current Service Delivery Resources at the City of London and UTRCA

The table below highlights the 3-year average number of applications in the major streams within Planning and Development where UTRCA input is requested. These numbers do not account for the other applications (holding provisions, consents or minor variances). These do not reflect the number of consultations that have supported the applications (an additional 25% - 40%) or the resubmissions through the review process. In each resubmission, the application must be reviewed again in full to determine if the requested changes have been accepted and made.

	<u>Average (2018, 2019, 2020)</u>
Re-Zonings, OPAs	60
Subdivision	4
Site Plan	100

To support the processing and review of applications, the outline below identifies the number of staff engaged in the work associated with development approvals.

	Planning	Ecological	Stormwater	Hydrogeological	Inspection or Regulation
UTRCA	2	1	1	1	1
Planning and Development	20	3	17*	-	6
Stormwater Engineering	-	1	4	1	1

* technical staff are engaged in all components of engineering review, not just stormwater.

NOTE: Management staff have been removed from the counts above as they are typically not undertaking the detailed review of applications. The staff reflected below are professional staff engaged in assessing policy and science associated with various Planning Act applications including consents, minor variances, re-zonings, subdivision and site plan applications.

2.0 Overview of 2021 Development MOU

2021 DMOU Duties

As outlined in the Schedules of the attached DMOU in **Appendix 'A'**, the City is recommending that UTRCA maintain delegated responsibility on development applications as it pertains to assessment of the application withing a regulated feature. This includes Provincially Significant Wetlands, Regulated Areas, Regulated Surface Watercourse or Features, Flood Hazards and Erosion Hazards.

All other features including significant woodlands, wetlands and valleylands will be undertaken by City staff in E&I and P&D. Guidelines and service delivery commitments have been included in the DMOU to help establish expectations on which party is responsible and the associated delivery timelines.

Sections of the DMOU in Appendix 'A':

- DMOU divided into various sections.
 - Purpose, Goals, Definitions, Responsibilities, Implementation parameters, Service Delivery Standards, Fees, Terms of the Agreement.
- Schedule 1 – outlines the CA's review functions at a high level.
- Schedule 2 – outlines the various reports and studies requested for Planning Act and development applications.
- Schedule 3 – provides guidance on who is a decision maker and who has a commenting role.
- Schedule 4 – provides an overview of application timelines and commitments made by the CoL to the local development industry. UTRCA should be meeting these timelines.

DMOU and Consistency with UTRCA Guiding Principles

The UTRCA has been relying on their own policy manual to guide decision making on development applications.

These 10 objectives have been synthesized from the Conservation Authorities Act and provide a science-based guide for CA administrators to make decisions on development. It reflects the CA's core mandate of flood protection and the educational awareness programs that have been successfully delivered across the watershed for many years:

1. To minimize the potential for loss of life, property damage and social disruption and to create a safer and healthier environment for everyone who lives in the Upper Thames River *Watershed*;
2. To reduce the need for public and private expenditures for emergency operations, evacuation, and restoration of properties which may be impacted by *flooding* and erosion;
3. To increase public awareness about the potential risks to *development* as a result of the physical conditions associated with hazardous areas;
4. To use an *ecosystem* planning approach for identifying the environmental implications of *development* applications in order to maintain, protect, preserve and enhance natural heritage resources and natural resources;
5. To screen *development* applications and proposals to identify where a Provincial or *watershed* interest may be impacted;
6. To specify conditions of approval which satisfy the afore noted objectives;
7. To serve as an information centre for inquiries from landowners, potential landowners, lawyers, municipalities, and community groups interested in environmental legislation, approvals and *stewardship*;
8. To advise and inform potential applicants (and/or their consultants) to consult with UTRCA Staff prior to submitting their *development* proposals in order to identify potential concerns that could result in delays to the planning process, as well as for the need to prepare and submit technical reports and supporting information required to undertake the review and approval of applications;
9. To provide responses to site specific inquiries in a timely manner through the continued expansion of data bases (e.g. natural heritage data bases and inventories) and other information management systems; and
10. To continue to liaise with other agencies, county and municipal governments and departments, consultants, developers and *watershed* residents to ensure continued co-operation in achieving effective management of our natural resources.

Commitment to Public Interest

When there are two public interest bodies undertaking similar duties, there is potential for overlap and inefficiencies. While all of the overlap cannot be removed from the process, the systems and principles can be aligned so that both organizations can achieve their mandate. The science-based watershed approach by the Conservation Authorities is an efficient way to conserve and identify constraints across property boundaries. It allows for a higher level of care to be considered and identify potential threats to the watershed.

The municipality has ultimate decision making on planning matters within its boundaries, and those decisions must be consistent with the Provincial Policy Statement. These reviews are consistent with the policies of the Official Plan, and address matters such as the protection, retention and enhancement of natural heritage features and systems. Through The London Plan and associated guidelines and standards, the City has a robust environmental and ecological policy framework to inform the professional planning recommendations presented by Staff. Additionally, the City benefits from the knowledge and technical advice provided by ecologist staff members dedicated to the review of development applications.

It is also important to note that all of the policies and guidelines that are used in the review of development applications have gone through an extensive public and stakeholder input process, often including the UTRCA.

Ultimately, the intent of this DMOU between the CoL and UTRCA is to reduce duplication of effort and provide value to the residents and businesses within London and the watershed. In addition, City-staff are committed to regular reviews to ensure that the objectives found in a continuous improvement culture are incorporated to respond to the local context and emerging issues.

3.0 Key Issues and Considerations

3.1 Consistency with other CAs and Municipalities

A series of reviews of other MOUs around Ontario was undertaken. Generally, the CAs across the province have entered into similar agreements with their partner municipalities. Where agreements have been established for regional municipalities and their local members, the agreements are quite complex in outlining who does what. Overall, the MOUs look to find efficiencies and ensure that the appropriate parties are undertaking appropriate work.

A few points noted below that confirm the overall approach that is being established through the City of London's draft DMOU with UTRCA:

Hamilton – 2013 update – continue providing their technical review services in areas where the CAs continue to house expertise such as subwatershed, master drainage planning and wetland evaluation to the City without fee. The CAs will continue to provide comments under their regulatory authority in addition to their responsibilities under the updated MOA.

Also of interest, the City of Hamilton does not look for reviews from the local CA in the downtown for properties under 2.0 hectares in size. This will be explored in further detail for London as part of future updates.

Ottawa – 2019 update – includes specific details on who is responsible for various reviews. Also includes memorandum from the MNRF in 2001 where comments on matters of natural heritage outside of the regulated authority are not to be construed with the Provincial perspective.

St. Catherine's – 2014 update – The MOU and continuous improvement efforts play an important role in improving the planning approval process and customer service both in the City and the Region alike.

3.2 Application Approval Efficiency – “One Window”

Over the course of many years, the CoL has worked with the local development community and their consultants to develop standard review times and deliver on commitment for higher levels of service. While the UTRCA has made many changes and improvements over the years they have not had the same number of resources assigned to development approvals.

Schedule 2 of the attached DMOU identifies the reports and studies that are required by UTRCA. With the transition to digital submissions and review, paper versions of these are not available. Finding efficient ways for the UTRCA to provide comment will be a key part of the DMOU.

Schedule 4 of the attached DMOU will be populated in conversation with UTRCA to identify specific timelines associated with each stage of the Planning Act application review process. While the City has made a number of commitments, recognizing the workload and resource constraints will be a key part of establishing these expectations.

3.3 Discussions with UTRCA to date

The City and UTRCA have been discussing an MOU update since 2019. Those discussions have recognized the need for update and clarification, however, there has

not been discussion about the specific services that the City will require from the Authority.

What has occurred since the last update of the MOU, and since this current process started, has been changes in the relationship with the City and the Authority. The complexity of applications has increased, and the City has been able to manage this through both the addition of professional planning staff and technical staff (ecologist and hydrologists, for example). The Authority has not been able to meet the needs of more complex applications, leading to time delays or contrary advice to City staffs. Also, recent positions of Authority staff on what constitutes “development” for the purposes of UTRCA approval has more often included matters such as pathways associated with new development adjacent to natural areas. The position of the CA has resulted in a direct financial impact to the City, most recently a \$350,000 land purchase to acquire lands to accommodate a pathway outside conservation regulated lands.

It is anticipated that a new MOU will better clarify the expectations of both the CA and the City in the review of planning applications and will result in more timely and more consistent decisions and recommendations.

4.0 Conclusion

The proposed DMOU is an update focused on recognizing the role that both the UTRCA and the City in protecting natural heritage and delivering safe and reliable infrastructure. The respective roles of the City and the UTRCA have some overlap, but through the proposed DMOU there is an opportunity to improve the level of service that both parties provide to the public and Municipal Council by reducing the duplication. Over time, adjustments may be required in order to recognize new or changing regulations, or to incorporate a new service not previously contemplated.

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Submitted by: Gregg Barrett, AICP
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Recommended by: George Kotsifas, P. Eng.
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June 14, 2021

Appendix A – Development Memorandum of Understanding

Memorandum of Understanding dated _____ day of _____, 2020

**MEMORANDUM OF UNDERSTANDING FOR PLAN REVIEW SERVICES BETWEEN
THE CORPORATION OF THE CITY OF LONDON
(Herein referred to as the “City”)
and
THE UPPER THAMES RIVER CONSERVATION AUTHORITY,
(Herein referred to as the UTRCA)**

Background and Legislative Context

Conservation Authorities are involved in plan input and review of Planning Act applications in four ways:

- i. as an agency with provincially delegated responsibility for the natural hazard policies of the Provincial Policy Statement (PPS);
- ii. as a municipal technical advisor;
- iii. as a public body; and
- iv. As a landowner.

Under the *Conservation Authorities Act* (see Section 21.1(1) Programs and Services) Conservation Authorities are required or permitted to provide programs and services as follows:

1. Mandatory programs and services that are required by regulation;
2. Municipal programs and services that the Conservation Authority agrees to provide on behalf of municipalities situated in whole or in part within its area of jurisdiction under a separate memorandum of understanding; and
3. Other programs and services which Conservation Authority may determine are advisable to further its objects.

Upon proclamation of the Lieutenant Governor, S. 21.1 of the *Conservation Authorities Act* will be amended to include amongst other changes, S. 21.1.1. (1) (Municipal programs and services) provisions that enable a CA to provide within its area of jurisdiction agreed upon programs and services on behalf of a municipality situated in whole or in part within its area of jurisdiction as established in a memorandum of understanding MOU or such other agreement.

The CA Role in Municipal Plan Review is summarized in the following table.

Role	Type of Role	Required, Through Agreement or Voluntary	Representing	Result
Regulatory Agency (s. 28 of the Conservation Authorities Act)	Decision Making	Required	Provincial Interests	CA responsible for decision
Delegated “Provincial Interest”	Review/ Commenting	Required	Provincial Interests	Comments must be considered by the municipality
Public Bodies	Review/ Commenting	All	CA Interest watershed-based resource management agency	Comments should be considered by the municipality
Service Provider	Service/ Technical Advisor	Through Agreement	Terms of the Agreement (MOU)	Dependent upon terms of agreement
Landowners	Review/ Commenting/ Proponent	Voluntary	CA Interests	Comments may be considered by the municipality

1. PURPOSE

The purpose of this Memorandum of Understanding (MOU) is to assist the City of London with making decisions on land use planning and development related matters.

2. GOALS

The goals of the partnership between the City and the Conservation Authorities shall include but not be limited to:

- To ensure that matters of provincial interest are addressed in the decision-making process on Planning Act applications and documents which the City prepares, is the Approval Authority, or otherwise comments on.
- To ensure that the CAs are included in pre-consultation discussions and meetings pertaining to Planning Act applications, especially where an application may trigger the requirement for an approval or permit under Section 28 of the Conservation Authorities Act.
- To share information which could assist and expedite decision-making.
- To ensure that the Plan Review process is complementary, adds value to the decision-making process and does not result in the duplication of efforts.
- To provide comments on Natural Hazards, select Natural Heritage features and functions for features of provincial interest, and Water Quantity and Quality identified in this agreement.
- To co-ordinate where appropriate, comments regarding the implications of the Conservation Authority Act (CA Act) as it relates to the Planning Act review process. In the review of development applications under the Planning Act, Conservation Authorities will:
 - i. Ensure that the proponent and the City are aware of the applicable Section 28 regulations and requirements under the CA Act.
 - ii. Assist with the coordination of applications under the Planning Act and the CA Act to streamline the processes and eliminate unnecessary delay or duplication of the approval.

3. DEFINITIONS

In this document:

“**Board**” – The Board of Directors of the Conservation Authority (CA)

“**Conservation Authority**” – The Upper Thames River Conservation Authority

“**Lead**” – The decision maker on a particular matter.

“**Development**” or “**redevelopment**” - The creation of a new lot, a change in land use or the construction of buildings and structures which require approval under the *Planning Act*. Redevelopment is defined as the creation of new units, uses or lots on previously developed land in existing communities, including brownfield sites. The CA *may* make regulations applicable in the area under its jurisdiction, but for the purposes of this MOU, “development” shall be determined by the *Provincial Policy Statement* and the *Planning Act*.

“**Plan Review**” - The review of applications/studies as set out in the *Planning Act* or other relevant legislation; identifying the need for and assessing the adequacy of technical surveys, studies and reports relating to the watershed natural hazards, natural heritage and water policies for natural environment features or functions, and specifying and clearing conditions of approval. It also includes the review of municipal planning documents, such as Official Plans and amendments and may include studies associated with infrastructure development, such as Environmental Assessment Reports.

“**Provincial Plan**” means,

- (a) a development plan approved under the *Ontario Planning and Development Act, 1994*,
- (b) a growth plan approved under the *Places to Grow Act, 2005*,
- (c) a designated Great Lakes policy or a significant threat policy, as those terms are defined in subsection 2 (1) of the *Clean Water Act, 2006*, or
- (d) a prescribed plan or policy or a prescribed provision of a prescribed plan or policy made or approved by the Lieutenant Governor in Council, a minister of the Crown, a ministry or a board, commission or agency of the Government of Ontario;

“**Technical Clearance**” - Assessing technical reports submitted by a proponent to determine if the reports satisfy the CA conditions through a comprehensive study (e.g. master environmental servicing plans, secondary plans, etc.) or plan review process in order to clear the conditions.

“**Technical Review**” - Assessing technical reports submitted by a proponent’s consultants in terms of applicable and most recent technical guidelines and standards and the approved terms of reference; specifying modifications or additional technical studies required and conditions of acceptance; validating the technical methods used to determine potential environmental impacts, identifying the nature and extent of mitigation measures required; recommending modifications to or acceptance of the technical report.

4. LAND USE PLANNING ROLES AND RESPONSIBILITIES

Municipal governments are required to make planning decisions consistent with the Provincial Policy Statement (PPS) and pertinent provincial plans. Specifically, Sections 2.1, 2.2 and 3.1 of the PPS require particular expertise in order to provide defensible planning advice. The commenting roles of the CA are provided in Schedule 1. (Note: CAs have a delegated responsibility from the Province to represent the provincial interests regarding natural hazards encompassed by Section 3.1 of the PPS (excluding wildland fire) which requires CAs to review and provide comments on municipal policy documents and applications submitted pursuant to the Planning Act). Beyond those for Section 3.1 “Natural Hazards” where CAs have delegated responsibility, these comments should not be construed by any party as representing the provincial position.

- a) The City and the Conservation Authority agree that the Conservation Authority *will* provide comments / advice as to whether planning and development applications are

consistent with Section 3.1 of the Provincial Policies for the following applications that are located within Regulated Areas:

1. OP and ZBL Comprehensive Reviews and Amendments
2. Plans of Subdivision/Condominium
3. Community Planning Permit System
4. Secondary Plans
5. Consents
6. Minor Variances
7. Site Plan Control
8. Part Lot Control

And for policy initiatives related to:

- Watershed/Subwatershed Studies
- Guideline Documents
- Site Alteration Agreements
- Environmental Assessments involving regulated lands
- City-led Development Applications for Industrial Lands, Intensification etc.

b) As needed, the Conservation Authority will also provide comments to the City regarding:

- i. Assessing the adequacy of technical studies in meeting PPS (S. 3.1) policy requirements and objectives, including:
 - Hazardous Lands (flooding, erosion and dynamic riverine hazards);
 - Hazardous Sites (unstable soils);
 - Special Policy Areas for Natural Hazard lands;
 - Impact and mitigation measures related to natural hazards.

c) The Conservation Authority **may** also provide comments to the City, at the City's request, pertaining to:

- i. The need for technical reports and ensuring that the submissions, reference relevant guidelines, standards, or related conditions of approval to satisfy the review of (a) and (b) above. These technical reports will to support review within hazard lands and regulated areas and may include, but are not limited to:
 - * Stormwater Management infrastructure adjacent to a provincially significant natural heritage feature or regulated areas.
 - * Lot Grading and Drainage adjacent to a provincially significant wetland or regulated area.
 - * Geotechnical as it relates to Slope Stability within hazard lands.
 - * Hydrogeological as it relates to Water Balance associated with a Natural Heritage Feature and Source Water Protection.
 - * Erosion and Sediment Control on sites adjacent to Regulated Areas.
 - * Environmental Impact Studies - related to natural heritage impacts and mitigation measures of provincially significant features.
 - * Fluvial Geomorphology in a regulated watercourse.
- ii. Where requested by the City, reporting/confirming base line conditions and defining natural heritage features and assessing the long-term ecological function and biodiversity of natural heritage systems and identify opportunities for restoration or enhancements in order to achieve a net environmental benefit.
- iv. Where requested by the City, review documents that assess impacts on the natural environment related to:
 - * Significant Wildlife Habitat.

- * Habitats of Threatened and Endangered Species.
 - * Watercourses, Fish and Aquatic Habitat.
 - * Areas of Natural and Scientific Interest.
 - * Significant Woodlands and Woodlands.
 - * Significant Valleylands; Valleylands and Stream Corridors.
 - * Significant Wetlands, Local and Unevaluated Wetlands.
 - * Ground Water Recharge Areas.
 - * Ground Water Quantity and Quality; and
 - * Surface Water Quantity and Quality.
- vii. Provide broader comments that pertain to impacts on/related to CA watershed planning studies and Report Card recommendations. Conservation Authorities produce Watershed Report Cards. These report cards characterize subwatersheds and offers actions for maintenance and enhancement. The City will be encouraged to embrace their recommendations.
- viii. Assisting with the interpretation of the Source Water Protection Plan; and
- ix. Assisting with projects, initiatives, and committees that fall outside of this agreement where the City has requested the CA's advice.
- d) The CA and City will share Geographical Information System (GIS) data related to the services provided in compliance with any applicable licensing agreements.
- e) The CA and City will share water quality, surface flow and groundwater monitoring data in a WHISKI database related to the services provided in compliance with any applicable service agreements.
- f) The City will forward *Ontario Building Code* Applications for properties located wholly or partially within Conservation Authority regulated areas.

5. IMPLEMENTATION

The City and the Conservation Authority agree to:

- a) In consultation with industry stakeholders and with the assistance of the Conservation Authority, the City shall develop a process whereby CA input on development applications is considered in the context of the whole application. The process will consider input and output points through pre-consultation, application review, detailed technical assessments and approval by Municipal Council. The City shall lead this process.
- b) The City agrees to circulate Planning Act applications that are within the Regulated Area to the Conservation Authority; and the Conservation Authority having jurisdiction agrees to provide comments in a timely manner, to ensure that the City meets its statutory timeline obligations, respective of the items listed under Schedule 1 provided in the appendix of this MOU. The Conservation Authority will review applications on both a site-specific and watershed basis.
- c) Conservation Authorities may set fees to recoup plan review costs that would be the responsibility of the proponent. The City and local municipalities agree to advise proponents of the Conservation Authorities applicable fees to review development applications and the supporting technical studies.

- d) The City agrees to make other arrangement for plan review and technical clearance services identified in the MOU, where in the opinion of either the City or the Conservation Authority, the services specified in this agreement could result in a conflict of interest.
- e) Where a Planning Act application has been appealed to the Ontario Land Tribunal (OLT), or any other court, review, or appeal body, Conservation Authority staff will co-operate with the City and appear as technical witnesses in regard to those matters that they have provided technical or advisory comments to the City that were relied on for the application. Costs associated with Conservation Authority staff appearing as witnesses will be borne by the Conservation Authority. The Conservation Authority may also decide to appear as a Party to any appeal or review proceeding, in addition to the commitment to make staff available to appear as witnesses, in which case the Conservation Authority will bear their own costs with respect to participation as a Party or Participant. Additionally, Conservation Authorities may independently appeal a planning decision to the OLT and may participate in hearings to address their responsibilities, interests and mandates outside of this agreement.
- f) Notwithstanding the specific details listed under the attached schedule(s), this agreement may be updated and revised from time to time, subject to changes in legislation and or policy.
- g) Nothing in this agreement precludes the Conservation Authorities from providing comments to the City in accordance with their powers under the *Planning Act*, the *Conservation Authorities Act* and/or other applicable legislation.
- h) Notwithstanding the items listed under the attached schedule(s) changes in the role may occur based on updated information, comprehensive studies, or legislative updates (e.g., subwatershed plans, secondary plans, community plans, Significant Valleylands delineation, Natural Heritage Systems studies, Significant Wildlife Habitat delineation).
- i) The City and Conservation Authorities may seek additional technical expertise from a third party as required (e.g., peer review of an Environmental Impact Study, Hydrogeological Report, Fluvial Geomorphology Study, etc.), the cost of which would be at the expense of the proponent.
- j) The City agrees to circulate decisions which have Conditions of Approval that reference the Conservation Authority having jurisdiction.

6. SERVICE DELIVERY STANDARDS

- a) The Conservation Authorities and the City shall mutually agree on the timeframes for responding to planning document amendments and development applications in keeping with the requirements of legislated timelines or outlined in this document. The committed timelines are identified in Schedule 4 of this document.

7. FEES

The fees schedule is made pursuant to the Conservation Authorities Act, and as such, is approved by each of the Conservation Authority's Board of Directors.

The City shall inform applicants of the additional fees required by the Conservation Authority.

8. TERMS OF THE AGREEMENT

a) The City of London and the Conservation Authority agree that:

1. Each Party will make every effort to complete all actions and to do all things necessary, proper, or advisable to accomplish, make effective, and comply with all of the terms of this Agreement.
2. This Agreement supersedes and replaces the MOU 1997 [insert proper title] but does not have the effect of limiting or replacing any other MOUs that may exist between the City and the Conservation Authority.
3. The term of this Agreement shall be for a period of five (5) years from the date of execution by the City. The Agreement shall be automatically extended for an additional two (2) year period on the same terms and conditions as contained herein at the discretion of the City and the Conservation Authority until terminated by any of the parties in accordance with subsection 8(a)(3) herein.
4. The City and the Conservation Authority will review this Agreement, to consider changes in programs of the parties or changes in Provincial policies, at least six months prior to the expiry of each 5-year term. The City's Planning and Development Department will be responsible for monitoring the agreement and its expiry and renewal.
5. Any party may terminate this Agreement at any time upon delivering 6-months written notice of termination, by prepaid registered mail, to all of the other parties, which notice shall be deemed to be received on the third business day from the date of mailing.
6. Any notice to be given pursuant to this Agreement shall be delivered to the parties at the following addresses:

The Corporation of the City of London
Municipal Address
Attention: Deputy City Manager, Planning and Economic Development.

Upper Thames River Conservation Authority
Municipal Address
Attention: General Manager

The parties have duly executed this Memorandum of Understanding under the hands of their respective authorized Officers.

The Corporation of the City of London

(Name and Title)

(Date)

Upper Thames River Conservation Authority

(Name and Title)

(Date)

Schedule 1 – Conservation Authority Review Function Responsibilities

In participating in the review of development applications Conservation Authorities will:

- I. Ensure that the proponent and municipal planning authority are aware of the Section 28 regulations and requirements under the *Conservation Authorities Act*.
- II. Assist in the coordination of applications under the *Planning Act* and the *Conservation Authorities Act* to eliminate unnecessary delay or duplication in the process.

In the Upper Thames Watershed, the Conservation Authority provides both Plan Review and Technical Review functions. The level of review service may vary amongst the other CAs; LTVCA and KCCA may not provide Technical Review comments.

	Delegated Authority	Application Review	Regulatory Review
NATURAL HAZARDS			
Flood Hazards	X		X
Erosion Hazards	X		X
Provincially Significant Wetlands	X		X
Conservation Authority Regulated Areas	X		X
Hazardous Sites ⁽¹⁾	X		X
NATURAL HERITAGE			
Significant Wetlands and Wetlands			
Significant Woodlands and Woodlands			
Significant Valleylands			
Natural Heritage Systems			
Areas of Natural & Scientific Interest ANSI⁽²⁾			
Significant Wildlife Habitat			
Threatened/Endangered Species ⁽²⁾			
Fish Habitat ⁽³⁾			
WATER RESOURCES ⁽⁴⁾			
Regulated Surface Watercourses or Features			X
Groundwater Management (as it relates to Regulated Natural Features)		X	
Subwatershed Study/Master Plan or EA involving Regulated Areas		X	

* If not explicitly identified in the table above, the City will take the Lead. If requested by the City of London, the Conservation Authority may be invited to comment on these matters as they relate to enforcement, conservation, regulation or development within the city boundary where it overlaps with the Upper Thames watershed.

“Delegated Authority” – CA’s provide comments pursuant to the MOU between Conservation Ontario, Ministry of Municipal Affairs and Housing and Ministry of Natural Resources.

“Application Review” – includes screening development applications to determine when environmental studies (EIS, Hydrogeological Study) are triggered; developing/scoping and finalizing terms of reference for technical studies; assessing potential environmental and natural hazard impacts; identifying the nature and extent of mitigation and compensation measures required; recommending modifications to the development proposal or conditions of approval.

“Technical Review” – includes assessing technical reports submitted by a proponent’s consultants in terms of applicable and most recent technical guidelines and standards (protocols) and the approved terms of reference; specifying modifications and additional information and/or additional technical studies required and conditions of acceptance; validating the technical methods used to determine potential environmental impacts, identifying the nature and extent of mitigation measures and compensation required; recommending modifications to or acceptance of the technical report.

NOTES:

1. *Hazardous Sites* means property or lands that could be unsafe for development and site alteration due to naturally occurring hazards. These may include unstable soils (organic soils), or unstable bedrock (karst topography).
2. The Ministry of Environment Conservation and Parks (MECP) is responsible for the implementation of the *Endangered Species Act* and for the mapping and designation of Areas of Natural and Scientific Interest (ANSI). The City is responsible for the protection of these areas consistent with the Provincial Policy Statement.
3. Review of Fish Habitat is provided consistent with the Provincial Policy Statement and does not provide clearance on the required statues or legislation from either the MECP or the Federal Department of Fisheries and Oceans.
4. Review of Water Policies as per Section 2.2 of the Provincial Policy Statement and The London Plan shall be addressed by the party responsible for ensuring the longterm management and efficient and sustainable use of water as it relates to the resource features and ecological system or management objectives and infrastructure needs of users. Implementation of the Source Protection Policies is the responsibility of the City.
5. Water Resources Systems consist of groundwater features, hydrologic functions, natural heritage features and areas, and surface water features. These features are necessary for the ecological and hydrological integrity of watersheds. The water cycle includes flows on the surface and through the ground. Surface water can infiltrate into the ground, thereby recharging groundwater supplies. Groundwater can discharge into rivers and lakes and can also emerge from the ground through springs and seeps. The Provincial Policy Statement (PPS) recognizes the importance of clean and plentiful water and promotes the use of a *watershed* scale, systems approach to protecting, improving and restoring the quality and quantity of water and vulnerable.
6. Regulatory Floodplain Updates are the responsibility of the municipality. The municipality may choose to engage the Conservation Authorities to conduct floodplain updates within the municipal boundary. “In the MNRF technical guides, municipalities are delegated the responsibility under the *Emergency Management and Civil Protection Act* of identifying areas subject to natural hazards and to develop management plans (i.e., flood contingency plans) to limit exposure to public health and safety risks. This includes identifying floodplains in municipal plans and incorporating policies to address new development consistent with the PPS policy. It is up to the municipality to determine how best to achieve this requirement and the use of floodplain mapping is one tool available to demonstrate hazard areas. Municipalities can choose to involve their Conservation Authority in preparing floodplain mapping on the municipality’s behalf but are not required to.

SCHEDULE 2 – UTRCA and City of London Typical Reports and Studies for Planning Act Applications & Development Applications

These lists include some of the potential technical studies that could be required for a complete application submission. Through the pre-consultation process, requirements for technical studies which are appropriate for the project would be identified. These lists are intended to act as an example of potential technical studies and are not exhaustive.

Should consider requiring the applicant, as part of the covering letter, to have a professional attest that an application is complete. Municipality and CA should establish a mechanism to determine complete application requirements as outlined in the municipal Official Plan and to determine the technical checklist required for these studies. The CA and Municipality should discuss allowing the CA to pre-screen submissions prior to the municipality confirming that the application is complete.

Applicant must designate one primary contact as an agent for the application and technical reviews.

Planning Act Applications & Development Applications

- Covering Letter, which outlines the proposal, provides contact names and describes all preliminary consultation and submission contents
- Application Fee (See CA Fee Schedule)
- Appropriate Plans/Drawings
- Natural Systems Map (natural hazards and natural heritage features with requisite buffers, overlaid with existing site conditions, property boundaries, and proposed development and site alteration)
- Topographic Information

Potential technical requirements

- A list of supporting information and materials for Planning Act applications is typically provided in Official Plans; this list should be referred to for consideration.
- Conceptual Channel Crossings Assessment
- Subwatershed Study
- Scoped or Full Comprehensive Environmental Impact and Enhancement Study
- Functional Servicing Plan/Stormwater Management Study
- Floodline Delineation Study/Hydraulic Analysis
- Geotechnical/Slope Stability Study
- Preliminary Grading Plans
- Headwater Drainage Feature Evaluation
- Fluvial Geomorphology Study
- Hydrogeological Assessment
- Low Impact Development Opportunity Assessment, as required by municipal policy
- Water Balance Analysis
- Watercourse Erosion Analysis
- Structural Elevations and Construction Details
- Topographic Information
- Other reports/studies identified through the checklists or staff consultation.

SCHEDULE 3

Guidelines for Engineering Reviews – Responsibilities of Each Organization

Certain projects may require further discussion of roles. Generally, the following will apply:

Approvals Lead = Decision Maker

X = Commenting Role

Item	Issue/Concern	Conservation Authority	City of London
Watercourses & Valleys	Low Flow Channel Design & Fluvial Geomorphological Considerations		Lead
	Geotechnical Considerations (Slope Stability, Natural Hazards) within Regulated Areas	X	Lead
Road & Utility Crossings	Hydraulics (Riparian Issues & Channel Design) in Regulated Areas	X	Lead
Stormwater Management / Water Resources	Stormwater Management Facilities or LID Design and Construction		Lead
	Location of facility with respect to Natural Hazards	X	Lead
	Potential impacts on the receiving watercourse	X	Lead
	Outlet structure and spillway	X	Lead
	Outlet to watercourse (if necessary)	X	Lead
Erosion and Sediment Control	Review of Erosion and Sediment Control Plans	X	Lead
Water Balance	Related wetland features	X	Lead

- * If not explicitly identified in the table above, the City will take the Lead and circulate the Conservation Authority for comment at their discretion.

Notes to the above:

1. Municipalities are responsible for municipal stormwater management (e.g. planning, engineering standards, design, establishment, operation and maintenance). Municipal stormwater management deals with the component of the urban surface runoff that is or would be collected by means of separate municipal storm sewers and, in some areas, by combined sewers. This also includes green infrastructure that captures (partially or fully) where snow melts or rain falls, reducing stormwater runoff that enters municipal storm sewers.
2. Municipalities also have an important role for managing surface runoff in rural areas. They, along with landowners, have responsibility for municipal drains that drain and convey surface runoff under the *Drainage Act*.

Guidelines for Environmental Impact Study Reviews – Responsibilities of Each Organization

Certain projects may require further discussion. Generally, the following will apply

Approvals Lead = Decision Maker

X = Commenting Role

Issue/Concern	Conservation Authority	City of London
Significant Valleylands		Lead
Significant Wetlands and Other Wetlands		Lead
Significant Woodlands and Woodlands		Lead
Natural Heritage Systems		Lead
Areas of Natural & Scientific Interest ANSI		Lead
Significant Wildlife Habitat		Lead
Threatened/Endangered Species		Lead
Fish Habitat and Aquatic Habitat	Lead	X

Guidelines for Hydrogeology Reviews – Responsibilities of Each Organization

Individual situation may require further discussion. Generally, the following will apply:

Approvals Lead = Decision Maker

X = Commenting Role

Item	Issue / Concern	Conservation Authority	City of London
Groundwater / Hydrogeology	As it relates to all Provincially Significant Wetlands	X	Lead
	As it relates to all other wetlands, seeps water balance	X	Lead
	As it relates to EAs, PTTW, LIDs, etc.	X	Lead
	As it relates to water quality	X	Lead
	As it relates to water quantity	X	Lead

SCHEDULE 4 – Review Timelines for Development Applications

To be discussed and populated in collaboration between UTRCA and City of London.

Timeline commitments will be consistent with the City's agreed upon approach for subdivisions, site plan, Official Plan amendments and re-zonings established through the Innovation and Continuous Improvement office at the City. Other Planning Act applications will also be considered and appropriate time for review and comment assigned.

Appendix C – Definitions

Definition of development:

The definition of **development** is defined in a number of ways:

Provincial Policy Statement (source: PPS): means the creation of a new lot, a change in land use or the construction of buildings and structures which require approval under the Planning Act but does not include:

- a) activities that create or maintain infrastructure authorized under an environmental assessment process;
- b) works subject to the Drainage Act; or
- c) for the purposes of policy 2.1.4(a), underground or surface mining of minerals or advanced exploration on mining lands in significant areas of mineral potential in Ecoregion 5E, where advanced exploration has the same meaning as under the Mining Act. Instead, those matters shall be subject to policy 2.1.5(a).

Further, **redevelopment** is defined as: the creation of new units, uses or lots on previously developed land in existing communities, including brownfield sites

Conservation Authorities Act (source: UTRCA Environmental Planning Policy Manual, 2017):

- a) the construction, reconstruction, erection or placing of a building or structure of any kind; or
- b) any change to a building or structure that would have the effect of altering the use or potential use of the building or structure, increasing the size of the building or structure, or increasing the number of dwelling units in the building or structure; or
- c) site grading; or
- d) the temporary or permanent placing, dumping or removal of any material, originating on the site or elsewhere.

Interference with Wetlands and Alterations to Shoreline Regulation (source: UTRCA Environmental Planning Policy Manual, 2017):

The regulation under the Conservation Authorities Act that allows the UTRCA to:

- Prohibit, regulate or provide permission for straightening, changing, diverting or interfering in any way with the existing channel of a river, creek, stream, watercourse or changing, or interfering with a wetland.
- Prohibit, regulate or provide permission for development if the control of flooding erosion, dynamic beaches, pollution or the conservation of land may be affected by the development.

Additional definitions that are pertinent to this topic (source: PPS):

Ecological function: means the natural processes, products or services that living and non-living environments provide or perform within or between species, ecosystems and landscapes. These may include biological, physical and socio-economic interactions.

Erosion hazard: means the loss of land, due to human or natural processes, that poses a threat to life and property. The erosion hazard limit is determined using considerations that include the 100 year erosion rate (the average annual rate of recession extended over a one hundred year time span), an allowance for slope stability, and an erosion/erosion access allowance.

Flooding hazard: means the inundation, under the conditions specified below, of areas adjacent to a shoreline or a river or stream system and not ordinarily covered by water:

- a) along the shorelines of the Great Lakes - St. Lawrence River System and large inland lakes, the flooding hazard limit is based on the one hundred year flood level plus an allowance for wave uprush and other water related hazards;
- b) along river, stream and small inland lake systems, the flooding hazard limit is the greater of:
 1. the flood resulting from the rainfall actually experienced during a major storm such as the Hurricane Hazel storm (1954) or the Timmins storm (1961), transposed over a specific watershed and combined with the local conditions, where evidence suggests that the storm event could have potentially occurred over watersheds in the general area;
 2. the one hundred year flood; and
 3. a flood which is greater than 1. or 2. which was actually experienced in a particular watershed or portion thereof as a result of ice jams and which has been approved as the standard for that specific area by the Minister of Natural Resources and Forestry;

except where the use of the one hundred year flood or the actually experienced event has been approved by the Minister of Natural Resources and Forestry as the standard for a specific watershed (where the past history of flooding supports the lowering of the standard).

Hazardous lands: means property or lands that could be unsafe for development due to naturally occurring processes. Along the shorelines of the Great Lakes - St. Lawrence River System, this means the land, including that covered by water, between the international boundary, where applicable, and the furthest landward limit of the flooding hazard, erosion hazard or dynamic beach hazard limits. Along the shorelines of large inland lakes, this means the land, including that covered by water, between a defined offshore distance or depth and the furthest landward limit of the flooding hazard, erosion hazard or dynamic beach hazard limits. Along river, stream and small inland lake systems, this means the land, including that covered by water, to the furthest landward limit of the flooding hazard or erosion hazard limits.

Ground water feature: means water-related features in the earth's subsurface, including recharge/discharge areas, water tables, aquifers and unsaturated zones that can be defined by surface and subsurface hydrogeologic investigations.

Hydrologic function: means the functions of the hydrological cycle that include the occurrence, circulation, distribution and chemical and physical properties of water on the surface of the land, in the soil and underlying rocks, and in the atmosphere, and water's interaction with the environment including its relation to living things.

Natural heritage system: means a system made up of natural heritage features and areas, and linkages intended to provide connectivity (at the regional or site level) and support natural processes which are necessary to maintain biological and geological diversity, natural functions, viable populations of indigenous species, and ecosystems. These systems can include natural heritage features and areas, federal and provincial parks and conservation reserves, other natural heritage features, lands that have been restored or have the potential to be restored to a natural state, areas that support hydrologic functions, and working landscapes that enable ecological functions to continue. The Province has a recommended approach for identifying natural heritage systems, but municipal approaches that achieve or exceed the same objective may also be used.

Sensitive: in regard to surface water features and ground water features, means areas that are particularly susceptible to impacts from activities or events including, but not limited to, water withdrawals, and additions of pollutants.

Site alteration: means activities, such as grading, excavation and the placement of fill that would change the landform and natural vegetative characteristics of a site.

Surface water feature: means water-related features on the earth's surface, including headwaters, rivers, stream channels, inland lakes, seepage areas, recharge/discharge

areas, springs, wetlands, and associated riparian lands that can be defined by their soil moisture, soil type, vegetation or topographic characteristics.

Wetlands: means lands that are seasonally or permanently covered by shallow water, as well as lands where the water table is close to or at the surface. In either case the presence of abundant water has caused the formation of hydric soils and has favoured the dominance of either hydrophytic plants or water tolerant plants. The four major types of wetlands are swamps, marshes, bogs and fens. Periodically soaked or wet lands being used for agricultural purposes which no longer exhibit wetland characteristics are not considered to be wetlands for the purposes of this definition.

Woodlands: means treed areas that provide environmental and economic benefits to both the private landowner and the general public, such as erosion prevention, hydrological and nutrient cycling, provision of clean air and the long-term storage of carbon, provision of wildlife habitat, outdoor recreational opportunities, and the sustainable harvest of a wide range of woodland products. Woodlands include treed areas, woodlots or forested areas and vary in their level of significance at the local, regional and provincial levels. Woodlands may be delineated according to the Forestry Act definition or the Province's Ecological Land Classification system definition for "forest".