



Staff Report

Planning & Development Services – Planning Division

Report To: COW-Operations_Planning_and_Development_Services
Meeting Date: January 16, 2024
Report Number: PDS.24.019
Title: Recommendation Report – Follow-Up to the Public meeting for Part Lot 25, Concession 4 (Blue Birch Properties Inc.)
Prepared by: Carter Triana, Intermediate Planner

A. Recommendations

THAT Council receive Staff Report PDS.24.019, entitled “Recommendation Report – follow-up to the Public Meeting for Part Lot 25, Concession 4 (Blue Birch Properties Inc.)”;

AND THAT Council REFUSE the Zoning By-law Amendment application for the following reasons:

1. Outstanding concerns from Grey County and the Niagara Escarpment Commission regarding removal/alteration of the wetland and Significant Woodland natural heritage features on the subject lands;
2. Outstanding concerns from the Grey Sauble Conservation Authority regarding a drainage feature on the subject lands that was not included in the submitted Flood Hazard Study and passes through the proposed southeastern development envelope; and
3. Unconfirmed means of access to the northwestern development envelope through the municipal road allowance.

B. Overview

The purpose of this application is to rezone the subject lands to redefine the existing wetland and hazard zones and to establish two development envelopes. Planning Staff are generally supportive of the proposed use of the subject lands for residential development; however, Planning Staff cannot recommend approval of the application at this time based on unresolved concerns regarding existing natural hazards and the removal or alteration of natural heritage features. The Niagara Escarpment Commission, the Grey Sauble Conservation Authority, and Grey County have all provided comments expressing concerns in this regard. Access to the northwestern development envelope through a municipal road allowance has also not confirmed at this time.

In addition, under recent changes to the Planning Act through Bill 109, decisions on Zoning By-law Amendment applications must be made within 90 days or the Town is required to begin

partial refunds of application fees to the applicant. This application was deemed complete on November 8, 2023, and a decision on the application must be made by February 6, 2024. This requires that a decision of Council be made at the January 29, 2024, Council meeting.

The applicant has requested to waive the right to fee refunds that would otherwise be applicable should a decision of Council not be made within the required timeline. This has been requested to allow the applicant additional time to address outstanding concerns prior to a decision of Council. Planning Staff note that the Planning Act does not provide a framework for this type of waiver and that it has not yet been tested in a legal environment.

Planning Staff provide the following options to Council for consideration:

1. **Approve the application as presented.** This would approve the zoning as presented and would represent a clear decision of Council within the required timelines, avoiding the need for fee refunds.
2. **Defer the application, with conditions outlining outstanding concerns.** This would allow the applicant to address these concerns and a subsequent report would be brought back to a future Committee of the Whole meeting that would provide an update on the application and a revised recommendation based on that update. It has not yet been tested in a legal environment if this type of decision constitutes a decision of Council and if this therefore would be considered a decision within the required timeline. As such, this decision may trigger a requirement for partial fee refunds.
3. **Refuse the application, with reasons for refusal.** This would represent a clear decision of Council within the required timelines, avoiding the need for fee refunds. It is noted that this decision would be subject to appeal, as is any decision of Council on a Zoning By-law Amendment application. Alternatively, the applicant could submit a new application once all the outstanding concerns have been addressed.

Based on the complexity of outstanding issues, comments received from external agencies, and mandated Planning Act timelines, Planning Staff recommend refusal of the application, as outlined in Option 3.

C. Background

The subject lands are approximately 10.6 hectares in size with frontage on James Street. The northwestern corner of the lands is adjacent to the unopened Railway Street road allowance. The subject lands are currently vacant. A location map and aerial photograph of the subject lands are shown in Figures 1 and 2.

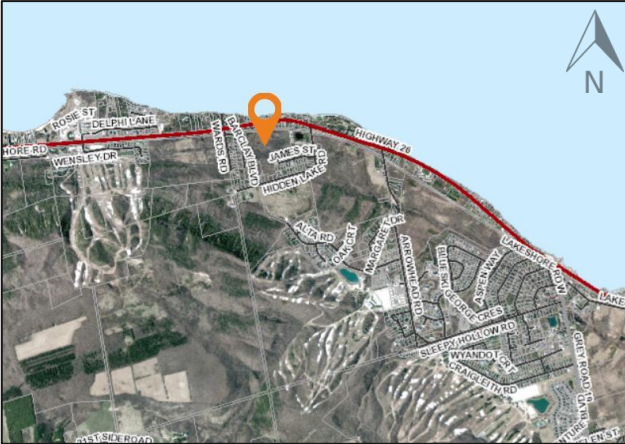


Figure 1. Location Map



Figure 2. Aerial Photo (ca. 2020)

Surrounding land uses include the Georgian Trail to the north and residential properties in all other directions, with some vacant parcels along Hidden Lake Road and Barclay Boulevard.

Watercourse 22 travels northeast through the property and multiple drainage features connect to this watercourse on the subject lands. A wetland feature has also been identified on the subject lands and is classified as “other identified wetland” in the Town Official Plan. The Official Plan also identifies significant woodlands on nearly the entire subject lands and karst topography on the southern portion of the lands. Figure 3 provides an excerpt from the special constraint mapping of the Town Official Plan.



Figure 3. Official Plan Constraint Mapping

The proposal seeks to establish two development envelopes on the subject lands, one in the northwest and one in the southeast. In order to establish the appropriate extents of these

envelopes, the proposal also seeks to redefine the boundaries of the existing wetland feature and hazards associated with the wetland and watercourse on the lands. Site grading and alterations are proposed in areas adjacent to both development parcels to mitigate the impact of the proposal on these hazard features.

Access to the property is currently from James Street as the property has frontage on this road. Access is proposed using the land which is currently the Railway Street road allowance through a municipal land use agreement. It is noted that this road allowance appears to be the only logical way to access the proposed northern development envelope. Town Staff would not support a municipal land use agreement to provide access through this road allowance as these agreements have historically been difficult to enforce. As an alternative, Town Staff have indicated to the owner that the sale of the road allowance may be a preferred option. This would be subject to a distinct process and would require a decision of Council. This process has not yet been started, but the owner has expressed interest in pursuing it.

In support of the application, the following materials were submitted and reviewed by Town Staff and external agencies and were made available to the public on the project page of the Town website:

- Draft Zoning By-law Amendment
- Planning Justification Report
- Environmental Impact Study
- Flood Hazard Study
- Functional Servicing Brief
- Geotechnical Investigation
- Site Grading Plan

Public Comments

A Public Meeting was held on December 19, 2023, with written and verbal comments received from public agencies and area residents. Summarized comments and Staff responses are included as Attachment 2 to this report. Full comments are included as Attachment 3. Comments were received from the following public agencies:

- **Ministry of Transportation (MTO):** MTO permits are required before any demolition, grading, construction, or alteration to the site.
- **Niagara Escarpment Commission (NEC):** The proposed redirection of drainage to establish the southern development area is not for conservation and flood or erosion control project and alternatives have not been considered and therefore does not meet policy 2.6.2(c) of the Niagara Escarpment Plan. Fill importation and alteration to the natural drainage pattern is proposed, where policy 2.6.10 identifies that changes to natural drainage should be avoided. NEC Staff request to be circulated the contemplated addendum to the submitted EIS following discussions with the MECP regarding species at risk. Exclusionary fencing for turtle movement and nesting should also be considered as a mitigation measure. NEC Staff will require a vegetation protection plan and inventory of existing vegetation.

- **Grey Sauble Conservation Authority (GSCA):** The property is located within an area regulated under Ontario Regulation 151/06. A development permit is required from this office for the construction or placing of a building or structure of any kind, any change of use of a building or structure, any expansion to a building or structure, site grading, placing or removal of material, or interference with a wetland, river, lake, creek, stream, or watercourse. Flooding and erosion hazards associated with watercourses, steep slope feature, and wetland have been identified. The proposal requires development in the form of a change of use and site alterations. The PPS directs development and site alteration away from natural hazard areas. GSCA is of the opinion that the northwestern portion of the property features sufficient area to accommodate a development envelope without requiring site alterations within the hazard areas. The Flood Hazard Study does not provide any information on the drainage from the other major culvert crossing Hidden Lake Road and drainage ditch which directs water onto the subject property and to the west end of the James Street cul-de-sac. This was identified as a drainage feature in the EIS and confirmed during GSCA's site visit. A revised flood hazard study is needed to address omissions. We note that inclusion of this watercourse in a revised flood study is expected to make the hazard limits in the southern portion of the property more challenging to address and it is anticipated that the southern development envelope would still not be consistent with the PPS nor satisfy Ontario Regulation 151/06.
- **Grey County:** Wetland removal without appropriate compensation cannot be supported under the Provincial Policy Statement and the Grey County Official Plan. As such, the southern envelope could not be supported without an appropriate rehabilitation plan that can restore an equal amount of wetland features and their functions. County Staff recommend that the subject application be deferred until an appropriate rehabilitation plan to address the proposed removal of wetland and woodland features and an acceptable sediment and erosion control plan are completed. County Staff recommend that a Letter of Opinion is conducted by an engineer to ensure that a dwelling is not located on top of a potential Unknown Petroleum Well and that the well is capped. County Staff recommend the completion of an Archaeological Assessment before construction of the new dwelling occurs.

Comments received from Council and interested members of the public and Staff responses can generally be summarized as:

- **How will the wetland and Significant Woodlands be impacted?**
0.26 hectares of existing wetland is proposed to be removed and 0.13 hectares temporarily altered. 1.27 hectares of woodland is proposed to be removed and 0.76 hectares temporarily altered. The creation of the southern development envelope necessitates the removal of wetland and both development envelopes and the proposed grading adjacent to the envelopes would remove woodland features. The submitted EIS provides recommended measures to mitigate the impact of these changes, but a detailed Tree Inventory and Preservation Plan and Restoration Plan has not been submitted to confirm this approach.
- **Will this set precedent for more intensive development in the future?**

The proposed zoning would permit a single detached dwelling to be constructed on the property as well as a maximum of one accessory apartment. Additional intensification or subdivision of the subject lands would require subsequent planning applications, which would be subject to public consultation and a decision of Council. It is noted that the natural heritage and hazard constraints on the subject lands greatly restrict the potential for intensive development.

- **How will the proposal impact drainage and flooding on surrounding properties?**

The submitted Flood Hazard Study indicates no adverse impacts on drainage as a result of the proposal. Omissions from this study have been noted by GSCA and have not yet been addressed. It is likely that this additional information would have the greatest impact on the proposed southern building envelope.

D. Analysis

This section provides the staff analysis of the application, including a review of relevant legislation, policies, and identified issues.

Planning Act

The Ontario Planning Act gives municipal Councils the authority to pass zoning by-laws and make amendments to existing zoning by-laws under Section 34 of the Act. The Planning Act requires that, in making planning decisions, Council must have regard for the list of matters of provincial interest, as outlined by Section 2 of the Act. Additional commentary regarding matters of provincial interest is provided below.

Provincial Policy Statement

The Provincial Policy Statement 2020 (PPS) provides policy direction on matters of provincial interest related to land use planning and development and provides for appropriate development while protecting the resources of the province, public health and safety, and the quality of the natural and built environment. Decisions on planning matters made by a planning authority must be consistent with the PPS.

GSCA has provided an opinion indicating that the proposal as presented is not consistent with policies [3.1.1](#), [3.1.2](#), and [3.1.7](#) of the PPS as development and site alteration is proposed within hazard areas on the subject lands to accommodate two building locations. The northern portion of the property appears to provide sufficient area for a development envelope without requiring site alteration within the hazard area. Furthermore, the submitted Flood Hazard Study is missing critical information that may directly impact the proposed southern building envelope.

The submitted EIS indicates that the subject lands may include significant wildlife habitat. The EIS states that large portion of the property (83%) is proposed to be retained in its current state and that these retained portions will continue to function as bat maternity roosting habitat and opportunities Eastern Wood-peewee foraging and nesting. It also suggests that alternative habitat is located outside of the subject lands. Amphibian breeding habitat, marginal turtle

wintering habitat, and turtle nesting habitat is associated with the wetland feature on the subject lands. The EIS anticipates that the retained wetlands will continue to provide the existing habitat functions. Grading activities adjacent to the toe of the slope at the southern end of the property present a risk of encroachment into potential reptile hibernacula on the slope and measures to mitigate this risk are recommended. The EIS also indicates the author is currently in discussion with the Ministry of Environment CP to confirm the study's assessment of Species at Risk bats and that additional information will be provided in an addendum to the study. This addendum has not yet been received.

Butternut and Black Ash trees were identified on the subject lands and measures have been recommended to mitigate potential risks to these endangered species as a result of the proposed development. This includes a recommendation for identification of all Black Ash trees within an area of 28 metres of the altered lands. This identification has not yet been completed.

Policies [2.1.5](#), [2.1.7](#), and [2.1.8](#) generally prohibit development and site alteration in significant wildlife habitat, and on adjacent lands to certain natural heritage features. Development and site alteration may be permitted if 1) it has been demonstrated that there will be no negative impacts on the natural features or their ecological functions (2.1.5 and 2.1.8) or 2) in accordance with provincial and federal requirements. Planning Staff acknowledge the recommendations contained within the submitted EIS to mitigate potential impacts to species at risk on the subject lands. As a detailed implementation plan reflecting these recommendations has not yet been prepared, Planning Staff do not have the information required to deem these recommendations as consistent with the PPS. This is further supported by comments from Grey County indicating the need for a restoration plan to better understand the impacts of the proposed development on species at risk.

Planning Staff are therefore not satisfied that the proposal as presented, most notably related to the southern development envelope, proposed grading adjacent to the northern development envelope, and potential impacts on species at risk, can be considered consistent with the direction of the PPS.

Niagara Escarpment Plan

The subject lands are designated Escarpment Recreation Area in the Niagara Escarpment Plan (NEP). The objectives of this designation include minimizing the negative impacts of recreational development on the Escarpment environment and community character, recognizing the importance of the four-season recreation resort areas to the tourism sector, and conserving natural and cultural heritage features, functions, and resources. As no new construction is proposed, no adverse impacts on the Escarpment environment are anticipated and natural and cultural heritage features will be conserved.

Permitted uses in this designation include uses as provided for in the Town of The Blue Mountains Official Plan. Additional commentary is provided later in this report through discussion of the Town Official Plan.

Comments from the Niagara Escarpment Commission (NEC) indicate that the proposed redirection of drainage to establish the southern development envelope does not meet policy 2.6.2(c) of the NEP as it is not for conservation or flood/erosion control projects and alternatives have not been considered. Additionally, policy 2.6.10 of the NEP indicates that changes to natural drainage should be avoided, while the proposal includes fill importation and alteration to the natural drainage pattern. The NEC has also requested that a vegetation protection plan and inventory of existing vegetation be prepared.

Based on these comments and review of the stated policies, Planning Staff are of the opinion that the proposal as presented may conflict with the Niagara Escarpment Plan.

Grey County Official Plan

The Grey County Official Plan is intended to guide development within the whole of Grey County and provides a broad policy framework to be included in local municipal Official Plans, Secondary Plans, and Zoning By-laws.

The subject lands are designated Recreational Resort Area in the Grey County Official Plan. This land use type is a designated settlement area. New development in this land use type must serve the public interest by contributing to the provision of community recreational amenities, by facilitating municipal service infrastructure, and by accommodating existing un-serviced development areas and areas with development potential. The proposal will create a development envelope for a new dwelling which would utilize existing municipal water services but would require private sewage servicing as the subject lands do not front on municipal sanitary sewers. County and Town Planning Staff are satisfied that the proposed residential development conforms to the policies of the Recreational Resort Settlement Area. Figure 3 provides an excerpt of the Grey County Official Plan land use designation for the subject lands.



Figure 3. Grey County Official Plan Land Use Designations

Section 8.9.1(10) of the County Official Plan permits partial services in certain situations. A Functional Servicing Brief and Geotechnical Investigation were submitted and determined that the existing soils are suitable for in ground septic tile bed construction, but that the high groundwater table will likely require the septic bed to be raised. County Planning Staff have expressed no concerns in this regard and Town Planning Staff are of the opinion that the proposal conforms to this policy.

Section 5.8.1(1) of the County Official Plan directs planning decisions to take into consideration the locations of petroleum wells identified in Appendix A and specifies that buildings should not be constructed directly on top of known abandoned or plugged wells. Section 5.8.1(2) states that a condition of approving development be that unplugged wells discovered during development will be properly plugged, capped, or otherwise made safe. Comments from Grey County indicate the presence of an 'Unknown Petroleum Well' within 200 metres of the proposed northern building envelope. This well data was recently added to the Ontario Oil, Gas, and Salt Resource Library. The applicant has initiated the process of obtaining a Letter of Opinion from an engineer to ensure the identified well is capped and that the proposed residential dwelling will not be located on top of the well.

Section 7.3.2 of the County Official Plan provides policies for development in wetland that are not considered "provincially significant". These policies indicate that no development or site alterations are permitted in these wetlands or their adjacent lands unless it has been demonstrated that there will be no negative impacts on the natural features or their ecological functions. Section 7.4 provides similar direction regarding significant woodlands. As stated earlier in this report, it is the opinion of County and Town Planning Staff that the recommended

mitigation measures in the submitted EIS cannot be properly assessed without the review of a Tree Inventory and Preservation Plan (TIPP), including a detailed rehabilitation plan.

Planning Staff are therefore of the opinion that conformity with the stated policies of Section 7 of the Grey County Official Plan cannot be determined based on the proposal as presented, but that the preparation of a TIPP, including a detailed rehabilitation plan, may provide the necessary information to assess this conformity.

Town of The Blue Mountains Official Plan

The Official Plan establishes the vision for growth and development in the Town and contains policies supporting the Goals and Objectives of the Plan to achieve that vision. The policy framework builds upon Provincial and County policy as described above.

The subject lands are designated Residential Recreational Area 'RRA' and Hazard 'H' in the Official Plan. It is noted that the wetland feature on the subject lands is not designated as such under the Official Plan because it is not considered "provincially significant" based on criteria Figure 4 provides an excerpt of the Official Plan land use designations for the subject lands.



Figure 4. Town of The Blue Mountains Official Plan Land Use Designations

The intent and purpose of the RRA land use designation is to recognize areas within the Town where there is a mix of seasonal and permanent residential and recreational uses that support and provide access to resort and recreational amenities. Permitted uses include single detached dwellings and accessory buildings or structures. As the proposal is residential in nature and is limited to one single detached dwelling at this time, Planning Staff are satisfied that the intent and purpose of the RRA designation can be maintained. It is noted that additional proposals for the creation of new lots or other intensification on the subject lands would require a future planning application.

The intent and purpose of the H land use designation is to identify lands containing inherent environmental hazards which are severe enough to pose a risk to the occupant, property damage, or social disruption if developed. Permitted uses include forestry, conservation, agriculture, parks, essential public services, and resource based recreational uses.

Section B5.4.2(b) indicates that buildings or structures are only permitted within the H designation in specific situations, such as renovations and minor expansions to existing buildings, non-habitable park-related buildings, flood and erosion control structures, fences, and recreational facilities. The proposed southern development envelope would be located within the Hazard designation of the Official Plan. It is recognized that Section B5.4.2(e) permits minor alterations of Hazard mapping in consultation with the appropriate Conservation Authority without amendment to the Official Plan. This recognizes that hazards associated with natural features may change over time and additional assessment may warrant modifications to mapping based on new information and analysis. It is anticipated that GSCA would not support an alteration under this policy to accommodate the southern building envelope due to the previously discussed concerns over omissions in the submitted Flood Hazard Study.

Section B5.4.2(h) states that access through a hazard area which requires filling or other alterations to existing grades shall be permitted in situations where it presents the only available means of securing a safe and appropriate building site. This policy requires that such access be constructed such that it will not aggravate flooding or instability on neighbouring properties. The application proposes two building envelopes, the southern of which is entirely located within the Hazard designation. As such, this development envelope cannot be supported because another suitable building site has been proposed and assessment of an omitted drainage feature that will likely impact this envelope has not yet been completed.

Section B5.2 provides policies directing development in or adjacent to natural heritage features. natural heritage features. Development or site alteration is not permitted in significant woodlands or within 120 metres unless it has been demonstrated that there will be no negative impacts on the feature or its ecological functions. The Official Plan does not contain policies for development within wetlands that are not considered “provincially significant” but does prohibit development or site alteration within 30 metres of these features. As stated above, the impacts of the proposed development on these natural heritage features has been evaluated and mitigation measures have been recommended, but a detailed plan to implement these measures has not yet been provided. Planning Staff are of the opinion that these measures cannot be properly assessed until a TIPP and restoration plan have been completed and reviewed.

Town of The Blue Mountains Zoning By-law 2018-65

The subject lands are zoned Development ‘D’, Wetland ‘W’, and Hazard ‘H’ under the Town Zoning By-law. Figures 5 and 6 provide the current and proposed zoning of the subject property.



Figure 5. Current Zoning of the Subject Lands



Figure 6. Proposed Zoning of the Subject Lands

The purpose of the D zone is to preserve lands that have high potential for development by limiting development on the lands and requiring a Zoning By-law Amendment for more intensive proposals. Section 1.5(g) of the Zoning By-law requires reference to previous Zoning By-laws to determine permitted uses and standards on D-zoned lands. The majority of the subject lands were zoned Hazard 'H' under Township of Collingwood Zoning By-law 83-40, with

a small portion in the northwest corner being zoned Development 'D'. As such, development is generally limited under the current zoning.

As the majority of the subject lands are zoned Hazard or Wetland, the application seeks to redefine the extent of these zones to establish development envelopes.

The purpose of the H zone is to implement the policies of the Hazard Official Plan designation. The application proposes to include modified Hazard zones that would permit limited site grading and alteration to permit the proposed works that seek to mitigate the loss of wetland due to the southern development envelope. Approximately 0.76 hectares of significant woodland area is proposed to be temporarily altered as a result of the grading proposed in these Hazard zones. In consideration of the resulting significant loss of existing vegetation and that a detailed TIPP and restoration plan have not yet been created, Planning Staff do not support the rezoning of portions of the subject property to the H-X zone as proposed.

The purpose of the W zone is to recognize wetland features and limit development that would impact the function of these features. Planning Staff have no concerns with the expansion of the Wetland zone to better reflect the current conditions of the wetland feature, however the southern portion of the wetland as determined by the submitted EIS is not proposed to be zoned in the Wetland Zone. Instead, this portion is proposed to be zoned Hazard 'H', Hazard 'H-X', and Residential One 'R1-1-X' to establish a southern development envelope. 0.26 hectares of wetland are proposed to be lost and another 0.13 hectares are proposed to be temporarily altered. As stated previously in this report, Planning Staff cannot support the removal of wetland as proposed in the absence of a TIPP and restoration plan.

The subject lands also contain a holding provision 'h1' associated with the wetland feature. This holding provision extends 30 metres from the edge of the W zone and limits development until it has been determined that the proposed development will not have a negative impact on the wetland and its associated ecological functions. The application seeks to lift this holding provision to permit the proposed development and site alteration. The holding provision would be re-established based on the newly determined extent of the wetland feature, excluding those portions of the lands proposed for development or site alteration.

Planning Staff generally support rezoning portions of the property to a residential zone and redefining the extent of the Hazard and Wetland zones; however, Planning Staff are not satisfied that the application as presented can be considered an appropriate modification to the Zoning By-law as the aforementioned concerns remain outstanding.

E. Strategic Priorities

1. Communication and Engagement

We will enhance communications and engagement between Town Staff, Town residents and stakeholders.

3. Community

We will protect and enhance the community feel and the character of the Town, while ensuring the responsible use of resources and restoration of nature.

4. Quality of Life

We will foster a high quality of life for full-time and part-time residents of all ages and stages, while welcoming visitors.

F. Environmental Impacts

Environmental impacts associated with this application cannot be fully assessed until a TIPP, including a Restoration Plan, is provided to address the proposed removal of Significant Woodlands and wetland feature.

G. Financial Impacts

This application is subject to appeal to the Ontario Land Tribunal, which may result in costs to the Town that are not covered by the fees that have been paid by the applicant.

It is also noted that a partial refund of application fees will be required if a decision of Council on this application is not made at the January 29, 2024, Council meeting, in accordance with the “ZBA” row of the table below.

	No Refund	50% Refund	75% Refund	100% Refund
ZBA	Decision made within 90 days	Decision made within 91 and 149 days	Decision made within 150 and 209 days	Decision made 210 days or later
OPA/ZBA	Decision made within 120 days	Decision made within 121 and 179 days	Decision made within 180 and 239 days	Decision made 240 days or later
SP	Decision made within 60 days	Decision made within 61 and 89 days	Decision made within 90 and 119 days	Decision made 120 days or later

H. In Consultation With

Shawn Postma, Manager of Community Planning

Adam Smith, Director of Planning and Development Services

I. Public Engagement

The topic of this Staff Report has been the subject of a Public Meeting which took place on **December 19, 2023**. Those who provided comments at the Public Meeting and/or Public Information Centre, including anyone who has asked to receive notice regarding this matter, has been provided notice of this Staff Report. Any comments regarding this report should be submitted to Carter Triana, planning@thebluemountains.ca

J. Attached

1. P3348 Public Meeting Comments (Summary)
2. P3348 Public Meeting Comments (Original)

Respectfully submitted,

Carter Triana
Intermediate Planner

For more information, please contact:
Carter Triana, Intermediate Planner
planning@thebluemountains.ca
519-599-3131 extension 262

Report Approval Details

Document Title:	PDS.24.019 Recommendation Report - Follow up to the Public meeting for Part Lot 25, Concession 4 Blue Birch Properties Inc.docx
Attachments:	- PDS-24-019-Attachment- 1.pdf.pdf - PDs-24-019-Attachment-2_Redacted.pdf
Final Approval Date:	Jan 9, 2024

This report and all of its attachments were approved and signed as outlined below:

No Signature - Task assigned to Shawn Postma was completed by delegate Adam Smith

Shawn Postma - Jan 9, 2024 - 2:05 PM

Adam Smith - Jan 9, 2024 - 2:05 PM

PLANNING STAFF COMMENT Matrix

Project File: P3348 Blue Birch ZBA

Public Meeting Date: December 19, 2023

Comments Received By:	Date Received:	Comments / Concerns / Questions Summary:	Staff Response:
Agency Comments			
Niagara Escarpment Commission	December 1, 2023	<ul style="list-style-type: none"> The proposed redirection of drainage to establish the southern development area is not for conservation and flood or erosion control project and alternatives have not been considered and therefore does not meet policy 2.6.2(c) of the Niagara Escarpment Plan. Fill importation and alteration to the natural drainage pattern is proposed, where policy 2.6.10 identifies that changes to natural drainage should be avoided. NEC Staff request to be circulated the contemplated addendum to the submitted EIS following discussions with the MECP regarding species at risk. Exclusionary fencing for turtle movement and nesting should also be considered as a mitigation measure. NEC Staff will require a vegetation protection plan and inventory of existing vegetation. 	<ul style="list-style-type: none"> Policies 2.6.2(c) and 2.6.10 have been reviewed and Planning Staff concur with the comments provided that the proposal as presented does not meet these policies. An addendum to the EIS has not yet been submitted, but the NEC will be circulated this once the Town has received a submission. Consideration for exclusionary fencing for turtle movement and nesting is noted. Planning Staff have also indicated that a Tree Inventory and Preservation Plan, including a Restoration Plan, should be submitted to address the proposed loss of vegetation.
Grey County	December 7, 2023	<ul style="list-style-type: none"> County Staff recommend that a Letter of Opinion is conducted by an engineer to ensure that a dwelling is not located on top of a potential Unknown Petroleum Well and that the well is capped. Wetland removal without appropriate compensation cannot be supported under the Provincial Policy Statement. County Staff recommend that the application be deferred until an appropriate rehabilitation plan to address the proposed removal of wetland and woodland features and an acceptable sediment and erosion control plan are completed. 	<ul style="list-style-type: none"> Noted regarding the well. Planning Staff agree that a rehabilitation plan and sediment and erosion control plan should be completed. The owner has agreed to the placing of a holding provision on the entire subject lands to prevent any development or site alteration prior to the completion of an Archaeological Assessment.

PLANNING STAFF COMMENT Matrix

Project File: P3348 Blue Birch ZBA

Public Meeting Date: December 19, 2023

Comments Received By:	Date Received:	Comments / Concerns / Questions Summary:	Staff Response:
		<ul style="list-style-type: none"> Couty Staff recommend the completion of an Archaeological Assessment before construction of the new dwelling occurs. 	
Ministry of Transportation	December 7, 2023	<ul style="list-style-type: none"> MTO permits are required before any demolition, grading, construction or alteration to the site. 	<ul style="list-style-type: none"> Noted.
Grey Sauble Conservation Authority		<ul style="list-style-type: none"> The property is located within an area regulated under Ontario Regulation 151/06. A development permit is required from this office for the construction or placing of a building or structure of any kind, any change of use of a building or structure, any expansion to a building or structure, site grading, placing or removal of material, or interference with a wetland, river, lake, creek, stream, or watercourse. The proposal requires development in the form of a change of use and site alterations. Flooding and erosion hazards associated with watercourses, steep slope feature, and wetland have been identified. The PPS directs development and site alteration away from natural hazard areas. GSCA is of the opinion that the northwestern portion of the property features sufficient area to accommodate a development envelope without requiring site alterations within the hazard areas. The Flood Hazard Study does not provide any information on the drainage from the other major culvert crossing Hidden Lake Road and drainage ditch which directs water onto the subject property and to 	<ul style="list-style-type: none"> Requirement for a development permit is noted. GSCA's opinion regarding the feasibility of the northwestern development envelope without major site alterations and hazard areas is noted. Planning Staff are of the same opinion. A revised flood hazard study will be required to consider the southern building envelope.

PLANNING STAFF COMMENT Matrix

Project File: P3348 Blue Birch ZBA

Public Meeting Date: December 19, 2023

Comments Received By:	Date Received:	Comments / Concerns / Questions Summary:	Staff Response:
		the west end of the James Street cul-de-sac. This was identified as a drainage feature in the EIS and confirmed during GSCA's site visit. A revised flood hazard study is needed to address omissions. We note that inclusion of this watercourse in a revised flood study is expected to make the hazard limits in the southern portion of the property more challenging to address and it is anticipated that the southern development envelope would still not be consistent with the PPS nor satisfy Ontario Regulation 151/06.	
Written Public Comments			
Lynn and Kirk Gray	December 1, 2023	<ul style="list-style-type: none"> We are not against the development, but have concerns regarding the wetlands as they are drained via a stream that runs directly through the west side of our property. What provisions would be made to ensure that the natural drainage would not be altered or diverted? 	<ul style="list-style-type: none"> The proposal as presented does not propose to alter the location where water drains from the subject property. Outstanding items regarding potential impacts of the proposal on drainage and hazards have yet to be confirmed.
Bob Aziz	December 14, 2023	<ul style="list-style-type: none"> I have concerns with the application as it would result in irreparable harm to a Significant Woodland and Significant Wildlife Habitat on the property. The application seems to be an attempt to "beat the clock" to destroy Black Ash trees before protection measures come into effect in January. The loss of Significant Woodlands and Significant Wildlife Habitat is not addressed in any material way. There is no scientific basis for the conclusions provided in the application. They are based on the belief of the authors that, if their mitigation strategies are implemented, negative outcomes are unlikely. Governing 	<ul style="list-style-type: none"> A Tree Inventory and Preservation Plan, including a Restoration Plan, is required to address loss of vegetation and wetland on the property. Planning Staff cannot provide an opinion on the proposed mitigation measures until such time as this plan is submitted and reviewed. The proposal is to rezone two portions of the subject property to the R1-1 zone, which allows single detached dwellings and accessory apartments. Residential intensification beyond this would require a subsequent Zoning By-law Amendment application. Requests as indicated are noted.

PLANNING STAFF COMMENT Matrix

Project File: P3348 Blue Birch ZBA

Public Meeting Date: December 19, 2023

Comments Received By:	Date Received:	Comments / Concerns / Questions Summary:	Staff Response:
		<p>Official Plans require that there be no impact to the natural heritage features. There is a strong sense that the developer will try to utilize this decision as a precedent to justify more extensive development on the property within the two building envelopes or elsewhere on the property. The developer could potentially request that the proposal be deferred until all additional consultation and studies recommended by the EIS and Planning Justification Report, and the Archeological Assessment, are completed. I also request that any approval be limited to one building envelope on the property, ideally the southeastern lot, and that the building envelope be reduced to something no larger than 0.5 acres, consistent with adjacent lot sizes and incapable of supporting a townhouse or other multiple residence development.</p>	
Becky Channer	December 14, 2023	<ul style="list-style-type: none"> We vehemently object and are opposed to the development. We support the views expressed by Bob Aziz. When all the world is striving to be environmentally conscious and to better conserve our ecosystems, TBM seems not to be able to stand against the mighty Toronto developers when it comes to developing these sensitive areas. I think a majority of your constituents would agree it's more important to save our woodlands, wetlands, and ecosystem than to line the pockets of yet another wealthy Toronto developer. 	<ul style="list-style-type: none"> Outstanding concerns regarding the natural heritage features on the property have not yet been addressed.
Allen Tamman	December 17, 2023	<ul style="list-style-type: none"> The plan calls for a swale between my lot and the new lot. Currently the water that comes through the pipe at the road drains through the woods in a NW direction, away 	<ul style="list-style-type: none"> The culvert under James Street has been flagged by GSCA as an omission in the submitted Flood Hazard Study. A

PLANNING STAFF COMMENT Matrix

Project File: P3348 Blue Birch ZBA

Public Meeting Date: December 19, 2023

Comments Received By:	Date Received:	Comments / Concerns / Questions Summary:	Staff Response:
		from my property. The swale will put all that water beside my property and will flood my yard and potentially my basement. There is an intermittent stream that comes down the road allowance that goes south of the subject property and through the woods. Where is that flow going?	revised study will be required to assess the impact of this drainage feature.
Doreen Hannon	December 18, 2023	<ul style="list-style-type: none"> I object to the proposal. I concur with the views expressed by Robert Aziz in his letter of objection. 	<ul style="list-style-type: none"> Noted
Patrick Frerking	December 18, 2023	<ul style="list-style-type: none"> I object to the proposal for the same reasons stated in the letter form Mr. Bob Aziz. 	<ul style="list-style-type: none"> Noted
Ted Higginbotham	December 19, 2023	<ul style="list-style-type: none"> If only one house is being proposed, two areas do not need to be rezoned to residential and the area requested can be a lot less. No future severances should be allowed. The property owner should put a conservation covenant on the wetland or the wetland should not be lifted from the holding. The property is a significant holder of water and wildlife, which the current proposal does not take into consideration. 	<ul style="list-style-type: none"> The proposal notes that a second development envelope is being sought as a future severance of the property is contemplated. A future application to sever the property would be required and would be subject to public consultation and a decision of Council. The existing holding provision associated with the wetland is proposed to be lifted where it intersects with the development envelopes, but another holding provision is proposed that extends 30 metres from the proposed boundary of the wetland feature.
Heidi Wilbur	December 20, 2023	<ul style="list-style-type: none"> My sister and I hold title rights to a portion of this parcel of land. Our parents sold this land to Hidden Lake Estates, who planned to build homes there, but the build could not proceed after most of the property was rezoned as hazard. Who rezoned a portion of this property as hazard and wetland and when? My recollection is that the stream has 	<ul style="list-style-type: none"> The subject lands have been zoned Hazard as early as 1983, when the previous Township of Collingwood Zoning By-law was created. A small portion of the lands at the northwestern corner was also zoned Development 'D' under this Zoning By-law. The wetland feature was recognized through zoning during the creation of the

PLANNING STAFF COMMENT Matrix

Project File: P3348 Blue Birch ZBA

Public Meeting Date: December 19, 2023

Comments Received By:	Date Received:	Comments / Concerns / Questions Summary:	Staff Response:
		<p>man-made banks and was mostly stagnant and less than a foot deep. There was also a culvert put in under the road at Paul Street to capture water running down the mountains on Wards Road and through properties on Wards and Barclay. How/why was the determination made to run the water from Wards Road across these properties and draining into the stream behind the homes on Barclay Boulevard? Our parents asked for ditches to be put on Barclay and Wards, but this was never done, so all the water from these roads drains through the subject property. Why and who authorized this? Since this land has been designated as flood collection for everyone else's water, should the landowner be compensated? If this land has now been designated hazard due to improper runoff from septic tanks, how soon will this be corrected, and should the landowner be compensated? The subject parcel is long overdue for development and there would be many benefits to the community.</p>	<p>current Town of The Blue Mountains Zoning By-law in 2018.</p> <ul style="list-style-type: none"> Outstanding concerns regarding drainage on and affecting the property have yet to be addressed. Questions regarding historical decisions for drainage improvements are not relevant to the subject application and should be directed to the Town's Operations Department. The hazards on the subject lands are associated with the wetland, watercourse, water drainage, and slope features on the lands, not septic systems of surrounding properties.
Verbal Public Comments			
Paula Hope		<ul style="list-style-type: none"> Have hazards been assessed for 100-year floods? How many watercourses are on the subject property? 	<ul style="list-style-type: none"> The Flood Hazard Study assesses the potential for flooding in both a 100-year storm and a Regional Storm. Watercourse 22 runs through the subject property. Additional drainage features enter the property from surrounding areas and connect with this watercourse.
Alex Maxwell		<ul style="list-style-type: none"> How is the oil well on the property being addressed? 	<ul style="list-style-type: none"> A Letter of Opinion will be required to determine how this will be addressed.

PLANNING STAFF COMMENT Matrix

Project File: P3348 Blue Birch ZBA

Public Meeting Date: December 19, 2023

Comments Received By:	Date Received:	Comments / Concerns / Questions Summary:	Staff Response:
Bob Aziz		<ul style="list-style-type: none"> The true intention of this application is for more density and potentially townhouses as the owner is a townhouse developer in Toronto. There has been no attempt to talk to neighbours. There should be a conservation covenant in place to prevent future development. 	<ul style="list-style-type: none"> Noted.
Anne Higgenbotham		<ul style="list-style-type: none"> This is a healthy wetland with lots of water and wildlife. 	<ul style="list-style-type: none"> Noted, there are ongoing conversations regarding the natural heritage features and associated hazards on the subject lands.
Al Tamman		<ul style="list-style-type: none"> Water comes down the road allowance from Hidden Lake to James Street. There is potential for flooding of backyards along James Street. The soil is mostly gravel and water goes right through the ground. The culvert under James street directs into the subject property and the proposal would send water along the property line with my property. 	<ul style="list-style-type: none"> Noted, responses to these comments are provided above.
Daniela Schulze		<ul style="list-style-type: none"> Will this parcel be considered for accessory secondary units? Density is a concern as the Hidden Lake EA contemplated 10-15 houses. The end of James Street is also a turnaround for garbage and snow plows. 	<ul style="list-style-type: none"> The Zoning By-law permits a maximum of one accessory apartment on properties that contain single detached dwellings. The proposed zoning for the development envelopes permits single detached dwellings. Additional density beyond one single detached dwelling on the property would require a future Zoning By-law Amendment application. The property fronts on James Street, which is a municipal road. Any proposed modifications to and entrances from the road would need to be reviewed and approved by the Town. No modifications are proposed at this time.

PLANNING STAFF COMMENT Matrix

Project File: P3348 Blue Birch ZBA

Public Meeting Date: December 19, 2023

Comments Received By:	Date Received:	Comments / Concerns / Questions Summary:	Staff Response:
Kirk Gray		<ul style="list-style-type: none">This property is a holding area for a lot of water. The outlet for this water is through my property so I am concerned about the impact this proposal would have my property.	<ul style="list-style-type: none">Noted, responses to these comments are provided above.
Doris Langenbach Hodge		<ul style="list-style-type: none">My parents owned the property. I would like to see storm sewers and sanitary sewers in this area. Water from Wards Road drained onto Barclay, the Town raised the road, put a drain in, and directed water onto the subject property.	<ul style="list-style-type: none">Noted. Comments regarding public works on surrounding roads are not relevant to the subject application.

Niagara Escarpment Commission

1450 7th Avenue
Owen Sound, ON N4K 2Z1
Phone: 519-371-1001
Fax: 519-371-1009
www.escarpment.org

Commission de l'escarpement du Niagara

1450, 7e Avenue
Owen Sound, ON N4K 2Z1
No de tel. 519-371-1001
Télécopieur 519-371-1009
www.escarpment.org



SENT BY EMAIL

December 1, 2023

Town of The Blue Mountains
32 Mill Street, P.O. Box 310,
Thornbury, ON
N0H 2P0

RE: NEC Comments for the Town of the Blue Mountains

Municipal File No: P3348

Applicant: Ron Herczeg

Project: Part Lot 25, Concession 4 - Zoning By-law Amendment
Part Lot 25, Concession 4, RP 15R1936 Part 1

Staff of the Niagara Escarpment Commission (NEC) have received the pre-consultation application for a proposed Zoning By-law Amendment to:

1. Rezone the subject lands from the Development 'D' zone to the Residential One Exception 'R1-1-X' for the purpose of constructing a single detached dwelling;
2. Redefine the existing Hazard 'H' and Wetland 'W' zones as Hazard 'H', Hazard Exception 'H-XX', and Wetland 'W' zones; and
3. Lift the Holding Provision 'h1' associated with the wetland feature from the subject lands.

The NEC has reviewed the proposal in accordance with the Escarpment Recreation Area designation policies and the development criteria within the Niagara Escarpment Plan (NEP) established under the *Niagara Escarpment Planning and Development Act*.

The subject lands are within the Niagara Escarpment Plan area but are located outside of the area of Development Control. For lands outside of the area of Development Control, NEC staff review planning applications to ensure that the policies of the Niagara Escarpment Plan (NEP) are upheld. Although the NEC is not the land use approval authority in areas subject to municipal zoning/areas outside of Development Control, section 13(1) of the Niagara Escarpment Planning and Development Act states that all by-laws within the NEP area must not conflict with the NEP. Therefore, a detailed analysis of the NEP policies is required to ensure that the site-specific zoning by-law does not conflict with the NEP.

Niagara Escarpment Plan Purpose and Objectives

The NEP's purpose is "to provide for the maintenance of the Niagara Escarpment and land in its vicinity substantially as a continuous natural environment, and to ensure only such development occurs as is compatible with that natural environment."

Subsequently, four objectives out of the plan's seven include:

- "1. To protect the unique ecologic and historic areas;
- 2. To maintain and enhance the quality and character of natural streams and water supplies;
- 5. To ensure that all new development is compatible with the purpose of the Plan;
- 7. To support municipalities within the Niagara Escarpment Plan Area in their exercise of planning functions conferred upon them by the Planning Act."

The proposed development, including rezoning, must satisfy the policies of Part 1.8 as well as the development criteria outlined in Part 2 of the NEP.

Niagara Escarpment Plan Part 1.8 Escarpment Recreation

Single dwelling units and lot creation are permitted uses under the Escarpment Recreation Area (ERA) designation. NEC staff have reviewed the material provided as part of the Zoning Amendment application and note that the additional clarification is required for how the following development objectives and criteria in Part 1.8 of the NEP will be achieved:

- 1.8.5.10 Growth and Development in Escarpment Recreation Areas shall be compatible with and provide for:
 - a) the protection of natural heritage features and functions;
 - b) the protection of hydrologic features and functions;
 - d) the conservation of cultural heritage resources, including features of interest to First Nation and Métis communities;
 - e) considerations for reductions in greenhouse gas emissions and improved resilience to the impacts of a changing climate;
 - f) sustainable use of water resources for ecological and servicing needs; and compliance with the targets, criteria and recommendations of applicable water, wastewater and stormwater master plans, approved watershed planning and/or sub-watershed plans in land use planning.
- 1.8.5.11 Recreational uses shall be designed to utilize existing site and topographical conditions. Minimum regrading, placement/excavation of fill and vegetation removal are allowed only if they are essential to the use and there are minimal negative impacts on the Escarpment environment.

Niagara Escarpment Plan Part 2 Development Criteria

Part 2.2.2 of the NEP requires a "site to not be prone to natural hazards, and the development will not impact the control of these natural hazards including flooding hazards, erosion hazards of other water related hazards and hazard events associated with unstable soil or unstable bedrock."

The application materials/studies identify that permanent alteration and loss in a portion of wetland and significant woodland is proposed to secure the two development areas.

The applicant is encouraged to review NEP policies of 2.6 Development Affecting Water Resources and 2.7 Development Affecting Natural Heritage as they set out the criteria for development considerations for the protection of natural hazard and heritage features and their functions.

Niagara Escarpment Plan Part 2.6 Development Affecting Water Resources:

The objective of the NEP is to *"ensure that hydrologic features and their functions including the quality, quantity and character of groundwater and surface water at the local and watershed level, are protected and where possible enhanced."*

The subject lands contains wetland and permanent/intermittent stream which are key hydrological features. 2.6.2 of the NEP restricts development from occurring in key hydrologic features with some exceptions. The Environmental Impact Study (EIS) submitted with the application identifies one of the NEP exceptions detailed in 2.6.2 (c) *conservation and flood erosion control projects, after alternatives have been considered* could permit the redirection of drainage that contributes to the wetland in support of establishing the southern development area. The proposed development does not meet policy 2.6.2 (c) because the intended development is not for a conservation and flood or erosion control project and alternatives have not been considered. Additionally, fill importation and alteration to the natural drainage pattern is proposed. Policy 2.6.10 identifies that changes to natural drainage should be avoided.

Niagara Escarpment Plan Part 2.7 Development Affecting Natural Heritage:

The objective of the NEP is to *"protect and where possible enhance natural heritage features and functions, in order to maintain diversity and connectivity of the continuous natural environment."*

The EIS has identified several natural heritage features on and/or associated with the subject lands. The EIS has explained that an addendum is required following discussions with Ministry of Environment, Conservation and Parks for Species at Risk, bat species and habitat. NEC staff request to be circulated the addendum for review and potentially offer additional commenting.

Mitigation measures have been identified in the EIS to protect the natural heritage features from direct impacts during construction activities. Exclusionary fencing for turtle movement and nesting should also be considered as a mitigation measure.

NEC staff request additional information on proposed vegetation clearing and retention to demonstrate how changes to existing topography and vegetation are minimized. NEC staff will require a vegetation protection plan (VPP) including an inventory of existing vegetation to demonstrate the extent of vegetation clearing and vegetation protection measures. NEC VPP Technical Criteria will apply.

Thank you for circulating this application to the NEC. Should you require any additional information and/or clarification, please contact undersigned.

Sincerely,



Janet Sperling
Senior Planner



Planning and Development

595 9th Avenue East, Owen Sound Ontario N4K 3E3
519-372-0219 / 1-800-567-GREY / Fax: 519-376-7970

December 7th, 2023

Carter Triana
Town of the Blue Mountains
32 Mill Street
Thornbury, ON
N0H 2P0

RE: Zoning Bylaw Amendment Application P3348
Part Lot 25, Concession 4, RP 15R1936 Part 1
Town of the Blue Mountains
Roll: 424200000633100
Owner: Ron Herczeg
Applicant: Kristine Loft

Dear Mr. Triana,

This correspondence is in response to the above noted application. We have had an opportunity to review the application in relation to the Provincial Policy Statement (PPS) and the County of Grey Official Plan (OP). We offer the following comments.

The purpose and effect of the subject application is to amend Zoning By-law 2018-65 to rezone the subject lands from the Development 'D' zone to the Residential One Exception 'R1-1-X' for the purpose of constructing a single detached dwelling; redefine the existing Hazard 'H' and Wetland 'W' zones as Hazard 'H', Hazard Exception 'H-XX', and Wetland 'W' zones; and Lift the Holding Provision 'h1' associated with the wetland feature from the subject lands. The proposal recognizes two potential building lots in the southwest and northeast corners of the property. The subject lands are currently vacant.

Schedule A of the County OP designates the subject lands as 'Recreational Resort Settlement Area'. Section 3.8(2) states,

New development in the Recreational Resort Settlement Area land use type must serve the public interest by contributing to the provision of community recreational amenities, by facilitating municipal service infrastructure, and by accommodating existing un-serviced development areas and areas with development potential within the existing land use type or in settlement areas.

The proposed development would create a new building envelope that would allow the for construction of a new dwelling and identify a second building envelope. Further, the proposed development will use the existing servicing infrastructure but will be on private sewage servicing, as municipal sewage servicing is currently not available. Therefore, County Planning staff have no concerns.

In addition, Section 8.9.1(10) of the County OP states,

Partial services must only be permitted subject to the completion of a servicing options study in accordance with 8.9.1(4) and in the following circumstances:

- b) Within settlement areas, to allow for development where partial services exist provided that:*
 - The development is within the reserve sewage system capacity or reserve water system capacity; and*
 - Site conditions are suitable for the long-term provision of such services as determined through the servicing options study.*
- c) Development on partial municipal services can include development of vacant and/or underutilized lots, as well as the creation of lots for infilling and minor rounding out, in accordance with the settlement area policies and the requirements noted above.*

A Functional Servicing Brief and a Geotechnical Investigation was submitted with the application and determined that the existing soils area is suitable for in ground septic tile bed construction and, due to the high groundwater table, would likely have to be raised. County Planning staff have no concerns.

Appendix A of the County OP indicates that the subject lands are near two 'Abandoned Petroleum Wells' and one 'Unknown Petroleum Well'. The two Abandoned Petroleum Wells are near the proposed southern building envelope and are shown to be within 20 metres of the mapped location and within 100 metres of mapped location. The subject property is located outside of these radiuses. The Unknown Petroleum Well is located within 200 metres of the mapped location. The northern building envelope is within the 200 metre radius; therefore, County Planning staff recommend that a Letter of Opinion is conducted by an engineer to ensure that, if the well is located on the property, it is capped and that the residential dwelling is not located on top of the well. **County Planning staff would note that this well data was newly added to the Ontario Oil, Gas, and Salt Resource Library, which is why original comments did not include it.**

Appendix B of the County OP indicates that the subject lands contain and/or is adjacent to 'Significant Woodlands', 'Significant Wildlife Habitat', potential 'Habitat for Threatened

and/or Endangered Species', 'Other Wetlands', and 'Fish Habitat'. County Planning staff have reviewed the subject application and have a comment stating.

It is Grey County staffs understanding that the proposed development will be located within and/or adjacent to the features. As such, it is Grey County Staffs opinion that the potential impact to natural heritage needed to be assessed through a scoped Environmental Impact Assessment (EIS).

Grey County Staff have reviewed the EIS submitted by Birks Consulting. As per the report, wetland has been confirmed and delineated on the southern-most proposed development area, and a portion of these wetlands are proposed to be removed to accommodate future development, which is not currently outlined. Wetland removal without appropriate compensation cannot be supported under the Provincial policy statement, the Grey County Official Plan, and the Town of the Blue Mountains Official Plan. As such, the proposed development in the southern-most envelope could not be supported without an appropriate rehabilitation plan that can restore an equal amount of wetland features including their ecological and hydrological functions proposed to be removed.

The northern-most development proposal will be within a significant woodland feature, which may result in woodland loss. Grey County Staff are of the opinion that that the proposed development within the northern-most parcel could be supported if a rehabilitation/tree planting plan is submitted that can restore an equal amount of significant woodland features including their ecological functions proposed to be removed. Grey County recommend that the consultant completing this rehabilitation plan contact ecology@grey.ca to develop terms of reference for the plan.

As such, the southern-most area proposed for rezoning cannot currently be supported. The proposed rezoning of the northern-most area could be supported with an appropriate rehabilitation plan to compensate significant woodland removal.

Further, it is Grey County Staffs understanding a detailed grading/drainage plan may be needed for the proposal. As such, a grading/drainage plan may have to be prepared which demonstrates an acceptable sediment and erosion control plan. We recommend the consultant contact ecology@grey.ca to develop a Terms of Reference for the plan.

In addition, it is Grey County Staffs understanding that the property does not contain protection areas that are subject to policies of the Source Water Protection Act. The property does however lie within an area designated as a significant groundwater recharge area that may influence highly vulnerable aquifers, as such, low-impact development and infrastructure is strongly recommended.

Should the applicant seek to injure or destruct trees on lands that extend more than 15 metres from the outer edge of which a Building Permit has been issued, staff recommend consulting the County's Forestry Management By-law <http://grey.ca/forests-trails>. An exemption to the by-law includes the injuring or destruction of trees required in order to install and provide utilities to the construction or use of the building, structure or thing in respect of which a Building Permit has been issued.

Due to the subject property's proximity to Georgian Bay, the applicant has consulted with both the Saugeen Ojibway Nation and the Huron-Wendat Nation. The Saugeen Ojibway Nation and the Huron-Wendat Nation determined that an Archeological Assessment would be required before construction of the new dwelling would occur and that either the entire property will be assessed at the same time or that a holding symbol is placed on the remainder of the property that is not being rezoned. County Planning staff recommend that an Archeological Assessment is completed before the construction of the new dwelling occurs.

County Planning staff recommend that the subject application be deferred until an appropriate rehabilitation plan or tree replanting plan is completed for northern parcel, an appropriate rehabilitation plan for the southern proposed building envelope and an acceptable sediment and erosion control plan for both building envelopes is completed. County Planning staff also recommend that a Letter of Opinion is completed by an engineer to ensure that, if the Unknown Petroleum Well is located on the subject property, it is capped and that the new dwelling is not located on top of the well, and that an Archeological Assessment is completed at the time of construction.

The County requests notice of any decision rendered with respect to this file.

If you wish to discuss this matter further, please contact me.

Yours truly,



Derek McMurdie
Planner
(519) 372 0219 ext. 1239
Derek.McMurdie@grey.ca
www.grey.ca

Carter Triana

From: Pegelo, Jessica (MTO) <Jessica.Pegelo@ontario.ca>
Sent: Thursday, December 7, 2023 11:54 AM
To: Planning General
Subject: FW: RESENDING: Development Review Committee - December 7, 2023 - Full Submission
Application 1 of 1 - Part Lot 25, Concession 4
Attachments: Attachments.txt
Follow Up Flag: Follow up
Flag Status: Flagged

The Ministry of Transportation (MTO) have completed a review of the proposed subject development. The proposal has been considered in accordance with the requirements of *the Public Transportation and Highway Improvement Act*, MTO's Highway Access Management Policy and all related policies. The following outlines MTO's comments.

The subject property is located within MTO's Permit Control Area (PCA), and as such, MTO permits are required before any demolition, grading, construction or alteration to the site commences.

Highway 26 at this location is classified as a 2B Arterial in MTO's Access Management Classification System. As such, all requirements, guidelines and best practices in accordance with this classification shall apply.

Building and Land Use

The Proponent shall submit an acceptable Site Plan, Grading Plan, Drainage Plan and Site Servicing Plan for MTO review and approval. These plans shall clearly identify all structures/works and parking (existing and proposed).

MTO requires all buildings, structures and features integral to the site to be located a minimum of 8 metres from the highway property limit, inclusive of landscaping features, fire-lanes, parking and storm water management facilities.

Storm Water Management

The grading/drainage plans shall identify any storm drain infrastructure including - outlets, swales, tiles, direction of flow, etc. A Storm Water Management Report may be required for MTO review and approval.

The applicant should be directed to MTO's Stormwater Management Requirements for Land Development Proposals using the following link:

[Stormwater Management Planning and Design Manual | Ontario.ca](#)

Encroachments

Any encroachments and works identified within the Highway 26 property limits are subject to MTO conditions, approval and permits, prior to construction. All provincial highway property encroachments are strictly regulated and must meet all conditions set out by MTO.

General Comments

MTO looks forward to the advancement of this development, and we anticipate receiving additional details for review and comment as the project progresses.

Please feel free to contact me directly should you have any questions or concerns.

Kind Regards,

Jessica Pegelo
Ministry of Transportation
Corridor Management Planner
Highway Corridor Management Section
659 Exeter Rd. London, ON N6E 1L3
Telephone: 519-379-4397 Fax: 519-376-6842
E-mail: jessica.pegelo@ontario.ca



From: Karen Long <klong@thebluemountains.ca>

Sent: November 8, 2023 1:59 PM

Subject: RESENDING: Development Review Committee - December 7, 2023 - Full Submission Application 1 of 1 - Part Lot 25, Concession 4

CAUTION -- EXTERNAL E-MAIL - Do not click links or open attachments unless you recognize the sender.

Good afternoon,

I am resending the Application and submission documents as it is my understanding that there was an issue with the previous Sharefile link. I am resending this information with updated Sharefile settings in the hope this eliminates any issues.

The Town received a pre-consultation application for a proposed Zoning By-law Amendment. This file will be reviewed at a virtual meeting of the Development Review Committee on **December 7, 2023**.

Please find attached all documents received for full review and comment. Kindly forward your written comments to planning@thebluemountains.ca no later than December 4, 2023.

Municipal File No:	P3348
Project:	Part Lot 25, Concession 4 – Zoning By-law Amendment
Municipal/Legal Description:	Part Lot 25, Concession 4, RP 15R1936 Part 1
Owner:	Ron Herczeg

Agent: Kristine Loft
Municipal Planner: Carter Triana, Intermediate Planner

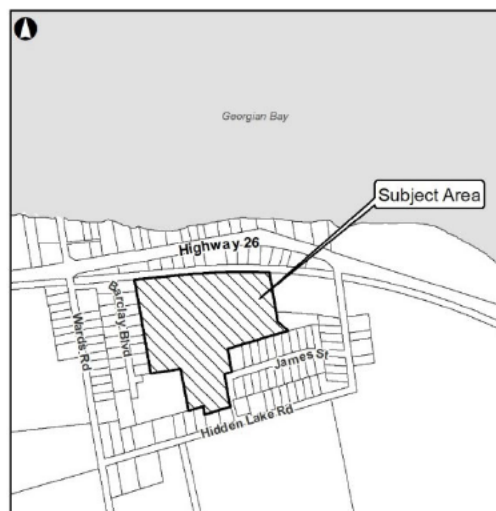
Project Description:

The proposal is seeking an amendment to Zoning By-law 2018-65 to:

1. Rezone the subject lands from the Development 'D' zone to the Residential One Exception 'R1-1-X' for the purpose of constructing a single detached dwelling;
2. Redefine the existing Hazard 'H' and Wetland 'W' zones as Hazard 'H', Hazard Exception 'H-XX', and Wetland 'W' zones; and
3. Lift the Holding Provision 'h1' associated with the wetland feature from the subject lands.

The proposal recognizes two potential building lots in the southwest and northeast corners of the property. The subject lands are currently vacant.

Key Map:



ShareFile Attachments

Expires December 8, 2023

10_2303-S115 Pt Lot25 Conc4_BlueMount...629.pdf	3.1 MB
11_L - HWN - Initial Project Information.pdf	1.2 MB
12_L - SON - Initial Project Information.pdf	1.1 MB
13_HWN Response Email.pdf	282.3 KB
14_FW 121295 Blue Birch - SON - Initial Proj...ion.pdf	203.5 KB
15_Pre Consultation Response Matrix 10162023.pdf	191.2 KB
2_Zoning By-law Application 09082023.pdf	5.2 MB

3_PJR Loft Planning Inc_Herczeg.pdf	6.1 MB
4_Draft ZBA.pdf	330.9 KB
5_121295-Earthworks Analysis-SG-NORTH.pdf	1 MB
6_121295-Earthworks Analysis-SG-SOUTH ...ate.pdf	1.1 MB
7_L - Functional Servicing Brief - Blue Birch -...nal.pdf	512.5 KB
8_R - Blue Birch Flood Hazard Study - Final.pdf	5.5 MB
Re_ 121295_ Blue Birch - SON - Initial Proje...ion.pdf	294.1 KB

Download Attachments

Blue Mountains Planning uses ShareFile to share documents securely.



Karen Long

Administrative Assistant for Planning Services

Town of The Blue Mountains, 32 Mill Street, P.O. Box 310, Thornbury, ON N0H 2P0

Tel: 519-599-3131 ext. 263 | Fax: 519-599-7723

Email: klong@thebluemountains.ca | Website: www.thebluemountains.ca

IMPORTANT INFORMATION

As part of providing [accessible customer service](#), please let me know if you have any accommodation needs or require communication supports or alternate formats.

December 19, 2023

GSCA File: 23403

Town of the Blue Mountains
32 Mill Street, Box 310
Thornbury, ON
N0H 2P0

Sent via email: planning@thebluemountains.ca

Re: Application for Zoning amendment P3348
Address: N/A
Roll No: 424200000633100
Town of the Blue Mountains
Applicant: Blue Birch

Grey Sauble Conservation Authority (GSCA) has reviewed the subject application in accordance with our mandate and policies for Natural Hazards and relative to our policies for the implementation of Ontario Regulation 151/06. We offer the following comments.

Subject Proposal

The proposal is seeking an amendment to Zoning By-law 2018-65 to:

1. Rezone the subject lands from the Development 'D' zone to the Residential One Exception 'R1-1-X' for the purpose of constructing a single detached dwelling;
2. Redefine the existing Hazard 'H' and Wetland 'W' zones as Hazard 'H', Hazard Exception 'H-XX', and Wetland 'W' zones; and
3. Lift the Holding Provision 'h1' associated with the wetland feature from the subject lands.

The proposal would recognize two potential building lots in the southwest and northeast corners of the property. The proposal includes site alteration to existing hazard lands and wetland areas to accommodate the proposed building sites.

Documents Reviewed

- Flood Hazard Study, prepared by Tatham Engineering, dated October 20, 2023
- Environmental Impact Study, prepared by Birks Natural Heritage Consultants, dated October 19, 2023

Site Description

The property is accurately described as per Section 1.2 of the EIS.

Member Municipalities

Municipality of Arran-Elderslie, Town of the Blue Mountains, Township of Chatsworth, Township of Georgian Bluffs, Municipality of Grey Highlands, Municipality of Meaford, City of Owen Sound, Town of South Bruce Peninsula

GSCA Regulations

The subject property is located within the regulated area under Ontario Regulation 151/06: Regulation of Development, Interference with Wetlands and Alterations to Shorelines and Watercourses. The regulated areas are associated with watercourses, wetlands, and the Algonquin Ridge. A new watercourse has been identified through the detailed review of this application. This watercourse was confirmed during GSCA's site visit and is also identified as a drainage feature in the EIS.

Under this regulation a permit is required from this office prior to the construction, reconstruction, erection or placing of a building or structure of any kind; any change to a building or structure that would have the effect of altering the use or potential use of the building or structures, increasing the size of the building or structure, or increasing the number of dwelling units in the building or structure; site grading; or, the temporary or permanent placing, dumping or removal of any material originating on the site or elsewhere, if occurring within the regulated area. Also, a permit is required for interference with a wetland, and/or the straightening, changing, diverting or in any way interfering with an existing channel of a river, lake, creek stream or watercourse.

A permit application has not been submitted to GSCA as the proposal is navigating the planning process first. However, from a review of the planning application and technical documents, GSCA is of the opinion a permit application for the proposed development would not be supported by staff and that the proposal as reviewed at this stage would impact the control of flooding and erosion.

A regulation map has not been provided with these comments as it is anticipated to change subject to a revised flood hazard study. Further commentary is provided in a subsequent section of this letter.

Provincial Policy Statement 2020

3.1 Natural Hazards

Natural hazards have been identified in the form of flooding and erosion hazards associated with watercourses, steep slope feature and wetland. The proposal requires development in the form of a change of use, as defined by the PPS and site alterations, in the form of a cut and fill approach to accommodate the proposed two buildings lots.

3.1.1 Development shall generally be directed, in accordance with guidance developed by the Province (as amended from time to time), to areas outside of:

- b) hazardous lands adjacent to river, stream and small inland lake systems which are impacted by flooding hazards and/or erosion hazards; and*
- c) hazardous sites.*

3.1.2 Development and site alteration shall not be permitted within:

- c) areas that would be rendered inaccessible to people and vehicles during times of flooding hazards, erosion hazards and/or dynamic beach hazards, unless it has been demonstrated that the site has safe access appropriate for the nature of the development and the natural hazard; and*
- d) a floodway regardless of whether the area of inundation contains high points of land not subject to flooding.*

3.1.7 Further to policy 3.1.6, and except as prohibited in policies 3.1.2 and 3.1.5, development and site alteration may be permitted in those portions of hazardous lands and hazardous sites

where the effects and risk to public safety are minor, could be mitigated in accordance with provincial standards, and where all of the following are demonstrated and achieved:

- c) new hazards are not created and existing hazards are not aggravated; and*
- d) no adverse environmental impacts will result.*

GSCA COMMENT:

The Provincial direction via the PPS is for development and site alteration to be directed away from natural hazard areas. The subject proposal requires development via a change of zoning and site alteration within the hazard areas to accommodate two building locations. Furthermore, we are of the opinion the north western portion of the property features sufficient area to accommodate a development envelope without requiring site alterations within the hazard areas. As such, GSCA is of the opinion the proposal is not consistent with the PPS. In addition to the this perspective, we have comments in the subsequent section regarding the Flood Hazard Study.

Flood Hazard Study

The Flood Hazard Study does not provide any information on the drainage from the other major culvert crossing Hidden Lake Road. There is a culvert which crosses the road and outlets between 178 and 180 Hidden Lake Road and there is a drainage ditch which directs the water into the subject property and to the west end of the James Street cul-de-sac. The identified watercourse is also noted on mapping in the EIS (Figure 4) as a drainage feature and was ground truthed by GSCA staff and identified as a watercourse as defined by the Conservation Authorities Act. Drainage from this channel must be considered as part of this study as it appears to drain directly to the south development location proposed to be filled.

The upstream drainage area does not include runoff which would be directed to the road crossing culvert out letting between 178 and 180 Hidden Lake Road. The upstream drainage area has previously been studied in stormwater management reports for the Alta Subdivision, Phase II which were prepared by Crozier and are available on the Town's website. We note, inclusion of this watercourse in a revised flood study is only expected to make the hazard limits in the southern portion of the property more challenging to address as it currently does not identify the flood limits associated with this feature.

GSCA has further commentary on the Flood Hazard Study that should a revised be prepared, we recommend Tatham Engineering contact out office for further clarification.

Saugeen, Grey Sauble, Northern Bruce Peninsula Source Protection Plan

The subject property is not located within an area that is subject to the Source Protection Plan.

Recommendations

GSCA Recommends the following:

1. GSCA is of the opinion that the proposal as presented is not consistent with the direction of the PPS from a natural hazard perspective. As such, we do not recommend approval of the subject planning applications.
2. The proposed development and site alterations as presented are anticipated to not be supported by GSCA staff through the permit as required by Ontario Regulation 151/06.
3. Should the application proceed as is, GSCA notes the flood hazard study is missing important pieces of information, including a watercourse not identified. A revised flood hazard study is needed to address omissions.
4. We caution that with a satisfactory Flood Hazard Study, the proposal is anticipated to not be consistent with the PPS and is not anticipated to satisfy Ontario Regulation 151/06, specifically as it pertains to the south easterly development envelope.

5. The subject property appears to support a development envelope in the northwest portion of the property, with access from Railway Street, without requiring a cut and fill or further modifications to the hazard and wetland areas. If this proposal was pursued GSCA does not anticipate an issue from our perspective.

Should you have any questions please contact our office.



Clinton Stredwick
Environmental Planner

Cc via email Alex Maxwell, GSCA Director, Town of the Blue Mountains
Planning Department, County of Grey

Carter Triana

From: Kirk Gray <[REDACTED]>
Sent: Friday, December 1, 2023 1:19 PM
To: Carter Triana
Subject: Re: File No: P3348 Blue Birch

Follow Up Flag: Follow up
Flag Status: Completed

Thank you for your quick response. Yes, please forward my information to Corrina as well. I'm still pouring through the documentation and so far I only see minor discrepancies or areas I need to dig into further.

Obviously our challenge is to ensure that our needs are met as development proceeds, either through bylaw adjustments or by direct comments on the proposed development as it pertains to the quality and consistency of the watercourse...especially considering that 100% of the wetland drains directly through our property. Naturally we want to continue to enjoy having "our" babbling brook running as it always has.

On Dec 1, 2023, at 12:56 PM, Carter Triana <ctriana@thebluemountains.ca> wrote:

Hi Lynn and Kirk,

Thank you for your email. I would be happy to help answer some of your questions. I note that your email was just sent to me, but I can forward your comments to Corrina who can then circulate them to Council if you would like. I can also wait until you have some clarification on the questions you have raised before sending them to her, but please let me know how you would like to proceed.

1. Item 2 on the provided notice: Hazard and Wetland zones currently exist on the property. The proposal is to, based on the findings from the submitted materials, redefine these zones to better reflect the actual conditions that exist. Often, natural heritage or hazard features change over time and the zoning can be updated to better reflect the most current conditions.
2. Item 2 on the provided notice: A holding provision '-h1' currently exists on the property and is related to the wetland on the property. This limits development both within the wetland and within 30 metres of this feature. This provision can be lifted through completion of a Environmental Impact Study to confirm a proposal's impact on the wetland feature. Based on the submitted materials, the applicant is proposing to lift the holding provision associated with the feature. Hazard zones that prohibit development around the wetland would still be present.
3. [Page 40](#) of the submitted Environmental Impact Study may provide you with a better visual of the impact on the wetland, but please let me know if you would still like additional clarification.
4. Conversations with the Grey County Planning Ecologist and Grey Sauble Conservation Authority staff are ongoing regarding this proposal. The submitted Flood Hazard Study speaks to the impact of the proposed changes on flooding both on the subject property and adjacent properties. This study is being reviewed by the staff listed above.
5. The submitted Environmental Impact Study does not identify any portion of the proposed northern building lot as containing wetland features. The elevation of this potential building lot is proposed to be raised as part of the flood mitigation measures.
6. The Town is waiting on formal comments from Grey Sauble Conservation Authority regarding this project, but is actively working with the CA and Grey County.

I hope that gives a little more clarity, but please don't hesitate to reach out if you have other questions or need additional information.

Best Regards,



Carter Triana, MUP

Intermediate Planner

Town of The Blue Mountains, 32 Mill Street, P.O. Box 310, Thornbury, ON N0H 2P0

Tel: 519-599-3131 ext. 262 | Fax: 519-599-7723

Email: ctriana@thebluemountains.ca | Website: www.thebluemountains.ca

From: Kirk Gray <[REDACTED]>

Sent: Friday, December 1, 2023 12:10 PM

To: Carter Triana <ctriana@thebluemountains.ca>

Subject: File No: P3348 Blue Birch

Good morning Corrina, I am writing to outline my concerns regarding the request to amend the current by-laws regarding this property. My Wife and I have a property that is adjacent to the subject lands as we are located on the south side of #26 and our back yard and that property is separated by the Georgian Trail. I'm not against development on the lands, however I do have concerns regarding the wetlands as those wetlands are drained via a stream that runs directly through the west side of our property. For now I'm looking to get more information on a few items prior to attending the meeting on the 19th. as follows:

- please help me with a definition of numbers 2 & 3 of the bylaw proposals?
- how would the existing wetlands be altered to allow for housing development
- if the wetlands are permitted to allow development, what provisions would be made to ensure that the natural drainage would not be altered or diverted.
- can you provide more clarity to the "potential" building lot that would be located on the northeast corner of the property, as that area is in wetlands.
- is the Grey Sauble Conservation Authority involved in this project?

I look forward to hearing back from you if time allows as we would like to get more information prior to the meeting...sincerely Lynn & Kirk Gray

Town of The Blue Mountains, Clerk's department
32 Mill Street, Box 310,
Thornbury, ON
N0H 2P0
townclerk@thebluemountains.ca

December 14, 2023

Attention: Corrina Giles, Town Clerk

Proposed Zoning By-law Amendments: Part Lot 25, Concession 4 (the "Property")

Blue Birch Properties Inc. File No: P3348

Dear Council:

As someone who appreciates the wonderful natural landscape of the Blue Mountains region, and as an owner of property adjacent to the Property, I am writing to express my deep concern regarding, and to formally object to, the Zoning amendment application made by Blue Birch Properties Inc. (the "Developer") that would result in irreparable harm to a Significant Woodland and Significant Wildlife Habitat on the Property.

Environmental Impact

I have reviewed all of the submitted materials in detail. The submitted consultant reports, in particular the Environmental Impact Study prepared by Birks Natural Heritage Consultants (the "EIS") identifies and concludes that this Property serves as home to some of the endangered tree species and wildlife that make our ecosystem unique and diverse.

The Property hosts Black Ash and Butternut trees, both of which are endangered species. The loss or disturbance of their habitat can lead to a further decline in their already dwindling numbers. In fact, the EIS notes that a recovery and protection plan for Black Ash is slated to be implemented on January 26, 2024 to ensure the protection of this species. (Section 5.8.2, page 27). This application seems to be an attempt to "beat the clock" and accomplish and irreversible destruction of these trees before this new plan can protect them.

The Property is also a Significant Wildlife Habitat (Section 5.5, page 22), home to numerous wildlife species, including species of bats that are considered Species At Risk, four of which the ESI identifies as endangered bat species, most notably the Brown Bat, which uses the Property as a maternity colony. Additionally, two bird species identified as Species at Risk - the Eastern Meadowlark (threatened) and the Eastern Wood Pee-wee (special concern) - also call the Property their home (Section 4.3.2, page 19).

Moreover, the Property serves as a vital breeding ground for amphibians (Section 4.3.1, page 19), playing a crucial role in maintaining the biodiversity of our local ecosystem.

While there are numerous grounds on which to base my objections, I will, for the sake of brevity, focus on certain conclusions drawn by the ESI.

██████████, Town of The Blue Mountains, ON ██████████
Email: ██████████
Cell: ██████████

After correctly identifying the Property as a Significant Woodland and Significant Wildlife Habitat, home to endangered species, the ESI incorrectly concludes, quite amazingly, that despite the destruction of over 10% of this Significant Woodland and Significant Wildlife Habitat, there will be no impact on tree and wildlife species that are endangered. The basis for this conclusion is: there are lots of other places these endangered species can live.

The EIS makes a poor attempt to downplay the significance of the impact by comparing the *estimated* roosting habitat within the area to be destroyed to a 688 ha “*larger woodland feature which the Property contributes to*” (Section 6.2.4, page 39). Concluding that this represents only 1% of the larger woodland (the location and proximity of which is not identified) is specious. Why not compare the area to whole Province, the Country, or for that matter, the Continent? Using this standard, nothing would ever be at risk – there is always more available somewhere else.

Official Plans governing Significant Woodlands and Significant Wildlife Habitats on the Property stipulate that no development on such a property, or adjacent to it, shall be carried out unless there is no impact (Section 7.4, County of Grey Official Plan: see section 4.4 of the Planning Justification Report) or no adverse impact (Section B5.2, Town of Blue Mountains Official Plan: see section 4.5 of the Planning Justification Report). In addition, the Planning Act Section 2 requires that any approval ensure the protection of ecological systems, including natural areas, features and functions.

The Planning Justification Report concludes that these requirements are met through mitigation strategies proposed by the ESI and Flood Hazard Study. These conclusions are flawed.

The Planning Justification Report focuses primarily on flood considerations addressed by the ESI and the Flood Hazard Study and fails to address in any material way the loss of Significant Woodlands and Significant Wildlife Habitat and its impact on endangered tree and wildlife species;

The EIS identifies Direct (Section 6.2) and Indirect (Section 6.3) impacts. It acknowledges that there are significant adverse impacts, contrary to the requirements of the Grey and Blue Mountain Official Plans. Yet the authors incredibly conclude that there will be no impact on the basis that it's not that large of an area; over time vegetation will regrow (although not the endangered vegetation); and the wildlife will either adjust to the changes or find other places to live, implicitly assuming that none of it will be killed or stressed to the point that it cannot reproduce or dies.

This “adapt or move” attitude is prevalent throughout the EIS and is fundamentally flawed. The fact is, these species would not be endangered if they were able to adapt easily to a changed environment, or if they could thrive in other areas. They are endangered because their habitat has, through actions such as those requested in this application, been destroyed and reduced to the point that they can no longer survive. And, of course, it is impossible for endangered trees to uproot themselves and move!

There is no scientific basis provided for these conclusions. They are based on the belief of the authors that, if their mitigation strategies are implemented, negative outcomes are “unlikely” (e.g. Section 6.3.2) or “not anticipated” or “not expected to” (e.g. Section 9). Mitigation, by definition, does not mean absolute prevention, it simply means to make less severe. In fact, Section 7 of the ESI directly acknowledges that there will be negative impacts and that the mitigation strategies are designed to

██████████ Town of The Blue Mountains, ON ██████████

Email: ██████████

Cell: ██████████

minimize the negative impacts, not prevent or eliminate them. However, the governing Official Plans do not require that the impact be lessened – they require that there be **no impact**. This is an absolute, not a qualified, requirement.

Despite these conclusions, the ESI then qualifies its conclusions by stating that, with respect to the SAR Bats, further consultation with the MECP is warranted (Section 6.2.4, page 39) and that, with respect to the endangered Black Ash (which the ESI notes has already experienced significant decline in the Town of Blue Mountains – Section 6.1.4, page 39), further identification and study is required to properly assess the impact (Section 7.1.2, page 43). In other words, they sorta, kinda think/hope it might be ok, but they aren't sure, and they certainly are not guaranteeing that.

The total disregard by the Developer for any concerns for the environmental security of the Property was demonstrated by the significant, and indiscriminate, clear cutting that took place on the Property, and on the Town land running from Barclay Blvd. to the Property, to clear a path for testing equipment. This was done during the summer months, a time of the year that these reports state should be completely off limits (Section 7.3, page 44 of the ESI). This activity is the best indication that this Developer is unlikely to rigorously worry about any of these mitigation strategies or the negative impact its activities has on this ecologically sensitive area.

These environmental concerns are magnified by the very real prospect that the Developer will ultimately seek to build more than one single family home on the Property, which I will address next.

Building Envelopes

The application requests the approval of two building envelopes with the stated intention of allowing the Developer to select one of the lots to construct a single family residence. If that was truly the sole outcome, and the lot selected was the smaller, less destructive of the two, being the SE lot, Council might conclude that allowing the creation of the lot and the limited clear cutting of a very small area can be tolerated. While that would still not comply with the requirements of the Official Plans (there would still be negative impacts, just fewer of them), some might find it acceptable. However, a full and careful review and consideration of the various studies and reports submitted in support of this Application also reveals that the Developer's intentions may not be what they seem.

Throughout the reports there are references to the Developer potentially building on both proposed lots. See for instance Section 8, page 48, of the ESI : *"Should development proceed in both the north and south development areas..."* and Section 8.1 (page 46), which recommends further consultation regarding the opportunities on the site for increased residential development. See also Section 4.6 (page 11) of the Planning Justification Report which speaks to "development area", not a single lot, and states that: *"A reduced lot frontage would permit future severances. The reduced setbacks will create more suitable building envelopes that most efficiently use the developable lands and provide some flexibility to a future landowner/resident."* and Section 3.1 (page 2) of that Report which states: *There is no lot creation proposed **at this time***".

The Developer is an experienced townhouse developer from Toronto. The Property is held by a development company, not a owner-occupier of a single family home. There is a strong sense that this

██████████ Town of The Blue Mountains, ON ██████████

Email: ██████████

Cell: ██████████

application is simply the thin edge of the wedge. If successful with this application, the Developer will undoubtedly try to utilize this decision, coupled with Provincial mandates for more housing density, as a precedent to justify more extensive development on the Property, either with the two building envelopes, each of which is large enough to accommodate multiple townhouse style residences, or elsewhere on the Property.

Conclusion

The proposed zoning amendment threatens the survival of several endangered tree and wildlife species, disrupts their habitats, and could potentially lead to an irreversible loss of biodiversity. It is our responsibility to ensure that the ecological integrity of our Town is preserved for future generations.

I urge Council to reconsider the proposed zoning by-law amendment and to prioritize the conservation of our Town's significant woodland and wildlife habitat. If, despite this objection, Council is inclined to approve an application for some development of the Property, I respectfully request that approval be deferred until all additional consultation and studies recommended in the ESI and Planning Justification Report, as well as the archeological assessment and First Nations approvals, are completed and the forthcoming protections for Black Ash are implemented. Then, assuming there are no issues identified by that process, that any approval be limited to one building envelope on the Property which the Developer should by now be able to identify. Ideally this would be the smaller SE Lot which is furthest from the Georgian Trail, destroys a smaller amount of the Significant Woodland and Significant Wildlife Habitat, and which abuts an existing open municipal road. I would also request that the building envelope be reduced to something no larger than 0.5 acres, a lot size consistent with lot sizes in the adjacent neighbourhoods of Hidden Lake Road and Barclay Blvd, and incapable of supporting a townhouse or other multiple residence development, with construction limited to one, single family residence.

Thank you for your attention to this important matter. I look forward to your positive response.

Sincerely,

A black rectangular redaction box covering the signature of Robert Aziz.

Robert Aziz

[REDACTED], Town of The Blue Mountains, ON [REDACTED]
Email: [REDACTED]
Cell: [REDACTED]

Carter Triana

From: Kyra Dunlop
Sent: Friday, December 29, 2023 10:58 AM
To: Bob Aziz; Town Clerk
Cc: Carter Triana; council; SMT
Subject: RE: Zoning Amendment application File P3348

Good morning Bob,

Thanks for your email. I acknowledge receipt of your comments in relation to the December 19, 2023 Council Public Meeting Re: Notice of Complete Application and Zoning By-law Application re Blue Birch Properties, and confirm your comments as below have been circulated in full to Council and staff for their information, and will be included in the follow-up staff report. If you've not already done so, we encourage individuals interested in this project to subscribe to updates at the project page on our website for updates too.

<https://www.thebluemountains.ca/planning-building-construction/current-projects/planning-development-projects>



Kyra Dunlop

Deputy Clerk, BA (Hons)

Town of The Blue Mountains, 32 Mill Street, P.O. Box 310, Thornbury, ON N0H 2P0

Tel: 519-599-3131 ext. 306 | Fax: 519-599-7723

Email: kdunlop@thebluemountains.ca | Website: www.thebluemountains.ca

As part of providing [accessible customer service](#), please let me know if you have any accommodation needs or require communication supports or alternate formats.

From: Bob Aziz [REDACTED]
Sent: Friday, December 29, 2023 10:52 AM
To: Town Clerk <townclerk@thebluemountains.ca>
Cc: Kyra Dunlop <kdunlop@thebluemountains.ca>; Carter Triana <ctriana@thebluemountains.ca>
Subject: Zoning Amendment application File P3348

Thank you again for the opportunity to speak at the recent Council meeting to consider the above zoning application. I know that these types of applications are often controversial, with members of the community having varying concerns, both as to how the plans may affect them personally, as well as with the broader community impact. I thought it might be helpful to provide a brief summary of the points I made at the meeting on December 19, as a supplement to the written objection I provided prior to the meeting.

I believe, based on things actually said in the documents, as well as based on my extensive experience in real estate, that the applicant has a very well thought out plan to achieve a more extensive development of this property. In my view, his multi-step approach will likely unfold as follows:

1. Get the holding designation lifted, and hazard area reduced.
2. Request approval of 2 potential building lots with a view to ultimately building on both, and have both building lots approved in a size much larger than necessary, and capable of accommodating multiple residences (town home style).
3. Get a precedent set that the destruction of a significant woodland and a significant wildlife habitat has no impact, using a much larger regional area (688 ha) to measure this area against.
4. Once the developer has these first 3 things, he will be back arguing that another X acres isn't material either – he will have the precedent set, and will use this to argue at the Ontario Land Tribunal that denying him further development is wrong. Even if he doesn't try to expand the development area, he will try to develop on both lots, with greater density. The NW lot development area is 2 acres, the SE lot development area is 1.2 acres – in each case far in excess of what is necessary as a development area for a single family residence.

The current proposal will result in the destruction of 6 acres of significant woodland – roughly 25 % of the total area. While the application anticipates replanting roughly 1/3 of that, you can't replace endangered species, and it will take decades to get back to current state, if ever.

Mr. Herczeg, principal of Blue Birch, has a history of making requests to rezone properties to allow for greater density – he then appeals to the OMB (now Ontario Land Tribunal), amending his request downward which gives the impression of reasonableness. He has had success in those appeals, so is likely emboldened by them. Two Toronto examples I am aware of: 200 Yonge Blvd (requested 3 lots, modified to 2 lots before OMB hearing) and Roehampton Ave – started with 27 units, modified it to 15 going to OMB <https://olt.gov.on.ca/decisions/>. Modifications give the appearance of compromise and reasonableness, but in my experience this would have been the desire all along – asking for more is just a negotiating tactic. The economics wouldn't otherwise work with that large of a variance between the initial ask and the final request (1/3 reduction Yonge street, 45% reduction for Roehampton).

According to the Canadian Mortgage and Housing Corporation, traditional row housing allows for 14 to 18 units per acre, while stacked townhomes can be built at 26 to 27 units per acre. In this case, if the request to destroy woodland is granted, the developer could potentially come back looking for 25-50 units (or more), hoping to end up with 10-20 units.

Section 6.1 of the Environmental Impact Study states explicitly that he intends to build on one lot and then he's exploring opportunities to sever the property should he be successful with this rezoning – presumably using the larger NW lot for townhouse development. So we don't need to guess at his intentions – they are explicitly laid out by his own consultants.

The Developer has made no attempt to engage the neighbours. In my experience, when someone plans to build and occupy a residence in a neighbourhood, but they are asking for zoning modifications to accommodate their desires, they reach out to the neighbours to explain their needs and try to get support. They want to move into the neighbourhood on good terms. The fact that this hasn't been done strongly suggests, again, that he has no intention of building a residence for himself and living there – he doesn't really care what the neighbours think because he will never see them.

If the developer really intends to build one house only, and thinks what I have to say is rubbish, then he should pick one lot, restricted to approximately 0.5 acres (a lot size commensurate with lots in the surrounding neighbourhoods) – and then grant an irrevocable conservation covenant against all of the remaining lands. If Council agrees that 1 house is the limit, they should agree with this approach and force this on him as a condition to any zoning amendment – don't accept his denial and trust him, accept his denial and limit this to what he claims, so that he doesn't "change his mind" later.

Bob

NOTE: WHILE IT SUITS ME TO EMAIL YOU NOW, I DO NOT EXPECT A RESPONSE OR ACTION OUTSIDE OF YOUR OWN WORKING HOURS.

Carter Triana

From: Kyra Dunlop
Sent: Friday, December 15, 2023 9:01 AM
To: Becky Channer; Town Clerk
Cc: council; SMT; Town Clerk; Planning Dept
Subject: RE: Blue Birch Properties Inc. File No: P3348

Follow Up Flag: Follow up
Flag Status: Completed

Hi Becky,

I acknowledge receipt of your attached comments regarding B-1-Notice-of-Complete-Application-and-Public-Meeting-(Part-Lot-25-Concession-4)-P3348 and by way of copy forward same to Council and staff for their review. Your comments will be summarized and read aloud by the Clerk at the meeting and included in the followup staff report.

Kindly advise of your residential address as well for the comments record.



Kyra Dunlop

Deputy Clerk, BA (Hons)

Town of The Blue Mountains, 32 Mill Street, P.O. Box 310, Thornbury, ON N0H 2P0

Tel: 519-599-3131 ext. 306 | Fax: 519-599-7723

Email: kdunlop@thebluemountains.ca | Website: www.thebluemountains.ca

As part of providing [accessible customer service](#), please let me know if you have any accommodation needs or require communication supports or alternate formats.

From: Becky Channer >
Sent: Thursday, December 14, 2023 7:22 PM
To: Town Clerk <townclerk@thebluemountains.ca>
Subject: Blue Birch Properties Inc. File No: P3348

Proposed Zoning By-law Amendments: Part Lot 25, Concession 4 (the "Property")
Blue Birch Properties Inc. File No: P3348

We vehemently object and are opposed against the development and proposed changes to the lands indicated above. We very much agree with the position that Bob Aziz has taken in his email written to you December 14, 2023, and support the views that he has expressed in his objection. When all the world is striving to be environmentally conscious and to better conserve our ecosystems for future generations, TOB seems to not be able to stand against the mighty Toronto developers and say no when it comes to developing these sensitive areas. I think if you asked the majority of your constituents they would all agree it's more important

to save our woodlands, wetlands and ecosystem than to line the pockets of yet another wealthy Toronto developer.

Carter Triana

From: Kyra Dunlop
Sent: Monday, December 18, 2023 9:23 AM
To: [REDACTED]
Cc: council; SMT; Planning Dept; Town Clerk
Subject: FW: Blue Birch Properties zoning
Attachments: 20230405_160513.jpg; 20230405_160507.jpg

Follow Up Flag: Follow up
Flag Status: Flagged

Good morning,

On behalf of Corrina thank you for your comments in regards to the December 19, 2023 Council Public Meeting Re: Notice of Complete Application and Public Meeting (Part Lot 25, Concession 4) Blue Birch. Your comments have been circulated to Council and staff by way of copy, and will be included in the followup staff report.



Kyra Dunlop

Deputy Clerk, BA (Hons)

Town of The Blue Mountains, 32 Mill Street, P.O. Box 310, Thornbury, ON N0H 2P0

Tel: 519-599-3131 ext. 306 | Fax: 519-599-7723

Email: kdunlop@thebluemountains.ca | Website: www.thebluemountains.ca

As part of providing [accessible customer service](#), please let me know if you have any accommodation needs or require communication supports or alternate formats.

From: Al T [REDACTED]
Sent: Sunday, December 17, 2023 2:27 PM
To: Town Clerk <townclerk@thebluemountains.ca>
Subject: Blue Birch Properties zoning

Hello Corrina,

My name is Allen Tamman and I live at [REDACTED] right beside the proposed development. I have read through the reports and have 2 serious concerns about the drainage plan for the southern property.

1. The plan calls for a swale to be constructed between my lot and the new lot. Currently the water that comes through the pipe at the road drains through the woods in a NW direction, away from my property. The swale will put all that water beside my property. The problem is that it does not extend to the end of my property, so where it ends the water will flood my yard and potentially my basement. This is unacceptable.

2. There is an intermittent stream (the environmental report is in error) that comes down the road allowance. See the attached photos taken this spring, It's typical to have this flow whenever there is a thaw or heavy rain. The flow currently goes south of the subject property and through the woods. Where is that flow going?

The grading that is proposed appears to be planning on diverting this flow through a 300mm pipe at the road and down beside my property. There is no way that flow is going to fit in that size of pipe, and it will compound problem #1. That flow must be sent to the south of the new lot.

Please have these points presented at the meeting. And please don't hesitate to contact me if you have any questions.
Thank you,
Allen Tamman



Virus-free www.avast.com





Carter Triana

From: Kyra Dunlop
Sent: Monday, December 18, 2023 10:45 AM
To: Doreen Hannon; Town Clerk
Cc: council; SMT; Planning Dept
Subject: RE: objection to Zoning Amendment application File P3348 for 25 Railway Street

Good morning,

On behalf of Corrina thank you for your comments in regards to the December 19, 2023 Council Public Meeting Re: Notice of Complete Application and Public Meeting (Part Lot 25, Concession 4) Blue Birch. Your comments have been circulated to Council and staff by way of copy, and will be included in the followup staff report.



Kyra Dunlop

Deputy Clerk, BA (Hons)

Town of The Blue Mountains, 32 Mill Street, P.O. Box 310, Thornbury, ON N0H 2P0

Tel: 519-599-3131 ext. 306 | Fax: 519-599-7723

Email: kdunlop@thebluemountains.ca | Website: www.thebluemountains.ca

As part of providing [accessible customer service](#), please let me know if you have any accommodation needs or require communication supports or alternate formats.

From: Doreen Hannon [REDACTED]
Sent: Monday, December 18, 2023 10:30 AM
To: Town Clerk <townclerk@thebluemountains.ca>
Subject: objection to Zoning Amendment application File P3348 for 25 Railway Street

I would like to register my objection to the proposed zoning amendment File P3348 for 25 Railway St.. I concur with the views expressed by Robert Aziz in his letter of objection.

Doreen Hannon

[REDACTED], The Blue Mountains, ON [REDACTED]

Carter Triana

From: Kyra Dunlop
Sent: Monday, December 18, 2023 9:24 AM
To: [REDACTED]
Cc: council; SMT; Town Clerk; Planning Dept
Subject: FW: Objection to Zoning Amendment application File P3348 for 25 Railway Street by Blue Birch Properties Inc
Attachments: B-1-Notice-of-Complete-Application-and-Public-Meeting-(Part-Lot-25-Concession-4)-P3348.pdf; objection to Zoning amendment Part Lot 25 Blue Birch.docx
Follow Up Flag: Follow up
Flag Status: Flagged

Good morning,

On behalf of Corrina thank you for your comments in regards to the December 19, 2023 Council Public Meeting Re: Notice of Complete Application and Public Meeting (Part Lot 25, Concession 4) Blue Birch. Your comments have been circulated to Council and staff by way of copy, and will be included in the followup staff report.



Kyra Dunlop

Deputy Clerk, BA (Hons)

Town of The Blue Mountains, 32 Mill Street, P.O. Box 310, Thornbury, ON N0H 2P0

Tel: 519-599-3131 ext. 306 | Fax: 519-599-7723

Email: kdunlop@thebluemountains.ca | Website: www.thebluemountains.ca

As part of providing [accessible customer service](#), please let me know if you have any accommodation needs or require communication supports or alternate formats.


From: Patrick Frerking [REDACTED]
Sent: Monday, December 18, 2023 9:06 AM
To: Town Clerk <townclerk@thebluemountains.ca>
Cc: Sue gmail Frerking [REDACTED]
Subject: Objection to Zoning Amendment application File P3348 for 25 Railway Street by Blue Birch Properties Inc

Hello Town of Blue Mountains,

For the same reasons stated in the letter from Mr. Bob Aziz to the Town of the Blue Mountains dated December 14, 2023, I object to the Zoning Amendment application File P3348 for 25 Railway Street by Blue Birch Properties Inc.

Mr. Aziz's letter and Notice of Application & Town Meeting are attached for reference.

Sincerely,
Patrick Frerking


Blue Mountains, ON, CANADA

Carter Triana

From: Kyra Dunlop
Sent: Tuesday, December 19, 2023 11:48 AM
To: Edward Higginbotham; Town Clerk
Cc: council; SMT; Town Clerk; Planning Dept
Subject: RE: Property Location: Part Lot 25, Concession 4

Good morning Edward,

Thanks for your below comments regarding today's Council Public Meeting Re Notice of Complete Application : Part Lot 25, CON 4 (Blue Birch Properties). By way of copy your comments have been circulated in full to Council and staff and will be included in the followup staff report.



Kyra Dunlop

Deputy Clerk, BA (Hons)

Town of The Blue Mountains, 32 Mill Street, P.O. Box 310, Thornbury, ON N0H 2P0

Tel: 519-599-3131 ext. 306 | Fax: 519-599-7723

Email: kdunlop@thebluemountains.ca | Website: www.thebluemountains.ca

As part of providing [accessible customer service](#), please let me know if you have any accommodation needs or require communication supports or alternate formats.

From: Edward Higginbotham [REDACTED]
Sent: Tuesday, December 19, 2023 10:44 AM
To: Town Clerk <townclerk@thebluemountains.ca>
Subject: Re: Property Location: Part Lot 25, Concession 4

Dear Town Clerk, first thank you for providing the public meeting forum today (Dec. 19 2023) to learn more about the application for zoning amendment to Part Lot 25, Concession 4. Please find my comments.

- 1) If only one house is being proposed two areas do not need to be rezoned to residential only one does, and the area requested can be a lot less than asked for.
- 2) No Future severances should be allowed, i.e. the developer should ask for the property owner should put a conservation covenant on the wetland, or the wetland should be not be lifted from the holding
- 3) This property is a significant holder of water that should not be displaced
- 4) This property is a significant holder of wild life, frogs, bats, coyote, insects, turtles, trees, bull rushes and should be minimally impacted which the current proposal does not take into consideration.

Ted Higginbotham