



LOWER TRENT REGION CONSERVATION AUTHORITY

HEARING BOARD for O. Reg. 163/06 PERMIT APPLICATIONS

#RP-21-378 and #RP-21-379, RP-22-047, RP-22-048, RP-22-049

**LOWER TRENT
CONSERVATION**

MINUTES

DATE: June 9, 2022

TIME: 6:30 p.m.

LOCATION: Administrative Office, 714 Murray Street, Trenton / Virtually

PRESENT:

ON SITE		REMOTE SITE
Eric Sandford (Chair)	Mark DeJong	Lynda Reid
Mark Bateman	Jim Alyea	
Mike Filip	Bob Mullin	
Mary Tadman	Rick English	
Don Clark		

ABSENT / REGRETS: Gene Brahaney

STAFF: Rhonda Bateman, Gage Comeau, Janet Noyes, Kelly Vandette

APPLICANTS: For **RP-21-378**, Chris Angelo of the City of Quinte West for Trenton Christian School (Property Owner), and
For **RP-21-379, RP-22-047, RP-22-048, RP-22-049**, Mark Klemencic of Klemencic Homes for Brad Little of the Audrey Little Estate (Property Owner)

GUESTS:

- Chris Angelo, City of Quinte West
- Mark Klemencic, Klemencic Homes
- Nathan Klemencic, Klemencic Homes
- Bryon Keene, Jewell Engineering
- Elliott Fledderus, Jewell Engineering
- Mayor Jim Harrison, City of Quinte West
- Anna Morgan, LTC Staff

1. Call to order

The meeting was called to order by Chair Sandford at 6:30 p.m.

Chair Sandford provided protocols for virtual meetings and Hearings.

2. Motion for the Board of Directors to sit as the Hearing Board

RES: HC01/22

Moved by: Mary Tadman

Seconded by: Lynda Reid

THAT the Board of Directors sit as the Lower Trent Conservation Hearing Board.

Carried

3. Opening Remarks by Chair

Chair Sandford made the following remarks:

We are now going to conduct a Hearing under Section 28 of the Conservation Authorities Act in respect of Five (5) permit applications - all of which are part of the same project but are occurring on different properties within the City of Quinte West. One permit application is for the Trenton Christian School property at 320 2nd Dug Hill Road and the agent on file is Chris Angelo from the City of Quinte West. The other four properties are part of the Audry Little Estate represented by Brad Little and agents Mark and Nathan Klemencic of Klemencic Homes. These properties are accessed either by Highway 2 or County Road 40 (Wooler Road) in Concession A, Lots 7 and 8 in the Geographic Township of Murray. The proposed works are for watercourse alteration and realignment of York Creek, filling and cutting in the York Creek floodplain and riparian wetlands along York Creek and the re-delineation of the York Creek floodplain. The works are proposed to increase development potential in the adjacent lands and provide a better outlet for the City's 2nd Dug Hill Road stormwater management pond.

The Hearing Board is to determine whether or not a permit is to be issued, with or without conditions for each of the five permit applications under review today. Each application will be reviewed and evaluated individually with a separate motion for each application. In doing so, we can only consider the application in the form that is before us, the staff report, such evidence as may be given and the submissions to be made on behalf of the applicant. Only information disclosed prior to the hearing is to be presented at the hearing. It is not our place to suggest alternative development methods.

The Authority has adopted regulations under section 28 of the Conservation Authorities Act which requires the permission of the Authority for development within an area regulated by the Authority in order to ensure no adverse effect on the control of flooding, erosion, dynamic beaches, pollution or conservation of land, or to permit alteration to a shoreline or watercourse or interference with a wetland. This Hearing is about granting permission to develop under the Authority regulations; a separate matter from approvals under the *Planning Act*.

The Staff has reviewed this proposed work and a copy of the staff report has been given to the applicant.

The Conservation Authorities Act (Section 28 [12]) provides that:

"Permission required under a regulation made under clause (1) (b) or (c) shall not be refused or

granted subject to conditions unless the person requesting permission has been given the opportunity to require a hearing before the authority or, if the authority so directs, before the authority's executive committee."

In holding this hearing, the Hearing Board is to determine whether or not a permit is to be issued, with or without conditions. In doing so, we can only consider the application in the form that is before us, the staff report, such evidence as may be given and the submissions to be made on behalf of the applicant. Only information disclosed prior to the hearing is to be presented at the hearing. It is not our place to suggest alternative development methods.

It is to be noted that if the Hearing Board decision is "to refuse" or not support the proposed work within the permit submission, the Chairman or Acting Chairman shall notify the owner/applicant of his/her right to appeal the decision to the Ontario Land Tribunals.

The proceedings will be conducted according to the Statutory Powers Procedure Act. Under Section 5 of the Canada Evidence Act, a witness may refuse to answer any question. The procedure in general shall be informal without the evidence before it being given under oath or affirmation. If the applicant has any questions to ask of the Hearing Board or of the Authority representative, they must be directed to the Chair of the Board.

At this time, if any member of this Board has intervened on behalf of the Applicant with regards to this matter, they should recuse themselves so there is no apprehension of bias and that a fair and impartial Hearing may be conducted.

4. Disclosure of pecuniary interests

There was no disclosure of pecuniary interests for this Hearing.

5. Presentation by Staff

Janet Noyes, Manager, Development Services and Water Resources, along with Gage Comeau, Water Resources Specialist/Regulations Officer presented the staff report to the Hearing Board (Appendix 1).

6. Presentation by Applicants

The applicants presented to the Hearing Board.

Mark Klemencic, Klemencic Homes started the presentation and gave an introduction and history of their business regarding development of the subject lands. Nathan Klemencic, Klemencic Homes spoke to the steps taken for the application of the development of the area.

Chris Angelo, Public Works Director of the City of Quinte of West, gave insight to his knowledge and history of urban expansion from the late 1990s in the Murray Ward and City of Quinte West was when the York Development Creek plan was developed. When the municipal amalgamation occurred, it allowed for partnerships between Murray Ward and City of Quinte West regarding the York Development Creek plan for urban expansion in the area.

Bryon Keene, Jewell Engineering spoke to the presentation provided in the agenda package and summarized the presentations for the applicants.

7. Additional Information Sharing

a. Additional Questions from the Board

Director Alyea asked Bryon Keene how did fish get linked into the channel. Bryon Keene responded that fish do get through but as to how is unknown.

Director Alyea commented that the creek does not appear to be defined and dries up in the summer months so fish are unlikely to survive. He suggested the fish may have been meant for bait and then dumped in the area.

Director Mullin asked the applicants for clarification on two points;

1. Did the stormwaters structure perform in the past and why is the proposal outside the urban boundary?
2. The volume amount of the fill required in the flood plain area quite substantial.

Mark Klemencic responded that the subdivision and rezoning approved for specific housing and area was approved in the City of Quinte West Official Plan. Permits are to allow for flow of water that are allowed outside of the development area. The permits are allowing them to be proactive in creating safe and managed water flows.

Chris Angelo added that the area out to Wooler Road is included in the proposed changes to the City of Quinte West Official Plans and this water channel will permit and service future needs in the west end. The proposed Official Plan is currently issued for public input.

Director Mullin asked what percentage of urban area is developed at this point. Chris Angelo does not have that specific figure on hand.

Bryon Keene responded to the volume of fill question. The large amount of fill is to allow for future development and storm water management requirements. Eventually another facility will replace any lost storage.

Mayor of Quinte West, Jim Harrison commented that service is a municipality responsibility and since early 2000 a lot of work has been done by the city to support storm water management.

Director English asked how Wooler Road is currently handle storm water? Chris Angelo responded that it is failing and recognized that the studies will address proper size of pipes and culverts to support water flows.

Director Alyea commented that the City of Quinte West's vision is directing only areas that can be serviced. Rural areas are being restricted and is another way to justify those areas identified for development.

There were no further questions from the Board.

b. Comments or Questions from the Applicant

There were no questions from the Applicant.

c. Comments or Questions from Staff

There were no questions from the Staff.

8. Deliberation (In-Camera)

RES: HC02/22

Moved by: Rick English

Seconded by: Mike Filip

THAT the Hearing Board move to in-camera session.

Carried

Time 7:38 pm

RES: HC03/22

Moved by: Mark DeJong

Seconded by: Lynda Reid

THAT the Lower Trent Conservation Board of Directors move out of In-camera session.

Carried

Time 8:22 pm

Chair Sandford invited the guests back into the Hearing Board meeting.

9. Motion on the Hearing Board Decision

Director Alyea motioned for the five-permit applications RP-21-378, RP-21-379, RP-22-047, RP-048, RP-22-049 be approved with conditions as provided by staff.

Janet Noyes presented the following list of conditions that will be applied to each permit application and provided to the applicants.

- Permit A (RP-21-378)
 - Works are to be completed in accordance with the approved engineering design plans;
 - The permit shall be valid for a term of five years from the date of issuance;
 - Work can only occur within Fisheries Timing Windows;
 - Confirmation from the design engineer that the new channelization has been constructed in accordance with the approved plans shall be provided to Lower Trent Conservation within 30-days of completion;
 - All erosion and sediment control measures identified on the approved engineering design plans are to be implemented prior to the commencement of any on-site works. These measures are to be maintained in good repair during the construction phase, and remain in place until all disturbed soil surfaces have become stabilized and/or revegetated to prevent migration of sediment away from the construction site and entry into the existing channel or downstream waters;

- Any mitigation measures identified by Fisheries and Oceans Canada are to be implemented and adhered to;
 - All disturbed areas within 15 metres of the modified watercourse are to revegetated (e.g., reseeded using a native seed mix), with an enhanced 3 metre wide riparian buffer being established directly adjacent to the top of bank along either side as soon as planting conditions permit;
 - All activities including maintenance procedures, must be controlled to prevent the entry of petroleum products, debris, rubble concrete or other deleterious substances into the water;
 - Local drainage is to be maintained;
 - Any other disturbed areas should be re-vegetated (e.g., reseeded using a native seed mix) immediately upon completion of the permitted work; and,
 - LTC staff are to be contacted and advised of when the work is being undertaken.
 - Future maintenance activities on this channel will require permission from LTC.
- Permit B (RP-21-379)
 - Works are to be completed in accordance with the approved engineering design plans;
 - The permit shall be valid for a term of five years from the date of issuance;
 - In-water work can only occur within Fisheries Timing Windows;
 - Any mitigation measures identified by Fisheries and Oceans Canada are to be implemented and adhered to;
 - Confirmation from the design engineer that the new channelization and watercourse crossing have been constructed in accordance with the approved plans shall be provided to Lower Trent Conservation within 30-days of completion;
 - Final grades to be surveyed and provided to LTC confirming changes to floodplain mapping;
 - Documentation related to the volume of fill removed and fill placed within the floodplain is to be provided;
 - All erosion and sediment control measures identified on the approved engineering design plans are to be implemented prior to the commencement of any on-site works. These measures are to maintained in good repair during the construction phase, and remain in place until all disturbed soil surfaces have become stabilized and/or revegetated to prevent migration of sediment away from the construction site and entry into the existing channel or downstream waters;
 - All disturbed areas within 15 metres of the modified watercourse are to revegetated (e.g., reseeded using a native seed mix), with an enhanced 3 metre wide riparian buffer being established directly adjacent to the top of bank along either side as soon as planting conditions permit;

- All activities including maintenance procedures, must be controlled to prevent the entry of petroleum products, debris, rubble concrete or other deleterious substances into the water;
 - Local drainage is to be maintained;
 - Any other disturbed areas should be re-vegetated (e.g., reseeded using a native seed mix) immediately upon completion of the permitted work; and,
 - LTC staff are to be contacted and advised of when the work is being undertaken.
 - Future maintenance activities on this channel will require permission from LTC.
- Permit D (RP-22-047)
 - Works are to be completed in accordance with the approved engineering design plans;
 - The permit shall be valid for a term of five years from the date of issuance;
 - Final grades to be surveyed and provided to LTC confirming changes to floodplain mapping;
 - Documentation related to the volume of fill removed and fill placed within the floodplain is to be provided;
 - All erosion and sediment control measures identified on the approved engineering design plans are to be implemented prior to the commencement of any on-site works. These measures are to be maintained in good repair during the construction phase, and remain in place until all disturbed soil surfaces have become stabilized and/or revegetated to prevent migration of sediment away from the construction site and entry into the existing channel or downstream waters;
 - All activities including maintenance procedures, must be controlled to prevent the entry of petroleum products, debris, rubble concrete or other deleterious substances into the water;
 - Local drainage is to be maintained;
 - Any disturbed areas should be re-vegetated (e.g., reseeded using a native seed mix) immediately upon completion of the permitted work; and,
 - LTC staff are to be contacted and advised of when the work is being undertaken.
 - Verification of wetland boundaries
 - Prior to any vegetation removal, development or site alteration taking place in the wetland or within 30 metres of the wetland, a detailed plan for constructing a compensation wetland (***location to be determined***) is to be provided to LTC for review and approval, and the compensation wetland constructed. The detailed plan shall include a proposal for monitoring and re-establishing any unsuccessful plantings during the following growing season.
 - Permit E (RP-22-048)
 - Works are to be completed in accordance with the approved engineering design plans;

- The permit shall be valid for a term of five years from the date of issuance;
 - In-water work can only occur within Fisheries Timing Windows;
 - Any mitigation measures identified by Fisheries and Oceans Canada are to be implemented and adhered to;
 - Confirmation from the design engineer that the new channelization has been constructed in accordance with the approved plans shall be provided to Lower Trent Conservation within 30-days of completion; Final grades to be surveyed and provided to LTC confirming changes to floodplain mapping;
 - Documentation related to the volume of fill removed and fill placed within the floodplain is to be provided;
 - All erosion and sediment control measures identified on the approved engineering design plans are to be implemented prior to the commencement of any on-site works. These measures are to be maintained in good repair during the construction phase, and remain in place until all disturbed soil surfaces have become stabilized and/or revegetated to prevent migration of sediment away from the construction site and entry into the existing channel or downstream waters;
 - All activities including maintenance procedures, must be controlled to prevent the entry of petroleum products, debris, rubble concrete or other deleterious substances into the water;
 - Local drainage is to be maintained;
 - Any disturbed areas should be re-vegetated (e.g., reseeded using a native seed mix) immediately upon completion of the permitted work; and,
 - LTC staff are to be contacted and advised of when the work is being undertaken.
 - Verification of wetland boundaries
 - Prior to any vegetation removal, development or site alteration taking place in the wetland or within 30 metres of the wetland, a detailed plan for constructing a compensation wetland (***location to be determined***) is to be provided to LTC for review and approval, and the compensation wetland constructed. The detailed plan shall include a proposal for monitoring and re-establishing any unsuccessful plantings during the following growing season.
- Permit F (RP-22-049)
 - Works are to be completed in accordance with the approved engineering design plans;
 - The permit shall be valid for a term of five years from the date of issuance;
 - In-water work can only occur within Fisheries Timing Windows;
 - Any mitigation measures identified by Fisheries and Oceans Canada are to be implemented and adhered to;

- Confirmation from the design engineer that the new channelization has been constructed in accordance with the approved plans shall be provided to Lower Trent Conservation within 30-days of completion; Final grades to be surveyed and provided to LTC confirming changes to floodplain mapping;
- Documentation related to the volume of fill removed and fill placed within the floodplain is to be provided;
- All erosion and sediment control measures identified on the approved engineering design plans are to be implemented prior to the commencement of any on-site works. These measures are to be maintained in good repair during the construction phase, and remain in place until all disturbed soil surfaces have become stabilized and/or revegetated to prevent migration of sediment away from the construction site and entry into the existing channel or downstream waters;
- All activities including maintenance procedures, must be controlled to prevent the entry of petroleum products, debris, rubble concrete or other deleterious substances into the water;
- Local drainage is to be maintained;
- Any disturbed areas should be re-vegetated (e.g., reseeded using a native seed mix) immediately upon completion of the permitted work; and,
- LTC staff are to be contacted and advised of when the work is being undertaken.
- Verification of wetland boundaries
- Prior to any vegetation removal, development or site alteration taking place in the wetland or within 30 metres of the wetland, a detailed plan for constructing a compensation wetland (***location to be determined***) is to be provided to LTC for review and approval, and the compensation wetland constructed. The detailed plan shall include a proposal for monitoring and re-establishing any unsuccessful plantings during the following growing season.

RES: HC04/22

Moved by: Jim Alyea

Seconded by: Mark DeJong

THAT the five-permit applications RP-21-378, RP-21-379, RP-22-047, RP-048, RP-22-049 be approved with conditions as provided by staff.

A recorded vote was requested by the Board.

Board Member	Recorded Vote
Mike Filip	Yes
Mary Tadman	Yes
Mark Bateman (Vice-Chair)	Yes
Don Clark	Yes
Mark DeJong	Yes
Jim Alyea	Yes
Lynda Reid	Yes

Bob Mullin	No
Rick English	Yes

Carried

Director Mullin commented that his vote was based on the need for further information.

10. Motion to adjourn the Hearing Board

There being no further business, the meeting was adjourned.

RES: HC05/22

Moved by: Rick English

Seconded by: Jim Alyea

THAT the meeting for Application #RP-21-378 and #RP-21-379, RP-22-047, RP-22-048, RP-22-049 be adjourned.

Carried

Time: 8:35 pm



Eric Sandford, Chair



Rhonda Bateman, CAO/ST



LOWER TRENT
CONSERVATION

HEARING

Ontario Regulation 163/06 Permits
Applications: RP-21-378, RP-21-379,
RP-22-047, RP-22-048 & RP-22-049

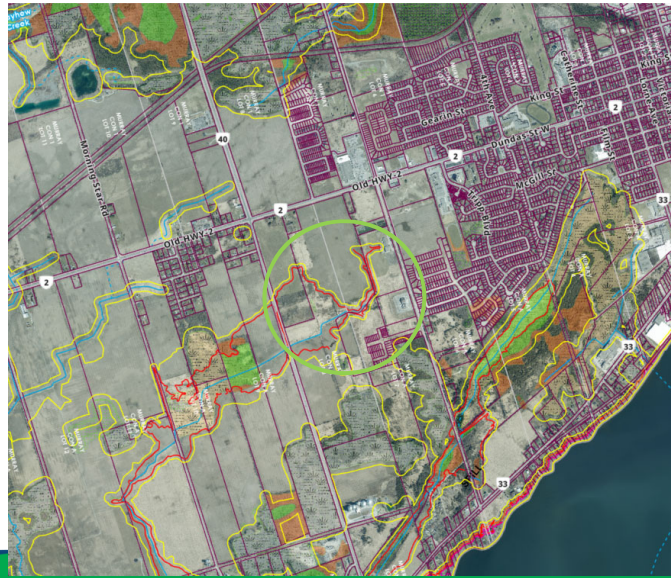
Chris Angelo for Trenton Christian School
Mark Klemencic for Brad Little (Audry Little Estate)
York Creek Development Area
Highway 2, City of Quinte West

Presented to: Lower Trent Region Conservation Authority Hearing Board

Presented by: Janet Noyes, Manager, Development Service & Water Resources; and
Gage Comeau, Water Resources Specialist/ Regulations Officer

Hearing Date: June 9, 2022

Subject Lands



Location of proposed works

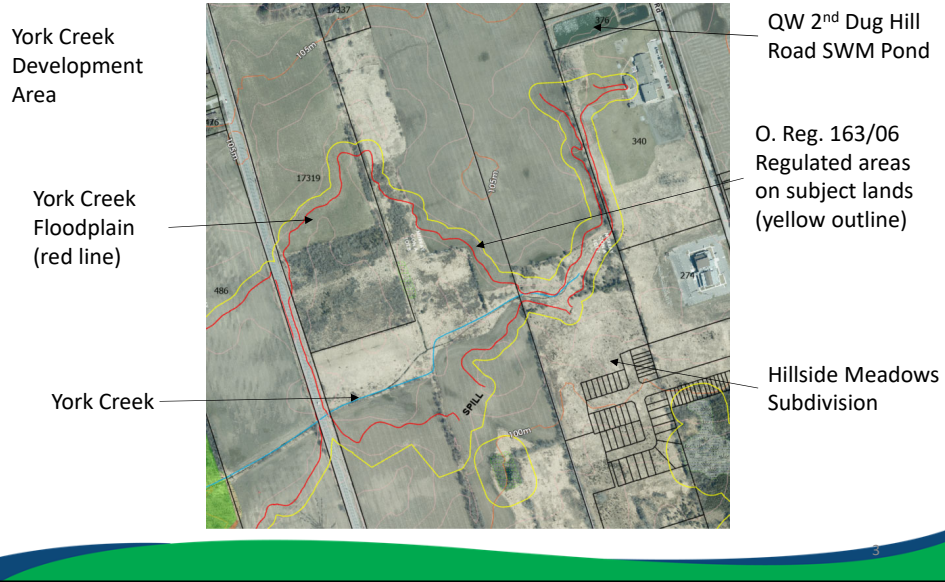
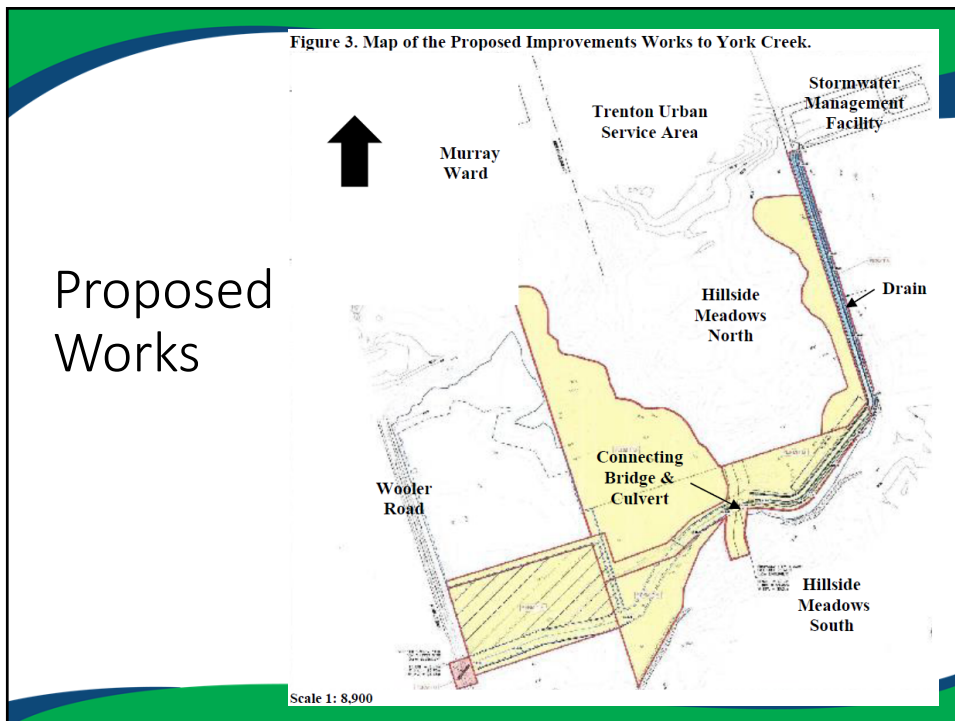
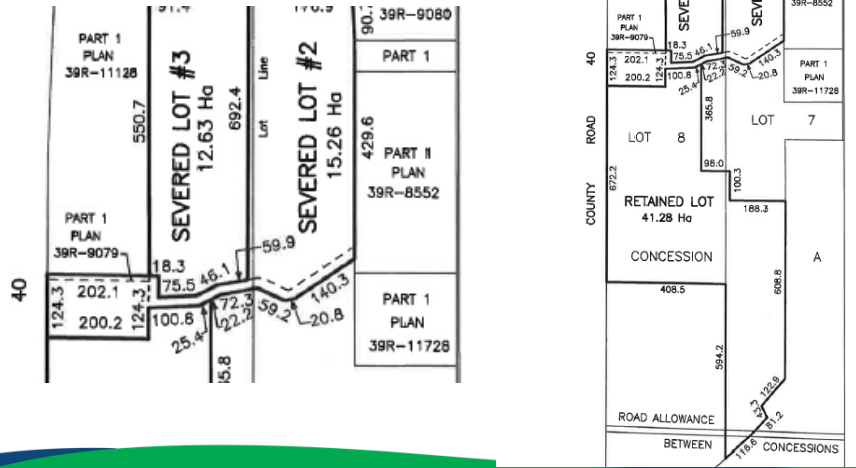


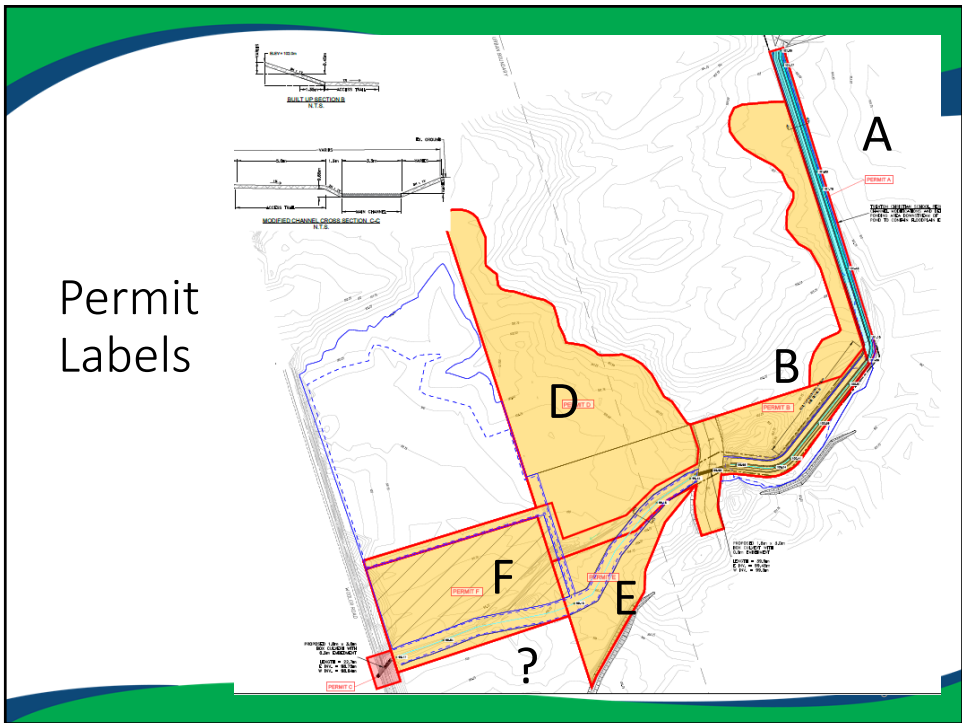
Figure 3. Map of the Proposed Improvements Works to York Creek.



Parcels of Interest



Permit Labels



Permit A

RP-21-378

- Trenton Christian School
- Watercourse Channelization
- Floodplain filling (historic)
- City is Agent for permit
- Dredging and realignment of York Creek for SWM Pond outflows



Permit B

RP-21-379

- Hillside Meadows North Subdivision
- Watercourse Channelization
- Watercourse crossing
- Floodplain filling
- Dredging and realignment of York Creek for SWM Pond outflows


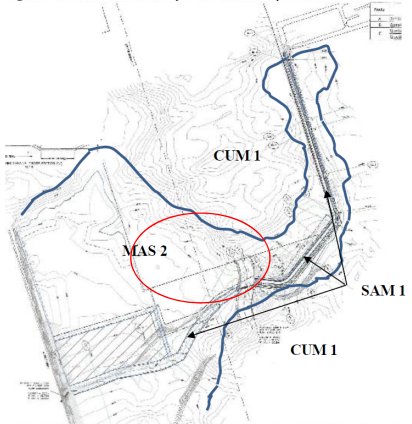


Permit D

RP-22-047

- Floodplain filling
- Wetland removal

Figure 16. The ELC Community Units in the Study Area.

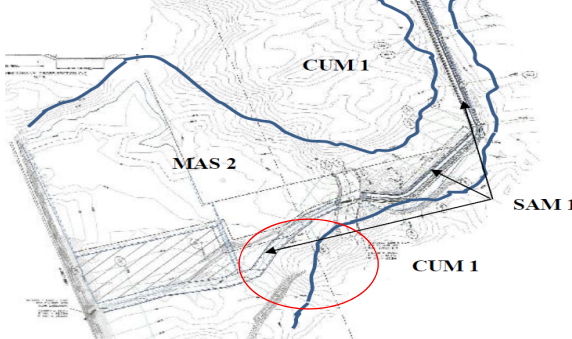



Scale 1: 5,500

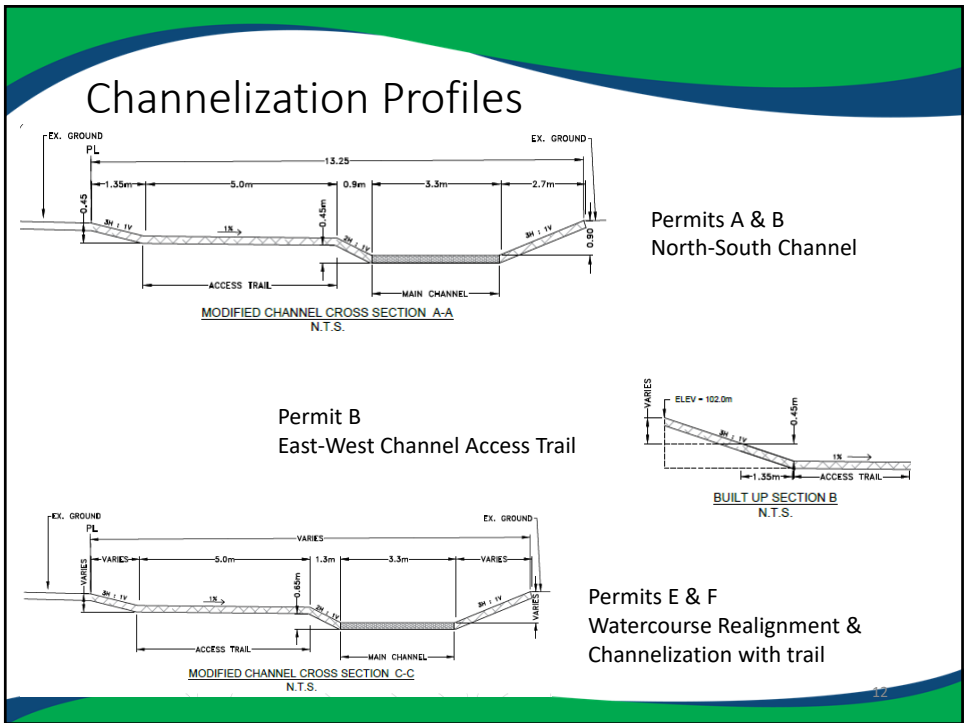
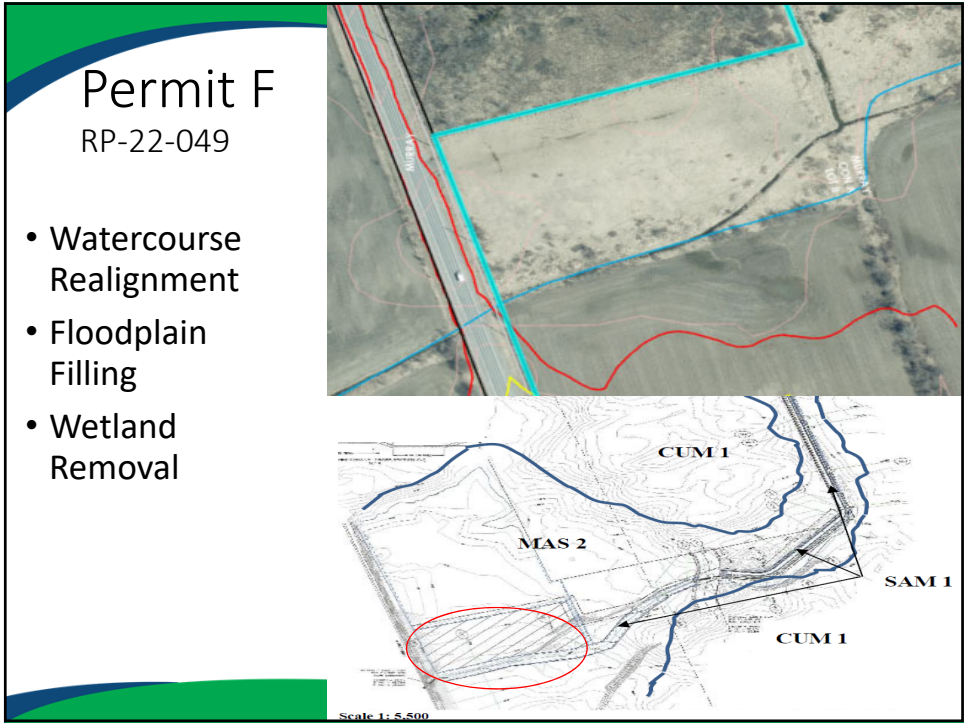
Permit E

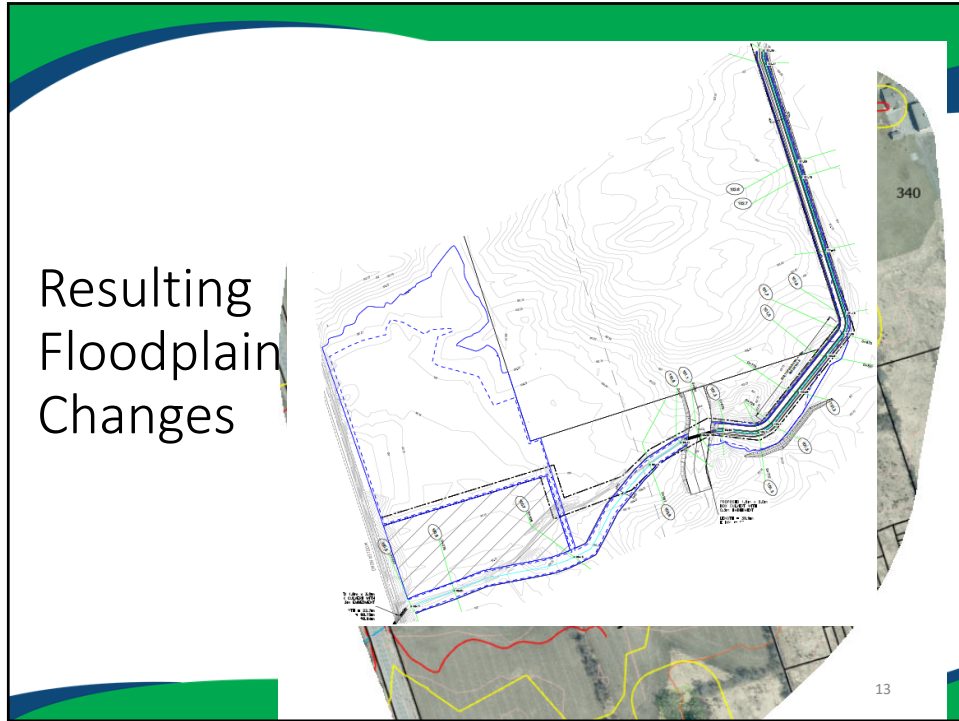
RP-22-048

- Watercourse Realignment
- Floodplain Filling
- Wetland Removal
- Includes lands to Wooler Road?



Scale 1: 5,500





- ## LTC General Policies
- 3) In addition to specific conditions outlined through this document, development, interference and/or alteration within a regulated area may be permitted only where:
- a) risk to public safety is not increased;
 - b) there is no increase in habitation in the hazard area with the exception of allowable flood fringes or wave uprush hazard areas;
 - c) susceptibility to natural hazards is not increased nor new hazards created (e.g., there will be no impacts on adjacent properties with respect to natural hazards);
 - d) safe ingress/egress is available for proposed development that increases habitation outside of hazard lands;
 - e) pollution, sedimentation and erosion during construction and post construction is minimized using best management practices including site, landscape, infrastructure and/or facility design, construction controls, and appropriate remedial measures;
 - f) access for emergency works and maintenance of flood or erosion control works is available;
 - g) proposed development is constructed, repaired and/or maintained in accordance with accepted engineering principles and approved engineering standards or to the satisfaction of LTC, whichever is applicable based on the structural scale and scope, and purpose of the project;
 - h) there are no adverse hydraulic or fluvial effects on rivers, creeks, streams, or watercourses;
 - i) there are no adverse sedimentation or littoral effects on the Lake Ontario shoreline;
 - j) there are no adverse effects on the hydrologic function of wetlands; and,
 - k) the control of flooding, erosion, dynamic beaches, pollution and/or the conservation of land is not adversely affected during and post development.
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Specific Policies

5.2.1 Development within Flood Hazard Lands (Permits A, B, D, E, F)

5.2.1.1 Development within One-Zone Regulatory Floodplain of River or Stream Valleys (including inland lakes)

- 1) Development within the Regulatory floodplain shall not be permitted.
- 2) Placement of fill, flood hazard protection and/or bank stabilization works to allow for future/proposed development or an increase in development envelope within the Regulatory floodplain shall not be permitted.
- 9) Cut and Fill operations will not be permitted within the One-zone Regulatory Floodplain.

6.2.1 Development and Interference of a Wetland (Permits D, E, F)

- 1) Development and interference shall not be permitted within wetlands.

7.2.1 Interference with a Watercourse (Permits A, B, E, F)

- 1) Interference with a watercourse shall not be permitted.
- 2) Proposals for channelization and/or re-alignment will not be considered where the purpose of the proposal is to increase the development potential of the lands.

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Permit Applications Timeline

- Permit Applications A & B received: December 21, 2021
- Permit Application D, E & F received: March 1, 2022
- Revised Applications E & F received: April 8, 2022
- Complete Application: May 19, 2022
- Denial Letter: May 25, 2022
- Request for Hearing: May 25, 2022
- Notice of Hearing: May 26, 2022
- Hearing Date: June 9, 2022

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