

## FULL AUTHORITY MEETING

Wednesday January 15, 2014; 7:00 PM  
Ball's Falls Centre of Conservation – Elgin Room  
3292 Sixth Avenue, Jordan ON

# AGENDA

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- **ROLL CALL**
  - **DECLARATION OF CONFLICT OF INTEREST**
  - **BUSINESS:**
    - (1) Draft Meeting Minutes – Full Authority Meeting – December 18, 2013
    - (2) Business Arising From Minutes
    - (3) Chairman's Remarks
    - (4) CAO's Remarks
    - (5) Delegations:
      - *Mr. Willie Wakulich – 5 Pine Street (attached report 116-13)*
      - *Mr. George Scott – Bee Way Project - Neonicotinoids*
    - (6) Hearing under O.Reg. 155/06 Permit application----- **Report No. 01-14**
      - *Hearing Guidelines (attached)*
    - (7) Woodend Conservation Area – DSBN Development ----- **Report No. 02-14**
      - *(attached correspondence)*
    - (8) Binbrook Master Plan Update
    - (9) 2014 – A Look Ahead – Projects and Initiatives----- **Report No. 03-14**
    - (10) Other Business
    - (11) **In-Camera**  
Personnel Matters
  - **ADJOURNMENT**
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**TO: The Chairman and Members of the Authority**

**DATE: December 2, 2013**

**SUBJECT: Permit Requirements 2014/2015 Proposed Rates - Report No. 116-13**

As the Board will recall, the NPCA previously provided the applicant with engineering criteria required to allow for a permit at the above noted site. The NPCA recently received a report entitled 'Geotechnical Letter Report – Slope Stability Assessment #2 at 5 Pine Street, St. Catharines, Ontario' dated 19 November 2013 by Coffey Geotechnics Inc.

In the Niagara Peninsula Conservation Authority's (NPCA) Report No. 41-13, five (5) items were required to be addressed in order to satisfy the NPCA's concerns with respect to slope stability. To this end, the NPCA has reviewed the recent report intended to support of the applicant's petition for a permit.

The NPCA offers the following comments are presented to the NPCA Board:

- 1) ***The NPCA required confirmation from the Geotechnical Engineer that they have recently inspected the works as constructed in the field and that the previous study from 2007 included collection of sufficient field/bore samples to reliably characterize the slope including the surface and subsurface soil and groundwater conditions as of today, with respect to accommodating the constructed solar panel arrays.***
  - a. There is no confirmation in the Coffey report that a geotechnical engineer has recently been out to inspect the works as constructed in the field.
  - b. The Coffey report does not explicitly state that the 2007 field/bore samples are adequate to reliably characterize the surface and surface soil and groundwater conditions as of today.
  
- 2) ***The NPCA required confirmation from the Geotechnical Engineer that the 'as-constructed' bearing elevation of the solar panel array footings is safely beyond both the surficial failure zone and the deeper rotational failure envelope identified for the slope.***
  - a. In the Coffey report, 'Section 2.1 – Assumptions/Limitations' indicates that:
    - i. 'Details used to model the solar panel foundations were provided by the Owner. Actual dimensions have not been verified at the site.'

- ii. 'The construction of the solar panel infrastructure was not supervised by Coffey and therefore we cannot confirm the quality of the construction nor does the information provided to Coffey accurately reflect the as-built condition.

As such, the 'as-constructed' bearing elevation has not been confirmed.

- b. The Coffey report does not explicitly state that the 'as-constructed' bearing elevation of the solar panel array footings is safely beyond both the surficial failure zone and the deeper rotational failure envelope identified for the slope.
- 3) The existing slope has been identified as showing signs of surficial instability. The NPCA required confirmation and/or recommendations from a Qualified Engineer to ensure that the foundation structure will not buckle in a superficial slough/slide failure.**
- a. The Coffey report contains neither confirmation nor recommendations regarding the issue of the structure buckling during a superficial slide failure.
- 4) The NPCA required confirmation from the Geotechnical Engineer as to how susceptible the stability of the bank/structure is to fluctuations in the groundwater levels noted in the boreholes.**
- a. In the Coffey report, 'Section 2.1 – Assumptions/Limitations' indicates that 'Potential fluctuations in groundwater level has not been considered.' As such, this issue has not been addressed.
- 5) The NPCA required that drawings be included in the report to reflect what has been installed.**
- a. No drawings of the solar panel array installation were included with the report.
- 6) The NPCA notes that the Coffey report's 'Table B: Factors of Safety' indicates the minimum calculated Factors of Safety for four scenarios. A Factor of Safety is calculated by dividing the forces resisting slope movement by the forces driving slope movement. A typical Factor of Safety applied to slopes is 1.5 (see CVC Slope Stability Guidelines). A 1.5 Factor of Safety means that the forces resisting slope movement are 50% greater than those forces seeking to collapse the slope.**
- Coffey's calculated Factors of Safety range from:
- i) 1.056 for the existing slope without the solar panels,
  - ii) 1.060 for 0.6m thick solar panel foundation ,
  - iii) 1.099 for 1.2m thick solar panel foundation,
  - iv) 1.176 for 1.8m thick solar panel foundation.

These calculated Factors of Safety indicate that the opposing forces resisting and driving slope movement are nearly balanced. Based upon the numerous assumptions and limitations undertaken in the stability analysis, the NPCA would request that Coffey explain in greater detail how it can possibly be concluded that 'the addition of the solar panel foundation structures does not adversely affect the stability of the slope.'

- 7) ***Based upon the foregoing, the NPCA staff position concludes that this geotechnical report fails to adequately address any of the additional information required as outlined in the NPCA's Report No. 41-13.***

**RECOMMENDATION:**

**That the Geotechnical Letter Report – Slope Stability Assessment #2 at 5 Pine Street, St. Catharines, Ontario” dated 19 November 2013 by Coffey Geotechnics Inc. is insufficient to address the outstanding concerns of the NPCA and,**

**That the requirements as previously requested be reaffirmed to the applicant.**

Respectfully Submitted By:

*Mary Stack*  
for Tony D'Amario, P. Eng. CAO/ Secretary-Treasurer

# REPORTS

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January 15, 2014

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**To: Chairman and Members of the Authority**

**Date: January 9, 2014**

**Re: Application by Michael Passero under the NPCA's Regulation of Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulation (Ontario Regulation 155/06, as amended); 26 Hillcrest Avenue, City of St. Catharines, Region of Niagara; Valley slope of Twelve Mile Creek – Report No. 01-14**

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The purpose of this report is to consider an application from Michael Passero to construct an in-ground swimming pool on the valley slope of Twelve Mile Creek. This file has been assigned the number Reg. 07.13.131.

The existing valley in the subject area is very well defined; the valley bottom is at an elevation of approximately 83m, and rises to approximately 106m, yielding a total slope height of 23m. The bank slope at the property is relatively steep, with slopes ranging up to approximately 43% at the steepest portions, however there are two narrow flatter areas (as low as 6.6%) at approximately the mid-point of the lot, resulting in an overall slope across the lot of 27%. For context, in lieu of detailed subsurface soil analysis, a slope of no more than 33% (3.0H:1.0V) is considered as being stable over the conditions it may be subject to in the long term. Maps showing the location of the property are appended as Attachment No 1.

The Applicant is seeking approval to construct a 38-foot by 16-foot in-ground swimming pool in the rear yard of 26 Hillcrest Avenue, beyond the mapped top of slope of the valley of Twelve Mile Creek. As seen in Attachment 1, the top of slope traverses through the existing dwelling on the subject site; there is no tableland above the top of slope within the rear yard within which to construct a pool. A sketch of the proposed pool location and size, according to measurements provided by the Applicant, is appended as Attachment No. 2.

Valley slopes are considered to be "Hazard Lands" as per Provincial Policy Statements and the associated Technical Guidelines. Accordingly, Section 3.25 of NPCA's "Policies, Procedures and Guidelines for the Administration of Ontario Regulation 155/06 and Land Use Planning Document" prohibits new structures from being located within natural valleys that are higher than 3 metres. This section also requires that no new structures be located within 7.5 metres of the stable top of bank.

Staff also assessed the proposal to determine if there was a possibility of conformance with applicable interim policy directives, specifically "Interim Policy Directive #13-2 – Riverine Slopes / Valleylands". The Policy Directive presents additional scenarios that may be permitted by the NPCA in light of recent Court outcomes, and states that in-ground pools may be established in the stable top of bank setback area, but only where slopes are stable or will be made stable as a result of construction. Unfortunately, the proposed pool location is beyond the top of bank,

and therefore does not comply with the Policy Directive. A copy of Interim Policy Directive #13-2 is appended within Attachment #3.

In the Draft NPCA Policy document (**“Policies, Procedures and Guidelines for the Administration of Ontario Regulation 155/06 Final Working Paper May 2013, Draft for Discussion Only”**), Section 1.4.3.7

- (1) states where dwellings, buildings and structures already exist within a valleyland, additions to the existing structures may be permitted subject to the following:
  - “2) where an existing habitable building is located beyond the top of slope, the replacement or addition shall not intrude any further into the valley than the existing building;
  - 3) a geotechnical assessment by a qualified engineer will be required to determine if/how the structure and/or addition can be constructed to ensure that the structure and valley will remain stable over the long term.
  - 4) a scoped EIS may be required to determine ecological impacts and recommend appropriate mitigation measures.
  - 5) in cases where the building or structure can be reasonably relocated outside of the Stable Top of Slope Setback, the Applicant will be encouraged to do so.”

The proposed pool location would extend further into the valley than the existing dwelling. As such, this section of the Draft Policy does not allow the proposed development.

If the slope would be stabilized as a component of the proposed construction, Section 1.4.3.5 “New Development – Stable Slopes” of the Draft Policy could apply. In this case, Section 1.4.3.5 (c) states that In-ground pools may be established in the stable top of bank setback area. The proposed pool location is beyond the top of bank in this case, and as such would not conform to this clause of the Draft Policy.

Slope failures often result in significant damage to buildings, roadways and other property, as well as personal injury or fatality. In examining slope failures, it is often found that the onset and/or extent of failure is often exacerbated by human modification on or near the slope, as even modest modifications can significantly increase the risk of slope movement. Slope failures can be triggered by atmospheric processes (heavy rainfall), geologic processes (earth tremors, freeze-thaw soil action), random unanticipated sources (i.e. water service leak nearby/reduces soil shear strength), human modification (i.e. removal of vegetation) or a combination of the above. Furthermore, they can also occur suddenly with little or no prior warning.

Virtually anything can be built if enough financial, engineering and construction resources are put into it. However, as has well been demonstrated, the best perceived engineering solutions are often compromised by changes in the natural environment that cannot be foreseen (i.e. extreme rainfall, changing groundwater table, etc.), the results being costly damages and/or injury/loss of life. All building is a risk management exercise and the approach adopted by the Board for new development is to avoid placing it in, or near inherently hazardous lands, such as the subject valley lands.

In order for the proposed works to be in conformance with current NPCA Policy or even the discussionary Draft NPCA Policy, they would have to be relocated off of the valley slope. There are no other alternatives afforded by NPCA Policy.

A copy of section 3.25 NPCA Policies, Procedures and Guidelines for Administration of Ontario Regulation 155/06 and Land Use Planning Policy Document, dated December 12, 2007 is

appended as Attachment No. 3. The specific section of Ontario Regulation 155/06, as amended, that the proposal is subject to is Section 2. (1), (b) and (c), and the corresponding definition of “hazardous lands” is found in Section 28. (25) of the Conservation Authorities Act, R.S.O. 1990, Chapter C. 27. Copies of the relevant excerpts are appended as Attachments No. 4 & 5 respectively.

Correspondence with the Applicant’s geotechnical consultant, Genivar, began on this file sometime prior to May 27, 2013. The NPCA was subsequently carbon-copied on a letter from Genivar to the Applicant, Mr. Passero, stating that they felt the proposed development could be supported by the NPCA, subject to a geotechnical assessment and requested pre-consultation with the NPCA.

Pursuant to some further dialogue with the consultant, on August 22, 2013, the NPCA formally advised Genivar that NPCA policy does not permit the construction of in-ground pools beyond the top of slope, but that recent court rulings have determined that the opportunity should be given to applicants to prove their proposed development can be safe and stable in the long-term. Pertinent correspondence is appended as Attachment 6.

The NPCA subsequently received a Slope Stability Assessment on September 6, 2013. NPCA staff once again reiterated that NPCA Policy does not allow this type of development. NPCA staff further advised if the Applicant was still interested in pursuing the application, he should submit a formal application. Staff would be forced to recommend the application for refusal, but if the Applicant chose to, he has a right to a Hearing before the Full Authority Board to determine the ultimate outcome of the application. Formal application was received on October 16, 2013. The Applicant’s submission package, including Slope Assessment is appended as Attachment 7.

As such, NPCA staff issued formal correspondence to Mr. Passero on November 6, 2013, that staff could not support issuing a permit for development within the natural valley as this was not in conformance with NPCA Policy. A copy of the Notice of Unsupported Application and Notice of Hearing is appended as Attachment 8.

Pursuant to the Conservation Authorities Act, only the Full Authority Board can deny an application for issuance of a permit. In this regard, staff would advise that there are no conditions that can be imposed to bring this proposal into conformance with our Policies, Procedures and Guidelines for the Administration of Ontario Regulation 155/06 and Land Use Planning Document (December 12, 2007), nor the contemplated Draft Policy.

**Attachments :**

- 1) Property Location Map and Location of Work Map
- 2) Sketch of Proposed Development
- 3) Excerpt; section 3.25 of NPCA Policies, Procedures and Guidelines for Administration of Ontario Regulation 155/06 and Land Use Planning Policy Document, dated December 12, 2007, and Interim Policy Directive #13-2 Riverine Slopes / Valleylands
- 4) Excerpt; Section 2(1)(b)&(c) of Ontario Regulation 155/06, as amended
- 5) Excerpt; Section 28(25) of Conservation Authorities Act, R.S.O. 1990, Chapter C. 27.
- 6) Pre-consultation Correspondence
- 7) Permit Application submission
- 8) Notice of Unsupported Application and Notice of Hearing



**RECOMMENDATION**

**THAT Application No. Reg. 07.13.131 for permission to construct an in-ground swimming pool on the valley slope of Twelve Mile Creek be denied for the following reasons:**

- 1. The construction of the works will disrupt the valley slope, which can undermine the stability of the slope both currently and in the long term; and**
- 2. The placement of structures on a valley slope results in an unnecessary risk to property and safety; and**
- 3. The construction of a structure on a regulated valley slope is contrary to section 3 of NPCA Policies, Procedures and Guidelines for Administration of Ontario Regulation 155/06 and Land Use Planning Policy Document, dated December 12, 2007; and**
- 4. The construction of an in-ground swimming pool beyond the stable top of bank is contrary to Interim Policy Directive #13-2, "Riverine Slopes / Valleylands"; and**
- 5. The construction of an in-ground swimming pool beyond the stable top of bank is contrary to Sections 1.4.3.7 and 1.4.3.5 (c) of the the Draft NPCA Policy document ("Policies, Procedures and Guidelines for the Administration of Ontario Regulation 155/06 Final Working Paper May 2013, Draft for Discussion Only").**

Prepared by: Lara Widdifield, C.E.T.; Supervisor, Construction Permit Approvals

Respectfully Submitted by:



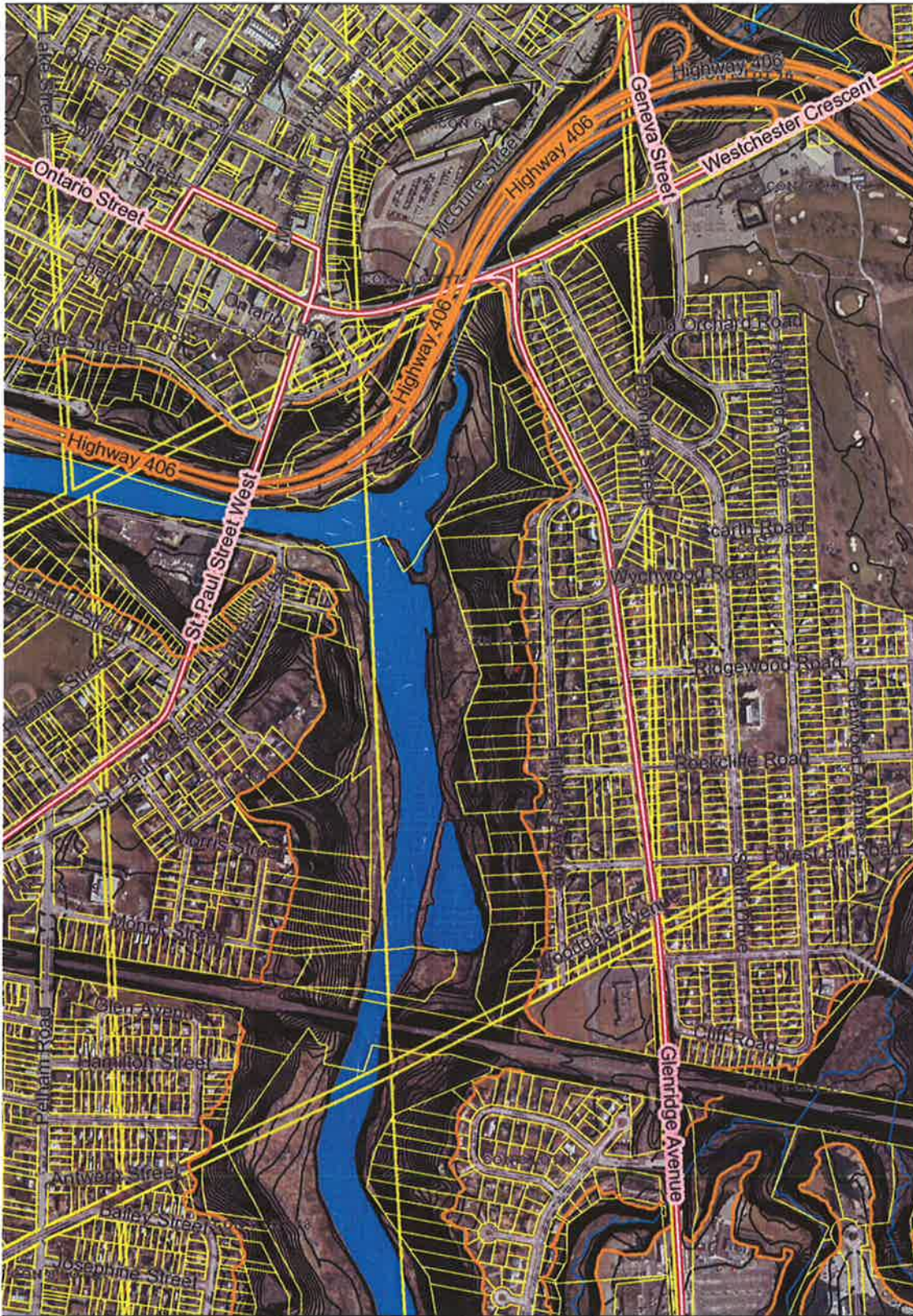
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Tony D'Amario, P.Eng.; CAO/Secretary-Treasurer

# **ATTACHMENT No.1**

1A



# 26 Hillcrest Avenue, St. Catharines



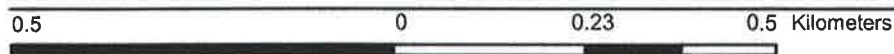
- Legend**
- Top of Slope Features
    - Stable
    - Unstable
  - RMN Streets
    - Provincial
    - Regional
    - Municipal Other
  - RMN Assessment Parcels
  - Lots and Concession Fabric
  - MEMBER MUNICIPALITY Labels
  - 2K HydroPoly
  - 2K Hydrography
  - Contours - 1m Region 2002
  - NPCA Watershed Municipalities
  - 2010 Air Photos
  - NIAGRA\_RASTER.GIS\_ADMIN
    - Red:Band\_1
    - Green:Band\_2
    - Blue:Band\_3

1: 8,922  
12/4/2013



**Notes**

Showing Top of Slope, 1 metre contours  
.W



## **ATTACHMENT No.2**



# 26 Hillcrest Avenue, St. Catharines



- Legend**
- Top of Slope Features**
    - Stable
    - Unstable
  - Road Edges 2002
  - RMN Streets Labels
  - RMN Assessment Parcels
  - MEMBER MUNICIPALITY Lab
  - Contours - 1m Region 2002
  - NPCA Watershed Municipalitie
  - 2010 Air Photos
  - NIAGRA\_RASTER.GIS\_ADMI
    - Red:Band\_1
    - Green:Band\_2
    - Blue:Band\_3

1: 624  
 12/4/2013



This map is for illustrative purposes only. Information contained hereon is not intended to constitute advice, is not a substitute for professional review or a site survey, and is subject to change without notice. The NPCA takes no responsibility for, nor guarantees, the accuracy of the information contained on this map. Any interpretations or conclusions drawn from this map are the sole responsibility of the user. THIS IS NOT A PLAN OF SURVEY.

**Notes**  
 Proposed Pool location (approximately to scale) relative to existing slope on property

# **ATTACHMENT No.3**

# **Section 3**

## **Policies for the Administration of Ontario Regulation 155/06**

### 3.25 Valleylands

Slope failures can cause devastating damage to buildings, roadways and property. In many cases damage is exacerbated by human modification on or near the slope. Almost any modification increases the risk of slope movement. Slope failures can be triggered by atmospheric processes (heavy rainfall), geologic processes (earth tremors, freeze-thaw soil action), human modification or a combination of the above.

The NPCA defines a valley as a natural landform depression that contains a watercourse, has water flowing through, or contains standing water. Water features may be either permanent or intermittent. The boundaries of a valley are defined by the primary top of bank on each side of the landform depression as illustrated in Figure 3. NPCA staff will locate and approve the top of bank through field inspection.

The valleyland resources within the NPCA jurisdiction can be categorized by - steep 'V' shaped valleys and broad 'U' shaped stream corridors. Generally, the steep valley systems are found north of the Niagara Escarpment in the western portions of Niagara-on-the-Lake and St. Catharines, as well as the eastern portion of the Town of Lincoln. The Niagara Escarpment is considered to be included within the jurisdiction of the NPCA, and will be afforded the protection of the NPCA's Valleyland policies. The broader stream corridors are found south of the Escarpment, in Fort Erie, Port Colborne and Wainfleet and Haldimand County.

Certain valleys in Niagara have, in recent years, exhibited Slope failure problems. These problems have been aggravated by historical Development situated in very close proximity to, or on, the top of valley Slopes. This situation, in combination with varied soil characteristics, groundwater hydraulics/movement and historical Fill placement (for example), has created damaging and dangerous situations. The Twenty Mile Creek Valley in Lincoln and the Twelve Mile Creek Valley in St. Catharines are two such areas. The lack of detailed valleyland policies implemented some 20 to 30 years ago, has created situations where homes and businesses are now experiencing great risk of major damages due to Slope instability problems. Solving these types of problems through 'structural' means can be cost prohibitive and may also impact Fish Habitat. As a result, a comprehensive 'non-structural' approach to deal effectively with Development in these situations is of great importance.

**As such, no new Development (with the exception of Structures required for Erosion control purposes) will be permitted within natural valleys where the bank height is equal to, or greater than 3 metres (10 feet). In addition, Development proposed on Adjacent Lands to these Slopes will be subject to the policies of this Section.**

The policies that restrict development on the tablelands adjacent to the top of bank are in place in part to protect the valley slope vegetation and its root system from excavation and loading damage/destruction. The root system of the vegetation at the top of bank and along the valley walls helps to bind the soil particles and maintain bank stability. This in turn protects the landowner's property from the potential loss of tableland as a result of bank erosion. Development located at the top of bank can affect drainage patterns, which can result in an increase in soil erosion along the valley slopes. In addition, these policies provide for access to the bank for heavy machinery for construction (should erosion protection works be required in the future), maintenance and emergency access. The buffer/setback may also provide additional protection against unforeseen or unpredicted external conditions, which could have an



adverse effect on the natural conditions or processes acting on or within an erosion prone area. One example of such an unpredicted external condition would be climate change.

Ideally the regulated tablelands adjacent to the top of bank should be left in a natural state (i.e., not manicured lawn) in order to allow for the natural succession of vegetation from the valleylands onto the tableland to provide a buffer to the valleyland vegetation and root system. The tableland adjacent to a valley, if left in a natural state, provides additional habitat, movement corridors and food sources for species that utilize the valleylands and provides some additional stormwater filtration prior to it entering the valley feature/watercourse. No removal of vegetation shall be permitted below the top of slope.

This policy is not intended to prevent the addition or extensions, including new structures, to existing primary agricultural operations which are not likely to incur significant damages, impact the valley system or cause pollution.

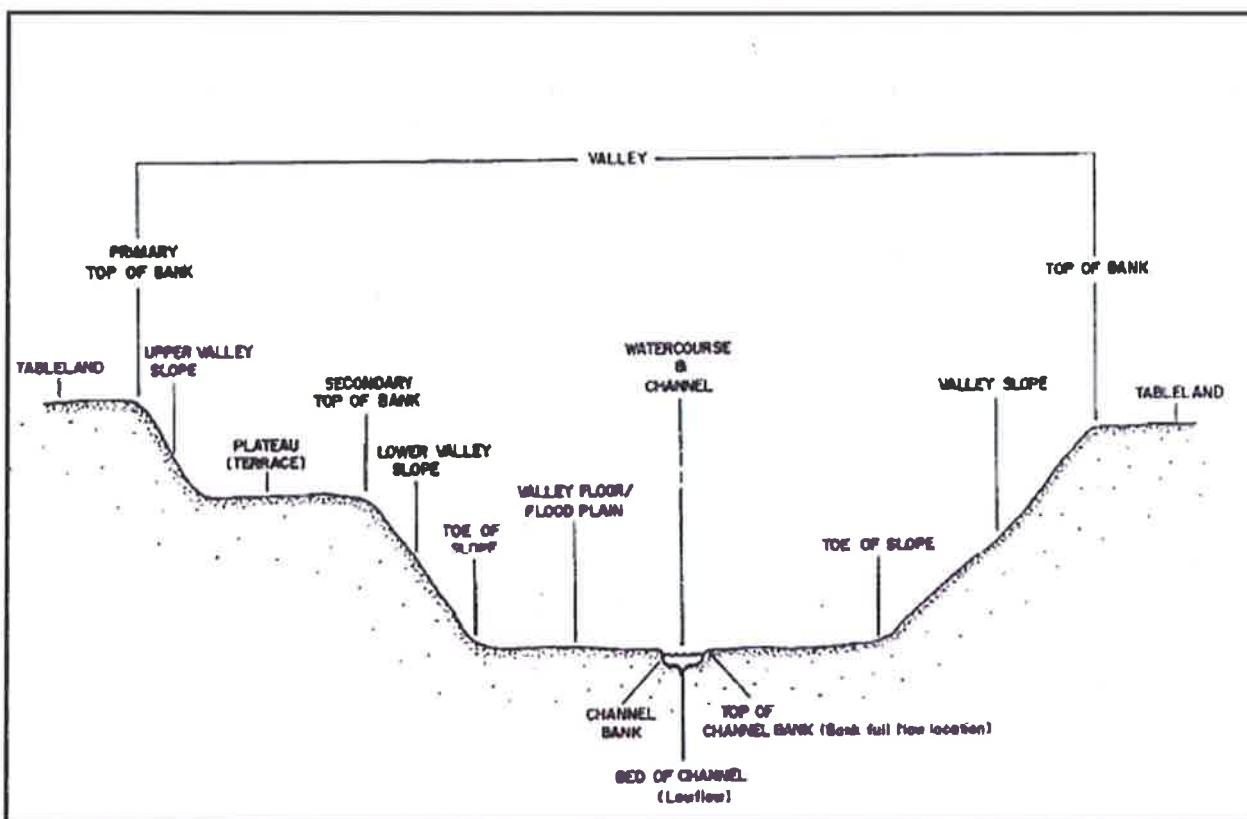


Figure 3: The Physical features of A Typical Valley

The following policies shall apply to all valleylands where slope is greater than or equal to 3 metres in height:

### 3.25.1 Physical Top of Slope

Where the Physical Top of Slope is required to be established, site inspections with the applicant and Authority staff are to be undertaken. The NPCA Approved Physical Top of Slope shall be marked in the field. The applicant will then submit drawings indicating the surveyed location of the NPCA Approved Physical Top of Slope for NPCA review and approval.

### 3.25.2 Stable Top of Slope

The Physical Top of Slope and the Stable Top of Slope may be coincident. However, in some cases, due to specific on-site conditions (such as slope inclination, proximity of the watercourse to the toe of slope, soil conditions, erosion, etc.) the Stable Top of Slope may not be located at the Physical Top of Slope, but rather may be located landward from the Physical Top of Slope.

The Stable Top of Slope is to be established by a professional geotechnical engineer utilizing the guidelines and manuals outlined in Section 5, to the satisfaction of NPCA staff. Where no geotechnical assessment has been undertaken, the Stable Top of Slope is based on a line projected upwards from the base of the slope at a 3:1 (horizontal to vertical) angle. In addition to the requirements outlined in Section 5, the geotechnical assessment must take into consideration, and make recommendations pertaining to: construction equipment/access; limit of work area; vegetation protection; sediment and erosion controls; drainage; etc.

### 3.25.3 Slope Stability

#### 3.25.3.1 Stable Slopes

Where the stability of the slope has been previously confirmed (i.e. the Physical Top of Slope is at the same location as the Stable Top of Slope), or where a natural valley slope which through field inspection of surficial conditions does not reveal evidence of:

- : outward tilting of trees,
- : toe Erosion at the base of the Slope,
- : slumping, gulying or other visibly evident Erosion process,
- : the addition of Fill material,
- : containing an easily eroding soil type (ie. the Short Hills area of Pelham contains soil types which are highly erodible and easily susceptible to gully Erosion), and
- : where the angle of the Slope is gentler than 3(H):1(V),

the following policies apply:

A minimum setback of 7.5 metres (25 feet) from the NPCA Approved Physical Top of Slope (surveyed by the applicant in accordance with Policy 3.25.1) will be required, to ensure perpetual stability of the slope and for the purposes of Conservation of Land, for all Development including swimming pools, subsurface sewage disposal system and the placement of Fill. The valley shall be maintained in a natural state and there shall be no disturbance of grades or vegetation below the Physical Top of Slope or within the 7.5m setback.

For newly created lots through plan of subdivision or NPCA approved consent applications which are being developed in greenfield or brownfield situations, the rear lot lines or side lot lines (as the case may be) shall be set back 7.5m from the NPCA Approved Physical Top of Slope. The NPCA will consult with the local municipality in "infilling" situations to discuss site specific constraints to this policy.

### 3.25.3.2 Unstable Slopes

Where the instability of the slope has been previously confirmed (i.e. the Physical Top of Slope is not at the same location as the Stable Top of Slope), or where a natural valley Slope which through field inspection of surficial conditions reveals evidence of:

- : outward tilting of trees,
- : toe Erosion at the base of the Slope,
- : slumping, gullyng or other visibly evident Erosion process,
- : the addition of Fill material,
- : containing an easily eroding soil type (ie. the Short Hills area of Pelham contains soil types which are highly erodible and easily susceptible to gully Erosion), or
- : where the angle of the Slope is steeper than 3(H):1(V).

the following policies shall apply:

A Geotechnical Investigation, undertaken by a qualified geotechnical engineer, shall be required by Authority staff in all cases of Development, where the Slope characteristics identified above are found. A minimum setback of 7.5 metres (25 feet) from the NPCA Approved Stable Top of Slope (as indicated by the commissioned Geotechnical Investigation) will be required for stability purposes and the Conservation of Land, for all Development including swimming pools, Subsurface sewage disposal systems, and the placement of Fill.

For newly created lots (i.e. severance and plans of subdivision), the rear lot lines or side lot lines (as the case may be) shall be set back 7.5m from the NPCA Approved Stable Top of Slope. The valley shall be maintained in a natural state and there shall be no disturbance of grades or vegetation below the Physical Top of Slope.

The Geotechnical Investigation may determine that setbacks greater than 7.5 metres are required to address the site specific Slope characteristics.

At the discretion of the Conservation Authority, applicants may be required to update geotechnical reports, should the recommendations of these reports not be implemented within one year of the original analysis that has been approved by the appropriate agencies.

### 3.25.4 Existing Development Within and Adjacent to Valleylands

- 1) Where buildings and structures already exist within 15 metres of the Stable Top of Slope and a 7.5 metre publicly owned access is not provided adjacent to the Stable Top of Slope the following policies will apply:

Any replacement (same size and use) or additions to the existing buildings and structures may be permitted subject to the following:

- i) the replacement or addition does not encroach any closer to the Stable Top of Slope than the existing development at its closest point;
  - ii) even if existing development is closer than 7.5 metres to the Stable Top of Slope, no new development is permitted within 7.5 metres of the Stable Top of Slope in order to provide for an erosion access allowance as per the Provincial Policy Statement;
  - iii) a geotechnical assessment by a qualified engineer (at the expense of the applicant), may be required to determine the location of the Stable Top of Slope and to determine if the proposed development would have a negative impact on slope stability. See Section 5 for study requirements; and,
  - iv) In cases where the building or structure can be reasonably relocated outside of the setback the applicant will be encouraged to do so.
- 2) For Existing Lots adjacent to Slopes (bank height equal to or greater than 3 metres), a minimum setback of 7.5 metres (25 feet) from the NPCA Approved Physical Top of Slope as surveyed by the applicant shall be required for stability purposes and the Conservation of Land, for all Development, Buildings, and Structures (including swimming pools).

A reduction in this setback will only be considered in cases of unusual circumstances where an Existing Lot of Record contains insufficient depth to accommodate required setbacks and a Geotechnical Investigation reveals that some infringement within the setback area, together with mitigative measures can be accommodated on-site while maintaining bank stability and will result in no adverse long term environmental impacts. In no case shall the setback reduction be such that Development is allowed beyond the Physical Top of Slope.

- 3) In specific cases where Buildings, Structures or private access roads already exist on a valley wall, Reconstruction or alteration may be permitted subject to the following:
- a) Best efforts must be undertaken to relocate the existing Structure outside of the valley and associated tableland Regulation Limit.
  - b) A qualified professional must complete a geotechnical study to determine the risk of the proposed work. The study will include an assessment of the stability of the valley wall, rate of Erosion or recession of the valley wall, access issues and an assessment of the construction technique on the valley wall. The design of any works must ensure that the long-term stability of the valley wall is maintained and that no risk to life or property damage is anticipated.
  - c) No adverse environmental impacts to existing natural features and functions.

### 3.25.5 Required Valleyland Construction Practices

The Authority shall require that overland drainage be directed away from valley Slopes, in the review of lot grading and drainage plans for new Development, in areas located immediately adjacent to a natural valley system.

The Authority shall require that an appropriate limit-of-work fence be located a minimum of 3.0 metres (10 feet) from the surveyed Top of Slope or at the drip line of trees within a setback area, whichever is greater and be maintained during construction to discourage dumping of Fill material and disturbance of the vegetation on the valley Slope, itself and limit the amount of soil compaction that could damage or suffocate the tree root systems.

The Authority shall require the re-establishment of vegetation on disturbed valley Slopes to minimize soil loss during and after construction.

**MEMO TO: Development and Technical Services Staff**

**DATE: June 14, 2013**

**RE: Policy Implementation – Interim Directive # 13-2 - Riverine Slopes/Valleylands**

As you are likely aware, the NPCA has begun the process of undertaking a comprehensive Policy Review and Update as detailed in Report # 20-13 which was approved at the March 20, 2013 Board meeting. In the interim, the following direction is being provided to staff by senior management.

Section 3.25 of NPCA's current "Policies, Procedures and Guidelines for the Administration of Ontario Regulation 155/06 and Land Use Planning Document" (PPGD) outlines general requirements for works in valley lands. Briefly put, significant updates and broadening of permissible activities will be necessary to recognize implications stemming from a recent Provincial Superior Court ruling. This is a relatively complex and technical policy section and preparation of more detailed guidance will be provided in the pending policy update. In the interim, please ensure comments are consistent with the following:

As a guideline, the following works may be considered for approval under Ontario Regulation 155/06 within a natural valley lands, but only where: slopes are stable or will be stabilized as part of the proposal and all Planning Act Approvals are in place:

- stairs and/or decks;
- utilities (i.e. storm sewers, solar panel arrays);
- other minor non-habitable structures (i.e. storage shed, gazebo) that have an area of less than 10 sq.m;
- access roads for existing lots of record, where no other alternative outside the valley exists;
- parking, inground pools and septic systems may be established in the stable top of bank set bank area;
- structures required for erosion control and/or bank stability (i.e. retaining wall, storm outfall structures);

Depending on the ecological habitat of the valley, a scoped EIS may be required to determine impacts and recommend appropriate mitigation measures. While this must be assessed on a site specific basis, some common sense needs to be used for small projects with little potential for negative impacts.

In all cases, proposed works on a valley slope must be supported by and designed in accordance with an geotechnical assessment appropriate for the magnitude of the works. In this regard, for new and or works that have a significant risk associated with them (i.e. pools, large decks, etc.) the geotechnical investigation should be based on current and adequate field investigation (i.e. borehole samples, groundwater levels) and the report and design must be able to assure that the works and adjacent valley slope will remain stable over the long term. As a minimum, the geotechnical report should address the expected lifecycle of the works. In this regard, 30 years would be appropriate for most non-essential works/infrastructure, however this will need to be considered on a case specific basis.

**In any case, when determining appropriate design and/or study requirements for works on slopes, please consult with the Supervisor, Construction Permit Approvals or the Water Resources Engineer.**

**In terms of processing these types of works, until the policy document is formally revised, most permit applications for new slope works (with the exceptions of replacements and erosion/slope stabilization) will need to be approved by the Board and proponents should be advised accordingly.**

**Finally, for valley work proposals involving Planning Act processes and approvals please consult with your Manager. In some areas, municipal by-laws have more restrictive slope requirements and NPCA must be mindful to not undermine local municipal bylaw objectives.**

**If you have any further questions, please see your Manager. Thank you for your cooperation.**

A handwritten signature in blue ink, appearing to be 'J. K.', written in a cursive style.

**John Kukalis,  
Director of Water Management**

**cc. S. McInnes, Manager, Development Services  
B. Wright, Manager, Technical Services**

3c



# Policies, Procedures and Guidelines for the Administration of Ontario Regulation 155/06

## FINAL WORKING PAPER - MAY 2013 (NPCA Development Process Sub Committee – Technical Working Group)

CONFIDENTIAL ONLY



DRAFT



#### 1.4.3.5 New Development - Stable Slopes

Where the stability of the slope has been previously confirmed the following policies apply:

##### a) Lot Lines

For newly created lots the NPCA will generally require the rear lot lines or side lot lines (as the case may be) to be set back a minimum of **1.0 metres** from the NPCA Approved Stable Top of Slope.

##### b) Habitable Buildings

i) A minimum setback of **7.5 metres** (25 feet) from the NPCA Approved Stable Top of Slope will be required for all new development of habitable buildings and/or structures.

##### c) Other Works Permitted

The following works may be permitted within the natural valleylands where slopes are stable:

- stairs and/or decks
- utilities (i.e. storm sewers, solar panel arrays);
- other minor non-habitable structures (i.e. storage shed, gazebo) that have an area of less than 10 m<sup>2</sup>;
- access roads for existing lots of record, where no other alternative outside the valley exists;
- parking, inground pools and septic systems may be established in the stable top of bank set bank area
- structures required for erosion control and/or bank stability (i.e. retaining wall, storm outfall structures);

i) In all cases, proposed works must be supported by and designed in accordance with an appropriate geotechnical engineering investigation which confirms that the works and valley slope will remain stable over the long term.

ii) Measures must be undertaken to ensure erosion will not result from drainage of any non-porous surfaces

iii) Depending on the scope of works proposed and the ecological habitat of the valley, an EIS may be required to determine ecological impacts and recommend appropriate mitigation measures.

iv) All works under this section will require prior issuance of a permit under O.Reg.155/06

#### 1.4.3.6 New Development - Unstable Slopes

When new development is contemplated adjacent to unstable slopes, the proponent will be encouraged wherever possible to undertake works to stabilize the slope (i.e. retaining walls, geogrid rebuild, etc.).

Where the instability of the slope has been previously confirmed the following policies shall apply:

##### a) Determination of Stable Top of Slope

Where a slope, in the opinion of NPCA exhibits any signs indicative of instability including those identified 1.4.3.2, the NPCA will require the proponent to undertake a detailed and field sample based Geotechnical Study to determine the location of the Stable Top of Slope. Studies based on "assumed conditions" only will not be accepted. Study requirements are further detailed in **Technical Appendix XX**.

In unstable slope situations, the stable area for building is typically located further into the tableland than

the setbacks associated with a stable top of slope or in other words, typically greater than 7.5 metres.

**b) Lot Lines**

For newly created lots the rear lot lines or side lot lines (as the case may be) shall be set back a **minimum 1.0 metres from the Approved Stable Top of Slope** as per the NPCA Approved Geotechnical Study.

**c) Building and Site Alteration**

i) A minimum setback of 7.5 metres (25 feet) from the NPCA Approved Stable Top of Slope (as determined by the Geotechnical Investigation noted in a) above; will be required for any and all new development and/or site alteration. The Geotechnical Investigation may determine that setback required is greater than 7.5 metres from the physical Top of Slope are required to address the site specific Slope characteristics.

**d) Other Works Permitted**

For valleylands with **slopes that are demonstrating signs indicative of instability** as noted previously in this section, the only works that will be permitted beyond the stable top of slope are:

- i) works and/or structures required to stabilize the slope (i.e. retaining wall, geogrid) and; works for erosion control (i.e. rip rap, storm outfall structures).
- ii) Depending on the scope of works proposed and the ecology of the valley, an EIS may be required to determine ecological impacts and recommend appropriate mitigation measures.
- iii) All works under this section will require prior issuance of a permit under O.Reg.155/06.

**1.4.3.7 Existing Developed Areas Within and Adjacent to Valleylands**

- 1) Where dwellings, buildings and structures (including private access roads) already exist within a valleyland replacement (same size and use) and/or additions to the existing buildings and structures may be permitted subject to the following:
  - i) where an existing habitable building does not encroach beyond the top of slope, the replacement or addition shall not encroach any closer to the Top of slope than the existing development at its closest point;
  - ii) where an existing habitable building is located beyond the top of slope, the replacement or addition shall not intrude any further into the valley than the existing building;
  - iii) a geotechnical assessment by a qualified engineer will be required to determine if/how the structure and/or addition can be constructed to ensure that the structure and valley will remain stable over the long term.
  - iv) a scoped EIS may be required to determine ecological impacts and recommend appropriate mitigation measures.
  - v) in cases where the building or structure can be reasonably relocated outside of the Stable Top of Slope Setback, the applicant will be encouraged to do so.
- 2) Where Existing Lots contain adjacent valley lands (bank height equal to or greater than 3 metres):
  - i) a minimum setback of 7.5 metres (25 feet) from the NPCA Approved Physical Top of Slope shall be required for construction of habitable buildings
  - ii) a reduction in this setback will only be considered in cases of unusual circumstances where an Existing Lot of Record contains insufficient depth to accommodate required setbacks and a Geotechnical Investigation reveals that some infringement within the setback area, can be

accommodated while maintaining long term stability of the structure and slope. In no case shall the setback reduction be such that development is allowed beyond the Physical Top of Slope.

iii) a scoped EIS may be required to determine ecological impacts and recommend appropriate mitigation measures.

#### 1.4.4 Shoreline Hazards & Development Policies – General

NPCA's waterfront jurisdiction includes shorelines associated with Lake Ontario and Lake Erie. The general and specific shoreline policies within this document restrict *development* within the shoreline hazardous lands that are impacted by **flooding, erosion and dynamic beach hazards**. The shoreline hazard limit is the furthest landward extent of the aggregate of the previously noted hazards.

The basic objectives of the shoreline policies are to minimize risk to life, property damage, social disruption and adverse environmental impacts. The limits outlined in this section will apply in all instances unless it can be shown to the satisfaction of the Authority and through valid engineering studies (by a qualified professional), at the expense of the proponent, that other allowance limits will maintain the integrity of the feature in question.

It should be noted that the **flooding, erosion and slope hazards associated with Great Lakes Shorelines are subject to different constraints** than those risks associated as previously outlined for Riverine Valleys. **As such, different policies apply to works along and adjacent to the Great Lakes.**

##### a) Great Lake Erosion Hazard and Slope Stability Hazard

The shorelines undergo a continuous change of form and configuration under the action of the natural processes of erosion and sedimentation. Erosion and slope stability are two different processes, which are often associated together. Erosion is the loss of soil at the ground surface, while slope failures consist of a large mass of soil sliding along a planar surface. The erosion process gradually washes away the soils by water movement from wave action, rainfall/surface runoff and seepage. Nonetheless, along shoreline slopes, sustained waves from storms or high lake levels may produce slopes failures influenced by toe erosion.

In the absence of detailed Geotechnical Information and/or a robust shorewall, **the stable top of bank along the shoreline is based on a 3:1 slope projected upwards from the base of the slope.** Thus, in cases where the slope of the existing bank has an inclination steeper than 3:1 (horizontal to vertical), the stable top of bank may be located landward from the physical top of bank.

##### b) Great Lakes Flooding Hazard

Flooding has historically and repeatedly caused considerable damage along shorelines. Shorelines may experience various magnitudes and durations of shoreline flooding as the result of a combination of:

- high static water levels due to abnormal precipitation and runoff;
- wave action or "uprush" from storm induced wind setups;
- other water related hazards, such as ice jamming and piling.

**The flooding hazard as shown on NPCA mapping is determined using engineering science to determine the influence of the 100 year flood level plus a 15 metre horizontal setback for wave**

# **ATTACHMENT No.4**

**Conservation Authorities Act  
Loi sur les offices de protection de la nature**

**ONTARIO REGULATION 155/06**

**NIAGARA PENINSULA CONSERVATION AUTHORITY: REGULATION OF DEVELOPMENT,  
INTERFERENCE WITH WETLANDS AND ALTERATIONS TO SHORELINES AND  
WATERCOURSES**

**Consolidation Period:** From February 3, 2013 to the [e-Laws currency date](#)

Last amendment: O. Reg. 71/13.

*This Regulation is made in English only.*

**Definition**

1. In this Regulation,

"Authority" means the Niagara Peninsula Conservation Authority. O. Reg. 155/06, s. 1.

**Development prohibited**

2. (1) Subject to section 3, no person shall undertake development or permit another person to undertake development in or on the areas within the jurisdiction of the Authority that are,

- (a) adjacent or close to the shoreline of the Great Lakes-St. Lawrence River System or to inland lakes that may be affected by flooding, erosion or dynamic beaches, including the area from the furthest offshore extent of the Authority's boundary to the furthest landward extent of the aggregate of the following distances:
  - (i) the 100 year flood level, plus the appropriate allowance for wave uprush shown in the most recent document entitled "Lake Ontario Shoreline Management Plan" available at the head office of the Authority,
  - (ii) the 100 year flood level, plus the appropriate allowance for wave uprush shown in the most recent document entitled "Lake Erie Shoreline Management Plan" available at the head office of the Authority,
  - (iii) the predicted long term stable slope projected from the existing stable toe of the slope or from the predicted location of the toe of the slope as that location may have shifted as a result of shoreline erosion over a 100-year period,
  - (iv) where a dynamic beach is associated with the waterfront lands, the appropriate allowance inland to accommodate dynamic beach movement shown in the most recent document entitled "Lake Ontario Shoreline Management Plan" available at the head office of the Authority, and
  - (v) where a dynamic beach is associated with the waterfront lands, the appropriate allowance inland to accommodate dynamic beach movement shown in the most recent document entitled "Lake Erie Shoreline Management Plan" available at the head office of the Authority;
- (b) river or stream valleys that have depressional features associated with a river or stream, whether or not they contain a watercourse, the limits of which are determined in accordance with the following rules:
  - (i) where the river or stream valley is apparent and has stable slopes, the valley extends from the stable top of bank, plus 15 metres, to a similar point on the opposite side,
  - (ii) where the river or stream valley is apparent and has unstable slopes, the valley extends from the predicted long term stable slope projected from the existing stable slope or, if the toe of the slope is unstable, from the predicted location of the toe of the slope as a result of stream erosion over a projected 100-year period, plus 15 metres, to a similar point on the opposite side,
  - (iii) where the river or stream valley is not apparent, the valley extends the greater of,
    - (A) the distance from a point outside the edge of the maximum extent of the flood plain under the applicable flood event standard, to a similar point on the opposite side, and
    - (B) the distance of a predicted meander belt of a watercourse, expanded as required to convey the flood flows under the applicable flood standard, to a similar point on the opposite side;
- (c) hazardous lands;

# **ATTACHMENT No.5**

Français

## Conservation Authorities Act

R.S.O. 1990, CHAPTER C.27

Consolidation Period: From June 6, 2011 to the [e-Laws currency date](#)

Last amendment: 2011, c. 9, Sched. 27, s. 22.

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Definitions

(18) If a person does not comply with an order made under subsection (17), the authority having jurisdiction may, in the case of a development, have it removed and, in the case of a watercourse or wetland, have it rehabilitated. 1998, c. 18, Sched. I, s. 12.

**Liability for certain costs**

(19) The person convicted is liable for the cost of a removal or rehabilitation under subsection (18) and the amount is recoverable by the authority by action in a court of competent jurisdiction. 1998, c. 18, Sched. I, s. 12.

**Powers of entry**

(20) An authority or an officer appointed under a regulation made under clause (1) (d) or (e) may enter private property, other than a dwelling or building, without the consent of the owner or occupier and without a warrant, if,

- (a) the entry is for the purpose of considering a request related to the property for permission that is required by a regulation made under clause (1) (b) or (c); or
- (b) the entry is for the purpose of enforcing a regulation made under clause (1) (a), (b) or (c) and the authority or officer has reasonable grounds to believe that a contravention of the regulation is causing or is likely to cause significant environmental damage and that the entry is required to prevent or reduce the damage. 1998, c. 18, Sched. I, s. 12.

**Time of entry**

(21) Subject to subsection (22), the power to enter property under subsection (20) may be exercised at any reasonable time. 1998, c. 18, Sched. I, s. 12.

**Notice of entry**

(22) The power to enter property under subsection (20) shall not be exercised unless,

- (a) the authority or officer has given reasonable notice of the entry to the owner of the property and, if the occupier of the property is not the owner, to the occupier of the property; or
- (b) the authority or officer has reasonable grounds to believe that significant environmental damage is likely to be caused during the time that would be required to give notice under clause (a). 1998, c. 18, Sched. I, s. 12.

**No use of force**

(23) Subsection (20) does not authorize the use of force. 1998, c. 18, Sched. I, s. 12.

**Offence: obstruction**

(24) Any person who prevents or obstructs an authority or officer from entering property under subsection (20) is guilty of an offence and on conviction is liable to a fine of not more than \$10,000. 1998, c. 18, Sched. I, s. 12.

**Definitions**

(25) In this section,

“development” means,

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

“hazardous land” means land that could be unsafe for development because of naturally occurring processes associated with flooding, erosion, dynamic beaches or unstable soil or bedrock; (“terrain dangereux”)

“pollution” means any deleterious physical substance or other contaminant that has the potential to be generated by development in an area to which a regulation made under clause (1) (c) applies; (“pollution”)

“watercourse” means an identifiable depression in the ground in which a flow of water regularly or continuously occurs; (“cours d’eau”)

“wetland” means land that,



# **ATTACHMENT No.6**

QA

## Widdifield, Lara

---

**From:** Widdifield, Lara  
**Sent:** October 2, 2013 11:12 AM  
**To:** Kevin Fitzpatrick (Kevin.Fitzpatrick@genivar.com)  
**Cc:** 'mpassero@silvergatehomes.com'  
**Subject:** RE: 26 Hillcrest Ave, SC - Pool beyond top of slope

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Kevin,

Thank you for the submission of the Slope Stability Assessment for 26 Hillcrest Avenue, St. Catharines, in support of an in-ground pool beyond the top of slope. Unfortunately, if we had known you and the landowner were contemplating moving ahead with the project, it would have been prudent to arrange additional pre-consultation so that we could have discussed the application process, thereby preventing unnecessary expenses and delays for the landowner.

Although the NPCA has recently adopted a more flexible and permissive approach to proposed development on valley slopes, current NPCA Policy and future direction does not have provisions for approval of an in-ground pool beyond the top of slope. Accordingly, a permit application for an in-ground pool below the top of bank cannot be supported by staff and would need to be referred to the Full Authority Board (our Board of Directors) for a hearing under Ontario Regulation 155/06. I have outlined the hearing process below.

If your client wishes to pursue the application, please submit the permit application form (attached) and the processing fee of \$260 (accessory structures). In order to consider the application complete, we would also require a site plan showing the proposed pool and any associated decking, stairs, and slope grading works, with sufficient dimensions to property lines to locate the work accurately on the property and on our hazard mapping. We will also need confirmation from the municipality that a planning application is not required for the proposed work.

At that point, and due to current policies, staff would recommend refusal of the permit, and the application will be referred to the NPCA Board of Directors for a hearing. The Authority will give, by registered mail or personal service, written notice by of the date and time of the hearing, together with a brief description of the application, to the applicant or designated agent and the Board of Directors. Where the Notice of Hearing is given to the applicant or their designated agent by registered mail, it shall be sent to the address given in the application.

Upon hearing evidence submitted by the applicant or their designated agent, and reviewing any other information submitted in support or rejection of the application, the NPCA Board of Directors shall approve (with or without conditions) or refuse the application. Upon refusal of the application or if permission is granted subject to conditions, the Board of Directors shall give written response to the applicant, including reasons, for its decision. Should the Board refuse a permit, the applicant may appeal to the Mining and Lands Commissioner.

A hearing for refusal of permission cannot proceed unless the applicant or their designated agent is present. If the applicant or agent does not appear at a hearing, the application will be held in abeyance.

I trust that the above clarifies the NPCA's position on this matter. Should you have any additional questions or concerns, please contact the undersigned.

Regards,

Lara Widdifield, C.E.T.  
Supervisor, Construction Permit Approvals

**Niagara Peninsula Conservation Authority**

250 Thorold Road West, 3rd Floor

Welland, ON, L3C 3W2

Phone: 905-788-3135 ext. 229

Fax: 905-788-1121

Email: [lwiddifield@npca.ca](mailto:lwiddifield@npca.ca)

Website: [www.npca.ca](http://www.npca.ca)



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**From:** Kevin Fitzpatrick [<mailto:Kevin.Fitzpatrick@genivar.com>]

**Sent:** September 6, 2013 6:19 PM

**To:** Widdifield, Lara

**Cc:** Michael Passero ([mpassero@silvergatehomes.com](mailto:mpassero@silvergatehomes.com))

**Subject:** FW: 26 Hillcrest Ave, SC

Lara

Attached please find our geotechnical report regarding 26 Hillcrest Avenue in St Catharines .  
Please contact us if you require additional information

Kevin

**Kevin Fitzpatrick P.Eng.** | Senior Project Engineer - Environment

905-687-1771

**From:** Widdifield, Lara [<mailto:lwiddifield@npca.ca>]

**Sent:** Thursday, August 22, 2013 11:42 AM

**To:** Kevin Fitzpatrick

**Subject:** 26 Hillcrest Ave, SC

Kevin,

I apologize for the delay on this response, but NPCA staff have been grappling with the policy implications of the proposed in-ground pool beyond the top of bank at 26 Hillcrest Avenue. Due to concerns over long-term slope stability issues, our Policy does not allow this type of development. Should the landowner wish to apply for a permit, staff would be forced to recommend refusal of the application. However, a recent court ruling has determined that, should the landowner wish to prove the proposed development will be safe and stable in the long-term, he/she has the right to attempt to demonstrate this to the Niagara Peninsula Conservation Authority Board of Directors.

That said, we also recommend the landowner approach the City with respect to whether or not planning approvals are required in order to allow the pool construction. One of our Planners contacted the City to check on the zoning for the land, and found out there is a large portion of the lot that is zoned Environmental Preservation. While it appears the pool may not require rezoning, the City may require a 7.5m setback from the EP line, which would likely require a minor variance for the pool. Should a planning application be required, the Municipality or Region may have more restrictive requirements than our Regulation.

I am also told the City of St. Catharines is in the process of revising their Zoning Bylaw, in which the new version includes the entire valley as EP (i.e. the entire backyard would be EP). They are expecting the new ZBL to take effect approx. December 16/13.

I trust this clarifies the NPCA's position on this matter; however should you wish to discuss this further, please contact the undersigned.

Regards,

Lara Widdifield, C.E.T.  
Supervisor, Construction Permit Approvals  
**Niagara Peninsula Conservation Authority**  
250 Thorold Road West, 3rd Floor  
Welland, ON, L3C 3W2  
Phone: 905-788-3135 ext. 229  
Fax: 905-788-1121  
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Website: [www.npca.ca](http://www.npca.ca)



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New Generic  
Regulation permit ...

## Widdifield, Lara

---

**From:** Kevin Fitzpatrick <Kevin.Fitzpatrick@genivar.com>  
**Sent:** July 24, 2013 9:08 AM  
**To:** Widdifield, Lara  
**Subject:** RE: 26 Hillcrest St Catharines

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

**Categories:** 26 Hillcrest

Hi Lara – I'm in the office . I think the home owner was talking to Adam about this . pool is definitely beyond top of slope – its one of those areas where the mapped ToS line goes through the whole house so anything developed at all will be downslope .

It's a proposed pool built into the slope, not "on top", so this kind of development can actually unload the slope somewhat – ie we remove "heavy" dirt and replace it with "light" water. I agree with the concern regarding the fill and I considered boreholes- but since it's a pool, he is going to be digging out the soil anyway . Therefore its like a giant test pit (which can actually be better than boreholes in some cases since we expose a lot more soil for examination ) . So I told him that we would have to inspect the excavation once it was open before building the pool to ensure that our model was acceptable and that he had to be prepared to modify the development if this was required. This will definitely be a part of our report . If he was building a dwelling or some kind of outbuilding ( ie not digging a hole) Im pretty sure we would have recommended boreholes . Anyway that's our thinking call me to discuss

Kevin

**Kevin Fitzpatrick P. Eng** | Senior Project Engineer

***We've moved...***

55 King Street, Suite 601  
St. Catharines, Ontario L2R 3H5

***Phone and fax unchanged...***

(905) 687-1771 ext. 229 | mobile (905) 641 5317  
(Fax 905) 687-1773

[www.genivar.com](http://www.genivar.com)

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**From:** Widdifield, Lara [mailto:lwiddifield@npca.ca]  
**Sent:** Monday, July 15, 2013 2:22 PM  
**To:** Kevin Fitzpatrick  
**Subject:** 26 Hillcrest St Catharines

Hi Kevin,

I just took a look at this letter... I haven't heard of any proposals for work at this site – I see they are proposing a pool beyond the top of slope. Are they challenging the location of the top of slope similar to #38? Do you envision boreholes would be required? I think boreholes may be appropriate considering there is fill at the top of slope plus the

slope is steeper near the house on this site than at #38. There appears to be a shallower slope partway down the lot but that may not help the situation much.

Let me know what you thought would be appropriate and I will consider it.

Regards,

Lara Widdifield, C.E.T.  
Supervisor, Construction Permit Approvals  
**Niagara Peninsula Conservation Authority**  
250 Thorold Road West, 3rd Floor  
Welland, ON, L3C 3W2  
Phone: 905-788-3135 ext. 229  
Fax: 905-788-1121  
Email: [lwiddifield@npca.ca](mailto:lwiddifield@npca.ca)  
Website: [www.npca.ca](http://www.npca.ca)



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**From:** Wills, Adam  
**Sent:** July 8, 2013 10:35 AM  
**To:** Widdifield, Lara  
**Subject:** FW: 26 Hillcrest St Catharines

Lara,

This probably should have been sent to you

Adam

**From:** Kevin Fitzpatrick [<mailto:Kevin.Fitzpatrick@genivar.com>]  
**Sent:** Tuesday, July 02, 2013 1:26 PM  
**To:** Wills, Adam  
**Subject:** 26 Hillcrest St Catharines

Adam

Please see this letter in regards to 26 Hillcrest in St Catharines . Please contact us with any questions .

Kevin

**Kevin Fitzpatrick P. Eng** | Senior Project Engineer

**We've moved...**  
55 King Street, Suite 601  
St. Catharines, Ontario L2R 3H5  
**Phone and fax unchanged...**

6B



July 2, 2013

Mr. Michael Passero  
26 Hillcrest Avenue  
St. Catharines, ON  
L2R 4Y1

via email

**Re: 26 Hillcrest Avenue, St. Catharines  
Preconsultation for Proposed Pool**

Dear Mr. Passero:

As per your request, GENIVAR Inc. (GENIVAR) is pleased to provide this letter for preconsultation purposes. Upon your review of this preconsultation letter, GENIVAR will complete an engineering analysis of the slope at your property for your proposed pool construction. A senior engineer with GENIVAR attended the property to discuss the proposed pool construction on May 27, 2013.

We understand that the proposed pool will be constructed at the approximate location shown in the attached sketch, provided by the property owner. The pool is proposed to be located west of the existing dwelling, on the top of the bank. We understand that some fill-type soils may be located in this area. The Niagara Peninsula Conservation Authority (NPCA) has requested that a geotechnical engineer complete a slope stability assessment of the slope and have been informed that GENIVAR has been retained to complete the assessment.

Based on our previous experience on similar properties along this part of 12-Mile Creek, we believe that the proposed construction could be safely supported subject to a detailed slope stability assessment, which will commence following preconsultation with the NPCA.

We trust this information is sufficient for your current purposes. If you have any questions or require further information, please contact us.

Yours truly,

**GENIVAR Inc.**

A handwritten signature in blue ink that reads 'Kevin Fitzpatrick'.

Kevin Fitzpatrick, P.Eng.  
Senior Project Engineer

cc: Niagara Peninsula Conservation Authority

Attachment: Sketch





# **ATTACHMENT No.7**



NIAGARA PENINSULA  
CONSERVATION  
AUTHORITY

Revised July, 2007  
APPLICATION FOR DEVELOPMENT, INTERFERENCE  
WITH WETLANDS, AND ALTERATIONS TO  
SHORELINES AND WATERCOURSES  
(Ontario Regulation 155/06)

210 The Great Lakes West, 6th Floor, Windsor, Ontario N9L 1C9  
Telephone: 505 268 1335 Fax: 505 268 1331

OFFICE USE ONLY

Date Received: \_\_\_\_\_

File No.: \_\_\_\_\_

\* Please correspond by email 07.13.13  
# 3346

NOTE: PLEASE READ "INFORMATION SHEET" AND FEE SCHEDULE BEFORE COMPLETING THIS APPLICATION FORM.  
THIS APPLICATION IS NOT COMPLETE UNTIL ALL REQUIRED DETAILS AND FEES ARE SUBMITTED.

LANDOWNER'S NAME Michael Passero

Address 26 Hillcrest Ave St. Catharines Postal Code L2R 4Y1

Telephone No. (Business) \_\_\_\_\_ (Residence) \_\_\_\_\_ (Fax) \_\_\_\_\_

Email passero.mp@gmail.com

NOTE: If applicant is not the Owner of the subject property, then a copy of an Offer to Purchase, or a written statement of intent to purchase (verified by the Owner), must be submitted with this application.

AGENT'S NAME \_\_\_\_\_

Address \_\_\_\_\_ Postal Code \_\_\_\_\_

Telephone No. (Business) \_\_\_\_\_ (Residence) \_\_\_\_\_ (Fax) \_\_\_\_\_

Email \_\_\_\_\_

LOCATION OF WORK: Lot(s) \_\_\_\_\_ Block(s) \_\_\_\_\_ Concession(s) \_\_\_\_\_ Reg. Plan 2

Municipality St. Catharines Former Township \_\_\_\_\_

Municipal Street Address 26 Hillcrest Ave. St. Catharines.

APPLICATION IS HEREBY MADE TO CARRY OUT ONE OR MORE OF THE FOLLOWING WORKS:

- Fill (including cut and fill proposals)
- New or Replacement Watercourse Crossings on Public Roads (e.g. bridges, culverts, low flow crossings, utility crossings)
- New or Replacement Dams (Where Permitted)
- Private Watercourse Crossings for Primary Access (e.g. driveway, footbridge, golf cart crossing)
- Shoreline Protection Works
- Secondary Crossings (farm crossing)
- Stormwater Outfall
- Buildings, Additions or Reconstructions
- Accessory Structures (inground pools, decks and docks)
- Erosion Protection Works (including bio-engineering), Channelizations & Dredging Works
- Diversion of Water (Where Permitted)
- Selective Pond, Watercourse & Shoreline Works (e.g. woody debris removal)
- New Pond Construction (connected to a watercourse)

Purpose of Proposed Works: Inground Pool

PROPOSED COMMENCEMENT DATE OF WORK 01/02/14

PROPOSED COMPLETION DATE OF WORK 06/30/14

I understand that the information contained in this application form is accurate to the best of my knowledge and that staff of the Niagara Peninsula Conservation Authority will undertake a detailed inspection of the subject property as part of the application review process.

[Signature]  
Signature of Landowner

\_\_\_\_\_  
Signature of Applicant or Agent (if different from Owner)

Michael Passero  
Print Name

\_\_\_\_\_  
Print Name

DATED AT 10/16/13 THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20 \_\_\_\_\_.



Project No: 131-19030-00

September 6, 2013

Michael Passero  
26 Hillcrest Street  
St Catharines, ON L2R 4Y1

**Re: Slope Stability Assessment Results  
26 Hillcrest Street, St. Catharines, Ontario**

Dear Mr. Passero:

At the request of Mr. Michael Passero (owner), GENIVAR Inc. (GENIVAR) has completed an assessment of the slope at 26 Hillcrest Street, St Catharines, Ontario (site). The site is developed with a two-storey residential dwelling near the crest of the slope. The owner plans to install a pool in his rear yard. The Niagara Peninsula Conservation Authority (NPCA) reviewed the file. In summary, the NPCA suggested that a qualified geotechnical engineer complete a study to assess whether the proposed construction will negatively affect the slope. The purpose of this letter report is to address this requirement. Our analysis is limited to an assessment of the stability of the slope and not meant to provide advice to contractors or others for construction purposes for the pool.

## 1. Investigation Methodology

Ontario Base Mapping of the slope, historic air photos of the property, and NPCA watershed mapping (2012) were reviewed as input to slope analysis. The slope face was inspected in the field July 8, 2013, for signs of instability and/or movement, and the existing slope geometry and slope inclination were confirmed in the field to assist in creating a cross-section profile.

GENIVAR modeled the cross section slope profile using Slope/W software (Geostudio 2007, GEO-SLOPE International, LTD), producing the 10 more significant slip surfaces. A Morgenstern-Price analysis was used to evaluate the Factor of Safety (FOS) for a selected 2-dimensional section. The location of the cross-section is labelled as A – A' on the Site Plan (Figure 1).

## 2. Site Background and Field Observations

The location of the proposed construction is on an existing relatively flat terraced section of the owner's rear yard. No excessive erosion, soil cracking, soil movement or evidence of instability of the existing slope was observed at the time of the site visit. Some mature trees exist on the slope surface and evidence of removed trees is also present, particularly near the toe of the slope. No

groundwater seeps or springs were observed on the slope. Based on conversations with the owner, and comparison of the slope to adjacent properties, some relatively thin fill soils likely exist in the area of the proposed pool. A conservative assumption is that up to two metres of fill has been placed on the slope of 26 Hillcrest which tapers off downslope. Photographs of the slope are attached.

Inspection of some exposed soils at the Site determined that new surface soils were fine grained clayey silts, conforming with Halton Till deposits as indicated on regional mapping for the Site (Quaternary Geology, Data Set 14 Revised, Ontario Geological Survey, 2000). Halton Till is described as a silty and clayey till soil (The Physiography of Southern Ontario, Third Edition, Chapman and Putnam, 1984).

### 3. Slope Stability Analysis

A two-dimensional equilibrium analysis was made of the native slope geometry, and one slope was modelled with the proposed construction changes under different parameters. The Factor of Safety (FOS) was determined for existing slope conditions at cross-section A – A' using Slope/W software, as shown in Figure 3. The construction of the pool into the existing native soils is not assumed to alter the loading on the slope. Native soil is being “replaced” by water and a rigid pool structure of similar or lower mass.

Exposed soils at the site were fine grained which is consistent with regional mapping for the Site as having Halton Till type soils. The following conservative soil properties for the Halton-Till and fill were assumed for the calculation:

- Unit weight of fill = 19 kN/m<sup>3</sup>
- Unit weight of Halton Till = 19.5 kN/m<sup>3</sup>
- Cohesion of fill = 0 kPa
- Cohesion of Halton Till = 20 kPa
- Friction angle of fill = 28 degrees
- Friction angle of Halton Till = 30 degrees
- Water table as shown in the model outputs

The analysis does not include three-dimensional effects (arching effects) which would tend to improve bank stability.

The analysis of section A – A' showed that the current existing slope has a FOS of 1.12. This is less than the normal minimum factor of safety of 1.4. We note that this potential failure surface occurs within the shallow fill soils only to a maximum depth of approximately 0.3 m and is not considered significant. We have made no allowance for the anchoring effects of existing vegetation which would improve this value.

An additional slope was modelled demonstrating the effect of the pool, assuming saturated soil conditions (“pool leak”), as shown in Figure 4. The lowest FOS for a significant failure (ie. a deeper failure affecting the native soils) was 1.55. Our assessment results and findings are indicative of stable slope conditions, and no significant deep-seated movement of soil towards 12 Mile Creek is expected within the assessment area as a result of pool construction.

## 4. Recommendations

In conclusion, GENIVAR has completed a site inspection and a slope stability analysis for an application to construct a proposed pool at 26 Hillcrest Street, St. Catharines, Ontario. Our investigation indicates that the presently existing slope is stable from a global perspective, but shallow fill soils are below ideal stability conditions. The pool construction would not negatively affect the stability of the slope. We have no objections to the construction, as described, since it does not negatively impact the slope; however, additional measures should be considered in the future to increase the existing Factor of Safety.

- The pool excavation should be inspected to confirm the assumptions of this report and to confirm that suitable native soils are present at depth.
- All drainage associated with the development should be directed to the base of the slope to limit the potential for excessive erosion.
- Vegetation should be replaced and maintained following construction.

## 5. Limitations

This report is based on the existing site conditions and our understanding of the proposed construction. Our comments are based on the observed site conditions at the time of our inspection, and assumed soil parameters which we believe fairly represent the mapped subsurface materials. GENIVAR has not conducted intrusive surveys of the site, or assessments of any potential future development or effects on the slope area.

This is not an assessment of the swimming pool design. Our analysis is an assessment of the soil stability of the slope and is not intended as instructions to pool designers or contractors.

We trust this report satisfies your requirements. Please contact our office if you have any questions

Yours truly,

**GENIVAR Inc.**



Zen Keizars, M.Sc.  
Project Manager



Kevin Fitzpatrick, P.Eng  
Senior Project Engineer

Attachments: Figures  
Site Photographs

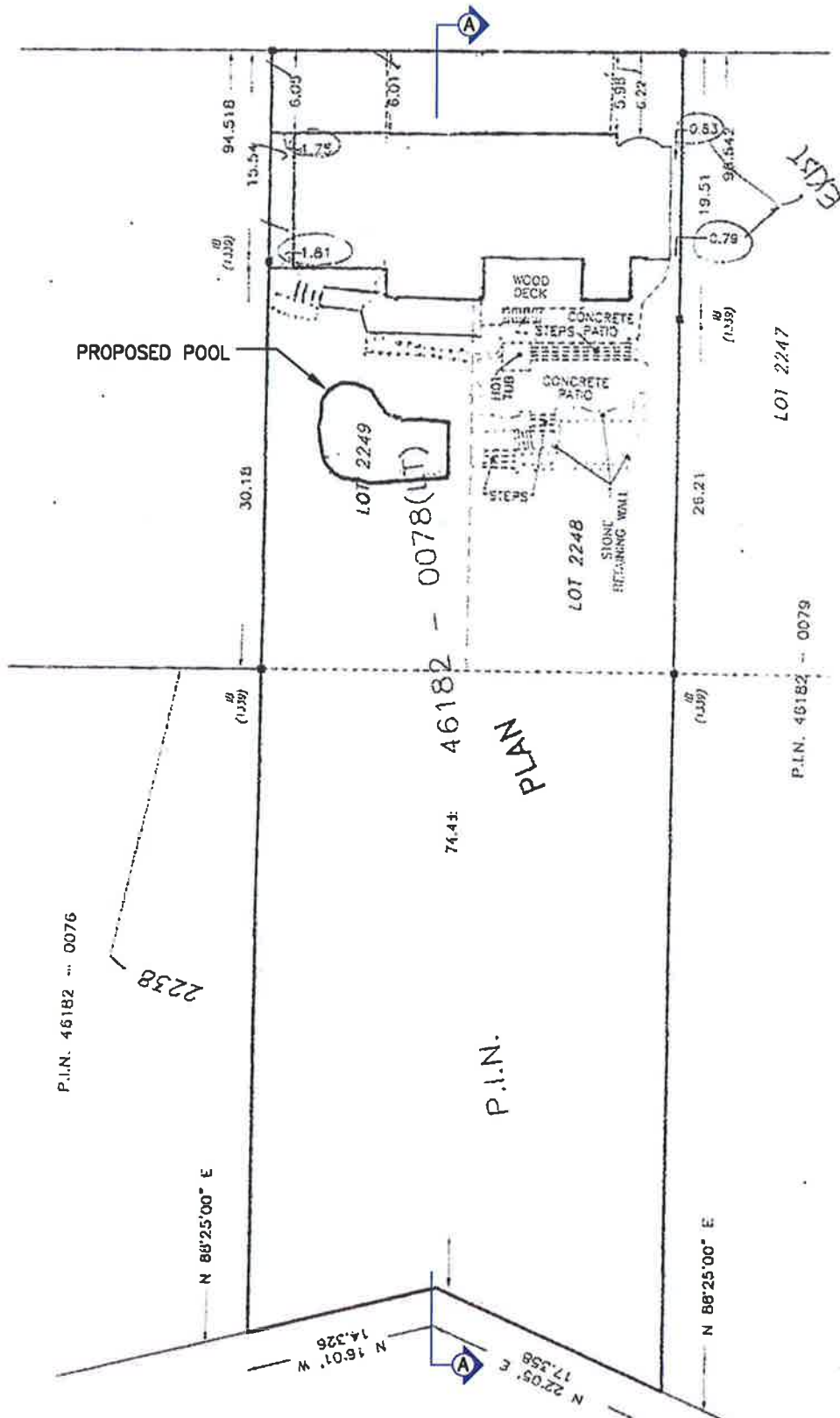
## Site Photographs



*At the bottom of the site facing up toward the slope*



*First Terrace*



**LEGEND**

SCALES: NTS  
 REF. NO.: -  
 DATE: JULY 2013  
 PROJECT: 131-19030-00

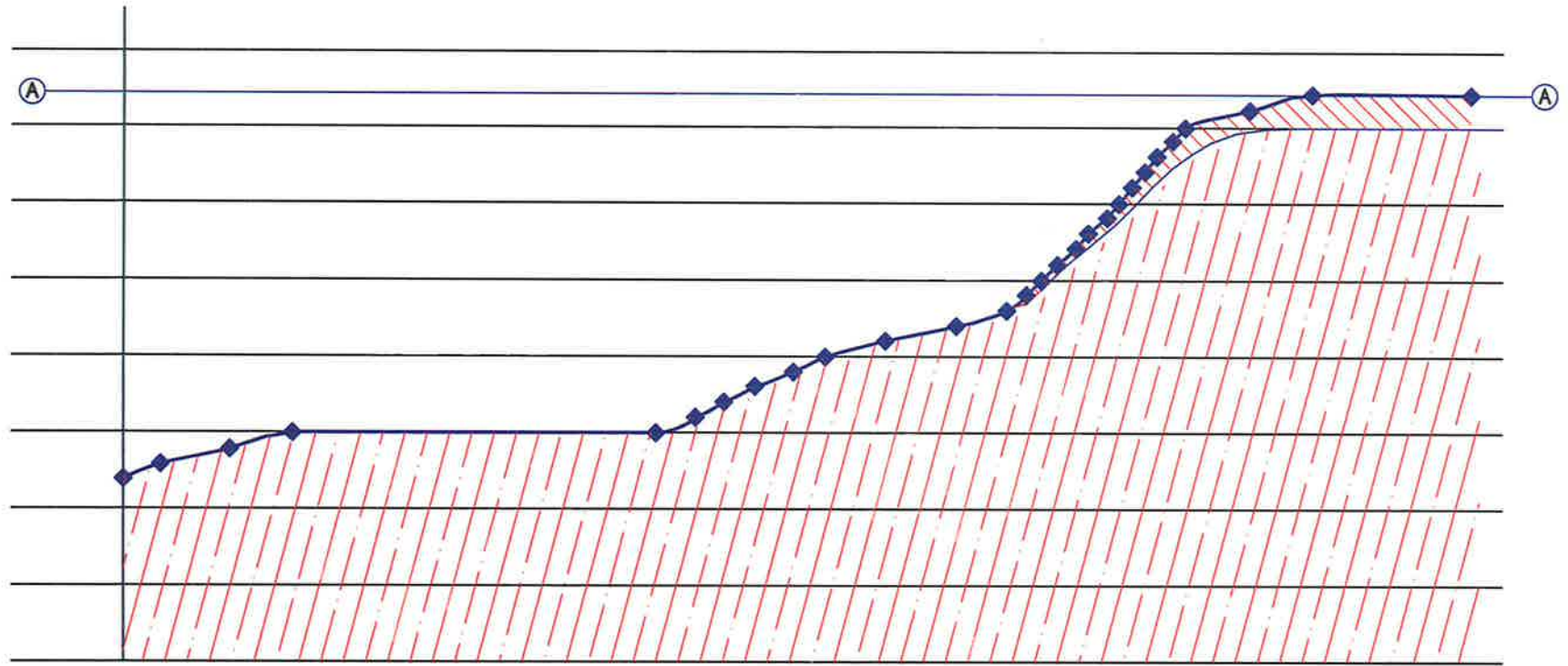


**SITE PLAN**

PROPOSED POOL LOCATION  
 PASSERO RESIDENCE  
 26 HILLCREST RD.  
 ST. CATHARINES, ONT

FIGURE

**1**



SECTION A-A

**LEGEND**



FILL



CLAYEY SILTS

SCALES: NTS

REF. NO.:-

DATE: JULY 2013

PROJECT: 131-19030-00



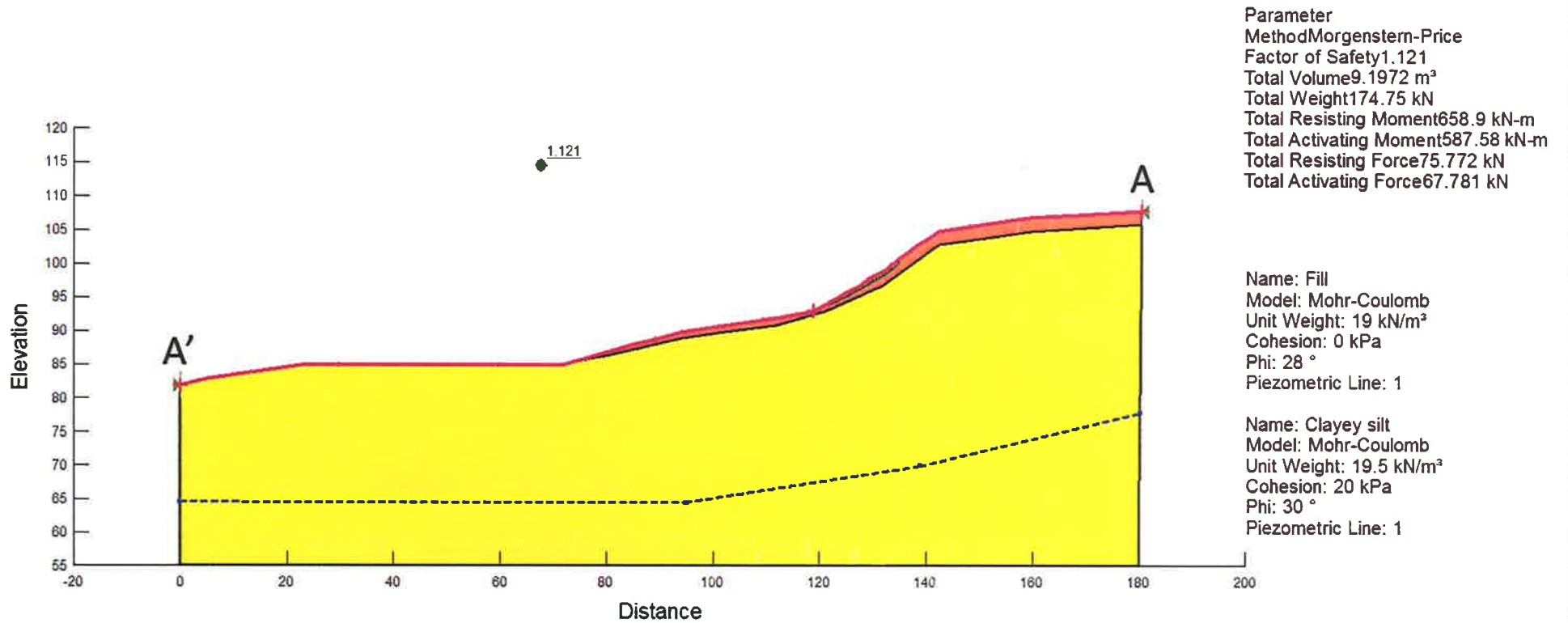
**SLOPE PROFILE**

PASSERO RESIDENCE  
26 HILLCREST RD.  
ST. CATHARINES, ONT

FIGURE

**2**





Slope evaluation of Section A – A’.

Model is evaluated based upon current natural conditions.

Units: meters (m)

Date: July, 2013

Proj: 131-19030-00

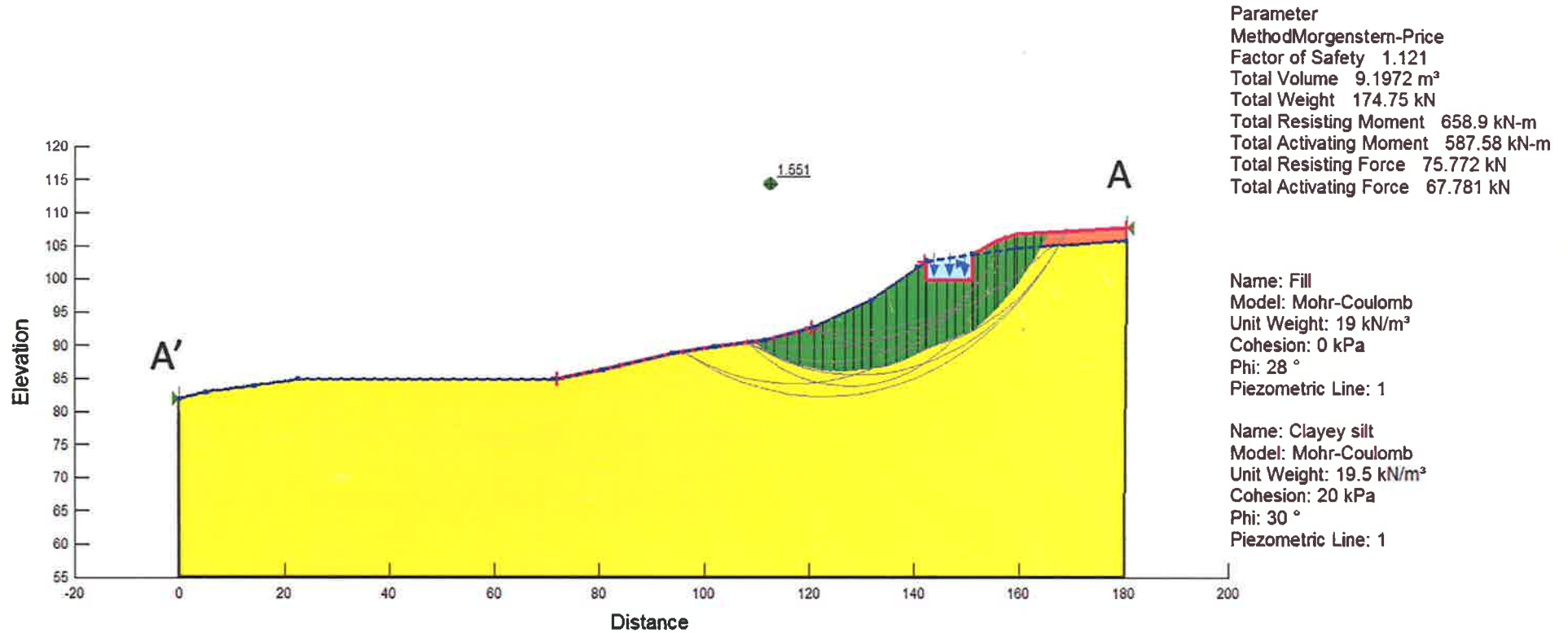


**PROFILE: Sections A – A’**

Michael Passero  
 26 Hillcrest Road,  
 St. Catharines, Ontario

FIGURE

**3**



Slope evaluation of Section A – A’.

Model is evaluated based upon assumed knowledge of current natural conditions and assumes fully saturated conditions.

Units: meters (m)

Date: July, 2013

Proj: 131-19030-00



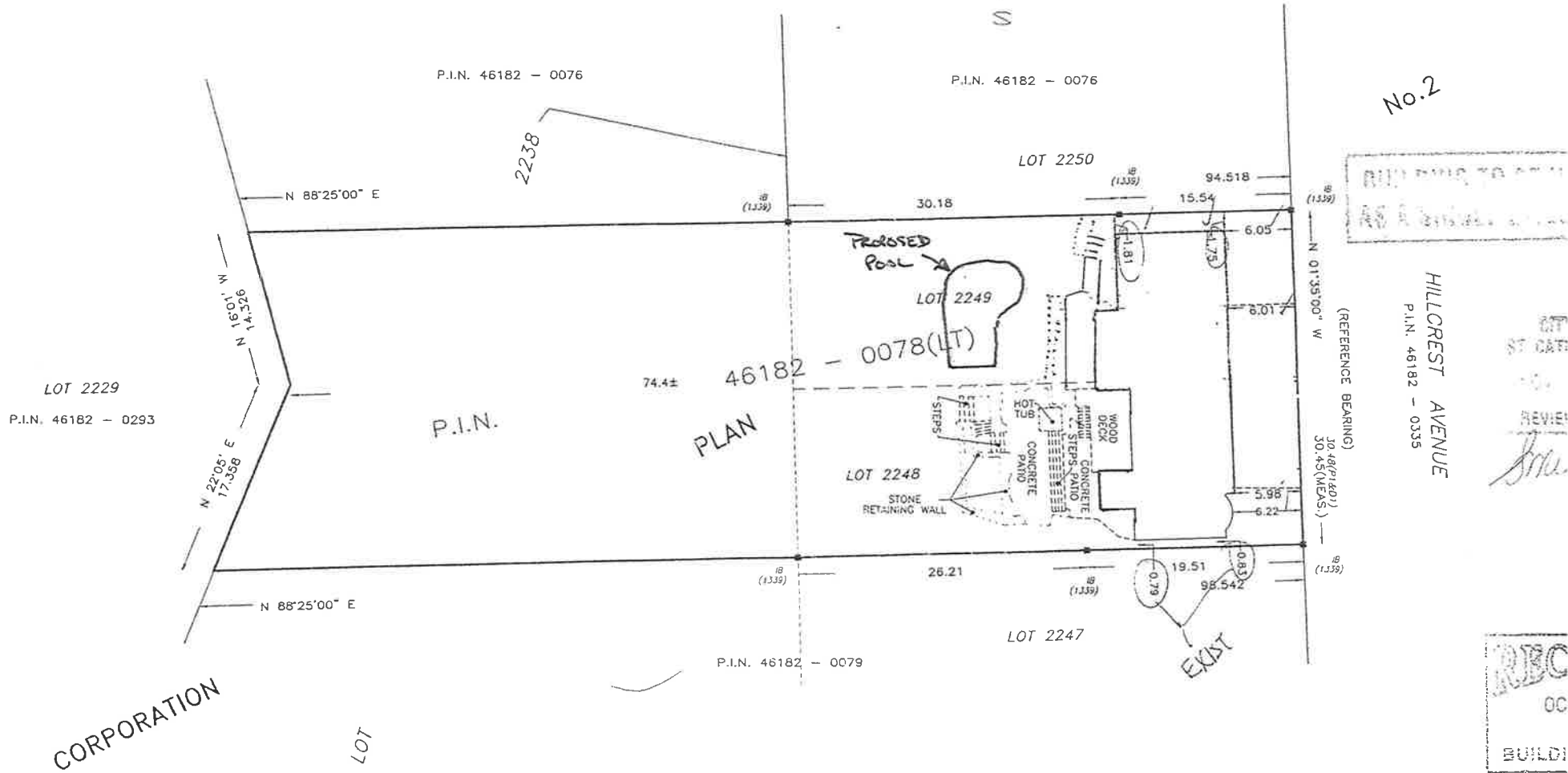
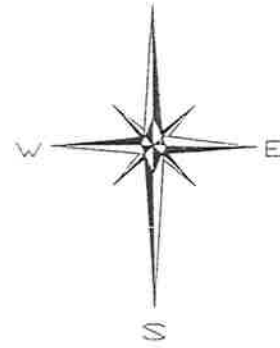
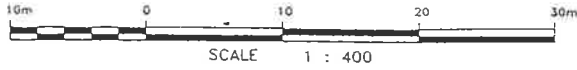
**PROFILE: Sections A – A’**

Michael Passero  
 26 Hillcrest Road,  
 St. Catharines, Ontario

FIGURE

4

CITY OF ST. CATHARINES  
REGIONAL MUNICIPALITY OF NIAGARA



**LEGEND**

- SIB DENOTES STANDARD IRON BAR
- IB DENOTES IRON BAR
- IT DENOTES IRON TUBE
- ⊕ DENOTES SURVEY MONUMENT SET
- ⊕ DENOTES SURVEY MONUMENT FOUND
- C.U. DENOTES ORIGIN UNKNOWN

NOTE

**SURVEYOR'S CERTIFICATE**

I CERTIFY THAT:

THIS SURVEY AND PLAN ARE CORRECT AND IN

PLAN AMMENDED OC

PART 2 OF THE SURV  
PROPERTY REPORT IS COI  
DATED SEPTEMBER 18, ;  
READ IN CONJUNCTION W

THIS REPORT WAS PREPARED BY

7C

# **ATTACHMENT No.8**

8A



NIAGARA PENINSULA  
**CONSERVATION**  
AUTHORITY

250 Thorold Road West, 3rd Floor, Welland, Ontario L3C 3W2  
Telephone 905.788.3135 | Facsimile 905.788.1121 | www.npca.ca

November 6, 2013

REG 07.13.131

Mr. Michael Passero  
26 Hillcrest Avenue  
St. Catharines, ON. L2R 4Y1

Dear Mr. Passero;

**RE: APPLICATION FOR A NPCA PERMIT IN ORDER TO CONSTRUCT AN IN-GROUND POOL AT 26 HILLCREST AVENUE, IN THE CITY OF ST. CATHARINES.**

The Niagara Peninsula Conservation Authority (NPCA) is in receipt of your application pursuant to the NPCA's *'Regulation of Development, Interference with Wetlands, and Alterations to Shorelines and Watercourses'* regulation (Ontario Regulation 155/06).

The NPCA understands that your proposal entails the construction of an in-ground swimming pool in the rear yard of the above address, in a location beyond the top of slope of the Twelve Mile Creek Valley.

NPCA staff would advise that pursuant to Ontario Regulation 155/06, no person shall undertake development on the areas within the jurisdiction of the Authority that are river or stream valleys that have depressional features associated with a river or stream, whether or not they contain a watercourse. Further, the NPCA's *'Policies, Procedures, and Guidelines for the Administration of Ontario Regulation 155/06 and Land Use Planning Document'* (dated December 12, 2007) indicates that: *'No new Development will be permitted within natural valleys where the bank height is equal to, or greater than 3 metres'*.

To summarize, NPCA staff have determined that your proposal will disturb the existing natural ravine and is contrary to NPCA Board policy. As such, NPCA staff would advise that a permit for your proposal cannot be issued.

The NPCA would note that in cases where NPCA staff does not support a permit application, the applicant has the right to appear before the NPCA Board Directors in order to present the merits of the application. The NPCA would further note that written notice of intent to appear at a Board of Director's meeting is required to be served at least 2 weeks before the meeting (undertaken on the third Wednesday of each month).

Should you have any questions regarding the above, please contact the undersigned.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Lara Widdifield'.

Lara Widdifield, C.E.T.  
Supervisor, Construction Permit Approvals

cc: Tony D'Amario, CAO/Secretary Treasurer, NPCA  
Suzanne McInnes, Manager, Watershed Development Services, NPCA



**NIAGARA PENINSULA  
CONSERVATION  
AUTHORITY**

250 Thorold Road West, 3rd Floor, Welland, Ontario L3C 3W2  
Telephone 905.788.3135 | Facsimile 905.788.1121 | www.npca.ca

By Certified Mail and email

January 2, 2014

REG 07.13.131

Mr. Michael Passero  
26 Hillcrest Avenue  
St. Catharines, ON L2R 4Y1

Dear Mr. Passero;

Subject: Application under NPCA's Regulation of Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulation (Ontario Regulation 155/06, as amended); 26 Hillcrest Avenue, City of St. Catharines, Region of Niagara, Twelve Mile Creek Watershed

Further to your emailed correspondence dated November 25, 2013, it is our understanding that you intend to appear before the Full Authority Board on the matter of the above application at the January 2014 Board Meeting. As such, please find enclosed the official Notice of Hearing related to the subject application, pursuant to the Conservation Authorities Act, R.S.O. 1990, Chapter 27. The notice specifies, among other things, the time and location of the hearing, as well as deadlines for written submission of information you would like the Full Authority Board to consider.

Please also find enclosed a copy of the Section 28(3) Conservation Authorities Act Hearing Guidelines, October 2005.

Should you have any questions regarding the above, please contact the undersigned.

Sincerely,

A handwritten signature in black ink, appearing to read "Tony D'Amario".

Tony D'Amario; P. Eng.  
CAO / Secretary- Treasurer  
/lc

cc: Suzanne McInnes, Manager, Watershed Development Services, NPCA  
Lara Widdifield, C.E.T. Supervisor, Construction Permit Approvals, NPCA

**NOTICE OF HEARING**

**IN THE MATTER OF**  
The Conservation Authorities Act,  
R.S.O. 1990, Chapter 27

**AND IN THE MATTER OF** an application by  
**Michael Passero**

**FOR THE PERMISSION OF THE**  
**NIAGARA PENINSULA CONSERVATION AUTHORITY**  
Pursuant to Regulations made under  
Section 28, Subsection 12 of the said Act

**TAKE NOTICE THAT** a Hearing before the Executive Committee of the Conservation Authority will be held under Section 28, Subsection 12 of the Conservation Authorities Act at the offices of the said Authority (250 Thorold Road West, 3<sup>rd</sup> Floor, Welland, Ontario), at the hour of 7:00 pm, **on the day of January 15, 2014**, with respect to the application by **Michael Passero** to permit development within an area regulated by the Authority in order to ensure no adverse effect on **the control of erosion** on Lots 2248 and 2249, Plan 2, **26 Hillcrest Avenue**, in the City of St. Catharines, Regional Municipality of Niagara, Twelve Mile Creek Watershed.

**TAKE NOTICE THAT** you are invited to make a delegation and submit supporting written material to the Full Board for the meeting of **January 15, 2014**. If you intend to appear, please contact **Lisa Conte at 905-788-3135, extension 250**. Written material will be required by **January 9, 2014**, to enable the Full Board members to review the material prior to the meeting.

**TAKE NOTICE THAT** this hearing is governed by the provisions of the Statutory Powers Procedure Act. Under the Act, a witness is automatically afforded a protection that is similar to the protection of the Ontario Evidence Act. This means that the evidence that a witness gives may not be used in subsequent civil proceedings or in prosecutions against the witness under a Provincial Statute. It does not relieve the witness of the obligation of this oath since matters of perjury are not affected by the automatic affording of the protection. The significance is that the legislation is Provincial and cannot affect Federal matters. If a witness requires the protection of the Canada Evidence Act that protection must be obtained in the usual manner. The Ontario Statute requires the tribunal to draw this matter to the attention of the witness, as this tribunal has no knowledge of the affect of any evidence that a witness may give.

**AND FURTHER TAKE NOTICE** that if you do not attend at this Hearing, the Executive Committee of the Conservation Authority may proceed in your absence, and you will not be entitled to any further notice in the proceedings.

**DATED** the 2<sup>nd</sup> day of, January 2014

The Full Board of the Niagara Peninsula  
Conservation Authority  
Per:  
Chief Administrative Officer/Secretary-Treasurer

**SECTION 28 (3)**

**CONSERVATION AUTHORITIES ACT**

**HEARING GUIDELINES**

**October 2005**

**Amended for use by NPCA, October, 2011**



**Conservation  
ONTARIO**  
*Natural Champions*



**Ministry of Natural Resources  
Ministère des Richesses naturelles**



## **SECTION 28 (3)**

### **CONSERVATION AUTHORITIES ACT**

#### **HEARING GUIDELINES**

**October 2005**

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**Peter Krause, Chairman  
Conservation Ontario**

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**Gail L. Beggs, Deputy Minister  
Ministry of Natural Resources**

## **Section 28 (12), Conservation Authorities Act - Hearing Guidelines**

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## **1.0 PURPOSE OF HEARING GUIDELINES:**

The purpose of the Hearing Guidelines is to reflect the changes to the 1998 Conservation Authorities Act. The Act requires that the applicant be party to a hearing by the local Conservation Authority Board, or Executive Committee (sitting as a Hearing Board) as the case may be, for an application to be refused or approved with contentious conditions. Further, a permit may be refused if in the opinion of the Authority the proposal adversely affects the control of flooding, pollution or conservation of land, and additional erosion and dynamic beaches. The Hearing Board is empowered by law to make a decision, governed by the Statutory Powers Procedures Act. It is the purpose of the Hearing Board to evaluate the information presented at the hearing by both the Conservation Authority staff and the applicant and to decide whether the application will be approved with or without conditions or refused.

These guidelines have been prepared as an update to the October 1992 hearing guidelines and are intended to provide a step-by-step process to conducting hearings required under Section 28 (12), (13), (14) of the Conservation Authorities Act. Similar to the 1992 guidelines, it is hoped that the guidelines will promote the necessary consistency across the Province and ensure that hearings meet the legal requirements of the Statutory Powers Procedures Act without being unduly legalistic or intimidating to the participants.

## **2.0 PREHEARING PROCEDURES**

### **2.1 Apprehension of Bias**

In considering the application, the Hearing Board is acting as a decision-making tribunal. The tribunal is to act fairly. Under general principles of administrative law relating to the duty of fairness, the tribunal is obliged not only to avoid any bias but also to avoid the appearance or apprehension of bias. The following are three examples of steps to be taken to avoid apprehension of bias where it is likely to arise.

- (a) No member of the Authority taking part in the hearing should be involved, either through participation in committee or intervention on behalf of the applicant or other interested parties with the matter, prior to the hearing. Otherwise, there is a danger of an apprehension of bias which could jeopardize the hearing.
- (b) If material relating to the merits of an application that is the subject of a hearing is distributed to Board members before the hearing, the material shall be distributed to the applicant at the same time. The applicant may be afforded an opportunity to distribute similar pre-hearing material.
- (c) In instances where the Authority (or Executive Committee) requires a hearing to help it reach a determination as to whether to give permission with or without conditions or refuse a permit application, a final decision shall not be made until such time as a hearing is held. The applicant will be given an opportunity to attend the hearing before a decision is made; however, the applicant does not have to be present for a decision to be made.

Individual Conservation Authorities shall develop a document outlining their own practices and procedures relating to the review and reporting of Section 28 applications, including the role of staff, the applicant and the Authority or Executive Committee as well as, the procedures for the hearing itself. Such policy and procedures manual shall be available to the members of the public upon request. These procedures shall have regard for the above information and should be approved by the Conservation Authority Board of Directors.

## **2.2 Application**

The right to a hearing is required where staff is recommending refusal of an application or where there is some indication that the Authority or Executive Committee may not follow staff's recommendation to approve a permit or the applicant objects to the conditions of approval. The applicant is entitled to reasonable notice of the hearing pursuant to the Statutory Powers Procedures Act.

## **2.3 Notice of Hearing**

The Notice of Hearing shall be sent to the applicant within sufficient time to allow the applicant to prepare for the hearing. To ensure that reasonable notice is given, it is recommended that prior to sending the Notice of Hearing, the applicant be consulted to determine an agreeable date and time based on the local Conservation Authority's regular meeting schedule.

The Notice of Hearing must contain the following:

- (a) Reference to the applicable legislation under which the hearing is to be held (i.e., the Conservation Authorities Act).
- (b) The time, place and the purpose of the hearing.
- (c) Particulars to identify the applicant, property and the nature of the application which are the subject of the hearing.

Note: If the applicant is not the landowner but the prospective owner, the applicant must have written authorization from the registered landowner.

- (d) The reasons for the proposed refusal or conditions of approval shall be specifically stated. This should contain sufficient detail to enable the applicant to understand the issues so he or she can be adequately prepared for the hearing.

It is sufficient to reference in the Notice of Hearing that the recommendation for refusal or conditions of approval is based on the reasons outlined in previous correspondence or a hearing report that will follow.

- (e) A statement notifying the applicant that the hearing may proceed in the applicant's absence and that the applicant will not be entitled to any further notice of the proceedings.

Except in extreme circumstances, it is recommended that the hearing not proceed in the absence of the applicant.

- (f) Reminder that the applicant is entitled to be represented at the hearing by counsel, if desired.

It is recommended that the Notice of Hearing be directed to the applicant and/or landowner by registered mail. Please refer to **Appendix A** for an example Notice of Hearing.

## **2.4 Presubmission of Reports**

If it is the practice of the local Conservation Authority to submit reports to the Board members in advance of the hearing (i.e., inclusion on an Authority/Executive Committee agenda), the applicant shall be provided with the same opportunity. The applicant shall be given two weeks to prepare a report once the reasons for the staff recommendations have been received. Subsequently, this may affect the timing and scheduling of the staff hearing reports.

## **2.5 Hearing Information**

Prior to the hearing, the applicant shall be advised of the local Conservation Authority's hearing procedures upon request.

## **3.0 HEARING**

### **3.1 Public Hearing**

Pursuant to the Statutory Powers Procedure Act, hearings are required to be held in public. The exception is in very rare cases where public interest in public hearings is outweighed by the fact that intimate financial, personal or other matters would be disclosed at hearings.

### **3.2 Hearing Participants**

The Conservation Authorities Act does not provide for third party status at the local hearing. While others may be advised of the local hearing, any information that they provide should be incorporated within the presentation of information by, or on behalf of, the applicant or Authority staff.

### **3.3 Attendance of Hearing Board Members**

In accordance with case law relating to the conduct of hearings, those members of the Authority who will decide whether to grant or refuse the application must be present during the full course of the hearing. If it is necessary for a member to leave, the hearing must be adjourned and resumed when either the member returns or if the hearing proceeds, even in the event of an adjournment, only those members who were present after the member left can sit to the conclusion of the hearing.

### **3.4 Adjournments**

The Board may adjourn a hearing on its own motion or that of the applicant or Authority staff where it is satisfied that an adjournment is necessary for an adequate hearing to be held.

Any adjournments form part of the hearing record.

### **3.5 Orders and Directions**

The Authority is entitled to make orders or directions to maintain order and prevent the abuse of its hearing processes. A hearing procedures example has been included as **Appendix B**.

### **3.6 Information Presented at Hearings**

- (a) The Statutory Powers Procedure Act, requires that a witness be informed of his right to object pursuant to the Canada Evidence Act. The Canada Evidence Act indicates that a witness shall be excused from answering questions on the basis that the answer may be incriminating. Further, answers provided during the hearing are not admissible against the witness in any criminal trial or proceeding. This information should be provided to the applicant as part of the Notice of Hearing.
- (b) It is the decision of the hearing members as to whether information is presented under oath or affirmation. It is not a legal requirement. The applicant must be informed of the above, prior to or at the start of the hearing.
- (c) The Board may authorize receiving a copy rather than the original document. However, the Board can request certified copies of the document if required.
- (d) Privileged information, such as solicitor/client correspondence, cannot be heard. Information that is not directly within the knowledge of the speaker (hearsay), if relevant to the issues of the hearing, can be heard.
- (e) The Board may take into account matters of common knowledge such as geographic or historic facts, times measures, weights, etc or generally recognized scientific or technical facts, information or opinions within its specialized knowledge without hearing specific information to establish their truth.

### **3.7 Conduct of Hearing**

#### **3.7.1 Record of Attending Hearing Board Members**

A record shall be made of the members of the Hearing Board.

### **3.7.2 Opening Remarks**

The Chairman shall convene the hearing with opening remarks which generally; identify the applicant, the nature of the application, and the property location; outline the hearing procedures; and advise on requirements of the Canada Evidence Act. Please reference **Appendix C** for the Opening Remarks model.

### **3.7.3 Presentation of Authority Staff Information**

Staff of the Authority presents the reasons supporting the recommendation for the refusal or conditions of approval of the application. Any reports, documents or plans that form part of the presentation shall be properly indexed and received.

Staff of the Authority should not submit new information at the hearing as the applicant will not have had time to review and provide a professional opinion to the Hearing Board.

Consideration should be given to the designation of one staff member or legal counsel who coordinates the presentation of information on behalf of Authority staff and who asks questions on behalf of Authority staff.

### **3.7.4 Presentation of Applicant Information**

The applicant has the opportunity to present information at the conclusion of the Authority staff presentation. Any reports, documents or plans which form part of the submission should be properly indexed and received.

The applicant shall present information as it applies to the permit application in question. For instance, does the requested activity affect the control of flooding, erosion, dynamic beach or conservation of land or pollution? The hearing does not address the merits of the activity or appropriateness of such a use in terms of planning.

- The applicant may be represented by legal counsel or agent, if desired
- The applicant may present information to the Board and/or have invited advisors to present information to the Board
- The applicant(s) presentation may include technical witnesses, such as an engineer, ecologist, hydrogeologist etc.

The applicant should not submit new information at the hearing as the Staff of the Authority will not have had time to review and provide a professional opinion to the Hearing Board.

### **3.7.5 Questions**

Members of the Hearing Board may direct questions to each speaker as the information is being heard. The applicant and /or agent can make any comments or questions on the staff report.

Pursuant to the Statutory Powers Procedure Act, the Board can limit questioning where it is satisfied that there has been full and fair disclosure of the facts presented. Please note that the

courts have been particularly sensitive to the issue of limiting questions and there is a tendency to allow limiting of questions only where it has clearly gone beyond reasonable or proper bounds.

### **3.7.6 Deliberation**

After all the information is presented, the Board may adjourn the hearing and retire in private to confer. The Board may reconvene on the same date or at some later date to advise of the Board's decision. If the hearing is adjourned to another date, only members present during the previous hearing(s) may participate in discussion and/or decision. The Board members shall not discuss the hearing with others prior to the decision of the Board being finalized.

## **4.0. DECISION**

The applicant must receive written notice of the decision. The applicant shall be informed of the right to appeal the decision within 30 days upon receipt of the written decision to the Minister of Natural Resources.

It is important that the hearing participants have a clear understanding of why the application was refused or approved. The Board shall itemize and record information of particular significance which led to their decision.

### **4.1 Notice of Decision**

The decision notice should include the following information:

- (a) The identification of the applicant, property and the nature of the application that was the subject of the hearing.
- (b) The decision to refuse or approve the application. A copy of the Hearing Board resolution should be attached.

It is recommended that the written Notice of Decision be forwarded to the applicant by registered mail. A sample Notice of Decision and cover letter has been included as **Appendix D**.

### **4.2 Adoption**

A resolution advising of the Board's decision and particulars of the decision should be adopted.



## **5.0 RECORD**

The Authority shall compile a record of the hearing. In the event of an appeal, a copy of the record should be forwarded to the Minister of Natural Resources/Mining and Lands Commissioner. The record must include the following:

- (a) The application for the permit.
- (b) The Notice of Hearing.
- (c) Any orders made by the Board (e.g., for adjournments).
- (d) All information received by the Board.
- (e) The minutes of the meeting made at the hearing.
- (f) The decision and reasons for decision of the Board.
- (g) The Notice of Decision sent to the applicant

**Appendix A**

**NOTICE OF HEARING**

**IN THE MATTER OF**

The Conservation Authorities Act,  
R.S.O. 1990, Chapter 27

**AND IN THE MATTER OF** an application by

**FOR THE PERMISSION OF THE  
CONSERVATION AUTHORITY**

Pursuant to Regulations made under  
Section 28, Subsection 12 of the said Act

**TAKE NOTICE THAT** a Hearing before the Executive Committee of the Conservation Authority will be held under Section 28, Subsection 12 of the Conservation Authorities Act at the offices of the said Authority (ADDRESS), at the hour of , **on the day of , 2001**, with respect to the application by (**NAME**) to permit development within an area regulated by the Authority in order to ensure no adverse affect on (***the control of flooding, erosion, dynamic beaches or pollution or conservation of land./alter or interfere with a watercourse, shoreline or wetland***) on Lot , Plan/Lot , Concession , (**Street**) in the City of , Regional Municipality of , River Watershed.

**TAKE NOTICE THAT** you are invited to make a delegation and submit supporting written material to the Executive Committee for the meeting of (**meeting number**). If you intend to appear, please contact (**name**) . Written material will be required by (**date**), to enable the Committee members to review the material prior to the meeting.

**TAKE NOTICE THAT** this hearing is governed by the provisions of the Statutory Powers Procedure Act. Under the Act, a witness is automatically afforded a protection that is similar to the protection of the Ontario Evidence Act. This means that the evidence that a witness gives may not be used in subsequent civil proceedings or in prosecutions against the witness under a Provincial Statute. It does not relieve the witness of the obligation of this oath since matters of perjury are not affected by the automatic affording of the protection. The significance is that the legislation is Provincial and cannot affect Federal matters. If a witness requires the protection of the Canada Evidence Act that protection must be obtained in the usual manner. The Ontario Statute requires the tribunal to draw this matter to the attention of the witness, as this tribunal has no knowledge of the affect of any evidence that a witness may give.

**AND FURTHER TAKE NOTICE** that if you do not attend at this Hearing, the Executive Committee of the Conservation Authority may proceed in your absence, and you will not be entitled to any further notice in the proceedings.

**DATED** the \_\_\_ day of , \_\_\_\_\_ 200X

The Executive Committee of the  
Conservation Authority

Per:  
Chief Administrative Officer/Secretary-Treasurer

## **Appendix B**

### **HEARING PROCEDURES**

1. Motion to sit as Hearing Board.
2. Roll Call followed by the Chair's opening remarks.
3. Staff will introduce to the Hearing Board the applicant/owner, his/her agent and others wishing to speak.
4. Staff will indicate the nature and location of the subject application and the conclusions.
5. Staff will present the staff report included in the Authority/Executive Committee agenda.
6. The applicant and/or his/her agent will speak and also make any comments on the staff report, if he/she so desires.
7. The Hearing Board is open to the public and therefore, the Hearing Board will allow others to speak, and, if necessary, the applicant in rebuttal.
8. The Hearing Board will question, if necessary, both the staff and the applicant/agent.
9. The Hearing Board may move into camera.
10. Members of the Hearing Board will move and second a motion.
11. A motion will be carried which will culminate in the decision.
12. The Hearing Board will move out of camera.
13. The Chairman or Acting Chairman will advise the owner/applicant of the Hearing Board decision.
14. If decision is "to refuse", the Chairman or Acting Chairman shall notify the owner/applicant of his/her right to appeal the decision to the Minister of Natural Resources within 30 days of receipt of the reasons for the decision.
15. Motion to move out of Hearing Board and sit as Executive Committee.

## Appendix C

### CHAIR'S REMARKS WHEN DEALING WITH HEARINGS WITH RESPECT TO ONTARIO REGULATION 158

We are now going to conduct a hearing under section 28 of the Conservation Authorities Act in respect of an application by \_\_\_\_\_, for permission to: \_\_\_\_\_

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 affect on (the control of flooding, erosion, dynamic beaches or pollution or conservation of land) or to permit alteration to a shoreline or watercourse or interference with a wetland.

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 8) 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 Authority Board/Executive Committee is to determine whether or not a permit is to be issued. 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.

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 on the ground that the answer may tend to criminate the person, or may tend to establish his/her liability to a civil proceeding at the instance of the Crown or of any person.

The procedure in general shall be informal without the evidence before it being given under oath or affirmation unless decided by the hearing members.

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.

## Appendix D

(Date)

**BY REGISTERED MAIL**

(name)

(address)

Dear:

**RE: NOTICE OF DECISION  
Hearing Pursuant to Section 28(12) of the Conservation Authorities Act  
Proposed Residential Development  
Lot , Plan ; ?? Drive City of  
(Application #)**

In accordance with the requirements of the Conservation Authorities Act, the (name) Conservation Authority provides the following Notice of Decision:

On (*meeting date and number*), the Hearing Board/Authority/Executive Committee refused/approved your application/approved your application with conditions. A copy the Boards/Committee's resolution # has been attached for your records. Please note that this decision is based on the following reasons: (*the proposed development/alteration to a watercourse or shoreline adversely affects the control of flooding, erosion, dynamic beaches or pollution or interference with a wetland or conservation of land*).

In accordance with Section 28 (15) of the Conservation Authorities Act, An applicant who has been refused permission or who objects to conditions imposed on a permission may, within 30 days of receiving the reasons under subsection (14), appeal to the Minister who may refuse the permission; or grant permission, with or without conditions. For your information, should you wish to exercise your right to appeal the decision, a letter by you or your agent/counsel setting out your appeal must be sent within 30 days of receiving this decision addressed to:

The Honourable David Ramsay  
Minister of Natural Resources  
Queen's Park, Whitney Block  
99 Wellesley Street West, 6th Floor, Room 6630  
Toronto, Ontario M7A 1W3  
TEL: (416) 314-2301 FAX: (416) 314-2216

Should you require any further information, please do not hesitate to contact (*staff contact*) or the undersigned.

Yours truly,

Chief Administrative Officer/Secretary Treasurer

Enclosure

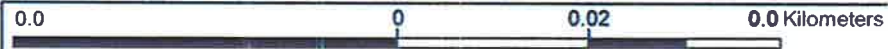


# 26 Hillcrest Avenue, St. Catharines



- Legend**
- NPCA ADMINISTRATIVE BOUNDARY
  - Corporate Watershed Divide N
  - DRAFT Slope Features**
    - Connectors
    - Top of Slope
    - .. Toe of Slope
    - .. Watercourse As Toe of Slope
    - Watercourse Centerline
  - Road Edges 2002
  - RMN Streets Labels**
    - Ham and Hald Streets (50K - 2)
    - Ham and Hald Streets
  - RMN Assessment Parcels
  - Ham and Hald Assessment Parcel
  - MEMBER MUNICIPALITY BOUNDARY
  - Member Municipal Boundary L
  - 2K HydroPoly
  - 2K Hydrography
  - Contours - 1m Region 2002
  - AIRPORTS
  - NPCA Watershed Municipalities
  - NPCA Extended Context Area
  - Surround**
    - Norfolk; New York; Grand Island; B
    - Lake Erie; Lake Ontario; Niagara R
  - Surround - Hamilton/Halton
  - 2010 Air Photos
- NIAGRA RASTER.GIS ADMIN

1: 632  
 12/4/2013



This map is for illustrative purposes only. Information contained hereon is not intended to constitute advice, is not a substitute for professional review or a site survey, and is subject to change without notice. The NPCA takes no responsibility for, nor guarantees, the accuracy of the information contained on this map. Any interpretations or conclusions drawn from this map are the sole responsibility of the user. THIS IS NOT A PLAN OF SURVEY.

**Notes**  
 Showing Top and Bottom of Slope, 1 metre contours, 2010 Aerial Imagery LW



**TO: The Chairman and Members of the Authority**

**DATE: January 9, 2014**

**SUBJECT: Request for Road Widening Conveyance – Woodend - Report No. 02-14**

In accordance with the Regional Road Allowance Policy, the Region is requesting a road allowance widening as part of the site plan approval for the District School Board of Niagara Living Campus Project (see attachment).

The widening will require the conveyance of 3.05 metres of NPCA property along the approximately 13.1 metre frontage on Regional Road 70 (Taylor Road)

Although the application is on behalf of the School Board, the Niagara Peninsula Conservation Authority as the owner would be required to give the conveyance to the Region.

The loss of the requested area would have no impact on the Woodend Conservation Area and accordingly staff recommends the NPCA approve the conveyance. The attached memo from the DSBN confirms the School Board will cover the costs for the reference plan and applicable fees.

**RECOMMENDATION:**

**Whereas the Regional Municipality of Niagara requires a Road Allowance Widening as part of the site plan approval for the Living Campus project at the Woodend Conservation Area; and**

**Whereas the District School Board of Niagara has agreed to cover costs relating to the reference plan and registration fees for the road allowance; and**

**Whereas the conveyance will in no way impact or affect the operations of the Woodend Conservation Area;**

**That the NPCA approves the conveyance of approximately 3.05 metres along the approximate 13.1 metre frontage of the Woodend Conservation Area property to the Regional Municipality of Niagara.**

Respectfully Submitted By:   
Tony D'Amario, P. Eng. CAO/ Secretary-Treasurer

**D'Amario, Tony**

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**Subject:** FW: Regional Road widening requirement for Walker Living Campus Site Plan

**From:** Bob Dunn [<mailto:Bob.Dunn@dsbn.org>]

**Sent:** Tuesday, January 07, 2014 9:54 PM

**To:** Chajka, Eugene

**Cc:** D'Amario, Tony; Lambert, Phill; Rusnak, Dave; Paterson, Stephanie; Taurins, Normans

**Subject:** Re: Regional Road widening requirement for Walker Living Campus Site Plan

Tony

Further to Eugene's email, I confirm that DSBN will cover costs relating to the reference plan and registration fees to enable the road widening as outlined.

If you have any questions or concerns, fell free to contact me at 905-641-2929, ext 54305.

thx

Bob

Bob Dunn  
Manager of Projects and Maintenance  
District School Board of Niagara.



## **D'Amario, Tony**

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**From:** Chajka, Eugene  
**Sent:** Tuesday, January 07, 2014 1:24 PM  
**To:** D'Amario, Tony  
**Cc:** Lambert, Phill; Rusnak, Dave; Paterson, Stephanie; Taurins, Normans; 'bob.dunn@dsbn.org'  
**Subject:** Regional Road widening requirement for Walker Living Campus Site Plan  
**Attachments:** Regional comments - Walker Living Campus - Woodend Conservation Area.pdf

Tony:

Further to our telephone conversation this morning, I am forwarding a copy of our letter to the Town of Niagara-on-the-Lake, requiring the applicant to convey a 3.05 meter road widening on the west side of Regional Road 70 (Taylor Road), as a condition of approval of the above site plan. As the property is owned by the Niagara Peninsula Conservation Authority, the conveyance would actually be given by the Conservation Authority, and I understand that you are prepared to seek your board's authority at its next meeting to do the same.

It is our understanding that the District School Board of Niagara (the applicant) will provide and pay for the reference plan and all registration fees to enable this road widening to be transferred to the Region.

By copy of this email to Bob Dunn of the DSBN, I am asking him to confirm the above.

Thank you in advance for your kind cooperation in this matter.

Regards,

**Eugene Chajka, P. Eng.**  
Development Approvals Manager  
Development Division  
Public Works  
Niagara Region  
Phone: 905-685-4225 ext. 3661 Toll-free: 1-800-263-7215  
Cell: 289-668-4536  
[www.niagararegion.ca](http://www.niagararegion.ca)

VIA E-MAIL ONLY

November 22, 2013

Jesse Auspitz  
Planner II  
Planning and Development Services  
Town of Niagara-On-The-Lake

**Application for Site Plan Control Agreement**  
**Applicant/Owner: District School Board of Niagara**  
**Proposal: Walker Living Campus at Woodend Conservation Area**  
**(Remove 2 Dilapidated Buildings and Construct New Building & Outdoor Seasonally Built**  
**"Tree" House for Educational Purposes)**  
**Location: Regional Road No.70 (Taylor Road)**  
**In the Town of Niagara-On-The-Lake**  
**Our File: D.19.05 SP-13-043**

---

Technical Staff of the Development Services Division have no objections to the Site Plan Control Agreement, although we have some concerns:

**Road Widening**

The subject property has frontage along Regional Road 70 (Taylor Road). This section of road has a substandard road allowance of approximately 17.0 metres. The designated road allowance is 26.2 metres.

Therefore, in accordance with the approved **Regional Road Allowance Policy (Amendment 2-2005 to the Official Plan for the Niagara Planning Area)**, we would require the applicant grant the following gratuitously to the Region:

- An approximate 3.05 metre road allowance widening across the frontage of the subject property, in order to achieve 13.1 metres from the centreline for this road section.

The widening is intended to accommodate future pavement widening and to provide sufficient boulevard area for an alternative alignment for sidewalk, utilities, snow storage and tree plantings. Please note that the daylight triangle at the northeast corner of the property will not be required in lieu of the road allowance.

The requested widening(s) is to be conveyed free and clear of any mortgages, liens or other encumbrances.

The widening is to be described by Reference Plan. The widening portion of the Plan will be the responsibility of the owner to order. The cost of providing this plan will be the full responsibility of the applicant. The applicant will arrange for the land surveyor for the property to submit the preliminary undeposited survey plan along with all related documents to the Regional Surveys Manager for approval.

The Regional Surveys Manager will advise the land surveyor of any required revisions to the plan. Once the plan is Deposited and the Transfer Registered, the Region will clear the above condition.

As this process can take an average of 8 weeks, the owner is encouraged to advise the Region of the name of the surveyor and legal contact that will be dealing with the widening.

Regional Contact information:

Stephanie Paterson, Properties Officer, Properties Group, (905) 685-4225 extension 3327. E-mail [stephanie.paterson@niagararegion.ca](mailto:stephanie.paterson@niagararegion.ca)  
(Inquiries -specific to the transfer of property to the Region)

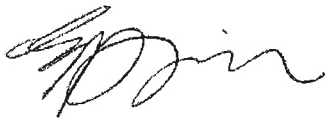
Normans Taurins, Manager, Regional Surveys & Property Information, (905)685-4225 extension 3325, E-mail: [normans.taurins@niagararegion.ca](mailto:normans.taurins@niagararegion.ca)

### **Private Sewage System**

Our private sewage systems inspection staff has inspected the above mentioned site and reviewed the site plan. Please be advised that we are currently working with Genivar on the approval of a sewage system design plan for the proposed development but this has not been completed. However, the large open area, North West of the existing driveway, is large enough and suitable for the installation of the new sewage disposal system.

Therefore, as long as that area is set aside for the sewage system, we would have no objections to the approval of the site plan.

Yours truly,



Eugene Chajka, P.Eng.  
Development Approvals Manager  
Development Services Division

SP 13-043, Woodend , DSBN, Regional Road No. 70 (Taylor Road) NOTL November 20, 2013

Cc Dino Maddalena  
Stephanie Paterson  
Normans Taurins



**TO: The Chairman and Members of the Authority**

**DATE: January 9, 2014**

**SUBJECT: 2014 – Projects and Initiatives - Report No. 03-14**

Below is a list of significant projects and initiatives that will form part of the work plan for 2014.

**Strategic Plan**

The final phase of the Strategic Plan preparation will be completed early in 2014 along with implementation of the first phases. In particular, it is envisioned that the NPCA will be undertaking the process to review the Land Acquisition Strategy as well as the Planning and Regulation Implementation Policies.

**Binbrook and St. John's Conservation Areas Master Plans**

It is expected that both master plans will be completed in 2014 with the Board reviewing recommendations for long term capital and programming needs.

**Woodend Living Campus**

The District School Board of Niagara has been planning their new facility at the Woodend Conservation Areas and it is expected construction will commence in 2014.

**Niagara Peninsula Conservation Foundation**

Although the Foundation has been inactive over the past 2 years, staff has made efforts to maintain programs and initiatives to the extent possible. For 2014, it is anticipated that a review of the Foundation program will be undertaken.

**Flood Plain Mapping – Welland River**

The peer review of the Flood Plain Mapping is near completion and it is anticipated a meeting of the associated committee will be scheduled in the near future to review the findings.

**RECOMMENDATION:**

**That Report No. 03-14 regarding 2014 Projects and Initiatives be received.**

Respectfully Submitted By:

A handwritten signature in black ink, appearing to read "Tony D'Amario".

\_\_\_\_\_  
Tony D'Amario, P. Eng. CAO/ Secretary-Treasurer