

- ADDENDUM -
- GUELPH CITY COUNCIL MEETING -
- November 2, 2009 -

DELEGATIONS

a) **1, 3, 5 & 7 Rosewood Avenue:** Proposed Zoning By-law Amendment (ZC0907)-Ward 3

- Nancy Shoemaker, Applicant

CORRESPONDENCE

a) **Dallan Subdivision:** Revised Application for Proposed Draft Plan of Subdivision and Associated Zoning By-law Amendment (23T-08503/ZC0803) – Ward 6

- Guelph Field Naturalists
- Dave Sills
- Sierra Club of Canada

BY-LAWS

<p>By-law Number (2009)-18890 A by-law to amend By-law Numbers (2003)-17082 and (1997)-15351 with respect to appointments of persons serving as municipal by-law enforcement officers, known as "private property agents" to add Hurst, Bailey, Hunt and MacNevin.</p>	<p>A by-law to amend By-laws (2003)-17082 and (1997)-15351 to appoint municipal by-law officers known as private property agents.</p>
<p>By-law Number (2009)-18891 A By-law to authorize the execution of an agreement between The Corporation of the City of Guelph and Barrel Works Guelph Ltd.</p>	<p>A by-law to authorize a Parking Enforcement Agreement between The Corporation of the City of Guelph and Barrel Works Guelph Ltd. (55 Wyndham Street North)</p>



GUELPH FIELD NATURALISTS

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SUBMISSION TO CITY COUNCIL, NOV. 2, 2009

Re: Re-submission of Proposed Draft Plan of Subdivision & Zoning Bylaw Amendment for 161, 205 and 253 Clair Road East (Dallan Lands)

Mayor, Councillors and City Staff

We are writing today on behalf of the Guelph Field Naturalists.

Our group has been active in Guelph in its current form for 40 years and has about 150 members. In our Constitution, two objectives are:

- a) to promote wise use and conservation of our natural resources; and
- b) to protect and preserve our natural flora and fauna.

1) Our primary concern with the re-submission of this development proposal is that no changes have been made to the design of the linkage to the wetland that is part of the Hall's Pond Wetland Complex and located in the western corner of the property at Clair Road, changes that would better conform to the recommendations of the Hanlon Creek Watershed Plan (HCWP) and the City's Natural Heritage Strategy report (NHS).

This Provincially Significant Wetland has been documented as being a significant amphibian-breeding pond in the EIS Addendum report by Stantec. Most of these amphibians disperse to other areas to feed and over-winter, primarily to the forested areas to the south. Amphibians migrate to the pond in the spring, and then return to areas from which they came. In the fall, another migration/dispersal of young of the year occurs, as witnessed by the high mortality recently documented on Laird Road.

A wildlife corridor of 30 m (15 m on each side of the western property boundary) is being proposed as an adequate linkage to the Provincially Significant Wetland (PSW). This corridor would have a right angle or "dog-leg" corner at its southern end. We strongly believe the width is too narrow and the shape and location are wrong. It appears that the proposed corridor is located for the convenience and ease of subdivision planning rather than any regard for ecological principals.

The scientific literature presents a range of values but generally concludes that a wider linkage is necessary to be effective for a variety of reasons. In addition, linkages should

be located directly between natural core areas without dog-leg corners. The Natural Heritage Strategy report provides a good discussion of this topic as well as recommendations.

We propose a minimum 100 m wide linkage leading directly across the moraine between the Provincially Significant Wetland (PSW) at Clair Road and the forested lands and the rest of the Hall's Pond PSW Complex to the southeast. This would be in keeping with the recommendations of both the HCWP and the NHS. This linkage would be clear of buildings and would be intersected by only one road. There, suitable culverts and directing-barriers would need to be employed.

To accommodate the wider wetland linkage, several suggestions are offered. First, a denser development with fewer single-family homes and more apartment/condo buildings would maintain the same number of residents and achieve a smaller development footprint. Second, the proposed housing development in the south section could be re-configured to connect with the Pergola lands and other adjacent properties as development proceeds, thereby eliminating the need for more roads crossing the proposed linkage. Thirdly, consideration should be given to utilizing the cultural woodland and conifer plantation in the north area adjacent to Clair Road for development as these areas are of less environmental significance than the PSW wetland and are now a linkage "dead end" because of the development to the north.

A large problem with this development proposal, as well as others, is that it focuses only on the specific property, whereas natural heritage systems function on a larger scale. The Hall's Pond Provincially Significant Wetland Complex covers a large area and sustains many species utilizing various habitats. Realizing how this whole system works will ensure long-term sustainability while permitting some development. We strongly encourage using NHS recommendations in order to achieve more of this sustainability.

2) We have some concerns about the higher groundwater table in the vicinity of Test Pit 11. Seasonal and yearly fluctuations in the groundwater table would affect results. Were the groundwater level test years low-level or high-level years?

Construction in this area may require lowering the level of the groundwater, an action that is not addressed in the EIS Addendum report. What effects would this lowering have on adjacent lands and wetlands including during the construction period?

It is assumed that with the extensive grading required to develop this moraine property, the groundwater table will be lowered in some areas. It is important to know the effects on the surrounding natural heritage system.

3) We are concerned that there seem to be contradictory statements about the hydrological parameters of the Hall's Pond PSW at Clair Road. The Hydrogeological Assessment report by Stantec states that water level measurements "suggest that this wetland feature is connected to the permanent groundwater table" (pg 3.4). However, in the report conclusions, it states that "downward vertical hydraulic gradients were

consistently measured beneath portion of the Hall's Pond PSW ... indicating that this wetland area is a groundwater recharge feature that is likely sustained by surface water inputs" (pg 5.2).

On the other hand, the Scoped EIS report done by Stantec for the adjacent Pergola Lands states that this wetland "retains water in all but the driest years" (pg 3.4). Would surface water inputs in such a porous landscape be adequate for it to remain so wet?

This confusion needs clarification. It is critical to understand how this wetland functions hydrologically if it is to persist in a developed landscape. Adding contaminated stormwater from urban development is not a solution. In any case, all stormwater should be infiltrated on site to match pre-development conditions rather than being dumped into the significant wetland and perhaps to overflow into storm sewers along Clair Road.

4) The possible effects of underground parking on the groundwater table and nearby wetland should be examined closely to ensure there are no impacts either during or after construction.

5) There are several issues with the EIS Addendum report by Stantec that we wish to address.

- The EIS Addendum report attempts to exempt the proposed development from background information and the conclusions of the City's Natural Heritage Strategy report (pg 3.4). We strongly disagree with this position.

The City's Natural Heritage Strategy study has been in progress for over five years. The basic ecological and environmental information from the NHS has been available to the public for much of that time through release of draft reports and public meetings, before submission of this development proposal. Stantec has been aware of the NHS study from the beginning as has the development community through representation on the NHS Technical Advisory Committee.

The NHS report background information and conclusions provide the most comprehensive current ecological and environmental data on the City's natural heritage system and significant green spaces and the best means to protect and sustain them for the long term. All EIS reports produced in the City should be utilizing the NHS background data and conclusions.

We appreciate that Stantec must represent their client in producing their EIS Addendum report. However, all current and future Guelph citizens rely on the City to oversee protection of its green spaces. We strongly believe that protecting and sustaining the City's natural heritage system must be a priority. The NHS report provides the means to do this.

- In our previous submission, we noted that Wood Frogs can be described as "explosive breeders" implying that call surveys could miss this species if the survey timing does not catch the burst of activity. The EIS Addendum maintains that sampling efforts have concluded that Wood Frogs were not missed and that

Wood Frogs are not present in significant numbers (pg 3.17).

The City's Natural Heritage Strategy study included amphibian call surveys during April of 2004 and 2005. In both years, Wood Frogs were detected (Level 2, some simultaneous calls, number of frogs can be estimated) in the Hall's Pond PSW at Clair Road.

We are concerned that sampling efforts during 2006 and 2008 occurred too late (began April 22 in 2008), missing this species at the Clair Road wetland. If so, it opens the possibility that greater numbers of Wood Frogs were missed in some of the other wetland pockets on the property. The effectiveness of egg-mass surveys done in those years rests with the competency of the surveyor.

- In the EIS Addendum report, the small wetland pockets that will be removed by the proposed development are reported not to support significant numbers of breeding amphibians. These small wetland pockets likely do provide refuge, however, for migrating amphibians, "stepping stones" as they move from forested lands in the southeast towards the Hall's Pond PSW to the northwest. Evidence of this phenomenon is given in the EIS Addendum where in each of the two years of sampling, individual amphibians were detected in some of these wetland pockets.

The re-configured 100 m wide linkage that we have proposed could include some of these wetland pockets or newly created ones to provide significant "stepping stone" habitat for migrating and dispersing amphibians.

- It is reported in the EIS Addendum report that habitat for Jefferson salamanders or their polyploidy population is not present on site. This conclusion is based on surveys conducted on only two consecutive nights in early April 2008 using minnow traps. Egg mass surveys were carried out once in each of 2006 and 2008.

Jefferson salamanders are known to be active throughout the month of April. In areas further east of Guelph, this species was observed actively moving about as late as April 30th. With only two nights of minnow-trap sampling, these salamanders could have been easily missed on the study site.

The Jefferson Salamander Recovery Strategy recommends that sampling occur for three consecutive years to confirm or deny the presence of this species. Jefferson salamanders are long-lived and may breed one year in a wetland and not the next, only to return the following year.

Surveying with minnow traps is most effective when the number of salamanders is high and less effective when numbers are low. Surveying for egg masses would be more conclusive but the effectiveness of this method rests on the competency of the surveyor. It is noteworthy that no pit fall traps were employed during these surveys. Pit fall traps can be an effective way to survey for salamanders.

No salamander egg mass surveys were conducted in three wetlands (Stations C, G

& F). If these wetlands were found to contain Jefferson salamander egg masses, this would have significant bearing on the proposed development regarding identification and protection of critical habitat and wetland buffer widths.

It would appear that the 2006 and 2008 surveys may not be conclusive in determining whether or not Jefferson salamander habitat occurs on this site.

- It is ironic that in discussing linkage function, the EIS Addendum report states “approved recent and future changes north of Clair Road have substantially reduced the potential for wildlife movement between Clair Road and the Torrance Creek watershed core areas” (pg 3.23). The Westminster Woods subdivision which is located north of Clair Road underwent a planning and approval process similar to the process that is now being used. In that case, narrow, inadequate linkages were approved through support from an EIS. We encourage the City not to repeat this type of planning error in this current proposed development.
- The EIS Addendum report states “it is not unrealistic to assume that many species (including amphibians) will utilize yards and open space for migration through the site” (pg 3.24). We disagree. Standard residential development creates numerous barriers to amphibian movement including roadways, curbs & gutters, buildings, and fences. As well, urban pets and wildlife such as raccoons could destroy large numbers of amphibians that are concentrated in urban locations.

We believe that it is unrealistic and totally unreasonable to present the developed urban landscape as an amphibian (or other wildlife species) migration route in order to justify an inappropriately narrow dedicated linkage elsewhere.

- The EIS Addendum report cites a University of Massachusetts study stating “approximately 77% of wetland-dependent wildlife are dependent upon and can survive within a 30 m wetland buffer” (pg 3.24, see EIS Addendum report for reference). The study is misrepresented for two reasons:
 - a) The 77% includes reptiles, amphibians, mammals and birds and does not specifically refer only to amphibians as the EIS Addendum report implies; and
 - b) Although the U of Massachusetts study found that 77% of these species use areas from the wetland edge to 100 ft. (approximately 30 m), 58% of these same species ALSO use areas to 200 ft. (approx. 60 m), and 52% of these species ALSO use areas beyond 200 ft. For amphibians only, 79% use 100 ft. from the wetland edge, but 63 % also use to 200 ft., and a full 58 % use areas beyond 200 ft. from the wetland edge.

In Massachusetts, Leopard frogs move up to 200 ft from the wetland with juveniles dispersing over 800 ft. Jefferson’s salamanders, Spring peepers and Wood frogs move beyond 200 ft. with Spring peepers over-wintering in moist woodlands at distances of up to 300 ft. from wetlands.

Therefore, it is not reasonable to justify a narrow 30 m linkage which turns a dog-leg corner, from the wetland to forested core natural areas to the south by using

the notion that a 30 m buffer around a wetland would compensate. If a long-term sustainable amphibian population is to be maintained in the Hall's Pond PSW wetland, then a wider (100m), more direct linkage is required.

The EIS Addendum report adds confusion to this discussion by interchangeably using the terms "corridor" and "buffer" (pg 3.24) which are not the same.

- The Stantec EIS Addendum report partially justifies the destruction of breeding bird habitat on this property by citing statistics from the Ontario Breeding Bird Atlas (pg 3.18). One of the stated goals of the Atlas was to produce a book and data base available for research and conservation purposes. We suspect that the thousands of volunteers who gathered the data for the Atlas didn't expect their many hours of surveying to be used to help justify the destruction of bird habitat. We are disappointed to see the Atlas data being used in this way.

Stantec believes that "incremental loss of (breeding bird) habitat across Ontario is beyond the scope of an EIS" (pg 3.18). Stantec writes that this issue is "more appropriately dealt with through higher-level planning initiatives" as they proceed to recommend the destruction of the bird habitat. This increases our concern that an EIS is too focused and does not take into account the larger ecosystem view that the HCWP, the NHS and other larger-scale studies do. It is amazing to us that "Stantec feels that preservation of this (breeding bird) habitat type within the urban boundary is not appropriate" when various watershed studies and the Natural Heritage Strategy study are attempting to preserve what is left of the City's significant green spaces.

6) The General Tree Inventory report by Stantec appears to be an "after the fact" document which describes which trees will be retained in the development and which will not. It would be more appropriate to conduct a general tree inventory prior to any designing of proposed development plans so that significant and healthy trees could influence the final design and be retained. There is limited value in documenting which trees will be removed by the proposed development unless the proposed plan can be changed.

7) The Guelph Field Naturalists are pleased to have had an opportunity to meet recently with the planning and consulting team for this proposed development. However, it would have been more effective both in terms of cost and planning to have met prior to the design of a second proposed plan of subdivision. For future consultations, we suggest earlier input.

Thank you for the opportunity to comment.

Guelph Field Naturalists

Valerie Fieldwebster, President
Carol Koenig, Past President

From: Dave Sills
Sent: November 2, 2009 11:59 AM
To: Katie Nasswetter
Cc: Planning Division Emails; Lise Burcher; Mayors Office; Maggie Laidlaw; Christine Billings; Gloria Kovach; Ian Findlay; Leanne Piper; Mike Salisbury; Karl Wettstein; Bob Bell; Vicki Beard; June Hofland; Kathleen Farrelly
Subject: Comments re proposed draft plan of subdivision and associated zoning by-law amendment for 161, 205 and 253 Clair Road East

Ms. Nasswetter,

I would like to provide comments on the proposed draft plan of subdivision and associated zoning by-law amendment for 161, 205 and 253 Clair Road East on behalf of the Guelph Chapter of the Council of Canadians.

We understand that the subject site is a 23 hectare parcel located on the south side of Clair Road East, east of the intersection of Gordon Street and Clair Road East, and that the current proposal is a revised version of the proposal submitted in 2008.

We also understand that no recommendations will be provided at tonight's meeting and no council decision will be made. However, a recommendation report will be prepared and presented to City Council following a full review of the application, including public comment.

The proposed development appears to have many similarities with the Hanlon Creek Business Park plan in that:

- the property is within the Hanlon Creek Watershed,
- the proposed development is in close proximity to a Provincially Significant Wetland,
- the proposed development would be in a groundwater recharge area (in this case the lands are *entirely* within the Paris Moraine),
- technological solutions would attempt to mimic natural drainage patterns and recharge capacity,
- there would be removal of numerous mature trees including native species,
- the development would occur in an area with substantial amphibian and reptile populations, possibly including at-risk species such as the Jefferson Salamander, and
- the proposal aims to protect *some* of the natural features of the site.

As with the Hanlon Creek Business Park, we have a number of concerns regarding the protection of the environment:

- that the proposed removal of mature trees will significantly reduce canopy and increase erosion,
- that vernal wetlands, which are important amphibian habitat, will be destroyed,
- that proposed buffers for the protection of both wetlands and wetland species are likely inadequate, and
- that grading and development of the site could significantly affect groundwater and surface water recharge in the area, even with the stormwater management strategies proposed.

We believe that the proposed residential development is the wrong type of use for these lands. Most of these lands should be preserved given their important ecological function in the City of Guelph. If residential development is allowed to occur over some parts of the lands, it should be carefully planned 'cluster' or 'estate' residential that preserves *most* of the natural features of the site.

Sincerely,

Dave Sills
CoC-Guelph



November 2, 2009

Dear Mayor Farbridge and City Councillors,

Sierra Club Canada respectfully submits the following comments on the Dallan Subdivision Application.

I. The application does not comply with the Provincial Policy Statement, which requires that "Development and site alteration shall not be permitted on adjacent lands to natural heritage features . . . unless the ecological function of the adjacent lands has been evaluated and it has been demonstrated that there will be no negative impacts on the natural features or on their ecological functions."

a. Lack of data to support sustaining the wetland complex. A July 5, 2008 GRCA letter asked the proponent to "Demonstrate how the hydrological and ecological functions of the Hall's Pond Wetland Complex will be sustained, restored or enhanced. . ." The proponent made no direct response.

b. Wetland and woodland functions will be lost. Small wetlands that recharge to groundwater will be removed. In a December 2007 letter, GRCA stated that, notwithstanding OMNR's position, "the loss of these recharge wetlands would be contrary to GRCA's Wetland Policy and therefore cannot be supported by GRCA staff." The letter also stated that "A major shortcoming of the EIS is its lack of justification for wetland and woodland loss on this site." This shortcoming has not been addressed.

c. Wetland buffers are inadequate to protect the habitat function of the wetland. The EIS claims that 30 metre buffers are sufficient to protect wetland species and references a University of Massachusetts study. However, that study actually states that "There is an additional need to provide protection to areas beyond the 100 feet [30 metres] because 52% of Massachusetts wetland dependent wildlife are dependent on areas BEYOND 200 FEET." [emphasis added] This fact has been confirmed by many other scientific studies as well.

d. Loss of moraine function. The City's Draft Natural Heritage Strategy (NHS) recognizes the importance of moraines: "The biodiversity on the morainal lands is likely related to the combination of wooded, wetland and open/successional features . . . Groundwater also discharges along these moraines, creating wetlands and cold water

streams that support rich and diverse ecosystems." The NHS designates the western part of the site as "significant landform." EIS p. 3.4 This area will be lost if this development proceeds.

e. Species at risk may be present. The GRCA, whose biologist sits on the Jefferson Salamander Recovery Team, believes there is Jefferson salamander habitat on site. It is not clear whether salamander survey protocols recommended by OMNR were followed or whether OMNR concurs with the statement in the EIS that Stantec "does not believe habitat for Jefferson salamander is present on site."

f. Polluted stormwater could impact the provincially-significant wetland. The proponent wishes to discharge stormwater into the PSW at Clair Road and claims no negative impacts will occur, notwithstanding the fact that dissolved pollutants, such as salt, cannot be removed from stormwater.

II. The proposal does not comply with recommendations in the Hanlon Creek Watershed Plan, which has been adopted by Council.

a. Development on hummocky topography. The GRCA said that because of the hummocky topography that relies upon internal drainage, "the site may only be suitable for rural residential or clustered development." (December 2007 letter) This position is consistent with the Hanlon Creek Watershed Plan which recommended that the internally-drained basins south of Clair Road remain undeveloped (preferable) or have minimal development with very low (10%) impervious surfaces.

b. Reduction of ecological linkages. The EIS at page 3.23 states that both the Hanlon Creek Watershed Plan and the City's Draft Natural Heritage Strategy identify this site as containing important ecological linkages. The project proponent plans to reduce these linkages significantly.

c. Buffer reductions. It appears to us that the buffer recommendations for Sector 27-- which is 120 metres-- would apply to this land. The HCWP identifies this area as sensitive marsh, wet meadow and swamp vegetation.

III. The proposal is inconsistent with tree policies in the Official Plan and Strategic Plan (6.8 a) To promote the retention, maintenance and enhancement of tree cover in all areas of the City; 6.8.1 The City will encourage the protection of forest resources, including trees, hedgerows, wooded areas and significant woodlands, and encourage the integration of these resources into the urban landscape; 6.8.1.1 Forest resources should be protected for their ecological, biological, hydrological and micro-climate modification effects; Strategic objective 6.6 to be "A biodiverse City with the highest tree canopy percentage among comparable municipalities")

a. Removal of at least 488 trees, with another 70 possibly to be removed. Many, if not most, are native species.

b. Lack of clarity in tree inventory. The tree inventory states that trees over 20 cm dbh were tagged with a steel tag, but it appears that trees over 10 cm were counted, though not tagged. Tree numbers in the report are approximate and no totals are given for numbers of trees retained or removed, dbh or crown size for individual trees.

Conclusion:

Sierra Club Canada feels that this application is inconsistent with the Provincial Policy Statement, the Hanlon Creek Watershed Plan and the City's Official Plan and Strategic Plan. Natural wetlands and moraine will be removed, wetland species will be inadequately protected, tree and canopy loss will be dramatic. As a result, we do not support the application for development of this parcel.

Thank you for the opportunity to comment.

Judy Martin, Regional Representative