FROM: Jakob Van Dorp, Planner  
County of Bruce Planning & Economic Development Department

SUBJECT: Application to amend the Municipality of Northern Bruce Peninsula Comprehensive Zoning By-law 2002-54.

REASONS FOR AND NATURE OF THE APPLICATION:

The Municipality of Northern Bruce Peninsula has received an application from Linda Weatherhead c/o Jerry Haan – Genivar Consultants LP to amend the Municipality of Northern Bruce Peninsula Comprehensive Zoning By-Law 2002-54.

The application is proposing rezone the subject lands to facilitate the creation of seven building lots from a 50 hectare parcel. Development is proposed within three development areas along Fowlie Road. The balance of the lands are proposed to be zoned EH Environmental Hazard. Portions of the proposed lot one (northwest corner) and lot 7 (southwest corner) will be re-zoned to EH Environmental Hazard. Outside of the identified building envelope to be zoned R2-xx-13 the Lands to be retained are to be zoned “EH Environmental Hazard.” The proposed zoning amendment would place the properties within the R2-xx-2013 Resort Residential Special Zone to provide special provisions including: implement maximum tree clearing of 0.4 ha per lot, 15 metre treed buffers between building envelopes, and a prohibition on tree cutting between December 1 and March 31 of any given year, together with a requirement for site plan control to implement these requirements. The application is being made in conjunction with Consent Applications B-61 to B-67-2012.62

SUMMARY OF APPLICATION: Section 34 of the Planning Act addresses Land Use Controls and Related Administration and gives the authority to pass Zoning By-laws to the Council of the local Municipality. The subject property is described as Con 2 EBR Pt Lot 13 (Eastnor), Municipality of Northern Bruce Peninsula. Subject to review of objections and submissions arising from the public hearing the following recommendation is made:

PRELIMINARY RECOMMENDATION:

That the zone amendment application Z-43-2012.62 for the property described as Con 6 WBR Part Lots 19 and 20 (Eastnor), Municipality of Northern Bruce Peninsula BE REFUSED for the following reasons:

1. The mitigation requirements needed in order for the application to maintain consistency with the Natural Heritage objectives of the Provincial Policy Statement and Bruce County Official Plan over the long term cannot be reasonably enforced. Therefore the application cannot demonstrate that there will be no negative impact on the natural heritage features identified for protection by these policies.

2. There is no adequate planning or regulatory mechanism to ensure compliance with these provisions over the long term and the necessary provisions go beyond the scope of the Municipality’s ability to enforce within the zoning by-law.
I. CONTEXT

The subject lands are located on the inland side of Fowlie Road, with a small frontage on Spry Road.

The subject lands are 50 ha with a mixture of forest types, forested alvar, and wetland areas.

An archaeological assessment was conducted for the site which classified the majority of the property, including the area proposed for development, as “low and wet” with no archaeological potential.

The applicant’s environmental consultant recommended that three areas along Fowlie road are suitable for development.

Site plans for each of the properties involved in this proposal are included in Appendix A and an air photo is included in Appendix B.

II. PROPERTY INFO SUMMARY

<table>
<thead>
<tr>
<th>Related File</th>
<th>B-61 to B-67-2012.62</th>
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<tbody>
<tr>
<td>Owner</td>
<td>Linda Weatherhead</td>
</tr>
<tr>
<td>Applicant</td>
<td>Same</td>
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<tr>
<td>Agent</td>
<td>Genivar Consulting / Jerry Haan</td>
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<td>Legal Description</td>
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<td>Rural Recreational Area</td>
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<td>Local Official Plan</td>
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<td>Surrounding Land Uses</td>
<td>Residential and Vacant Rural</td>
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III. MATTERS ARISING FROM AGENCY CIRCULATION

The application was circulated for review to the standard agencies.

Grey Sauble Conservation Authority noted that the property includes potential flood and erosion prone areas adjacent to the watercourse and associated wetland features, as well as significant natural heritage features. GSCA noted confirmation from the Environmental Impact Study (EIS) submitted with the application of Eastern Massassauga Rattlesnake Habitat, area sensitive bird species, fish and amphibians on the subject property, core area for deer habitat within the southeast property corner and Provincially Rare Treed Alvar habitat. GSCA advised that they have generally no objection to the amendment and consent applications and recommend that development comply with recommended setbacks, development constraints and mitigation measures identified on the EIS and outlined on the Genivar Site Plan. GSCA noted that the zoning by-law is acceptable and maps an appropriate environmental hazard zone on the property. Finally GSCA noted that the servicing study notes requirement for a hydrogeology study and recommends that this be completed prior to final approval. GSCA comments are attached as Appendix C.

Municipality of Northern Bruce Peninsula Staff reviewed the application and commented:

THAT the Municipality is unable to monitor and enforce the proposed conditions recommended in the Request for Comments: a) implementation of a maximum tree clearing of 0.4 ha per lot, b) establishment of 15 metre treed buffers between building envelopes, and c) prohibition of tree cutting between December 1 and March 31 of any given year.

Comment: Staff confirmed with AWS Consulting that the above conditions were required in order to maintain consistency with the Provincial Policy Statement (see excerpt below; full email from AWS provided in Appendix 'D')

From my perspective all the Mitigation Measure points are required to maintain compliance with the PPS, point number 18.5 (d) is in a 'grey area' for interpretation. For example, If tree cutting clearings are too large or too close, potential for long-term/permanent negative ecological function impacts to a significant feature (tree blow downs to surrounding areas, thermal heating, migratory/movement alterations, increased predation, increased potential for invasive species etc.). Tree cutting in the winter can take place and does, but is not recommended in wintering yards during critical life cycle periods other than emergency feeding programs (cedar browse). This single aspect could be interpreted to go either way in relation to the PPS-Woodland and Wildlife Habitat, but I err on the side of caution, so would leave it as a mitigation measure, not a best practice. A best practice would be discouraging cutting in the winter season within 50m to a wintering deer yard. Remedial Action works are typically used to address best practise for disturbed areas.

If conditions are required in order for the application to be consistent with the PPS, then a mechanism is needed to ensure that they are fulfilled. The nature of these conditions is such that they need to be maintained in perpetuity, and that the Municipality does not have staff levels or expertise to support ongoing monitoring of these conditions.

IV. MATTERS ARISING FROM PUBLIC CIRCULATION

The application was circulated to the public on January 15, 2013. As of the writing of this report, comments were received from Mrs. Anne Duncan, stating that she has no objection to the application subject to the following conditions:

1. The drainage from the proposed development will not impact on my property.
2. The northerly property line of Lot #1 be clearly established.
3. No portion of my property be used to access the proposed development.
4. Any municipal costs associated with this development will NOT IMPACT on my residential Property Tax (i.e. road repair upgrades etc.)
5. The proposed development meets all environmental standards.
Comment:

1. The EIS submitted with the application recommended no grading changes east of the identified building envelopes. This area is proposed to be zoned EH Environmental Hazard. Mrs. Duncan’s property is located on Spry Road to the east of the areas proposed for severance. The slope of the properties nearest her lot is from west to east.
2. There appears to be a number of trails across the retained lands (proposed to be zoned EH) which may cross property boundaries. Some fill has been placed within proposed lots at the northern end of the property, with access and storage trailers that appear to be associated with a property to the North.
3. It should not be necessary to cross Mrs. Duncan's property to access the development.
4. The Department has not received comments to the effect that road repairs / upgrades are required in association with this development.
5. The nature of objection is not entirely clear; the application appears to meet servicing standards however the department has concerns noted above re: long-term habitat protection.

Staff also received a letter from Lawrence Sauer of Spry Road regarding placement of fill on the property. Mr. Sauer expressed concern that last fall (during the time that this application was being processed) upwards of 100 truckloads of fill were placed on the northeast corner of the retained lands, in what is proposed to be identified as “hazard” land area through the zoning by-law amendment and that an access road has been constructed across this area and may cross areas currently zoned Hazard. Mr. Sauer’s letter is attached as Appendix ‘E’.

Comment: The area is currently zoned RU2 Restricted Rural. Areas along the boundary with the lands to the east are zoned EH Environmental Hazard. Placement of Fill or topsoil storage is not prohibited in the RU2 zone but is not permitted in the EH zone. The area in question appears to be outside of the study area and upgradient of provincially rare alvar habitat noted below. Potential impacts of this activity within the subject lands have not been assessed.

V. MATTERS ARISING FROM PROVINCIAL INTERESTS, POLICY STATEMENTS OR PLANS

The sections as outlined in Appendix ‘C’ apply. Under Section 3 of the Planning Act, the Municipality “shall be consistent with” matters of provincial interest as set out in the Provincial Policy Statement (PPS). Section 2 of the PPS addresses Natural Heritage. Within this section the following statements apply to the application:

2.1.3 Development and site alteration shall not be permitted in:

   a. significant habitat of endangered species and threatened species;

Comment: The applicant’s EIS identified suitable significant habitat for Eastern Massassauga Rattlesnake. This area is located on the lands to be retained and zoned EH and buffered from the proposed lots to be severed. Movement corridors for EMR between significant habitat types are also excluded from the development area.

2.1.4 Development and site alteration shall not be permitted in:

   b. significant woodlands south and east of the Canadian Shield;
   d. significant wildlife habitat;

unless it has been demonstrated that there will be no negative impacts on the natural features or their ecological functions.

Comment: The EIS identified the area to be a significant woodland within the geographic Township of Eastnor. Study of the site identified four vegetation communities and yielded recommendations that vegetation communities 2 (White Cedar Treed Alvar), 3 (Red-Osier Mineral Thicket Swamp), and 4 (White Cedar-Conifer Mineral Coniferous Swamp) should not be developed or incur site alterations that would negatively impact woodland ecology. The EIS recommended that constrained development could take place within vegetation community 1 (Dry-Fresh White Cedar Coniferous Forest), noting that:

Land clearing and tree removal within the ‘delineated development lands’ will require further constraints to maximum tree removal area per building envelope and tree retention/preservation zones between the cleared...
lands. Therefore it can be concluded, with these aspect of the forest and associated significant wildlife habitat and forested wetlands maintained, it has been demonstrated that the ecological functions provided by the Significant Woodland will incur no measurable negative impacts from the proposed focused development lands area. (p. 36)

The Applicant’s EIS also identified the following Significant wildlife habitat within the subject lands:

1. Winter Deer Yard
2. Reptile movement corridor
3. Rare Vegetation Community-Alvar
4. Area-Sensitive Bird Habitat
5. Forest Stands providing a Diversity of Habitat
6. Amphibian Breeding Ponds

Comments:
1. The primary deer yard core habitat zone or “Stratum 1 habitat” is beyond (100 metres minimum) the potential lot development areas. The majority of the retained lands are “Stratum 2 habitat.” The EIS concluded that:

   “To maintain no measurable negative impacts to the ecological function provided by Stratum II habitat within the development lands, no continuous vegetation clearing should exceed 0.4ha in size and a minimum 15m separation distance between vegetation clearings (building envelopes) for tree canopy cover preservation, should be maintained. (p. 27)

In addition the EIS recommends that no tree clearing be permitted between December 1 and March 31 of any given year during the time that deer are using the area for overwintering.

These recommendations have been included in the proposed zoning by-law site plan control agreement. As noted, municipal staff is concerned that they cannot ensure that these conditions are implemented in the long term.

2. Reptile movement corridors are between significant habitat types. These corridors are excluded from the development area.

3. The Provincially Rare Alvar Vegetation Community is located outside of the development area with a minimum 30m setback to development parcels to mitigate potential windthrow (blowdown) impacts due to proximity to Lake Huron. The EIS also recommends that

   In addition to this buffer zone, development near the alvar shall be constrained for no offsite surface drainage pattern alterations from any individual lot, to or from this alvar. A topographical terrain map has been provided under Figure 3 for the subject property by Genivar. This surface elevation contour mapping shows a gradual slope to the west and southwest in the area of the subject Alvar habitat. To maintain the seasonal shallow water flooding, that is a common trait of Alvars, and a necessity to maintain ecological function of the alvar, no gradient or drainage site alterations should occur to the natural drainage pattern that supports this Alvar. As such, no fill placement or surface water drainage should occur up gradient or northeast, east or southeast of the Alvar community. Additionally, no ditching or surface water drainage site alteration should be directed to or from this Alvar site. (p. 30)

The recommendation is that the areas upgradient of the Alvar community be zoned EH to prohibit site alterations. This recommendation may be somewhat compromised by the placement of fill in the northeast portion of the subject lands that has been indicated by Mr. Sauer.

4. The majority of the bird Habitat is concentrated within the area on the retained lands that is proposed to be zoned EH.

5. Development is clustered within the area identified in the EIS as Vegetation Community 1: Dry-Fresh White Cedar Coniferous Forest Type” which is common in the Peninsula. The EIS recommends that there will be “no loss of forested habitat ‘diversity’ within this study area and with recommended buffer zones provided vegetated linkage areas throughout the forest community to ‘other’ habitat types will also be maintained.” These buffers are recommended to be a minimum 15m wide between building
envelopes as included in the zoning by-law amendment / requested site plan control agreement. The application only passes this test for no negative impact to forest diversity IF these buffers are maintained over the long term.

6. Amphibian Breeding Ponds are located outside of the proposed development envelopes and are protected by EH zoning.

2.1.5 Development and site alteration shall not be permitted in fish habitat except in accordance with provincial and federal requirements.

Comment: Fish habitat on the property is associated with “Hoppers Creek” which runs through the retained lands. This feature together with buffers of 15 metres from the top-of-bank are excluded from the development area and included in lands to be zoned EH Environmental Hazard.

2.1.6 Development and site alteration shall not be permitted on adjacent lands to the natural heritage features and areas identified in policies 2.1.3, 2.1.4 and 2.1.5 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.

Comment: The proposed development is for the most part located outside of and adjacent to natural heritage features and areas. The applicants EIS established buffers for development from these areas. As noted, the application has provided some conditions which must be maintained for the long term in order to ensure that the application has no negative impacts on features / functions.

Summary: The EIS provided with the application provides a thorough analysis of the area proposed for residential development and immediately adjacent lands. The EIS identifies a number of significant natural heritage features and for the most part has excluded them from the area proposed for development. The EIS identifies that Significant Wildlife Habitat including diverse forest stands, significant woodlands, and deer yard areas within the development area will not be impacted in a constrained development scenario if buffers between building envelopes, maximum cleared areas and prohibitions on tree cutting between December 1 and March 31 of each year are maintained. This places the burden of demonstrating no negative impact on all future property owners who must abide by these requirements and Municipal Staff who are charged with enforcing by-laws and ensuring ongoing compliance. Staff commented that they do not have the resources to monitor these site specific development requirements; thus the application cannot demonstrate that there will be no (long-term) negative impact on the features or their ecological function.

The application is not consistent with the Provincial Policy Statement in that it cannot adequately demonstrate that there will be no negative impact on natural heritage features and functions over the long term.

VI. MATTERS ARISING FROM BRUCE COUNTY OFFICIAL PLAN

The subject lands are designated Rural Recreation along Fowlie Road with the interior lands designated Rural.

Section 5.3 of the plan notes that this designation recognizes existing development areas, notes that much of the remaining area is subject to environmental constraints, and that intensive site evaluations have not been undertaken such that the presence of the Rural Recreational designation is no assurance that any given land is suitable for development. New developments proposed shall be reviewed using a cautionary approach with attention being given in particular to the impacts of new developments on the natural environment.

Environmental Policies in the Bruce County Official Plan generally mirror the Natural Heritage provided in the Provincial Policy Statement and discussed above. The County OP notes particularly that:

4.3.2.6 Significant Woodlands are “one of the key components of our natural heritage areas. Woodlands provide significant economic value as well as habitat for wildlife, erosion control and maintenance of the ‘cold water’ for fish habitat.

4.3.2.6.3 Where it cannot be demonstrated through the preparations of an Environmental Impact Study that the proposed development will not impact on the habitat/resource function of the wood lot, the development shall be refused.
4.3.2.7.8 It is the policy of County Council that significant portions of habitat of threatened and endangered species shall be zoned in the local Municipal Zoning By-law to preclude new development within such areas. Zoning the EMR habitat on the lands to be retained “EH” is consistent with this requirement.

4.3.2.9 Permits development or site alteration within or adjacent (120 metres) to deer wintering areas only if it has been demonstrated through an EIS that there will be no negative impacts on the deer wintering area.

4.3.2.10 It is the policy of County Council that no development or site alteration may be permitted within 120 metres to significant wildlife habitat unless it has been demonstrated through an EIS, carried out by the proponent, that there will be no negative impacts on the natural features or on the ecological functions for which the area is identified.

**Comment:** As noted above in discussions related to the Provincial Policy Statement the applicant’s ability to demonstrate that there is *no negative impact* relies upon ongoing maintenance of features which the Municipality is unable to adequately monitor for compliance.

Within the Rural Recreational designation, permitted uses include seasonal and permanent residential dwellings which are proposed as a result of this application.

The applicant submitted a Servicing Study, Environmental Impact Study, Stormwater Management / Lot Grading and Drainage plan, and Archaeological Assessment as required by Section 5.3.5.1 (2) of the Official Plan.

5.3.5.2 provides “other development policies.” The application is for non-waterfront lots which meets setback requirements from Lake Huron. Visual impacts are limited to some extent by treed buffers between development envelopes and overall cleared area limitations but cannot otherwise be assessed at this time. Fowlie Road is a year-round road. School Boards did not comment on the application with respect to school bus routes.

Section 5.2.5.3 provides subdivision policies. The department accepted the application for 7 consents on the basis that No major infrastructure service extensions are required and the balance of the lands not proposed for development are to be zoned Environmental Hazard and excluded from development; therefore a Plan of Subdivision is not required to ensure the orderly development of the lands.

The proposed lots conform to the area and density requirements of the plan. Access to the waterfront is available by way of two nearby road allowances as well as adjacent Municipally-owned lands. The department recommends that cash be required in lieu of parkland as authorized by the *Planning Act* which could be used to fund improvements to these water access points.

The application is for the most part consistent with Section 6.5.3 General Consents Policies. Approval of the consents requires a zoning by-law amendment to place the lands proposed for development in the R2 Resort Residential Zone. During the course of reviewing the application one proposed lot was deleted to provide a building envelope on the lands to be retained and the upgradient lot (lot 6) was enlarged to provide additional nitrate loading area.

Section 6.5.3.5 provides Consents Policies specific to Rural Recreational areas. The application is consistent with these requirements.

*The application is not consistent with the policies, goals, and objectives of the County of Bruce Official Plan in that it cannot adequately demonstrate that there will be no negative impact on natural heritage features and functions over the long term.*

**VII. MATTERS ARISING FROM MUNICIPALITY OF NORTHERN BRUCE PENINSULA COMPREHENSIVE ZONING BY-LAW 2002-54**

**CURRENT ZONING:** RU2-Restricted Rural  
**PROPOSED ZONING:** RU2-xx-2013 General Rural Special, EH Environmental Hazard
The lands are currently zoned RU2 Restricted Rural which permits a detached dwelling and a cottage dwelling on a lot. The application requires a zoning by-law amendment to place the lots within the R2 Resort Residential zone which has smaller frontage and setback requirements than the RU2 zone. The zoning by-law amendment proposes to include the following specific provisions related to the development of the property:

1. Maximum tree clearing area of 0.4 ha per lot,
2. 15 metre treed buffers between building envelopes, and
3. Prohibit tree cutting between December 1 and March 31 of any given year.

These provisions are drawn from the mitigation recommendations provided in EIS submitted with the application as being required to maintain conformity with the Provincial Policy Statement and Bruce County Official Plan. The by-law amendment should also place the properties under site plan control to implement the zoning by-law as it relates to inspections required to obtain building permits, fees for ongoing monitoring, etc. The balance of the lands are proposed to be placed within the EH zone in order to prohibit development within identified natural heritage areas (EMR habitat, wetland, treed alvar habitat) and prohibit site alteration which could negatively impact these natural heritage features.

Municipal Staff are concerned that the measures required in the EIS to ensure compliance with PPS and County Official Plan cannot be adequately enforced from a by-law perspective, and thus, while they are needed in order for the by-law to be consistent with the PPS and Official Plan, they go beyond the scope of the Municipality’s ability and resources to administer.

The application does not conform to the intent and purpose of the Municipality of Northern Bruce Peninsula Zoning Bylaw.

VIII. SUMMARY & RECOMMENDATION

The proposed amendment is not consistent with the Provincial Policy Statement and does not maintain the goals and objectives of the County Official Plan or intent and purpose of the amended Comprehensive Zoning By-law of the Municipality of Northern Bruce Peninsula No. 2002-54 because it cannot demonstrate that there is no negative impact on significant woodlands or significant wildlife habitat without placing long-term responsibilities on Municipal Staff that are beyond the Municipality’s ability to provide.

The Planning and Economic Development Department, subject to review of objections and submissions arising from the public hearing, makes the following recommendation:

That the zone amendment application Z-43-2012.62 for the property described as Con 6 WBR Part Lots 19 and 20 (Eastnor), Municipality of Northern Bruce Peninsula BE REFUSED for the following reasons:

1. The mitigation requirements needed in order for the application to maintain consistency with the Natural Heritage objectives of the Provincial Policy Statement and Bruce County Official Plan over the long term cannot be reasonably enforced. Therefore the application cannot demonstrate that there will be no negative impact on the natural heritage features identified for protection by these policies.

2. There is no adequate planning or regulatory mechanism to ensure compliance with these provisions over the long term and the necessary provisions go beyond the scope of the Municipality’s ability to enforce within the zoning by-law.

A draft by-law is provided in Appendix ‘G’ should Council wish to consider approval of the application.

Respectfully submitted,

[Signature]

Name: Jakob Van Dorp
Position: Planner
County of Bruce, Planning & Economic Development
Figure 6. Vegetation Communities
May 6, 2013

Mr. Jakob Van Dorp, Planner
County of Bruce
Planning and Economic Development Department
Box 129, 578 Brown St
Wiarton ON
N0H 2T0

Dear Mr. Van Dorp:

RE: Zoning By-law Amendment: Z-43-2012.62
Applicant: Linda Weatherhead
Part Lots 19, 20, Concession 6 WBR; Fowlie Road
Municipality of Northern Bruce Peninsula, formerly Eastnor Township
Our File: P10713

The Grey Sauble Conservation Authority (GSCA) has reviewed this application in accordance with our mandate and policies for natural hazards, for natural heritage issues as per our Memorandum of Agreement with the County of Bruce. We offer the following comments.

Site Description
The subject property is located in close proximity to the Lake Huron Shoreline on the east side of Fowlie Road, south of Spry Road. The majority of the property is predominantly coniferous forest. Species noted include eastern white cedar, white spruce, tamarack, balsam poplar, and white birch. Drainage of the site is variable but does include a wetland in the central portion of the property to be zoned EH Environmental Hazard.

Provincial Policy Statement
3.1 Natural Hazards
Natural Hazards identified on the subject property include the potential flood and erosion prone areas adjacent to the watercourse and associated wetland features that flow from east to west toward Fowlie Road.

2.1 Natural Heritage
Significant natural heritage features on the subject property include the above noted wetland feature, which supports a range of flora and fauna. The watercourse that runs through the wetland provides direct habitat for fish, reptile and amphibian species. The property is also within the range of the Threatened Eastern Massasauga rattlesnake (EMR). In addition, the Ministry of Natural Resources database has identified the entire subject property as part of a large deer yard on the west side of the Bruce Peninsula.

The Environmental Impact Study (EIS) prepared by AWS Environmental Consulting confirms the presence of EMR, area sensitive bird species, fish, and amphibians on the subject property. With
regards to winter deer yards, the report states that during the study there was little evidence of deer activity on the western portions of the property and that the core area for deer habitat is the southeast property corner. In addition, the report outlines that the forest stand on the subject property provides a diversity of habitat and specifically identifies a Provincially Rare Treed Alvar habitat. (April, 2012).

Recommendations
Based on our review of the Environmental Impact Study and the servicing/stormwater management report, we generally have no objection to the proposed Zoning By-law Amendment and Consent Applications. We recommend that development of the proposed 7 new lots (and one retained lot) comply with the recommended setbacks, development constraints, and mitigation measures identified in the EIS and outlined on the site plan Genivar Site plan. This would limit any proposed new development to the areas designated as "Development Lands" outlined on figures No. 8A, 8B, and 8C of the EIS (April, 2012). The zoning by-law is acceptable and maps an appropriate environmental hazard zone on the property.

We note that the servicing study notes that a Hydrogeology study is required and this should be completed and assessed prior to final approval of the proposal.

If any questions should arise, please contact our office.

Regards,

Andrew Sorensen
Environmental Planning Coordinator

enclosure

cc Municipality of Northern Bruce Peninsula
Hi Jack

Below are the points of clarification requested in your emailed letter:

1) Based on the photo, it appears that the root wad excavation is flooded, so no good. Need a dry root wad excavation or a healthy intact root wad that is slightly perched above surrounding grade and that has surface soils holes running along the primary root system (entrance corridors to subterranean cavities), typically in 'hummocky' soil areas.

2) For this site, the north end has been scoured clear of overburden soils, while the south half still has scattered pockets of remnant soils supporting some vegetation (your photo shows some aspects of this), exposing the underlying bedrock (similar to the Alvar). With the majority of the soil overburden removed, summer precipitation events will create a surface water pond for a few days (no soils to soak up rain water), as such you will see this area flooded for a few days, until the excavated drain along the north boundary carries these waters off site. So it is considered 'ephemeral' as seasonal in nature. Given this is a disturbed site and little adjacent tree cover (overburden stock piled) there is negligible cover habitat. I did not observe any amphibian breeding activity, but some adults frogs were present. Anticipate that frogs, egg masses, tadpoles, if present would be heavily predated upon (a Seagull smorgasbord!). Sites like this do not meet the criteria to be considered 'Significant Wildlife Habitat', typically critical habitat areas for life cycle functions.

3) Yes possible, but again forage activity would be very minor to negligible, and snakes (even rattlesnakes) are predated upon when there is little cover habitat, as such snake activity would be minimal (self-preservation when there is no cover). However, I did recognize that the south end of this disturbed area could support some occasional feeding activity under the right conditions. My EIS Figure No. 8A shows the green dashed line bisecting this disturbed area, as possible; forage, movement and pockets gestation habitat. Delineated development setbacks maintain woodland cover linkages to this site.

4) Yes. Photo appears to have good pond water depth, in-pond cover and overhead tree canopy cover and no fish present (predation of eggs).

5) From my perspective all the Mitigation Measure points are required to maintain compliance with the PPS, point number 18.5 (d) is in a 'grey area' for interpretation. For example, if tree cutting clearings are too large or too close, potential for long-term/permanent negative ecological function impacts to a significant feature (tree blow downs to surrounding areas, thermal heating, migratory/movement alterations, increased predation, increased potential for invasive species etc.). Tree cutting in the winter can take place and does, but is not recommended in wintering yards during critical life cycle periods other than emergency feeding programs (cedar browse). This single aspect could be interpreted to go either way in relation to the PPS-Woodland and Wildlife
Habitat, but I err on the side of caution, so would leave it as a mitigation measure, not a best practice. A best practice would be discouraging cutting in the winter season within 50m to a wintering deer yard. Remedial Action works are typically used to address best practise for disturbed areas.

Hope this helps and not circumventing future EIS work.

John Morton
242090 Conc Rd 3
R.R. # 1, Shallow Lake, Ont
N0H 2K0
Phone: 519-372-2303

New Web Page  www.awsenvironmental.ca

From: Jack Van Dorp [mailto:jvandorp@brucecounty.on.ca]
Sent: November-19-12 3:55 PM
To: AWS
Cc: marylynn.nb@emtelecom.net
Subject: Weatherhead EIS

Hi John,

Thank you for a generally thorough review of EIS conditions on the Weatherhead property.

I have attached a letter with a few items that I wonder if you could clarify for me prior to circulation

Thanks, and look forward to hearing from you.

Jack.

Jakob Van Dorp, B.Sc., M.Pl.
Planner
County of Bruce
jvandorp@brucecounty.on.ca
(519) 534-2092 x 125

<<AWS_Report_Clarification_Request.pdf>>
5. Your report includes a number of Mitigation measures including:

The following mitigative measures should be implemented through Site Plan Control, development agreement and/or Agency permits/approvals. These measures are recommended to maintain the ecological functioning role and natural heritage features that have been identified within the Study Lands and are in compliance with provincial and municipal environmental policies and guidelines.

18.1 Within the northwest Study Lands corner, a small wetland parcel with a 5m buffer zone has been delineated on the EIS Figure No. 8A. No development or site alterations shall be permitted within this wetland parcel feature or its 5m wide buffer zone.

18.2 Within the westerly-central Study Lands, a minimum 30m wide buffer zone has been delineated on EIS Figure No. 8A and 8B. No development or site alterations shall be permitted within these ecologically significant forested lands.

18.3 Within the westerly-central Study Lands, a minimum 25m wide buffer zone has been delineated on EIS Figure No. 8B along the north boundary of the wetland finger-lobes. This buffer zone shall ‘mesh’ into the buffer zone of 18.2, to provide a continuous vegetated buffer strip along the westerly perimeter of the noted features.

18.4 Within the southwest Study Lands corner, a minimum 25m wide buffer zone has been delineated on EIS Figure No. 8C along the south boundary of the wetland environment.

18.5 Three ‘Development Land’ parcels have been delineated on EIS Figures 8A, 8B and 8C in accordance to the recommended development setbacks and constraint zones identified within this environmental impact assessment technical report. Residential development activity and associated site alterations should only occur within these three delineated ‘development lands’ parcels for the subject Study Lands with the following additional development constraints:

a) Individual building envelopes shall not exceed 0.4ha in land clearing/tree cover removal in area.

b) A minimum 15m wide tree preservation zone of native forest cover is to remain between building envelopes.

c) Within the northerly most development land parcel (Figure No. 8A), no off-site surface water drainage patterns alterations are to occur south or east of said development lands.

d) No land clearing or tree removal activity within the three delineated development land parcels, shall be permitted between December 1 to March 31 in any given year, avoidance during the deer overwintering period.

Can you please comment on whether all of these measures are required in order to ensure consistency with the PPS and compliance with the County OP or whether some measures are required whereas others are a recommended “best practice” for which ensuring implementation is not required from a policy perspective.
Dear Mr. Van Dorp: Written Submission – Weatherhead Property Development

We recently received a notice of meeting and a notice of application concerning land owned by Mrs. Linda Weatherhead for a planned development on Plan 780 Lot 41 Con. 5 WBR PT. along Fowlie Rd.

We have no objection to the proposal as long as it meets the requirements as set out in the Environmental Impact Study (E.I.S.) completed April of 2012.

We do however have concerns about what is occurring on the North East corner of this property accessed by a driveway from Spry Rd. Our residential property is approximately 60 meters from this driveway. A significant amount of road construction has been done primarily by Tyndall Haulage. As Mr. Sheldon Weatherhead owns the east adjacent property to the proposed development in question, we can only assume this significant road work is on their behalf. The area just south of this access driveway is also being used as a stockpiling area for various kinds of aggregate and top soil. In the late month of Sept 2012 and early Oct 2012 it would not be an exaggeration in stating that upwards of 100 loads of various kinds of fill where brought in to this area by Tyndall Haulage. This was stockpiled by Tyndall Haulage using trucks, Hi Hoe and/or bulldozer.

This area is presently zoned RU2 with an existing EH straddling the Weatherheads’ common lot line approximately 200 meters south of the access driveway. The County of Bruce Official Plan, particularly Section 5.8.5. Subsection 2 specifically speaks to “Nor placing or removal of fill of any kind” and “Nor land grading shall be permitted in the Hazard Land Area”.

Was an E.I.S. carried out in accordance with Section 4.3.2.7 of the Official Plan particularly Sub Section 4 and 5 to accommodate these activities?

If this plan is approved and the majority of the property is rezoned E.H. how will the proponent mitigate the damage already committed to the environment by an access road construction, aggregate stockpiling and equipment staging by Tyndall Haulage that is ongoing?

We respectfully look forward to your response to the stated observations and concerns.

Sincerely,

Lawrence Sauer and Suzanne Lessard

720 Spry Rd. Box 906
Lions Head, Ont. N0H 1W0
### APPENDIX F – DUE DILIGENCE CHECKLIST

#### I. PROVINCIAL POLICY STATEMENT (PPS)

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<td><strong>Building Strong Communities</strong></td>
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<td>Managing and Directing Land Use to Achieve Efficient Development and Land Use Patterns</td>
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<td>Energy and Air Quality</td>
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THE CORPORATION OF THE MUNICIPALITY
OF NORTHERN BRUCE PENINSULA

BY-LAW NO. 2013 – XX

A BY-LAW TO AMEND THE MUNICIPALITY OF NORTHERN BRUCE PENINSULA BY-
LAW NO. 2002-54 AMENDED, BEING THE ZONING BY-LAW FOR THE MUNICIPALITY
OF NORTHERN BRUCE PENINSULA

The Council of the Municipality of Northern Bruce Peninsula pursuant to Section 34, 36 and 41 of the Planning Act, R.S.O 1990 enacts as follows:

1. That Schedule ‘A’ to the Municipality of Northern Bruce Peninsula By-Law 2002-54, as amended, is hereby further amended by changing therein the zoning designation of Plan 780 Lot 41 Con 5 WBR Pt Lot 20 incl RP 3R2722 Part 1 (Eastnor), Municipality of Northern Bruce Peninsula, from “RU1 General Rural” to “R2-xx-2013 Resort Residential Special” and “EH Environmental Hazard” as shown on the Schedule ‘A’ attached hereto and forming a part of this by-law.

2. That By-law 2002-54, as amended, being the Zoning By-law for the Municipality of Northern Bruce Peninsula, is hereby further amended by adding the following subsection to Section 12.2 thereof:

   i. R2-xx-2013 Plan 780 Lot 41 Con 5 WBR Pt Lot 20 / RP 3R 2722 Part 1 (Eastnor)

      1. The maximum cleared area per lot shall not exceed 0.4 ha (1 ac).
      2. A minimum treed buffer of 15 metres shall be maintained in a natural state between each building envelope.
      3. No tree cutting shall be permitted between December 1 and March 31, inclusive, of any given year(s).

3. That the subject lands are hereby designated as a Site Plan Control Area under Section 41 of the Planning Act and that no development shall occur except in compliance with a Site Plan Control Agreement registered on title of the property.

4. That This By-law shall come into force and effect on the final passing thereof by the Council of the Municipality of Northern Bruce Peninsula, subject to compliance with the provisions of the Planning Act, R.S.O. 1990, as amended.

READ A FIRST & SECOND TIME THIS ___ DAY OF ____ 2013.

READ A THIRD TIME & PASSED THIS ____ DAY OF _____ 2013.

___________________________________  ______________________________
MAYOR - Milt McLver    CLERK – Mary Lynn Standen
SCHEDULE 'A'
Plan 780 Lot 41 Con 5 WBR, Pt Lot 20 INCL RP 3R2722 Pt 1 (Fowie Rd)
Municipality of Northern Bruce Peninsula (geographic Township of Eastnor)

SUBJECT PROPERTY

LANDS TO BE ZONED 'R2-xx-2013 - RESORT RESIDENTIAL SPECIAL'

LANDS TO BE ZONED 'EH - ENVIRONMENTAL HAZARD'