

To: South Huron Council, Mayor, Craig Metzger, Alex Wolfe, Dan Best

Regarding: Zoning By-law Amendment Application Z07-2020, Municipally-initiated Amendment to consider removing the Top of Bank Setbacks found in Section 3.38 of the South Huron Zoning Bylaw

Date: October, 26th, 2020

It was no big surprise that this council passed this amendment specifically to relieve themselves from some work to appease development and real estate and general contractors. What you have done is to relieve yourself of posting any public notice or providing the public a chance to voice their opinion (which means absolutely nothing to you other than to perform due diligence).

This decision was a result of poor land use planning to get the planned result. Mr. Metzger and Best painted the exact picture they wanted to ensure this amendment was passed. Please remember council is there to ensure rules are followed and not to reduce red tap which is exactly the point that this amendment was to accomplish. Please also note that council asked some good questions which received very guided answers. See below to some more thorough information regarding your questions.

General Comments;

It is good that you did not eliminate the bylaw completely. The Ausable Bayfield and Upper Thames River Conservation Authorities are progressive and reliable organization that will ensure Natural Hazard areas are protected.

They are also the correct organization to provide planning comments regarding Natural Heritage and water issues but **have no legislative powers to protect it, this is completely up to the Municipality and County Official Plans and Bylaws.** I found the Natural Heritage comments provided to be completely ignored by Mr. Metzger. He did state that the focus was on Flooding and Erosion Hazards and completely forgot to mention that the Provincial Policy Statement (PPS) does discuss Natural Heritage Features. He brushed over comments made by the public and Conservation Authorities regarding Natural Heritage and water.

Ausable Bayfield Conservation Authority,

October 14, 2020. File No. L.2.9.3

Natural Heritage: The ABCA provides natural heritage advisory services to the Municipality of South Huron. Removing required setbacks from water features may tend to put identified heritage and water features at risk, contrary to Section 2.1 and 2.2 of the PPS. As a result, the ABCA cannot support the complete removal of setbacks from the Zoning By-law.

Sorry to say they did not provide a recommended setback for this protection.

Please also Terry Chapman and Lakeshore Eco-Network comments in your agenda package.

Sections from PPS;

PROVINCIAL POLICY STATEMENT, 2020 Approved by the Lieutenant Governor in Council, Order in Council No. 229/2020 This Provincial Policy Statement was issued under section 3 of the Planning Act and came into effect May 1, 2020. It replaces the Provincial Policy Statement issued April 30, 2014

2.1.1 Natural features and areas shall be protected for the long term.

2.1.2 The diversity and connectivity of natural features in an area, and the long-term ecological function and biodiversity of natural heritage systems, should be maintained, restored or, where possible, improved, recognizing linkages between and among natural heritage features and areas, surface water features and ground water features.

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

2.1.7 Development and site alteration shall not be permitted in habitat of endangered species and threatened species, except in accordance with provincial and federal requirements.

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

2.2 Water

2.2.1 Planning authorities shall protect, improve or restore the quality and quantity of water by

:a) using the watershed as the ecologically meaningful scale for integrated and long-term planning, which can be a foundation for considering cumulative impacts of development;

b) minimizing potential negative impacts, including cross-jurisdictional and cross-watershed impacts;

c) evaluating and preparing for the impacts of a changing climate to water resource systems at the watershed level;

d) identifying water resource systems consisting of ground water features, hydrologic functions, natural heritage features and areas, and surface water features including shoreline areas, which are necessary for the ecological and hydrological integrity of the watershed;

e) maintaining linkages and related functions among ground water features, hydrologic functions, natural heritage features and areas, and surface water features including shoreline areas;

f) implementing necessary restrictions on development and site alteration to:

1. protect all municipal drinking water supplies and designated vulnerable areas; and

2. protect, improve or restore vulnerable surface and ground water, sensitive surface water features and sensitive ground water features, and their hydrologic functions;

g) planning for efficient and sustainable use of water resources, through practices for water conservation and sustaining water quality;

h) ensuring consideration of environmental lake capacity, where applicable; and

i) ensuring stormwater management practices minimize stormwater volumes and contaminant loads, and maintain or increase the extent of vegetative and pervious surfaces.

2.2.2 Development and site alteration shall be restricted in or near sensitive surface water features and sensitive ground water features such that these features and their related hydrologic functions will be protected, improved or restored.

Mitigative measures and/or alternative development approaches may be required in order to protect, improve or restore sensitive surface water features, sensitive ground water features, and their hydrologic functions.

Municipal Drain maintenance is a responsibility of the Municipality but nowhere in the Provincial Policy Statement does it state that a 10 metre setbacks should be maintained so a drain can be cleaned out every ten years, needing it or not. This is the buffer you have decided on which has no meaning other than for construction. If the Planner would have taken the time to look at the Natural Heritage Reference Manual (provincial document guiding natural heritage policies) and other references, I am assuming they would have been able to provide a better setback guideline than the 10 metres.

**From the Natural Heritage Reference Manual,
NATURAL HERITAGE REFERENCE MANUAL**

for Natural Heritage Policies of the Provincial Policy Statement, 2005, Castelle, A.J., A.W. Johnson and C. Conolly. (1994). Wetland and stream buffer size requirements: a review. Journal of Environmental Quality 23:878-882

Castelle et al. conducted a literature review of the scientific functions of buffers to determine effective buffer widths for protecting wetlands and streams. Specifically, they looked at the effectiveness of different buffer widths in removing sediments, nutrients and metals, as well as other buffer functions. The authors found that a range of buffer widths could be effective, depending on the desired function of the buffer and site-specific conditions. The authors identify four criteria that should be considered in determining an effective buffer width:

- 1. resource functional value**
- 2. intensity of adjacent land use**
- 3. buffer characteristics/condition (vegetation, soil disturbance)**
- 4. specific buffer functions required**

They also discuss results of previous studies (including examples of effective buffer widths for specific purposes and site-specific conditions) and group them according to buffer function:

- sediment removal and erosion control**
- removal of excess nutrients and metals**
- moderation of stormwater runoff**
- moderation of water temperature**
- maintenance of habitat diversity**
- wildlife species distribution and diversity**
- reduction of human impact**

The authors concluded from the literature that buffer widths should be a minimum of 15 to 30 metres, because under most conditions narrower buffers provide little protection of aquatic resources. Buffers toward the lower end of this range may provide for the maintenance of the natural physical and chemical characteristics of aquatic resources, but greater widths are required for maintenance of biological components of wetlands and streams. The authors also note that variable-width buffers are better than fixed-width buffers at addressing site-specific conditions and desired functions but can be more costly to implement.

It was also obvious very little research was completed to be knowledgeable about what is occurring in Municipalities surrounding South Huron. When ask what other Municipalities were doing the answer was “it is the same as what South Huron currently has”. Mr. Metzger obviously forgot to look at the Municipality of West Perth (Neighbouring Municipality) as they have updated their bylaw to include “all watercourses” and provided setbacks for natural heritage considerations (though not specifically defined), along with hazard, which considers guidelines set out in the PPS as described above.

West Perth – well thought through bylaw

Municipality of West Perth Comprehensive Zoning By-law No. 100-1998, Originally Prepared by Perth County Planning and Development Office, November 15, 1999, (As approved by the Ontario Municipal Board July 18, 2000) , Consolidated to January 1, 2020.

5.29 Setbacks of Buildings and Structures Along Watercourses and Municipal Drains

(a) No building or structure or swimming pool shall be permitted within an area regulated by the Conservation Authority's Fill, Construction, and Alteration to Waterways Regulation except as specifically permitted by the Conservation Authority.

(b) No building or structure or swimming pool shall be permitted within 15 metres of the top-of-bank of a watercourse or an open municipal drain;

Amended by By-law No. Z34-2002

(c) No building or structure or swimming pool shall be permitted between 15 metres and 30 metres from the top-of-bank of a watercourse or an open municipal drain unless an appropriate study is undertaken to assess the impact of the development and site alteration; and

Amended by By-law No. Z34-2002

(d) No building or structure or swimming pool shall be permitted within 5 metres of the centre line of an enclosed municipal drain or sanitary sewer.

(e) The watercourse and open municipal drain location as shown on the Schedule "A" map to this By-law are based on maps from the Ontario Base Mapping program (OBM). Aerial photography taken in the mid-1980's was used for the OBM program. Where watercourse and/or open municipal drain locations have changed and are not properly shown on the Schedule "A" maps, the above provisions shall apply to the proper locations of the watercourse and/or open municipal drain. Where an open municipal drain has been changed to an enclosed municipal drain, the provisions of Clause (d) above shall apply.

When asked where the current buffer distance came from, Mr. Metzger replied “since the buffer width has been around for 30 years, we should be able to change them” he had no solid answer other than to brush off the answer.

Mr. Best suggested in his comments when summarizing and asking for approval suggested that, Natural Heritage concerns were reviewed and there were no concerns. Based on information above I would say he was mistaken. I am assuming he was meaning to say Natural Hazards unless he got his words mixed up, one can never tell.

It is great to watch council listen and be guided by a Planner and CEO to wordsmith their way through what they want as a result. The written words and presentations provided by Public and other agencies were completely ignored. I would suggest in the future you read the comments from the public and other organization to ensure what the messenger (planner) is providing is complete and accurate.

Conclusions

I do agree it is best to have one organize review building constraint areas, though all issues and policies need to be considered. We continue to have a bylaw for setbacks from watercourses, lake banks and sink holes, which is a positive. Although it was poorly created with as little effort and consideration for all planning related issues. I have invested a lot of time and energy in reviewing and providing comments to this amendment issue. I wanted to make you familiar with what should or could have been done. The public meeting leaves little time to make comments or formalize a response. I am assuming that council can reopen the issue if they find that not enough information was provided, and a better result could have been achieved.

Terry Chapman

50 Hill Street Exeter